last two preceding sub-sections contained shall be deemed "to prevent or affect the right of appeal to the County Judge from the decision of a Court of Revision upon any appeal against an assessment." This puts the nature of the existing right to appeal to the County Judge to be an appeal from the decision of a Court of Revision upon any complaint against an assessment. In the case of the present appeal, the Court of Revision have decided against the assessment. The corporation of the City of Toronto have duly lodged an appeal against the decision. As County Judge I am bound to hear and determine that appeal. The objection to my jurisdiction to hear the appeal will, therefore, be overruled.

During the argument I dealt with the technical objections to the service of the notices, etc., and held that all services had been made, properly bringing the appeal before me.

It is now urged that the question to be determined, viz., the liability of the Toronto Railway Company to an assessment upon their rails, poles and wires is *res adjudicata*, it having been decided in an appeal from the assessment in question heard before the Board of County Judges in July last that the Railway Company are not liable to such assessment. It is true that this is the effect of the judgment pronounced by the judges composing the board; but the question had been already decided by the same two judges in an appeal heard in 1896. But since that date a judgment has been rendered in the Supreme Court of Canada in the case of the Consumers' Gas Company v. Toronto (May 1, 1897, not yet reported), affirming the liability of the Gas Company to assessment for their mains; and the Chief Justice of the Court, besides so holding, went on to point out that there was no distinction between gas mains and street rails, and stated expressly that the case of Fleming v. Street Railway Company, decided by the Court of Appeal, 37 U. C., R. 116, must now be held to have been wrongly decided. It was largely, though not entirely, upon the strength of this case of Fleming v. Toronto Street Railway Company that the two county judges decided, in 1896, that the rails, poles and wires of the Toronto Railway Company were not liable to assessment. In the later judgments of July last, Judge Dartnell says he expresses no opinion as to the effect of the Supreme Court decision in the Consumers' Gas cases upon the appeal then being considered, and reaffirms his former judgment on other grounds. Judge McGibbon says that the judgment in the Consumers' Gas case does not, in his opinion, govern this appeal.

The Chief Justice of Canada says, in the Consumers' Gas case: "I can see no difference between the case of pipes thus placed on the highway and pipes or mains placed or affixed under the surface of the land, the property of which might be in a private owner. The Court of Appeal were no doubt embarrassed by their previous decision in the case of Fleming v. Toronto Street Railway Company. The Chancellor attempted to distinguish that case from the present; but I confess I do not think it is susceptible of distinction. I was a party to that decision, but I do not hesitate to say that I now think rails were things affixed to the land, and as such liable to assessment as real property, and that the case was consequently wrongly determined."

I have to decide in this case—in which there is no appeal from me, sitting alone as County Judge—whether I shall follow the judgment of my learned county brothers or the judgment of the learned Chief Justice of Canada, and formulated in such precise terms as appear in the extract quoted by me from his recent judgment (not yet printed) in the Gas Company's case. With all