

MUNICIPAL LAW.

THE APPEAL OF TRUSTEES OF THE McMASTER ESTATE.

*Assessment of trustees—Liable as though actual owners
—Assessment Act s. 46.*

Appeal by the trustees of the above estate from the assessment of the income coming to their hands as such trustees, derived from the principal money of the estate. The major part of the income of the above estate went to a university as an endowment fund. The trustees contended that such portion of the income was not taxable inasmuch as the annual expenditure of the university exceeded their gross revenue from all sources, and, as the university would not be assessable for any sum whatever, the portion of the income coming to it from the endowment fund is not assessable in the hands of the trustees.

Held, that as the Assessment Act ignores the existence of trusts and deals only with the persons holding the property as though they were actual owners the income coming into the hands of the trustees was assessable.

[Toronto, Nov. 8, 1899—McDougall, Co. J.]

This was an appeal by the trustees of the estate of Hon. William McMaster, resident of Toronto, from the assessment by the City of Toronto of the income coming into their hands as such trustees derived from the investment by them of the principal moneys realized from said estate or arising from the unrealized outstanding assets. By the terms of Mr. McMaster's will all his estates (save his private residence and its contents, which his wife was to be allowed to occupy during her pleasure, but at her death, or when she ceased to reside therein, the residence and contents should form part of his estate) was bequeathed to his trustees in trust to call in, convert, realize, sell and dispose of as they in their discretion deemed best, and after payment thereof of debts and funeral and testamentary expenses, and a large pecuniary legacy of his nephew, to hold the balance of the proceeds subject to the payment of certain annuities as an endowment for McMaster University. The will further recited that until the death of the annuitants, or their refusal to accept payment of their annuities, the trustees should invest the balance of the proceeds realized from his estate after payment of debts and the specific legacy to his nephew in such securities as the trustees should think proper subject to the supervision of a committee on investments to be appointed by the Board of Governors of the said University. The will then directed that out of the income arising from such investments certain annuities should be paid to his wife and several other persons, and that the balance of such income, after payment of all necessary expenses and outgoings, should be paid over from time to time as the same should come into the hands of the trustees to the Board of Governors of McMaster University, to be by them employed for the promotion of the work of the said University, requesting, however, the Board of Governors to devote not less than fourteen thousand five hundred dollars per annum (\$14,500) to the Toronto Baptist College as the faculty of theology of the said University. After the death of the annuitants, or their refusal to accept their annuities, the will directed that