

[Reference to The "Freeman," 18 How. 182; The "City of New York," 2 Blach. 187; The "Zulu," 10 Wall. 192; Newberry v. Colvin, 7 Bing. at p. 286; Sandeman v. Scurr, L. R. 2 Q. B. 86; Baumvoll v. Gilchrist, [1891] 2 Q. B. 310, [1892] 1 Q. B. 253, [1893] A. C. 8.]

These authorities require me to hold that plaintiffs are not entitled to the maritime lien claimed, and that this action should be dismissed with costs.

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FEBRUARY 23RD, 1906.

C.A.

REX v. WALTON.

*Constitutional Law—Criminal Procedure—Constitution of Courts—Grand Jury—Criminal Code, sec. 662 (2)—Intra Vires—True Bill by Seven Jurors—Addition of Talesmen from Petit Jury Panel—Jurors Act, sec. 103 (O.)—Adoption of Provincial Law by Dominion Parliament.*

Motion by prisoner for leave to appeal from conviction and for a stated case.

J. B. Mackenzie, for the prisoner.

J. R. Cartwright, K.C., for the Attorney-General for Ontario.

The Minister of Justice for Canada was not represented, though notified.

The judgment of the Court (MOSS, C.J.O., OSLER, GARROW, MACLAREN, J.J.A.), was delivered by

OSLER, J.A.:—The prisoner was tried at a recent oyer and terminer and general gaol delivery session of the High Court of Justice on an indictment for obtaining goods by false pretences with intent to defraud. He was convicted and sentenced to 3 months' imprisonment.

His counsel objected to the constitution of the grand jury by whom the bill had been found, and also to their finding, on the grounds afterwards mentioned. A panel of 13 grand jurors had been summoned and returned upon the precept directed to the sheriff, as prescribed by sec. 66 (3) of the