ing of that section, it is necessary first to refer to the assessment law.

There is this distinction between the assessment of real and personal property. In the case of real property it is the *land itself* that is assessed, always at its full fee-simple value without regard to charges or incumbrances, and not a man's estate or interest in the land. If the owner has mortgaged to more than the whole value, the land will still be assessed against him at the value of the fee, just as though the mortgage did not exist. And if the owner's estate is less than a fee, the rating against him is still the same, the full fee-simple value.

As to personal property, it is different. The theory of law as to this is, that a man's real interest in the property is to be taxed; not the property. There is excepted from assessment "so much of the personal property of any person as is equal to the just debts, owed by him on account of such property." So that if I buy land worth £100, and mortgage it for that full amount, I am nevertheless taxed for it at £100. Whereas if I buy goods to £100, and do not pay for them, I cannot be taxed in respect of those goods at all. It is necessary to bear this distinction in mind in reading the 70th clause of the Municipal Act as to the qualification of Mayors, Aldermen, Councillors, etc.

By this section they are declared to be such persons "as are not disqualified under this Act, and have at the time of the election, in their own right, or in the right of their wives, as proprietors or tenants, a legal or equitable freehold or leasehold, rated in their own names on the last revised assessment roll" to at least the several sums particularly specified in the clause.

Now if I am right in what I have said above, there is no such thing under the assessment law as rating a man's legal or equitable freehold or leasehold, unless those words are taken to apply to the land in which the freehold or leasehold exists, without reference to the holder's interest or estate in it; and they must necessarily be held to refer to a "freehold or leasehold" in *land*, that is, "*rated* in their own names," etc. *Land*, understood, is the substantive that "rated" agrees with in clause 70; for it is only *the land* that is rated, and that in but one way, at its full value in fee simple, without any regard to the quantity or quality of any man's estate or interest in it.

Looking at it in this light, the word "rated" in the clause must apply to the *land in which the estate is*, and not to the *estate in the land*, for no man's estate can by law be rated as such; nor is in fact so; only the fee simple of the land itself. And to apply this construction to the present case, the defendant may be held to be qualified, because he is an equitable freeholder in his own right in *land*, that is, *rated* at the proper amount in the defendant's name on the last revised assessment roll, which interest he continued to hold at the election; and this without any reference (for the statute says nothing about it) to the real value of the defendant's estate.

But, it is said, this construction makes it unnecessary for a councillor to have any qualification in real estate at all, if he be but the holder of land assessed against him on the last assessment roll at the proper amount; for such a freeholder, say to $600, who has mortgaged to that amount, if he did but continue to hold the equity of redemption, would, under this construction of the statute, be qualified as a candidate; and this is true. But take another view of the clause. In every case a leaseholder for a term not less than a year is held to be qualified by a holding of property to double the amount of a freeholder in the same case. In *this* case, then, for example, a leaseholder of property, rated in his own name on the last revised assessment roll, at $1200 in respect of the leased premises, would be qualified as a candidate. Observe, the statute says nothing about the rent paid, and the rating is the only possible test. That rent might, and probably would be, the full value for the occupation of the premises. The very statement of this case shews that his interest as lessee would be of no pecuniary value. But he would be qualified as a councillor.

The interest of such a lessee seems to me, for the present purpose, very like that of the owner in possession of the equity of redemption in fee, where the property has been mortgaged to the full value. Neither of them has an interest of any value in a commercial sense; but, under the statute, it is plain that every municipality in the country might be represented by such lessees, whose united interests in their leases could not be sold for a dollar. Look, too, at the case of the life tenant: he has a freehold, and, if the land is rated at a proper value, is qualified by the express words of the Act; but if the life on which the estate depends be near its close, the life tenant's interest may be merely nominal in value. Why then should it seem inconsistent or extraordinary that a freeholder should be held qualified who has incumbered (or holds an estate previously incumbered) to an amount which reduces the actual value of his *interest* below the prescribed rated value of the land.

The statute may perhaps have reference to other things than the real value of the interest of the candidate. It may regard the payment of taxes, or may assume something for the social position of those who are the possessors of property of the prescribed value, whatever the money value of their real interest in it. In *Reg. ex rel. Blakeley* v. *Canavan*, 1 U. C. L. J. N. S. 188, some instances in the statute law are pointed out in the judgment of Mr. Justice Morrison, where this real interest in the party is stipulated, and the plain and direct language by which the value in those cases is directed to be over and above all charges and incumbrances, is very observable. Unmistakeable words are there used to show that it is the balance left to the party, after deducting all claims, that is intended. Such language is entirely wanting in this statute. The value of the rating is all that is specified; and it is plain that, in the case of tenants for life and leaseholders, the qualification of the candidate does not require an interest in him of any money value whatever. The declaration to be made by the elected officer, before taking his seat, has been pointed out to me; but by that he merely declares himself to be seised and possessed, to his own use and benefit, of such an estate as qualifies him to act in the office *according to the true intent and meaning of the municipal laws*, which leaves the matter just where it was.