

OSLER, J.A.—The petition was filed on the 13th March, 1903. The Legislature was then in session, and did not prorogue until 27th June. There was still time to bring the petition to trial within six months from the filing of the petition, excluding the time of the session, and were the services of the necessary trial Judges certainly available for the purpose, this might now be ordered and notice of trial directed to be given by the Registrar under Rule 27. No application had until now been made by the petitioner to fix the time and place of the trial of the petition, or to extend the time for proceeding to trial, nor had the rota Judges taken the subject into consideration, and the engagements of the Judges during the last half year have been such as would have made it difficult for them to try this and other petitions during that time. The circumstances of this case are on all fours with those of the North Perth, North Norfolk, and North Grey cases, recently before me. According to the well understood and long settled course of practice, it is, under these circumstances, almost as of course that the time for proceeding to trial should be extended under sec. 47 (1) of the Controverted Elections Act. It is true that there was nothing to prevent the petitioner from making an application to the rota Judges to fix the time and place of the trial, but he cannot be said to be in default for not having done so. The obligation and the initiative in that respect are cast upon the rota Judges, the only penalty (if such it can be called) upon the petitioner being that if three months elapse after the presentation of the petition, no day for the trial having been fixed, any elector may on application be substituted for the petitioner, on proper terms: sec. 46. The requirements of justice so plainly demand, in this case, as they did in the others, an extension of the time for proceeding to trial, that I have no more hesitation in exercising in this, than I had in those cases, the discretion given by sec. 47 (1), and extending the time until 31st January, 1904. The course of the Court has been so constant that it would not be necessary to write anything on the subject, were it not in the hope, perhaps a vain one, of obviating the misapprehensions (to use a mild term) which so frequently attend judicial acts in these election cases. The time and place of trial will shortly hereafter be fixed by the rota Judges. Costs of the application to be costs in the cause.