

time agreed upon. On motion to quash the conviction :

*Held*, that the conviction must be quashed, there being no evidence of any felonious intent on the part of L. in anything he did.

*Held*, also, that the whole proceedings, arrest, trial and conviction, were a gross abuse of criminal process, for the purpose of obtaining an undue advantage in a most trivial matter.

The private prosecutor was ordered to pay the costs.

The conduct of the Justices in being parties to such an outrageous agreement commented on.

*Reg. v. Young*, 5 O. R. 400; and *Reg. v. Kennedy*, 10 O. R. 398, approved. *Regina v. Lacoursiere*, 302.

2. *Habeas corpus—Vagrancy—Gaming—Living by means of—Evidence of—Sufficiency of.*—R. S. C., c. 157, s. 8, provides that: "All persons who, . . . (k) have no peaceable profession or calling to maintain themselves by, but who do, for the most part, support themselves by gaming, . . . are loose, idle or disorderly persons, or vagrants, within the meaning of this section. (2.) Every loose, idle or disorderly person, or vagrant shall, upon summary conviction . . . be deemed guilty of a misdemeanor, and shall be liable," &c.

D. was convicted before a police magistrate under above section and sentenced to imprisonment.

On an application for a writ of *habeas corpus*,

*Held*, that, to support such a conviction, there must be evidence of four distinct propositions: (1) That the accused had no peaceable pro-

fession or calling to support himself by; (2) That he practised gaming;

(3) That, from this practice, he derived some substantial profits;

(4) That these profits constituted the larger portion of his means of support: and there being no reasonable evidence to warrant a finding of either the third or fourth proposition, it could not be assumed that because of the want of a visible occupation, and of the accused being greatly addicted to gambling, the latter contributed mainly to his support.

The prisoner was discharged.

*The Queen v. Davidson* . . . 325

3. *Habeas corpus—Vagrancy—Gaming—Living by means of—Findings of fact by Magistrate—Evidence—Sufficiency of.*—H. was

convicted before a police magistrate and sentenced to a term of imprisonment under R. S. C., c. 157, s. 8, upon a charge of having no peaceable profession or calling to maintain himself by, but who, for the most part, supported himself by gaming, and of being a loose, idle or disorderly person, and a vagrant.

On an application for a writ of *habeas corpus*,

*Held*, that the weight to be given to the evidence it was the function of the magistrate to decide, and the Court could only search the evidence, ascertain what points might possibly be found in favour of the prosecution, and consider whether, if the magistrate found all of these against the accused, there was reasonable ground for inferring that the accused was guilty of the crime charged.

*Held*, also, that, although the case was exceedingly weak, the Court could not say that upon no