

MCCREIGHT, J., WALKEM, J., }  
 DRAKE, J. }

[May 11.]

ATKINS v. COY.

*Mineral Act—Registration—Priority.*

This was an appeal from decision reported ante p. 170.

*Held*, notwithstanding that the location and record were made before the enactment of the Mineral Act (1891) Amendment Act (1893), the priority of location governs the recording having been done within 15 days allowed by the statute. Appealed allowed. Plaintiff's counter appeal for a new trial as to priority of location refused, but plaintiff allowed three months in which to proceed to a new trial on the question of the genuineness of the defendant's claim of title. Leave was subsequently given to appeal to the Privy Council.

*Taylor and Cassidy*, for appellant.

*McCull, Q.C.*, and *Bodwell*, for respondents.

DAVIE, C.J., MCCREIGHT, J., }  
 DRAKE, J. }

[May 15.]

IN RE APPEAL OF THE MARQUIS DE BIDDLECOPE.

*Assessment of income—Profits*

The appellant, who resides in England, owns real estate in Vancouver which returns a gross rental of \$3,400. His necessary outgoings for this property left him a net profit of about \$1,100. The Court of Revision held that he must pay on the gross return, and from this decision he appealed.

*Held*, that the Assessment Act does not tax incomes when under \$1,500, and that "income" means the balance of gain over loss, and where there is no such balance of gain there is no income capable of being assessed.

Appeal allowed.

*Davis, Q.C.*, for the appellant.

*Hunter and Duff*, contra.

DRAKE, J., }  
 In Chambers. }

[May 5.]

CLARK v. KENDALL.

*Notice of intention to appeal—Practice.*

This case having been argued before the Full Court and decision rendered in favor of plaintiff, defendant's solicitor gave notice of intention to appeal to Supreme Court of Canada.

When the summons to allow appeal came up in Chambers, it was argued by counsel for plaintiff that no notice of appeal had been given, only a notice of intention to appeal, and that according to Cassel's Practice of the Supreme Court of Canada, there was a decided difference between notice of intention to appeal and notice of appeal.

*Held*, that the notice was sufficient.

*A. M. MacNeill*, for plaintiff.

*Davis, Q.C.*, for the defendant.