

REPORTS AND NOTES OF CASES.

Province of Ontario.

COURT OF APPEAL.

Garrow, Maclaren, Meredith, and Magee,
J.J.A., Lennox, J.]

[Nov. 19.]

REX v. MURRAY AND FAIRBAIRN.

Criminal law—Two defendants—Appeal under s. 1021 of Crim. Code—Meaning of "verdict"—New trial.

Motion for a new trial by defendants, on consent of the Junior Judge of Middlesex, who tried the case under 1021 of the code. Both defendants were convicted of burglary.

Held, 1. The cases of the two appellants should be considered separately on their respective merits, following *Rex v. Mambe*, 6 T.R., p. 368, notwithstanding *Reg. v. Fellowes*, 19 U.C.R., p. 54.

2. *Quære*, whether, under s. 1021 of the Criminal Code the use of the word "verdict" limits the operation of the section to cases tried by a jury. But although strictly and accurately the word "verdict" is only applicable to the finding of a jury, or of a judge sitting as a jury on the question of fact, the point not having been taken by the Crown, it was not passed upon, the prisoner being given the benefit of the doubt, and a new trial was granted to one of the appellants.

J. R. Cartwright, K.C., for the Crown. *P. H. Bartlett*, for defendants.

HIGH COURT OF JUSTICE.

Boyd, C.]

[Nov. 8.]

TOWN OF WATERLOO v. CITY OF BERLIN.

The Ontario Railway and Municipal Board—Jurisdiction.

A formal agreement between municipalities which is not of a voluntary character but which is executed in conformity with a