

ROBERT DOULL, Petitioner.

vs.

JAMES W. CARMICHAEL and JOHN
ADAM DAWSON, Respondents.

*Charges of bribery, &c., against an unsuccessful candidate, not
being a petitioner, struck out.*

The nature of the question raised in this case is fully stated in the judgment of the Court delivered by the Hon. W. A. Henry, Q. C. A rule *nisi* was taken out August 24th by Hon. James McDonald to strike out the answer, on the ground that it contained charges of bribery and other corrupt practices against the said Hon. James McDonald, who was an unsuccessful candidate at the election but not a petitioner. The rule was argued before the full Court on August 27th by the Hon. James McDonald, Q. C., and R. L. Weatherbe, Esq.

HON. W. A. HENRY, Q. C., now (August 29) delivered the judgment of the Court as follows:—

The answer in this case, lately filed, contains amongst other things independent charges of bribery and other corrupt practices against the Hon. James McDonald, an unsuccessful candidate at the election in question but not a Petitioner. A rule *nisi* to strike out the answer on the ground that such references were irregular and could not form the substance of issues to be tried, and that as he was not a party in the proceedings before the Court the introduction of such charges should vitiate the whole answer.

The matter having been argued, we have now to give judgment.

It has already been decided, (in the "Cumberland" case,) that where the seat is not claimed by or for a petitioning candidate recriminatory charges cannot be made as such; and that questions of such corrupt practices may only be inquired of by the presiding judge on the trial, under Section 20 of the Controverted Elections Act.

To allow the charges alluded to, to remain as issues to be tried would be in direct conflict, not only with our judgment in that case but with all the rules of legal procedure which govern the trial of issues raised by a complaint and answer.