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DECISIONS IN COMMERCIAL LAW.

Re CONSUMERS' GAS COMPANY.—Gas pipes laid under the streets of a city, which are the property of a private corporation, are real estate within the meaning of the "Ontario Assessment Act of 1892," and liable to assessment as such, as they do not fall within the exemptions mentioned in the sixth section of the Act, according to the Supreme Court of Canada. By the appellants act of incorporation power was conferred upon them "to purchase, take and hold lands, tenements and other real property for the purposes of the said company, and for the erection, and construction and convenient use of the gas works of the company"; and, further, power was conferred by the thirteenth clause "to break, dig and trench so much and so many of the streets, squares and public places of the said city of Toronto as may at any time be necessary for the laying down the mains and pipes to conduct the gas from the works of the said company to the consumers thereof, or for taking up, renewing, altering or repairing the same when the said company shall deem it expedient." Held by the Supreme Court of Canada that these enactments operated as a legislative grant to the company of so much of the land of the said streets, squares and public places of the city, and below the surface, that it might be found necessary to be taken and held for the purposes of the company and for the convenient use of the gas works, and when the openings are made at the places designated by the city surveyor, as provided in said charter, and they are placed there, the soil they occupy is the land taken and held by the company under the provisions of the said Act of incorporation. Also, that the proper method of assessment of the pipes so laid and fixed in the soil of the streets and public places in a city ought to be as in the case of real estate and land generally, and separately in the respective wards of the city in which they may be actually laid.

CITY OF TORONTO V. TORONTO RAILWAY CO.—It was urged that the question to be determined, viz., the liability of the Toronto Railway Co. to an assessment upon their rails, poles and wires, was *res adjudicata*; it having been decided in an appeal from the assessment in question, heard before the Board of County Judges in July last, that the Railway Company are not liable to such assessment. McDougall, J., says; "It is true that this is the effect of the judgment pronounced by the judges composing the board; but the question has been already decided by the same two judges in an appeal heard in 1896. But since that date, a judgment has been rendered in the Supreme Court of Canada, in the case of the Consumers' Gas Company v. Toronto (May 1st, 1897, not yet reported) affirming the liability of the Gas Company to assessment for their mains; and the Chief Justice of the Court, besides so holding, went on to point out that there was no distinction between gas mains and street rails, and stated expressly that the case of Fleming v. Street Railway Company, decided by the Court of Appeal, must now be held to have been wrongly decided. The appeal will be allowed, and the original assessment made by the Assessment Department against the rails, poles and wires of the Toronto Railway Company, be restored to the roll.

A CARPET manufacturer at Markham, Archibald Campbell, has failed. In March last he tried to effect a compromise with creditors, but was unsuccessful in doing so, and now the sheriff is in possession of the stock.

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