

action may also be instituted by any person in his own name, yet when it is instituted by and in the name of the Association, I do not think it is a popular action within the meaning of the Act above cited. The circumstances seem to repel the possibility of the action having been instituted by a friend of defendant in collusion with him, when plaintiffs sue for penalties which the statute gives them as a protection against the violation of their own charter. I think, therefore, the exception should be dismissed.

J. P. Noyes, Q. C., for plaintiff.

T. Amyrauld, for defendant.

(J. P. N.)

SUPERIOR COURT.

BEDFORD, Nov. 25, 1887.

Before TAIT, J.

Re SHEFFORD ELECTION, GAGAILLE v. AUDET.

Dominion Controverted Elections Act—Limit of Six Months under sections 32 and 33.

HELD:—1. That the word "trial" in section 32 of the Dominion Controverted Elections Act means a separate and distinct part of the general process, and only begins at the time fixed by the notice given under section 31.

2. The limit of six months within which the trial of an election petition must be commenced, according to section 32 of the above Act, is counted from the time the petition has been presented, and where no application has been made to enlarge the time for the commencement of the trial the petition will be dismissed at the expiration of the six months, although Parliament may have been in session during a portion of this period.

PER CURIAM.—The respondent moved on the 2nd instant that the election petition in this matter be dismissed, inasmuch as it was presented on the 29th of April last, and more than six months have since elapsed and the trial has not yet been commenced.

The record shows that the petition was presented on the day mentioned, and that no application was made before the expiration of six months, or before the motion was made, either to fix a day for the trial or to have the time for its commencement enlarged.

On the 29th of April Parliament was in session, and it is admitted that six months have not elapsed since the close of the session.

The petitioner says that the six months only began to run from the end of the session, and even if this is not so, the trial was commenced within the six months from the presentation of the petition by the preliminary examination of the respondent. I have, therefore, to decide what is meant by the word "trial," and from what time the delay of six months commenced to run in this case.

Sections 32 and 33 of the Act read as follows:—

32. "The trial of every election petition shall be commenced within six months from the time when such petition has been presented, and shall be proceeded with from day to day until such trial is over; but 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, 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.

"(2) If, at the expiration of three months after such petition has been presented, the day for trial has not been fixed, any elector may, on application, be substituted for the petitioner on such terms as the court or a judge thinks just.

33. "The court or a judge may, notwithstanding anything in the next preceding section, from time to time enlarge the time for the commencement of the trial, if, on an application for that purpose, supported by affidavit, it appears to such court or judge that the requirements of justice render such enlargement necessary."

It appears to me there can be little difficulty in determining what is meant by the word "trial" as used in section 32. The Act is, as it were, divided into different parts, each dealing with separate and distinct portions of the whole process connected with the case. Sections 5 to 13 come under the heading of "Petitions," 14 to 23 under "Prelimin-