

of inability to serve, and accidental omission, or omission because of inability to apply for additional allowance of time within the first 10 days. Full effect should be given to all the words in sec. 18. I cannot say that there is any general rule that where jurisdiction is given to extend time, such jurisdiction must be exercised within the period first mentioned. The position of the matter as to the petitioner and the public—and in all the cases public rights have been considered—is very different now from what it will be when the parties are at issue and the petition ripe for trial. The respondent should be allowed to make a counter-attack if he can. That is something the electors may be interested in.

If the interpretation of sec. 18 is to be according to its words, then the application before the expiration of 10 days is not compulsory; if one may venture outside of the words, I am bound to say that in dealing with the addition of time for serving the petition, it is not the necessary meaning that the application for such additional time shall be made before the expiration of 10 days from filing the petition.

In *Banner v. Johnston*, L. R. 5 H. L. 157, at p. 170, the Lord Chancellor said: "What we have to look at in substance is this: is it contrary to the meaning of the word 'extend' to give longer time after the original time has passed? Time is not a material with respect to which it may be said that, the matter itself having ceased, there is no further subject to operate upon. Although the time has passed, it may well be that the legislature intended to say there should be a power in the Court of Appeal to say that it would be reasonable that an additional time should be given."

*Lord v. Lee*, L. R. 3 Q. B. 404, is a case where it was held that after the expiration of the time for making the award, and even after the award was made, the Judge had power to enlarge the time for making, and the award was held valid.

Consolidated Rule 353 expressly gives power, in matters to which the Rules are applicable, to enlarge the time, although application not made until after expiration of time allowed. This Rule does not apply to election cases. The argument from the Rule is that such Rule being necessary in High Court matters, express authority to do things out of time is necessary in all matters, especially in election proceedings. I do not think the argument can be pushed to that length. I am pressed on the one hand by the decision in the *Glengarry* case, and on the other with the distinction