

CUMBERLAND CONTROVERTED ELECTION.

Dominion of CANADA,
Province of *Nova Scotia*, County of *Cumberland*. }

In the matter of the Controverted Election for the House of Commons, between

GEORGE HIBBARD,
Petitioner.

AND

CHARLES TUPPER,
Respondent.

I, *Alexander James*, one of the Judges appointed under the provisions of the Controverted Elections Act of 1873, for the trial of Controverted Elections in the Province of *Nova Scotia*, to whom was assigned under section 8 of said Act, the duty of trying the Controverted Election for the County of *Cumberland*, do hereby certify to the Honorable the Speaker of the House of Commons of the Dominion of *Canada*, that *Charles Tupper*, the Respondent in the above cause, whose Election and Return were complained of in the Petition, was duly returned and elected for said County of *Cumberland*, on the fifth day of February last past, and that no other person was duly returned or elected.

And because I am unable to annex to this my Certificate, a copy of the evidence taken at the trial as required by law, inasmuch as no trial has been held and no evidence taken in said cause, it becomes my duty to report specially to the Honorable the Speaker the special circumstances attending the investigation so committed to me, and my reasons for certifying that the said *Charles Tupper* was duly elected as aforesaid.

And I do report as follows :—

The Election in this case was sought to be avoided on the ground of corrupt practices by Respondent and his agents.

On the 26th day of August last, the cause was set down for trial on the fifteenth day of September, and full notice of trial was given on the same day, in all respects conformably to law, except that the Sheriff failed to publish it in the County, pursuant to Rule 69.

On the fifteenth day of September I opened my Court at *Amherst*, in the said County, for the trial of the Petition; Counsel for the Petitioner, and the Respondent, his Counsel and agent being present. And inasmuch as the original papers sent by the Clerk to the Registrar by mail had not arrived, I, at the request of the Counsel of both parties, adjourned the Court until the following day.

On the sixteenth day of September, at the opening of the Court, the papers having arrived, the Petitioner's Counsel moved for a postponement of the trial for an indefinite period of several weeks, upon the ground that he had not had sufficient time to prepare for the trial, and was not ready to proceed. This motion was strenuously resisted by Respondent's Counsel, and after argument I refused the application, upon the ground that the affidavit did not disclose that any exertions had been made by Petitioner to prepare for the trial; but I allowed the Petitioner to renew his applications on the following day, on a better affidavit.

On the seventeenth day of September the motion was renewed on an affidavit which shewed that the Petitioner had made no exertions, but had culpably neglected to prepare for the trial, or to perform the duty to the electors opposing the Respondent which he had assumed.

After hearing several affidavits on the part of the Respondent, and after a lengthy argument, I on the following morning (eighteenth day of September) delivered a writ-