RECENT MANITOBA DECISIONS.

Criminal law—Conviction for gaming—Insufficient evidence of support by gaming.

Application for a writ of *habeas corpus* to bring up a prisoner in custody under conviction and sentence of imprisonment upon a charge of having been, on the 11th May, 1892, a person having no peaceable profession or calling to maintain himself by, but who, for the most part, supported himself by gaming, and of then being a loose, idle, and disorderly person and a vagrant.

The most important objection taken was that there was not before the magistrate evidence to warrant the conviction.

The charge was laid under R. S. C., c. 157, s. 8, s-s. (k), which provides that all persons who have no peaceable profession or calling to maintain themselves by, but who do, for the most part, support themselves by gaming or crime, or by the avails of prostitution, are loose, idle or disorderly persons, or vagrants. It was to "gaming" only that there was any pretence that the evidence pointed.

Held, that to support the conviction, it was necessary there should be evidence of four distinct propositions:—

1. That the accused had no peaceable profession 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.

There was abundant evidence of the first and second propositions, but there was no reasonable evidence to warrant a finding of either the third or fourth proposition. The accused might have neither profession nor calling by which to maintain himself. He might be possessed of sufficient means to enable him to live in idleness, or he might be supported by others. He might gamble extensively, and yet not derive from the practice any means of support. A few instances of winnings by the accused were mentioned in the evidence, but whether on the whole he won or lost there was nothing to show. The conviction was not supported by evidence of all the facts necessary to support it, and the prisoner must be discharged.—*Regina* v. *Davidson*, Killam, J., June 3, 1892.