ascertaining whether the defendant had a sufficient qualification, it still appears he is sufficiently qualified. The assessors having rated the property at \$240 annual value, I must assume that it was assessed as being of the value of \$4,000, and deducting \$1,600, the amount of the two mortgages, would leave \$2,400 as the rateable interest of the defendant, giving an annual value af \$144, which, being added to \$80, half of the annual value of the rated leasehold property, would make \$224—more than sufficient to qualify the defendant for the office to which he was elected.

On the whole case, and from all the facts disclosed upon the affidavits filed by the relator and on the part of the defendant, I am of opinion that at the time of the defendant's election as alderman he was possessed as proprietor of equitable estate in the premises sufficient to qualify him for the office; and that the office of alderman for St. Patrick's Ward, in the City of Toronto, be allowed and adjudged to the defendant, and that he be dismissed and discharged from the premises charged against him, and do recover his costs of defence.

Order accordingly.

REGINA EX REL. HARTREY V. DICKEY.

Con. Stat. U. C. cap. 54, sec. 70—Qualification of aldermen in cities—Declaration of office.

Where a person elected alderman of a city made a declaration of office. inadvertently qualifying upon property in respect of which he was not entitled to qualify, but was before and at the time of the election, and at the time of the issue of the quo varranto summons against him, qualified in respect of other property, his election was upheld.

[Common Law Chambers, Feb. 27, 1865.]

On the 14th February last, an order was obtained for a writ of summons in the nature of a quo warranto, directed to the defendant, to show by what authority he exercised the office of alderman for the ward of St. Patrick, in the city of Toronto, and why he should not be removed from the said office.

The relator's objections were the following:—
1st, that the defendant had not the necessary qualifications at the time of the taking the last assessment for the city—that is, he was assessed, with two others, his partners, for \$195, annual value of an iron foundry, and for a vacant lot on Beverley-street at \$67; 2nd, that the defendant was not the owner in fee simple of the land and premises set out in his declaration of office; 8rd, that the vacant lot mentioned in defendant's declaration of office is not his property, and that the other lands mentioned in the declaration are heavily incumbered with mortgages to the amount of £700 and upwards.

In support of the relator's statement, only one affidavit (his own) was filed, which, after setting out that he was qualified as an elector and voted at the election, stated that defendant was a candidate for the office of alderman, and being elected, took his seat in the City Council; that the defendant, in his declaration, made by him after his election, stated as his property qualification for the said office, "An estate of freehold, to wit, a foundry and premises and vacant land on Beverley-street, in St. John's ward;" that he had examined the last revised assessment rolls for the city for 1864, and found that the name of defendant, jointly with John Neil and James J.

Dickey, appeared thereon as rated for the said iron foundry and premises on Beverley-street as freehold for \$195, and that defendant is rated for a vacant lot on the same street as freehold for \$67; and that these properties are the same as mentioned in defendant's declaration: he further stated that he was informed by S. Brough, Esq., that the defendant induced him (Brough) to make a proposition to defendant in writing, proposing terms on which he (Brough) would sell the vacant lot above mentioned—it being his (Brough's) property-to defendant, which Brough did, and that defendent never accepted the proposition. nor did he (Brough) ever convey the lot to defendant; that it appears by the last assessment roll for the city for 1864, this vacant lot had been originally rated to Brough, but his name was erased and the name of defendant inserted therein instead; that Brough told the relator, defendant had not paid him anything for the lot, and that he (relator) believes that defendant procured his name to be put on the assessment roll for the purpose of appearing as qualified for the office of alderman; that having searched the records of the registry office for the city, he verily believed that defendant has no legal estate in the land and premises described by defendant as a foundry, &c., in his said declaration; and that by the records in the registry office the property claimed by defendant is encumbered by mortgages to the amount of £700.

Blake, Q. C., showed cause, and filed several affidavits on the part of the defendants.

John Carr, clerk of the City Council, testified that on the 15th April last, he was the owner of a house on Denison avenue, in St. Patrick's ward; that on that day he leased the same for one year thereafter, quarterly, to defendant, and that defendant entered into occupation of the same as his tenant, and was assessed in the last revised assessment roll as tenant thereof at \$100 rent, the lowest actual annual value of the premises; that the lease has ever since continued, and is still in full force and virtue. He further stated that as clerk of the Council he had the custody of the last revised assessment rolls of the city, and he testified to correct and exact transcripts of those portions of the rolls in which defendant appears as assessed in the ward of St. Patrick. By this transcript the defendant appears to be assessed as follows:

BEVERLEY STREET.

		* water * .
No.	Assessment.	
	Nathaniel Dickey John Neil, J. J. Dickey,	As owners, foundry,
536	Nat. Dickey, as owner, house 84	
587	"" " " " " " " " " " " " " " " " " " "	' '' 72
	(Originally S. Bro	ugh) owner ve-
	cant lotd, and name of N.	R7

DENISON AVENUE.