

Henderson & Small, Toronto, and Blake, Lash, & Cassels,
Toronto, solicitors for the appellants.

T. Caswell, Toronto, solicitor for the respondents.

McDOUGALL, Co. J.

DECEMBER 26TH, 1901.

COUNTY COURT OF YORK.

RE NASMITH AND CITY OF TORONTO.

*Assessment and Taxes—Personal Property—Choses in Action—
Property not already Assessed—Court of Revision.*

Appeals by Mrs. J. D. Nasmith, Miss E. M. Clark, and Miss H. Clark from the decision of the Court of Revision for the city of Toronto, placing their names on the assessment roll in respect of certain personal property.

J. H. Macdonald, K.C., for the appellants.

J. S. Fullerton, K.C., for the city corporation.

McDOUGALL, Co. J.—In this case the Nasmith Company were assessed upon personalty for \$17,000, and appealed to the Court of Revision on the ground that the same was too high, contending that, if the indebtedness in respect of such personalty were deducted pursuant to sub-sec. 24 of sec. 7 of the Assessment Act, the assessable amount would be found to be less than \$17,000. When the matter came up before the Court of Revision the appellants proved that they were indebted to the following persons in respect of such personal property: Mrs. J. D. Nasmith, \$2,482; Miss E. M. Clark, \$1,336; and Miss H. Clark, \$1,578: and the Court of Revision reduced the general assessment of the company to \$15,000 for personal property. Pursuant to sub-sec. 15 of sec. 71 of the Assessment Act, four days' notice was given to these three creditors, and the Court of Revision then placed their names on the assessment roll for the above several sums as personal property in respect of which they, the creditors, were liable to be assessed. The three creditors appealed, and I allowed their appeal upon the ground that the Court of Revision had not the power to place them on the roll. The property in respect to which the Court of Revision sought to assess them, namely, choses in action, had not been previously assessed at all, and, although the Court has the power to assess A. (upon giving him a four days' notice) for property which had been improperly assessed in B.'s name, yet A. could only be assessed in respect of some portion or all of the property already assessed or purporting to be assessed.

Now, the property of these three appellants had never been in fact assessed at all. Had the department known they possessed personal property in the shape of choses in action or debts due them, the same could have been properly assessed to them. What had been assessed was the