

names of the 80 which the clerk struck off, reducing the number from 1086 to 1006—so I must deal with it as between the relator and the appellant.

Of the 1086, the relator contends that there should come off 87 names of persons voting in more than one subdivision, and 2 whose names are on twice in same subdivision, making 89 to come off. $1086 - 89 = 997$, 4 short of the required "more than 1,000."

Of the 87 names, the appellant challenges the relator's count to the extent of 15 names. The relator says the clerk claims only 1006. If the 15 names were all added to 997 names, there would be 1012, and as the clerk claims only 1006 the relator asks that the difference of 6 be taken from the 15, and that will leave only 9 names of those challenged to be investigated. I am of opinion that the appellant's contention as to at least 4 of the names, is correct.

Of the 9 names which the relator attacks he has been successful as to three, and perhaps another, but no more. The affidavit of Mr. O'Day is, as is the affidavit of relator, simply general—and neither is more than the affidavit of the clerk as to general count. The special scrutiny of particular names is not, and cannot be, thorough or exhaustive, and the result must necessarily depend upon the question of burden of proof. With the voters' lists before the Court, verified as to number of names, and as to the not counting any one person more than once, the onus is upon the person attacking the list to prove his case. The relator has not in my opinion established that there are not more than 1,000 municipal electors on the roll.

Restoring 4 names to the list, the number will be 1001, viz., 997 plus 4 equals 1001.

It may be that a more careful scrutiny might increase the number by restoring some of the names not counted by the clerk on his reduction to 1006. Feeling satisfied upon the evidence that the number was at least 1001, I did not go further.

The appeal will be allowed, and the motion to unseat the appellant will be dismissed, both with costs.

An order will be made in accordance with above, pursuant to sec. 177, and papers returned pursuant to sec. 178