

officials and their salaries as well as all other residents.

Mr. Justice Idington.

The question is raised in this appeal of the power of a municipal corporation to tax the appellant (in common with other ratepayers taxable for income), in respect of that part of his income derived from salary for services in the civil service of the Dominion Government.

It was decided over thirty years ago in the case of *Leprohon v. The City of Ottawa* (1), first by the learned trial judge and, on appeal by the Court of Appeal for Ontario, that the municipalities had no such power. The late Chief Justice Spragge, in that case at page 526, put this holding on the ground of the incompatibility between the power of the Dominion, under the British North America Act, to fix a salary and the exercise of a municipal taxing power derived from the

province to tax for municipal purposes such a salary in common with all other incomes by way of salaries.

It is a fundamental principle that must be observed in the exercise of any municipal power either of taxation or otherwise, that it must be exercised uniformly and without discrimination of persons or corporations or classes. Such had been the exposition of municipal law in this country before confederation.

It therefore seems hard to conceive of it being intended that there should be implied (for it is not expressed) in section 92 of the British North America Act, in assigning to each province the exclusive power of making laws in relation "to municipal institutions in the province" that there must be one class which was to have this partial discrimination reserved in its favour. That, up to 1867, incomes had not been assessed or incomes derivable from this or other specified

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