

Ellis and Nelson controllers of the City of Ottawa. On the 12th February, the relator obtained from the Judge of the County Court of the County of Carleton fiats, under sec. 162 of the Municipal Act, R.S.O. 1914 ch. 192, to serve notices of motion for orders declaring that the defendants were not duly elected. Notices were served accordingly, On the 17th February, 1915, the defendants served notices of motion for orders setting aside the fiats and all proceedings founded thereon. The County Court Judge held that he had no power to make such orders. He dismissed the motions, but gave the defendants leave to appeal from the orders dismissing the motions; and the defendants appealed.

The appeals were heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

C. A. Masten, K.C., for the appellant Porter.

J. D. Bissett, for the appellants Ellis and Nelson.

J. T. White, for the relator, the respondent.

RIDDELL, J. (after setting out the facts):—The main ground of the appeal is based upon the provisions of sec. 161(2) (as amended by 4 Geo. V. ch. 33, sec. 5), 162(1), and 163 of the Municipal Act.

In the affidavit filed by the relator, under sec. 162(1), he does not describe his interest, etc., except by reference to the proposed notice of motion—he says only that he “has an interest in the election as an elector.”

The fiat is not in general terms; it simply orders that the relator, upon filing the statutory recognizance, “be at liberty to serve the said notice of motion.”

The contention is that the interest of the relator in the election is not made to appear, as required by sec. 163.

[Reference to *Regina v. Thirlwin* (1864), 10 Jur. N.S. 206, 33 L.J.N.S.Q.B. 171, 9 T.L.N.S. 731; 12 Vict. ch. 81, sec. 146; *Regina ex rel. Shaw v. McKenzie* (1851), 2 C.L. Ch. 36, 44, 1 U.C. L.J. O.S. 50; *Regina ex rel. Bartcliffe v. O'Reilly* (1852), 8 U.C.R. 617; *Rules of Michaelmas Term*, 14 Vict. (Harrison's Municipal Manual, 1st ed. (1859), pp. 697 sqq.); *Regina ex rel. Pomeroy v. Watson* (1855), 1 U.C.L.J. O.S. 48; *Regina ex rel. White v. Roach* (1859), 18 U.C.R. 226; 22 Vict. ch. 99, sec. 127; *Regina ex rel. Ross v. Rastal* (1866), 2 U.C.L.J.N.S. 160; *Regina ex rel. Chauncey v. Billings* (1888), 12 P.R. 404, 407; *Regina ex rel. O'Reilly v. Charlton* (1874), 10 U.C.L.J.N.S. 105; *Regina ex rel. Percy v. Worth* (1893), 23 O.R. 688; the Municipal Act,