the property on which the qualification is based must continue—at all events until the oath or declaration is made. . . .

From a very early period it has been a statutory requirement that a councillor, etc., should make a declaration (or take an oath.) . . .

[Reference to 1 Vict. ch. 21, secs. 9, 36; 4 & 5 Vict. ch. 10, secs. 15, 16; 12 Vict. ch. 81, sec. 129; C.S.U.C. 1859 ch. 54, sec. 175; 29 & 30 Vict. ch. 51, sec. 178; 36 Vict. ch. 48, sec. 211; 3 Edw. VII. ch. 19, sec. 311; 6 Edw. VII. ch. 34, sec. 10.]

The statute, in my view, lays down three pre-requisites to a de jure occupation of the office (I do not pause to inquire as to others): (1) possession of property qualification; (2) election, by acclamation or otherwise; (3) making the declaration prescribed. Absence of any one of these will prevent the seat being filled de jure—absence of one or all will not, of course, prevent it being filled de facto. . . .

[Reference to Dillon on Municipal Corporations, 5th ed., sec. 395, and American cases cited in note (1) on p. 680; Rex. v. Swyer, 10 B. & C. 486; Rex v. Mayor, etc., of Winchester, 7 A. & E. 215; Regina ex rel. Clancy v. St. Jean, 46 U.C.R. 77, 81, 82; Regina ex rel. Clancy v. Conway, 46 U.C.R. 85, 86; United States v. Bradley, 10 Peters 343; United States Bank v. Dandridge, 12 Wheat. 64.]

It can scarcely be seriously argued that the declaration taken is "to the effect" of the form in the statute. . . . It is wholly absurd to suggest or argue that declaring "I have had property," etc., is to the same effect as declaring "I have and had property," etc.

It must be held that neither respondent is de jure a member of the council.

We have next to consider whether the present procedure is open to the relator. . . .

[Reference to Regina ex rel. Grayson v. Bell, 1 U.C. L.J. N.S. 130, and Regina ex rel. Halsted v. Ferris, 6 U.C.L.J.N.S. 266; Rex v. Darley, 12 Cl. & F. 520; Regina ex rel. Moore v. Nagle, 24 O.R. 407; Askew v. Manning, 38 U.C.R. 345; 12 Vict. ch. 81, sec. 146; C.S.U.C. 1859 ch. 54, secs. 127, 128(1); 29 & 30 Vict. ch. 51, secs. 130, 131; 36 Vict. ch. 48, secs. 131, 132; R.S.O. 1877 ch. 174, secs. 179, 180; 55 Vict. ch. 42, sec. 188; 60 Vict. ch. 15, schedule C (44); 3 Edw. VII. ch. 18, sec. 32; 6 Edw. VII. ch. 36, sec. 26; 9 Edw. VII. ch. 73, sec. 5 (1).]

The scope of the statutory remedy being extended to cover the case of a contest as to a deputy reeve's and a councillor's right to sit, there can be no doubt that the practice followed here is proper.