

lature, I cannot help thinking that apt words would have been used to indicate it.

Although this court will not direct in what manner the Court of Revision should promulgate its determination, it manifestly appears by the 63rd section that legislature intended it should be done in some way analogous to the course adopted by other courts, so that the appellant (in the words of the statute) if dissatisfied with the decision may appeal therefrom, and give the three days' notice thereafter to entitle him to the appeal to the county judge. If the defendants' contention be right as to a decision by implication, the 63rd section should have further provided for the notice in that case being given within three days after the roll being finally passed. It may be said, that it is a hard case if a rate-payer can escape taxation by the neglect of the Court of Revision; but it would be a still greater hardship if a person wrongfully assessed is made liable to pay taxes through the neglect, wilful or otherwise, of the court.

If the law is defective, it is for the legislature to provide the remedy. Were we to hold that what the defendants contend for is right, it would, in my judgment, open the door to a system of procedure in those courts liable to abuse and productive of injustice to appellants, and which in effect would shift the labor and responsibility to the county judge, compelling parties aggrieved to give two sets of notices of appeal and to incur costs—matters never contemplated by the legislature, except in appeals against actual decisions of the Court of Revision.

As the statute in some respects admits of different constructions, and the matter is one which annually affects all persons of property, it is to be hoped that measures will be taken to render the intention of the legislature plain to the members of the Court of Revision, a body who are continually changing, and who cannot be expected to be conversant with the expounding of statutes where the intention is not clearly expressed.

Rule discharged—*Hagarty, J.*, dissenting.

THE QUEEN V. THE COURT OF REVISION OF THE TOWN OF CORNWALL.

Assessment—Court of Revision—Six days' notice of appeal to—Waiver—C. S. U. C. ch. 55, sec. 60—Mandamus.

An elector served the clerk of the municipality with notice that several persons had been wrongfully inserted on the assessment roll, and others omitted, or assessed too high or too low, and requesting the clerk to notify them and the assessor when the matters would be tried by the Court of Revision. On the 22nd of May the Court met, when it was objected for the parties named that six days' notice had not been given, but only five. The Court then adjourned until the 30th, directing proper notice to be given, which the clerk omitted to do, and in consequence they refused on the 30th to hear the appeal, and finally passed the roll. On application for a mandamus to compel them to hear and determine the matters,

Held, that they were right, the six days' notice being imperatively required by the act; and that the appearance of the parties by their counsel to object to the want of such notice was not a waiver of it.

Semble, that, if this were otherwise, the proper course would have been a mandamus to the Mayor to summon the Court of Revision, under sec. 55 of the Assessment Act.

[Q. B. H. T., 1866.]

In Trinity Term last *M. C. Cameron, Q. C.*, obtained a rule for a mandamus nisi, directed to the Court of Revision for the municipality of the town of Cornwall, commanding that court to hear and determine the complaint of *Wm. Cox Allan*,

an elector and councillor of the town of Cornwall, against the assessment and non-assessment of the persons mentioned in certain notices served by the relator on the clerk of the municipality on 13th of May last, and filed on this application.

The affidavit of the relator set out that he was an elector, &c.: that on the 13th of May last he served the clerk of the municipality of the town of Cornwall with four notices in writing, signed by himself, copies of which were attached to the affidavit filed.

The first notice complained that 77 persons named therein were wrongfully inserted in the assessment roll for the year 1865, and it requested the clerk to notify the parties and the assessor of the time when the matters would be tried by the Court of Revision. The second notice complained that 37 persons therein named had been omitted from the roll. The third notice complained that 21 persons therein named had been assessed too low; and the fourth notice complained that 13 persons named therein were assessed too high. The three last also requested the clerk to notify the parties, as stated above in the first notice.

On the 22nd of May the Court of Revision, consisting of *John S. McDougall*, *Donald McMillan*, *John Hunter*, *Andrew Hodge*, and *John McDonald*, met at the Town Hall, the relator being present and prepared to prove the truth of the matters of appeal notified by him to the clerk: that *Messrs. John B. McLennan* and *Jacob F. Pringle*, Barristers, appeared on behalf of the persons mentioned in the notices of appeal, and objected that as the parties had not six days' notice before the 22nd of May, the court had not then jurisdiction to hear the appeal. And the relator's affidavit stated as a fact that the notices were only given five days before the 22nd of May: that the assessor was present and made no objection: that the Court of Revision refused to hear the appeal on the ground taken by the counsel for the parties: that when the court adjourned on that day, the chairman announced that new notices should be given to the parties and the assessor, and that there was time enough to give such new notices for the 30th of the same month, when the appeals should be heard on that day: that on the 30th the court met: that the relator was present, and was ready to proceed, but that the clerk announced to the court as a fact that he had not given the new notices, and the court refused to hear the appeals, and directed the clerk to endorse upon the assessment roll a certificate that the roll had been finally revised, which the clerk did.

Mr. Bethune, the relator's solicitor, made an affidavit corroborating the relator's affidavit, and setting out that the five persons named above constituted the court of Revision.

During last Michaelmas term the Court of Revision made a return to the writ as follows:—

In the Queen's Bench.

The return of the Court of Revision of the corporation of the town of Cornwall to the annexed writ of mandamus nisi.

"We, the said Court of Revision, do make the following return to the said writ:—

"We cannot, as we are by the said writ commanded, try and determine whether *James P. Whitney*, &c., &c., "or any of them has or have been wrongfully placed upon or inserted in