

The Ontario Weekly Notes

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TORONTO, JANUARY 12, 1910.

No. 16.

COURT OF APPEAL.

DECEMBER 31ST, 1909.

REX v. FARRELL.

Criminal Law — Perjury — Failure to Shew Proceeding in which Perjury Alleged to have been Committed—Preliminary Inquiry before Magistrate—Necessity for Proof of Information—Objection Taken at Close of Crown's Case—Withdrawal of Case from Jury.

Case reserved, at the request of the Crown, by the Chairman of the Sessions for the county of Peel.

The defendant was indicted for perjury alleged to have been committed at a preliminary examination before Robert Crawford, police magistrate, of a charge of perjury against one Hugh Whitty.

According to the stated case, Crawford appeared as a witness at the trial of the defendant at the Sessions, and proved that an information was laid before him (Crawford) against Hugh Whitty on a charge of perjury, and that on the investigation of such charge the accused (Farrell) was duly sworn and gave evidence. The stenographer by whom the evidence was taken down also gave evidence to the same effect, and it was further proved by them that Whitty was committed for trial. After further evidence as to the commission of the offence of perjury, the Crown closed its case, and, on objection raised by counsel for the accused (Farrell), the Chairman withdrew the case from the jury, "on the ground that the Crown had failed to produce sufficient evidence by not producing any record of the hearing or the result thereof in the police court where the perjury was alleged to have been committed."