

the person of the owner. The words, "and which if in the possession of the beneficiary or beneficiaries," I think, must be taken to mean or to be equivalent to the words, "as if the same were assessed in the name of the beneficiary or beneficiaries himself or themselves," that is, the fact of the same being vested in a trustee is to be disregarded in considering its liability to taxation. If the beneficiary was a non-resident, the amount coming to him would be treated precisely in the same manner as the personal property of other non-resident owners and liable to taxation, *sub modo*, under the provisions of sec. 38. If the effect of the amendment is as wide as was contended for, then all personal property of non-resident owners standing in the name of a trustee ceases at once to be taxable because such personal property is to be considered as attached to the person of the owner and treated for assessment purposes as personal property not situate in the Province. The far-reaching effect of such an interpretation of the law would be almost incalculable. Millions of dollars of personal property in the hands of trustees on account of non-resident owners would under such a meaning become exempt.

In the Macpherson estate appeal, then, I am of opinion that, if the sums payable to the non-resident beneficiaries are in the nature of income, it is liable to the same burdens and entitled to the same exemptions as the income of residents of this Province, and the appeal will, therefore, be allowed to the extent above indicated.

The appeal in the Hamilton estate presents some different features upon the facts. In that case the principal part of the estate is in the Province of Quebec, where the testator lived and died. Two trustees reside in Ontario and one in Quebec; the accounting by the trustees is at Quebec, whence the payments to the beneficiaries are made. The sum sought to be assessed is the annual interest, some \$5,000, upon investments in Toronto, part of such investments having been made by the testator in his lifetime and part of them made from estate funds by the trustees in Toronto since the testator's death. Two of the beneficiaries live in Ontario, and three out of the Province, and the income, as I understand the statement of counsel, is ascertained at Quebec, and the different shares transmitted to the several persons entitled from that point. For the reasons given in the Macpherson estate appeal, I am of opinion that the interest collected from investments in Toronto is taxable in this municipality subject to the exemption contained in the statute of \$400 in respect of each beneficiary.

The appeal will, therefore, be allowed to the extent above indicated.