

*Magurn v. Magurn*, 3 O.R. 570, 11 A.R., 178, and *Lemesurier v. Lemesurier*, (1895) A.C. 517, followed.

Per OSLER, J.A.—The Court of Appeal should not be asked, by a reserved case, to solve questions in which the validity of a conviction does not necessarily depend.

*Robinette*, K.C., for the prisoner. *Cartwright*, K.C., for the Crown.

Britton, J.] RE THE ONTARIO POWER CO. AND HEWSON. [May 11.

*Statute law—Incorporating company—"Works for the general benefit of Canada"—Objects of company—Recital in preamble—Construction of Act—Expropriation of land.*

A company was incorporated by a Dominion statute which recited that "it is desirable for the general advantage of Canada that a company should be incorporated for the purpose of utilizing the natural water supply of the Niagara and Welland Rivers with the object of promoting manufacturing industries and inducing the establishment of manufactures in Canada and other businesses" and "that the contemplated works (by the Act) will interfere with the navigation of the Welland River."

The Act gave power to the company "to construct and operate a canal and hydraulic tunnel from a point in the Welland River to a point in the Niagara River; to contract with any bridge company having a bridge across the Niagara River to carry wires across and connect them with any electric light or other company in the United States; and make certain sections of the Railway Act (then R.S.C., c. 709) applicable to the same as if specially set out as well as R.S.C., c. 92, relating to works in navigable waters

*Held*, 1. Considering the object of the Act, the subject matter dealt with, how the corporate powers were to be exercised it was not necessary that there should be an express declaration by the Parliament of Canada that the works were for the general advantage of Canada. But,

2. Even if it were necessary that there should be such a declaration the preamble in the Act stating that it was for the general advantage of Canada, that the natural water supply of the Niagara and Welland Rivers should be utilized for factories and "businesses" in Canada; that a company should be formed to utilize that water; and the company being created the works so to be made are declared to be for the general advantage of Canada, the preamble shews the intention of Parliament to give the power, the reason why, and that reason is a parliamentary declaration.

3. The Act giving the company the powers of a railway gave the power to expropriate lands.

Subsequent legislation considered.

*Waller Cassels*, K.C., and *F. W. Hill*, for the company. *H. S. Osler*, K.C., for the landowner.