

"That being so, it seems to their Lordships that it would be a very extraordinary thing indeed, unless the Legislature had expressly said so, to hold that the persons using the bridge could claim a right to take the whole accounts of the company, to dissect their capital account, and to dissect their income account, to allow this item and disallow that, and, after manipulating the accounts in their own way, to ask a Court to say that the persons who have projected such an undertaking as this, who have encountered all the original risks of executing it, who are still subject to the risks which from natural and other causes every such undertaking is subject to, and who may possibly, as in the case alluded to by the learned Judge in the Court below, the case of Tay Bridge, have the whole thing swept away in a moment, are to be regarded as making unreasonable charges, not because it is otherwise than fair for the railway company using the bridge to pay those charges, but because the bridge company gets a dividend which is alleged to amount at the utmost, to 15 per cent. Their Lordships can hardly characterise that argument as anything less than preposterous."

Ex. p. Moncton T. E. & G. Co. Ltd.

New Brunswick Supreme Court, Appeal Division, Hazen, C. J., White and Grimmer JJ., June 17, 1927, (1927) 3 D.L.R., p. 1112.

Mr. Justice Grimmer, p.1118—

"It is now definitely settled following the judgment in the Canada S.R. case, supra, and *Re Mersey Docks & Harbour Board* (1920) 3 K.B. 223; *Toronto v. Toronto R. Co.* (1924) 4 D.L.R. 1001; *C. & G.T.R. Co. v. Wellman* (1892) 143 U.S. 339, and numerous other decisions in the U.S. Courts that after ascertaining the value of services the cost of reproducing the property used in furnishing the service at present cost of labour and materials less depreciation and not merely the original cost of value of the property at some other date must be considered and is the most satisfactory method of proof of such value, and therefore should be the proper rule to follow in fixing the rate base."

Re: Western Tolls, 19 Canadian Railway Cases, 43.

"The contention that rates should be made on the basis of cost plus a fixed percentage to cover overhead or

MEIGHEN PAPERS, Series 5 (M.G. 26, I, Volume 197)

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