

rated as such, and in respect of which a more favourable rate of taxation is to be levied than upon all other property within the corporation. This distinct class is defined to be "lands held and used as farm lands only."

I therefore think it was the duty of the assessor to assess all property, appurtenant to the farm lands, used for residential purposes, with a reasonable amount of land attached thereto, as a separate parcel, and to rate the remaining portion "held and used as farm lands only" in another and distinct parcel. I am confirmed in this view by the provision of s.s. 3, by which any person, claiming exemption in whole or in part, is required, in his notice of claim, by some intelligible description, to indicate the land and quantity as nearly as may be in respect of which such exemption is claimed. This has not been done, and the effect is that lands upon which costly residences are erected are classified and rated as "farm lands," and so become entitled to the benefit of the exemption. In many cases farm lands may be regarded as appurtenant to a residence, rather than the house and premises be an appurtenance of the farm.

The council, by their by-law, have practically declared that *all* the lands of the appellants, set out in the schedule, are entitled to exemption, and have endeavoured to get over the difficulty by establishing a percentage of rebates thereon, varying from zero to 80 per cent.

On the other hand, the appellants are in equal fault, for they have omitted in their appeals to "indicate the land and quantity in respect of which exemption is claimed."

I do not feel inclined to endeavour to put the assessment of these appellants' property upon what I consider to be a proper basis. I am not a skilled assessor, and any interference with the assessment would not be satisfactory, and least of all to myself.

Practically, then, I have to limit my duty to considering whether the percentages established by the by-law are fair, under the circumstances, to the parties affected as well as to the ratepayers generally; for it is to be remembered that these rebates are lifted from the shoulders of the appellants and placed upon those of the remaining ratepayers.

This matter is a fair illustration of the difficulties which arise from entrusting matters of law and legal construction to the members of a lay tribunal. Such a body, if not swayed by caprice, prejudice, or combination, is apt to act by way of compromise.

It is difficult to otherwise account for some of the rebates, except as disclosed by the argument, by which it appears that the committee in charge discussed and took into consideration the personal benefit or convenience of the parties, owners or occupants. This, I think, was an error. The personal element should be altogether eliminated. It is not proper to endeavour to estimate how much or how often the owner or his family use or are benefited by the sidewalks, sewers, or lighting. The ownership or occupancy is continually shifting; the lands remain unchanged from year to year. It is the "advantage, direct or indirect, to the *lands*, arising from improvements," that is alone to be considered in determining the exemptions.

The words in the Act, "exempt or partly exempt," justify a scheme of percentages. This should apply only to such lands as the by-law designates as