

no one is to be convicted on mere conjecture, however shrewd the guess may be; and, if one could be so convicted, the defendant could not be convicted, because he never "had" the liquor.

There was no suggestion, there could be none with any degree of reason, that the defendant put the bag containing the liquor in the place where the constable saw it; the defendant may have gone to the place where he was arrested to get the liquor; but, if so, he was arrested before he had committed any offence, before he had been able to find the liquor. The whole evidence was that the liquor never came into the defendant's possession in any manner.

The most that could be reasonably suggested against the accused was, that he went to the place where the liquor was to get it and carry it to some one else who had employed him to do so and run the risk; but, before he was able to get it, he was arrested by the constable, who alone had the liquor and bag on that occasion. If the constable really ever thought that the defendant had come for liquor, and if he wanted only to convict of crime, not prevent it, it was an extraordinary thing that he did not remain in concealment till the defendant had taken it. In a few minutes more, the constable would have had conclusive evidence of a guilty or innocent intention.

The conviction should be quashed.

ORDE, J.

OCTOBER 1ST, 1920.

RE BARNET.

Will—Powers of Executors and Trustees—Realisation of Part of Estate—Present Distribution among Beneficiaries, all being Adults—Authority of Court—Provision for Postponement of Distribution—Continuance of Advances to Company in which Testator Held Large Block of Shares—Interest of Estate—Repayment of Advances without Interest—Discretion of Trustees.

Motion by the Royal Trust Company, executors and trustees under the will of Alexander Barnet, deceased, under Rule 600, for the advice and direction of the Court as to the meaning and effect of the will.

The motion was heard in the Weekly Court, Ottawa.

Wentworth Greene, for the applicants.

The residuary devisees and legatees, though duly served, did not appear and were not represented by counsel.