

It was not necessary to deal with the second contention, because, after a careful study of the evidence, the learned Judge was of the opinion that the officers did not intend to enter into any contract to purchase liquor from their employee (the defendant); and that, as there must be two parties to any such contract, there was before the convicting magistrate no evidence on which he could find that the defendant sold the liquor.

The conviction should be quashed, with the usual order protecting the magistrate.

MIDDLETON, J.

NOVEMBER 13TH, 1920.

RE ELLIOTT.

Will—Construction—Division of Residue—Enumerating of Persons to Take Shares—Descriptive Words—Naming of Participants—Extent of Shares—Families—Distribution per Capita.

Motion by the executors of the will of Charles Henry Elliott, deceased, for an order determining certain questions as to the meaning and effect of the will.

The motion was heard in the Weekly Court, Toronto.

W. H. Wallbridge, for the executors.

W. Lawr, for Robert J. Elliott's children.

John Shearing, for himself and his family.

F. W. Harcourt, K.C., for the infant children of Mrs. Kirby.

MIDDLETON, J., in a written judgment, said that several questions arose on the clause in the will of the late Charles Henry Elliott dealing with his residuary estate. The will bore date the 11th January, 1919, and the testator died on the 28th May following. Robert J. Elliott died on the 23rd December, 1916, and Mrs. Kirby on the 8th April, 1917.

After certain provisions not here material, and the setting apart of \$25,000 for the benefit of his adopted daughter, the testator provided that the residue of his estate should be converted into money and divided "equally among the following respective persons." He then enumerated them: Dr. H. P. Elliott; "the surviving children of the late Mrs. L. Kirby of Swansea Wales each child to receive his or her share on attaining the age of twenty-one years" Mrs. Gaze Edith Elliott; "the surviving children of the late Robert J. Elliott" Helen Shearing Ruth Shearing John Shearing junior "the last three persons being the children of the said John Shearing" Edith Cracknell and John Shearing senior.