

ROSE, J.

JULY 7TH, 1920.

SWAYNE v. SYNOD OF DIOCESE OF ONTARIO.

Church—Rectory Lands—Rents and Profits and Revenue from Proceeds of Sale—Excess over \$2,000 per Annum Distributable among Incumbents of Churches in Township other than Original Church—Act to Amend Synod and Rectory Sales Act Affecting Diocese of Ontario, 1876, 39 Vict. ch. 109, secs. 3, 4 (O.)—Accounting by Rector of Church and Synod of Diocese—Sale of Lands not Coming within Description in Statute—Rent not Chargeable in Respect of Rectory and Parish-house—Deduction of Taxes Charged against Rectory—Proceeds of Sale of School-house and Land, Sanctioned by 2 Geo. V. ch. 159 (O.)—Application of Excess-revenues—Basis of Accounting—Costs.

Action by the rector and wardens of Christ Church, Belleville, against the Incorporated Synod of the Diocese of Ontario and the incumbent of the Church of St. Thomas (rector of Belleville) for an account of the rents, issues, and profits of certain lands held for the benefit of the rectory of Belleville and of the income derived from the invested proceeds of the sale of certain lands, and for payment to the incumbent of Christ Church, or to him and the incumbents of any churches of the Church of England in the township of Thurlow, of any amount by which such rents, issues, profits, and income have exceeded \$2,000 in any year since 1902.

The action was tried without a jury at Napanee.

E. G. Porter, K.C., and G. F. Ruttan, K.C., for the plaintiffs.

J. B. Walkem, K.C., for the defendant Synod.

W. S. Herrington, K.C., for the defendant Beamish, the rector of Belleville.

ROSE, J., in a written judgment, said that the claim was based upon the Act to amend the Synod and Rectory Sales Acts affecting the Diocese of Ontario, 1876, 39 Vict. ch. 109 (O).

The first question was as to the revenue derived from the investment of the proceeds of the sale of land conveyed to the Grand Trunk Railway Company in 1862. The plaintiffs contended that this revenue, the annual sum of \$192, ought to be taken into account as part of the revenues dealt with in sec. 4 of 39 Vict. ch. 109. The learned Judge said that the contention was not well-founded. The fund from which the \$192 a year was