

REPORTS AND NOTES OF CASES.

Province of Ontario.

COURT OF APPEAL.

From Britton, J.]

REX v. CARLISLE.

[Oct. 26.

*Constitutional law—Ontario Liquor Act, 1902—Intra vires—Voting on by electors—Delegation of legislative power—Corrupt practices—Appointment of judge to conduct trial—Jurisdiction—Place of trial—Jury—Conviction—Sentence—Imprisonment—Penalty—Costs—Form of conviction—Habeas corpus—Warrant of commitment.*

The subject matter of the Ontario Liquor Act, 1902, is one with regard to which the Legislature is competent to enact a law or laws. *Attorney-General for Ontario v. Attorney-General for Dominion* (1896) A.C. 348, and *Attorney-General of Manitoba v. Manitoba License Holders' Association*, (1902) A.C. 73, followed.

The Legislature, in enacting the Liquor Act, did not exceed or fail to properly exercise, its powers.

Legislation which provides a law, but leaves the time and manner of its taking effect to be determined by the vote of the electors, is not a delegation of legislative power to them.

*Russell v. The Queen*, 7 App. Cas. 829, *The Queen v. Burah*, 3 App. Cas. 889, and *City of Fredericton v. The Queen*, 3 S.C.R. 505, followed.

By s. 91 (4), providing that the President of the High Court shall designate a County or District Judge to conduct the trial of persons accused of corrupt practices at the taking of the vote under Part I., the Legislature did not assume the power of appointing judges, and did not exceed its powers in providing that a County or District Judge designated should exercise jurisdiction outside of his own county or district; and a judge so designated may try the accused without a jury.

The provisions of sub-ss. (2) and (3) of s. 91 are amplifications of the provisions of the Ontario Election Act which are incorporated in the Liquor Act; and the judge in this case did not exceed his powers in sentencing the accused, whom he found guilty of personation, to one year's imprisonment in addition to the payment of a penalty of \$400 and costs.

The jurisdiction is to try at any place in Ontario, and it appearing in the order of conviction that the trial was held under the Act and that the offence was committed at the city of Toronto, and the prisoner being sentenced to be imprisoned in the common gaol of the county of York at the city of Toronto, the order shewed jurisdiction, although it did not specify the place of trial.