

in no manner taken any part in regard to the deliberations of the grand jury on the indictment.

*Held*, affirming the judgment appealed from (Q.R. 25, K.B. 275), Anglin and Brodeur, JJ., dissenting, that neither the fact of the presence of the accuser as a member of the grand jury nor the statement made by him had, in the circumstances, affected the investigation by the grand jury or constituted interference with the privacy of its proceedings; consequently, the accused had suffered no prejudice in regard to the constitution of the grand jury which had passed upon the indictment which would be cause for quashing the indictment under the provisions of section 899 of the Criminal Code.

*Per* Anglin and Brodeur, JJ., dissenting. In default of evidence that the accuser was not present with the grand jury during their inquiry in respect of the indictment against the appellant and that he had not voted as a grand juror on their finding of the true bill, as well as the fact of the statement made in regard to the case by the accuser and repeated to other grand jurors, the appellant was deprived of his right to have his case passed upon by a duly qualified and unbiased grand jury and thereby suffered prejudice within section 899 of the Criminal Code which would be sufficient for quashing the indictment. *Reg. v. The Hertfordshire Justices* (6 Q.B. 753); *The Queen v. Upton St. Leonards* (10 Q.B. 827) and *The Queen v. Gorbet, et al.* (1 P.E.I. Rep. 622) referred to.

*Per* Anglin, J. On a motion to quash an indictment found by a grand jury it is improper to admit evidence of what took place in the grand jury room during the inquiry in regard to the indictment. *Reg. v. Hertfordshire Justices* (6 Q.B. 753); *Rex v. Lancashire Justices* (75 L.J. K.B. 198); *Reg. v. Meyer* (1 Q.B. 173) and *Reg. v. London County Council* ((1892) 1 Q.B. 190) referred to.

Appeal dismissed.

*Verrett, K.C., and Cabana*, for the appellant; *Nicol, K.C., and Shurtliff, K.C.*, for the respondent.

Man.] CANADIAN NORTHERN RY. CO v. PSZENICZY. [Oct. 14.

*Railways — Negligence — Construction of statute — Railway Act, R.S.C. 1906, c. 37, s. 306 — Constitutional Law — Employers' Liability Act, R.S.M. 1913, c. 61 — Jurisdiction of Dominion Parliament — Provincial Legislation — Paramount Authority — "Operation of Railway" — Limitation of actions — Conflict of laws.*

An employee of the railway company sustained injuries while engaged in unloading rails from a car alleged to have been un-