

The learned Judge makes another point. Under sec. 131 (2) of the ch. 71, it is provided:

“Every voter whose name has been inadvertently omitted by the town clerk may have his name inserted on the list of voters on making application to the town clerk at any time before the close of the poll. And the clerk on application therefor at any time shall give to any person whose name has been inadvertently omitted from the list for any ward a certificate that such person is entitled to be placed on the list of voters for the town ward or polling division, etc.”

And the Judge says there was no harm done; the voters could have come in under that provision. The clerk could be induced to give a certificate that they were entitled to vote but were inadvertently omitted when a few days before he had decided that they were not entitled to vote, and that the law obliged him to strike their names off. It would be impracticable to give so many certificates at the last moment, and I do not think that the voters should be driven to any such trouble to secure their votes. That is no remedy.

Then it is contended, and the learned Judge has held, that striking off these names was an irregularity which may not have effected the result of the election. The majority was 82 out of a total of 382. But the learned Judge has ruled out the very evidence which would tend to shew that the irregularity may have affected the result.

On this trial the first evidence the Judge ruled out was the rate and poll books. They would have shewn how many of the persons scored out on the lists were delinquents in respect to payment of poll tax. And if more names than those were scored out whose names were on the franchise list they were, as I have endeavoured to shew, wrongly scored out.

There was admitted in evidence, however, a certified copy of a list prepared by the deputy clerk and on file in the clerk's office, and on comparing the lists it will be found that the clerk has red-lined 343 more names than the deputy clerk had done. And counsel states that he could have shewn that the case of the defence was that the clerk struck off the names on the ground I have mentioned, viz., that they were not in the rate book.

The lists prepared by the clerk are in evidence, and more than 343 names were red-lined, the ground not shewn.