

Ritchie, J.]

REX v. TURPIN.

[March 21.

*Criminal Code, ss. 241, 265, 668, 760—Indictment for wounding with intent and for common assault—Motion to quash refused—Peremptory challenges.*

The Defendant was indicted under ss. 241 and 265 of the Criminal Code on two counts, charging him (1) for that he in the city of Halifax on the 13th day of November, in the year of our Lord one thousand nine hundred and three, with intent to do grievous bodily harm to one Thomas J. Weatherdon, did unlawfully wound the said Thomas J. Weatherdon, and (2) for that he did in the city of Halifax on the 13th day of November, in the year of our Lord one thousand nine hundred and three, unlawfully assault one Thomas J. Weatherdon. After arraignment and before pleading to the indictment, the prisoner's counsel moved to quash it on the ground that the Clerk of the Crown had not sent the deposition taken on the prisoner's preliminary examination, before the grand jury of the County of Halifax, as required by s. 760 of the Criminal Code. When the jury was being sworn the prisoner claimed the right to sixteen peremptory challenges on the ground that these counts before the Code would have been for a felony and misdemeanor respectively, and as s. 626 (1) and (2) of the Criminal Code abrogated the common law rule as to their non-joinder, he was under the above section, being tried on two indictments.

*Held, 1.* The indictment was properly found.

2. The prisoner was only entitled under s. 668 of the Criminal Code at twelve peremptory challenges, being the largest number allowed him on the first count of the indictment, it not being necessary for the Crown to add a count for common assault in order to get a conviction for that offence if the evidence warranted it.

The prisoner was then tried and acquitted on both counts in the indictment.

*M. N. Doyle and J. A. Knight*, for the Crown. *John J. Power*, for prisoner.

---

COUNTY COURT, DISTRICT No. 1.

---

Wallace, Co. J.]

RE MYERS v. MURRANS.

[March 24.

*Landlord and tenant—Overholding Tenant's Act, R.S. 1900, c. 174—Demand for possession held bad for uncertainty—Evidence of overholding—Writ of possession refused.*

An application was made by the landlord for a writ of possession against the tenant under the Overholding Tenant's Act, R.S. 1900, c. 174,