

Elbert Messecar took an estate for life, and his children an estate in fee in remainder thereafter.

A further question was raised under another clause of the will, but was not argued, counsel agreeing as to the proper interpretation.

Order accordingly; costs of all parties out of the estate.

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SUTHERLAND, J., IN CHAMBERS.

JUNE 17TH, 1916.

\*RE REX v. SCOTT.

*Constitutional Law—Liquor License Act, R.S.O. 1914 ch. 215, sec. 141—Amendments by 4 Geo. V. ch. 37, sec. 5, and 5 Geo. V. ch. 39, sec. 33—Intra Vires—Creation of New Crime—Being Found Drunk in Public Place—Application of Enactment to Territory in which Canada Temperance Act in Force—Confinement to Preceding Sections of Act—Municipal Regulation.*

Motion by the defendant for an order prohibiting the Police Magistrate for the Town of Seaforth from proceeding to hear or try a charge preferred against the defendant for that he was "on or about the 4th day of March, 1916 . . . in an intoxicated condition in a public place in the town of Seaforth, where no licenses are issued, contrary to the provisions of section 141 of the Liquor License Act, and of the amendments thereto," upon the ground that the magistrate had no jurisdiction to entertain the charge.

Section 141 provides that "where in a municipality in which a local option by-law is in force, a person is found upon a street or in any public place in an intoxicated condition . . . he shall be guilty of an offence against this Act . . ."

By an amendment made in 1914 (4 Geo. V. ch. 37, sec. 5), the words "or in which no tavern or shop license is issued" were inserted after the words "in force."

By an amendment made in 1915 (5 Geo. V. ch. 39, sec. 33), the words "or where in unorganised territory" were inserted after the words added in 1914; and "public place" was defined.

Part II. of the Canada Temperance Act was brought into force in the county of Huron (including the town of Seaforth) on the 1st May, 1915.