

*Mr. Justice Greenshields.* I am of opinion that the Court of Review clearly has jurisdiction. There is an inscription in Review from a judgment of the Recorder's Court in a matter of this kind. Having jurisdiction, therefore, this Court must consider the issues between the parties as revealed by the pleadings.

There is one thing certain, that if, as a matter of fact, the defendant's land is, in the terms of the statute, lands under cultivation, so far as taxing is concerned, it is governed absolutely and exclusively by sec. 9 of the Statute, 1 George V. It is a matter of indifference, in my opinion, what the charter provisions of the City of Montreal may be with respect to the levying of taxes on City property.

The statute created a special class of property, and removed that class of property entirely from the operations of the City charter and its provisions, and removed it for a period of ten years, or so long as any part of it remained undivided and remained lands under cultivation. If the city's assessors proceeded to completely ignore the existence of the statute, or, knowingly refused to give application to it, there was an illegality committed, and an illegality which this Court may and should remedy.

In my opinion, the one thing that the assessors should have done, if indeed they had power even to do that, was to decide, whether the lands were such as contemplated by the statute. It does not appear that they did not decide that the lands came within the statute. If they decided that the lands did not, then we have nothing before us to show upon what principle, or upon what ground, or upon what proof, they came to that conclusions. If they decided that the land did come within the statute, clearly their whole proceeding was utterly irregular and illegal.

I do not believe that the fact of the defendant object-