

A. B. Hudson, for respondent. *Blackwood*, and *A. Bernier*, for petitioners.

Prendergast, J.]

REX v. MALI.

[Feb. 8.

Criminal law—Criminal Code, s. 778, s.-s. 3—Summary trial—Jurisdiction—Consent of prisoner to be tried summarily.

It is sufficient to shew jurisdiction in the magistrate at the summary trial of an indictable offence if the conviction contains the statement that the prisoner consented to be tried summarily, without setting out on the face of it, or anywhere on the record, the language used by the magistrate in informing the accused of his right to elect as prescribed by sub-section 3 of section 778 of the Criminal Code.

The consent to be tried summarily is the essential element in the jurisdiction and, if that is stated, it should be presumed that it was regularly and properly obtained in the absence of any evidence to the contrary.

P. E. Hagel, for prisoner. *Graham, D.A.-G.*, for the Crown.

Province of British Columbia.

COURT OF APPEAL.

Full Court.]

REX v. DEAKIN.

[Jan. 30.

Criminal law—Speedy trial—Procedure—New trial—Right of accused to re-elect—Evidence given by accused at first trial—Use of by prosecution on second trial—Evidence sufficient to convict—Refusal of judge to reserve a point upon.

An accused appealing from a conviction in a county judge's Criminal Court, and securing a new trial, is sent back to that court, and has not any right to re-elect whether he shall be tried speedily or go before a jury.

Where an accused submits himself to give evidence and be cross-examined upon such first trial, the evidence so given is admissible in the second trial.

In this case the trial judge refused to reserve a point that