

Province of Ontario.

COURT OF APPEAL.

Full Court.] THE KING v. WALTON. [Feb. 23.]

Criminal law—Summoning grand jurors and petit jurors—Constitution of Courts—Procedure—Ontario Legislature—Dominion Parliament.

A Provincial Legislature has power to determine the number of grand jurors to serve at Courts of oyer and terminer and general sessions this being a matter relating to the constitution of the Courts, but the selection and summoning of jurors relate to procedure in criminal matters in respect of which the Dominion Parliament alone has power to legislate. The Dominion Parliament can exercise its power by adopting the provincial law and has done so by section 662 of the Criminal Code. *The Queen v. Cox* (1898) 31 N.S.R. 311; 2 Can. C.C. 207, approved.

Cartwright, K.C., Depty. Atty.-Genl., for Crown. J. B. McKenzie, for prisoner.

Full Court.¹ [June 16.]

BECK MANUFACTURING CO. v. ONTARIO LUMBER CO.

Rivers and Streams Act—Constructions and improvements—Floating logs—Payment of tolls—Fixing of tolls—Condition precedent to action.

The Rivers and Streams Act, R.S.O. 1897, c. 142, confers exclusive jurisdiction to fix the tolls chargeable for the use of construction and improvements made in rivers and streams for the purpose of making them navigable for saw-logs upon the different tribunals mentioned in section 13; and renders it incumbent on any person seeking payment in the nature of tolls for such use, to produce as the condition precedent to recovery, an order or judgment of one of such tribunals fixing them.

Per OSLER and GARROW, J.J.A.—It is not necessary that the tolls should be so fixed before the logs are floated, but until they have been fixed no action can be maintained.

Per GARROW, J.A.—(1) The Act merely gives the local judge or stipendiary magistrate the power to fix the proper rate of