

FEBRUARY 23RD, 1914.

*REX v. FRASER.

Criminal Law—Lottery Scheme—Criminal Code, sec. 236—Acquittal of Accused—Prosecution Conducted by Crown Attorney—Status of Informant Bound over to Prosecute—Right to Apply to Trial Judge to Reserve Case—Right to Move for Leave to Appeal to Court of Appeal—Criminal Code, secs. 871, 872, 944, 1014, 1015—Crown Attorneys Act, 9 Edw. VII. ch. 55, sec. 8, cls. (b) and (c)—“Prosecutor” “Private Prosecutor.”

Application by John Scully, the informant, under sec. 1015 of the Criminal Code, R.S.C. 1906, ch. 146, for leave to appeal to a Divisional Court of the Appellate Division from the refusal of MORGAN, Jun. Co.C.J., at the York General Sessions, to state a case for the opinion of the Court, he having ruled that the Crown had not made out a case, and the jury, under his direction, having found the defendants “not guilty” of the offence charged.

The application was heard by MEREDITH, C.J.O., MACLAREN and MAGEE, J.J.A., and LENNOX and LETCH, JJ.

Gordon Waldron, for the applicant.

C. H. Ritchie, K.C., for the defendants, the respondents.

The judgment of the Court was delivered by MEREDITH, C.J.O.:—An information was laid by the applicant before the Police Magistrate for the City of Toronto against the respondents, charging them with a contravention of sec. 236 of the Criminal Code, and the respondents were committed for trial, and the applicant was bound over to prosecute.

An indictment was preferred at the General Sessions of the Peace for the County of York against the respondents for the offence charged in the information, and it was preferred by the Crown Attorney. A true bill having been found, the trial proceeded before His Honour Judge Morgan, presiding at the General Sessions, on the 7th October, 1913, and the Crown Attorney conducted the prosecution at the trial.

At the close of the case for the prosecution, the presiding Judge ruled that no case had been made, and directed the jury to acquit, whereupon a verdict of “not guilty” was rendered.

*To be reported in the Ontario Law Reports.