

to the appellant in any event; and an order for the attendance at his own expense of the respondent, and requiring him to answer these questions, should issue.

*Appeal allowed.*

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FIRST DIVISIONAL COURT.

APRIL 23RD, 1918.

\*REX v. RODNEY.

*Criminal Law—Evidence—Statements of Accused to Detectives—  
Absence of Warning—Voluntary Statements—Admission in  
Evidence.*

The defendant was, on the 3rd December, 1917, convicted in the County Court Judge's Criminal Court for the County of Wentworth of having unlawfully stolen a number of street railway tickets, and several sums of money, the property of the Hamilton Street Railway Company, his employers.

The trial Judge reserved, and stated a case, which set forth: that the evidence shewed that, on the day of the arrest, the railway superintendent told the defendant he was wanted down the street, and the two went out of the office together, and were met by two detectives, Shirley and Smith, who asked the defendant to get into a taxicab with them, and they took him to the police headquarters, where they searched him, and found some street railway tickets on him; he was then asked by the detectives where he got the tickets, and he voluntarily made the statements given in evidence by the detectives; that no promises were made or threats used by the detectives to the prisoner; that he was not then under arrest; and that he was then detained on the above charge. The County Court Judge said that he believed the detectives' evidence and disbelieved the accused's evidence. No warning was given the accused by the detectives that what he might say would be used against him.

The questions reserved for the consideration of the Court were:—

"1. Was I right in admitting the evidence of detectives Shirley and Smith relating to admissions made to them by Rodney at police headquarters?

"2 Had detectives Shirley and Smith any right to question Rodney at police headquarters without having first warned him that what he might say would be used against him?

"3. Was I right in holding that he was not under arrest?"