

LATCHFORD, J., IN CHAMBERS.

FEBRUARY 13TH, 1920.

*REX v. THOMPSON MANUFACTURING CO.

Revenue—Income War Tax Act, 1917, secs. 7, 8, 9—Magistrate's Conviction for Default in Making Return of Income—Penalty—Amount of—Discretion of Magistrate.

Case stated by R. E. Kingsford, Esquire, a Police Magistrate for the City of Toronto, under sec. 761 of the Criminal Code.

Norman Sommerville, for the Crown.
R. O. Daly, for the defendant company.

LATCHFORD, J., in a written judgment, said that on the 26th November, 1919, an information was laid under oath before the magistrate alleging that the defendant company did on the 3rd November, 1919, and on every day thereunto following, up to and including the 8th November, 1919, fail to make a return of information for the year 1918 required of the company to be given under the provisions of sec. 8 of the Income War Tax Act, 1917, 7 & 8 Geo. V., ch. 28, and amending Acts (Dominion).

The charge was duly heard by the magistrate on the 17th December, 1919. The defendant company pleaded "guilty," and was convicted. The magistrate imposed a penalty of \$200 and costs.

At the request of counsel for the informant, the magistrate submitted for the judgment of the Court the questions:—

(1) Whether he was required by sub-sec. 1 of sec. 9 of the Income War Tax Act, 1917, and amending Acts, to impose a penalty of \$100 for each day on which default continued.

(2) Whether he was entitled, under the said Acts, to exercise a discretion enabling him to impose a penalty of \$200 for the 6 days' default for which the defendant company was convicted.

Section 7 of the Income War Tax Act imposes on every person liable to taxation under the Act the obligation of making, before the 28th February in each year, a return of his total income during the last preceding calendar year.

Under sec. 8, the Minister of Finance may, *inter alia*, require a return containing such information as he deems necessary to be furnished him, within 30 days; and any officer authorised thereto by the Minister may make such inquiry as he may deem necessary for ascertaining the income of any taxpayer.

* This case and all others so marked to be reported in the Ontario Law Reports.