

exercise the office of Councillor. The writ was issued upon the judgment of this Court to that effect, and I do not, therefore, feel myself justified in adverting to its validity, the more particularly as this now pleaded exception in law has gone beyond the mere issue of the writ. It is possible, however, that after examination of the *Requête* and supporting affidavits, and upon consideration of the section of the Charter applicable to the matter, I might have had some doubt upon the granting of the application. Upon this formal matter, however, I am not called upon to determine, because Mr. Lanctot having pleaded to the information, *Requête*, it is upon his plea in law, or demurrer to the *Requête*, that the contention between the parties has been submitted. It is unnecessary to advert to the two first grounds of legal objection, having reference to the required affidavit in support of the information, but such as the produced affidavits were, they were sufficient for its support, such as it was. The third ground, however, is important, inasmuch as it charges that the information, *Requête*, does not allege that the petitioner was "a citizen of the city of Montreal, qualified to vote at the election of Councillor for some ward of the city." To this objection the petitioner has given the general answer of the sufficiency in law of the allegations contained in his information to obtain the conclusions thereof.

By the 8th section of the 14th and 15th Vic. c. 128, the qualification for a Councillor is fixed, namely, that he shall have been a resident householder within the city for a year next before the election, and also seized and possessed to his own use of real and personal estate, or both, within the said city, free of debts, of the value of £500; and he is also required by the 9th section, to be a natural born or naturalized subject. As already observed, the petitioner has fully and distinctly stated and alleged this his own qualification in his information.

In connection with this part of the case, it is necessary to state that the qualification for the civic voters is settled by the 23rd Vic., c. 72, in the 4th clause of that statute, which provides for their qualification, 1st, as owners of real property within the city of the assessed value of \$300 and upwards, or of assessed yearly

value of \$30 or upwards; 2nd, as tenants or occupants of dwelling houses in the ward for which the election is held, of the same assessed values as above, but requiring the tenant to have been in possession on the then next previous first of January, or a resident householder in the city from at least the next previous first of May, &c.; and 3rd, tenants of warehouses, counting houses, &c., with the special proviso applicable to each, *that none of them shall be entitled to vote at any such election unless he shall, previously to the first of January next before such election, have paid all the civic taxes due and payable by him.* It is objected by Mr. Lanctot that the petitioner has properly stated his qualification for the office of Councillor for which he was a candidate, but that that qualification gives him no power to apply under the statute as he has done here; that he has not stated the voter's qualification, which alone and of itself was essential to justify his application, under the 27th sec. of the 14th and 15th Vic., whereby alone as a qualified voter he can legally question Mr. Lanctot's office as Councillor.

The objection is quite correct in fact, inasmuch as the information alleged the Councillor's qualification alone, and does not allege his qualification as a voter.

Now, the 27th section of the 14th and 15th Vic., under which this proceeding has been adopted, specially provides that "to facilitate the decision of cases in which the right of any Corporation officer may be called in question, the Superior Court in term shall, on the information, *Requête libellée*, of any citizen qualified to vote at the election of Councillor, supported by affidavit, &c., and complaining that any person exercises the office of Mayor, Alderman, or Councillor, have power to try and adjudge upon the right of the person so complained of to exercise the office in question, and to make such order, and cause such writ of mandamus to be addressed to the Mayor, Aldermen and Citizens of Montreal, in fact to the Corporation, as to right and justice may appertain, which order or mandamus shall be obeyed by the Corporation and by all other parties, without appeal therefrom."

The proceedings therefore, provided for in this section of the Charter have reference ma-