

ment or taxation? Are these to be favoured companies, and are they to be relieved from the burden cast upon all other corporate bodies using machinery in their business?

The Act of 1902 repeals s. 18 of the Assessment Act, and ss. 18a and 18b of the Act of 1901, and substitutes this new s. 18, divided into six sub-sections. The first sub-section deals with the land of persons other than the companies named in the sub-s. 2, and directs that such land shall be assessed in the municipality where it lies, and in cities in the ward in which it lies. Sub-s. 2 deals with heat, light and power companies, telegraph, telephone companies, and companies operating street railways and electric railways. The land of such companies is directed to be assessed in cities in the ward in which the company has its head office, or if they have not their head office in the municipality, then all the land possessed by these companies wherever situate within the municipal boundaries, may be assessed in any ward of the city. Sub-s. 3 declares (what the courts have already held) that rails, ties, poles, wires, gas pipes, mains, conduits, sub-structures and superstructures upon the streets, roads, highways, lanes and other public places in the municipality shall be land, and then proceeds to define upon what principle their value for assessment purposes shall be determined. The plant, poles and wires used exclusively by a steam railway in running trains, and not for commercial purposes, is declared to be exempt from taxation.

Sub-section 4 reads: "(4) Save as aforesaid rolling stock, plant and appliances of companies mentioned in sub-section 2 hereof shall not be land within the meaning of the Assessment Act, and shall not be assessable." Sub-section 3 limits the liability to assessment under the new basis of valuation to certain enumerated portions of the plant and appliances and fixtures of these particular companies situate or placed upon the streets, highways, etc. Sub-section 3, therefore, deals with the assessment liability of what may be broadly stated as the outdoor portion of the companies' plant and appliances, and as to these a new method and basis of valuation is laid down. The sub-section does not deal with anything but the plant and appliances located on the streets, lanes or public places.

The contention which has arisen relates to the meaning and force of sub-s. 4, which in form is a saving clause purporting to except and exempt certain articles or things from assessment or taxation. The appellants contend that the meaning of sub-s. 4 is that save as to the enumerated parts of their plant and appliances situate on the public streets, all other plant and appliances of the companies, wherever situate, is now exempted from assessment and taxation. In other words that the Legislature has expressly relieved them from the liability to assessment heretofore existing by force of sub-s. 9 of s. 2 of the Assessment Act. As to all other companies sub-s. 9 of s. 2 still applies, and the machinery, plant and appliances of all other companies continue liable to assessment and taxation.