be regarded in England as free from doubt; and the practice there appears still to be to give express notice to every individual voter, besides posting notices at the polling places and elsewhere. We may refer to a few cases as illustrative of this practice, since the petitioner here contends that something short even of this kind of notice is sufficient to entitle him to the seat. For example, in the 2nd *Newcastle under Lyme* case (1842) B. & A., 572, a written protest setting forth the objection was given to the returning officer at the election, in the presence and hearing of the candidates; and copies of the protest were posted at the polling booths before and during the polling; yet the petitioner did not rely on the notice thus given, but served several electors with copies of the protest before the polling began; nor did he afterwards attempt to do more before the committee than to get the names of the voters so personally served, struck off on a scrutiny; and it was not until so many were thus struck off as placed the petitioner in a majority, that the committee reported in his favour. So in the case of the *Borough of St. Albans*, 1 P. R. & D. 276 (1851) it appears that, besides delivering a formal written notice to the returning officer, and to the candidate himself, and putting up placards in front of the hustings and on the walls of the buildings immediately adjacent thereto, a similar notice was publicly delivered to each voter as he came to the poll, by persons placed at the entrance of each polling place for this purpose. Again, in the *Tavistock* case (2 P. R. & D. 5), 1853, besides posting on each side of the door of the polling place as well as at other conspicuous places in the borough, notice was given to every elector as he came up to vote, until this course was discontinued by an agreement between the candidates that the notice should not be repeated to each, but that the same should be understood to be given to each elector throughout the election; and even under these strong circumstances, so far does the rule appear to be from being conclusively settled, that counsel thought it worth while to argue (though unsuccessfully) that for want of the express notice to each, the votes were not thrown away.

In the present case it is not contended upon the evidence that express notice was given to every individual voter, nor even that placards setting forth the alleged disqualification were posted at every polling place. But what the petitioner affirms is in effect that notice was given to each and every of the electors; and what the petitioner contends is, that he was not bound to adopt either of the methods of giving notice which we find recommended in the books; that it appears upon the evidence that, through the means which he actually took and otherwise, the fact of his objecting to Mr. Rankin's qualification became generally notorious in the county; and that there is authority for holding the general notoriety of it to be equivalent to proof of express notice to every voter, for the purpose of entitling a minority candidate to the seat without a scrutiny.

Mr. O'Connor certainly did take considerable pains to make his objection notorious; whether his object in this was to entitle himself to the seat in case he should be in a minority, or merely to damp the energies of Mr. Rankin's supporters, is not apparent. Mr. O'Connor and others, in the course of their speeches at the nomination, and at meetings held in every municipality before the election, referred to Mr. Rankin's alleged inability to qualify. They also circulated handbills, in which Mr. Rankin's disqualification was pressed on the attention of the electors; and copies of these handbills were published in a local newspaper. The form of the notices thus given certainly differs greatly from the form which the books recommend a candidate to adopt when his object is to claim the seat should he happen to have but a minority of the votes. Vide Warren on Election Committees (1857) 466; Rogers on Elections (1859) App. 277; Clerk on Elections (1857) App 167.

There were in fact two printed notices made use of. One was contained in a somewhat vituperative election handbill, which embraces several topics besides Mr. Rankin's inability to qualify. The other notice contained a copy of a written demand which had been made on Mr. Rankin, with a short address to the electors added. It is in these terms: "Rankin's qualification—Again demanded but not put in—The following demand has been made—To Arthur Rankin, Esq.:

"Sir,—As an elector of the county of Essex I demand that your "qualification as a candidate at the present election be deposited in "the hands of the sheriff (the returning officer) before a vote is "polled. I am aware that you cannot comply with this demand, "but I desire that the electors should not be deceived; and that "they should not lose their votes upon false pretences.

I am, Sir, your obedient servant,
(Signed) R. A. Whyte.

"Electors, be not deceived, Rankin cannot qualify. He dare not "take the necessary oath with the certainty of a prosecution for "perjury staring him in the face. He will run his chance of going "to Parliament without qualification, and risk another contested "election Essex does not desire another contested election and "its evil consequences. Rankin's practical joke is nearly played "out."

"July 8th, 1861."

Another contested election is thus stated to be the penalty of voting for Rankin; yet this is the very thing against which Mr. O'Connor is now contending, and which he puts this notice in evidence to prevent. This notice therefore, instead of informing the electors, was evidently calculated to mislead them as to the effect of voting for Rankin; and if the case had depended on the sufficiency of a notice which so entirely departs from every approved form, and is at the same time fitted by the terms in which it is expressed to mislead voters, it would be extremely difficult to maintain its sufficiency, and upon the strength of it to pronounce the virtual disfranchisement of the electors for this Parliament. But assuming the terms of the notice to be sufficient, is the notoriety created by its circulation, and by the other means adopted for this purpose, sufficient to entitle the candidate of the minority to the seat? That is what Mr. O'Connor had to make out.

Notoriety, as a learned writer on this subject observes, is a vague word for practical purposes: and no case in other than election matters was mentioned to us, in which English law allows a notoriety to be created and offered in evidence, as a substitute for the express notice that would otherwise be required. The general rule of law is certainly against admitting notoriety as evidence of notice or of anything else, except in cases of supposed necessity; (Vide Taylor on Evidence, sec. 507, et seq, sec. 1478. Roscoe's Law of Evidence, 26 d. &c.) In fact the word seldom occurs in any book on evidence. It is seldom found in the index of any work on law. Whatever is said of it in English books is commonly to be seen under the head of hearsay. Lord Ellenborough in *Weeks* v. *Sparke* 1 M. & S 686, said the admission of notoriety or reputation as evidence for any purpose "is somewhat of an anomaly and forms "an exception to the general rules of evidence." Again, "I con-"fess myself unable to understand upon what principle, even in "matters of public right, reputation was ever deemed admissible" Sir John Romilly, the Master of the Rolls, in *Greenslade* v. *Dare*, 1 Jurist N. S. 294, 20 Beavan 290, stated the rule in civil cases in these terms. "Evidence of general reputation is not admissible to prove a fact unless it be such a matter as the boundary of a manor or the like. To admit evidence of general reputation, to fix a defendant with knowledge of a single fact, while that evidence would not be admissible to prove the fact itself, appears to me to be a violation of the first principles which regulate the reception of evidence and the administration of justice."

The tendency, again, of modern legislation, certainly seems rather against than in favour of such general notices as placards even at the polling places would afford. See for example, the Carriers Act (Imperial) 1 Wm. IV. c. 68, s. 74, and the Railway and Canal Traffic Act (Imperial) 17 & 18 Vict. c. 31. sec. 7.

On the other hand, the latest reported case on the very point before us, is distinctly against the sufficiency of this method of giving notice of an alleged want of the necessary property qualification. We refer to the *Beverley* case, decided in 1857 (1 W. & D. 22.) Beverley was an English borough, and it is obvious that an attack on a popular candidate's qualification would naturally become notorious among the electors of a borough more quickly and more easily than in a large and not very densely populated county like Essex. The evidence in the Beverley case showed that Mr. Glover, whose return was petitioned against, had stood for the borough five years before; that, on that occasion he had left £700 of debts unpaid; that a subscription had been got up in the borough to discharge these debts; that at the election now in question he had received a written demand for his qualification; that he had addressed the electors with this written demand in his hand; that