

RIDDELL, J.

MARCH 20TH, 1920.

*NOBLE v. TOWNSHIP OF ESQUESING.

Assessment and Taxes—Lands Acquired by Upper Canada College—Exemption from Taxation—Upper Canada College Act, R.S.O. 1914 ch. 280, sec. 10—Assessment of College notwithstanding Exemption—Appeal to Court of Revision—Allowance of Appeal—Substitution of Tenant of Land as Person Assessed—Assessment Act, sec. 69 (16)—Change Made without Notice to Tenant—Invalid Assessment—Declaration of Court—Curative Provisions of sec. 70 not Applicable—Lease to Tenant for 10 years Made in 1916—Amendment to Upper Canada College Act in 1919, by 9 Geo. V. ch. 80—Land Made Assessable in Hands of Tenant—Interpretation of Statute—Non-retroactivity—Existing Tenancy not Affected—Land not Assessable under Existing Lease.

Motion by the defendants to dissolve an interim injunction, turned by consent into a motion for judgment.

The motion was heard in the Weekly Court, Toronto.

A. C. McMaster, for the plaintiff.

G. L. Smith, for the defendants.

RIDDELL, J., in a written judgment, said that Upper Canada College, having bought and become the owner of certain land in the township of Esquesing, and not desiring to use it for a time to build upon, on the 11th May, 1916, rented it to the plaintiff for a sheep farm for ten years from the 17th November, 1916, at a rental of \$600 per annum.

At the time of the lease the lands were exempt from taxation under the provisions of the Upper Canada College Act, R.S.O. 1914 ch. 280, sec. 10; and the tenant made his contract with that fact in view. In or before April, 1919, the land was assessed under the name "Upper Canada College," and notice was given to the College on the 21st April, 1919: Assessment Act, R.S.O. 1914 ch. 195, sec. 49. The College appealed, and the appeal was allowed by the Court of Revision on the 9th June. The Court, purporting to act under sec. 69 (16) of the Assessment Act, changed the assessment into the name of the plaintiff; and at once adjourned, not to meet again. No notice was given to the plaintiff, as required by sec. 69 (16), and he never had an opportunity of laying his case before the Court of Revision or the County Court Judge.

The township corporation, the defendants, were said to be proceeding to collect the amount of taxes from the plaintiff, when he brought this action and obtained an interim injunction.