

228 and 225 of the Criminal Code, and was found guilty by the jury.

The indictment was not preferred at the instance of the person bound over to prosecute, but by the County Crown Attorney, with the written consent of the Chairman, under sec. 873 of the Criminal Code. After a true bill had been found by the grand jury, but before arraignment or plea, the prisoner desired to elect to be tried before the County Court Judge without a jury, under the Speedy Trials sections of the Code. On its being held that he was not entitled so to elect, he pleaded "not guilty."

The Chairman, on the application of the prisoner's counsel, reserved for the Court the following questions:—

1. Was there any valid evidence that the prisoner was the keeper of a disorderly house?
2. Was my charge erroneous as regards the reference made therein to the woman who had been previously convicted?
3. Was the prisoner, in the circumstances stated, entitled to make an election for speedy trial?

The case was heard by MOSS, C.J.O., GARROW, MACLAREN, and MAGEE, J.J.A., and LATCHFORD, J.

J. B. Mackenzie, for the prisoner.

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

Moss, C.J.O.:—We are all agreed that the questions submitted by the learned Chairman of the General Sessions should be answered adversely to the contentions made on behalf of the prisoner.

As to the first and second questions, having regard to the evidence and the charge to the jury, which are made part of the stated case, here can be no reasonable doubt.

The third question affords more room for difference of opinion—not, however, as to what the proper conclusion should be, but rather as to grounds upon which it should be based.

Speaking for myself, and with the utmost respect for those who have indicated or expressed a different view, I think that when, as here, a person committed for trial, and whether in custody or upon bail, has not, before a bill of indictment has been found against him by a grand jury, taken the steps necessary to enable him to elect to be tried by a Judge without a jury, he is not entitled, upon bill found and arraignment thereon, to ask to be allowed to elect to be tried without a jury. If that is not the effect of the legislation, it places it in the power of the accused not merely to postpone his trial, but to