larity shall state in the rule itself the grounds intended to be relied upon.

The court however were of opinion that the sixth rule had reference only to irregular proceedings in the Supreme and Central Circuit Courts and overruled this objection.

W. V. Whiteway, Q.C., in support of the rule.

The writ of prohibition should issue. The Supreme Court of Newfoundland is constituted under the act 5 Geo. IV. cap. 67, and has jurisdiction in Newfoundland and its dependencies as fully and amply, to all intents and purposes, as her Majesty's Courts of Queen's Bench, Common Pleas, Exchequer, and the High Court of Chancery have in England.

There is no court in Her Majesty's Colonies possessing more extensive powers within its jurisdiction than the Supreme Court of this island.

A writ of prohibition will lie to a pretended court, from the Queen's Bench. (*Per* Holt, C. J., in *Chambers* v. *Sir John Jennings*, 2 Salk. 553, Bac. Abr., Tit. *Prohibition*.)

The Queen's Bench may prohibit any court whatever: Viner's Abr. 50. The Courts of Westminster have jurisdiction over all courts, by writs of prohibition: Bac. Abr.; Wharton's Law Lexicon, Tit. *Prohibition*. The Queen's Bench may award prohibition against any Court usurping jurisdiction: Tom. Law Dict., Tit. *Court*. If the Commissioners for determining policies of insurance grasp at more power than they have, the Court of Queen's Bench will prohibit them: Bac. Abr., Tit. *Prohibition*. The Queen's Superior Courts have control and superintendence over inferior jurisdictions, and are to take care that they keep within bounds: Tom. Law Dict., Tit. *Court*; Waddilove's Abr., Tit. *Prohibition*; 2 Inst. 602; 2 Rolles' Abr. 319; 1 Ventris, 73; Fitzherbert's Natura Brevium; *Darby* v. *Cossens*, 1 T. R. 552; Bullen & Leake, 629; 3 Black. Com. 112.

Prohibition issued from the Court of Queen's Bench to Surrogates appointed by the Judge of the Court of Arches, he having exceeded his authority in appointing them: *Martin* v. *McConachie*, Moo. P. C. C., N S. 505.

Hoyles, C. J.—Was not the reason that the Judge who appointed the Commissioners had been counsel in the cause?

Mr. Whiteway.—I think that was not the reason for the prohibition. The ground upon which it was obtained was, that the Judge had not power to appoint.

Robinson, J.—Have you filed a suggestion?

Mr. Whiteway.—No, my Lord. Under the present practice, filing a suggestion is not necessary: Wharton's Law Lexicon, Tit. *Prohibition*. The practice is there stated.

The Court of Exchequer has power to issue a writ of prohibition to the Judicial Committee of the Privy Council: *Ex parte Smythe*, 2 C. M. & R. 749. Prohibition lies *pro defectu jurisdictionis* as well when a court has jurisdiction and exceeds it, as when it has no jurisdiction: *Smith* v. *Bradley*, Buller's N. P. 219 *b*.; Har. Dig. 3309. When a limited tribunal exercises jurisdiction not belonging to it, its decisions are nugatory: *Attorney-General* v. *Hotham* (*Lord*), 1 Turn. & Russ. 219.

The acts of the Court of Admiralty and of courts martial, may become the subject of an application to the Courts at Westminster for a writ of prohibition: *Grant* v. *Gould*, 2 H. Bl. 101.

An election committee of the House of Commons is a judicial tribunal: Warren's Election Practice, 629, 276, 277; May's Parliamentary Practice, 438, 442; Dwarris on Statutes, 229.

Election committees have, by statute, power to examine on oath, which the constitution denies to the House of Commons, lest that body should thereby attempt to become a court of justice: Bowyer's Com. on Constitutional Law, 90.

An election committee of the House of Assembly is a judicial tribunal, to be constituted by the House under statute 23 Vic. cap. 11, in the manner therein provided, to administer justice, under the sanction of an oath—bound by the law, over which it has no control. Parliament cannot exceed the law: Tom. Law Dict., Tit. *Parliament*; *Coundell* v. *John*, 2 Salk. 504; 4 Inst.

The appointment of an election committee was ruled to be illegal in *Bruyeres* v. *Halcomb*, 3 A. & E. 381. When an action of debt was taken for the costs, under the Speaker's certificate, the defendant objected that the committee was not legally constituted. In reply it was urged that the courts at Westminster could not enquire into the character of the proceedings as regards the appointment in such a case. The court decided that it was bound to enquire into the character of such proceedings, to ascertain whether the tribunal had been constituted according to law; for if not, its acts would be nugatory; the maxim would apply, *debile fundamentum fallit opus*, and in this case the petitioner not having been notified to attend at the time of the drawing of the committee, its constitution was ruled not to be in accordance with the Act 9 Geo. IV., cap. 22, and the plaintiff could not recover.

The learned counsel also referred to the recent Bridgewater cases, of which he stated he had no report, where a *mandamus* was granted to the commissioners appointed to enquire into the bribery charges, ordering protection certificates to be given to witnesses under certain circumstances alleged, showing the powers belonging to and exercised by the Superior Courts.

This statute, 23 Vic. cap. 11, ought to be construed strictly, as it creates a new jurisdiction, according to the authority in Dwarris on Statutes, 652; 10 Rep. 75; Stra. 258.

Affirmative words, if absolute, explicit and peremptory, showing no discretion was intended to be given, especially when jurisdiction is conferred, are imperative: Dwarris on Statutes, 611.

It would be difficult to use words more absolute, explicit and peremptory than those used in this Act.

The word "may," when the statute confers an authority to do a judicial act, is imperative on those so authorised: 11 Com. B. 773, 142, B. 474.

Here the learned counsel commented at length on the provisions of the local Election Act, 23 Vic. cap. 11, and the authorities quoted, and contended that the House of Assembly had appointed seven individuals to act as an election committee, who were presuming to act in the adjudication