

the use of Braillard's name was a "fiction" intended to conceal the truth, and so his name was rightly found to be a fictitious name adopted by the accused.

But sec. 70 must be regarded as confined to the seizure of liquor in transit or in the course of delivery at a railway station, express office, &c., and its destruction. When liquor found under the circumstances detailed in sub-secs. 1 and 2 is seized, notice is to be given, and if it is found it was intended to be illegally used it is to be destroyed; if it is found that it was not to be used in contravention of the Act it is to be handed over to the owner; and the presumption raised by the use of the "fictitious name" only arises upon the investigation under this section with reference to liquor seized in the manner described. The section has no application to prosecutions under sec. 40, or any of the general provisions of the Act.

But this did not entitle the accused to have the conviction quashed. He was undoubtedly in possession of liquor; and, under sec. 88, "unless such person" (i.e., the person having liquor in his possession) "prove that he did not commit the offence with which he is so charged he may be convicted accordingly," i.e., as charged.

The accused swore that he did not commit the offence charged. If the magistrate believed him, he had proved that he did not commit it; but, if the magistrate did not believe him, he had not proved his innocence.

The section means that possession of liquor in Ontario is *primâ facie* unlawful. Once possession is proved, a conviction may follow if the accused is unable to satisfy the magistrate that he is not guilty. This is a question for the magistrate, and his decision cannot be reviewed upon a motion to quash.

The result is that wherever there is possession of liquor there is liability to a fine unless the magistrate accepts the evidence of the accused.

There is a statutory presumption of guilt upon proof of custody of the dangerous thing, and the common law rule is reversed—the accused must *prove* his innocence to the satisfaction of the magistrate or take the consequences.

The evidence in this case pointed rather to guilt than the contrary. There were many suspicious circumstances which may have influenced the magistrate.

*Motion dismissed with costs.*