

cient to include the residuary estate, in cases where lapsed shares of the first gift would leave something for the second gift to operate upon, the first of the two gifts is preferred"—is only a particular application of the general rule, "Cum duo inter se pugnancia reperiuntur in testamento, ultimum ratum est:" Co. Litt. 112 b.

The learned Judge said that he had sought anxiously and in vain for any clue to the testator's intention and for some way in which repugnancy might be avoided, but could find no key to the real intention, and so was driven to apply the general rule and give effect to the last residuary gift as the last intention of the testator.

Order declaring accordingly; costs out of the estate.

ROSE, J. IN CHAMBERS.

OCTOBER 4TH, 1917.

\*REX v. GRASSI.

*Ontario Temperance Act—Magistrate's Conviction for Selling Intoxicating Liquor contrary to sec. 40 of 6 Geo. V. ch. 50—Evidence—Sufficiency—Improper Reception of Evidence of Complaints—Absence of Prejudice—Foreign Defendant—Testimony of Witness not Interpreted into Language Understood by Defendant—Liquor Found on Premises—Presumption—Absence of Search-warrant.*

Motion to quash a conviction of the defendant, an Italian woman, made by the Police Magistrate for the City of Hamilton, for selling intoxicating liquor contrary to the provisions of sec. 40 of the Ontario Temperance Act, 6 Geo. V. ch. 50.

M. J. O'Reilly, K.C., for the defendant.

Edward Bayly, K.C., for the magistrate.

ROSE, J., in a written judgment, said that the first objection was, that there was no evidence to justify the conviction; but a perusal of the depositions satisfactorily shewed that the evidence was quite sufficient.

The second objection was, that evidence was improperly received that complaints had been made that intoxicating liquor was being sold in the house of the deceased. Such testimony was received; it was irrelevant, and ought not to have been given;