

nifestly to the legal tenure of office of the officer complained of, namely and solely the *right* by which he exercises that office, and seems to convey express judicial authority to the Court, as in this case, to try and adjudge by what right Mr. Lanctot exercises the office of Councillor. This provision does not constitute the Superior Court into a tribunal, committee or otherwise, to decide upon the claims of the rival candidates for the civic office in question, as is done in election contests of members of the Assembly before the legislative bodies, where one candidate may be unseated and another seated in his place; on the contrary, the jurisdiction of the Court is strictly legal, and is restricted to try and adjudge upon the *right of the person complained of* to hold and exercise his office. In the discharge of this judicial duty, it is expressly provided by the statute that the preliminary as well as substantial interest of the complainant, in setting the statute in motion against the officer, lies in his being a *qualified voter*: "Any citizen qualified to vote," the law in no part enabling the losing candidate, simply as such, or under his special qualification for election as Councillor, merely, to compel the action of the Court, upon the provision of the statute. As already observed, the duty cast upon the Court is not to decide upon the result of the election as to which of the rival candidates shall be seated in the office, but to adjudge upon the right of the officer *de facto* to exercise his office, if he shall have been found by the Revisors to have received the majority of votes at the election. In this case, the information, or *requête*, is by the unsuccessful candidate for the office of Councillor, as such, and upon his Councillor's qualification only, and not as a qualified voter; therefore not coming within the terms of the statute, which would justify the action of this Court, the demurrer or plea in law must be maintained, and the *requête* dismissed with costs against the petitioner.

After the judgment had been rendered, the complainant's counsel moved the Court to permit the information or *Requête* to be amended by inserting the required *qualification as a voter*, but this was refused upon the ground that the amendment would change the substance of the information altogether, and would

in effect be equivalent to a new *Requête*, which would not then be supported by the affidavits produced, and which would necessarily require the adoption of new proceedings and the issue of a new writ, the present writ having issued upon the allegations contained in the *Requête* above, which did not set forth the only qualification, *that of a voter*, upon which it could have issued.

Abbott & Carter, for the Petitioner.

W. Laurier, for the Defendant.

RECENT ENGLISH DECISIONS.

CHANCERY APPEALS.

Light — Lateral Obstruction — Town. —

Where a house is in a populous town, the Court will take that fact into consideration, in estimating the damage done by obstructing an ancient light. The Court will not restrain the erection of a building merely because it deprives an ancient window of some portion of light; but will do so when the obstruction is such as to interfere with the ordinary occupations of life. A lateral obstruction may be such a nuisance as to be restrained. *Clarke v. Clark*, Ch. Ap. 16. The plaintiff in this case was the owner of the house, 28, Park Street, Bristol. The defendant was the owner of No. 27. At the back of the plaintiff's house was a room with a large window looking to the south-west into the garden. The wall between the gardens of the houses was on the left hand side of the window, about four feet from it, and about eleven feet high, running in a direction nearly perpendicular to the window. The defendant, in September, 1864, began to erect in his garden some buildings for photography, running parallel to the garden wall, about three feet from it, and from four feet six inches to eleven feet above the wall. These buildings, though not opposite the window, were thus nearly due south of it, and obstructed, to some extent, the light and sun during the winter months. The plaintiff having obtained a decree for an injunction, the defendant appealed, and the Lord Chancellor sustained the appeal and dismissed the bill. The following are some extracts from his Lordship's judgment:—"The question is, whether there has been such an interference with the light and air reaching the plaintiff's