

An Act was passed by the Legislature of Ontario in 1869—33 Vict. ch. 66—confirming the survey and declaring it to be the true and unalterable survey of the town of Chatham. McGeorge in his evidence states that he procured from the registry office a copy of the plan and field-notes of the survey legalised by the Act of 33 Vict., and uncovered several of the monuments, and, with those that appeared through the pavement, was able to prepare the plans, exhibits 29 and 30. These plans are from actual survey and work on the ground, and there can be no doubt of their accuracy.

As to the plaintiff's cross-appeal, to have it declared that the tax deed set up by him was valid: at p. 152 the learned trial Judge says: "I think the tax sale was a very lax one. I am of opinion that the tax sale was not properly conducted."

On the argument Mr. Houston urged several objections to the tax title set up by the plaintiff; and a perusal of the cases cited shews these objections to be well taken.

It is not necessary for me to go over the cases, as it was proven that the defendant had paid his taxes. The defendant proved the payment of the taxes for every year from 1905 to 1912 inclusive, and the trial Judge so found. If any authority is necessary for the proposition that this objection is fatal, *Street v. Fogul*, 32 U.C.R. 119, may be referred to.

I think the appeal and cross-appeal should be dismissed; and without costs, both parties having failed.

OCTOBER 27TH, 1913.

VOGLER v. CAMPBELL.

*Gift—Money in Bank Deposited in Names of Deceased and Daughter—Right of Survivor—Evidence—Validity of Transaction as Gift inter Vivos—Next of Kin—Right of Action against Donee who is Administratrix.*

Appeal by the defendant from the judgment of LENNOX, J., 4 O.W.N. 1389.

The appeal was heard by MULOCK, C.J.Ex., RIDDELL, SUTHERLAND, and LEITCH, JJ.

M. Wilson, K.C., and W. Mills, K.C., for the defendant.

O. L. Lewis, K.C., and H. D. Smith, for the plaintiff.