

The declaration omitted the word "and" between the words "have" and "had" in the third line of the form in sec. 311.

Rymal had also been assessed for certain property, and admittedly was "qualified" at the time of the election; but he also conveyed his property by deed dated the 28th December, 1911, registered on the 23rd January, 1912, on which day the transaction was completed by Rymal taking a mortgage for \$4,500, part of the purchase-money and handing over the deed. On the 8th January, 1912, Rymal made a declaration, in the same defective form as that made by Roberts, and took his seat as deputy reeve and still claimed it.

J. G. Farmer, K.C., for the defendant Roberts.

A. M. Lewis, for the defendant Rymal.

W. A. H. Duff, for the relator.

RIDDELL, J.:— . . . The learned Judge proceeded on the ground that the property qualification of a member of a municipal council was a continuing qualification; and that once the property qualification originally necessary was lost, the incumbent of the office became ipso facto disqualified.

In the view I take of the case, I do not think I need pass upon that question. It is, however, to be observed that from the very earliest times the qualification has been expressed to be that entitling a person to be elected. . . .

[Reference to 1 Vict. ch. 21; 4 & 5 Vict. ch. 10, sec. 11; 12 Vict. ch. 81, secs. 22, 57, 65, 83; C.S.U.C. 1859 ch. 54, sec. 70; 3 Edw. VII. ch. 19, sec. 76.]

Sometimes, indeed, the provision is negative, as at present, and sometimes positive, as was the original form—but, whether it be "no person but" or "every person who," it is always "to be elected."

Language quite different was used almost from the first in respect of certain cases. . . .

[Reference to the cases of particular classes of persons not to "be qualified to be members of the council" or to "become disqualified." See 3 Edw. VII. ch. 19, sec. 207.]

The difference in terminology affords a very cogent argument against the view that the Legislature intended the sale of the qualifying property to operate as an act ipso facto disqualifying the member, at all events after proper declaration of qualification made. . . .

On the other hand, a consideration of the form of the oath or declaration affords a strong argument that the ownership of