

There was grave doubt as to the validity of this sale, owing to the laxity with which the assessment and all other preliminary proceedings had been conducted by the city. As it was thought that the curative provisions found in the general Assessment Act would not suffice to remedy these defects, a special Act was passed to remove all doubt as to the title conferred upon the purchasers at the tax sale in question. This statute, 3 Edw. VII. ch. 86, was the subject of criticism in *Russell v. City of Toronto*, finally decided by the Privy Council, [1908] A.C. 493. . . .

Counsel for the plaintiff sought to distinguish that case by shewing that the lands in question here were not sufficiently described, in that from the description given of some of the parcels it was impossible to identify them in any way.

I do not think that he succeeded. The description in the assessment roll and collector's roll was, no doubt, very defective; but it was entirely adequate to identify the lands to the owner; and the case is indistinguishable in this respect.

The other point argued is one of much greater difficulty. Under the Assessment Act, if the municipality determines to buy, it is necessary that it must give notice of the intention to the owner. The Assessment Act R.S.O. 1897 ch. 224, sec. 184 (3), gives the right to purchase "if the council of the local municipality before the day of such adjourned sale has given notice in writing of intention so to do." No notice whatever was given to Sir Richard Cartwright. An advertisement was published, and it was assumed that this was a sufficient compliance with the requirements of the statute. That this advertisement ever came to the notice of Sir Richard was not shewn.

In the *Russell* case their lordships agreed with the Canadian Courts in holding that the notice is required to be given to the owner of the lands. . . . They held . . . that the owner had waived the notice. . . . But I think that the decision of the Privy Council also proceeds upon the ground that the curative effect of the Act covers the defect arising from the omission to give the required notice. . . .

It is to be observed that the legislation is not entirely unfair. The curative statute gives to the owner an opportunity to redeem. Notice was given to him by the city. No redemption was made or attempted within the time limited. Mr. Fleming, the Assessment Commissioner, was seen, and promised to recommend an extension if asked for, permitting redemption within a year further. No application for such an extension was made. After the expiry of the year, Mr. Fleming was again seen, and was