

C. W. Bell, for the defendant.

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

THE CHANCELLOR said that the police had an eye on the house No. 126 James street, in the city of Hamilton, used and occupied by the defendant as a cigar-store and barber-shop combined, until the Chief Constable was able to swear that he had good grounds for believing and did believe that the house was kept or used as a common betting-house. Then a search-warrant was obtained and the premises "raided" on the 27th November by the police, and they found on the person of the defendant 92 slips of paper with words, names, and figures written on them, and \$232 in bills. In the defendant's waistcoat pocket were next found 3 more slips and \$3 in money, and from another pocket was taken a parcel of "dead" slips. There were also found in his trunk 5 savings-bank books in different banks, which shewed moneys in hand to the credit of the depositor, in the aggregate amounting to about \$25,000. At the gaol, was found concealed on the person of the defendant a further sum in bills of \$690. The "slips" were "betting-slips" as proved by the police. Certain admissions were made by the defendant at the time of his arrest. The conviction rested upon this evidence, which, the defendant urged, was insufficient. The defendant himself gave no evidence under oath.

Two main purposes are specified in the Criminal Code, secs. 227 and 228: first, keeping a house for the purpose of betting with persons resorting thereto; and, next, keeping it for the purpose of receiving deposits on bets as consideration for a promise to pay on the event of the race. There was evidence on both heads sufficient to make a prima facie case. Though there was no actual evidence of people attending to bet or to make deposits, yet the magistrate might properly conclude that they did so: *Reynolds v. Agar* (1906), 70 J.P. 568 (journal part).

The importance and significance of the slips were shewn by such cases as *Regina v. Worton*, [1895] 1 Q.B. 227; *Wyton's Case* (1910), 5 Cr. App. Cas. 287; *Mortimer's Case* (1910); *ib.* 199, at p. 200; and *Lester v. Quested* (1901), 20 Cox C.C. 66.

After quoting the contents of some of the slips and shewing their meaning, the Chancellor said that these various indications had a cumulative effect, and carried the charge beyond one of suspicion into something properly evidential; and, though to some the evidence might appear slight, it was more than a mere scintilla, and could not be withdrawn from judicial considera-