

PRINCE EDWARD ISLAND.

SUPREME COURT OF JUDICATURE.

IN CHAMBERS.

OCTOBER 16TH, 1909.

IN RE FIRST ELECTORAL DISTRICT OF QUEENS,
PROVINCIAL ELECTION.

MOLYNEAUX v. CROSBY.

*Petition—Copy—Service—An Election Stated as Holden on
“Eighth” when Polling Day on “Seventh.”*

J. A. Mathieson, K.C., and A. A. McDonald, for petitioner.

F. L. Haszard, K.C., and J. J. Johnston, K.C., for respondent.

FITZGERALD, J.:—This is a rule to shew cause why the petition presented in this matter should not be set aside, and removed from the files of the Court.

Shortly the grounds are:—

1st. That a true copy of the petition was not served on respondent; it appearing that in the heading of the copy served, the date of the holding of the election is omitted.

2nd. That in the petition the election is described as holden on the eighth day of July, A.D. 1909,” whereas as a fact polling day was on the seventh day of July, 1909. It appeared that a petition regular in form was duly presented, and notice of presentation duly served on the respondent, together with a paper purporting to be a copy of the petition.

In this copy the title or heading reads: “Election of an assemblyman for the Legislative Assembly—for the first Electoral District of Queens County, holden on the
The date of the holding being thus left blank.

In the body of the petition clause 2 reads as follows:—
I quote it in full as I have afterwards to refer to it.

“2. And your petitioner states that the election was holden on the eighth day of July, A.D. 1909, when John H. Myers, of Hampton in Queens county, farmer, and Cyrus W. Crosby, of Bonshaw in Queens county, farmer, hereinafter called the respondent, were candidates for assemblyman, and