

avenue that were sold were those now in question in the Irvine survey, for the two lots 7 and 8 in the Jubilee survey had been redeemed before the sale. The sale of the lots in question falls, therefore, strictly within the terms of sec. 3 of the Act. In addition to this, it is plain that the owner was not in any way prejudiced by any ambiguity in the advertisement of sale, for both sets of lots were advertised for sale, and the owner must be taken to have known that her taxes were in arrear, and that her lots would be sold. The plaintiff, too, who purchased from the owner after the sale for taxes, has not been prejudiced, for he was aware of it, and treated with the town municipality for the purchase of their tax title, and was offered it at the price of the taxes and expenses.

The plaintiff also asks for a new trial upon the ground that the mayor of Trenton was a material witness, and that plaintiff was prejudiced by his inability to procure his attendance at the trial. He was aware of this, however, when he brought the case on for trial . . . and it is too late now to complain. . . . His proper course was to have asked for a postponement of the trial.

The action was, therefore, properly dismissed, and the appeal should also be dismissed with costs.

See *Lount v. Walkington*, 15 Gr. 332; *Hess v. Harrington*, 73 Pa. St. 438; *Black on Tax Titles*, 2nd ed., sec. 407, notes 131, 132.

WINCHESTER, MASTER.

OCTOBER 31ST, 1902.

CHAMBERS.

MORRISON v. MITCHELL.

Particulars—Statement of Claim—Trade Mark—Infringement.

Motion by defendants for particulars of certain paragraphs of the statement of claim in an action to restrain defendants from infringing plaintiffs' trade mark. Issue was joined and the action entered for trial.

C. A. Masten, for defendants.

Grayson Smith, for plaintiffs.

THE MASTER:—In the 6th paragraph the plaintiffs alleged that their goods had for more than ten years been known and described by the trade mark and design in question, which had acquired a particular reputation and value, and, by reason of such use and application by the plaintiffs, such trade mark and design had become the sole and absolute property of plaintiffs. The plaintiffs should not be ordered