

tained the plaintiffs' lot, described as "not occupied," and that was based on the Assessor's return, under oath, to the Clerk—of evidential force by sec. 122 of the statute. That, not having been displaced by superior evidence, formed a sufficient basis for the sale of the lot. The description of the lot as "not occupied" was not, according to the plaintiffs' contention, correct; it should have been described as "built upon," and notice should have been sent to the owners. This contention rested upon the question of fact, whether the land was "built upon," and the weight of evidence was against that. The only thing approaching a structure was an old derrick attached to the soil, formerly used in mining, but a mere derelict, worth less than \$50. It was a fixture, no doubt, but it did not amount to a building.

Another objection was as to the advertising and time of sale. According to sec. 144 of the Act, the day of the sale "shall be more than 91 days after the first publication of the list in the Ontario Gazette." The first publication in the Gazette was on the 10th August, and the sale was on the 7th November—four days too soon. This was an error; but as regarded the publication in a newspaper the statute was complied with.

The next objection was, that the sale was carried on in an unfair and unconscionable manner. Granting a considerable discrepancy between the sale price, \$18.62, and the actual value, which might be \$200 or \$300 if the land was regarded as a farm, and was uncertain if looked upon as mining land, there was no ground for interference. In tax sales, the Court does not interfere on the ground of inadequacy of price: *Henry v. Burness* (1860), 8 Gr. 345, 350; *Borell v. Dann* (1843), 2 Hare 440, 450, 451.

The sale was openly and fairly conducted. The defendant bought at a venture; he knew no more of the lot than did the Treasurer. The law does not cast any duty on the officer who sells to inquire, before the sale, as to the value of the land: sec. 142. This statutory provision displaces what was said by Spragge, V.-C., in *Henry v. Burness*, 8 Gr. at p. 357; see also per Lennox, J., in *Errikkila v. McGovern* (1912), 27 O.L.R. 498, at p. 501. Reference also to *Scholfield v. Dickenson* (1863), 10 Gr. 226, 229; *Donovan v. Hogan* (1888), 15 A.R. 432, 447.

The statute does not speak of a "fair sale," but of a "sale fairly and properly conducted." See *Eagleton v. East India Co.* (1802), 3 B. & P. 55; *Metropolitan Street R. Co. v. Walsh* (1906), 94 S.W. Repr. 860.

On the 10th November, 1913, a notice was sent by the Treas-