

COUNTY COURT.

St. CATHARINES, Dec. 31, 1888.

Before E. J. SENKLER, Judge County Court,
Co. Lincoln.

CANADIAN PACIFIC R. Co., appellant, and CITY
OF ST. CATHARINES, respondent.

*Taxation—Personal property of company used
in telegraph office not subject to taxation.*

Appeal from the decision of the Court of
Revision for the City of St. Catharines for
1888, to the Judge of the County Court of the
County of Lincoln.

PER CURIAM:—The assessment complained
of is entered in the assessment for the City
of St. Catharines for 1888, as follows:—

“Canadian Pacific Telegraph Office, T.—
Richard Fitzgerald, T.—\$1,400 Real property
—\$400 Personal property,” and the complaint
is as to the personal property only.

The contention of the appellants is that no
such corporation exists as the Canadian
Pacific Telegraph Company; that the office
of which the real property assessed consists
and in which the personal property assessed,
is said to be situate (such personal property,
consisting of furniture and instruments used
in telegraphing), is rented by the Canadian
Pacific Railway Company, which has con-
structed a telegraph line along the line of its
railway, and has also constructed other
telegraph lines connecting St. Catharines
and other places with the telegraph line
along the railway, as that railway company
is authorized to do by section 16 of its
charter (44 Vict. ch. 1); that the business at
the office in question is carried on by the
Canadian Pacific Railway Company under
this section, and cannot be distinguished
from the general business of the company;
that under the Assessment Act, R. S. of O.
(1887), cap. 193, sect. 34, sub-sect. 2, the
personal property of the Canadian Pacific
Railway Company is exempt from assess-
ment, the shareholders being liable to
assessment on the income derived from the
Company.

Mr. McDonald, the City Solicitor, hardly
disputed the correctness of this reasoning,
and after considering the Statutes referred to
I think it is sound.

The Canadian Pacific Railway Company

has invested the principal part of its means
in the railway within the meaning of the
second sub-section of the Assessment Act
above referred to; the telegraph lines are of
secondary importance.

I therefore grant the appeal and strike off
the assessment of \$400 for personal property.

FIRE INSURANCE.

(By the late Mr. Justice Mackay.)

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CHAPTER III.

OF INSURABLE INTEREST, THE SUBJECT INSURED,
AND WHO MAY BECOME INSURED.

[Continued from p. 192.]

§ 61. *Prospective earnings, or profits.*

One having an insurable interest in prop-
erty may also insure the prospective earnings
or profits likely to grow out of that property.
Of this nature is the frequent case of insur-
ance on freight. It is necessary, however,
that such interest should be insured specifi-
cally as such.¹

In England and the United States, even
inchoate interests arising from executory
contracts of sale, and expectancies founded
on subsisting titles, like profits and freight,
have been frequently held insurable inter-
ests.²

As to profits, or freight, the French law in
force in Lower Canada allows them to be in-
sured.³

§ 62. *Insurance of expected increase in value.*

If there be an insurance on goods, the pre-
sent value of which is £5,000, but it is ex-
pected that the value will rise, and an insur-
ance is therefore effected for £6,000 in case of
the value rising afterwards, and the goods
being burnt when worth that: Cannot that
increased value be claimed, though the real
cash value at the date of the policy was only
£5,000? Apparently it could. But suppose
the goods at the date of the fire be worth

¹ *Abbott v. Schor*, 3 Johns Cas. 39; *Barclay v. Cousins*, 2 East, 544.

² *Columbia Ins. Co. v. Lawrence*, 2 Peters 151; *McGivney v. Fire Ins. Co.*, 1 Wend. 85; *Etna Fire Ins. Co. v. Tyler*, 12 Wend. 597; 16 id. 385; *Hancox v. Fishing Ins. Co.*, 3 Sumner 132; *Barclay v. Cousins*, 2 E. R.

³ Art. 2493, C. C.