

(secs. 41, 43, R. S. C. ch. 9), and make the expense of employing the shorthand writer—whose attendance is directed by the Judges—costs in the case.

Considering that election petitions are intended to be tried and disposed of as nearly as possible in the same way as an ordinary action in the High Court, there seems no reason why the litigants should have the expenses of the reporter in the former if they do not in the latter. Rather is the contrary the case, as there is an element of public interest attaching to an election petition which is absent from a mere action between private parties.

BOYD, C.

JUNE 5TH, 1903.

TRIAL.

SELBY v. MITCHELL.

Sale of Goods—Machinery—Action for Price—Counterclaim for Breach of Warranty—Appreciation of Evidence.

Action by a firm of machinists carrying on business in the city of Kingston against a firm of contractors in the town of Gananoque to recover the value of an engine installed in defendants' boat and the value of work done and material supplied, the amount claimed being \$633.80.

The defendants alleged that the plaintiffs never installed an engine and boiler in the boat in accordance with the agreement, and counterclaimed for \$500 damages for the loss sustained by reason of the engine and boiler being worthless to them and defective, and for breach of warranty.

A. B. Cunningham, Kingston, for plaintiffs.

D. M. McIntyre, Kingston, for defendants.

BOYD, C.:—I have read over the whole of the evidence in this case, i.e., what was taken before me and the further evidence taken before the Master, and have considered the very full and able arguments supplied by both sides.

The evidence both as to the facts and the scientific aspect of the case is extremely conflicting, but on the main matters in dispute I think the defendants have failed to shew that there was any such explicit and minute guarantee as they set forth. What was guaranteed was that which is found in the letter of 19th May from plaintiffs: "We will guarantee the working of the engine and the boiler"—i.e., in a reasonable way. The chief complaint at first was as to the engine, and another one has been supplied, which does not appear to be open to any serious objection. The boiler was not objected to till afterward, and then it was on the ground that