

Boyd, C., Ferguson, J.]

[Feb. 12.]

REX v. COLE.

Criminal law—Attempt to incite—Perjury—Bail—Recognizance—Criminal Code, ss. 530, 601—Estreat.

A defendant charged with offering money to a person to swear that A., B. or C. gave him a certain sum of money to vote for a candidate at an election was admitted to bail and the recognizance taken by one justice of the peace.

Held, that the offence was not an attempt to commit the crime of subornation of perjury, but something less, being an incitement to give false evidence or particular evidence regardless of its truth or falsehood, and was a misdemeanor at common law, and that the recognizance was properly taken by one justice, who had power to admit the accused to bail at common law, and that section 601 of the Code did not apply.

The common law jurisdiction as to crime is still operative, notwithstanding the Code, and even in cases provided for by the Code, unless there is such repugnancy as to give prevalence to the later law.

Ritchie, K.C., for the motion. *Cartwright*, K.C., Deputy Attorney-General, contra.

Street, J.]

[Feb. 24.]

ARMSTRONG v. LANCASHIRE INS. CO.

Writ of summons—Service on insurance company—No office in Ontario—On previously appointed attorney.

An English insurance company who had carried on business in Canada and where the head office was at Toronto, by two powers of attorney had appointed its general agent at Toronto attorney to receive process under both R. S. O. 1897, c. 203, s. 66, and R. S. C. 1880, c. 124, s. 13, transferred its Canadian business to another company and closed its Canadian offices, but the deposit under the Dominion Act had not been released and neither of the powers of attorney had been cancelled. On a motion to set aside the service of a writ of summons which was accepted by solicitors as if served on the Toronto agent of the company, subject to the right to move against it, on the ground that the company was not within the jurisdiction.

Held, that a writ of summons upon a policy issued in Quebec in respect of a loss upon property in Quebec was properly served upon the agent named as attorney at Toronto under Con. Rule 159, and that the Court in Ontario therefore had jurisdiction to entertain the action.

Seemle, that the power of attorney required to be filed under R. S. C. c. 124, s. 13, is to receive service of process in any suit instituted in any province of Canada in respect of any liability incurred in such province and not in respect of any liability incurred in Canada.

D. L. McCarthy, for the motion. *Middleton*, contra.