Having regard to the plaintiff's earning power while with the defendant company, I assess the damages at $480, with full costs of action. Any amendments that may be necessary to meet the case as disclosed in the evidence may be made.

HON. MR. JUSTICE KELLY. OCTOBER 29TH, 1912.

STURGEON FALLS v. IMPERIAL LAND COMPANY LIMITED, ET AL.

4 O. W. N. 178.

Assessment and Taxes — Lien on Land for Unpaid Taxes — Action for Declaration of Lien and Enforcement by Sale — Assessment Act, s. 89—Effect of — Declaratory Judgment — Consequential Relief — Acceptance of Promissory Notes for Taxes — Abandonment of Other Remedies — Validity of Assessments — Non-compliance with s. 22 of Act — Description of Properties — Registered Plans — Subdivisions — Evidence.

Action by a municipal corporation for a declaration that taxes for the years 1906-10 upon a large number of parcels of land belonging to defendants were a special lien upon such land in priority to every other claim, privilege or incumbrance of every person (including the defendants) save the Crown, and for payment of the said taxes and in default thereof for an order that the lien be enforced by sale. For the taxes for 1906-7 plaintiffs had accepted promissory notes from defendant company which had not been paid and on two of which plaintiffs had recovered judgment.

KELLY, J., *held*, that sec. 89 of the Assessment Act, 4 Edw. VII. c. 23, providing that the taxes on lands in a proper case should be a special lien on such lands in priority to any person, save the Crown, was not intended to give municipalities a new nor additional means of realizing which might have the effect of accelerating the time for selling, shortening the time for redemption by the owner or otherwise interfering with such right.

That the declaration asked did not provide for consequential relief and that therefore it should not be granted by the Court.

Mutrie v. *Alexander*, 23 O. L. R. 395, followed.

That plaintiffs having accepted defendants' promissory notes for taxes for the years 1906-7 were restricted to their remedy thereon.

That where the assessments did not properly identify the lands assessed they were invalid and there were no "taxes due" on the lands in question in respect thereof, the making of a valid assessment being an imperative requirement.

Flakey v. *Smith*, 20 O. L. R. 279;
Cox v. *Roberts*, L. R. 3 A. C 473;
Love v. *Webster*, 26 O. R. 453, and
Waechter v. *Pinkerton*, 6 O. L. R. 241, followed.

Action dismissed with costs.

Action tried at North Bay, without a jury.

G. H. Kilmer, K.C., and J. M. MacNamara, K.C., for the plaintiffs.

S. H. Bradford, K.C., and J. Bradford, for the defendants, the Imperial Land Co. Limited, and E. R. C. Clarkson.