a placard questioning his qualification and reflecting on his moral character had been sent through the post office to a number of the electors, that the receipt of this paper created a considerable sensation in the borough; that a meeting was called for the express purpose of giving Mr. Glover an opportunity of refuting the charges made against him; that Mr. Glover appeared at this meeting and defended himself; that the author of the placard went down to Beverley very shortly after publishing the handbill, with the intention of substantiating the charges contained in it, that he commenced addressing the crowd on the subject; that before he had said many words, the crowd became so irritated that he was alarmed, and we presume did not proceed with his proofs; and that so much excitement had been occasioned by the publication of the placard, that some witnesses considered it would have been unsafe and have caused a riot, either to serve notice of the disqualification on the individual electors, or to affix the notice publicly at or near the polling booths, unless this was done during the night.

A stronger case of notoriety could not be established than thus existed in the Beverley case, but the committee declined to seat the minority candidate, and there was a new election.

No opposite decision of an election committee was cited to us by the petitioner, Mr. O'Connor; and from our own reading we think it improbable there has been any such for at least forty years and upwards. Had there been adverse decisions, the latest decision would naturally, and in the absence of strong reasons to the contrary, carry with it the greatest weight: and in estimating the value of old decisions even on points not touched by decisions of subsequent date it is always our duty to remember, in reference to any which were given before 1770, when the Grenville act was passed, that at that time, in the words of a standard writer on the subject, "controverted elections were undoubtedly and confessedly decided by the whole House of Commons, as mere party questions calculated to test the strength of contending factions." It is further to be borne in mind, that, though that act led to a great improvement, as compared with what Lord Grenville called "the abominable prostitution of the House of Commons" in elections, which previously existed, still, in the words of the author already quoted, "partiality and incompetence were very generally complained of in the constitution of committees appointed under the act"; that the evils of the system were still universally recognized and deplored until 1839, when an act was passed establishing a new system; that changes were still found necessary and were made in the years 1841, 1844, and 1848; that it was not until the last of these years that the law was placed on its present footing; and that since that time the constitution of election committees is thought in England to be as satisfactory as any statutory enactments are likely to make it.

It is to be observed then, on the one hand, that since the period of the improvement instituted in 1839, or, indeed for many years before, no single instance has been found in which a committee of the English House of Commons seated a minority candidate without either express notice to the voters individually, or at the least by placards at all the polling places before and during the polling; not a single instance in which a minority candidate was seated on the mere ground of general "notoriety" having been given by him and his friends to the fact that the property qualification of his opponent was objected to; while, on the other hand, the Beverley case, which negatives the sufficiency of such a notice, was decided under what is confessedly the best constitution of Parliamentary Election Committees which has yet been contrived.

We have not yet alluded to the case of the *Queen ex rel. Metcalf* v. *Smart*, 10 U. C., Q. B. 89 (1852) which Mr. O'Connor cited to us in his reply. But that case, if held applicable at all, would prove far more than he contended for, and far more than probably any counsel ever contended for in modern times before an election committee. The case, it is to be observed, was one of a municipal and not a Parliamentary election; and there are many considerations which forbid a decision on the Municipal Law of Upper Canada from being held conclusive in reference to a Parliamentary election (*Vide Belford case*, F. & F. 436, 3 Lud. 465; *Chippenham case*, Glanville, 59, 60, &c.) Decisions in such cases do not profess to be based on a review of the decisions of election committees. Indeed the latter, though of weight here, are not regarded as of any authority in municipal or like cases in courts of law, and are seldom if ever cited in such courts. Besides, it is one thing to seat a minority candidate for part of one year in a local council with its limited jurisdiction, and quite another thing to give a minority candidate a seat for perhaps three or four years in the Parliament of the Nation or Province. The case in the Court of Queen's Bench is a sufficient illustration of this difference. That case had reference to an election in the town of Port Hope. By the Municipal Law (as every one knows) a candidate must be assessed in the municipality for a certain amount of real estate: and Mr. Smart, whose election was impeached, was not so assessed. This was mentioned at the election, and the matter was discussed before the polling began, in the hearing of such electors as happened to be present. These circumstances were held notice sufficient to seat one of the minority candidates. The fact that Mr. Smart was not assessed for the necessary amount of real estate, does not appear to have been disputed; and if it had been, any elector could in a few minutes have ascertained the truth by examining the assessment roll, which is by law a public document and open to public inspection. Under all the circumstances, then, the rule laid down by the court of Queen's Bench, as to this notice, may be a sound rule (though we have found no like decision on the Municipal Law of England,) and may be necessary for enforcing the Municipal Law as to the property qualification of a town councillor, and may create little hardship or injustice in such a case. But it is perfectly certain that verbal notice at the nomination is not sufficient in the case of a Parliamentary election. The whole current of Parliamentary practice and authority is against any such notior.

We may add that there seems a disposition on the part of election committees of England, to limit rather than extend the cases in which a minority candidate is seated for want of qualification on the part of a more popular opponent. Thus, in the 2nd *Clitheroe* case, 2 P. R. & D. 286 (1853) the committee unanimously adopted the view—in almost confessed opposition to what they regarded as the Common Law doctrine, as well as to some precedents of cases before election committees—that even where a notice is given in strict accordance with the requirements of the law, still to entitle a minority candidate to the seat, the disqualification must be founded on "some positive and definite fact, existing and established at the time of the polling, so as to lead to the fair inference of wilful perverseness on the part of the electors, in voting for the disqualified person." The committee concluded their resolution in these terms: they "think it is right to point out that under the administration of the present law, as sanctioned by some precedents, not only may injustice be done to constituencies by being represented by persons whom the majority of electors have deliberately rejected, but also that each individual voter may be placed in a position of hardship and difficulty, if upon the mere assertion of an opposing party that a disqualification exists, the truth or falsehood of which he may have no means of ascertaining, he is to exercise his franchise at the risk of his vote being thrown away, in case, on subsequent investigation, the existence of that disqualification should be established." The disqualification in the case in which these remarks were made, was for bribery and treating at a previous election. But a learned commentator on the case (who argues against the rule it supports) observes with much force, that if the committee took a correct view of the law, "it ought to be applied not only to cases where acts of bribery and treating are alleged as the cause of disqualification, but also in cases where the incapacity is created by want of a sufficient property qualification. Indeed, as the case stands, there is perhaps greater reason for adopting the rule referred in such cases than in many others." As we have already intimated, it it seems sufficient if the candidate has the necessary amount of property before he is elected, or before the proclamation is made by the returning officer at the close of the election. Vide Union act sec. 28; Consolidated Statutes 22 Vic., ch. 6, secs. 36 & 37 (English version) *Bristol* case, Simeon, 51; *Lecominster*, 1 C. & D. 1; *Bath*, P. & K. 23; *Bath*, K. & O. 27.

It is impossible not to feel with the committee in the 2nd *Clitheroe* case, that the rule respecting the seating of a minority candidate sometimes bears hard and even unjustly upon electors. The principle on which it proceeds, is, that the electors on receiving notice of the disqualification, may start another candidate: *Burke's* case, 1 Doug. 241, *The Queen* v. *Horne*, 7 A. & E. 962, *Hawkins* v. *Rex*, 2 Dow's Parl. R. 148; yet no machinery is provided for enabling the electors, in many cases, to ascertain before the election, whether the