

*Costs on Certiorari in Ontario.*—By rule of Court in Ontario, it is declared that subject to the express provisions of any statute heretofore or hereafter passed, the costs of and incidental to proceedings for or in relation to the quashing of convictions or orders shall be in the discretion of the Court or Judge and the Court or Judge shall have full power to determine by whom and to what extent the costs shall be paid. Ontario rule 1241 published in *Canada Gazette*, 2nd July, 1904.

Apart from any effect which that rule of Court may have under the Code, the Court has no jurisdiction in Ontario to award costs in a criminal matter against the prosecutor.

Cases in which costs have been given against an unsuccessful applicant for a writ of certiorari or to quash are to be distinguished, for in such cases the Court has jurisdiction to give costs against the applicant, either because of the recognizance which he has entered into to pay the costs, or of the inherent power which the Court possesses to give costs as a punishment for erroneously putting the jurisdiction of the Court in motion. *R. v. Bennett* (1902), 5 Can. Cr. Cas. 459; *R. v. Crandall*, 27 O.R. 63; *R. v. Somers*, 1 Can. Cr. Cas. 46.

But the costs of quashing a conviction are recoverable as part of the damages in an action for malicious prosecution or false arrest where no order of protection is made. *R. v. Somers* (1894), 1 Can. Cr. Cas. 46 (Ont.).

*Costs in Civil Actions Against Persons Administering the Criminal Law.*—See Code sec. 1147.

*Costs on Summary Convictions.*—See Code secs. 735, 736, 737, 738, 739.

*Costs on Appeals from Summary Convictions.*—See Code secs. 755, 758, 759, 760.

*Costs of Prosecutions of Juvenile Offenders.*—See Code secs. 819, 820, 821.

#### *Taxation.*

*Taxation and Scale of Costs.*—See Code sec. 1047.

The person filling the office of commissioner of the Dominion police has, as such, no legal capacity to represent and act on behalf of the Crown, and in laying an information in which he designated himself as such commissioner of the Dominion police he acted as a private individual and not as the legal representative of the Crown, although he declared that he was acting as such commissioner on behalf of the Sovereign. The accused having been discharged, and the commissioner having bound himself by recognizance to prefer and prosecute an indictment on the charge contained in his information, and the grand jury having thrown out the bill of indictment, the commissioner was held to be personally liable under sec. 595 for the costs incurred