of such ballot papers is required for the purpose of maintaining a prosecution for an offence in relation to ballot papers." The plaintiff's affidavit covers the necessary ground and furnishes the evidence required to satisfy me. And it seems clear that unless such an order is made, this prosecution, supposing the defendant to be guilty, could hardly be successfully maintained, for then the only evidence which the plaintiff could adduce would be such as might be furnished by admissions or statements of the defendant; and provided the same were obtained at the trial they would probably be rendered useless by the defendant claiming the benefit of sec. 211 of this Act. I may, in passing, remark that this fact furnishes another argument in favor of this being a case in which a production and inspection may be ordered, for otherwise the Act would declare a certain action to be an offence and provide a penalty for it, and yet not only not provide a means of proving the commission of the offence, but actually prohibit the obtaining of such proof, (see secs. 158 and 211).

In so far as this application is made for the purpose of ascertaining whether there were others than defendant who voted at more than one polling place for mayor, I unhesitatingly refuse it. I have more than once held on application made to me for the purpose of obtaining a re-count of ballots under the Act, that the same could not be granted unless "a petition questioning an election or return," had actually been filed. One such decision has, I believe, been reported (see 13 C. L. J. 44). And I also hold that where an inspection is granted for the purpose of maintaining a prosecution, it must be a prosecution actually commenced or instituted.

In considering whether the offence charged n this case is "an offence in relation to ballot papers," I have not been unmindful of this being a penal action, and of the enactments of the 160th section, or of the contention that might arise that the offences in that section mentioned are those in a prosecution for which the legislalature intended that a production or inspection should be ordered. But if confined to such a prosecution, the difficulty as to evidence in a prosecution for voting more than once in an election for mayor, to which I have already above referred, would arise.

The summons will therefore be made absolute to this extent: an order will go for the production for inspection, and inspection on a day to be therein named and upon such conditions as shall be therein named, of the ballot papers and other papers returned to the clerk of the municipality, in so far as the same concern or affect any vote or votes for mayor given by defendant, (if so given). In and by the summons the clerk has already been ordered not to destroy the ballot papers, &c., until otherwise ordered, and to retain the same until otherwise ordered. That order to be continued. The order also to provide for the production at the trial of this cause of the said several packets of ballot papers and the voters' lists, and other papers returned by the deputy returning officers to the clerk of the municipality.

THE SUPREME COURT OF CANADA.

GENERAL RULE.

Wednesday, the Sixteenth day of March, A.D. 1881.

It is ordered:

1. That Rule Eleven be and the same is hereby amended by striking out the word "immediately" at the beginning of such Rule.

2. That Rule Fourteen be and the same is hereby amended by striking out the words "one month" therein contained, and by inserting in lieu thereof the words "fifteen days."

3. That Rule Fifteen be and the same is hereby amended by inserting after the words "and mailing," where they occur in such Rule, the words, "on the same day," and by striking out the words "in sufficient time to reach him in due course of mail before the time required for service."

4. That Rule Twenty-three be and the same is hereby amended by striking out the words "one month" at the beginning of said Rule, and by inserting in lieu thereof the words "fifteen days."

5. That Rule Thirty-one be and the same is hereby amended by striking out the words "one month where they occur in said Rule, and by inserting in lieu thereof the words "fourteen days"; and by adding at the end of said Rule the words "but no appeal shall be so inscribed which shall not have been filed twenty clear days before said first day of said Session, without the leave of the Court or a Judge.

6. That Rule Sixty-two be and the same is hereby amended by striking out the words "two weeks," and by inserting in lieu thereof the words "fifteen days."

7. That Rule Sixty-three be and the same is hereby amended by striking out the words "one month's" where they occur in said Rule, and by inserting in lieu thereof the words "one week."

(Signed) W. J. RITCHIE, C. J.
S. H. STRONG, J.
T. FOURNIER, J.
W. A. HENRY, J.
JOHN W. GWYNNE, J.