

REPORTS AND NOTES OF CASES.

Province of Ontario.

COURT OF APPEAL.

Full Court.]

ASSELTINE v. SHIBLEY.

[Jan. 23.]

Elections—Offences—Punishment for—"On conviction"—Penalty—Imprisonment—Proceeding by action.

The effect of the amendment of s. 159 (2) of Ontario Election Act, R.S.O. c. 9, made by 63 Vict. c. 4 (O.), is to take the penalties imposed by the amended clause out of the category of those which may be recovered by action under s. 195.

Only one proceeding is contemplated by the amended section, and that is one in which both the penalty may be recovered and the imprisonment imposed: both must follow on the conviction in one and the same proceeding taken to enforce them. Imprisonment cannot be adjudged in an action under section 195, which seems to intend a proceeding by action to recover the money penalty alone and not a proceeding in which imprisonment is sought or is to be imposed in addition to the penalty.

There are, however, numerous election offences for which a pecuniary penalty only is imposed and for which an action is maintainable under section 195.

Aylesworth, K.C., for the appeal. Mowat, K.C., contra.

Full Court.]

REX v. IRVINE.

[Feb. 24.]

Criminal Code -- Conviction -- Trade or traffic in bottles with trade mark or name thereon -- Registration of -- Trade Mark and Design Act.

The defendant, a soda water manufacturer, who had filled and placed on the market for sale bottles with the name of another soda water manufacturer stamped thereon, was convicted by a Police Magistrate under section 449 of the Code and fined. On a case reserved, in which it was objected that the