

**The**  
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No. 35

COURT OF APPEAL.

MOSS, C.J.O., IN CHAMBERS.

MAY 9TH, 1912.

RE TOWN OF STEELTON AND CANADIAN PACIFIC  
R.W. CO.

*Assessment and Taxes—Railway Company—Assessment Act,  
1904, secs. 44, 45—Construction—Actual Assessment—  
Quinquennial Assessment.*

Case stated by the Lieutenant-Governor in Council, under sec. 77 of the Assessment Act, for the opinion of a Judge of the Court of Appeal.

Angus MacMurchy, K.C., for the railway company.  
D. L. McCarthy, K.C., for the town corporation.

Moss, C.J.O.:—The question raised is as to the proper meaning and effect of sec. 45 of the Assessment Act, 1904, in relation to the assessment of the real property of steam railway companies.

The provisions of the Act dealing with the subject are secs. 44 and 45, under the heading "Railways."

Sub-section (1) of sec. 44 makes provision for every steam railway company transmitting annually to the clerk of the municipality in which any part of the roadway or other real property of the company is situated, a statement shewing in detail the various kinds of real property, whether occupied, in use, or vacant, belonging to the company, and the assessable value thereof. And the statement is to be communicated by the clerk of the municipality to the assessor.