

COURT OF APPEAL.

Criminal law. — Murder. — Hearsay evidence. — Alibi.

MONTREAL, 22nd March, 1911.

SIR LOUIS A. JETTÉ, C. J.; TRENHOLME, CROSS, ARCHAMBEAULT,
CARROLL JJ.

A. BRASSARD *vs* THE KING.

HELD.—1o. That a dying declaration, made about ten minutes after the crime has been committed in answer to a person inquiring for the name of the murderer, cannot be admitted as evidence as *res gesta*, specially when there existed bad feeling between the victim and the prisoner.

2o. That it is illegal for the Crown to comment before the jury on a plea of alibi on the fact that the accused had not explained what he had been doing during the time the crime was committed, and that these remarks should not have been allowed to go to the jury.

3o. That when a witness for the Crown is questioned respecting certain statements made to him by another witness and that this latter denies such statements, the defence should be allowed to examine the other witness on the points.

This is a reserved case submitted to the Court during the January 1911 term upon certain points of law.