

The learned Judge refused to have the deputy clerk sworn.

The case must go back to the Judge of the County Court to enable the petitioner to shew that the persons whose names were red-lined on the lists were not delinquents in respect to the poll tax not having been charged with a poll tax.

I do not wish to be considered as dissenting from the views contained in the opinion of Mr. Justice Russell, which I have seen too late to consider fully, but I do not feel sufficiently sure on the subject to reverse the judgment below without granting a new trial, which is the judgment I have thought should be given.

DRYSDALE, J., concurred.

MEAGHER, J., concurring, was of opinion that the rate book was improperly rejected. If received it might, perhaps would, have supplied a foundation for further evidence tending to shew that the election was not conducted in due course.

LAURENCE, J.:—This is an appeal in a controverted municipal election case from the decision of the County Court Judge for District No. 7, dismissing the petition and confirming the respondent in his seat as a councillor, of the town of Glace Bay. There are a number of objections to the return of respondent alleged in the petition, but the only one on which the petitioner relied at the trial was the illegality of the "list of voters" furnished by the town clerk, and upon which the election was held. Two exceptions are taken to this list:

1st. It was not prepared and on file within the time prescribed by law, i.e., before nomination day, and not until two or three days before election, and,

2nd. That the town clerk in preparing this list, or striking names therefrom, proceeded on a wrong principle under the law by striking off or "red-lining" from the list of voters as prepared by the revisors under the Franchise Act the names of a large number of persons whose names did not appear in the rate book or poll tax book of the town.

As to the first exception the learned County Court Judge held that the statute prescribing a time before which the lists should be prepared was only directory, and I think correctly.

As to the second exception the statute defining the qualification of voters at the time the town clerk prepared the list