

The Ontario Weekly Notes

Vol. IV.

TORONTO, JANUARY 10, 1913.

No. 17

DIVISIONAL COURT.

DECEMBER 26TH, 1912.

GAST v. MOORE.

Assessment and Taxes—Sale of Land for Taxes—Action to Set Aside—Non-Resident Owner—Statutory Notice of Assessment—Statement and Demand of Taxes—Transmission of, to Owner's Address, "If Known"—Provisions of Assessment Act as to—Unrevoked Address Disregarded—Duty of Treasurer under sec. 165.

Appeal by the plaintiff from the judgment of RIDDELL, J., of October 21, 1912, in an action to set aside a tax sale of certain lots by the city of Toronto, and for an injunction restraining the defendant from selling or otherwise disposing of said lands. At the trial the action was dismissed with costs.

The appeal was heard by BOYD, C., LATCHFORD and KELLY, JJ.
J. M. Ferguson, for the plaintiff.
A. J. Anderson, for the defendant.

LATCHFORD, J.:—The plaintiff purchased the lands in question in 1892, when he resided in Toronto. They were unoccupied lands; and at the time were comprised within the limits of the town of Toronto Junction, which became in 1908, by 8 Edw. VII. ch. 118, the city of West Toronto. About 1894 Gast went to the city of New York where he has since resided. The assessor for both municipalities was aware that Gast was a "non-resident"; and had notice that his address was 136 Liberty Street, New York.

Under the Assessment Act of 1892 (sec. 47) the assessor was obliged "before the completion of his roll to transmit by post to every non-resident who has required his name to be entered thereon, a notice of the sum at which his property has been as-