

by them mainly for the purpose of their business? I think it is clear from the evidence that the use of this wharf and premises during the season is mainly for the purpose of the business of the navigation company, and not for the business of the express company. The words "occupied or used mainly for the purpose of its business," in sub-sec. (c) of sec. 10, relate only to express companies carrying on business in connection with railways, steamboats, or sailing vessels, and not to the corporations mentioned in the earlier part of the subsection; and it seems to me that before the municipality can tax the express company under the head of "business assessment," it must shew that the main use to which the land in question is put is for the purpose of the business of the express company; and, in my view, this has not been done, and is not the fact.

This statute is to be read strictly, and it must be clear that the right of the municipality to tax arises: In *re* Micklethwait, 11 Ex. 452; *Tennant v. Smith*, [1892] A. C. 150.

Some evidence was given to the effect that in any event the amount of the assessment was excessive; I ruled at the trial that this could not be raised in this action, but was for the Court of Revision. . . .

Judgment for plaintiffs as prayed with costs of action.

SEPTEMBER 26TH, 1907.

DIVISIONAL COURT.

BICKELL v. WOODLEY.

Way—Private Way—Trespass—Boundary—User — Evidence
—Costs.

Appeal by defendant from judgment of *BOYD, C.*, ante 7.

G. Lynch-Staunton, K.C., for defendant.

S. F. Washington, K.C., for plaintiff.

THE COURT (*FALCONRBIDGE, C.J.*, *BRITTON, J.*, *RIDDELL, J.*), dismissed the appeal with costs.