

question, I have arrived at the conclusion that as to the main point the order should not be disturbed.

As I read that clause, it applies to exempt only the real estate therein mentioned, since it expressly excepts from its operations the real estate not "hereinbefore" mentioned. And the only real estate which is mentioned is the tracks, etc., enumerated in the beginning of the clause, which, by the statute, are to be interpreted, for the purposes of taxation, as "land."

Why so many words should have been used to express so simple a matter is not apparent. It was certainly not necessary, for instance, to refer to property already exempt by law; and, with that part of the clause out, it might very well have read affirmatively, thus: "The tracks, right of way, wires, rolling stock, and all superstructures and substructures . . . shall . . . be exempt . . .;" for that, in my opinion, is what it means and what the parties intended. This, it may be said, gives no meaning to the words, "and all the properties . . . not exempted by law;" but, unless such properties were land, or in the nature of land, they were not assessable. And, if they were land, then the exception from the operation of the agreement of the real estate" (which, of course, includes land in the statutory sense) not thereinbefore enumerated, leaves the matter just as it would have been with all these words out of the clause.

I can find no excuse in the agreement for an exemption of the electric lighting property or plant, or for exemption, in respect of it, from the ordinary business tax. But the latter tax could not, under the provision of sec. 226 of the Assessment Act, lawfully be imposed in respect of the other property, as was in effect conceded on the argument.

I would otherwise dismiss the appeal, but, under the circumstances, without costs.

MOSS, C.J.O., MACLAREN and MEREDITH, J.J.A., concurred; MEREDITH, J.A., giving reasons in writing.

MAGEE, J.A., dissented. He was of opinion, for reasons stated in writing, that the assessment of \$4,500 on poles and wires of the lighting business and all the business assessments of \$5,125, \$3,125, and \$1,350, should be struck out, but the other assessments should stand.

In the result, the order of the Board was varied in regard to the imposition of a business tax in respect of the street railway department, *i.e.*, 25 per cent. of \$50,500, and affirmed in other respects.