

before me, the appeal being a limited one, and I cannot review his decision on that question of fact.

This objection was not urged before me with much confidence; nor could it be, having regard to the decision in *Re Russell* (2), H. E. C. 519, which decides the very point involved.

The appeal fails on all the grounds of objection, and I think must be dismissed with costs.

CARTWRIGHT, MASTER.

MARCH 3RD, 1905.

CHAMBERS.

CITY OF TORONTO v. RAMSDEN.

CITY OF TORONTO v. McDONELL.

*Dismissal of Action—Delay in Delivery of Statement of Claim  
—Irregular Delivery after Time Expired — Validating  
Order—Terms—Possession of Land—Improvements.*

Motion by defendants to dismiss actions for want of prosecution or to strike out statements of claim as irregular.

J. E. Jones, for defendants.

F. R. MacKelian, for plaintiffs.

THE MASTER.—Plaintiffs seek to recover possession of certain lands forming part of what is called "the sand-bars," south of Ashbridge's bay. The writs of summons were issued and served on 9th September, 1902, and defendants duly appeared on 19th September, 1902. The solicitor for the plaintiffs stated on affidavit that "about the date when the time expired, under the Rules, to deliver statements of claim, I asked a member of the firm of defendants' solicitors to grant further time to deliver same, to which he assented." This is not denied. The affidavit goes on: "No particular time was mentioned, and, as I never received any request since that time from the said solicitors to deliver statements of claim, or any notice that they objected to the matter standing, I took it for granted that there was no objection." The affidavit further states that the delay was due to a doubt as to whether the lands were within the jurisdiction of the Dominion or the Province, and also from inability to get evidence to meet the defence of title by possession which he thought would be raised.

Without any order a statement of claim in each action was filed on 3rd February, 1905. . . .

It would have been better had plaintiffs filed their statements of claim within a shorter time than 2 years and more