

effect as on the previous motion, and was cross-examined. The motion was then argued.

M. C. Cameron, for the plaintiffs.

John MacGregor, contra.

CARTWRIGHT, K.C., MASTER:—The facts are the same as when the judgment was signed. The defendant company has never been authorized to do business in this province, because sufficient stock has not been subscribed and paid. But a charter was issued by the Lieut.-Governor on 29th November, 1910. In it Mr. Reynolds is the first named of six elected provisional directors; and the head office of the company was fixed at Toronto. It was also proved that in the prospectus issued by the company in England, and filed with the Provincial Secretary here, Reynolds is named, as first of the Canadian directors, and is also called president—also the head offices are stated to be at 77 Victoria street, Toronto. These facts seem sufficient to support an order for the examination of Mr. Reynolds, if plaintiffs still think it will be of any service to them. If they elect to proceed costs will be reserved. If they take the other course the motion will be dismissed without costs.

HON. MR. JUSTICE RIDDELL.

JUNE 10TH, 1912.

SUTHERLAND v. SUTHERLAND.

3 O. W. N.

Assessment and Taxes — Tax Sale — Action to Set Aside — Irregularities.

Action to set aside tax sale of certain lands of plaintiff made to defendant. The action was brought within two years of the date of the tax deed but not of the date of the auction sale. The property, worth some \$1,000, had been sold for \$38.78, the exact amount of the taxes due, and the advertisement required by 4 Edw. VII. c. 23, s. 143 (1), had only been published once instead of thirteen times as required by the statute.

RIDDELL, J., held that the irregularities in connection with the sale were sufficient to avoid it and that the sale had not been conducted "fairly and openly" within the meaning of sec. 172 of the Assessment Act.

That the phrase "two years from the time of sale" in sec. 173 of the Assessment Act means two years from the date of the tax deed, not from the date of the auction sale.

Donovan v. Hogan, 15 A. R. 432, followed.

Sale set aside, purchaser protected, no costs.