the councillors should be elected from different parts of the township, so that all localities would be represented in the council. That he resides in the east side of the township, and he believes he would have received a large vote in the said division which is situate on the east side of the township if his name had not been omitted.

That the impression that he was not a candidate had become too general when his name was put on the poll book to enable him to regain what he had lost by such omission in the former part of the day.

That on the day of the close of the election he protested against the whole election.

George Dodds, the township clerk, stated that he sent word to the returning officer to insert the name of Alexander Henry in the poll book as soon as he became aware of the omission.

Joseph Dodds stated that he has reason to believe from his knowledge of the township and otherwise, that if Henry's name had not been omitted from the poll book he would have been elected; and in consequence of such omission several of the electors voted for candidates for whom they would not have voted, and the whole complexion of the election was changed by such omission.

The relator stated that the clerk declared the poll for the different candidates as follows:

John Smith	19	votes.
Justus Lemon	136	"
Jacob Carrington	101	"
Nathaniel Paterson	147	"
Alexander Henry	145	"
Thomas Bell	104	"
Alexander Mitchell	192	"
George Atkinson	244	"
Samuel Stubbs	187	"
Wm. Wilson Walker	187	"

That the clerk, in consequence of the tie between Stubbs and the relator, voted for Stubbs, and declared Atkinson, Mitchell and Stubbs the three duly elected councillors.

That on the day of and before the declaration he protested against the election on the ground of Alexander Henry's name having been omitted from the poll book of one of the divisions, and in consequence the whole result of the election as he believes was changed, and on other grounds.

That Henry's election was injured in other parts of the township as well as in No. 2 division, and that the electors finding they could not vote for him voted very many of them for others for whom they would not have voted if the omission had not been made, and he believes if there had not been such an omission, he the deponent, who is also the relator, would have been elected to the said office.

Several affidavits were filed by the defendants, and amongst them two made by Samuel Stubbs and Alexander Mitchell.

Samuel Stubbs stated, that none of the persons, five in number, who are mentioned in the affidavits of the relator as persons who would have voted for Alexander Henry if his name had not been omitted, voted for the deponent Stubbs, who would not have done so had Henry's name been on the poll book from the first: that the omission did not increase the deponent's votes by a single vote; on the contrary, he would have had one more vote if Henry's name had been on the book.

Alexander Mitchell stated, that Walker had a vote from John White, whose name was not on the voter's list, and that the deputy returning officer for the said division also voted for Walker, and neither of them voted for Stubbs, and other persons voted for Walker who had not a sufficient property qualification: that only six votes were tendered for Henry before his name was put on the book, and ten votes given for him after it; and that deponent believes Henry would not have had more than from sixteen to eighteen votes if his name had been entered in the book from the first.

All of the defendants denied having had anything to do with the omission of Henry's name, and Henry's name was on the poll books for the other divisions of the township.

McMichael showed cause. Whether this proceeding be considered as taken against the defendants separately, or as impeaching the whole election, the relator must show that what he complains of has caused a different result than there would have been if there had been no irregularity. The relator does not show that the result would have been different from what it is. He cannot claim the benefit of those votes that were rejected for Henry. He cannot be allowed to say that some one else has got them who would not have got them if Henry had been voted for, and so the result of the election would have been different.

There are many instances where votes may be considered as abstracted from certain candidates, and yet they cannot claim the benefit of them, because they have not been effectually given.

If a disqualified person were a candidate all his votes may be lost, yet another candidate who is in the minority cannot defeat the whole election, or claim any benefit to himself on the assumption that if these votes had not been lost the result of the contest would have been different. So a candidate may, after receiving a certain number of votes, retire from the contest, yet the other candidates have nothing to do with his votes, nor are they allowed to consider how these votes would have influenced the position of the other candidates if they had not been thus thrown away.

So it might be reported wrongly that a candidate had retired, and votes might thus be given to others who would not have got them; yet another candidate, not even the one injured, could complain of this for the purpose of defeating the election.

Harrison, Q. C., supported the application. The statute is imperative that the clerk shall provide the returning officer with a certified list of the names of the candidates.

The present relator can complain of these proceedings in like manner as Henry might have done. The alteration of the poll book was an unauthorized proceeding, for it did not then correspond with the clerk's certified list: *In re Charles* v. *Lewis*, 2 U. C. Cham. Rep. 171; *In re Hartley*, 25 U. C. Q. B. 2; *In re Coe*, 24 U. C. Q. B. 439; *In re Blaisdell* v. *Rochester*, 7 U. C. L. J. 101; 29 & 30 Vic. c. 52, sec. 160, and subsections.