

Up to the passing of 2 Edw. VII. ch. 31 the company was liable to assessment for the cash value of the pipes "estimated as if appraised in payment of a just debt from a solvent debtor." On this basis the evidence is that 8-inch pipe should be assessed at 10 cents per foot, but only pipe on public property is assessable under the Act.

The statute passed at the last session has entirely changed the basis of assessment, and, when this assessment was made, the law was that "the pipes, conduits, etc., shall, when and so long as in actual use, be assessed at their actual cash value as the same would be appraised upon a sale to another company possessing similar powers, rights, and franchises in and from the municipality, and subject to similar conditions and burdens, regard being had to all circumstances adversely affecting their value, including the non-user of such property."

The evidence herein shews that, owing to the failure in the supply of gas, there is practically no profit in carrying on the business, or that the profit is very small; that, notwithstanding continuous efforts to obtain a further supply by sinking new wells, no further supply has been obtained. Under these circumstances, what would be the actual cash value of the pipes, etc., "as the same would be appraised upon a sale to another company," etc.? The evidence, in our opinion, warrants the conclusion that as a going concern they could not be appraised as having any cash value. We are also of opinion that the pipes, etc., might properly be appraised upon a sale to another company at the price that they would bring in the market. We find that the cash value of the taxable pipe on public property is 594 feet of 8-inch pipe at 10c. per foot, making a total of \$59.40.

We are of opinion that the assessment should be reduced to this last mentioned amount.

The appellants are entitled to their costs.

WINCHESTER, Master.

SEPTEMBER 29TH, 1902.

CHAMBERS.

PARRAMORE v. BOSTON MFG. CO.

*Patent for Invention—Action for Infringement —Motion to Stay—
Proposal to Proceed in Exchequer Court to Avoid Patent.*

Motion by defendants to postpone trial of this action in order to enable them to bring an action in the Exchequer Court of Canada to set aside plaintiff's patent of invention. This action was brought to restrain defendants from infringing plaintiff's patent. The defendants delivered a defence