

JUDGE RESERVES HIS JUDGMENT IN ANNEX TAX FIGHT

Kelly States Time Needed For Complete Study of Case.

FIRM'S TEST CASE

Justice Kelly reserved judgment yesterday in the non-jury sessions of the supreme court in the case of the McCormick Manufacturing Company against the city of London whereby the company claimed exemption from any taxes demanded by the city over and above the 15 mills on the dollar.

agreed upon in the annexation agreement in 1912 when the areas of Pottersburg and Ealing were added to the city.

Judgment has been sought on this issue by this particular firm as a test case and the decision of the judge applies to all manufacturers in the area mentioned. J. C. Elliott, K. C., and R. Key appeared for the company, and the city solicitor, T. G. Meredith, for the city. The case lasted all through the morning session until 4:20 in the afternoon. In the process of questioning City Clerk Baker, Mr. Elliott elicited the information that the clerk had approached several ratepayers in the annexed district with a view to adding their names to the petition for annexation in 1912 and that he had used the argument of a fixed period of assessment at 15 mills on the dollar as part of his statement to them on the question.

Request by Committee.

Mr. Baker said he did this on the advice and at the request of several members of the special committee of the city council formed in 1912 to deal with the matter. Mr. Spittal was the chairman of this committee. The city has assessed the company for a business tax this year of \$5,600. This is the sum they are objecting to pay. They claim that both in the annexation agreement and in the agreement between the city and the company that there was no intention or wording that the 15 mills rate should not be maintained for 15 years in the area.

Evidence was given by Miss Mary Grant, clerk of the County of Middlesex, C. Turner, collector of taxes for the city, Assessment Commissioner Bennett, Mr. Spittal and Colonel Graham which corroborated that of the city clerk.

Not Legally Possible.

Mr. Meredith, quoting the public schools act, stated that it was not legally possible for any municipality in Ontario to exempt any part of itself from payment of school taxes, and added that according to this rule and to several decisions of the privy council the agreement made by the city in 1912 as to the annexation of Pottersburg and Ealing in regard to this exemption was illegal and that the residents out there had been granted exemption at the expense of the ratepayers in the rest of the city. In reserving judgment, Justice Kelly, with a large array of exhibits before him, said he needed some time in which to consult the authorities on cases cited. There was a question raised at the opening of the case by Mr. Elliott as to the authority of the supreme court in trying this case, as he held that only the Ontario Railway Board had the necessary authority being responsible for the original agreement. Justice Kelly leaned to the belief that his court had power to deal with this appeal, though he reserved his decision on this as in the settlement of the case itself.

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