

J. H. Moss, for respondent.

I. F. Hellmuth, K.C., and E. Bayly, for petitioner.

MACLENNAN, J.A.—I am of opinion that the motion should be refused, but without costs.

The motion is by the respondent to set aside the petition and to remove it from the files on several grounds, only one of which was insisted on before me. That was that the petition did not contain a statement of the right of the petitioner to petition, as defined by the Election Acts.

The Act 62 Vict. (2) ch. 6, sec. 1, enacts that a petition may be presented by any one or more of the following classes of persons:—

- (a) Some person who was a candidate at such election; or
- (b) Three persons who voted or who had a right to vote at such election, and who are severally rated on the last revised assessment roll in respect of real property in the municipality in which they reside, for at least \$1,000.

Rule II. of this Court relating to elections declares that an election petition shall contain the following statement among others :

- (a) The right of the petitioner to petition as defined by the said Act.

Rule LX. declares that no proceeding under the Ontario Controverted Elections Act shall be defeated by any formal objection.

Section 112 (2) of R. S. O. ch. 11 declares that the rules shall be of the same force as if they were enacted in the body of the Act.

The petition, to the end of the first two paragraphs, is as follows :

Petition of John McLaughlin, of the township of Roxborough, in the county of Stormont, farmer, whose name is subscribed.

1. Your petitioner is a person who had a right to vote and who voted at the election above mentioned, and who is rated on the last revised assessment roll in respect of real property in the municipalities in which I reside for at least \$1,000.

2. Your petitioner states that the said election was held on the 22nd day of May, A.D. 1902, and the 29th day of May, 1902, when John McLaughlin, of the township of Roxborough, in the county of Stormont, farmer, and William McCart, of the township of Roxborough, in the county of Stormont, were candidates, and the returning officer has returned the said William McCart as being duly elected.