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HON. MR. JUSTICE KELLY.

NOVEMBER 25TH, 1912.

CHAMBERS.

REX v. COOK.

4 O. W. N. 383.

Intoxicating Liquors—Conviction for Being Found Intoxicated in a Street or Public Place—2 Geo. V. c. 55, s. 13—Hotel not Public Place—Ejusdem Generis—Defective Information and Conviction—Order of Protection.

KELLY, J., held, that the hallway or rooms of an hotel was not a "public place" within the meaning of 2 Geo. V. c. 55, s. 13, the term "public place" being *ejusdem generis* with "street."
Case v. Story, L. R. 4 Ex. 319, and other cases referred to.

Motion to quash a conviction of defendant who was, on August 8th, 1912, tried before two magistrates and convicted—according to the amended conviction—for being found upon a street and in a public place in an intoxicated condition owing to the drinking of liquor in a municipality in which what is known as a local option by-law was in force.

Two of the grounds relied upon in support of the motion were:—(1) that the information shewed no offence under the Statute, and, (2) that the accused was not found in an intoxicated condition upon a street or in a public place.

The form of information as returned was that the accused "between June 30th and July 30th, 1912, at Lions Head was unlawfully intoxicated contrary to the provisions of the Liquor License Act upon a street or in a public place in the township of Eastnor." It bore upon its face evidence of having been amended and it was clear that as first drawn it read "was intoxicated contrary to section eighty-six of the Liquor License Act," and that the amendment