

Edward, in the township of Ameliasburg, the defendant municipality. It is a bridge upon which toll is levied, and to which the public has right of access only upon payment of the statutory toll: 62 & 63 Vict. ch. 95, sec. 8 (D.) It is built on and over the marshes, islands, and navigable waters of the Bay of Quinte, but it is to be so used as not to interfere with navigation and other public uses of the bay: *ib.*, sec. 10. This bridge property is, within the meaning of the Ontario Assessment Act, taxable land. By interpretation all structures and fixtures placed upon, in, over, or affixed to any public place or water, e.g., an interprovincial or an international bridge over navigable water, is land: 4 Edw. VII. ch. 23, sec. 7, sub-sec. 7 (e); *Niagara Falls Suspension Bridge Co. v. Gardner*, 29 U. C. R. 194.

Section 43 (2) warrants the assessment of this bridge, so far as the interest therein of the plaintiffs is concerned, leaving exempt the title and property of the Crown, as provided by sec. 35.

Section 37 of the Act has no application to this case, for here the property, though over a mile in length, is nothing in its totality but a bridge. That section applies only to a long bridge forming part of a toll road. It matters not that the Bay of Quinte, over which the bridge passes, is navigable water, forming in law a public highway; this bridge gives another right of way of legalized character, obtainable upon payment, over that water, without interfering with the absolute further rights of passage and navigation. The law on this head is all covered by *Niagara Falls Park and River R. W. Co. v. Town of Niagara*, 31 O. R. 29.

The situation is analogous to the conjunction of a public highway on land with a street railway running thereon or the pipes of a private gas company laid thereunder. In both cases, notwithstanding the property of the Crown in the road, taxes are levied in respect of its beneficial user by the private proprietors.

The bridge is assessable as to the half within defendants' area on its taxable value as a whole with the proper proportionment of the amount referable to the structure on the Ameliasburg side.

The action should stand dismissed with costs.