

list shall upon a scrutiny under either of these Acts be final and conclusive . . . except" The exception applies to one scrutiny as much as the other. Then what is the extent of the exception under sub-sec. 2, which is the one with which we are immediately concerned? It applies to persons who, subsequently to the list being certified, are not or have not been resident either within the municipality to which the list relates or within the electoral district for which the election is held, and who, by reason thereof, are, under the provisions of the Ontario Election Act, disentitled to vote.

If this sub-section applies to municipal elections, it also applies to voting on by-laws, by the express terms of the preceding part, which speaks of a scrutiny under the Municipal Act.

So that, when conducting a scrutiny under the Municipal Act, reference must be made to the provisions of sec. 24 of the Ontario Voters' Lists Act, in order to ascertain the extent to which the inquiry can proceed. I agree with those who think that a scrutiny under sec. 371 is something more comprehensive than a simple recount, and that, when proceeding with a scrutiny under that section, the County Court Judge has authority to inquire into the question whether any persons who have cast their ballots come within the excepted class mentioned in sub-sec. 2 of sec. 24 of the Ontario Voters' Lists Act.

I am also of opinion that it is competent for the County Court Judge to declare void the vote of a person who has cast a ballot, when it appears that, although his name was on the certified list, he was not, when it was placed thereon, resident and has not since become resident within the municipality to which the list relates. Within the very terms of the sub-section, as it appears to me, he is not and has not been resident within the municipality subsequently to the list being certified. I am unable to see why any distinction should be drawn between his case and that of a person who was resident within the municipality when the list was certified, but ceased to be resident subsequently to the list being certified.

The one remaining vote held void by the County Court Judge was admittedly within the exception of sub-sec. 2. The result should, in my opinion, be that the County Court Judge's ruling was correct, and that his certificate should stand.

The remaining question dealt with by the Divisional Court is, whether, if the County Court Judge, upon a scrutiny conducted by him, finds that a person whose name was upon the list, but who had no right to vote, did vote, such person may be compelled to disclose before the County Court Judge how he