1925
Dec. 31.

HIS MAJESTY THE KING.....PLAINTIFF;

AND

IRWIN PRINTING COMPANY LTD.....DEFENDANT

Revenue—Special War Revenue Act, 1915—Job printers—Excise Sales Tax —Interpretation of statute

Held, that job printers are "manufacturers and producers" selling to retailers and consumers within the meaning of paragraph 1 of section 19 B.B.B. of 12-13 Geo. V, c. 47, and are liable to the sales tax provided under the Special War Revenue Act, 1915, and amendments thereto.

2. When, in construing a statute there are words which may appear ambiguous, and there are also express words which are clearly indicative of the intention of the legislator, the court should give effect to such clear intention, rather than to deny the provision any meaning as resulting from the apparent ambiguity. The interpretation which is most consistent with the intention of the legislator should be accepted and acted upon.

INFORMATION exhibited by the Attorney General to recover from defendant the sum of $1,217.66, excise tax.

Charlottetown, June 16, 1925.

Case now heard before the Honourable Mr. Justice Audette.

George S. Inman, K.C., for plaintiff.

C. J. Duffy, K.C., for defendant.

The facts are stated in the reasons for judgment.

AUDETTE J., now this 31st December, 1925, delivered judgment (1).

This is an information exhibited by the Attorney General of Canada, whereby it is sought to recover from the defendant company, a job printer, the sum of $1,217.66, as excise tax, under the provisions of The Special War Revenue Act, 1915, and amendments thereto.

(1) An appeal was taken from this judgment to the Supreme Court of Canada, but later abandoned.

The period covered by the information extends from March, 1923, to March, 1924, both inclusive, in all, one year and one month.

The period from March to December, 1923, both inclusive, is governed by the statute of 1922 (12-13 Geo. V, ch. 47).

And the period from 1st January to the end of March, 1924, is governed by the statute of 1923 (13-14 Geo. V, ch. 70), which amended the Act of 1922.

Dealing with the first period, it will be found that paragraph one of sec. 19 B.B.B. of 12-13 Geo. V, ch. 47 (1922), by a general text, without any restriction, imposes a tax sale of 4½ per cent on

sales by manufacturers and producers, to retailers or consumers.

However, by paragraph 4 of this same section it is provided that the taxes specified in par. 1 of the same shall not apply to sales or importation of: . . . (p. 183),

job printed matter produced and sold by printers or firms, whose sales of job printing do not exceed ten thousand dollars per annum.

While under the wording of par. 1 of sec. 19 B.B.B. it must be found that job printers are themselves

manufacturers and producers selling to retailers and consumers liable to 4½ per cent excise tax

the matter is by necessary implication, inference and deduction made still clearer by the proviso of par. 4 of this section which exempts job printers from the tax when their business does not exceed $10,000.

Indeed, when in the construction of a statute which may, under certain reading, appear ambiguous, there are some express words which by implication or deduction are clearly indicative of the intention of the legislator, it would seem that the latter course should be followed in preference to denying it any meaning as resulting from the apparent ambiguity. The interpretation which is most consistent with the intention of the legislator should be accepted and acted upon.

The words in the proviso exempting from taxation job printers " whose sales do not exceed $10,000 " are words that must have an import corresponding with the subject matter of taxation and connoting of the same rather than being meaningless. Parliament in this legislation has in

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view the levy of taxes for the administration of the commonwealth. And as said in the first volume of Blackstone's Commentaries:

> The most universal and effectual way of discovering the true meaning of a law, when the words are dubious, is by considering the reason and the spirit of it; or the cause which moved the legislator to enact it.

There is nothing in the statutes, both of 1922 and 1923, suggesting any intention or intimation of leaving the job printers business out of the field of taxation, under any circumstances.

Moreover, there is in the same section in the 5th par. thereof (p. 183), a second proviso which reads as follows, to wit:—

> Provided further that the excise taxes specified in this section shall not be payable . . . on sales of goods made to order of each individual customer by a business which sells exclusively by retail under regulations by the Minister of Customs and Excise who shall be sole judge as to the classification of a business; and provided that the tax as specified in this section shall be payable on sales of goods manufactured for stock by merchants who sell exclusively by retail.

The defendant was selling under a license issued to him as a job printer doing business in excess of $10,000. This license was in force during the period in question and expired only on the 31st March, 1924. He collected the tax up to January, 1924, paid some in July, 1923. His total yearly business amounted to $23,000 odd.

Under Regulation by the Minister,—Circular of the 18th August, 1921 (exhibit 7) made under paragraph 5 above recited, a job printer is liable for taxes, as found in the case of *The King* v. *Crain Printers Ltd.* (1). Is that Regulation by the Minister repealed? It is so contended by circular of the 21st June, 1923, signed by the Commissioner of Customs and Excise, but not by the Minister. If still in force, the result would be the same as the *Crain* case (ubi supra).

However, on the 13th July, 1922, the Minister, under the authority of the provisions of the section 19 B.B.B. above referred to, and under which he is made, by the Act, *the sole judge as to the classification of a business,* job printers whose sales of printed matter are $10,000 per annum or more, are classified as manufacturers and therefore become liable for the tax.

(1) [1925] 3 D.L.R. 291.

Under the last part of the proviso of par. 5 hereof, "goods manufactured for stock," such as legal blank forms are liable for the tax.

Therefore I find the defendant liable for the tax during the year 1923, subject to such qualification as hereinafter mentioned.

Coming now to the period of January, February and March, 1924, it will be seen that the Act of 1922 has been amended, in 1923, by 13-14 Geo. V, ch. 70,—the latter coming into force on the 1st January, 1924 (sec. 16), in respect of the sections affecting the present case.

By sec. 6 of the Act of 1923, sec. 19 B.B.B. has first been amended by raising the rate of the tax from 4½ per cent to 6 per cent.

Then by subsection (2) (*a*) of the same section, paragraph 4 of section 19 B.B.B. of 1922 is amended, *inter alia*, ...

by striking out of the list of articles to which the tax specified in the said section shall not apply the following words:

Job printed matter produced and sold by printers or firms, whose sales of job printing do not exceed ten thousand dollars per annum.

Furthermore, by subsec. 5 of the same section all *manufacturers and producers*, who do not manufacture or produce goods to the value of $10,000 are exempted from the sales tax.

Therefore, the job printer in 1923 who, under par. 1 of sec. 19 B.B.B. was a manufacturer and producer and who was *eo nomine* exempted from the tax if doing business for less than $10,000, in 1924, sees this specific exemption in his favour repealed but he falls under the provisions of subsec. 5 which extends this exemption to a manufacturer and producer. That exemption of 1923, the job printer now shares it and it is made common to all manufacturers and producers, as set forth in subsection 5, and he becomes liable when carrying on a business with a turnover of over $10,000. This is the obvious conclusion by necessary implication and deduction as stated above, with respect to the Act of 1922, which need not be repeated here. The amendment of the 1923 Act leaves the situation the same as before with respect to those who had to pay the tax under the statute of 1922, excepting however that the exemption to pay tax when doing business for less than

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$10,000 is extended to all manufacturers and producers, instead of being limited to job printers as was done by the Act of 1922. A statute which is ambiguous must be constructed in such a way as to lead to a logical and reasonable result. *Elliott* v. *Glenmore Irrigation District* (1). In construing a section of a statute, that construction must be adopted that gives effect to the whole of the section in preference to one which renders parts thereof meaningless. *Montreal Light, Heat and Power Co.* v. *City of Montreal* (2).

Before concluding there are a couple of other questions to be disposed of.

What is a job printer? According to Webster's dictionary, it is one who does miscellaneous printing, especially circulars, cards, billheads, etc.; or according to the Imperial dictionary, one who does miscellaneous works as bills, programmes, circulars, cards, etc.

Under the custom of trade, does binding come within the scope of the trade of job printer? I have asked this question at trial and the parties were unable to supply the evidence for such information. The defendant claims he should not be taxed for the binding he did. A statement of what was charged by him for binding has been supplied, but the charges are not for exclusive binding, there was some printing included in these charges for binding.

I have come to the conclusion to treat binding as outside of his trade of job printing; but this finding cannot be used as a precedent in a case where evidence might be adduced showing that, under the custom of trade, binding comes within the scope of a job printer. In accepting as a starting point the statement for binding, I will have to deduct from the same an allowance for the printing it covered. It may be an arbitrary allowance, but it will always be that even if gone into in every detail.

There remains the question as to whether, under the case of *Clay* v. *Yates* (3) referred to at trial and cited in the case of *The King* v. *Crain Printers Limited* (*ubi supra*) the transaction between the defendant, in some instances, for

(1) [1923] 4 D.L.R. 1044. (2) [1924] 2 D.L.R. 605.
(3) [1856] 1 H. & N. 73; 156 E.R. 1123.

a particular work for an individual customer and useless for any one else, is for work, labour and material.

Apart from a statute which decides the point,—as enacted by the proviso of par. 5 of sec. 19 B.B.B. of 1922, and the regulations made thereunder by the Minister, consideration might be given to the argument; but not in face of the statutes both in 1923 and in 1924, which specially provide for the case and make the job printers liable for the tax,—and this is the view which was practically adopted in the *Crain* case (*ubi supra*).

From the amount of.....	$1,217 66
There must be deducted the sum of.....	82 70
The amount of the March, 1923, taxes paid on 18th July, 1923.....	$1,134 96
There must also be deducted the amount for binding, which in 1923 amounted to $298.95, as established by witnesses Casey & Earle. That is 4 per cent of that amount was $13.45 with slight deduction for the printing included in that binding 20 per cent	2 02
	$1,132 94
With respect to the 1924 period, there is but the evidence supplied by exhibit "A" and that is $757.85 for those three months. At 6 per cent the tax would represent $45.47 from which I will deduct a certain amount for printing included in it—leaving the net sum of	36 38
	$1,096 56

Therefore this court doth order and adjudge that the plaintiff recover from the said defendant the sum of $1,096.56 with interest (sec. 20) thereon from the date of the service of the information, to the date hereof, and costs.

Judgment accordingly.