

Appeal dismissed.

MEREDITH, J.A., gave reasons in writing for the same conclusion.

OSLER, GARROW, and MACLAREN, J.J.A., also concurred.

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DECEMBER 7TH, 1907.

C.A.

REX v. SUNFIELD.

*Criminal Law—Murder—Evidence—Statement of Deceased—Dying Declaration—Expectation of Death—Threats made by Prisoner to Deceased—Admissibility—Threats by Prisoner to other Persons—Inadmissibility—No Substantial Wrong or Miscarriage—Crown Case Reserved—Conviction Affirmed.*

The prisoner, Jacob Sunfield, was tried and convicted before FALCONBRIDGE, C.J., and a jury, on an indictment which charged him with the murder of one Andrew Radzig, and was sentenced to death.

During the trial evidence was given of a statement made by the deceased Andrew Radzig as to the cause of his death, which was admitted by the Chief Justice as a dying declaration. Evidence was also given with regard to quarrels between the prisoner and the deceased, as well as in some cases with other persons.

Subsequent to the trial the Chief Justice, by direction of the Court of Appeal, given upon the application of counsel for the prisoner, stated a case and submitted for the opinion of the Court the following questions:—

1. Was the evidence of the dying declaration properly admitted?

2. Was the evidence as to quarrels properly admitted?