

In many of the States of America there are statutes which expressly declare that a railroad company is liable for a loss occasioned by fire escaping from its engines, and that it has an insurable interest in the property for which it may be held liable for such loss. There is no case in England or Canada, so far as I am aware, where it has been held that a railway company has an insurable interest in the property for which it may be held liable for loss by fire escaping from its engines. In the State of Maine and other States of the Union such a statute has existed for many years. For decisions under state law see *Pratt v. Atlantic and St. Lawrence R. W. Co.*, 49 Me. 579; *Perley v. Eastern R. R. Co.*, 98 Mass. 414; *Andrews v. Union M. F. Ins. Co.*, 37 Me. 256; *Lukehart v. Western R. R. Corporation*, 13 Met. 99. Counsel agreed that the law in the State of Maine at the time the fire in question occurred, was contained in the Maine statute, a copy of which has been handed in since the trial, and is as follows:—

“When a building or other property is injured by fire communicated by a locomotive engine, the corporation using it is responsible for such injury, and it has an insurable interest in the property along the route, for which it is responsible, and may procure insurance thereon. But such corporations shall be entitled to the benefit of any insurance upon such property effected by the owner thereof, less the premium and expense of recovery. The insurance shall be deducted from the damages, if recovered before the damages are assessed, or, if not, the policy shall be assigned to such corporation, which may maintain an action thereon, or prosecute, at its own expense, any action already commenced by the insured, in either case with all the rights which the insured originally had.” R. S. (Maine, 1903, ch. 51, sec. 87.

It is clear, I think, that plaintiffs had not an interest in property other than their own along their line in Canada upon which they could effect an insurance, and it is very doubtful, I think, if defendants can issue a valid policy to cover a case of that kind. Plaintiffs are incorporated in Ontario. Assuming that they could not take such a risk in Canada, does that preclude them from issuing a policy and taking a risk in the State of Maine, where the law declares that a railway company has an insurable interest in such property? Would this be an attempt to enlarge the powers of defendants, by virtue of a foreign statute? That depends, it seems to me, upon whether or not the statute declaring the insurable interest has relation to the railway company or to the insurance company. Manifestly to the railway company. It simply brings within the scope of the powers of the insurance company property