

he would remain in his office for a short time to receive a petition which was about to be filed, to which the Clerk replied that he would be in for a short time, about half an hour, but would return to his office about seven, and would remain there, and receive the petition, until the hour of half-past seven. The Hon. James McDonald also stated under oath that he called at the office of the Clerk on the 23rd March for the purpose of filing with him the petition in this cause, but the door was locked and he could not obtain entrance to the said office. whereupon about half-past seven and not later than twenty minutes to eight he put the petition into the office of the Clerk by shoving it under the door.

Under these facts I am called upon to decide whether the petition was filed in time, and according to law. It is unfortunate that Mr. Parsons in his first affidavit should have sworn positively to a fact which it now appears that he could only have known by hearsay, more especially as in the second clause of the same affidavit he guards himself with the qualification generally used where hearsay is alleged. I can only say that had I been aware that he was not stating what was within his own knowledge, I should have hesitated before granting him the rule for extension of time without a certificate from the Clerk of the date of the filing.

Mr. Russell has positively sworn that the petition was not filed with him, nor as he believes with any person in his office on the 23rd day of March, and in addition, the petition itself has the following memorandum initialled by him;—"discovered in the drawer appropriated to election proceedings in the Clerk's office, about 11 A. M. March 24th, 1874." I must look upon this affidavit, and the endorsement on the petition as the certificate of an officer touching a matter within the scope of his duty, the truth of which I am not at liberty to try on affidavit but must assume. But if such was not my duty, in view of the facts contained in the affidavits in reply on the part of the petitioner, can it be said that the petition was filed in time?

Business hours in the prothonotaries' and other public offices are from 10 A. M. to 4 P. M., at which latter hour the offices close, and any business transacted after that is contingent upon the chance of finding the officer in. Following this practice, I must