

COUNTY JUDGES' CRIMINAL COURT.

SNIDER, Co. J.]

[Hamilton, March 30.

REGINA v. CARTER.

*Personation at municipal elections—Con. Mun. Act (s. 167 s-s. (e): s. 210, s-s. 2, s. 420)—Provision for proceedings on summary conviction—Remedy by indictment—Inapplicability of—Criminal Code, ss. 766, et seq.*

The prisoner was arrested for personation at the municipal elections for Hamilton in January, 1894, and was brought before the Police Magistrate and charged with two offences. He refused to elect and was sent up for trial, bail being accepted by the P. M. At the next assizes the Grand Jury found true bills against him, but on being called for trial he did not appear and was not arraigned. In February, 1896, proceedings were taken under sec. 648 of the Criminal Code, and the prisoner was again arrested, and was committed to gaol to await his trial on the same charges. He notified the Sheriff that he wished to be brought up before the County Judge's Criminal Court for election, and he was so brought up.

*Held*, that never having been elected to be tried by a jury, and being in gaol awaiting trial, the prisoner now had the right to elect to be tried by the Judge without a jury.

The prisoner having so elected was then charged with personation, the indictments being in the same terms as the old indictments. He pleaded that this Court had no jurisdiction over the offence, and not guilty.

*Held* (following *Regina v. Rose*, 32 C.L.J. 125), that the indictments could not be upheld under s-s. (e) of sec. 167 of the Municipal Act; and also (following *Regina v. Bennett*, 21 U.C.C.P. 235), that the charge being only supportable under s-s. 2 of sec. 210, could be and should have been tried summarily under sec. 420, and the offence was not an indictable one. The indictments were therefore quashed and the prisoner discharged.

*John Crerar*, Q.C., for the Crown.

*S. F. Washington*, for the prisoner.

Province of Nova Scotia.

SUPREME COURT.

EN BANC]

[March 7.

STAIRS v. ALLEN.

*Service out of jurisdiction—Stipulation as to forum of action—Uncertainty of terms.*

In an action against defendants, foreign steamship owners, for breach of contract arising out of the non-delivery of goods at Halifax, plaintiffs obtained leave to serve out of the jurisdiction. The bill of lading under which the