

J. Singer, for the defendant.

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

SUTHERLAND, J., after setting out the grounds of the motion in a written opinion, said that there was evidence which, if believed by the magistrate, as it apparently was, would justify the conviction of the defendant, who was the occupant of the premises where the liquor was alleged to have been sold.

The first objection was, that the magistrate failed to observe the provisions of sec. 87 (1) of the Act in that he did not take down all the evidence. The second and third objections related to the failure of the magistrate to note objections of counsel and his erroneous rulings as to evidence. As to those three grounds, the learned Judge said that the magistrate had certified as to the evidence taken by himself, and his notes seemed to be reasonably full and definite. The affidavits filed in support of the motion did not set out any specific and relevant evidence not taken down, nor the questions and objections asked and raised by counsel. No effect could be given to any of these objections.

The fourth and fifth grounds related to the conduct of the magistrate during the hearing. The learned Judge said that, on the material filed in support of the motion, he was not able to conclude that the magistrate was guilty of any bias towards the accused which could be said to affect his disposition of the case.

Grounds 6 and 7 were directed to the point that the stenographer who took down the evidence was not sworn, as required by sec. 87 (2) of the Act; but that did not affect the jurisdiction of the magistrate to make a conviction: *Ex p. Doherty* (1894), 3 Can. Crim. Cas. 310; *Rex v. Leach* (1908), 17 O.L.R. 643, 653. It was not suggested that the stenographer did not "truthfully and faithfully report" the evidence, and she certified it as correct.

The conviction appeared to be in due form; and no facts were disclosed which would justify quashing the conviction.

*Motion dismissed with costs.*

[In *REX v. VASELOVITCH*, a similar motion, on like grounds, was dismissed by SUTHERLAND, J., on the same day.]