

part. One Phillips was in the habit of betting with him from \$10 to \$200, about twice a week—credit bets—Phillips paying Hynes in cash or by cheque if he lost, and usually being paid in cash by Hynes if he won. The practice was for Phillips to call up Hynes at his place of business by telephone and tell him he wanted to bet, make the deal over the telephone, and settle the next day (Hynes calling for that purpose on Phillips).

Hynes was tried on a charge that he "did engage in the business of betting or wagering contrary to the Criminal Code." The jury found a verdict of "guilty."

The question reserved for the opinion of the Court was, whether there was any evidence of the offence charged to go to the jury.

The indictment was under sec. 235 (e) of the Code (enacted by 9 & 10 Edw. VII. ch. 10, sec. 3): "Every one is guilty of an indictable offence.....who.....engages.....in the business.....of betting or wagering....."

Engaging in business does not mean taking part in a single act; it connotes a repetition or series of acts; but where a person makes bets averaging two a week for a period of at least six months, in the manner and circumstances disclosed here, there is ample to justify a jury in finding that he engaged in betting as a business, and therefore engaged in the business of betting. That being so, the transactions are not protected by sec. 235 (2), which exempts from penalty "a private bet between individuals not engaged in any way in a business of betting," Quite irrespective of the Maynard transactions, the question should be answered in the affirmative.

In the Maynard cases it was contended by the Crown that, as Gagen was clearly engaged in the prohibited business, Hynes was also in law guilty of the same offence under the provisions of sec. 69 (b) of the Code, in that he did acts for the purpose of aiding Gagen to commit the offence; that his acts of carrying bets to Gagen did aid Gagen to commit the offence; and the purpose was for the jury to decide. While the mere carrying of a bet or two to a book-maker for a friend to oblige him and enable him to keep under cover might not be satisfactory evidence of the forbidden purpose, there was enough in the case to justify a jury in so finding.

The sole question before the Court should be answered in the affirmative.

LATCHFORD, J., FERGUSON, J.A., and Rose, J., agreed with RIDDELL, J.

MASTEN, J., agreed in the result, for reasons stated in writing.

Conviction affirmed.