

estate held by him whether in his individual name or in conjunction with others in such representative character at the full value thereof, etc. etc."

In the case of personal property or non-resident owners s. 44 declares that it "shall be deemed to be the individual property of such agent, trustee of other person for the purposes of the Act." If, then, the personal property vested in the appellants as trustees is to be considered for the purposes of the Assessment Act as the property of the trustees the income arising therefrom is the income of the trustees for the like purpose.

As the strictness of construction to be put upon taxing acts I cannot do better than to cite a sentence or two from the judgment of Earl Cairns in *Partington v. Attorney General*, L. R. 4 E. & I. App. 122: "As I understand the principle of all fiscal legislation it is this: if the person sought to be taxed comes within the letter of the law he must be taxed, however great the hardship may appear to the judicial mind to be; on the other hand, if the Crown seeking to recover a tax cannot bring the subject within the law, the subject is free, however apparently within the spirit of the law the case might otherwise appear to be."

It is not open, therefore, for me to apply any equitable construction to this statute if the language is plain. I think the language is clear that personal property (which includes income) vested in or under the control of trustees, as in this case, must be regarded for the purpose of assessment as their own property, and the income as their income. The trustees as such qualified owners are of course entitled to the usual exemption allowed by the statute. This will be so much of the annual income as arises from rents from real estate, and the \$400 allowed upon all incomes derived from any source other than personal earnings. The amount liable to be assessed will be computed as follows:

Gross income	\$30,324.85
Deduct:	
Portion accruing from rentals from real estate.	\$8,504.16
Exemption	400.00
	8,904.16
Net income for assessment	<u>\$21,420.69</u>

The appeal will be dismissed.

IN RE APPEAL OF TRUSTEES OF GRAYSON SMITH.

Assessment of trustees—Non-resident beneficiaries—Assessment Act s. 44.

Held, 1. Trustees are liable to be assessed on all the income derived from the property of the trust fund coming into their hands within the province as though they were the actual owners thereof.

2. The fact of the beneficiary residing without the province makes no difference.

[Toronto, Nov. 8, 1899—McDougall Co. J.]

This was an appeal by the trustees of the estate of Mrs. Grayson Smith, residents of Toronto, from the assessment by the City of Toronto