

Quare whether, although the service was not effected in the mode prescribed, it should not, under the non-compliance rule, be held to be sufficient.
H. V. Bigelow, for appellant. *McDonald* and *Ives* for respondent.

Full Court.]

MUNRO v. QUIGLEY.

[Jan. 11.

Libel—Fair criticism of public official does not justify charge of corrupt motives.

Defendant, one of the councillors of the town of Westville, published a letter commenting upon the conduct of plaintiff, the mayor of the town, alleging that the plaintiff took advantage of some of the employees of the town by withholding the money due them for their labour, and insisting upon their taking goods out of his shop for the amount. The jury having found in favour of defendant, in the absence of evidence to support the charge,

Held, setting aside the verdict with costs, and ordering new trial. (1) That the jury should have found for plaintiff. (2) That the trial Judge would have been justified in withdrawing the case from the jury. (3) That the principle of fair comment or criticism should not be extended to cover or justify a charge of sordid or corrupt motives or disgraceful conduct.

W. B. A. Ritchie, Q.C., for appellant. *A. Drysdale*, Q.C., and *E. M. McDonald*, for respondent.

Full Court.]

THE QUEEN v. HAMILTON.

[Jan. 11.

Assault causing bodily harm—Criminal Code, s. 641—Indictment under authority to prefer—Appointment of prosecuting officer under local Act.

Defendant was committed for trial on a charge of assaulting wounding and doing grievous bodily harm to W., and W. was bound over in regular form to prosecute. At the next term of the Supreme Court the grand jury found an indictment against defendant. W. was not present, and was not examined as a witness. The Attorney-General was not present, and no one had any special directions from him to prefer an indictment. No one had the written consent of a judge, and no order of court was made to prefer an indictment. The point was reserved whether the indictment should not be quashed because it was not preferred by any of the persons authorized by s. 641 of the Criminal Code. Under an Act of the Provincial Legislature crimes such as that for which defendant was indicted are prosecuted by an officer or public prosecutor appointed by the Attorney-General at each term of the court, or in default of such appointment by the Court.

Held, per TOWNSHEND and RITCHIE, JJ., (McDONALD, C.J., concurring) that under these circumstances the presence of the prosecutor was not necessary, and no special direction from the Attorney-General, or written consent of a judge, or order of the court was necessary to make the indictment valid.

Quare, whether s. 641 of the Code is applicable to the procedure before the grand jury in any county of Nova Scotia, except Halifax.

Per WEATHERBEE, and GRAHAM, E. J., (HENRY, J., concurring), that the indictment not having been preferred in accordance with the provisions of the Code, s. 641, the conviction was bad and should be quashed.

Attorney-General for Crown. *F. T. Congdon* for prisoner.