

MASTEN, J.

NOVEMBER 5th, 1917.

*CITY OF TORONTO v. QUEBEC BANK.

Assessment and Taxes—Business Tax—Bank Ceasing to Do Business in Municipality—Taxes Based on Assessment of Previous Year—Assessment Act, sec. 95 (3) (7 Geo. V. ch. 45, sec. 9)—“Removal from Municipality of Person Assessed”—“Person”—Interpretation Act, sec. 29 (x)—Court of Revision—Power to Remit Taxes—Assessment Act, sec. 118 (1) (7 Geo. V. ch. 45, sec. 11).

Motion by the Corporation of the City of Toronto, the plaintiff, for judgment on the pleadings, in an action to recover from the defendant bank the amount of a tax known as “business tax” for the year 1917.

The defendant bank transferred its assets in the city of Toronto to the Royal Bank of Canada on the 31st December, 1916, and had not done business in the city during 1917. The defendant bank contended that it was not liable to pay the tax for that year.

The motion was heard in the Weekly Court at Toronto.
C. M. Colquhoun, for the plaintiff corporation.
Gideon Grant, for the defendant bank.

MASTEN, J., in a written judgment, after setting out the pleadings, said that the case was argued on the assumption that the facts were as stated in the defence.

The defendant took the preliminary objection that the application was premature, and relied upon sec. 118 (1) of the Assessment Act, R.S.O. 1914 ch. 195 (sec. 11 of the Assessment Amendment Act, 1917, 7 Geo. V. ch. 45), whereby the Court of Revision is empowered to give a remission or reduction of taxes where the person assessed “for business” has not carried on business for the whole year in which the assessment was made. As to this objection, the learned Judge said that the application to the Court of Revision is a proceeding independent of and unconnected with the action, and that application might be made thereunder by the defendant, even though the taxes were found to be legally payable. Objection overruled.

The learned Judge then referred to sec. 10 (1) (c) of the Act, and said that the defendant occupied and used land for the purpose of its business during 1916, and the assessment roll