the defendants' council made an agreement with the plaintiff in regard to the terms upon which the scheme should be carried out, and the agreement was approved by the council. The council passed a by-law for opening the new street and a by-law for the expropriation of the necessary land. A disagreement took place between the council and the plaintiff, in consequence of which the plan of subdivision of his block was not registered. The council then passed a by-law, No. 735, whereby the defendants were to pay only one-third of the cost of opening up the proposed street, the plaintiff to pay the remainder, except what was assessed against the non-abutting property. This was the by-law attacked by the plaintiff.

The learned Judge said that the by-law and the assessment purported to be made in pursuance of a statute, and the statutory provisions must be strictly complied with, "in the sense that non-observance of any of them is fatal:" Re Hodgins and City of Toronto (1909), 1 O.W.N. 31; Goodison Thresher Co. v. Township of McNab (1909), 19 O.L.R. 188, 214; Township of Barton v. City of Hamilton (1909), 13 O.W.R. 1118, 1131; In re Gillespie and City of Toronto (1892), 19 A.R. 713, affirmed in the Supreme Court of Canada on the 1st May, 1893: Coutlee's Digest, cols. 873, 874.

Here the notice given by the defendants differed from the by-law in the amount of money which the defendants must pay, and therefore also the amount which the plaintiff must pay.

That a prerequisite to a by-law being validly passed is publication of the notice of the council's intention under sec. 11 of the Local Improvement Act, R.S.O. 1914 ch. 193, is the opinion of the Ontario Railway and Municipal Board: Re Kemp and City of Toronto (1915), 21 D.L.R. 833, 835; and, by reason of the defendants proceeding without a new notice, the plaintiff was deprived of his right to appeal to the Ontario Railway and Municipal Board under sub-sec. 2 of sec. 9 of the Local Improvement Act, as enacted by 4 Geo. V. ch. 21, sec. 42.

The Courts are not becoming more lax in insisting on the requirements of statutes being strictly observed by municipalities: see Anderson v. Vancouver (1911), 45 Can. S.C.R. 425.

It was urged that the matter was for the Court of Revision under sec. 36 of the Local Improvement Act; but that section does not debar one interested from attacking the proceeding as invalid. Assuming that there might otherwise be some ground for the argument, it was wholly swept away by sub-sec. 2 of sec. 36.

The appeal should be allowed, and the prayer of the plaintiff as set out in his statement of claim granted, with costs here and below.

Appeal allowed.