

No. 121.—HOUSE OF LORDS.—23rd and 24th March, and  
3rd August, 1899.

SMITH AND OTHERS (Overseers of Worthing) v. RICHMOND  
(Surveyor of Taxes).(1)

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*Agricultural Rates Act, 1896.—Market gardens.—Buildings.—Glass-houses. The glass-houses in a market garden are not "agricultural land" within the meaning of the Act, but are "buildings."*

This was an appeal by the Appellants, the Overseers of the Parish of Worthing, from a decision of the Assessment Committee of the Union of East Preston, in the County of Sussex, under the Agricultural Rates Act, 1896.

The said Appeal came on for hearing at the General Quarter Sessions of the Peace, held in and for the County of West Sussex on Thursday, the 7th day of January last past, when upon hearing counsel for both sides and for Robert Piper, an aggrieved ratepayer, that Court allowed the said appeal subject to the opinion of the Queen's Bench Division of Her Majesty's High Court of Justice upon the following case:—

#### CASE.

1. By Section 1 of the Agricultural Rates Act, 1896, the occupier of agricultural land in England is made liable in the case of every rate to which the Act applies, to pay one-half only of the rate in the pound payable in respect of buildings or other hereditaments. The deficiency thus arising is to be met by the payment by the Commissioners of Inland Revenue into the Local Taxation Account of a certain annual sum to be determined by the Local Government Board.

2. For the purposes of the Act, sec. 6, subsection (1) requires certain returns to be made to the Local Government Board, and subsection (2) of the same section is as follows:—

“ For the purpose of the returns statements showing the gross  
“ estimated rental and rateable value of the agricultural land  
“ in a parish and in the case of any hereditament separately  
“ valued which consists in part of agricultural land and in part of  
“ buildings or other hereditaments of each such part shall be  
“ made by the Overseers of every parish and corrected by the  
“ Assessment Committee and sent to the Surveyor of Taxes and  
“ be subject to objection or appeal by the said surveyor and Overseers  
“ before the Assessment Committee and the Justices in  
“ Special Sessions, and the Court of Quarter Sessions, and subject  
“ to the right of any aggrieved ratepayer to be heard upon the

(1) Reported [1899] A.C. 448.

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“ said Appeal in such form within such times and generally in such manner and subject to such provisions as may be prescribed. These provisions shall conform as nearly as circumstances will permit to the existing statutory law respecting valuation lists as regards notices, rights to inspect and take extracts, the hearing of objections and otherwise.”

3. In pursuance of subsection (3) of the above section, the Local Government Board by the Agricultural Rates Order, 1896, have made regulations for the purpose of the Act, which regulations have effect as if enacted in the Act.

4. By Article IV. (1) of the above Order it is provided that “ The Overseers of every parish shall as soon as practicable make, and shall on or before the 7th day of September 1896 send to the Assessment Committee and to the Surveyor of Taxes in whose district the parish is comprised statements as follows :—

(a) .....

(b) “ If there is any agricultural land in the parish the Overseers shall make and send a statement showing as regards each hereditament separately valued in the Valuation List in force on the 20th day of July 1896, and consisting wholly or in part of agricultural land the particulars stated in the said Valuation List with regard thereto and also showing with regard to every separately valued hereditament which is partly agricultural land and partly buildings or other hereditaments not being agricultural land the gross estimated rental and rateable value of the agricultural land and the gross estimated rental and rateable value of the buildings and other hereditaments not being agricultural land.”

5. By Article IV. (3) of the above Order it is provided that : “ Subject to what is hereinafter provided in this Article and in Article V. as to the value of the buildings and other hereditaments, the separate values of agricultural land and of buildings or other hereditaments shall be ascertained by dividing the value stated in the Valuation List in force on the 20th day of July 1896 between the agricultural land and the buildings or other hereditaments assessed therewith according to the best estimate the Overseers can make; the gross estimated rental of the buildings are used only for the cultivation of the land being calculated not on structural cost but on the rent at which they would be expected to let from year to year if they could only be so used, provided that neither the gross estimated rental nor the rateable value of the whole hereditament shall be altered by the separate valuation of the parts thereof.”

6. Article IV. (5) of the above Order requires that the statement shall be in the form shown in Schedule L. to the Order.

7. By Section 9 of the above Act it is enacted as follows:—

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“ The expression ‘ agricultural land ’ means any land used as arable, meadow, or pasture ground only, cottage gardens exceeding one quarter of an acre, market gardens, nursery grounds, orchards, or allotments, but does not include land occupied together with a house as a park, gardens other than as aforesaid, pleasure grounds, or any land kept or preserved mainly or exclusively for purposes of sport or recreation, or land used as a racecourse;”

8. The same definition is incorporated with and set out in Article 1 of the above Order, and in the said Act and Order the expression “ agricultural land ” has the meaning assigned to it in the definition unless the context otherwise requires.

9. In pursuance of subsection (2) of section 6 of the Act, and of Article IV. of the Agricultural Rates Order, 1896, the Appellants made statements in the prescribed form and set them to the Assessment Committee of the East Preston Union and to the Surveyor of Taxes in whose district the parish of Worthing is.

10. In their statements the Appellants had in the case of certain hereditaments separately valued in the Valuation Lists in force on the 20th July, 1896, and consisting of land partly covered by glasshouses, inserted the gross estimated rental and rateable value of the whole of such hereditaments under the description of “ Agricultural land.”

11. The Assessment Committee, on the objection of the Surveyor of Taxes, decided that the statement to the extent to which it includes land partly covered with glasshouses was incorrect, and corrected it by striking out that entry.

12. The Appellants appealed against this decision to the Court of Quarter Sessions aforesaid.

13. On the hearing of the appeal it was agreed, inasmuch as the hereditaments included in the Notice of Appeal were practically identical in character, to take the hereditament of Robert Piper, numbered 140 in the said notice as a test case for the purposes of the said appeal, and it is agreed that such course shall be followed on the argument of this case.

14. With regard to the last-mentioned hereditament, the following were the agreed facts:—

The said Robert Piper was a grower of fruit, vegetables, and flowers at Worthing, and described himself, and was commonly known, as a market gardener and nurseryman.

He was the owner and occupier of a piece of land rather more than four acres in extent, on which 57 glasshouses, or greenhouses, of various sizes were erected; the houses were used by the Appellant for the purpose of growing

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tomatoes, cucumbers, and grapes, and to a smaller extent other vegetables for the purpose of sale. The plants and crops grown therein were watered and heated by artificial means, and grown upon soil placed upon prepared beds inside the houses, and matured much earlier than in the open ground. The vines are planted inside the houses, and the roots run partly in the soil under the houses and partly pass through the apertures in the walls into the soil outside. 51 of the glasshouses are thus used for growing vines. In the cucumber houses (which are six out of the 57 houses) there are, inside the houses, dwarf brick walls supporting corrugated iron sheets, upon which sheets earth taken from the other parts of the nursery ground is placed. In this earth, so placed upon the iron sheets, the cucumber plants are planted. Beneath the iron sheets, and between them and the ground, there are hot water pipes. The area actually occupied by the 57 houses is rather more than two acres. The rest (rather more than two acres) consists merely of vine borders paths, and the stoke holes. The whole of the houses were built upon dwarf brick walls like an ordinary greenhouse.

15. The following is a copy of so much of the Valuation List and Supplementary Valuation List for the Parish of Worthing in force on the 20th July 1896, as relates to this hereditament:—

(Statement Omitted.)

16. The following is a copy of so much of the Overseers' Statement as relates to this hereditament in the form in which it was sent to the Assessment Committee:—

(Statement Omitted.)

17. The hereditament to which the above-mentioned portion of the Overseers' Statement relates is identical with the hereditament to which the above-mentioned portion of the Valuation List and supplementary Valuation List respectively relate. Upon the objection of the Surveyor of Taxes duly made under the Act, the Assessment Committee, after hearing all the parties interested, altered the Overseers' Statement by striking out the whole of the entry upon the ground that no part of the hereditament in question was agricultural land, and consequently that no part thereof was properly entered in the Overseers' Statement. A copy of the said portion of the Overseers' Statement as altered by the Assessment Committee was as follows and the alteration appears in red ink:—

(Statement Omitted.)

18. Upon the hearing of the appeal before us it was contended for the Appellants (the overseers) that the particulars of the gross estimated rental and rateable value of the hereditament in question were correctly entered by them in their Statement

under the heading of "Agricultural Land," and that the decision of the Assessment Committee to correct the Statement by striking out the entry was wrong, and in support of their contention they cited the case of *Purser v. The Local Board of Health for the District of Worthing* (reported in L.R. 18 Q.B.D. at p. 818).

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19. For the Respondent it was contended that the case relied on by the Appellants did not decide that the glasshouses were not buildings, but merely that the land was not the less used as a market garden because the glasshouses had been placed upon it, and that moreover the definition of agricultural land in the Agricultural Rates Act, 1896, was to be read subject to the context, and that the context in the Act required that any buildings should be excluded from the term Agricultural Land, that the glasshouses were buildings within the meaning of the Act and that it followed that either the whole of the hereditament in question should be excluded from the Overseers' Statement or alternatively that so much hereof as consisted of buildings should be inserted under the heading of "buildings not being agricultural land."

20. The Court of Quarter Sessions were of opinion that the contention of the Appellants was right, and allowed the Appeal, and ordered the Statement of the Overseers to be altered by restoring all the items which formed the subject of the appeal to the condition in which they were before they were altered by the Assessment Committee, subject to the statement of a case for the opinion of this Honourable Court.

21. The question for the opinion of the Court is whether the Court of Quarter Sessions were right in ordering the Statement to be so altered.

22. If the Court shall be of opinion in the affirmative, then the said Order of Sessions is to be affirmed; if in the negative, then the said Order of Sessions is to be quashed, and the Court is requested to give such judgment or to make such order as ought to have been given or made by the said Court of Quarter Sessions.

This case came before the Queen's Bench Division of the High Court of Justice on the 2nd August 1897, on an appeal by the Crown from the decision of the Quarter Sessions for West Sussex in favour of treating glasshouses as agricultural land. The Court was divided in opinion, Collins, J., being against the contention of the Crown; whilst Ridley, J., was in favour of it. In accordance with practice Ridley, J., withdrew his judgment, and the appeal of the Crown was dismissed with costs. An appeal to the Court of Appeal was heard on the 7th and 8th February 1898, before the Master of the Rolls and Lords Justices Rigby and Vaughan Williams. The Court on the 11th March 1898 delivered judgment in favour of the Crown (Vaughan Williams, L.J., dissenting), with costs of the appeal and in the Courts below.

2nd Aug.  
1897.

7th and 8th  
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An appeal to the House of Lords was heard on the 23rd and 24th March 1899.

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*Asquith, Q.C. (Clavell Salter with him)* for Smith and others, the Appellants.—Under the Agricultural Rates Act, 1896, market gardens are to be treated as agricultural land. The case of *Purser v. Local Board of Health for Worthing* (18 Q.B.D., 818), the facts of which are the same here, decided in 1887 that for rating purposes glasshouses used as these are were a market garden, and it must be assumed that the Legislature, in enacting the Agricultural Rates Act, 1896, had in view market gardens as defined and explained in that case.

[*Lord Morris.*—Is not the question rather whether, notwithstanding it is a market garden, that portion of it which is occupied by buildings should be taken out?]

There would be nothing left if you took out what is under glass. What is under the glass is really agricultural land, land cultivated with the spade or other implements market gardeners use. You cannot treat the buildings as being distinct from the land. The Act, when it refers to buildings, must be taken as referring to buildings, which are in point of fact distinct from, and to that extent independent of, land that is being cultivated.

*Clavell Salter.*—*North-Western Railway Company v. Llanudno Commissioners*, (1897) 1 Q.B. 287, is an authority for treating buildings as land.

*Sir R. Webster, A.G. (S. H. Day, and Trevor with him)*, for the Surveyor.—The entries in the Valuation List show that what was rated was the buildings, not the land. If it were the land, it would be rated at over £150 an acre. For one market garden covered with glass there are hundreds not so covered. The natural soil underneath the greenhouses is not being cultivated. The case shows that special beds are prepared inside the houses, and that in some instances the earth is placed on sheets of iron raised from the ground. The greenhouses are buildings, and the clear intention of the Agricultural Rates Act, 1896, was that buildings should not have the benefit of the relief granted. There is an antithesis all through the Act between lands and buildings. The mode of valuing buildings laid down in Section 5 (c) is applicable to buildings on market gardens just as much as to other agricultural buildings.

Reading the words "market gardens" into Section 5 (a) you get a direction that the value of the market gardens shall be stated separately from that of any building, that is, any building on the gardens. If a market gardener carries on his trade by means of a building, he is no more entitled to pay only half rates on the value of that building than a farmer is entitled to pay half rates on the value of his barn.

*Clavell Salter* in reply.—The antithesis in the Act is between tilled soil and untilled soil. The soil in the glasshouses is tilled. The market gardener is not put into a better position than the farmer, for the stable, potting-houses, &c., of the market gardener correspond to the barns, &c., of the farmer, and are not entitled to relief.

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*Cur: adv: vult.*

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#### JUDGMENT.

*The Lord Chancellor.*—My Lords, this appeal raises the question what is meant by the words “ occupier of agricultural land ” in the Statute 59 & 60 Vict. c. 16. 3rd Aug.  
1899.

Apart from the provisions of the Statute in question, the word “ land ” would be variously understood by different persons. To a farmer the word “ land ” would not mean his farm buildings; to a lawyer the word would include everything that was upon the land fixed immovably upon it; but the Statute has given an interpretation clause, and has also in the enacting clause itself pointed out not obscurely, with what subject-matter it was dealing. The very enacting part of it gives the antithesis between land and buildings, since the relief the occupier is to get is that he is to be liable to the case of every rate to which the Act applies, “ to pay one-half only of the rate in the pound payable in respect of buildings and other hereditaments.”

Now the special case here finds that “ the land ” sought to be treated as agricultural land is of the character described in the 14th paragraph of the case as agreed to:—“ The said Robert Piper was a grower of fruit, vegetables, and flowers at Worthing, and described himself, and was commonly known, as a market gardener and nurseryman. He was the owner and occupier of a piece of land rather more than four acres in extent, on which 57 glasshouses or greenhouses of various sizes were erected; the houses were used by the Appellant for the purpose of growing tomatoes, cucumbers, and grapes, and to a smaller extent other vegetables for the purpose of sale. The plants and crops grown therein were watered and heated by artificial means, and grown upon soil placed upon prepared beds inside the houses, and matured much earlier than in the open ground. The vines are planted inside the houses, and the roots run partly in the soil under the houses and partly pass through the apertures in the walls into the soil outside. Fifty-one of the glasshouses are thus used for growing vines. In the cucumber houses (which are six out of the 57 houses) there are, inside the houses, dwarf brick walls supporting corrugated iron sheets, upon which sheets earth taken from the other parts of the nursery ground is placed. In this earth so placed upon the iron sheets the cucumber plants are planted. Beneath the iron sheets and between them and the ground there are hot-water pipes. The area actually occupied by the 57 houses is rather more than two acres. The rest (rather

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more than two acres) consists merely of vine borders, paths, and the stoke-holes. The whole of the houses were built upon dwarf brick walls like an ordinary greenhouse."

I have emphasized some parts of this description, but it is extraordinary that any claim should be made that what is here described as agricultural land. It would be quite as reasonable to claim that any building, however solid and substantial, used for agricultural purposes was agricultural land because to a lawyer land would include it, and as its use was agricultural, it therefore became agricultural land within the meaning of the Act.

I agree with the Master of the Rolls that the terms "land" and "buildings" in this Act are mutually exclusive of each other. I must say I feel no difficulty in applying the interpretation clause to the construction of the Act, which seems so plain. A market garden or a nursery garden may, as part of it, have agricultural land, and if such part is used as arable, meadow, or pasture ground only, it will not forfeit its claim to relief because it forms part of such an industry; but in what sense can these buildings be described as arable, meadow, or pasture? They are buildings, and not agricultural land at all.

I am very clearly of opinion that this appeal ought to be dismissed with costs, and I move your Lordships accordingly.

*Lord Watson.*—My Lords, I have done my best to examine the Statute in question, and I have been quite unable to arrive at any result other than that which is embodied in the Order under appeal. I agree with all the observations of the learned Master of the Rolls, and with the brief but cogent reasoning of my noble and learned friend the Lord Chancellor. I concur in the judgment moved by the Lord Chancellor.

*Lord Macnaghten.*—My Lords, I concur.

*Lord Morris.*—My Lords, I am of the same opinion.

Questions put: That the Order appealed from be reversed.  
The Not Contents have it—

That this appeal be dismissed with costs.

The Contents have it.

Appeal dismissed with costs.

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