

the meaning of s. 9, when the returning officer has actually placed it in the express office or in the post office for the purpose of transmitting it to the clerk (s. 135). The inconvenience of such a construction is manifest, as no one would have had any means of ascertaining when a return had been thus made, except by enquiry from the Returning Officer, who is not by law bound to give any information on that subject. The time moreover in which he is bound to "make and transmit" his return varies according to the circumstances mentioned in s. 134. Sec. 139 obliges the Clerk of the Crown in Chancery, on receiving the return, to give, in the next ordinary issue of the *Gazette* "notice of the receipt of the return, the date of such receipt, and the name of the candidate elected." There is no provision whatever which enables anyone with assurance of certainty to ascertain the day in which the return left the hands of the returning officer. The object of s. 139 was to secure the publication of information of which everybody would be obliged to take notice, and I think it was for the very purpose *inter alia* of fixing the date from which proceedings to attack the election should run. In my opinion, therefore, bound as we are to read these two Acts in *pari materia*, the return is made to the Clerk of the Crown within the meaning of, or for the purpose of s. 9 of the Controverted Elections Act, when it has been received by him, and not earlier: *Mackinnon v. Clark*, (1898) 2 Q.B. Rep. 251.

The second objection is more troublesome, and certainly is provoked by the omission of the petitioner to comply with a plain direction of the Act, but on the whole, after some consideration, I am of opinion that I ought not to yield to it. S. 9 enacts that the petition is to be presented within twenty-one days, etc., and s. 10 that presentation shall be made by delivering it to the Registrar of the Court or otherwise dealing with the same in the manner prescribed. No other manner is prescribed for dealing with it, and thus a petition is presented within the meaning of the Act by simply filing it with the proper officer, with the affidavit required by s. 11, and s. 18 so speaks of it: "Where a petition has been filed, etc." Then s. 15 under the heading "Service" enacts that "Notice of the presentation of a petition under the Act accompanying a copy of the petition shall within five days after the day on which security for costs has been given, etc., etc., be served by the petitioner on the respondent in the manner in which a writ of service is served, etc. No separate notice of presentation was served, but a copy of the petition itself was duly served, on which was endorsed the following: "This petition is filed, etc., etc."

The question is whether the omission of the separate notice of a presentation of the petition is fatal to the proceedings. Under the Controverted Elections Act of 1871, the first statute on the subject in this province, s. 8 provided that notice of the presentation of a petition under this Act, and the nature of the proposed security, accompanied by a copy of the petition, should be served within five days after the security was given, etc. Under that Act security was to be to the amount of \$800, and might be given by recognizance by any number of sureties not exceeding four, or by a deposit of money in the manner prescribed, or partly in one way and partly in the other, and it was therefore extremely important that the respondent should have exact notice of