

Mun. Case.]

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

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which they (the appellants) were to be confined in evidence, and I required similar declaration and claim from the other municipalities desiring to be heard and with the like object—these declarations were all put in—as the duty might be thrown upon me to equalize the whole assessment for the County. I further stated that I was prepared, so far as time would allow, to hear evidence submitted by any municipality to assist me to a just equalization, and I named the day when I would commence taking any evidence that might be submitted to me. In the course of the discussion as to the division of the time available for *viva voce* testimony, it was proposed to leave the matter in my hands upon the documentary evidence of a public character that I might call for, and that I was to proceed to hear and determine the matter of the appeal under the power and provisions of sub-sec. 8 of sec. 71, of the Assessment Act, it being understood that I might use my personal knowledge in such determination, and to this all the municipalities appearing assented.

The equalization made by the County Council, and the table upon which they acted, were put in evidence in the regular way and the rolls for 1868 were likewise produced, upon the call of the appellants, from the custody of the county clerk, who also subsequently furnished certain statements or abstracts from the rolls (the correctness of which I tested for myself).

No other evidence was given or tendered to me on behalf of any municipality in the county, and I have in fact been left to determine upon the same material that was or ought to have been before the County Council in making the equalization. And upon that material in the absence of any other evidence I have equalized the whole assessment of the county, and in so doing determined necessarily the specific matters appealed.

It was understood, I know, that I was not to go into the reasons why I had arrived at certain conclusions, why decided in a certain way—but simply to give judgment; yet, as I had necessarily to decide to the best of my ability the matter of law argued before me, I think it right to state the grounds which led my mind to a conclusion as to the proper construction of the law.

The assessments are made in each municipality by a local officer appointed for the purpose by the corporation of the town or township.

The work of twenty-three or more officers, each acting independently in performing a difficult duty, is not likely to present results showing a just relation between all the valuations throughout a county.

In respect to the question of value also, it is not easy to satisfy the judgment, and no two persons, I am sure, would be likely without conference or inter-communication, to arrive at similar results even upon similar material. In point of education, in soundness of judgment, and in fitness for the duty there must be a great diversity amongst the assessors.

The law not providing for the assessment for the whole county by a limited number of men, acting together and guided and governed by uniform principles, but by separate and independent valuers, it was obvious that great injustice might be wrought if every municipality was in

effect, allowed to say how much it would contribute to a county rate, and so doubtless the provision in sec. 71, was made to enable the County Council so to deal with the valuations made by individual assessors, as to make them present a just basis in apportioning a county rate.

The section referred to shows how this is to be accomplished.

First. The rolls for the preceding year are to be examined by the Council of the County “for the purpose of ascertaining whether the valuations made by the assessors in each township, town or village bear a just relation to the valuation so made in all such townships, towns and villages.”

Second. They must, according as justice may require, increase or decrease the aggregate valuations of property (of real and of personal property) in any township, town or village, by adding or deducting; so much *per centum* as may in their opinion be necessary to produce a just relation between all the valuations of real and personal estate throughout the county.

This duty it is made incumbent upon County Councils to perform, and the object to be accomplished is plainly indicated, viz:—That property set down in one or more townships or towns at half or one-tenth it may be of its value,—the valuations in other towns or townships being but 10 per cent, or some other figure under actual worth—may not be allowed to so remain, but by deducting from some, or adding to others, or otherwise by levelling up or down to some one standard, all may be brought into just relations of value over the whole County. In doing this, however, there is a restriction in the latter part of the clause, That the aggregate valuation for the whole county is not to be reduced; the figuring may be increased, but is not to be brought below the sum of the aggregate values on the rolls; the just relation in value spoken of in section 71, being produced by the action of the Council as stated therein.

Sub-section 2 discriminates between town and country property, declaring as I understand it, that town property as compared with country property, shall be arbitrarily reduced to three-fifths.

I am pressed with the difficulty of reconciling the language in the first and second sub-sections. But when I look at the obvious intention of the law, I cannot think the legislature invited and directed the Councils to do that which in the next line (if the sub-section is to be construed as leaving them, the County Council, only a ministerial duty as regards towns) they are prohibited from doing.

By the first sub-section, the council are to “examine the rolls of towns, villages, and townships.” Why examine the rolls of towns, villages, and townships? Why examine the rolls of towns unless for the purpose after-mentioned? They are to see whether the valuations in the towns and villages (towns again) are in just relation to the valuations in all the towns and villages and townships in the county and they may increase or decrease the valuations in any, not a township only, but in any town, village or township adding or deducting, &c. Towns and villages are mentioned no less than four times in the clause, and in direct connection with town-