

the clause giving the power to contest was extracted. Article 817 of the municipal code provides that an assessment roll comes into force fifteen days after it has been deposited in the office of the council, provided public notice has been given of such deposit, within such delay.

But even if the Montreal city charter stood alone, it is submitted that the delay to contest would clearly run, not from the confirmation of the roll by the Commissioners, but from the expiration of the notice given by the city treasurer under sect. 185 that the roll is completed. Mark that subsection 3 of sect. 185 says that "after the Commissioners shall have completed the roll, they shall deposit it in the office of the city clerk, and give notice to the parties taxed by said roll, that they have fifteen days from the last insertion of the notice to examine the roll and make their complaints on a certain day to be fixed." Subsection 4 says "that on the day fixed, the Commissioners shall hear the complaints and may adjourn from time to time, as may be necessary, to hear and examine such complaints, and after such examination the said Commissioners may maintain, modify or amend, at their discretion, the said roll, without the necessity of any further notice." Subsection 5 says "that the said roll, when finally settled by the Commissioners, as aforesaid, shall be filed and kept of record in the city treasurer's office, and the said special assessment shall be due and may be recovered in the same manner as the ordinary taxes and assessments."

Section 85 shows how the ordinary taxes and assessments become due and payable. Upon the roll being filed in his office, the city treasurer gives public notice that the roll is completed and deposited at his office, and that all persons whose names appear therein as liable are required to pay the amount of their tax within ten days from the last insertion of the notice.

Under these provisions the coming into force of the roll necessarily depends on the publication — which brings it to the knowledge of the parties interested. It cannot be in force so long as it remains in the Commissioners' hands, although duly signed and

confirmed by them — because so long as it is not filed with the city treasurer, it is in their power to alter it — "without the necessity of any notice." Nor can the mere filing of the roll in the city treasurer's office put it into force, since the fact of the filing is not known until notice has been given of it.

To say that the delay runs from the date the roll is confirmed by the Commissioners leads to this exorbitant result, that the three months, given by the statute to contest, might have expired before the parties could possibly have heard of the confirmation, and therefore could possibly have exercised their right to contest.

The question of the date of the privilege of the city on the real estate of the rate-payer for the amount of the tax is a different question. There might or might not be good reasons to make the privilege run from the filing of the roll in the city treasurer's office, or for that matter from the date of the confirmation, assuming the tax eventually to turn out to be a legal one. But the opportunity to test the legality of the tax should be full and entire, within the delay the law grants, and this opportunity would be unduly restricted or wholly destroyed if the delay ran from any period back of the expiration of the ten days from the last insertion, from which date the constructive notice exists, and not before.

The following is the judgment:—

"La cour, après avoir entendu les parties par leurs avocats et procureurs respectifs sur le mérite de la réponse en droit du requérant au premier plaidoyer de la défenderesse, par lequel dit plaidoyer la défenderesse soutient que le droit du requérant d'attaquer le rôle de cotisation en question en cette cause est prescrit depuis le 12 d'avril 1881, avoir examiné le dit plaidoyer, la dite réponse en droit et tout le dossier de la procédure, et sur le tout mûrement délibéré;

"Attendu que le dit requérant demande par sa requête produite le 17 avril 1882 la cassation d'un rôle de cotisation pour répartir sur les personnes que les commissaires nommés par la Cour Supérieure jugeraient être intéressées dans l'établissement du carré de la Puissance, lequel rôle de cotisation a été