

THE CORPORATION OF THE CITY }
OF TORONTO } APPELLANT;

1936
* Mar. 16.

AND

FAMOUS PLAYERS' CANADIAN }
CORPORATION LTD. } RESPONDENT.

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

Assessment and taxation—Income assessment—Company subject to business assessment in respect of occupation of office premises—Company also assessed for income—Question whether assessed income was derived from the business in respect of which the company was subject to business assessment—Assessment Act, Ont., R.S.O. 1927, c. 238, ss. 9, 10.

APPEAL by the City of Toronto from the judgment of the Court of Appeal for Ontario (1), dismissing its appeal from the order of The Ontario Municipal Board (2), which held (affirming in the result, subject to amendment, the judgment of Macdonell Co. C.J. (3)) that, upon the facts established in this case, the respondent company had only one business, that of Theatre Controller and Operator (and, to give its proper description as such, the assessment roll should be amended), in respect of which business it was liable to business assessment, and that all its investments and all income derived therefrom (in 1932, the year in question) were made and received in connection with that business, and could not, therefore, be assessed for income (except in the sum of \$3,586.40, admittedly received from investment of surplus funds in public securities).

On the appeal to the Supreme Court of Canada, after hearing the argument of counsel for the appellant, the members of the Court retired for consultation and, after their return to the Bench, the Court, without calling on counsel for the respondent, delivered judgment orally, dismissing the appeal with costs. The Chief Justice stated that the Court had considered fully the useful arguments of Mr. Colquhoun and Mr. Kent, and had reached the conclusion that it would be impossible to set aside the

* PRESENT:—Duff C.J. and Rinfret, Crocket, Davis and Kerwin JJ.

(1) [1935] O.R. 314; [1935] 3 D.L.R. 327. (2) Reported in part: [1935] O.R. 314, at 320-321; [1935] 3 D.L.R. 685, at 690-691.

(3) [1935] O.R. 314, at 315-320; [1935] 3 D.L.R. 685.

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findings of the Board on the ground that, on the evidence, they were legally inadmissible; and considered it equally impossible to hold that, given the findings, the order of the Board was wrong in law.

Appeal dismissed with costs.

C. M. Colquhoun K.C. and J. P. Kent for the appellant.

J. M. Bullen K.C. and R. M. Fowler for the respondent.
