

"ary Examination of Parties," 24 to 28 "Pro-
"duction of Documents," and 29 to 42 under
the heading of "Trial of Petitions." By sec-
tion 14 any party to an election petition,
whether petitioner or respondent, may, at
any time after such petition is at issue, *before*
or pending the trial thereof, be examined
before a judge or examiner, etc. Under sec-
tion 24 any party to any election petition,
whether petitioner or respondent, may at any
time after such petition is at issue, *before* or
pending the trial thereof, obtain a rule or-
dering the adverse party to produce docu-
ments relating to the matters in question,
etc. Section 29 provides that the clerk of the
court is to keep a list of all petitions which
are at issue, and that they are to be *tried* in
the order in which they stand in such list.
By section 31 notice of the time and place at
which the election petition will be *tried* is to
be given in the prescribed manner not less
than fourteen days before that on which the
trial is to take place, and by section 33 the
court or judge may enlarge the time for the
commencement of the *trial*, if it is shown
that the requirements of justice render such
enlargement necessary. So that the word
"*trial*" in section 32 means a separate and
distinct part of the general process, and only
commences at the time fixed by the notice
given under section 31.

In this case the preliminary examination
of the respondent took place *before* the trial,
under the authority of section 14, and such
examination does not fall within the mean-
ing of the word "*trial*" in section 32.

We have now to consider from what time
the six months commence to count. Respon-
dent contends that the time occupied by the
session cannot be counted in computing this
delay;—that whether the respondent's pre-
sence is or is not held to be necessary at the
trial, it is all the same—the time occupied
by the session is not to be included in the
delay of six months. I have to try to the
best of my ability to interpret the true mean-
ing of the language used in this section.

It is evident that the dominant idea is *dis-
patch*, for it is most undesirable that there
should be any doubt as to the right of any
person to sit in Parliament unless he has
been lawfully elected to represent those

whom he claims to represent; hence the im-
perative language, the trial "*shall be com-
menced* within six months from the time the
petition has been *presented*," and "*shall be
proceeded with from day to day*" until it is
over. The statute then provides that "if at
any time it appears to the court or a judge
that the respondent's presence at the trial is
necessary, such trial shall not be commenced
during any session of Parliament, because,
no doubt, while on the one hand he ought
not to be called away from his important
duties, on the other hand it would not be just
to him or to the parties to have the trial pro-
ceeded with during his absence, if his pre-
sence is really necessary. Then we have the
disputed clause separated from the previous
one by a semi-colon, "and in the computa-
tion of any time or delay allowed for any
step or proceeding in respect of any such
trial, or for the commencement thereof as
aforesaid, the time occupied by *such* session
of Parliament shall not be included."

It is said this is an independent clause,
dealing with delays irrespective of whether
the presence of respondent at the trial is ne-
cessary or not. I do not interpret it in that
way. I think this clause simply states one
of the results of the court or judge holding
the respondent's presence at the trial neces-
sary. The first result is that the trial shall
not be commenced; the second is that the
delays shall not run. The clause in my opin-
ion should be interpreted as if it read: "And
in such case (*i.e.* when respondent's presence
is found necessary at the trial), the time oc-
cupied by such session of Parliament shall
not be included in the computation of any
delays allowed." It appears to me that the
session of Parliament during which the de-
lays are not to run is the same session during
which the trial is not to be commenced be-
cause the respondent's presence is held ne-
cessary at the trial. The Act says, if such
presence is held necessary the trial shall not
be commenced during *any session of Parlia-
ment*, and then it says that in the computa-
tion of delays, etc., the time occupied by *such ses-
sion* shall not be included.

It is evident that the trial may be com-
menced and may proceed during any session
of Parliament if nothing is said about res-