

REPORTS AND NOTES OF CASES.

Province of Ontario.

COURT OF APPEAL.

Full Court.]

REX v. LUTTRELL.

[Feb. 14.]

Criminal law—Betting—Selling newspapers containing racing information — Conviction — Evidence—Stated case—Police magistrate—Pro forma finding.

Case stated by a police magistrate. The defendant was convicted on Nov. 4, 1910, for selling newspapers containing information that could be made use of by book-makers and others in making bets at the races held in Toronto. The conviction was under s. 235 (f) of the Criminal Code, as amended by 9 & 10 Edw. VII. c. 10, s. 3. The question stated was, whether the sale of papers containing records of the races two days after they were run, was with the intent to assist in betting, and whether the onus was on the Crown to prove that intent.

MEREDITH, J.A.:—The learned police magistrate seems to have been under a misapprehension of the nature of the offence with which the accused was intended to be charged: Criminal Code, s. 235 (f), as enacted by 9 & 10 Edw. VII. c. 10, s. 3. His statement is, that the charge against the accused was that of "having sold newspapers containing information that could be made use of by book-makers and others in making bets:" but there is, obviously, no criminal offence comprised in the statement; it would be extraordinary if there were. Under the Act, the offence, as applicable to such a case as this, is, selling "information intended to assist in, or intended for use in connection with, book-making," etc.

There was no evidence of any such intention on the part of the accused, in selling the papers in question; he was merely a newsboy, selling the newspapers in question, among many others, at a "news-stand." The purchaser had no intention of using them in any such manner, but bought solely for the purpose of laying an information against the boy. There was no evidence of any such intention, on the part of the printer or publisher of