

That he had in fact a different address in New York I regard as wholly immaterial. His address as formally made known to the municipalities, and as known and recognised by them—except in one instance—was 136 Liberty Street, New York, and all the statutory notices there addressed to him were duly received by him.

The exception referred to was made when, a year after the sale for taxes, the defendant applied to the city of Toronto for a deed of the lands which he had purchased. It then became the duty of the treasurer, under sec. 165, before executing the deed, to search in the registry office and in the sheriff's office and ascertain whether or not there were mortgages or other incumbrances affecting the lands, and who was the registered owner of the land.

The treasurer had the prescribed searches made. It appears there were no incumbrances. The plaintiff was registered as owner of the lands. Sub-sec. 2 of sec. 165 requires the treasurer to send to the registered owner by registered letter mailed to the address of such owner . . . if known to the treasurer, and if such address is not known to the treasurer, then to any address of such . . . owner appearing in the . . . deed, a notice stating that the . . . owner is at liberty within thirty days from the date of the notice to redeem the estate sold. . . .”

Mr. Fleming, of the city treasurer's office, Toronto, has charge of the collection of all arrears of taxes. He made inquiry of James T. Jackson, who had been treasurer of Toronto Junction and West Toronto, regarding the plaintiff's address. Why he should have so inquired when the plaintiff's address appeared upon the assessment rolls of the city of Toronto at the time is not clear. Jackson told Fleming that he had written in the year following the sale two letters to the plaintiff at 136 Liberty Street, New York, and that these letters were returned as undelivered. Jackson did not make copies of the letters, or a record of their dates, nor did he preserve them when returned. His evidence regarding them is accepted as true by the learned trial Judge. It is not pretended, however, that these letters were more than friendly intimations to the owner that his lands had been sold, nor is it suggested that they were sent in conformity to the requirements of sec. 165.

Fleming's evidence is, as to his interview with Jackson, brief and may be quoted in full.

“His LORDSHIP: Who is Mr. Jackson? A. He was treasurer of West Toronto, and when we came to search through the lands in default the next year we consulted him with reference to them to see if he could give us any information and he told me that the two years he had sent it to—