

Lucas v. De la Cour (1813) 1 M. & S. 249, and *Humble v. Hunter* (1848) 12 Q.B. 310, referred to and distinguished.

Judgment of the County Court of Simcoe varied.

W. M. Boulbee, for the appeal. *Brokovski*, contra.

ASSESSMENT CASES.

IN RE TORONTO RAILWAY COMPANY, CONSUMERS' GAS COMPANY, BELL TELEPHONE COMPANY, TORONTO ELECTRIC LIGHT COMPANY, AND INCANDESCENT LIGHT COMPANY ASSESSMENT APPEALS.

Assessment—Traction and transmission companies—2 Edw. VII., c. 31—Plant and appliances—Machinery—Exemption—Construction of statute.

Held, that the words "Plant and Appliances" in sub-s. 4 of 2 Ed. VII. c. 31, are confined to any plant and appliances upon the streets and other public places in the municipality, and refer only to the "rolling stock" of a street railway company, and that therefore the machinery of electric companies is not exempt.

[TORONTO, Oct. 23.]

This was an appeal from the Court of Revision of the City of Toronto to a Board of County Judges. The Court of Revision had held that the words "plant and appliances" in 2 Edw. VII., c. 31, s. 1, sub-s. 18 (4), were ejusdem generis with "rolling stock," and did not apply to the plant or appliances not connected with rolling stock, and that therefore the contention of the appellant companies that their machinery, plant and appliances situate elsewhere than on the streets and public places of the municipality were exempt could not be admitted. The Board consisted of their Honors McDougall, McGibbon, and McCrimmon, Co. JJ.

James Bicknell, K.C., for Toronto Railway Company; *Lee*, for Gas Company; *Ambrose*, for Bell Telephone Company; *H. O'Brien*, K.C., and *J. S. Lundy*, for the Electric Light Companies.

Fullerton, K.C., and *Chisholm*, for the City of Toronto.

The judgment of the Board was delivered by

McDOUGALL, Co.J.:—The question to be determined in these appeals is as to the effect of the Amending Act of last session, c. 31, s. 1, whether the exception or exemption stated in sub-s. 4 extends to the rolling stock of street railways, and in the case of all companies named in sub-s. 2 to all the plant and appliances belonging to such companies save those existing on or situate upon the street, roads, highways, lanes and other public places of the municipality. Under sub-s. 9 of s. 2 of the Assessment Act machinery or other things so fixed to any building as to form in law part of the realty is to be deemed land for the purpose of assessment. Does sub-s. 4 of s. 1 of the Act of last session exempt machinery and buildings on the land of water, heat, light and power companies, telephone, telegraph, street railway and electric railway companies from assess-