Judgement Announced Mines Assessment Cases levying upon the taxable income according to the said roll (the special

Full Text of Judgment in Case of Appeals of Teck Township Mines. Should Be of Special Interest to Timmins and Tisdale, Where Mines Have Also Appealed

big gold mining communities of On- mining company being as follows: tario's North, Timmins, Township of Lake Shore Mines Limited \$219,-Tisdale and Township of Teck, have 869.20. "a fair share of the taxes levied on \$76.712.85.

Conferences have been held time and \$44,663.10. tatives of the three councils gathered each of said companies is arrived at by here, it was decided that all three charging 1 1/2 per centum of each com- to discuss it further. would levy greater income tax on the pany's income up to the sum of \$2,333,mines. They held that under the Mining 333.33 and 24 per centum of such in-Tax and Assessment Acts they were come over and above said amount. entitled to greater revenue.

one and one-half per cent, on the ex- 333.33 is illegal and contrary to the process profits of a mine, up to a total ex- visions of the Assessment Act. cess profit of \$2,333,333.33. On anything above this another one per cent. was to By an amendment to the Assess- the appellants contended that the being The Assessment Amendment be levied. The question was whether ment Act R.S.O. 1927, cap. 238 made in amount of income tax a mine was liable Act' which reads as follows: (8) A perthis latter sum meant just one per 1934 and being 24 George V. cap. 1, a for was definitely determined and fixed son whose name is entered in the specent, or two and one-half per cent. new section, 120 a, was added to the by sub section 9 of section 40 of the cial roll of taxable income, shall not The amount of revenue thus made Act. By this amendment, the council Assessment Act and could not be in- be entitled to notice of such entry but available to the municipalities would of a municipality instead of making creased by the municipality as had been upon receipt from the collector of debe considerable. In the case of Hollin- an assessment of income as heretofore attempted in the case of each of the mand for payment of the said rate ger, it amounted to nearly \$50,000. Fig- provided in the Act, may pass a by-law said mines this year. That the amount upon the amount for which he is taxures for the Kirkland Lake mines are establishing a special income tax roll of such income assessment as fixed by able according to the said roll, shall shown in the below judgment as de- for the municipality

present julgment, it is freely admitted that the chances of getting the additional taxes do not look at all bright. The Township of Tisdale case has not yet progressed to the appeal stage.

the respondent.

"The appeal in each case is from sent appeals are taken.

"The said mining companies contend The crux of the matter is this, brief- that the charge made by the municily; A section of the Act states that pality of 21/2 per centum of all income the municipality is entitled to levy in excess of the said sum of \$2,333 .- sustained, that the question of the vali-

* Cites Amendment

Township of Teck took advantage of amount which yielded \$35,000 to the case of assessments etc. The town of Timmins' case has not this amendment and passed By-law No. municipality and in case the annual "These appeals are not against a yet been called, but in view of the 702 providing for the making out of a profits of the mine exceeded an amoun special income tax roll embracing all which at 1 1/2 per centum yielded \$35, income tax payers in the municipality 000, then a further 1 per centum of and including the said three mining such excess profits was payable. That companies. The amount of the income the municipality this year for the first assessment of each company was placed time since the amendment to the As-Following is Judge Hayward's ruling, on said roll in the amount above set out sessment Act was passed in 1927, had and a notice was sent to each by the charged 21/2 per centum of the amount "These are three income assessment township assessor. An appeal from the of the excess profits of each of the said appeals which came before me at Kirk- said assessment was taken by each mines and this the Act did not permit land Lake, Township of Teck, A. G. company to the court of revision, which it to do. Mr. Lillico for the municipality Slaght, K.C., representing the appel- court dismissed the appeals and con- argued that there was no appeal given lants and L. A. Lillico Esq., barrister, firmed the assessments. From the de- by the Act from a rating by-law and as cision of the court of revision the pre- a by-law striking the rate of assessment |

the Municipality of the Township of this amendment to the Assessment Act such rating. That the proper interpre- R.S.O. (1927) Cap. 238. Teck for the year 1935, the amount of (section 120 a) was intended to apply tation to be given to the wording of

Before Winter Comes

to the assessment of income from the mines. Sub sections 1 and 2 of section 120 (a) would seem to make this fairly clear. Sub section 1 provides for "the income tax roll) the rate in sub section 2 set forth." Sub section 2 provides that this rate "shall be the same as the rate levied in the current year upon real! property." The rate levied against real property in the township for the year During the past few years, the three the income assessment against each 1935 was 56.56 mills. It would seem obvious, therefore, that in the face of the restrictions placed upon municipalities in the assessment of income from been trying to get what they claim is Wright-Hargreaves Mines Limited mines by sub-section 9 of section 40 of The Assessment Act, that the rate "Teck Hughes Gold Mines Limited of 56.56 mills could not be levied against the income of these mining companies. again, and this spring when represen- "The amount of income tax against However, as I am disposing of the appeals on other grounds, it is needless

Discusses Objections

"Several objections to the validity of By-law No. 702 passed by the council establishing the special income tax roll, were raised by Mr. Slaght, but on Mr. Lillico taking the objection, which I the Act was 11/2 per centum of the an- have in respect thereto the right of livered by Judge Hayward, following "In August 1934, the Council of The nual profits of the mine up to an appeal provided in this Act in the for the year 1935 had been passed by the amount of income assessment levied "As I intimated at the hearing of the Council of the Township; no appeal against each said mining company by these appeals, I doubt very much that was open to these appellants against 6 of section 40 of the Assessment Act

REPAIRS

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essment Act permitted the municipality to charge 21/2 per centum of the profits of each mine in excess of \$2,-333,333.33 as had been done this year.

section 9 of section 40 of the As-

Questions at Issue "Two questions arise for determina-

"Ist. Have the mines a right of appeal and, 2nd, What it the proper meaning of sub section 9 of section 40 of the Assessment Act as regards the right of the municipality to assess these

dity of this by-law could not properly "As to the first, the right of appeal come before this court on these appeals, is clearly indicated in sub section 8 of were not pressed by him. Counsel for section 8 of 24 George V, Cap. 1 and

> rating by-law but against .the rate upon the amount for which each mine is taxable according to said roll' and an appeal lies.

> "As to the proper meaning to be given to the wording of sub section 9 of section 40 of the Assessment Act, this has given me serious consideration in view not only of the large amounts involved but of the fact that under sub section 8 of section 8 of the Assessment Amendment Act, there is no appeal from my decision.

"The right of a municipality to assess for income, a mine situate within the municipality, is given by sub section

"The extent to which and the limit put upon a municipality in taxing the income of such a mine, is prescribed by sub section 9 of said section 40 which reads as follows: (9) 'Notwithstanding anything in this section contained, the income tax payable to any municipality upon a mine or mining work liable to

"Section 4, sub section 1 of the Mining Tax Act reads as follows: (1) 'Every mine in Ontario, the annual profits of which exceed \$10,000, shall be liable for and the owner, manager, holder, tenant, occupier and operator of the same shall pay an annual tax as follows: Sub section (a) and (b) set out the per centage rates such mine shall pay. Sub section 3 and 4 provide the manner in which referred to in sub section 1, are therein set out. The deduction of the income tax payable by a mine to a municipaliductions mentioned in these two sub special section, 13, sub section 1 of which reads as follows: (1) Where person liable for payment of a tax under section 4 in respect of a mine i also during any year in which such tax is payable, liable for any paying to the municipality or municipalities in which such mine is situate, a tax upon income amount of such municipal income tax to the extent of an amount equal to one and one-half per centum of the annual profits upon which the tax payable under section 4 is based until a Reef Mining Co., Ltd., at a special gensum is reached which at the said rate eral meeting last Thursday gave approof one and one-half per centum will val to a proposal to dispose of the comyield \$35,000 and on the amount of such | pany's property. The purchaser, Thomtitled to deduct an amount equal to company to be formed. This considerathe total annual profits subject to tax Porcupine Gold Reef's indebtedness and under this Act and provided further, to permit a share exchange on the basis that notice of the amount and proof of of three new for each 20 old shares outthe liability for and payment of such standing. the mine assessor at such time and in charter of Porcupine Gold Reef Mining

Appeal Is Allowed

more than 11/2 per centum of the an- mum of 1,800,000 treasury shares. municipality (this amount being \$2,- | the Pamour property.

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taxation under section 4 of the Mining Tax Act, shall not exceed one and onehalf per centum of the annual profits of the mine or mining work upon which the tax payable under said section is based unless the amount of such annual profits exceeds a sum which will yield \$35,000 in respect of such income tax when an additiona: one per centum of such excess annual profits shall be payable to the municipality.' What Act Says by such mine from its annual profits

tion of these two acts as regards the sible to issue some form of interim certaxation by a municipality of income tificate. derived from mines, an amendment to

cipality may make a further charge of one per centum of the profits above said amount. In my opinion if it had W. H. Phillips, formerly of Thornbeen the intention that a municipality should have the right to charge 21/2

per centum of the excess annual profits of a mine, as the municipality this year seeks to do, sub section 9 of section 40 would have clearly so expressed. If the municipality may charge this 21/2 per centum of such annual profits, then mine would be paying considerable more as an income tax than it could turn deduct from the amount payabl by it under section 4 of the Mining Tax Act and that in my opinion is no the intention of said sub section 9 nor the proper interpretation to be given

the wording of it. "The appeal in each case will have t

Shareholders Approve Sale Of the Porcupine Gold Reef

In a recent issue of The Advance ref erence was made to the calling of meeting of the shareholders of Porcupine Gold Reef Mining Co. to dispose of the company's property and arrange for the surrender of the charter, a new company being formed with the pur pose of developing the property. In it issue last week The Northern Miner made the following reference to the meeting of the shareholders of Porcu-

"Shareholders of Porcupine Gold income in excess of a sum yielding at as Marston, is to pay \$2,000 in cash and the said rate of \$35,000 he shall be en- 450,000 shares in a new 3,000,000-share one per centum of the remainder of tion is said to be sufficient to pay off

"On receipt of the new shares the Co. is to be surrendered, it was stated. 'A review of the several amendments While the new shares cannot be disto the Mining Tax Act and the Assess- tributed until released by the Ontario ment Act, shows the close inter rela- Securities Commissioner it will be pos-

"Mr. Marston told the meeting that the Mining Tax Act being reflected in he intended to proceed at once with a corresponding amendment to the the organization of the new company and that it was proposed to spend approximately \$10,000 on development be-"While the wording of sub section 9 fore a public offering of the stock was of section 40 to the Assessment Act is made. The necessary funds for this somewhat different from that used on work were available, he said. A group section 13 of the Mining Tax Act, I am of adjoining claims was to be taken of the opinion that the intention and over by the new company and negomeaning is the same. That a mine pay- tiations were proceeding for a third ng an annual tax on its profits to the group. Replying to a question, Mr. province under the Mining Tax Act Marston stated that not more than cannot be taxed on those profits by the 1,200,000 shares would be issued for all municipality in which it is situate, properties, which would leave a mini-

nual profits of the mine unless such "The Porcupine Gold Reef ground annual profits exceed amount which adjoins the Hughes Porcupine on the at 11/2 per centum yield \$35,000 to the north and is a short distance west of

333,333.33) in which event, the muni- Say Former Thornloe Man Deceived Pension Board

loe, who now is waiting trial on a charge of arson, has still other charges to face in connection with salleged fraud in securing old age pension for himself. Phillips, who is 71 years of ige, was arrested early in August folcwing a fire marshal's investigation of the burning of a store said to be owned y Phillips at Thornloe. In the course f the enquiry it is alleged that it was isclosed that a week before applying for the old age pension last year, Philips withdrew \$1,051 from his bank acount in New Liskeard. It is claimed that he made no mention of these asets nor of his ownership of the stor when he made his application for an old age pension. The pension was grant ed by the pension authorities on th statements made by him and appar ently confirmed by others. As a result of the fire and the securing of the old age pension, Phillips now faces charges of arson, perjury and false pretences Word from Toronto is to the effect that wholesale examination of old age pension cases has been commenced by the Ontario Dept. of Public Welfare with a view to eliminating fraud whenever it is discovered. The announce-

old age pension. The new plans of handling old age pensions in this province have not stopped frauds or alleged frauds, the Phillips case being one under the new arrangement. From knowledge of old age pension applications in the North, however, The Advance is inclined to believe there are comparatively few fraudulent cases, at least up this way. It seems almost impossible to prevent the occasional case if applicants are ready to perjure themselves but knowledge of the cases leads to the belief that only a small proportion of the old people try to take any advantage of the law. Indeed, in some of the cases where apparent fraud seems evident, it sometimes happens that misunderstanding is the cause of the trouole. Old people do not always under-

on the charge in connection with the

Thursday as on a Monday,

Peterborough Examiner:—A special place of honour in the Canadian Hall of Fame should be reserved for the good citizen of Leaside who surprised the council of that Toronto suburb the other day by sending a cheque for \$151.59, ment was made by Hon. Dr. Croll in to cover the amount of relief received mentioning the prosecution of Phillips by himself and his family.

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