

HON. MR. JUSTICE BRITTON:—Section 48 of The Municipal Act provides that the council of a town, not in unorganized territory, having a population of more than 5,000, shall be composed of a reeve, as many deputy Reeves as the town is entitled to, and 3 councillors for each ward, where there are less than 5 wards, or two councillors for each ward where there are 5 or more wards.”

By sec. 2, sub-sec. 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 enumeration by the assessor, whichever shall be latest.”

Section 51 provides that “A town not being a separate town shall be entitled where it has more than 1,000 and less than 2,000 municipal electors, to a first deputy reeve.

Sub-section 2: “The number of the 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 day of December, 1913, the council of Arnprior instructed their clerk to ascertain the number of municipal electors on the last revised voters’ list, not counting the same name more than once. This the clerk did, and on the 9th day of 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 thereupon passed by-law No. 525, appointing a time and place for the nomination and election of mayor, reeve, deputy reeve, councillors, and public school trustees, etc., etc. The election was duly held, and the appellant, Thomas S. Church, was elected deputy reeve, by acclamation.

The relator now under sec. 161, questions the validity of the election of Church as a member of the council. The grounds alleged are that the town has not the names of over 1,000 municipal electors upon its last revised list of voters, for said town, not counting the same names more than once, and even if it had at the time the list was revised, it had not the required number at the time of the election complained of.

Upon the preliminary objection that the municipality is not a party to this proceeding, I have found considerable difficulty in satisfying myself that the objection should not