

Bathurst street runs at right angles to and crosses Lennox street, and neither lot 19 nor lot 18 on the north side of Lennox street has any frontage on, and neither lot touches, Bathurst street.

In the list of lands liable to be sold for arrears of taxes in 1905, dated 19th January, 1904, the land was described as being "on the east side of Bathurst street, owned by Joseph and Jane Jones, in arrear for the taxes of 1901, 53 x 50 in size, and rear Nos. 767 and 769."

In the assessor's return the land was stated to be owned by Angus Macdonell, 478 Dufferin street, to be then assessed on Lennox street, north side S. pt. 18-2 x 53 and S. E. pt. 19, 17 x 53, included in one assessment of 42 x 53—and not occupied.

The trial Judge found that at the time the assessment was made the land was occupied and built upon, and held the sale invalid because the proceedings taken in the way of sale were those applicable to property which was vacant and not built upon, and not to property which was in fact occupied and built upon.

The appeal was heard by MEREDITH, C.J.C.P., MACMAHON and CLUTE, JJ.

W. C. Chisholm, K.C., and J. H. Spence, for the defendant.  
J. R. Roaf, for the plaintiff.

MEREDITH, C.J.:—In our opinion the sale was invalid because there was no valid assessment of the land in the years 1901 and 1902, and therefore there were no taxes legally imposed for which it could be sold for taxes for those years.

Lots 18 and 19 were . . . lots fronting on Lennox street, and not fronting on or touching Bathurst street, and were not therefore the rear part of any lot on Bathurst street. Such a description of the land assessed was not only inaccurate, but was so indefinite that it would be difficult, if not impossible, to ascertain what was the land intended to be assessed. If the assessment could be treated as an assessment of lots 18 and 19, these, being separate and distinct parcels of a subdivision, a plan of which was registered, should have been assessed separately, and the joining of them in one assessment was improper, and the assessment was therefore invalid: *Christie v. Johnstone*, 12 Gr. 534.

As the land was occupied by the defendant when the assessment was made, and was owned by a person not resident in the province, who had not required her name to be entered on the assessment roll, it should have been assessed in the name of and against the