

D. I. Grant, for the prisoner.

J. R. Cartwright, K.C., for the Attorney-General, shewed cause in the first instance.

FALCONBRIDGE, C.J.:—As to the conviction for selling liquor on the 9th November: (1) the magistrate has passed upon the evidence; (2) if I were to review his judgment, I should find it to be amply sustained by the testimony.

The prisoner brought the whisky to the woman Rio, who served it to Larkin and Wells, and they paid her. I should say he is a real and principal offender. The woman swears that he "lives with" her, and that she is in partnership with him. "They run a bar and soft drinks."

If necessary, sec. 112 can be invoked. *Rex v. Brisbois*, 15 O.L.R. 264, is not this case at all.

The prisoner did not ask for an interpreter nor for an adjournment, nor at any stage of the case did he ask for the assistance of counsel, until after the evidence was in, and the magistrate had intimated that he would find him guilty.

As to the right of a foreigner at his trial to have the evidence interpreted, see *Rex v. Meeklette*, 18 O.L.R. 408, per my brother Riddell; *Rex v. Sciarrone*, 1 O.W.N. 416.

And as to the discretion of the Justice to adjourn the trial in order to procure the assistance of counsel, see *Regina v. Biggins*, 5 L.T.N.S. 605; *Rex v. Irwing*, 18 O.L.R. 320.

The remaining objection is one which I thought at the argument to be more serious, viz., whether as to the prior conviction, the provisions of sec. 101 were sufficiently or substantially complied with. I think they were. The date was mentioned by the magistrate, and the conviction had been made by the same magistrate.

In *Rex v. Teasdale*, 20 O.L.R. 382, the previous conviction was put in the form of a charge, to which, it was said, the prisoner pleaded guilty.

In *Rex v. Simmons*, 17 O.L.R. 239, the record was, "The prisoner makes a statement that he was convicted of selling between 4th October and 14th October," which might mean that he had been previously convicted of an offence against other sections, which would not warrant a later conviction under sec. 72 being treated as a second offence.

These cases, therefore, do not govern the present one.

Habeas corpus refused. No costs.

The formal conviction which has been put in since the argument sets out the prior conviction with due particularity.