In *Reg. ex rel. Flater* v. *Van Velsor*, 6 U. C. L. J. N. S. 151, I had occasion to decide a point very similar to the present. The decision was not appealed against, and is consistent with my present opinion.

I can only understand the word "rated," in clause 70, to mean rating under the assessment law; so that, whatever the statute may mean, I think it does not mean to prescribe the real value of the interest of the candidate in the land on which he qualifies. I shall, therefore, without further endeavouring to speculate upon it, follow the grammatical construction of section 70; and, applying it to this case, it appears that the defendant has an equitable freehold in land rated at the proper amount, in his own name, on the last revised assessment roll, and that he had the same estate at the time of the election, and I therefore think he is qualified.

*Judgment for defendant, with costs.**

* This decision was subsequently upheld by Mr. Justice Galt, on appeal from Mr. Dalton's order.—*Rep.*

ENGLISH REPORTS.

QUEEN'S BENCH.

R. v. STANGER.

Criminal information — Libel — Affidavits — Evidence of publication.

The affidavits in support of a rule calling on a defendant to show cause why a criminal information should not be filed against him for publishing a libel in a newspaper must supply legal evidence showing that the defendant is printer or publisher of the newspaper. It is not enough, therefore, to annex the newspaper to the affidavits and to show that it was bought at the office of the newspaper, and that it contains in a foot-note the name of the defendant, and a statement that he is publisher and printer, and that the deponent believes that the defendant is such printer and publisher.

Quære, can the deficiency be supplied on the argument of the rule by a statement in the affidavits of the defendant.

[19 W. R. 640.—Q. B.]

A rule *nisi* was obtained in a former term calling upon the defendant to show cause why a criminal information should not be filed against him for printing and publishing in a newspaper a certain false and scandalous libel.

The following were the affidavits in support of the rule connecting the defendant with the newspaper in which the alleged libel was printed.

1st. The affidavit of W. H. D. Longstaffe, who swore:

1. That, on the 30th May last past, I attended at the publishing office of the newspaper called *The Newcastle Daily Chronicle*, situated in Westgate-street, in the borough and county of Newcastle-upon-Tyne, and purchased and paid for a copy of number 3839 of the said *Newcastle Daily Chronicle*, dated the 30th of May, 1870, which then and there I received from William Gray, a clerk or salesman in the said office, and which said newspaper is now produced and shown to me and marked with the letter A.

2. That, on the 31st of May last past, I attended at the publishing office of the *Newcastle Daily Chronicle*, situate as aforesaid, and purchased and paid for a copy of number 3833 of the said newspaper, dated the 23rd of May, 1870, which I then and there received from the said William Gray, and which said last-mentioned newspaper is now produced and shown to me, and marked with the letter B.

2nd. The affidavit of W. Crossman, who swore:

1. That I have referred to the newspapers mentioned in the affidavit of W. H. D. Longstaffe, and verified by him, and which said newspapers are respectively marked A and B, and I say that, by a foot-note printed at the end of the said respective newspapers. John Stanger is stated to be the printer and publisher of the said newspapers respectively, and I say that the said John Stanger is, as I believe, the printer and publisher of the said papers.

Digby Seymour (*Udall* with him) showed cause against the rule.—There must be a complete case on the affidavits. Such evidence must be given as would enable a grand jury to find a true bill; *R.* v. *Willett*, 6 T. R. 294. If statutory proof be not given, strict legal proof must be produced; Cole on Criminal Information, pp. 55 and 62; *Ex parte Williams*, 5 Jur. 1133. Belief is not enough. Here there is only the name at the foot of the newspaper annexed to the affidavits, and there is no legal proof that the office at which the paper was bought is the office of defendant. Nor can the defect be supplied from the affidavits of the defendant himself; Corner's Crown Practice, 172. *R.* v. *Baldwin*, 8 A. & E. 168; *R.* v. *Woolmer*, 12 A. & E. 442.

The Solicitor-General (*Sir J. D. Coleridge*) *Beresford* with him.—Statutory proof has been rendered unnecessary by 32 & 33 Vict. c. 24. Such proof as the common law allows is, therefore, sufficient. *Primâ facie* proof is enough, and indeed it is impossible in many cases to supply more. In *R.* v. *Baldwin*, Patteson, J. makes this statutory proof the ground of his decision, but by the statute cited that proof is rendered unnecessary. In case of publication there is a well-known definite mode of proof which the Court has insisted on, but the rule is purely technical. If, however, the affidavits on the defendant's side have supplied what is wanting, that is enough for the purpose. *R* v. *Mein*, 3 T. R. 596. Here the affidavits do not attempt to deny that the defendant is the publisher.

BLACKBURN, J.—This rule must be discharged, on the ground that there is no evidence that the particular person against whom the rule was moved is the publisher of this paper containing the alleged libel. There is no further evidence than this: a paper is referred to and and annexed to the affidavits in which there is the name of John Stanger, in a foot-note, as of the publisher, and there is an affidavit in which the deponent states that he verily believes that the defendant is the same person as is referred to in the paper. Now there is no more than that. Is that sufficient evidence to show that Stanger was the person who published the alleged libel? I think not. There might be evidence of some statement or acts on his part which would directly connect him with the office or paper, but there is none such in the affidavits. In *R.* v. *Witlett*, 6 T. R. 294, it was ruled nearly eighty years ago that such evidence as this was not sufficient. That was a rule for a criminal information for sending a challenge, and the person who brought the challenge (one Hatherly) refused to make an affidavit. The Court refused to grant the rule because the affidavit on which it was prayed for was not legal evidence. They said "that in those cases they were placed in the room of a grand jury. The affidavits or