

of a record which the License Inspector had obtained at St. Catharines, and of a letter which he had written, had been improperly admitted.

The learned Judge said that he was satisfied that the evidence of the entries was admissible for the little it was worth. It would have been clearly proper if followed by evidence of the person who actually delivered the consignments. In the absence of such evidence, the entries had no probative value; and that was the utmost that could be objected to them. No evidence of any record was admitted or tendered. It was stated as a fact by the License Inspector, when giving his testimony, that he had such a record with him when questioning the defendant—a record of the number of gallons of native wine the defendant had got from St. Catharines. A letter which the Inspector had written was referred to merely to refresh his memory as to whether it was not 40 gallons rather than 30 which he mentioned to the defendant—a matter of no importance. There was evidence of the taking of a sample of the wine and of its analysis. *Rex v. Melvin* (1916), 38 O.L.R. 231, and *Rex v. Bracci* (1918), 14 O.W.N. 305, had no application.

While a manufacturer of native wines is permitted to sell his product, a purchaser, if prosecuted, is subject to the onus imposed by sec. 88. The defendant was a person prosecuted for having or keeping liquor on his premises for the purpose of sale, barter, or other disposal. Proof was given that he had in his possession a quantity of native wine, containing over 25 per cent. of proof spirit, and therefore "liquor" (sec. 2 (f)). "Then," to quote the concluding words of sec. 88, "unless such person prove that he did not commit the offence with which he is so charged he may be convicted accordingly." The onus so cast upon the accused he did not attempt to remove.

The words "other disposal" are not as innocuous as was contended: *Regina v. Walsh* (1897), 29 O.R. 36. In any case their use did not vitiate the conviction. If they did, they could be struck out under the powers conferred by sec. 1124 of the Criminal Code, made applicable to motions like this by sec. 92 (9) of the Ontario Temperance Act and sec. 4 of the Summary Convictions Act, R.S.O. 1914, ch. 90.

*Motion dismissed with costs.*