

On the return of the writ of habeas corpus the Court was moved under c. 181 R.S.N.S. (1900) for the discharge of defendant on the grounds:

(1). That no offence was charged in the conviction. (2). That the magistrate had not reduced the charge to writing after obtaining the consent of the accused to be tried, but merely read over to her the charge as set out in the information leading to the warrant. (3). That the exact place was not stated in the conviction, the location being necessary.

Held, per TOWNSHEND, J., refusing the motion:

1. The offence was sufficiently stated.

2. The magistrate did what was within the meaning of the law with respect to reducing the charge to writing.

3. That the locality was sufficiently set forth.

Subsequently the motion was renewed before WEATHERBE, J., when the additional ground was urged that the magistrate, when he obtained the prisoner's consent to be tried before him, did not inform her of her right to a trial by jury alternatively with her right to be tried summarily before the magistrate.

Held, 1. In order to constitute the crime charged it must appear that the place referred to was a place used for the purposes of prostitution, and that the statement in conviction was incomplete.*

2. The option of a jury trial should have been given to prisoner by the magistrate before obtaining her consent to be tried summarily before him and this not having been done the prisoner must be discharged. *The Queen v. Cockshott* (1898) 1 Q.B. 582, followed.

The following cases were relied on as establishing the practice with regard to renewing an application before another judge when the application has been refused in the first instance. *Cox v. Hakes*, 15 App. Cas. 514; *Re A. L. McKenzie*, 2 R. & G. 481; *Re Bowack*, 2 B.C.R. 222.

Power, for prisoner. *Clancy*, for Attorney-General.

Chambers, Weatherbe, J.]

[Nov. 25, 1902.]

THE KING v. POWER.

Recognizance to keep the peace—Procedure to impose and collect costs—Crim. Code, ss. 259 (3), 270—Order imposing imprisonment without distress held bad.

Defendant was ordered to enter into a recognizance with sureties to keep the peace towards G. and pay G., the prosecutor, the sum of \$1.42 for his costs, and on refusal or neglect to enter into such recognizance and to find such securities forthwith, and if the said sum for costs were not paid forthwith to be imprisoned for one month unless said recognizance was sooner entered into and said sureties sooner found and said sum for costs sooner paid. Defendant, having refused to comply with the order, was committed to jail under a warrant of commitment in the terms of and