

the names of the 80 which the clerk struck off, reducing the number from 1,086 to 1,006; so I must deal with it as between the relator and the appellant.

Of the 1,086, the relator contends that there should come off 87 names of persons voting in more than one division, and 2 names which are on twice in the same subdivision—making 89 to come off . . . leaving 997.

Of the 87 names, the appellant challenges the relator's count to the extent of 15 names. The relator says that the clerk claims only 1,006. If the 15 names were all added to 997 names, there would be 1,012; and, as the clerk claims only 1,006, the relator asks that the difference of 6 be taken from the 115, and that will leave only 9 names of those challenged to be investigated. I am of opinion that the appellant's contention as to at least 4 of the names is correct. Of the 9 names which the relator attacks, he has been successful as to 3, and perhaps another, but no more. The affidavit of Mr. O'Day is, as is the affidavit of the relator, simply general; and neither is more than the affidavit of the clerk as to the general count. The special scrutiny of particular names is not and cannot be thorough or exhaustive; and the result must necessarily depend upon the question of burden of proof.

With the voters' list before the Court, verified as to the number of names and as to the not counting any one person more than once, the onus is upon the person attacking the list to prove his case. The relator has not, in my opinion, established that there are not more than 1,000 municipal electors on the roll. Restoring 4 names to the list, the number will be 1,001, viz., $997 + 4 = 1,001$.

It may be that a more careful scrutiny might increase the number by restoring some of the names not counted by the clerk on his reduction to 1,006.

Feeling satisfied, upon the evidence, that the number was at least 1,001, I did not go further.

The appeal will be allowed, and the motion to unseat the appellant will be dismissed, both with costs.

An order will be made in accordance with the above pursuant to sec. 177, and papers returned pursuant to sec. 178.