

August, A.D. 1893. But this shall not apply to the real estate of the companies."

This agreement was confirmed both by Dominion and Ontario legislation: Dominion statutes of 1894, ch. 86; Ontario statutes of 1894, ch. 76.

By these statutes, also, an amalgamation of the two companies is authorized, and the Ottawa Electric Railway Company is the amalgamated company.

Plaintiff based his claim upon two grounds: (1) that his dividends are a part of the income of the company, and thus exempt under the agreements, as against defendants; (2) that under the Assessment Act, ch. 23 of the Ontario statutes of 1904, the Ottawa Electric Railway Company would, but for the said agreements, be assessable for income, and, therefore, dividends on the stock of the company are exempt under sub-sec. 17 of sec. 5 of the Assessment Act.

There is certainly no privity under either contract between defendants and plaintiff as a shareholder in the Ottawa Electric Railway Company. There is not a word in the contract evidencing any intention to exempt from taxation moneys paid by the company out of its surplus revenue to holders of shares in the company, by way of dividends on their stock.

It is the "income of the companies earned from the working of the said railway," that is exempt; and the manifest intention and purpose of the exemption is a relief to the company, but not a relief to third parties to whom the company may pay the money representing surplus income, either for dividends or otherwise.

I am therefore of opinion that the first ground of objection must fail.

The value of the second ground of objection depends upon whether the company would under the Assessment Act be liable to assessment in respect of its income, if the above recited agreements did not exist. If liable to such assessment, then, under sub-sec. 17 of sec. 5 of that Act, the dividends or income from the stock held by any person in the company would be exempt.

Section 10 of the Act makes provision for assessing persons who occupy land for the purpose of any business liable to assessment, for a sum to be called "business assessment," and clause (i) of sub-sec. 1 of sec. 10 provides that in case