before any demand made upon him by the said elector in the said clause mentioned; that he is not required by any law or statute to make any declaration of qualification to be a member of the House of Commons, as stated in the said 4th clause of the said petition; that it is not stated in the said 4th clause that any declaration was tendered or offered to him to make, by the said elector, at the time he made such demand, or at any other time; that there is no time required by law within which such declaration, if demanded, shall be made, and that it is sufficient if, when the return of a member to the House of Commons is contested for want of a declaration being made by him of his property qualification, he can show that he had the property qualification required by law at the time of the election, or of his return as a member of the House of Commons.

Application being made to strike out the preliminary objections,

J. H. Cameron, Q.C., the respondent in question, showed cause. Property qualification is now abolished. There is a distinction in the Acts between qualification and property qualification, and the Confederation Act as to qualification does not refer to property qualification. The Confederation Act is silent as to the "declaration by the candidate." The Acts of 1871, 1872, and 1873 are likewise silent. The petition states that the respondent was not seized of lands *and* tenements; it should have followed the statute and said lands *or* tenements. See Smith's Real and Personal Property. Burton's Real Property, shows that tenements may be different from land, and that a qualification of £500 in incorporeal tenements would be sufficient. It is not necessary a candidate should be seizedof property.

Bethune, contra, for the petitioner. The objection to the use of the word "and" for "or" should not be regarded. The statute contemplated a property qualification at the time of the election. The new enactment did not affect that, and could not have been intended to do so.

RICHARDS, C. J., delivered the judgment of the Court.

In disposing of the matters brought before us in relation to the *North Victoria Case*, we expressed our opinion that the question of want of property qualification in a candidate at the elections for members of the House of Commons held before the passing of the Act of the last session of the Dominion Parliament, can still be raised in pending cases, and therefore the question of the property qualification of the respondent is now a matter which is to be be decided under the petition.

As to the objection taken that the petitioners allege that the respondent was not seized of lands *and* tenements instead of lands *or* tenements, we do not think the respondent was in any way misled or prejudiced thereby, and in this respect the third clause of the petition may be amended, if the petitioners or their counsel wish it, though it hardly seems necessary.

Then as to the objection to the fourth paragraph of the petition, that it is not stated that any declaration was tendered to the respondent by the elector to make at the time he made the demand, or at any other time. The statute does not seem to require any *tender* of a declaration. What it says is, that before he shall be capable of being elected, the candidate shall, if required, make the declaration; and the Consolidated Statutes of Canada, cap. 6, sec. 36, enacts that such candidate, when personally required to make the said declaration, shall give and insert at the foot of the declaration required of him a correct description of the lands or tenements on which he claims to be qualified according to law to be elected, by adding after the word Canada; "And I further declare that the lands or tenements aforesaid consist of" &c. This latter part of the declaration must undoubtedly be in writing, and must in the very nature of things be prepared by the candidate himself.

The fact that the declaration may be in the alternative, that he holds lands *or* tenements held in free and common soccage, or lands or tenements held in fief or in *roture, as the case may be*, shows that the candidate must make his own declaration. It cannot be tendered to him filled up in the proper form to be made, unless the party knows *how* the qualification he claims to possess is held, whether in free and common soccage or in fief or in *roture*.

Taking the enactments together, the reasonable view is that the candidate must prepare his own declaration; it cannot, with any certainty of its being correctly done, be tendered to and demanded from him.

We think we have substantially disposed of the other substantial objection to this fourth paragraph in the *North Victoria Case*.

We are of opinion that the preliminary objections in this case must be over-ruled, and that the petitioners may proceed to prove the allegations in their petition if they can do so.