

THE
ONTARIO WEEKLY REPORTER.

(TO AND INCLUDING MARCH 22ND, 1902.)

VOL. I.

TORONTO, MARCH 27, 1902

No. 11.

MEREDITH, J.

MARCH 12TH, 1902.

TRIAL.

MCLELLAN v. HOOEY.

*Assessment and Taxes — Sale for Taxes — Description of Land—
Sufficiency of — Possession — Adverse after-acquired Rights of
Entry—R. S. O. ch. 224, sec. 211.*

Action by plaintiff, claiming under a registered paper title, to recover possession of certain lots of land in the town of Trenton, and to set aside a tax deed made to defendant, and for other relief. The plaintiff derived his registered title after the sale for taxes to defendant. The lots were advertised for sale on 23rd September, 1896, for arrears of taxes for the years 1892-3-4, and the sale was adjourned to 7th October, 1896, at which time the corporation purchased, and in May, 1899, assigned the certificates to defendant, who went into possession of the lots, which had hitherto been vacant, and made improvements to the value of \$650.

A. Abbott, for plaintiff.

W. C. Mikel, for defendant. The fact that there are only two lots, 7 and 8, discloses only a latent ambiguity, and evidence may be given to shew that the lots sold were the lots bought by the defendant and in his possession. The tax sale is valid under 57 Vict. ch. 85 and 61 Vict. ch. 56. Moreover, the assignment of mortgage under which plaintiff claims is dated 17th September, 1900, and the conveyance to him is dated 1st August, 1900, both after the entry into possession of defendant; and therefore under sec. 211 of the Assessment Act defendant must succeed.

F. Britton Osler appeared for town of Trenton, though not parties.

MEREDITH, J.—The lands were generally described as lots 5, 6, 7, and 8 on the east side of McLellan avenue, in the town of Trenton. There happen to be two other lots on the east side of McLellan avenue also numbered 7 and 8, and it was urged that as to those two lots, at all events, there was such uncertainty as to avoid the sale; that the