

these persons were not tenants on the day of the election or for one month prior thereto. These affidavits are uncontradicted, nor were the deponents cross-examined upon them, nor was the town clerk, who was present at the hearing, called to contradict these affidavits. Although it may not be necessary for the decision of this application, I think that the 35 tenants' names should be taken off, on account of the sworn uncontradicted statement that these tenants were not, at the time of the election or for one month prior thereto, resident in the municipality.

The persons whose names are to be placed on the voters' list at municipal elections are set forth in sec. 56 of the Municipal Act of 1913. By sec. 57 it is enacted that, "subject to sections 59, 60, and 61, every person whose name is entered on the proper voters' list shall be entitled to vote at a municipal election, except that in the case of a tenant he shall not be entitled to vote unless he is a resident of the municipality at the date of and has resided therein for one month next before the election;" and, by sec. 58, no question of disqualification shall be raised at the election, except in the case of a tenant "from his not residing in the municipality for one month next before the election and at the time of the election."

I do not see how these names can be counted as qualified voters upon the facts as sworn before me at the hearing. If this be so, the municipality is not entitled to a deputy reeve under the Act, and the election of Mr. Church to such office was null and void, and is set aside.

I disposed at the hearing of a preliminary objection raised by Mr. Thompson, that the municipality should be a party to the proceedings. Whether or not a substantive application can be made against the municipality for a declaration that it was not entitled to a deputy reeve under the Act, I think that the ordinary remedy of the elector to apply by way of quo warranto remains unaffected.

The application will be allowed with costs.