

Reports and Notes of Cases.

Province of Ontario.

COUNTY OF PETERBOROUGH.

ASSESSMENT APPEAL.

Huycke, Co. J.] IN RE BEST AND WALTON. [Dec. 28, 1920.

Held, that under 5 Geo. V., ch. 50, sec. 5, sub-sec. 20, all incomes from investments over \$800, as well as all such incomes under that amount if the total income of such person exceeds \$1,500, are taxable, but in such case only.

R. R. Hall, for Best and Walton.

C. H. Widdifield, for City of Peterborough.

HUYCKE, Co. J.:—These are two appeals, both involving the same principle, from the city assessment, confirmed by the Court of Revision. The trouble arises from different interpretations of 9 Geo. V., ch. 50, sec. 5, which is a substitution for R.S.O. ch. 195, sec. 5, sub-sec. 20, referring to exemptions. In both cases the income from investment, etc., exceeds the \$800 mentioned, but in each case the total income of "such person" does not exceed \$1,500. The Court below held both such incomes not exempt, and in my judgment the appeals must fail. This conclusion has not been reached without much hesitation and some doubt, which doubt still exists. The section is obscure and ambiguous and susceptible of both interpretations placed upon it. My task is to find, if I can, the meaning of the Legislature and once found to give it effect.

I think the meaning is to tax all incomes from investments, etc., over \$800, and also to tax such incomes under that amount if the total income of "such person" exceeds \$1,500, but in such case only. In other words, an income of say \$850 from investments is in any case taxable while one of say \$750 is only taxable if such amount, added to personal earnings or any other income, it all aggregates \$1,500 or more.

This is the best conclusion I can come to after much thought and careful consideration, but I am not absolutely sure such conclusion is correct. If this is not what the Legislature means it should, I think, be asked to make its meaning more explicit. The result is that both these appeals are dismissed.