

that the judgment of the Court of Appeal referred to on the plaintiff's appeals from the orders of MATHERS, J., dated March 28 and April 15, 1908, should be taken as one judgment on one appeal for the purpose of the appeal to the Supreme Court.

*Blackwood*, for plaintiff. *Levinson*, for defendants.

Full Court.]

REX v. PORTE.

[Oct. 3.

*Criminal law—Crim. Code, s. 517—Information, sufficiency of—Charge of doing "an unlawful act."*

The prisoner was convicted before a police magistrate at a summary trial of an indictable offence under section 517 of the Criminal Code for that he "did unlawfully in a manner likely to cause danger to valuable property without endangering life or person *do an unlawful act* in the Canadian Pacific Railway yards in the city of Winnipeg," and was sentenced to three months in jail. There was nothing in the information or conviction to shew the nature of the alleged unlawful act, but the evidence shewed that the prisoner had put stones in the journal of a car on the railway track.

*Held*, that the conviction was bad because it did not shew at all the nature of the unlawful act charged and therefore did not disclose any offence, and that the prisoner was entitled to a writ of habeas corpus and to be discharged; the order to contain a clause protecting the magistrate against any action.

*Patterson*, D.A.G., for the Crown. *Locke*, for the prisoner.

Macdonald, J.]

ST. VITAL v. MAGER.

[Oct. 12.

*Highway—Width of great highways in Manitoba—R.S.C. 1906, c. 19, s. 9.*

The plaintiff municipality contended that the public travelled road through the defendant's property should be 99 feet wide instead of 66 feet and brought this action for a declaration to that effect and an injunction to forbid the defendant from continuing to keep 33 feet of the alleged width of the road fenced off for his own benefit.

All the evidence, according to the finding of the trial judge, shewed that the road in question was only 66 feet wide for many years prior to May, 1886; but in that year, pursuant to s. 3 of 49 Vict. (D.), now R.S.C. 1906, c. 99, s. 9, a provincial