

Upon that being done, at the plaintiff's cost, the appeal should be dismissed with costs.

RIDDELL, J., in a written judgment, in which ROSE, J., concurred, reached the same conclusions as the Chief Justice, but on somewhat different reasoning. He did not think it necessary, in the circumstances, that new parties should be added, and said that the appeal should be dismissed with costs.

LENNOX, J., agreed that the appeal should be dismissed.

*Appeal dismissed with costs.*

FIRST DIVISIONAL COURT.

APRIL 17TH, 1917.

\*REX v. HOGUE.

*Criminal Law—Murder—Conviction—Application by Prisoner for Leave to Appeal—Judge's Charge—Evidence Alleged to have been Improperly Admitted—Evidence Admitted at Request of Prisoner—New Trial—Discretion—Criminal Code, sec. 1019—Substantial Wrong or Miscarriage.*

Motion on behalf of the prisoner, under sec. 1015 of the Criminal Code, for leave to appeal from the conviction of the prisoner for murder, upon trial before SUTHERLAND, J., and a jury, at Sandwich, and for a direction to the trial Judge to state a case for the opinion of the Court, which he had refused to do. The prisoner complained of error in the charge of the trial Judge and of the improper admission of evidence.

The motion was heard by MEREDITH, C.J.O., MACLAREN, MAGEE, and HODGINS, JJ.A., and ROSE, J.

A. C. McMaster, for the prisoner.

J. R. Cartwright, K.C., for the Crown.

At the conclusion of the argument, the judgment of the Court was delivered by MEREDITH, C.J.O., who said that it was not proper, even in a capital case, because it might be possible to pick out isolated sentences in the charge of a trial Judge, which might seem, when divorced from their context, to be inaccurate or incomplete, to hold that there had been error, if, reading the