

CLAIMS ONE JUROR WAS NOT QUALIFIED

New Trial Is Sought by Attorneys for Convicted Lumberman.

Alleging that one of the jurors who convicted John Dupree, the aged lumberman, of taking improper liberties with a little girl, was not a qualified elector and so disqualified from sitting in the case, Attorneys Dunham & McKenna have filed a motion in Superior court asking for a new trial.

In the motion, too, it is held that Judge Stuart erred in failing to submit to the jury in his charge the possibility of assault and battery or simple assault as verdicts under the law. The case against Dupree therefore promises to go once more to the Supreme court. If the motion for a new trial is denied an appeal is almost certain.

The arrest in the case was made several years ago. A statutory crime was charged, but the prosecution secured conviction on the charge of taking improper liberties. The Supreme court found error in the case and sent it back for trial. Month after month elapsed before the second trial was begun, usually the respondent's ill-health being the reason for delay. After the last conviction Judge Stuart announced that he would not pass immediate sentence, but would allow time for an appeal if one was desired.