

COUNTY JUDGE'S CRIMINAL COURT.

Irving, J.]

THE KING v. ROYDS.

[March 31.

Assault—Evidence—Confession to person in authority—Alleged assault by choir boys while going to choir meeting—Investigation by church authorities—Answers of accused elicited as for that enquiry only—Onus of proving statement was voluntary.

1. The rector of a cathedral is a person in authority over the choir boys with respect to the investigation of an alleged assault committed by them while on the way to a meeting of the choir, and answers of a choir boy elicited by the rector and the choirmaster upon such investigation and stated to be only for the purpose of that enquiry, are not admissible in evidence against the choir boy afterwards prosecuted for the assault without proof that the statement was voluntarily made.

2. The onus of proving that the alleged confession was a voluntary one is upon the Crown.

Eberts, K.C., and R. H. Pooley, for Crown. J. H. Lawson, jr., for prisoner.

Bole, Co. J.]

THE KING v. TELFORD.

[Sept. 6.

Manslaughter—Preliminary enquiry for murder—Motion of Crown to commit for manslaughter—Election of speedy trial—Subsequent application of Crown to substitute murder charge—Jurisdiction of County Judge's Criminal Court—Circumstantial evidence—Rules as to sufficiency—Cr. Code, ss. 227, 230, 236, 765, 767.

1. After a committal for trial at the instance of the Crown upon a charge of manslaughter and arraignment thereon under the speedy trials clauses and election of the accused for speedy trial without a jury, the proceedings in the County Court Judge's Criminal Court will not be stayed at the instance of Crown to enable a charge of murder to be substituted.

2. In order to justify a finding of guilt from purely circumstantial evidence, the inculpatory facts must be incompatible with the innocence of the accused and must be incapable of explanation upon any other reasonable hypothesis than that of guilt.

Maclean, for Crown. Martin, K.C., and Bowser, for prisoner.