

in question was as in ch. 55, Acts of 1907, and fixed the qualification of a voter as follows:—

“A British subject 21 years and upwards of age registered on the list of voters under the Franchise Act, and has fully paid his rates and taxes of all kinds for the previous year.”

The town clerk has interpreted this provision respecting the payment of rates and taxes to mean that a voter must be on the rate roll liable for some rate or tax and in default as to payment. In carrying out the direction of the statute to strike off the revisor's list of voters by scoring with red ink the name of every person who has not fully paid his rates and taxes of all kinds for the previous year, the town clerk not only so struck off the name of every one on the voters' list and the rate roll who was in arrear for rates and taxes, but also the name of every one on the voters' list whose name was not found on the rate book, although they owed no taxes or rates or were not liable for any and none could be collected from them.

I regard the assessment and rate book as the foundation of a legal liability to pay rates and taxes, and it cannot be said a person has not paid something he is not and never was liable to pay. This, I think, must be also true of poll taxes having regard to the statute, notably ss. 6, 14, 20, 77, 91, 93, 95, 97, 99, 100 to 106, 109, 110.

I think the town clerk was wrong in his view of the statute and should have struck the names off 9 some 300 in number, it is alleged. Were it possible to hold that his view was correct then the list might be a correct and legal list, and that would be an answer to the petition and the decision appealed from could be upheld on that ground. But, as stated, I think the list made up in this way was not a legal list. The petition alleges that the list was bad by reason of this large number of names of persons being so struck off, and the petitioner had a right to shew on the trial that the names were so struck off and how many were so struck off, and the best evidence for this purpose was the rate book tendered in evidence so that by examination and comparison of them with the list so prepared by the town clerk the truth of the allegation of the petition could be ascertained and how many names were struck off. The town clerk in his evidence says:—

“There are some on the voters' list which I did not find on the rate or poll books of the town. I red-lined these names.”