The Crown sought an examination of the appellant at the inquest; the appellant resisted because charged by the Crown with having caused the death of the man by a criminal act amounting to manslaughter. Which was right?

The learned Chief Justice referred to and discussed sec. 5 of the Canada Evidence Act, and also sec. 4, and distinguished Re Ginsberg (1917), 40 O.L.R. 136.

On principle, it was not lawful or proper to examine the appellant in the coroner's court in any way regarding the charge which was pending against him, as long as he was in jeopardy in respect of it. But he might be examined as a witness in regard to the guilt of any other person, so long as the examination did not touch in any way the charge against him.

The authorities seemed to be in accord with this conclusion. Reference to Wakley v. Cooke (1849), 4 Ex. 511; The People v. Taylor (1881), 59 Cal. 640; Hendrickson v. The People (1854), 10 N.Y. 1; Corpus Juris, vol. 13, pp. 1257 et seq.

The appellant was wrong in disobeying his subpœna; he might be examined as to the guilt of others so long as the examination did not encroach upon his rights as a person charged with crime.

The appeal should be dismissed.

RIDDELL, J., read a judgment in which he examined the law and stated his agreement with the conclusions of Orde, J.

In his opinion, the appeal should be dismissed.

MIDDLETON, J., also read a judgment. In his opinion, the order of Orde, J., was clearly right, and the appeal must be dismissed.

LATCHFORD, J., agreed with MIDDLETON, J.

LENNOX, J., was also of opinion, for reasons stated in writing, that the appeal should be dismissed.

Appeal dismissed with costs.