

THE MINISTER OF NATIONAL
REVENUE

APPELLANT;

1957
MINISTER OF
NATIONAL
REVENUE
v.
FELL

AND

ARTHUR JAMES B. FELLRESPONDENT.

On May 1, 1957 the Honourable Mr. Justice Cameron also delivered judgment allowing the appeal of the Minister of National Revenue. Following are the reasons for judgment:

CAMERON J.:—This is an appeal by the Minister of National Revenue from two decisions of the Income Tax Appeal Board dated February 10, 1955, which allowed the respondent's appeals from assessments for the years 1946 and 1947. In his assessment for the year 1946, the Minister had added to the respondent's declared income certain profits received by the latter in that year in respect of the sale of pipe and the sale of salt rights. Similarly, in 1947 there was added to his declared income a further amount of profit received from the sale of salt rights.

By consent of the parties, this case was heard concurrently with the appeals of the Minister regarding assessments made upon one Franklin W. Turnbull in respect of the same years. In the *Turnbull* case, the same two transactions of purchase and sale of pipe and of salt rights were involved, as well as other matters. It was agreed that the evidence and argument submitted in that appeal should apply where relevant to this appeal.

Judgment has been given today in the *Turnbull* case (*ante* p. 140) allowing the Minister's appeals with certain variations as to the amounts involved.

For the reasons given in the *Turnbull* case, in so far as they refer to the same matters as are here in dispute, this appeal will be allowed and the assessments made upon the respondent for the years 1946 and 1947 will be affirmed, subject to the following variations (for which purpose the matter will be referred back to the Minister for re-assessment):

- (a) For the year 1946 by reducing the amount of profits from sale of salt rights from \$8,875 to \$7,961.84;

1957MINISTER OF
NATIONAL
REVENUE

v.

FELLCameron J.

(b) For the year 1947 by reducing the amount of profit received from the sale of salt rights from \$8,875 to \$8,750.

The appellant is also entitled to his costs after taxation.

Judgment accordingly.