

Assessment]

APPEAL FROM COURT OF REVISION, KINGSTON.

[Cases.]

tered Banks appealed from the decision of the Court of Revision in the City of Kingston to His Honor Judge Burrowes.

John Watkins, in respect of shares of the stock of the Bank of Commerce, the Bank of Montreal, and the Merchants' Bank, alleged to be illegally assessed and assessed to a greater amount than their proper value.

George C. Hale, in respect of shares of the stock of the Bank of Montreal held by him in his own right, and in respect of shares of the stock of the Banks of Montreal and British North America held by him as trustee for Mr. Orlibar; and in respect of shares of the Bank of British North America, the Merchants' Bank, and the Bank of Commerce, held by him in his own name, but of which other persons were beneficial owners; all which shares were alleged to be unlawfully assessed, and to be assessed to a greater amount than their proper value.

The Queen's College, in respect of shares of he stock of the Merchants' Bank unlawfully assessed.

The parties appeared by Counsel as follows:—

Jas. A. Henderson, Q. C., George A. Kirkpatrick, G. M. Macdonell, and Jos. Bowden appeared for the different appellants, and *James Agnew* for the Corporation of the City of Kingston.

BURROWES, Co. J.—After giving this matter the best consideration in my power I have arrived at the following conclusions.—

1. For the purpose of assessment in Ontario all property is divided into real property and personal property. Real property consists of land, including buildings, things forming in law part of the realty, and minerals, except what belongs to the Queen. Personal property consists of all property except real property, and property exempted by the statute: 32 Vict., Ontario, cap. 36, sec. 41.

2. Bank stock is personal property exempted from assessment so long as there is a special tax on bank issues, but no longer: 32 Vict., cap. 36, sec. 9, sub-sec. 16, O.

3. There is no longer a special tax on bank issues: Dominion Statutes, 34 Vict., c. 5, sec. 15; therefore bank stock is personal property liable to assessment.

4. It is clear that the Legislature of Ontario considered that bank stock would be liable to assessment under 32 Vict., c. 36, sec. 4, unless it were expressly exempted from assessment, which they did by sec. 9, sub-sec. 16, of same statute; it was therefore exempt until the exemption was repealed by subsequent legislation.

It is therefore not now exempt, but now forms a part of the personal property defined by sec. 4 not exempted from assessment, and it is liable to assessment as a part of the rateable property mentioned in section 8, same Ontario statute.

5. In assessing bank stock it is to be estimated at its actual cash value: 32 Vict., cap. 36, sec. 30, O.

6. There is a remarkable difference in the manner prescribed for the assessment of real and personal property. Real property is to be assessed in the municipality in which it lies. Personal property owned by a person having a farm, shop, factory, office, or other place of business, where he carries on a trade, profession or calling, shall, *wherever situate*, be assessed in the municipality or ward where he has such place of business at the time when the assessment is made; 32 Vict., cap. 36, sec. 39, and if he has two or more such places of business in different municipalities or wards, he shall be assessed at each for that part of his personal property connected with the business carried on thereat, or for part at one place of business and for part at another: sec. 40; and if he has no place of business he shall be assessed at his place of residence: sec. 41.

7. I consider the effect of these provisions to be that real property must be assessed in the municipality where it lies, and that personal property, *wheresoever it is situated*, must be assessed in the municipality where the owner carries on his business, or if he has no place of business, where he resides.

8. The question of the place where bank stock exists, whether at the chief place of business of the bank, or at the place of business or residence of the owner, is of no importance, inasmuch as it is personal property and therefore, no matter where situate, liable to assessment at the place of business or residence of the owner.

9. The exemption of property which is owned out of this province does not affect any of the bank stocks of which the assessment is complained against, except that of Mr. Orlibar; for all the other owners reside in Ontario.

10. Assessments of property held in the name of one man as trustee for, or for the benefit of another, should be made distinctly from assessments made against a man in his own right: sec. 44.

11. Personal property of the University of Queen's College is exempt from assessment as being the property of a public literary and scientific institution: same statute, sec. 9, sub-sec. 10.