

Mun. Case.]

IN RE APPEAL FROM THE COUNTY COUNCIL OF LINCOLN, &c.

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ships, and the power of the County Council to deal with them. If it was intended that County Councils should have no power to deal with towns and villages, I cannot think the language referred to would have been used. A strong argument against the construction contended for by the appellants, lies in this, that if section 2 is to be so read as to disable Councils from doing any more towards equalization than taking the interest on the amounts at 8 per cent and capitalizing at 10 per cent as the aggregate valuation for towns, it would be in the power of the assessor of any town or village, to fix the proportion payable by his municipality on a county rate, and the County Council would be bound simply to register the wrong. I can see neither reason nor justice in allowing councils to decrease or increase the aggregate valuations of township assessors, but disabling them from doing so in the case of town assessors. I thought, at first, that a solution might be found so as to give effect to every part of the clause, in a levelling down process, in this way, taking the town with the lowest aggregate valuation and decreasing the valuations in all other municipalities, so as to produce a just relation in all the valuations; but then, this could not be done, for there is a plain and positive prohibition against reducing the aggregate valuation for the whole county as made by the assessors.

In the 3rd sub-sec. of same clause, *any local municipality* dissatisfied with the action of the Council in increasing valuation, may appeal. If the meaning of sub-sec. 2, be as contended for by the appellants, a town or village could not be affected by such a decision, but sub-sec. 3, plainly implies that they might be injuriously affected and on no other ground could the right of appeal given to them be justified.

The 72nd sec, plainly implies also that examination of the rolls of *all* municipalities is necessary in the process of equalizing the valuations in the several municipalities. For what purpose, if certain of them are to be taken at arbitrary valuations on the assessors' return? The question seems to me to answer itself.

Section 74 shows that a county rate is to be assessed equally on the whole ratable property of the County, and provides distinctly, that the amount of property returned on the rolls for the *townships*, towns and villages (as finally revised and equalized) is to be the basis upon which the apportionment is to be made, again implying the existence of the power to change the original returns.

I think to give effect to the intention of the Legislature the County Council should perform the duty in the order prescribed—first equalizing the valuations in the several municipalities, towns, townships and villages, as provided in first part of section 71—and then, after doing so, to make the deductions in respect to towns and villages directed in sub-sec. 2.

There is obviously a higher standard of value applicable to farm property than to village property, and so in the every day transactions of business it is estimated. Village property is subject to many incidents calculated to depreciate its value that property in the country is not liable to. A large share of town and village property is also perishable and in its nature

subject to yearly depreciation. The land is not in general productive except when built upon, and cannot be turned to the profitable account that farm property can. All these, it is true, enter into the element of value, and might well be considered in the first instance, but the Legislature has thought it right to fix arbitrarily a difference in value, and whether well-founded or not it must be acted upon.

The course which I think it was the duty of the County Council to follow, I myself have pursued in respect to towns. The County Judge noting in this matter of appeal is possibly invested with unrestricted power to equalize the assessment, as, in his opinion, may be just—the language is certainly broad enough to admit the view—"And such Judge shall equalize the whole assessment of the County." But I have thought it right and more in conformity with the true intention of the law, to be governed by the principle laid down in the law as to valuation respecting towns.

When this appeal was lodged I saw from the nature and extent of the enquiry, if *visu voce* testimony was to be submitted, and the short time allowed by law for making it, that it would be impossible to receive complete evidence from all interested, and evidence upon which I could with safety act, for I felt and I feel that if partial or incomplete testimony were laid before me, it would be worse than useless, and might possibly produce an impression upon my mind not calculated to assist me in arriving at a just equalization of the whole assessment of the County; nor could I have time to analyze and examine it properly, if at all. The costs, also, if the matter was gone into exhaustively, I knew would have been enormous, and these considerations and the wish expressed by all parties in the matter induced me to take it up in the way desired, and to endeavour to do justice to the best of my ability on materials submitted without insisting upon other evidence. I have endeavoured to justify the confidence placed in me, and nearly every day since the appeal was lodged I have been engaged in making, so far as time would permit, a thorough examination of all the rolls and documents before me. I cannot help saying that the manner in which many of the rolls are got up is anything but creditable to assessors. I did not think it possible that such imperfect and slovenly work as some of the rolls exhibit could have been received from the hands of any assessor. And having made a most detailed examination of what each assessor has done, I must state my conviction that assessment under the present system forms, in my judgment, a most unreliable basis of action for county or other purposes.

I will not impose upon myself the painful task of expressing an opinion as to returns of value set upon property by men whose duties are plainly set down in the Act of Parliament, and who are required to verify on oath the full certificate necessary to be placed upon their completed roll; but I will say it is small wonder that year after year the County Councils find such difficulty in agreeing on an equalization, and that the equalization when made, is generally after a long struggle on the part of municipalities.