

The most convenient way of dealing with the subject will be to take up the judgment of the learned Senior Judge of the County of York, reported *ante* p. 157, and contrast this deliverance with the less elaborate judgment of the learned Judge of the County of Lincoln, reported *ante* 205.

Both judgments agree that, in order to subject a gas company to taxation, their mains must be held to be real estate or land, or they are not assessable at all; for, as Senkler, Co.J., points out, by s. 34, s-s. 2, of the Assessment Act the personal property of a gas company is exempt from taxation. McDougall, Co.J., decides they are real estate, either as being machinery forming an indivisible part of their plant, and appurtenant to their lands; or, if they are an easement, then, reading s-s. 7 of the Interpretation Act into the Assessment Act, an easement is expressly assessable; that the estate of the gas company is more than an easement, is in fact an hereditament, and, as such, taxable as land; and that the mains, though laid in the public highways, are property, and all property in the Province is liable to taxation: section 7, Consolidated Assessment Act. Senkler, Co.J., briefly holds that "these mains are chattels . . . or, at most, an easement, and, in either view, not assessable as land."

The interpretation clauses of the Assessment Act are somewhat peculiarly worded. Subsection 9 of s. 2 declares that "'Land,' 'real property,' and 'real estate' shall include all buildings and other things erected upon or affixed to the land, and all machinery or other things so fixed to any building as to form in law part of the realty." It may be a question as to whether this means that, in addition to the ordinary legal meaning of the words "land," "real property," and "real estate," the words "shall include" extend the meaning to the "buildings," etc., mentioned in the section. It may well be argued that the section defines the meaning of the words, "land," etc., and that the maxim *expressio unius*, etc., applies. Clearly, gas mains do not come within the definition of s-s. 9, for they are not "buildings and other things" (*eiusdem generis*). Another nice question might be suggested: Are not the "lands," etc., upon which the erections are contemplated by the statute lands owned by the company, and on which its buildings, gasometers, and "other things" are placed? Certainly, the mains are not "machinery or other things so fixed to any buildings as to form in law part of the realty."