

Gibbons an opportunity of shewing that Mr. Meredith was quite wrong in stating that there was no intention to establish a school in any way. I offered to accept the undertaking of Mr. Gibbons, on behalf of these three gentlemen, that they would act upon the intention stated in their examination, and take steps to establish a school in rented premises. Mr. Gibbons declined to give this undertaking, stating that his clients might not now be of the same mind, and that circumstances have changed—referring to the view that in December the county council may be induced to attempt to repeal the by-law establishing the school.

Since then, copies of the notices calling the meeting and of the correspondence have been put in, and these confirm the view that the three trustees in question have no intention of discharging the duties of their office in any way. This being so, the mandamus will go in the form indicated above, and Mr. Gibbons's clients will be directed to pay the costs of the motion.

I do not direct a stay, as the demand must be made by the 15th August, and Mr. Gibbons's main argument was based upon the statement that his clients would make the demand for such sum as might be necessary, in their view, to establish the school in rented premises, and their opponents have now abandoned the plan of at once erecting a suitable building.

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KELLY, J., IN CHAMBERS.

JULY 26TH, 1912.

REX v. MARCINKO.

*Criminal Law—Keeping Disorderly House—Criminal Code, sec. 228—Magistrate's Conviction—Evidence—Weight of—Penalty—Excess—Amendment.*

Application by the defendant to quash a Police Magistrate's conviction, under sec. 228 of the Criminal Code, for keeping a disorderly house.

D. D. Grierson, for the defendant.

J. R. Cartwright, K.C., for the Attorney-General.

KELLY, J.:—On the argument the chief grounds relied upon by the defendant were: (1) that there was no reasonable evidence on which the conviction could be made; and (2) that the