

tion and that, in the absence of a by-law, there was no contract with the plaintiff of which he could have specific performance by the defendants ordered. *Bernardin v. North Dufferin*, 19 S.C.R. 581, and *Tracey v. North Vancouver*, 34 S.C.R. 132, followed.

As the lots still stood in the plaintiff's name up to April, 1902, the city assessor assessed them to the plaintiff in the roll for 1902 which he had previously prepared; and, there being no appeal from such assessment, the same was confirmed and finally revised in June following. The usual assessment notice was sent to the plaintiff on May 3, 1902, and, in the following November, the tax collector sent the usual notice and demand for taxes of 1902 to the plaintiff. These steps were all taken by the city officials in accordance with their statutory duties and without any special authority or instructions from the City Council.

Held, that the city was not estopped by the sending of such notices from relying on its certificates of title obtained in April, 1902.

It was further contended on behalf of the plaintiff that the steps taken had the effect of making him legally liable to the city for the taxes of 1902, as section 387 of the charter provides that the production of a true copy of the tax roll shall be sufficient evidence of the debt for taxes, and therefore the city was asserting two absolutely inconsistent rights.

Held, however, that "sufficient evidence" does not mean conclusive evidence, and it would be a complete answer to such an action that the plaintiff was not the owner of the lands at the time of the return of the assessment roll and its final revision.

Galt and Minty, for plaintiff. *I. Campbell, K.C.*, and *Hunt*, for defendants.

Perdue, J.A.] THE KING v. GEORGE SMITH. [Nov. 21, 1907.]

*Manslaughter—Killing of fugitive suspect by peace officer—
Shop-breaking—Criminal Code, 1906, ss. 30, 41.*

The accused was indicted for manslaughter. It appeared that he, being a peace officer, was endeavouring to arrest, without warrant, a man whom he, on reasonable and probable grounds, believed to have been guilty of the theft of valuable furs from the shop of a merchant tailor in the City of Winnipeg.