

One is an indictable offence, to be prosecuted by indictment—R. S. C. 1906 ch. 1, sec. 28—for endangering the safety of any person conveyed or being in or upon a railway; the other was an offence punishable on summary conviction—R. S. C. ch. 1, sec. 28—under part XVI. of the Code, for causing, or exposing to risk of, injury to person or property. For the one the limit of the term of imprisonment is two years; for the other it was five. For the one, which is finable in addition to or in lieu of imprisonment under sec. 1035 of the Code, no limit seems to be imposed in respect of the fine: secs. 1028, 1029. For the other the fine was limited—sec. 415 (2)—to \$400.

Then also, the prosecution having expressly proceeded and the magistrate having expressly convicted under the repealed clause, there is nothing by which to uphold the conviction under a different statute. . . .

[Reference to *Marshall v. Brown*, 1 E. & E. 267.]

The first half of the third question in the case reserved must, therefore, be answered in the negative, with the result that the conviction must be quashed.

The other questions it is unnecessary to answer.

The other members of the Court concurred; MEREDITH, J.A., stating his opinion in writing.

DECEMBER 14TH, 1909.

REX v. STEFFOFF.

Criminal Law — Murder — Evidence — Statements of Prisoner — Admission or Confession—Admissibility—Person in Authority—Threats or Inducements—Warning or Caution—Criminal Code, secs. 684, 685.

Case reserved for the opinion of the Court of Appeal by RIDDELL, J., after trial and conviction before him of the prisoner on a charge of murdering one Sinioff.

The trial Judge admitted in evidence certain statements made by the prisoner in answer to questions addressed to him by a policeman through an interpreter. At the time, the prisoner had not been formally placed under arrest, but he was detained by the policeman, and would not have been allowed to go away had he so desired.

The Judge also admitted in evidence certain other statements made by the prisoner in answer to questions addressed to him