

"ary Examination of Parties," 24 to 28 "Pro-duction of Documents," and 29 to 42 under the heading of "Trial of Petitions." By section 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 section 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 ordering the adverse party to produce documents 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 meaning of the word "*trial*" in section 32.

We have now to consider from what time the six months commence to count. Respondent contends that the time occupied by the session cannot be counted in computing this delay;—that whether the respondent's presence 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 meaning of the language used in this section.

It is evident that the dominant idea is *dispatch*, 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 imperative language, the trial "*shall be commenced* 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 proceeded with during his absence, if his presence is really necessary. Then we have the disputed clause separated from the previous one by a semi-colon, "and in the computation 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 necessary 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 necessary. The first result is that the trial shall not be commenced; the second is that the delays shall not run. The clause in my opinion 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 occupied 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 delays are not to run is the same session during which the trial is not to be commenced because the respondent's presence is held necessary at the trial. The Act says, if such presence is held necessary the trial shall not be commenced during *any session of Parliament*, and then it says that in the computation of delays, etc., the time occupied by *such session* shall not be included.

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