

KELLY, J., IN CHAMBERS.

JULY 23RD, 1919.

REX v. WRIGHT.

*Criminal Law—Keeping Room or Place for Practice of Acts of Indecency—Magistrate's Conviction—Motion to Quash—Evidence—Reasonable Inference from Facts.*

Motion to quash the conviction of the defendant by a Police Magistrate on a charge of keeping a room or place for the practice of acts of indecency, the grounds for the application being: (1) that there was no evidence upon which the magistrate could convict; and (2) that the evidence did not disclose any criminal offence.

Fletcher Kerr, for the defendant.

J. R. Cartwright, K.C., for the Crown.

KELLY, J., in a written judgment, said that, by advertising in a newspaper published in Toronto the prisoner got into communication with, and brought to his room, a woman for the alleged purpose of instructing her in massage treatment. What followed upon her going there might be taken to indicate the purpose for which women were sought out by the advertisement, and the practice that the defendant would indulge in towards any woman so induced to go there. His conduct and acts towards this woman were unquestionably indecent, and she was led by him into most indelicate acts. Whether or not she believed that his real reason for inducing her to come to his room was merely to instruct her in massaging so that when instructed she could treat him for his alleged ailment, and even if he were in need of massage treatment, it was inconceivable that the indecency of exposure in which the accused indulged was necessary to the instruction or the treatment.

The means adopted of bringing to his room the woman—and perhaps other women as well if they answered his advertisement—was open to suspicion as to his real purpose. It was urged that the case against him had not been fully proven. It was not essential, however, that every fact necessary to constitute an offence should be established by direct and positive evidence. If sufficient be shewn from which a reasonable inference can be drawn that the offence charged has been committed, a conviction so made will not, unless other unusual circumstances present themselves, be disturbed.