

DIVISIONAL COURT.

DECEMBER 28TH, 1912.

REX v. CLARK.

*Intoxicating Liquors—Liquor License Act—Construction of sec. 54—"Sale or Other Disposal"—Sale Completed on Saturday—Possession Given on Sunday—Not Mere Question of Title—Scope of Prohibition.*

Appeal from the judgment of the Judge of the District Court of Algoma, dismissing an appeal from the decision of the Police Magistrate for the district, who acquitted the respondent from the charge of selling or disposing of liquor contrary to the provisions of sec. 54 of the Liquor License Act.

The appeal was heard by MULOCK, C.J.Ex.D., SUTHERLAND and MIDDLETON, JJ.

J. R. Cartwright, K.C., for the Crown.

The respondent was not represented by counsel.

MULOCK, C.J.:— . . . The respondent, the keeper of a licensed tavern in the village of Ryderback, sold one Morrison a bottle of whiskey between the hours of six and seven p.m. on Saturday, the 13th day of April. The purchaser then paid for it, but did not remove the liquor, which "was laid away" for him by the respondent in his kitchen in the hotel. The next day (Sunday) the purchaser called for the liquor, when the respondent took it from the kitchen and delivered it to him in the hotel hall.

Section 54 of the Liquor License Act is as follows: "In every place where intoxicating liquors are authorised to be sold, by wholesale or retail, no sale or other disposal of such liquors shall take place therein, or on the premises thereof, or out of or from the same to any person or persons whomsoever from or after the hour of seven of the clock on Sunday night to six of the clock on Monday, thereafter," etc.

The neat question here to determine is whether the act of the respondent in handing to the purchaser the bottle of whiskey in question in the hall of the hotel on Sunday was "a sale or other disposal" within the meaning of this section.

The sale was completed on the Saturday, and for the purposes of this appeal it may be conceded that the property in the liquor then passed to the purchaser, although he did not obtain actual possession until the next day, Sunday. In the meantime the