

# The Ontario Weekly Notes

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## APPELLATE DIVISION.

FIRST DIVISIONAL COURT. JANUARY 10TH, 1916.

\*REX v. MONSELL.

*Criminal Law—Undertaking to Tell Fortunes—Criminal Code, sec. 443—Evidence—Deception—Intent to Defraud.*

Case stated by the Senior Judge of the County Court of the County of York, after a conviction of the defendant for undertaking to tell fortunes.

The charge was laid under sec. 443 of the Criminal Code, which provides that "every one is guilty of an indictable offence and liable to one year's imprisonment who pretends to exercise or use any kind of witchcraft, sorcery, enchantment or conjuration, or undertakes to tell fortunes, or pretends from his skill or knowledge in any occult or crafty science, to discover where or in what manner any goods or chattels supposed to have been stolen or lost may be found."

The case was heard by MEREDITH, C.J.O., GARROW, MAC-LAREN, MAGEE, and HODGINS, JJ.A.

T. C. Robinette, K.C., for the defendant.

Edward Bayly, K.C., for the Crown.

MEREDITH, C.J.O., delivering the judgment of the Court, said that the argument for the defendants was, that it was essential, in order to bring the case within sec. 443, that the persons whose fortunes the accused had undertaken to tell must have been deceived; that the evidence shewed that they were not deceived; and that a document was signed by them which in effect stated that they understood that what was being done was merely an examination of their palms according to rules laid down in certain books on palmistry, etc.

The question in *Rex v. Marcott* (1901), 2 O.L.R. 105, was,

\*This case and all others so marked to be reported in the Ontario Law Reports.