

By a provision of the charter of that town, sections 326 and 327 of the Town Corporation General Clauses Act apply to it as if they had been embodied in the charter; and these two sections are identical with Articles 720, 721 and 722 of the Municipal Code. The Supreme Court decided that what was taxable under section 326, which is identical with Article 720, was the land occupied by the road without the superstructure, and that when no return was made, the valuers could only include in the valuation-roll the valuation of the taxable property of the company, that is, the mere land estimated as agricultural land, minus the rails and ties or superstructure. The reasons given for this judgment appear to me to be irrefutable; but, at all events, I am bound by the decision, and I must declare that the valuers acted illegally in valuing the track otherwise than on the basis of the adjoining farms.

As regards the manner in which the value was established in the return, I do not think that it can be objected to, as the valuation-roll of the previous year, which had been made only nine or ten months before, certainly furnished the latest data which could be conveniently procured; and as a matter of fact, the value thus obtained was higher than if the valuations of the present year had been taken as a basis.

Under the provisions of both the Municipal Code and the Town Corporation General Clauses Act, any person wronged by the valuation-roll may demand a revision by the Council, and may appeal from the decision of the Council to the Circuit Court. As regards the city of Hull, the right of revision is given by section 68 of the charter, and the right of appeal by section 9 of the Act 39 Vic. ch. 49, which amends the charter. The property of the Company having been valued at more than the sum specified in its return, and therefore too high, it was wronged by the valuation-roll, and had the right to demand a revision and to appeal from the decision of the council on its complaint.

The company might have waited until it was attempted to levy an assessment on the illegal valuation, and have then proceeded by injunction, under the statute 41 Vic. ch. 14, to restrain the city from collecting it, as

the judgment of the Supreme Court, in the case above mentioned, declared such a proceeding to be an appropriate remedy. In such case the city would have lost its assessment for the current year; but the company appears not to have wished to avoid its legal responsibility for taxes, and therefore adopted the other course which the law allowed to it.

I am of opinion that the valuation-roll should be amended, and I maintain the appeal and order the valuation of the company's real estate to be reduced to \$11,000, being the value specified in its return.

The judgment is entered as follows:—

"I, the Honourable Jonathan S.C. Würtele, one of the Judges of the Superior Court, now holding the Circuit Court in and for the county of Ottawa in the said city of Hull, after having heard the Canadian Pacific Railway Company by its counsel, the Honorable R.W. Scott, Q. C., and the Corporation of the city of Hull by the Mayor of the said city, A. Rochon, Esquire, having examined the reference and the documents produced therewith, and having deliberated;

"Seeing that the said company complained to the council of the said city of the valuation made by the assessors of its real estate in the municipality of the said city, and inserted by them in the valuation-roll for the present year, and that the said council rejected the said complaint and maintained the valuation made by the assessors;

"Seeing that the reference in this matter to me, the undersigned judge, was made to serve and avail as an appeal to the Circuit Court from the said decision of the said council under section 9 of the statute 39 Vic., ch. 49, amending the charter of the said city;

"Seeing that the said railway company transmitted to the office of the council of the said city, in the month of May last, (1888,) the return required by Article 720 of the Municipal Code;

"Considering that the exception taken to the statement forming part of the said return and shewing the details of the real estate of the said railway company and the average agricultural value of each part of the land occupied by the road and the real value of its buildings, because the value is based on the