November, 1857, entitled "a by-law to close the road crossing lot Nos. five and six, in the 4th concession of Pittsburgh, upon the petition of John Ferguson and others, dated the 21st of June, 1857," should not be quashed, on the grounds that the same was passed without due or sufficient notice being given of the passing the same, under the statutes in such case made, and because the said relator had no opportunity of opposing the same, and because he was wrongfully deprived of such opportunity, and on grounds disclosed in affidavits and papers filed, and because the by-law is uncertain and indefinite, in not stating in the preamble any object of passing the same, and in not shewing and defining at what point the road therein mentioned was to be stopped or closed.

The by-law recited it was expedient and necessary to stop the road crossing lot Nos. five and six, in the 4th concession of the township of Pittsburgh, not being an original allowance for road; and it enacted that the road be closed, as not being useful to the public. The affidavit of the relator stated that he was seised, in fee simple, of the east half of lot No. six, in the 4th concession of Pittsburgh; that there is a road called the Old Perth road, which crosses his land in the north part, and a new road called the Kingston and Phillipsville macadamized road, which crosses his land on the south part; that between these roads, and parallel to them there is a steep ridge of granite rock, thirty or forty feet high, which crosses the land, dividing it into two parts, each totally separated from the other, which ridge cannot be crossed by any vehicle; that the old Perth road has been a public highway for thirty-five years, and was the only mode of access to the north and most valuable part of this land; that he is greatly injured by stopping it; that he was informed of the intention of the municipal council to stop this road a month before the by-law was passed, and that notices to that effect had been posted up near the premises; thas he made diligent search but could not find any such notice, and is informed that by neglect of the township clerk no such notice was put up; that he attended one meeting of the township council, with witnesses, prepared to oppose the passing such a by-law, but was informed by the reeve they would not act in the matter on that day, and would give him notice before passing such a by-law; but either on that or some other day in that week, they passed it without further notice to him; that in April, 1858, the old Perth road was blocked up, so that he is deprived of access to the north part of his farm with wheeled vehicles; that he never received any notice from the reeve or any other person, that any such by-law was intended to be passed, and had no other knowledge of it till it was passed; that he asked the township clerk where he had put up notices, and was told that the township clerk had not put them up himself, but had sent out three notices by another person, with instructions to put them up.

In Michaelmas Term *H. Smith*, Q. C., shewed cause. He excepted to the style and title of the rule and affidavit on which it had been moved, as being against the "municipality of the united townships of Pittsburgh and Howe Island," whereas there there is no such union of townships. By 8 Vic., ch. 7, schedule B., it is provided what townships shall constitute to county of Frontenac, and among them is "Pittsburg, which shall include Howe Island." The 12th Vic., ch. 78, made no change. But the 14th & Vic, ch. 5, sec. 14, and schedule D., erected Howe Island into a separate township.

He filed affidavits shewing that Parker, the relator, did not own or occupy the *east*, but the *west* half of lot No. six, 4th concession of Pittsburgh, and denying the inconvenience stated by Parker, to arise from closing the old road, and representing such closing and the opening of the new macadamized road, as a great advantage and public convenience; that cord-wood has been, and can be hauled from the north to the south part of Bennet's farm, and that trifling expense would make the communication good. One party swears he put up two notices of the intention to pass the by-law in the neighbourhood, and is aware that other similar notices were put up.

The township reeve and clerk both swore, that Howe Island is a part of ward No. 5, in the township of Pittsburgh, which township alone forms the municipality. The reeve further stated, that on the 14th of November, 1857, Parker spoke to him on the subject of this by-law being passed, and that he informed Parker the matter would be taken up in council on that day fortnight; that on the 28th of November the by-law was passed; that on the 14th of November, Parker told the reeve he would send a surveyor with a map to oppose the by-law on the 28th of November, and Parker also told him he had seen a notice of the intention of the council to pass the by-law. A sworn copy of the minutes of the council, was annexed to the reeve's affidavit, shewing that on the 14th of November they received notice from Bennett Parker, that he would object to the closing of the old road across lots Nos. five and six, in the 4th concession of Pittsburgh, *dated the 12th of November*, 1857, and that such by-law was passed on the 28th of November.

Smith cited *Lafferty* v. *Municipal Council of Wentworth*, 8 U. C. Q. B. 232; *Fisher* v. *Municipality of Vaughan*, 10, U. C. Q. B. 492; and *Bryant* v. *Municipality of Pittsburgh*, 13 U. C. Q. B. 347.

DRAPER, C. J., delivered the judgment of the court.

The application was rested on two grounds. 1st.—Want of notice. 2nd.—That the applicant has no opportunity of being heard, which he claimed.

As to the first, the case of *Lafferty* v. *The Municipal Council of Wentworth*, is very like the present. The applicant does not positively negative any notices having been put up, and the municipality do not prove that six were put up But they prove positively that some were put up, and others, it is believed were, while it is sworn that the applicant stated he had seen one of the notices, and it appears that he attended on the 14th of November, before the by-law was introduced, and had express notice from the reeve to attend on the 28th of November, when the by-law would be brought up, and that he gave notice of his intended opposition, and stated he should send a surveyor with a map to oppose its passing. We are clearly warranted by the case referred to, in saying that, under these circumstances, we could not quash the by-law for want of notice.

The second objection equally fails, for the default was that of the applicant. who neither appeared on the 28th day of November, as he was told, and stated he meant to do, either in person or by some one to represent him. Nor does it appear that the made any further enquiry, or attempted to be heard, or took any other step until he resolved on this application.

Per cur.—Rule discharged with costs.

BRUYERE v. KNOX.

Ejectment—Sheriff's sale—Registration—Priority of.

Held, that a purchaser for value *with a registered title*, under a sheriff's sale of "A.'s" interest in land, was entitled under the registry laws to prevail against a non registered conveyance made by "A." prior to such sale by the sheriff.

Ejectment for lot No. 2, in the second concession of the township of Sidney, Hastings; writ issued 1st of September, 1857.

The trial took place before *Draper*, C. J., in March, 1858. Both parties claimed under a sale made by the sheriff of the County of Hasting under a *fi. fa.* against the lands of Robert Lester Morrough. *Adam H. Meyers* (the attorney for the plaintiff in the execution) attended on his behalf and as his agent at the sale, and the land was there bid in for the plaintiff, but Meyers took a deed from the sheriff, dated the 26th of April, 1848, to himself in fee. The *fi. fa.* was recited in the deed, as commanding the sheriff to levy £603 11s., and it was also recited that Meyers was the highest bidder at the sum of £200. The plaintiff in the execution, who is also the plaintiff in this action, finding this out, applied to Meyers, who thereupon said it was a mistake, and drew a deed in his own handwriting from the sheriff to the plaintiff, also writing a letter to the sheriff, who then executed the second deed of the same land to the plaintiff, reciting the execution, &c., as in the first deed, but treating the plaintiff as the purchaser as well as the execution creditor. This second deed bore date the 23rd of August, 1848, and was registered before the sheriff's deed to Meyers was registered, 23rd of August, 1848.

It was admitted that Morough's title was a registered title

The defendant claimed under a deed from Adam Henry Meyers, dated the 6th of September, 1849, for an expressed consideration of £350, which had never been registered. The deed from the sheriff to Meyers, dated 27th of April, 1848, was registered on the 7th of March, 1857.

On this evidence the learned judge directed a verdict for the plaintiff, subject to the opinion of the court: the plaintiff contend-