

The fund in the hands of the sheriff should be paid into Court to the credit of the administration proceeding, and will be dealt with under the report and distributed under the administration order.

The sheriff should deduct his costs (fixed at \$40) from the fund. In strictness, the creditors who sought to obtain priority ought to bear the expense; but, as the point has not been raised since the Creditors Relief Act, justice will be done by making no order as to costs save that relating to the sheriff's costs.

CLUTE, J., IN CHAMBERS.

APRIL 18TH, 1917.

*REX v. MACLAREN.

Ontario Temperance Act—Magistrates' Conviction for Offence against sec. 51, 6 Geo. V. ch. 50—Physician—Prescriptions for Intoxicating Liquor—Evasion or Violation of Act—Absence of Evidence to Support Conviction.

Motion to quash the conviction of the defendant, a practising physician, for an offence against sec. 51 of the Ontario Temperance Act, 6 Geo. V. ch. 50.

Section 51 permits a practising physician, under certain restrictions, to give his patient a written prescription, addressed to a druggist, for not more than six ounces of intoxicating liquor, with the proviso that "every physician who shall give such prescription . . . in evasion or violation of this Act or who shall give to or write for any person a prescription for or including intoxicating liquor for the purpose of enabling or assisting any person to evade any of the provisions of this Act, or for the purpose of enabling or assisting any person to obtain liquor for use as a beverage, or to be sold or disposed of in any manner in violation of the provisions of this Act, shall be guilty of an offence under this Act."

The conviction was made by two Justices of the Peace for the City of London, and was for that the defendant between the 16th February and the 17th March, 1917, did, at the city of London, unlawfully give prescriptions in evasion or violation of the Ontario Temperance Act, contrary to sec. 51.

There was evidence that the defendant had, during the period mentioned, given 261 prescriptions for intoxicating liquor.