

I do not find fraud or evil practice by the purchaser. Section 176 (3) (c) nor does either of the other exceptions exist. It is to be hoped that aunt and nephew will be able to settle their dispute without further litigation.

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BOARD OF RAILWAY COMMISSIONERS.

FEBRUARY 9TH, 1912.

CANADIAN FRATERNAL ASSOCIATION v. CANADIAN PASSENGER ASSOCIATION.

13 Can. Cr. Cas. 178.

*Railway Board—Jurisdiction—Passengers—Discrimination in Carrying—Excursion Fares—7 & 8 Edw. VII. c. 61, s. 9—Railway Act, s. 317.*

DOM. RW. BD. *held* that the 25 cents charged for issuing railway certificates, entitling persons attending meetings to return home without payment of a return fare, is a charge or toll made in connection with transportation of passengers and is covered by the tariff filed by the respondents, and as such may be lawfully collected.

That the Board has no jurisdiction to compel railway companies to issue excursion rates nor to fix the number of persons entitled to the benefits thereof. Such matters are within the discretion of the railway companies.

An application heard at Toronto, February 9th, 1912, the facts of which are fully set out in the head-note and the following judgment, delivered at the close of the hearing.

Lyman Lee, for the applicant.

W. H. Biggar, K.C., Angus MacMurchy, K.C., and W. P. Torrance, for the respondent.

HON. MR. MABEE, CH. COMR.:—The contention of the applicants here is of a two-fold character. The first claim is that this 25-cent charge for viseing these certificates is not a toll within sec. 9 of 7-8 Edw. VII., ch. 61. The section referred to was drawn with the idea of covering every conceivable charge that a railway company, or any person on behalf of, or under the authority, or with the consent of the railway company could make in connection with the movement of traffic. Bearing that in mind, it has got to be construed liberally.

This 25 cent charge is made, we think, by the railway company in connection with the transportation of passengers.