

the said Thomas Murray and John Supple, present when the said alleged election took place; second, that no vote in favor of the motion to elect the said Thomas Murray was given by any of the said councillors; third, that the clerk of said council illegally declared the said Thomas Murray duly elected reeve, without taking the vote of the councillors upon the motion to elect him as reeve; fourth, that the said election did not take place at noon of the third Monday in January, as required by law, but about the hour of six o'clock in the evening of that day.

The relator made oath, that he was one of the councillors for the municipality of the village of Pembroke for the year 1864; that the council of the said village of Pembroke is composed of five members; that on Monday, the 18th day of January, instant, the following four members elect of the said village council, viz., John Supple, Michael O'Meara, the said Thomas Murray, and the relator, met at the town hall of the said village of Pembroke; that Alexander Moffatt, one of the councillors elect, was not present at said meeting; that Andrew Irving, the clerk of the said council, presided at said meeting; that after the said four members of council had made their declarations of office and of qualification, it was moved by the said John Supple, and seconded by the said Thomas Murray, that the said Thomas Murray be reeve of said county; that upon the motion being put by the said clerk to the said council for their vote on the same, the relator objected to the election of the said Thomas Murray to the office of reeve, and made his objection known to the said clerk and members present of said council; that the said Michael O'Meara also objected to the election of said Thomas Murray as reeve, and made his objection known to the clerk and members present of said council, calling out in answer to the said question the words "No, no;" that thereupon, and before any vote was taken upon the said motion, the relator and the said Michael O'Meara were in the act of going out of the door of the said council room, having left their seats at the council for the purpose of leaving the same, and without any vote having been taken on the said motion, the said clerk, Andrew Irving, said that if no amendment was made to the said motion, he would have to declare the said Thos. Murray duly elected reeve of the said village of Pembroke; that no vote was taken or given by any member of the said council on or for the said motion; that the said Thomas Murray accepted the said office of reeve, and received from the said clerk, Andrew Irving, a certificate under his hand and the seal of the said corporation to enable him to take his seat as a member of the county council of the united counties of Lanark and Renfrew.

Michael O'Meara made oath, that he had heard read the statement and relation of Jas. Heenan in this matter, and that the same was true in every particular; that he also heard read the affidavit of the said James Heenan, and knew the statements therein contained to be true.

C. S. Patterson showed cause, and filed the affidavit of John Supple, wherein it was sworn, that he was one of the municipal councillors of the village of Pembroke; that on the 18th day of January, 1864, he attended, as such councillor, a meeting of the councillors of the said vil-

lage, held in the town hall; that the following councillors were present, viz., Thomas Murray, Michael O'Meara, James Heenan, and deponent, at said meeting; that the said councillors then made the declaration of office required by law; that after the said councillors made the declaration of office, and whilst the four of them were still present, Andrew Irving, the clerk of the municipality, called the council to order and said, "Now is the time to elect your reeve," or words to that effect; that immediately after the clerk made the announcement, and whilst the four councillors were present, a resolution was placed in the clerk's hands, moved by deponent and seconded by Thomas Murray, to the effect that Thomas Murray be reeve; that the clerk read the resolution to the council, the four being still present, and said if there were no amendment offered he would have to declare it carried; that after a sufficient time had elapsed for an amendment to be put in, and there being none moved, and whilst the four councillors were still in the hall, Thomas Murray called "Question!" when the clerk again read the resolution, and, there being no dissenting voice, declared the motion carried, and that Thos. Murray was duly elected reeve of the village of Pembroke; that at the time the clerk declared the said Thomas Murray elected, the four councillors were still present, and must have heard the declaration of the clerk, as he spoke in a loud tone of voice, and the room in which the meeting was held is small; that the said relator, James Heenan, was not a candidate for the said office of reeve, nor was there any other candidate for the said office at the said election except the said Thomas Murray, nor was the said James Heenan's name mentioned, or any other person, at said election, in connexion with the said office, other than the said Thomas Murray.

The affidavit of John Supple was corroborated by the affidavits of Richard Fallow and James P. Moffatt, both electors, who happened to be present when defendant was declared elected by the clerk.

R. A. Harrison supported the summons, and cited Con. Stat. U. C. cap. 54, secs. 130, 132.

HAGARTY, J.—The statute directs, that the council, being at least a majority of the whole number of the council when full, shall, at their first meeting, after making the declarations of office and qualification, organize themselves as a council, by electing one of themselves to be reeve, &c. (Sec. 132.)

At the first meeting here, four councillors were present, and they should, according to the statute, have chosen their reeve.

The relator and his fellow-councillors admit that a resolution naming Murray as reeve was put and seconded; that he (relator) and the others expressed dissent, and rose to go away; that while in the act of going, the clerk said that if no amendment were moved, he would have to declare Murray elected.

Two witnesses swear in reply that no dissent was expressed to the resolution; that after ample time had elapsed, a member called "Question!" and there being no dissenting voice, the clerk declared Murray elected; that when he did so the four councillors were present, and must have heard him do so.