

at liberty to determine this case, his judgment would be, as the jurors' was, altogether for the plaintiff.

The appeal should be dismissed.

LATCHFORD and LENNOX, JJ., agreed with the Chief Justice.

RIDDELL, J., read a dissenting judgment. He said that no fraud was alleged, and, in his view, none had been proved, and the trial Judge should have so held. The alleged damages were occasioned by the plaintiff's own default.

The appeal should be allowed and the action dismissed.

MIDDLETON, J., agreed with RIDDELL, J.

Appeal dismissed (RIDDELL and MIDDLETON, JJ., dissenting).

SECOND DIVISIONAL COURT.

FEBRUARY 25TH, 1921.

*REX v. BARNES.

Evidence—Witness Subpœnaed to Give Testimony at Inquest Refusing to Testify—Issue of Coroner's Warrant for Apprehension—Motion to Quash Warrant or for Prohibition—Witness Charged with Manslaughter of Person on whose Body Inquest Held—Charge Laid before Issue of Subpœna—Committal for Trial—Canada Evidence Act, sec. 5—Protection of Witness.

Appeal by the defendant from the order of ORDE, J., ante 543.

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LATCHFORD, MIDDLETON, and LENNOX, JJ.

A. Courtney Kingstone, for the appellant.

Edward Bayly, K.C., for the coroner, respondent.

MEREDITH, C.J.C.P., in a written judgment, said that the real and single question involved was whether the appellant could be compelled to give evidence of his guilt of a crime of manslaughter—with which he was charged—if he were in fact guilty. The charge against the man had passed its first stage; he had, after the usual preliminary investigation before a magistrate, been duly sent for trial. But, running concurrently with that charge, a coroner's inquest was being held upon the body of the man whose death was the subject of the criminal charge.