

SUPREME COURT OF CANADA.

ALLA.] SOUTHERN ALBERTA LAND CO. v. RURAL [May 2.
MUNICIPALITY OF MCLEAN.

Municipal corporation—Assessment and taxation—Exemptions—Crown lands—Allotment for irrigation purposes—Ungranted concession—Construction of statute—Constitutional law—Words and phrases—“Land”—“Owner”—“Occupant”—B.N.A. Act, 1867, s. 125—Alberta Rural Municipality Act, 3 Geo. V., c. 3.—Irrigation Act, R.S.C., 1906, c. 61.

Under sections 249, 250 and 251 of the Alberta Rural Municipality Act, 3 Geo. V., chap. 3, as amended by section 30 of the statutes of Alberta, 4 Geo. V., chap. 7, the allottee of lands for irrigation purposes, under the Irrigation Act, R.S.C., 1906, chap. 61, which continue to be Crown lands of the Dominion of Canada, is an “occupant” of “lands” within the meaning of those terms as defined by the interpretation clauses of the Rural Municipality Act and has therein a beneficial and equitable interest in respect of which municipal taxation may be imposed and levied. Such interest is not exempt from taxation under sub-section 1 of section 250 of the Rural Municipality Act, nor under section 125 of the British North America Act, 1867. *Calgary and Edmonton Land Co. v. Atty. General of Alberta*, 45 S.C.R. 170, and *Smith v. Rural Municipality of Vermilion Hills*, 49 S.C.R. 563, applied.

The Chief Justice and Duff, J., dissented.

Per Fitzpatrick, C.J.—Sections 250 and 251 of the Alberta Rural Municipality Act make no provision for the assessment and taxation of an interest held in lands exempted from taxation.

Per Anglin, J.—The provisions of the Alberta Rural Municipality Act relating to assessment and taxation which could affect such lands as those in question deal only with interests therein other than that of the Crown and their value.

Judgment appealed from, 23 D.L.R. 88; 31, West. L.R. 725, affirmed, Fitzpatrick, C.J., and Duff, J., dissenting.

I. C. Rend, for appellants. *Chrysler, K.C.*, for respondent.