

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LATCHFORD, and MIDDLETON, JJ.

J. M. Ferguson, for the appellants.

D. W. Saunders, K.C., for the defendants, respondents.

THE COURT dismissed the appeal with costs.

SECOND DIVISIONAL COURT.

OCTOBER 3RD, 1919.

CITY OF WINDSOR v. CURRY.

Assessment and Taxes—Income Assessment—Action to Recover Amount of Taxes Based on Assessment—Sworn Statement of Person Assessed on Appeal to Court of Revision—"Total Assessable Income"—Effect of Judgment of Court of Revision—Evidence of Person Assessed.

Appeal by the city corporation, the plaintiffs, from the judgment of the County Court of the County of Essex in an action to recover \$229.80 for taxes on the income of the defendant. The judgment was for only \$80.04, and the plaintiffs, by their appeal, sought to increase the amount.

The appeal was heard by MEREDITH, C.J.C.P., BRITTON, RIDDELL, LATCHFORD, and MIDDLETON, JJ.

F. D. Davis, for the appellants.

J. H. Rodd, for the defendant, respondent.

MEREDITH, C.J.C.P., reading the judgment of the Court, said that the assessment of which the respondent complained was imposed at his request, and upon his own affidavit, in his own handwriting, in which he unequivocally stated that his "total assessable income" was the amount of that assessment, \$5,000.

The respondent was one of the heirs to an estate of great value at Windsor; and the assessment commissioner of that city, believing that the respondent should pay income tax, but being without knowledge of the amount of income, applied to him for a statement of it, in the manner provided for in the Assessment Act, at the same time sending to him a blank form of the return which the Act required; but the request met with no response; then a second and then a third were made with the same results. The commissioner then, instead of taking proceedings against the respondent under the Act for disregard of its provisions, adopted