

alone, would have defeated the pecuniary legacies—so would the survivorship of the father—but the mere fact that in the codicil the giving of each of the legacies was prefaced by the statement—“Instead of the \$—— to —— I bequeath to him \$——”—did not in any way detract from the absolute character of the gift.

Order declaring that Arthur Temple takes the residuary estate subject to the bequests of jewelry, the legacies given by the codicil, and the right of the father given by the codicil.

Costs out of the estate.

MIDDLETON, J., IN CHAMBERS

APRIL 25TH, 1919

REX v. BANNI.

*Inland Revenue Act—Unlicensed Distilling—Magistrate's Conviction for Offence against Act—Summary Prosecution Authorised by Act, R.S.C. 1906 ch. 51, secs. 32, 33—Defendant Having in his Possession "Mash or Wash" contrary to Provisions of Act—Evidence—Saccharine Matter Producing "Wash" Suitable for Manufacture of Spirits—Secs. 3 (e), (h), 180 (e), 199, 204—Onus.*

Motion to quash a conviction of the defendant, by the Police Magistrate for the City of Fort William, for that the defendant had in his possession "mash or wash," contrary to the provisions of the Dominion Inland Revenue Act, R.S.C. 1906 ch. 51.

J. Haverson, K.C., for the accused.

W. G. Thurston, K.C., for the Crown.

MIDDLETON, J., in a written judgment, said that it was urged that the proceedings were irregular in that the provisions of Part XVI. of the Criminal Code, relating to the summary trial of indictable offences, had not been followed. But the Inland Revenue Act (secs. 132 and 133) provides for summary prosecution with respect to offences created by that Act.

It was more strenuously argued that, upon the evidence, an offence against the Act was not disclosed.

The defendant placed raisins in a hogshead with water; the saccharine matter contained in the raisins induced fermentation; and a liquor containing a substantial quantity of alcohol was the result. This was consumed upon the premises by foreigners, Italians and Galicians, and resulted in intoxication and disorder.