

J. G. Kerr, for the appellant company.

J. M. Pike, K.C., for the township corporation, respondent.

MEREDITH, C.J.O., in a written judgment, said that the assessment was for the taxable income, including Government bonus, from two oil and gas wells numbered 1 and 7, and the amount of the assessment was the same as to both wells—\$35,000. On appeal to the Judge of the County Court, the assessment was reduced to \$62,376.81, and the assessment as so reduced was confirmed by the Board.

The method adopted by the County Court Judge was to find the gross income derived from the operation of the two wells and to deduct from it what was paid by way of royalty to Myers, the owner of the land, under the terms of his lease to the appellant company, and the cost of operating the wells.

The appellant company contended that there should also be deducted from the gross income what was spent in drilling the wells and other wells on property leased from Myers, and the expenditure of the company in 1917, which exceeded the revenue in that year by \$67,839.14.

The learned Chief Justice agreed with the contention of the appellant company that so much of the product of the wells as was represented by the value of the oil or gas in situ was not, for the purpose of the assessment, income, and that the value of it should be deducted from the revenue derived from the wells. In the absence of other evidence of its value, it must be taken that it was represented by the royalty paid to the owner of the land; and that had been deducted from the gross revenue.

The learned Chief Justice then quoted the Assessment Act, sec. 40 (1), (5), and (6).

Each gas or oil well—being a mine or mineral work—is to be treated as a separate entity, and the income from it is to be separately assessed.

The meaning of "income," as defined by sec. 2 (c), as applied to "a trade or commercial or financial or other business or calling," is the profit derived from it, and includes the profit or gain from any source.

It is not the income from the business carried on, but the income from the mine or mineral work, that is to be assessed.

If the learned Chief Justice had come to a different conclusion, he would have agreed with the view of the County Court Judge and the Board that the losses in the appellant company's operations in a former year or years and the cost of drilling other wells ought not to be deducted from the gross income from wells 1 and 7—the only producing wells in 1918. The losses in previous years were losses of capital; and, though it would be quite proper, in