

KELLY, J., IN CHAMBERS.

JULY 27TH, 1912.

REX v. RIDDELL.

*Liquor License Act—Amending Act, 2 Geo. V. ch. 55, sec. 13(O.)
—Intra Vires—Conviction of Person Found Drunk in Local
Option Municipality—Jurisdiction of Magistrates—Evid-
ence—Two Offences—Information and Conviction Follow-
ing Language of Statute.*

Motion by the defendant to quash a conviction made by two Justices of the Peace for the county of Lennox and Addington, under sec. 13 of 2 Geo. V. ch. 55(O.), amending the Liquor License Act.

The conviction was, for that the defendant was found upon a street or in a public place, in a municipality in which a by-law passed under sec. 141 of the Liquor License Act was in force, in an intoxicated condition owing to the drinking of liquor.

J. B. Mackenzie, for the defendant.

J. R. Cartwright, K.C., for the Attorney-General.

KELLY, J.:—It was argued for the defendant that the Ontario legislature had no power to enact sec. 13 of the Act 2 Geo. V. ch. 55, and "that the offence could not be made to exist in local option territory or there alone."

These objections are answered by *Hodge v. The Queen*, 9 App. Cas. 117.

On the further objection that it was not proven that the defendant's condition was owing to the drinking of liquor, and that there was no valid and sufficient evidence to prove the offence, the defendant must fail. There was evidence on which the convicting magistrate might have convicted; and, as said in *Regina v. St. Clair*, 27 A.R. 308, 310, "they were the judges of the weight to be attached to it."

Though in the notice of motion exception was taken that no by-law under sec. 141 was in force in the municipality, counsel for the defendant on the argument stated that he did not then raise any objection to the by-law. It is, therefore, not necessary to consider that objection.

One other exception was taken to the conviction, namely, that the information and the conviction charge two offences, and the evidence was not confined to one offence.