

Assessment]

APPEALS FROM THE COURT OF REVISION OF COBOURG.

[Case.]

held to be free from assessment. The section was intended to favour those banks which adopted the system there proposed, and the restrictions imposed by the section were considered a burthen equal to the tax and in lieu of it. The Provincial Legislature, it may be well argued, could never have intended such gross injustice as to make the stock subject to an assessment, which would have had the effect of taxing these banks which the Act intended to favour far beyond the banks which were in express terms freed from assessment in consequence of the duty to which they were already subject. If this view be correct, and to me it seems very reasonable, then the further question arises whether there may not be an equivalent for the tax in the enactments of the Dominion Act, which relieves the banks specially enumerated from the tax upon their issues. If the tax be remitted only upon a condition of some restriction equal to and intended to be in place of the tax, the reason for exemption would be still applicable.

This reasoning at least raises a claim for an interpretation against the assessment if there be a doubt, and a doubt will, I think, be entertained by every one who gives consideration to the subject. I am clearly of opinion, therefore, that the stock should not be assessed until the Provincial Legislature has been afforded the opportunity of considering the effect of the Dominion Act exempting the issues from taxation.

I should have desired, before coming to a decision in this matter, to have taken much longer time for consideration, had it been possible, but the assessment rolls must be finally settled by the fifteenth of this month and further delay might prevent the necessary amendments of the rolls in conformity to the opinion I have so far formed.

The matter is of less importance, as the decision will, in all probability, be of no importance after the current year, as the legislature, before another period for assessment comes round will, I have no doubt, have passed an Act explanatory of their views.

To have assessed the parties who have appealed would, to some extent, have been exceptional. In the municipality of Cobourg, for instance, where a very large amount of stock is held by a private savings bank and other parties, the Court of Revision have determined that the stock is exempt from taxation. No appeal has been made from that decision. I have, however, endeavoured not to permit this fact to influence my opinion, but to arrive at a conclu-

sion founded only on the language of the Act and what I conceive to have been the intention of the legislature.

*Appeals allowed.*

(Note by the Editors C. L. J.)

The same point came before the learned judge of the County Court of Peterboro', who arrived at the same conclusion. He did not, however, give a written judgment:

His Honor Judge Wilson, of Norfolk, who holds that Bank Stock is liable to Assessment, has kindly sent us an extract from a paper he read before the County Judges at their recent meeting, in which he says:—

"I think the Appellants' contention that under Confederation Act Bank Stock cannot be assessed, is untenable, as this is not a question concerning 'Banking,' but 'Assessment.' As to the further contention, that sec. 4 of the Banking Act of 1870 virtually taxes the issues, I think it also untenable, as sec. 5 of that Act expressly exempts the issues from taxation; and, the other question is not whether sec. 4 operates prejudicially to holders of bank stock or not, but simply whether there is a special tax on these issues or not. It may be suggested that the abolition of the tax on the issues was intended by the Legislature as a *compensation* for the deprivation of the right to issue notes for less than four dollars, and any other burdens that the abolition of such tax might entail on the stockholders, and that therefore the holder of bank stock is virtually in no worse position than if the tax on the issues had been retained. However, whatever the intention of the Legislature or the effect of this enactment, all that we have to enquire into is, whether there is a special tax on these issues or not, and I think clearly there is not. As to the Appellants' last contention, I do not think that stock in banks, with head offices out of Ontario, can be said to be 'personal property,' owned *out* of this Province, where the owners of such stock reside *in* this Province."

It may not be out of place here to reproduce the opinion of two eminent counsel (Hon. J. H. Cameron, Q.C., and Hon. Edward Blake, Q.C.), on the question being submitted to them by the Assessment Commissioner of the City of Toronto, already published in the proceedings of the City Council. The opinion is as follows:

"First.—By the Assessment Act the shares of incorporated companies were liable to municipal taxation in the hands of the stockholders, but the stock of banks was exempt from such taxation so long as the issues of such banks were liable to the general tax existing when the Assessment Act was passed, and this exemption being exceptional and temporary, ceased as to those banks, the issue of which are no longer taxable under the Banking Act; and therefore, in our opinion, such bank stock is now liable to municipal taxation, but we consider that bank dividends should not also be taxed, although we do not say that they are not taxable.

"Secondly.—The stock of any such bank doing business and having offices or agencies in Ontario, and the stock of which may be transferred by law, within Ontario, although the head office may be without this Province, is taxable as the personal property of the person owning the same and resident in this Province.

"Thirdly.—The stock is taxable at the time when the other personal property is assessed."