

Negotiations thereupon took place between Mrs. Prittie and the city corporation, looking to a settlement of her claim. The work leading to the arbitration, and for which these damages had been awarded, had not involved the actual taking of the lands, but the mere construction of the sewer through and under them. The negotiations resulted in the making of an arrangement by which Mrs. Prittie undertook to convey part of the lands to the city corporation absolutely, in consideration of \$55,000. This arrangement obviously could only be carried out with the assent of the mortgagee; as the mortgagee's title was only subject to the right or easement concerning which there had been the arbitration.

No one is now living who can speak of the negotiations with Sir Richard Cartwright. . . .

Sir Richard Cartwright (the original plaintiff) in his pleadings set up that he agreed to give a part discharge of mortgage, in consideration of \$26,000 being paid to him, and all arrears of taxes upon the lands covered by his security being paid, and for the further consideration of all local improvement taxes being commuted, and the commutation sum being paid out of the \$55,000.

There is no evidence to support this allegation. Sir Richard received the \$26,000 and discharged the mortgage, so far as it affected the lands taken over by the city. Some \$5,600 dollars then due to the city for taxes was also deducted from the price; the local improvement rates not accrued due were not computed or deducted; and a small sum due upon some of the lands for taxes for the year 1892 was not included in the taxes deducted by the city—it is said, because of an oversight arising from the fact that some of the rolls had not been returned by some of the collectors.

Nothing in the way of an agreement between Sir Richard and the city corporation is established. The most that is shewn is, that Mrs. Prittie and the city corporation agreed that the taxes due should be deducted. Thereafter taxes continued to be assessed upon the lands, and Mrs. Prittie paid nothing. She also made default in the payment of interest under the mortgage, and she was ultimately foreclosed; the final order being issued on the 8th August, 1894.

Sir Richard made no payment whatever on account of taxes; and in 1898 the lands in question were offered for sale, but were not sold, because there were no bidders at a price equal to the arrears. In 1901, the lands were again offered for sale, and, in supposed pursuance of the authority then possessed by the city corporation, were bought in by the city corporation.