

marily; but the whole of Part XVI. of the Code, secs. 771 to 799, relates solely to the trial of indictable offences, and sec. 773 (e) must relate to cases where the charge is laid as an indictable offence.

Regina v. Crossen (1899), 3 Can. Crim. Cas. 152, a Manitoba case, and Rex v. Carmichael (1902), 7 Can. Crim. Cas. 167, a Nova Scotia case, not followed.

Rex v. Nelson (1901), 4 Can. Crim. Cas. 461, a British Columbia case, approved.

The defendant was rightly tried under the summary convictions procedure; and there was some evidence which, if believed, justified his conviction.

The defendant was remanded to custody.

MIDDLETON, J., IN CHAMBERS.

SEPTEMBER 9TH, 1915.

*RE REX v. WHITE.

Criminal Law—Police Magistrate—Adjournment—Jurisdiction—Criminal Code, sec. 722—Trial de Novo—Prohibition.

Motion by Elizabeth White, the defendant, for an order prohibiting the Police Magistrate for the City of Toronto from taking any further proceedings against her upon a charge of keeping a common betting-house.

On the 24th June, 1915, evidence upon the charge was taken before the Police Magistrate; the defendant was then "remanded for trial till called on." On the following day, a summons was served upon the defendant calling upon her to appear before the Magistrate to "receive judgment upon" the charge. Upon the return of that summons, the Crown proposed to give further evidence against the defendant.

T. H. Lennox, K.C., for the defendant.

J. R. Cartwright, K.C., for the Crown.

MIDDLETON, J., said that the hearing on the 24th June was intended to be a full and complete trial. The evidence of the Crown was heard; the accused was called upon for her defence and gave her evidence. The evidence which it was now sought to give was not then tendered, nor was it known to the Crown, and, if admitted against the accused, was evidence in