

is no precise number of weeks, months or years; but, if delayed, the delay must be reasonably accounted for. The party complaining must come to the Court either during the term next after the cause of complaint arose, or at so early a period in the second term thereafter as to enable the accused, unless prevented by the accumulation of business in the Court, or other cause within the second term; and this regardless of the fact whether an assize intervened or not. *R. v. Kelly* (1877), 28 U.C.C.P. 35, 41 U.C.Q.B. (1877), 1, 24.

It is of the highest importance that the applicant for a criminal information should in all cases lay before the Court all the circumstances fully and candidly in order that the Court may deal with the matter. *R. v. Wilkinson* (1877), 41 U.C.Q.B. 1, 25 (citing *R. v. Auger*, 28 L.T.N.S. 634 (S.C.), 12 Cox 407.

The granting of a criminal information is discretionary with the Court under all circumstances; the application is not to be entertained on light or trivial grounds. In dealing with such an application, the Court has always exercised a considerable extent of discretion in seeing whether the rule should be granted, and whether the circumstances are such as to justify the Court in granting the rule for a criminal information. *R. v. Wilkinson* (1877), 41 U.C.Q.B. 1, 29.

There are two things principally to be considered in dealing with such an application; (1) To see whether the person who applies to conduct the prosecution, the relator or the informer, has been himself free from blame, even though it would not justify the defendant in making the accusation; (2) To see whether the offence is of such magnitude that it would be proper for the Court to interfere and grant the criminal information. Both these things have to be considered, and the Court would not make its process of any value unless the Judges considered them and exercised a deal of discretion, not merely in saying whether there is legal evidence of the offence having been committed, but also exercising their discretion as men of the world, in judging whether there is reason for a criminal information or not." *R. v. Plimsoll* (1873), noted in 12 C.L.J. 227; *R. v. Wilkinson* (1877), 41 U.C.Q.B. 1, 29.

"The Court always considers an application for a criminal information as a summary extraordinary remedy depending entirely on their discretion, and therefore not only must the evidence itself be of a serious nature, but the prosecutor must apply promptly or must satisfactorily account for any apparent delay. He must also come into Court with clean hands, and be free from blame with reference to the transaction complained of; he must prove his entire innocence of everything imputed to him, and must produce to the Court such legal evidence of the offence having been committed by the defendant as would warrant a grand jury in finding a true bill against the defendants."