

then made by Dr. Orton's counsel to a Judge of one of the Superior Courts for a Writ of prohibition, to prevent the proceedings going on, but the Judge decided that a Writ of Prohibition would not lie in such a case, and the application was refused.

On the day to which the proceedings had been adjourned the re-count was gone on with, and the votes of five polling sub-divisions were re-counted, with the result of one rejected vote, counted for Dr. Orton, and the question of the validity of two other votes reserved. When the ballot-box, No. 6, Township of Peel, was opened, the papers were found not to be in the condition prescribed by the Election Act. There were no envelopes marked as containing the ballots cast for the respective candidates, but there was a large sealed envelope and two or three others, not, however, marked in any particular manner.

The Judge opened the large envelope and there found a mass of marked ballots, some for the one candidate, and the others for the other. He also found an unsigned statement expressing votes for Orton, 69, and Robinson, 67.

It was now objected by Dr. Orton's counsel that, owing to the condition in which these ballots were found, he could not re-count them, that he could only do so when he found the ballots for the respective candidates in separate envelopes, and, moreover, that unless he could re-count the votes of this roll, he could proceed no further, and the re-count must fall through altogether.

Mr. Maclellan contended that there was nothing to prevent the ballots being re-counted; that the Statute required the work of the deputy returning-officers in counting the votes to be reviewed by the Judge, and he ought not to allow trifles to prevent that from being done; that provision was made by the Act for the case of one or more of the ballot-boxes being lost altogether, and there was no reason why the Judge should not re-count the ballots contained in the others, and comply with the law as far as possible.

After bearing the parties, the Judge decided he could go no further, and that the proceeding must drop.

Mr. Maclellan then formally required the Judge to proceed with the re-count of the votes at No. 6, Peel, and also of the votes at the other polling-places of the riding, saying that, in the event of a refusal, Mr. Robinson would probably be advised to apply to one of the Superior Courts for a mandamus to compel him to do so.

The Judge then formally refused to go on.

On Tuesday, the 15th instant, Mr. Maclellan obtained a summons for a mandamus from Mr. Justice Gwynne, upon affidavits, showing the foregoing facts.

On Tuesday, the 22nd instant, the case came up before Chief Justice Hagarty in chambers, and, after hearing the parties, the Chief Justice reserved judgment.

On Saturday last, the Chief Justice delivered the following judgment, from which it will appear that the learned Chief Justice sees no difficulty in going on with the re-count of the votes, but hesitates sitting as a single Judge to issue a mandamus, leaving the matter to be argued before the full Court, if that should continue to be necessary, by the continued refusal of the County Judge to go on with the re-count.

*In re Centre Wellington Election.*—A summons has been granted calling on the Junior Judge of the County of Wellington and George J. Orton, to show cause why a mandamus should not issue commanding the Judge to proceed with and complete a re-count of the votes given at the late election for the Commons. Cause has been shown before, and it seems that some mistakes have been made in the putting up, sealing, and endorsing of envelopes containing the ballot papers, &c., of Sub-division 6, in the Township of Peel, as described by the Statute, and the learned Judge is alleged to have declined proceeding with the re-count in consequence thereof. It is not suggested that all the ballots accepted, rejected, or spoiled had not been forwarded to the Judge, or not contained in the ballot box, but it seems clear that some of the envelopes were not properly sealed up, and were not endorsed as directed by the Statute 41 Vic., Chap. 6, 1878.

By Sub-sec. 3, of Sec. 14, the Judge should proceed to re-count all the votes or ballot papers returned by the several Deputy Returning Officers, and shall, in the