the said assessment roll, or whether the said William Fontain," &c., &c., "or any of them, have or has been wrongfully omitted from such roll; or whether the said James McDonald (Athol)" &c., &c., "or any of them, have or has been assessed at too high a sum upon such roll; or whether Oliver King," &c., &c., "or any of them, have or has been assessed at too low a sum; nor confirm and amend the said assessment roll: because the said complaints in the said writ mentioned have never been submitted to us in manner and form as is required by the Consolidated Statutes of this Province respecting the assessment of property in Upper Canada, and chaptered 55, it appearing to us at our meetings held on the 22nd and 30th days of May last, for the purpose of trying all complaints against or appeals from the said assessment roll, and of finally revising the same, that no notices or no sufficient notices had been served on James P. Whitney and the other persons aforesaid; as required by the said statute, and that we therefore decided that by reason of the insufficiency of the said notices we had no power or jurisdiction to try and determine the said complaints, and because the said complaints against or appeals from the said assessment roll having failed on account of the want of proper notice, and no other complaints against the said assessment roll or appeals therefrom having been submitted to us, and the time allowed us by the said statute for revising the said assessment having then elapsed, the said assessment roll was on the 30th day of May aforesaid finally revised by us and certified by the clerk of the corporation of the said town of Cornwall, as required by the said statute. And because the judge of the County Court of the United Counties of Stormont, Dundas and Glengarry, on the said complaints in the said writ mentioned being duly submitted to him by way of appeal from our said decision in respect to the said appeals, after having heard counsel upon and duly considered the said appeal, decided that owing to the insufficiency of the said notices he had no power to reverse our said decision. We further return, as we believe the fact to be, that the proceedings taken by us in respect to the said assessment roll were regular and in accordance with the requirements of the said statute, and we could not have taken any other course or decided differently than as aforesaid in respect to the said complaints against or appeals from the said assessment roll without contravening and disregarding the said statute, as we were and still are of opinion that the wording of the said statute is imperative. And we have now no power, and we humbly submit that we should not be compelled by the peremptory order of this honourable court, to try and determine the said complaints, or again to revise the said assessment roll.

All which we humbly submit as our reason and excuse for not trying and determining the said complaints, as by the annexed writ we are commanded.

Dated this 18th day of November, A.D. 1865.

By order of the said court.

(Signed) JOHN MACDONALD,
Chairman of the said Court of Revision.

In the same Michaelmas term, on motion of Mr. Kerr, counsel for the relator, a rule *nisi* was granted calling upon the Court of Revision to shew cause why the return should not be quashed, on the following grounds :—1st. The return sets forth that the complaints were not heard, and that at the same time they were decided, and that the judge of the County Court refused to revise such decision. 2nd. That the return states that no notice or sufficient notice was given, and admits that notice to the clerk was given, which was all the notice required. 3rd. That the return sets forth that the time had elapsed for revision of the roll when the same was revised. 4th. The return does not shew what notice was given, or its nature, but simply it appeared to the court the notices were insufficient;—and to shew cause why a mandamus absolute should not issue, &c.

During the same term *C. S. Patterson* shewed cause, citing *In re the Judge of the County Court of Perth and J. L. Robinson*, 12 U. C. C. P. 252; *The Queen* v. *The Mayor of London*. 13 Q. B. 30; *The Queen* v. *St. Saviour's, Southwark*, 7 A. & E. 925; *Regina* v. *Justice of Yorkshire*, 13 Jur. 447; *Regina* v. *Payn*, 3 N. & P. 165; Tapping on Mandamus, 372.

M. C. Cameron, Q. C., and *Kerr* supported the rule, and cited *The Queen* v. *The Mayor of Rochester*, 7 E. & B. 928; *In re. Justices of York and Peel ex parte Mason*, 13 U. C. C. P. 159; *Rex* v. *The Mayor of York*, 5 T. R. 66; *Rex* v. *The Mayor of Lyme Regis*, 1 Doug. 79.

MORRISON, J., delivered the judgment of the court.

The substantial question raised by this application is whether the ground submitted by the defendants for not hearing and proceeding to the trial of the matters complained of by the relator: viz., that due notices were not given to the parties in accordance with sub-sec. 10 of sec. 60 of the Assessment Act, was a sufficient and valid reason.

By sec. 58 it is provided that at the times or time appointed the Court (of Revision) shall meet and try all complaints in regard to persons being wrongfully placed upon or omitted from the roll, or being assessed at too high or too low a sum. By sub-sec. 2 of sec. 60, if a municipal elector thinks that any person has been assessed too low or too high, or has been wrongfully inserted on omitted from the roll, the clerk shall, on his request in writing, give notice to such person, and to the assessor, of the time when the matter will be tried by the court, &c; and by sub. sec. 7 the clerk shall prepare a notice according to the form therein set out for each person: and the 8th and 9th sub-sections provide the mode by which the clerk shall effect service on residents and non-residents; and by sub-sec. 10, it is enacted that every notice required by those sub-sections "shall be completed at least six days before the sitting of the court."

It appears that the court met on the 22nd of May, and it was then objected by counsel for the parties, and was admitted, that the six days' notice had not been given, the fact being that only five days' notice had been given. The court gave effect to the objection and declined to hear the matters of complaint; and the court before it adjourned announced that it would again meet on the 30th of May: that in the mean time new notices could be given, there being sufficient time for that purpose, and that the appeals would then be heard. It does not