

at the Court House in the city of Courtenay in the Province of British Columbia, within the said Electoral District, on the 27th and 28th days of January, 1969.

2. Our decision, with reasons therefor, is appended.
3. A transcript of the proceedings at the trial is appended.
4. No charge was made in the election petition of any corrupt or illegal practice having been committed and none was proved.

Dated at Vancouver, British Columbia, this 12th day of February, 1969.

John Graham Ruttan
Judge

Frederick Craig Munroe
Judge

** (The Notes of Evidence accompanying the foregoing Certificate recorded as Appendix 35 to the Journals).*

IN THE SUPREME COURT OF BRITISH COLUMBIA

IN THE MATTER OF THE
DOMINION CONTROVERTED
ELECTIONS ACT, R.S.C. 1952,
CHAPTER 87

AND

IN THE MATTER OF AN
ELECTION FOR THE ELECTORAL
DISTRICT OF COMOX-ALBERNI,
HOLDEN UPON THE 25TH DAY
OF JUNE, A.D. 1968.

REASONS FOR JUDGMENT
OF THE HONOURABLE
MR. JUSTICE RUTTAN
AND OF THE HONOURABLE
MR. JUSTICE MUNROE.

Kenneth D. Page, Esq.,
D. McK. Brown, Esq., Q.C.
and Brian Williams, Esq.,
Dates of Trial:
Place of Trial:

for the petitioner;
for the respondent.
January 27th and 28th, 1969.
Courtenay, B.C.

Mr. Thomas S. Barnett, a defeated candidate in the general election of June 25, 1968, for the Electoral District of Comox-Alberni, brings this petition under the Dominion Controverted Elections Act to have the election of Mr. Richard J. J. Durante declared void by reason that certain Canadian Forces electors who voted at civilian polls in the said electoral district were ineligible to do so.

On July 6, 1968, the Returning Officer completed a Certificate of Result of Voting showing that Mr. Barnett obtained 11,943 votes and that Mr. Durante obtained 11,940 votes. Following a judicial recount held on July 11th and 12th, 1968, His Honour Judge McKay declared that Mr. Durante received 11,939 votes and that Mr. Barnett received 11,930 votes—a difference of 9 votes—and accordingly Mr. Durante was declared elected as Member of Parliament from the Comox-Alberni Federal Electoral District.

It is the submission of the petitioner that the election aforesaid must be voided and that Mr. Durante was not duly elected or returned because twelve persons who on June 25, 1968 were Canadian Forces electors (being members