

*re* Toronto R. W. Co. and City of Toronto, Etc.

*Re* Toronto Electric Light Co. and City of Toronto; *re* Incandescent Light Co. of Toronto and City of Toronto; *re* Ottawa Electric Co. and City of Ottawa. Judgment on appeals by companies and on cross-appeal by corporation of city of Ottawa from judgments of boards of county court judges constituted under the Assessment Act, confirming or varying assessments of the companies. The main question upon all the appeals was as to the proper construction to be placed upon sub-sections 3 and 4 of section 18 of the Assessment Act, as substituted by 2 Edw. VII., chapter 31. The principal difficulty was caused by sub-section 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." The contention of the companies was that the effect of this sub-section was to exempt from assessment all their plant and appliances of every description, though otherwise 'land' within the meaning of sub-section 9 of section 2, and hitherto undoubtedly assessable as such, which was not upon the streets or roads of the municipality. The question for the court was whether the Legislature, in applying the remedy for the state of things pointed out in *Kirkpatrick v. Cornwall Electric Street R. W. Co.*, 2 O. L. R., 113, had used language which must be read as creating a new and general exemption of property, the liability of which to taxation had never been disputed. The court, while regarding the language of the statute as inapt, and the argument of the companies as at least plausible, held that the well-known rule of construction should be applied, and 'plant and appliances' read as *ejusdem generis* with "rolling stock." It was also objected by the Ottawa Electric Company that their lamps, hangers and transparencies were not "superstructures upon the street" within the meaning of sub-section 3. Held however, that although easily removed and transferable from one place to another they formed parts of the permanent and essential street plant. Held, as regards the cross-appeal of the city of Ottawa in respect of the Gas Company assessment, that there was no reason on the evidence to interfere with the amount to which the Board of Judges reduced it. All appeals dismissed with costs.

**Ottawa Electric Co. vs. City of Ottawa.**

Judgment on appeal by defendants from judgment of Boyd, C. (I. O. W. R., 508), allowing appeal of plaintiffs, and dismissing appeal of defendants from report of local master at Ottawa. The action was brought by plaintiffs to recover \$18,669.50, alleged to be due by defendants for electric lighting of the city of Ottawa under a contract. The contro-

versy was as to the legal relationship of the parties in consequence of the destruction of the works of plaintiffs, in common with a large part of the city of Ottawa, by the great fire in April, 1900. The chancellor read the contract as meaning that if no light was furnished from unforeseen accident there was to be no pay, and no penalty during such time, when light began to be furnished pay began pro tanto, the company all the while being in no default. The court agreed with the construction of the chancellor. Appeal dismissed with costs. Cross-appeal fails.

**Ontario Municipal Association—Annual Meeting at Guelph.**

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their gross receipts and losses in such municipality for the preceding year, to enable the municipality to determine whether the rates are equitable or otherwise."

Doubt was expressed as to the authority of the Province over such companies, but as there were no objections to the principle of the resolution it was adopted.

**POLICE MAGISTRATES' SALARIES.**

The feeling of the delegates in relation to police affairs was not exhausted by the former resolution, as is evidenced by this clause of the report:

"That the councils of municipalities be given power to regulate the salaries of the police magistrates, unless the body that appoints the magistrate pays the salary."

This was adopted without discussion.

**TO EXPROPRIATE TELEPHONE COS.**

"That this association affirm the desirability of municipal ownership of local telephone systems and seek power to expropriate any existing local plant and to operate such plant."

This clause in the report met with objection from the secretary, Mr. S. H. Kent, of Hamilton. He did not think the association should be placed on record so definitely upon the question of public ownership. In his judgment the telephone was not a municipal monopoly, and while he agreed that the right to expropriate should be given, he did not want to see the association committed to the principle of civic ownership and operation. He moved an amendment eliminating the affirmation of the desirability of public ownership and confining the recommendation to power to expropriate, and in that shape the clause was adopted.

**OTHER RECOMMENDATIONS.**

The other clauses in the committee's report were adopted as presented. They were:

That the proviso to sub-section 1 of section 569 respecting the operations of street railways by municipalities should be repealed and the following powers conferred therefor:

"Provided that the powers conferred

by this sub-section shall only be exercised by a municipality when the exercise of such powers would not be a violation of the provision of any agreement or contract between the municipality and any existing street railway company.

"That no sale of lands for taxes should be invalid because the municipality had not levied on other goods in the county belonging to the person assessed, nor because of any act or omission of any officer or person employed by the municipality to collect the taxes, but such taxes shall remain due until paid.

"That all expenses of registrations and Provincial elections be borne by the Province.

"That the provision requiring candidates nominated for municipal councils in large cities to file their property qualification at nomination should be extended to all cities and towns.

"That municipal councils should be given power to construct underground conduits, and to erect poles and compel all electrical companies to use such conduits or poles and pay a reasonable rental therefor.

"That sub-section 3 of section "71 A" of the Municipal Act should be amended to provide that the council of any town having a population of more than 5,000, and the council of any city having a population of 15,000 or less may by by-law provide that the council of such town or city shall be composed of a mayor and two aldermen for each 2,000 of population to be elected by general vote, or of a mayor by general vote, or of a mayor and six aldermen when the population is less than 6,000.

"Opposing the sections of the bill dealing with the tax sales being conducted by the sheriff instead of by the treasurer as at present.

"That the cities and towns of Ontario be urged to send representatives to accompany the Executive of this association when they attend before the Special Committee of the Legislature in October next, when this important matter will be considered.

**DOMINION GOOD ROADS ASSOCIATION.**

The association expressed itself in sympathy with the creation of a Dominion good roads department.

Barrie ran Toronto close for the next place of meeting, but was defeated by six votes. The meeting will be held the first week of the Toronto Exhibition next year. The officers elected are: President, John Kennedy, ex-Mayor, Guelph; first vice-president, W. A. Boys, mayor, Barrie; second vice president, W. A. Grier, mayor Owen Sound; secretary, S. H. Kent, Hamilton; Executive, the mayors of St. Catharines, Brantford, Lindsay, Windsor, London, Peterboro' and Galt; Ald. Ellis, Ottawa; Thos. Caswell, city solicitor, Toronto; F. MacKelcan, city solicitor, Hamilton; R. P. Slater, Niagara Falls; Ald. Hubbard, Toronto, D. M. McIntyre, city solicitor, Kingston.