

shall seem meet . . .” the appeal was tried by a jury sec. 2. A change was made in 1859 at the consolidation but merely verbal—the appeal is to the “first Quarter Sessions of the Peace”—the rest is as before. C. S. U. C. (1859) C. 114, sec. 1: the trial is still by jury, if either party desires. It was under this legislation, i.e., where the Court must proceed “at such sessions” that some of our cases were decided.

In *Re McCumber and Doyle* (1867), 26 U. C. R. 516; *Reg. v. Murray* (1867), 27 U. C. R. 134.

Then came the act to assimilate the practice of the provinces of Canada (1869) 32-33 Vict. (Dom.) ch. 31, this by sec. 65 provided for an appeal to the “next Court of General or Quarter Sessions” and provided that “the said Court shall hear and determine the matter of the appeal and shall make such order therein with or without costs to either party as to the Court seems meet . . .” the trial continues to be by jury if either party so desires sec. 66.

In *Re Rush and Bobcaygeon* (1879), 44 U. C. R. 199, was decided under this statute by Cameron, J. (afterwards Sir Matthew Cameron, C.J.), “It seems clear . . . that the Court of General Sessions at which the appeal is heard must determine . . . whether costs are to be paid: secondly, what costs, that is, costs of the Court below or Magistrate’s Court, or costs of the appeal or both and when such costs should be paid. The clerk of the peace may tax the costs at any time during the then sitting of the session, or at any adjourned sitting thereof; but it would seem clear upon the authorities, the Court must adopt his taxation and that an order made without such adoption would be invalid.”

Then came after certain legislation the Code of 1892, 55-56 Vict. ch. 29, consolidating 51 Vict. ch. 45, sec. 8 and 53 Vict. ch. 37, sec. 24. This provides for an appeal in sec. 880 in practically the same words as are found in the present Code secs. 750, 751.

It was under the Code of 1892 that *Bothwell v. Burnside* (1900), 31 O. R. 695, came on for decision, there the appeal was to the Court of General Sessions of the Peace for the county of Kent sitting 13th June, 1899, adjourned to June 29th, judgment reserved until July 4th, 1899, the sittings of the Court being then adjourned until July 10th and ending that day.