

SUPREME COURT OF PRINCE
EDWARD ISLAND.

Palmer, C. J.]

[Hilary Term, 1888.

QUEEN v. HUGHES.

*Canada Temperance Act—Third offence—
Validity of lease of bar to son of owner—
Attempt to evade the law.*

The defendant owned a dwelling house with shop attached, and a bar at the rear of the shop. He had been previously convicted for a first and second offence under the Canada Temperance Act. After these convictions, he made a lease of his shop and groceries and the bar to his son, but continued to live on the premises. Liquor was sold on the premises with the knowledge of the defendant, who put in for defence the lease to his son. By s. 119 Canada Temperance Act, "No conviction of any offence against the second part of this Act shall be removed, by *certiorari* or otherwise, into any of Her Majesty's courts of record." The prosecutor and stipendiary magistrate consented to a rule being granted for a writ of *certiorari* to issue to facilitate the testing of the question raised in the case, *i.e.*: Was the lease a *bona fide* transaction between father and son? The lease contained no conditions of forfeiture in case the lessor engaged in the above illegal traffic, but contained a condition that it was not to be assigned without the consent of the lessor.

Held, (1) That whatever might in law be the effect of the lease, as between father and son it is void, is in fraud of the law, and against public policy, as being a contrivance the better to enable parties to carry on an illegal traffic in contravention of the Canada Temperance Act—a law which the highest court of justice, the Privy Council of Great Britain, has designated one for the promotion of public order, safety, and morals, and which subjects those who contravene it to criminal proceedings and punishment.

(2) That the assumed exclusive possession of the shop and the bar-room behind it by the son, was merely colourable, and there was no evidence to relieve the defendant, the lessor, of his liability for the illegal traffic still carried on in the bar, an apartment under his own roof and daily within his own observation.

Law Students' Department.

IN this issue we continue the papers set at the examination before Hilary Term, 1888.

LAW SOCIETY EXAMINATION
QUESTIONS.

SECOND INTERMEDIATE.

REAL PROPERTY.

1. What is meant by the enactment that a feoffment shall not have a tortious operation?
2. Explain the difference in their effect upon an estate granted between a condition precedent and a condition subsequent.
3. What leases are required to be made by deed?
4. What is the difference between an estate in common and an estate in joint tenancy?
5. If a tenant in tail purchases the fee what is the effect? Why?
6. A dies intestate leaving a widow, a son, a daughter of a deceased son, and a brother. How is the land disposed of under the Statute of Victoria?
7. What power has a married woman of disposing by will of her property?

BROOM'S COMMON LAW—O'SULLIVAN'S
GOVERNMENT IN CANADA.

1. Explain *general customs* and *particular customs*; and enumerate the principal qualities which are essential to binding customs.
2. Into what three classes does Broom divide the grounds on which actions for torts are maintainable? Give an example of each.
3. Explain the meaning of *independent covenants*, *dependent covenants*, and *concurrent covenants*.
4. Of what things could larceny not be committed at common law?
5. Mention the principal rules which should govern the construction (a) of a penal statute; (b) of a beneficial statute.
6. Give an example of homicide rendered excusable by *ignorantia facti*.
7. Mention the qualifications of a senator of the Dominion of Canada.