tuted is inoperative from defect of attestation or any other cause, the revocation fails also, and the original will remains in force." "The act of destruction is referrable not to any abstract intention to revoke, but to an intention to validate another paper, and as the condition upon which alone the revocation was intended to operate is in neither case fulfilled, in neither does the animus revocandi exist." There are many other authorities to the same effect. *Dantzer* v. *Crabb*, 42 L.J. Rep. 53; *Ex parte Earl of Ilchester*, 6 Rev. Rep. 138; *Powell* v. *Powell*, 35 L.J. Rep. 100.

I hold finally that said will of late Samuel Miller of date the 6th day of July, 1889, has not been revoked, and that it is a properly executed, valid and existing will, and that it should go to probate as prayed for.

The learned Judge then allowed all costs out of the estate, except the costs of the contestant in connection with the incapacity of the testator, which, although set up, was not established.

COUNTY COURT.

COUNTY OF YORK.

REG. *v.* WOTTEN.

Liquor License Act—R.S.O.—Temperance beverage—Light beer—Percentage of alcohol.

Held, that it is illegal, without a license, under the guise of its being a temperance beverage, to sell a liquor which is capable, if freely drunk, of producing even the incipient stages of intoxication, even though it only contains from two to three per cent. of alcohol.

(TORONTO, Nov. 3, 1885—MCDOUGALL, Co.J.

This was an appeal to the County judge of the county of York, sitting in Chambers, from a conviction made by G. T. Denison, police magistrate of the city of Toronto, against the appellant, David Wotten, for an alleged offence against the Liquor license Act, s. 40 (R.S.O., c. 181), as amended by 47 Vict., c. 34, s. 8, (O.) (now R.S.O. c. 245, s. 49.)

The information was laid by the license inspector for Toronto, and charged that the appellant, David Wotten, on the 6th Sept., 1885, at the city of Toronto, in the county of York, unlawfully did keep liquor for the purpose of sale, barter, and traffic therein, without the license therefor by law required.

The liquor in question, as appeared from the evidence, was a beverage known as Blue Ribbon beer, and a keg of it was seized on the premises occupied by the appellant, at the Exhibition grounds, by the license inspector. The appellant had no license for the sale of liquors, and admitted both the possession and sale of the liquor in question herein, but affirmed that the same was not an intoxicating drink, and therefore its possession or sale, or the keeping of it for sale by a person not holding a liquor license, was not prohibited by law. The police magistrate, after hearing evidence, convicted the appellant and imposed a fine of $20 and costs. Appeal from this conviction..

Maclaren, Q.C., for Crown.

MCDOUGALL, Co. J.—As the question involved in this appeal is of con-