

BRITTON, J., IN CHAMBERS.

MAY 22ND, 1914.

REX EX REL. SULLIVAN v. CHURCH.

Municipal Election—Deputy Reeve of Town—Right of Town to Have Deputy Reeve—Municipal Act, 1913, sec. 51—Number of Municipal Electors—Count—Name of any Person to be Counted only once—Evidence—Affidavits—Onus—Tenants—Right to Vote—Secs. 2(n), 48, 161, 177, 178 of Act—Remedy by Summary Proceeding under Act to Unseat Person Elected where Town not Entitled to Deputy Reeve—Municipality not a Party.

Appeal by Thomas S. Church from the order of the Master in Chambers, ante 116, setting aside the election of the appellant to the office of Deputy Reeve of the Town of Arnprior.

G. H. Watson, K.C., and J. E. Thompson, for the appellant.
E. E. A. DuVernet, K.C., and R. J. Slattery, for the relator.

BRITTON, J.:—Section 48 of the Municipal Act, 1913, provides that the council of a town not in unorganised territory having a population of more than 5,000 shall be composed of a mayor, a reeve, as many deputy reeves as the town is entitled to, and three councillors for each ward where there are less than five wards, or two councillors for each ward where there are five or more wards. By sec. 2, cl. (n), of the Act, "Population" shall mean population as determined by the last preceding census taken under the authority of the Parliament of Canada, or under a by-law of the council, or by the last preceding municipal enumeration by the assessor whichever shall be the latest. Section 51 provides that a town, not being a separated town, shall be entitled where it has more than 1,000 and not more than 2,000 municipal electors to a first deputy reeve; and, by sub-sec. 2, the number of municipal electors shall be determined by the last revised voters' list, but, in counting the names, the name of the same person shall not be counted more than once.

Before the 9th December, 1913, the town council instructed their clerk to ascertain the number of the electors on the last revised voters' list, not counting the same name more than once. This the clerk did; and on the 9th December, 1913, reported to the council. This, by virtue of sec. 51, if the count was correct, would entitle Arnprior to a deputy reeve. The council there-