

TAYLOR, C.J.]

[April 15.

NOTT v. IMPERIAL LOAN COMPANY.

*Sale of lands for taxes—Place of sale—Conducting sale in a fair and open manner.*

This was an issue under the Real Property Act as to the validity of a sale of lands by the Municipality of Winchester to the plaintiff for arrears of taxes. A good many of the proceedings connected with the assessment and levy of taxes were shown to be defective and irregular, but in addition to the provisions of the Assessment Act, secs. 190 and 191, as amended by the statute of 1892, chap. 26, secs. 6 and 7, there had been special legislation validating and confirming the assessment and levies of taxes in that municipality.

Sec. 154 of the Act, however, provides that the sale shall take place at such place as the council shall by resolution or by-law appoint, or in the absence of such appointment, at such public place in the assize town or city of the judicial district wherein the municipality is situated as may be chosen by the treasurer.

The council did not appoint any place for the holding of the sale, and the treasurer appointed the sale to take place at a small hall in the municipality and not at the assize town or city of the Judicial District, which is Brandon. Moreover, the sale began at 11 o'clock in the morning, was continued for about an hour, and then the auctioneer, officials and audience all went away to dinner, and were absent about an hour, during which time no one was left in charge of the hall, which was locked up, nor was any notice put up at the door with reference to the sale, and the land in question was sold after the sale was resumed in the afternoon, and for just the amount of the taxes.

*Held*, that under these circumstances it could not be considered that the sale had been conducted in a fair and open manner, and that under sec. 190 of the Assessment Act, the tax sale should be set aside and a verdict entered for defendants as mortgagees.

*Henderson*, for plaintiff.

*A. D. Cameron*, for the defendants.

TAYLOR, C.J.]

[April 29.

LONDON AND CANADIAN LOAN COMPANY v. CONNELL.

*Exemptions—Judgments Act, R.S.M., c. 80, sec. 12.*

Plaintiffs recovered a judgment against the defendant as surviving executor of the estate of one William Kines, and then under Rule 804 of the Queen's Bench Act, 1895, applied for an order for the sale of a parcel of land vested in the defendant as such executor. The widow and minor children of Kines were living on the land, and on their behalf an attempt was made to prevent the sale of the land, on the ground that it was exempt from proceedings under a registered judgment, under sec. 12 of the Judgments Act, R.S.M., c. 80.

This section provides that no proceedings shall be taken under any registered judgment against the land upon which the judgment debtor or his family actually resides, or which he cultivates.