

The Law Reports (King's Bench Division)

[1948] 1 KB 415

[DIVISIONAL COURT]

REX *v.* JORDAN. *Ex parte* LUTRING.

1947 Dec. 9, 10.

Lord Goddard C.J., Humphreys and Atkinson JJ.

Tithe — Tithe redemption annuity — Annual value of land charged — Assessment — Certificate by surveyor of annual value — Dwelling-house owned and occupied by person chargeable — Value to be included in assessment — Tithe Act, 1936 (26 Geo. 5 and 1 Edw. 8, c. 43), s. 14, sub-s. 2 — Income Tax Act, 1918 (8 & 9 Geo. 5, c. 40), sch. B., r. 1.

416 The owner-occupier of a farmhouse forming part of an agricultural holding charged with tithe redemption annuity under the Tithe Act, 1936, in making an application to the surveyor of taxes under sch. 4 to the Act for a certificate of the annual value of the holding (which by s. 14, sub-s. 2 of the Act means the annual value for income tax purposes under sch. B. to the Income Tax Act, 1918) for the purpose of enabling him to obtain the remission of part of the redemption annuity under s. 14, must include in his application the value of the farmhouse which he occupies. The provision in r. 1 of sch. B. to the Income Tax Act, 1918, that tax under it is to be charged in addition to tax under sch. A., with a proviso that there shall not be charged under sch. B. "any dwelling-house unless occupied by virtue of one and the same demise with a farm of lands for the purpose of farming the same" relates only to chargeability and not to valuation, and, therefore excludes from its provisions a farmhouse occupied by the owner, since he would already be chargeable to tax under sch. A. in respect of it, whereas the valuation to be made by the surveyor for the purpose of issuing a certificate pursuant to the Tithe Act, 1936, is that of the annual value of the whole farm, including the dwelling-house, and not only the value of that part which is chargeable to tax under sch. B.

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RD Boyd



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