

Rule 1, which provides that presentation of an election petition shall be made by leaving it at the office of the registrar of the Court of Appeal; and so Rule 2 properly provided that the copy should be left with the said registrar.

The effect of 62 Vict. (2) ch. 6, however, is to modify Rule 1, which must now be read as containing directions for leaving the petition at the office of the registrar of the Court of Appeal or of the local registrar of the High Court, as the case may be. The Court of Appeal being the only Court dealing with election petitions, and all petitions being required to be intituled in that Court, they must be taken to be received for it by the local registrars, who are constituted registrars of the Court for the purpose. Thus Rule 2 applies to make it the duty of the petitioner to leave with the petition a copy thereof for the registrar to whom or at whose office the petition is to be delivered, or send to the returning officer.

I agree, therefore, that the petitioner was in default in not complying with the requirements of the Rule in that behalf.

But the duty is imposed by Rule, and not by statute, and the provision as to the time when it is to be performed is subject to Rule 58, enabling the Court or a Judge in a proper case to increase, enlarge, or abridge the time appointed by the Rules for doing any act or taking any proceedings. It can make no difference that the Rule says that the copy shall be left at the same time as the petition, instead of saying, as it might, that it shall be left within 48 hours or a week after the delivery of the petition. In either case there is a time appointed for doing an act or taking a proceeding.

The power given by Rule 58 is wider than that under the English Rules, which were the guide in the *Lisgar Election Case*, 20 S. C. R. 1, and the *Burrard Election Case*, 31 S. C. R. 549. Section 64 of the *Dominion Controverted Elections Act*, to which reference was made in the latter case, is more restricted in its terms than Rule 58. It does not extend to enabling an enlargement of time although the application is not made until after the expiration of the time appointed. This Rule appears to me to furnish a satisfactory answer to the argument that the leaving of the copy of the petition is part of the presentation of the petition, without which it is incomplete. That argument proceeds upon the proposition that the two things are directed to be done and must be done together. But, though *directed* to be done together, they are not necessarily and in every case to be done together, because the Court or a Judge may increase or enlarge the time for the doing of the second act.