

This point will be dealt with later on, when the cases of that description are reached.

3. A class of persons voting on transfer certificates whose names were not on the voters' list in the poll books of the polling subdivisions from which they were stated to have been transferred.

The trial Judges ruled that in order to render these votes void it was incumbent on the petitioner to produce the original general voters' list and shew that the names of the voters were not on it. The petitioner contends that it was sufficient to produce the list in the poll book of the subdivision from which the voter was transferred, and that if it appeared that the voter's name was not on it his vote must be disallowed. The question depends on the meaning to be given to the words "voters' list" as they appear in sec. 94 of the Election Act. To what list is the returning officer to refer before giving a certificate entitling an elector to vote at a polling place other than the one where he is entitled to vote? The purpose of the reference is of course to ascertain whether the applicant for the certificate appears to be entitled to vote at the subdivision from which he seeks to be transferred. The returning officer is not required to give the certificate unless requested to do so at least two days before the polling day: 4 Edw. VII. ch. 3, sec. 2. This enactment seems to contemplate that by that time all the subdivision poll books will have passed from his possession. And these seem to be the only voters' lists that are at any time in his possession. The voters' list certified by the County Judge from which the lists in the subdivision poll books are made up is never in his possession.

Section 21 (3) of the Voters' Lists Act, R. S. O. ch. 7, enacts that the Judge shall retain one of the certified copies, and shall deliver or transmit by post registered one of the certified copies to the clerk of the peace of the county or union of counties within which the municipality lies, and one of the certified copies to the clerk of the municipality, to be kept by him among the records of his office. Section 77 of the Election Act provides that, subject to certain provisions of the Act which do not affect the present question, the first and third parts of the last list of voters certified by the Judge and delivered or transmitted to the clerk of the peace under the Ontario Voters' Lists Act, before the date of the writ of election, shall be the proper list to be used for the