

On that state of facts and admissions, there was no offence in the accused procuring the liquor or taking it to or having it in his room in his lodging-house. Ordinarily, under the Act, the mere having it in such a place constitutes an offence; but admittedly that was not so in this instance. He was not charged with any other offence than having the liquor in his lodging-house as above set out, and there is nothing in the evidence for the prosecution that anything else happened than the mere having it there, under circumstances which, the Crown had admitted, did not shew a contravention of the law. That evidence and the admissions excluded the statutory presumption of guilt (sec. 88), and he was under no obligation to prove his innocence. In his defence-evidence he stated that he took the liquor on an empty stomach, and it upset him; but that was no part of the Crown's case. Moreover, having the liquor innocently and rightfully in the place mentioned, his evidence of his use of what was then a medicine did not change the character of his act so as to make it an offence.

He should be discharged from custody, and he should have the costs of this motion. There should be the usual protection to the magistrate.

MIDDLETON, J.

MAY 12TH, 1920.

RE VENN.

Will—Construction—Devise—Life-estate—Estate during Widowhood—Remainder.

Motion by the executors of the will of one Venn, deceased, for an order determining a question as to the meaning and effect of a devise to the testator's son.

The motion was heard in the Weekly Court, Toronto.
 William Proudfoot, K.C., for the executors.
 G. H. Gilday, for the son's wife.
 F. W. Harcourt, K.C., for the infants.

MIDDLETON, J., in a written judgment, said that the devise to the testator's son of the house, "to be maintained by him as a home for himself and his children during the period of his life-time and so long as his wife shall remain a widow and from and after the death of himself and the death or remarriage of his wife . . . to the children of my said son in equal shares share and share alike," gave the son a life-estate only, and also gave