

on an official list of electors shall be allowed to vote at the polling station on the list of electors for which his name appears; in an urban polling division, he shall not be allowed to vote if his name does not appear on such list, unless he has obtained a transfer certificate, pursuant to section 43, and fully complies with the provisions of subsection (5) of the said section, or unless he has obtained from the returning officer a certificate in Form No. 20 issued pursuant to subsection (11) of section 17, or a certificate in Form No. 21 issued pursuant to subsection (12) of the said section, which certificate shall be delivered to the deputy returning officer before the elector is allowed to vote; in a rural polling division, any qualified elector may vote, subject to the provisions of section 46, notwithstanding that his name does not appear on the official list of electors for the polling division in which such elector ordinarily resides."

"46. (1) Subject as herein provided, any person who is qualified to vote in the electoral district, in which an election is pending, and is, on polling day, ordinarily resident in a rural polling division may, notwithstanding that his name does not appear on the official list of electors for such rural polling division, vote at the appropriate polling station established therefor.

(2) Any such person as is in subsection (1) described is entitled to vote only

(a) upon his being vouched for by an elector whose name appears on the official list of electors for such rural polling division and who is ordinarily resident therein, and personally attends with him at the polling station and takes an oath in Form No. 50, and

(b) upon himself taking an oath in Form No. 49."

Again generally speaking the persons whose votes are attacked fall into two categories:

1. Persons whose names were not on the list of electors for a rural polling division where they voted and who were not ordinarily resident therein on polling day. Of these persons it is said that their votes must be rejected regardless of whether or not they took the oath and were vouched for as required by subsection (2) of section 46 simply because they were non-resident on polling day. There were 209 such persons.
2. Persons whose names were not on the list of electors for a rural polling division and of whom it is said that, while there is no proof that they did not on polling day, reside in the polling division, nevertheless their votes were unlawful because subsection (2) of section 46 was not complied with. There are subcategories here:
 - (a) Persons who were not vouched for at all. In this category it is clear from the evidence and from admissions in the pleadings there were 68 persons.
 - (b) Persons who were sworn and vouched for, but vouched for by persons not by section 46 qualified to vouch for them. In this class there are, as the evidence shows, 188 persons.

It is to be noted that there is not a general voters' list for the Yukon Electoral District, but a particular list of electors for each polling division. Inclusion on such a particular list does not entitle an enrolled voter to vote at any other polling division than that in which his name is enrolled. There-