

sufficiently corroborated: *Radford v. Macdonald*, 18 A. R. 167; *Green v. McLeod*, 23 A. R. 676.

Judgment accordingly.

Delahaye & Reeves, Pembroke, solicitors for plaintiff.
J. H. Burritt, Pembroke, solicitor for adult defendant.
J. Hoskin, Official Guardian.

McDOUGALL, Co. J., York.

DECEMBER 26TH, 1901.

ASSESSMENT CASE.

RE McMASTER ESTATE.

Assessment and Taxes—Exemptions—Trustees—Income—R. S. O. ch. 224, sec. 46—63 Vict. ch. 34, secs. 3, 4.

The income derived from the property vested in the trustees of the estate of the late Honourable William McMaster was held by the Court of Appeal, affirming the judgment of the senior Judge of the county of York, to be, for assessment purposes under R. S. O. ch. 224, their own income: 2 O. L. R. 474. Subsequently R. S. O. ch. 224 was amended by 63 Vict. ch. 34.

In 1901 the trustees were assessed as theretofore, and the assessment was confirmed by the Court of Revision for the City of Toronto. This appeal was then taken by the trustees, and heard before McDOUGALL, senior Judge of County Court of York.

George Bell, for the trustees.

J. S. Fullerton, K.C., for the city of Toronto.

McDOUGALL, Co.J.—In this appeal the assessment department has assessed the income of the McMaster estate in the hands of the trustees, which income, under the will of the late Hon. William McMaster, is payable to the trustees of McMaster University for the purposes of the University. In 1899 I held this income was properly assessable in the hands of the estate trustees, and, upon an appeal to the Court of Appeal, my conclusion was upheld. While that appeal was pending the Legislature amended sec. 46 of the Assessment Act by 63 Vict. ch. 34, secs. 3 and 4. The amended section now reads as follows, the amending words being in italics:

46. (1) Personal property in the sole possession, or under the sole control of any person or trustee, guardian, executor, or administrator, *and which if in the possession of the beneficiary or beneficiaries would be liable to taxation*, shall be assessed against such person, trustee, guardian, executor, or administrator alone.