

knowledge, and without regard being had to sec. 69 (19) of the Act. The \$10 paid by the plaintiff, which he now sought to get back, was the proportion of the total taxes attributable to the \$700.

An informal mention to the plaintiff by the assessor, at a chance meeting, that the plaintiff's assessment had been changed, did not dispense the municipality or the assessor from the statutory duty to give notice. The notice is the one channel by which a ratepayer acquires any knowledge of his assessment; and a complete system of machinery is then provided by the statute to work out to a finality each assessment—a system open as well to an elector (sec. 69 (3)) and to the assessor (secs. 69 (19) and 72 (1)) as to the ratepayer who may feel himself aggrieved by his assessment: *Canadian Land and Emigration Co. v. Municipality of Dysart* (1885), 12 A.R. 80.

There was no defect, error, or misstatement in the notice that was served upon the plaintiff; and so the curative provision of the statute, sec. 70, could not be applied as regards the notice.

But it was said that a mistake or error occurred in the assessment roll. Assuming that to be the fact, the plaintiff's assessment was never "within the cognizance of the Court of Revision" (*Town of Macleod v. Campbell* (1918), 57 Can. S.C.R. 517, per Anglin, J., at p. 522), because formal proceedings under sec. 69 to give the Court of Revision jurisdiction were never taken by any one—all that was done was to alter the plaintiff's assessment behind his back, without notice to him and without his knowledge. The defendants cannot set up the curative section when they are at fault in preventing the necessary proceedings from being taken.

In any event, the non-compliance with sec. 69 (19) could not be cured by sec. 70.

Reference to *Noble v. Township of Esquesing* (1920), 47 O.L.R. 255, 257, 520, 521.

The payment of the \$10 to the assessor was not a "voluntary" payment: it was a payment made to the collector and accepted by him under protest—made, it was fair to assume, to prevent the summary proceedings which a collector must take when proceeding to collect the taxes: see *O'Grady v. City of Toronto* (1916), 37 O.L.R. 139, and cases there cited.

A payment is not "voluntary" when it is illegally demanded by one who is in a position to dictate terms under colour of a statute or of an office. There may be a practical compulsion as well as an actual legal compulsion.

Reference to *Halsbury's Laws of England*, vol. 7, p. 478; *Waterhouse v. Keen* (1825), 4 B. & C. 200; *Dew v. Parsons* (1819), 2 B. & Ald. 562.

There should be judgment for the plaintiff for \$10 and costs.