as the new turns of the indicator might again disclose. There was no evidence as to the value of the gum.

The learned Judge, continuing, said that, so far as the depositors were concerned, the whole operation was one of pure chance, with no element of skill.

He then referred to sec. 986 of the Criminal Code, as enacted in 3 & 4 Geo. V. ch. 13, sec. 29, which makes the keeping of any means or contrivance for unlawful gaming primâ facie evidence of a disorderly house, in prosecutions under sec. 228; and said that there was sufficient evidence that the accused was the keeper of the premises and interested in the operation of the machine.

The machine was of the same sort as those in question in the Quebec case of Rex v. Langlois (1914), 23 Can. Crim. Cas. 43, and Rex v. Stubbs (1915), 31 W.L.R. 109, 567. The learned Judge did not agree with the conclusion in either of these cases.

The question should be answered in the affirmative, and the conviction affirmed.

OCTOBER 12TH, 1915.

REX v. UPTON.

Criminal Law—Arson—Conviction of two Persons—Evidence to Sustain Conviction by either but not both—No Evidence to Shew which of two Guilty—Conviction Quashed.

Case reserved by the Judge of the County Court of the County of Brant, by whom the two prisoners were convicted of arson.

The case was heard by MEREDITH, C.J.O., GARROW, MACLAREN, MAGEE, and HODGINS, JJ.A.

I. F. Hellmuth, K.C., and W. A. Hollinrake, K.C., for the prisoners.

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

MEREDITH, C.J.O., delivering the judgment of the Court, said that the argument proceeded on the footing that the case was amended so as to raise the question whether there was evidence to support the conviction.

The Court was of opinion that there was evidence which, while not conclusive, warranted a finding that the elder prisoner's house was set on fire either by him or by the other prisoner, his son, but that there was no evidence to warrant a conviction of both of them; and that, there not being (as the Court