

parties affected by the proposed assessment had any opportunity of being heard against it; and, notwithstanding this, the Legislature, by what cannot be regarded as other than an abuse of power, validated and confirmed it.

The first question to be determined is whether by-law number 3012 and the assessment made thereunder, validated and confirmed as they were by the Legislature, formed any lien or charge upon the real estate of the plaintiff; and it is only by virtue of sec. 343, R. S. O. 1887 ch. 184, that they could be held to form such lien or charge, which section provides that "Every special assessment made, and every special rate imposed and levied, under any of the provisions of this Act, and all sewer rents and charges for work or services done by the corporation, on default of the owners of real estate, under the provisions of any valid by-law of the council of the said corporation, shall form a lien and charge upon the real estate in respect of which the same shall have been assessed and rated or charged, and shall be collected in the same manner, and with the like remedies, as ordinary taxes upon real estate are collectable under the provisions of the Assessment Act."

In order to the assessment of a valid rate upon the real property fronting or abutting upon Sunnyside avenue for the expense of opening the same the real property so fronting or abutting which was immediately benefited thereby must have been ascertained and determined, for it was upon the real property to be benefited thereby that the special rate was to be assessed, and not upon, but only according to, the frontage thereof. And the proportion in which the assessment of the cost thereof was to be made on the various portions of real estate so benefited must also have been ascertained and determined, and this is made more apparent, if need there was, by the notice required to be given by section 618 (2), shewing the amount of the assessment "on the particular piece of property."

Now, by-law number 3012 did not provide any means of ascertaining and determining what real property would be immediately benefited by the opening of Sunnyside avenue, the expense of which was to be assessed upon the real property to be benefited thereby, nor did it ascertain and determine it, nor did it provide any means of ascertaining and determining the proportions in which the assessment of the cost thereof was to be made on the various portions of real estate so benefited, nor did it ascertain and determine them.