

From Boyd, C.]

[June 6.

CONSUMER'S GAS COMPANY OF TORONTO *v.* CITY OF TORONTO.

Assessment and taxes—Toronto Gas Company—Mains and Pipes.

The mains and pipes of the Consumers Gas Company of Toronto laid under the public streets are assessable for municipal taxation under the Consolidated Assessment Act, 1892, 55 Vict. Ch. 48 (O.)

Toronto Street R. W. Co. v. Fleming, 37 U.C.R., 116, considered.

Judgment of BOYD, C., 26 O.R. 722, affirmed, OSLER, J. A., dissenting.

McCarthy, Q.C., *S. H. Blake*, Q.C., and *Miller*, Q.C., for the appellants.
Robinson, Q.C., and *Caswell*, for the respondent.

From Robertson, J.]

[June 6.

JAMIESON *v.* LONDON AND CANADIAN LOAN COMPANY.

Landlord and tenant—Lease—Mortgage of lease—Assignee of term.

A mortgage of lease after reciting the lease, granted and mortgaged to the mortgagees (a loan company) their successors and assigns forever, the lease and the benefit of all covenants therein contained and all that parcel of land (describing it), habendum unto the mortgagees, their successors and assigns for the residue yet to come and unexpired of the term of years created by the lease, less one day thereof, and all renewals and substituted estates and right of renewal and other interests of the mortgagor.

Held, reversing the judgment of ROBERTSON, J., that the one day excepted might be taken as the last day of the term, and that the mortgagees were not assignees of the term and liable for the rent.

Robinson, Q.C., and *Arnoldi*, Q.C., for the appellants.

Armour, Q.C., and *W. H. Irving*, for the respondent.

From C. P. Div.]

SPROULE *v.* WATSON.

Evidence—Will—Letters probate—Testamentary capacity.

Letters probate issued by the proper Surrogate Court are, notwithstanding the Devolution of Estates Act, only prima facie evidence as far as real estate is concerned of the testamentary capacity of the testator, and in an action asserting title to real estate under the will the defendant is entitled to give evidence to show want of testamentary capacity.

Judgment of the Common Pleas Division affirmed.

W. M. Douglas, and *Frank Ford*, for the appellant.

Watson, Q.C., and *J. M. Rogers*, for the respondents.

From Robertson, J.]

[June 6.

TOWNSHIP OF LOGAN *v.* HURLBURT.

Public Health Act—R.S.O. Ch. 295, sec. 34—Person suffering from infectious disease—Failure of Board of Health to isolate—Consequent spread of disease.

The directions of sec. 84 of the Public Health Act, R.S.O. Ch. 295, are imperative, and where, instead of acting as directed in that section, the mem-