

## HIGH COURT DIVISION.

HODGINS, J.A.

NOVEMBER 28TH, 1917.

## \*REX v. BAINBRIDGE.

*Criminal Law—Indictment for Seditious Libel—Single Count—Amendment—Particulars—Jury—Conviction—Duplicity—Two Separate Printed Papers—Intent Essential Part of Offence—Objections—No Substantial Wrong or Miscarriage—Criminal Code, secs. 134, 852, 853, 855, 860, 861, 1019—Refusal of Trial Judge to Reserve Case.*

Motion by the defendant in arrest of judgment and for a reserved case.

The motion was heard at the Toronto assizes.

R. T. Harding, for the defendant.

Peter White, K.C., for the Crown.

HODGINS, J.A., in a written judgment, said that the accused was tried before him and a jury on the 22nd November, 1917, and convicted, upon an indictment for a seditious libel.

As amended by the learned Judge, at the beginning of the trial, the indictment read: "That Isaac Bainbridge in the year of our Lord 1917 at the city of Toronto in the county of York did publish a seditious libel contrary to the Criminal Code section 134 to wit the matters contained in the annexed particulars."

The particulars mentioned 7 publications. The jury found the accused guilty on the above indictment with regard to 2 of these publications.

On the 9th November, 1917, when the accused pleaded "not guilty" to the indictment, it did not contain the words "to wit the matters contained in the annexed particulars;" the particulars were not delivered until the 20th November, 1917. Objection having been taken to the indictment, by way of motion to quash, on the ground that it was too wide and not specific enough, and that it was not stated against whom the libel was directed, the amendment was made as above, and the trial proceeded.

The motion in arrest of judgment and for a reserved case was made after verdict, on the grounds: (1) That the indictment, as

\*This case and all others so marked to be reported in the Ontario Law Reports.