

land exclusive of buildings could not be sustained; (2) that under the law and the facts the assessment of \$480,000 as a business assessment could not be sustained.

The appeal was heard by FALCONBRIDGE, C.J.K.B., RIDDELL, LATCHFORD, and KELLY, JJ.

Glyn Osler, for the appellant company.

G. H. Watson, K.C., and A. G. Murray, for the respondent town corporation.

RIDDELL, J. (after setting out the facts at length):—From a perusal of the reasons given by the Board for their judgment, it appears that, on the evidence before them, they fixed the value of the buildings at \$250,000. This is not complained of, and I see no reason for doubting its substantial accuracy. This appears in clause 2 of the order now appealed from.

The method of arriving at the value of the "land exclusive of buildings thereon," as set out in clause 1, is as follows:—

The finding of the District Judge "affirms that the actual value of the company's lands, with business assessment added, is \$1,000,000. On this appeal the validity of that judgment is questioned by the company on the ground of overvaluation. The appellants can succeed only by adducing proof that the actual value of these lands, including any increment accruing from the development of this water power, is less than the amount at which they are assessed. The president of the company, the most likely of all men to know, asked upon the witness-stand as to the value of the water power development, which the Board conceives to be the determining factor in fixing the value of these lands, declines to give an estimate, alleging as his reason the difficulties in the way. It may well be a matter of extreme difficulty to form such an estimate, involving as it must, where an enterprise of such magnitude and extent is concerned, a synthesis of many elements of conjectural value. But, whatever the difficulties in the way of the appellants, in default of satisfactory proof of overvaluation, which can best be made by showing the property's actual value, there is no other course open to the Board but to dismiss the appeal and confirm the assessment, but this should be subjected to the following modifications, which are in part matters of form.

"Without disturbing in other respects the aggregate amount of the assessment, exclusive of the business assessment, namely, \$800,000, the Board is of opinion that it should be otherwise ap-