

The plaintiffs therefore are entitled to their proportion of the gross receipts of the extensions as well as of the rest of the railway as constructed and operated at present. It is satisfactory to know that this construction of the agreement is in accord with that put upon it, without doubt or question, immediately after the making of it, by the parties themselves, and under which for several years payment has been made voluntarily by the defendants; and also that it is in accord with the contract between the defendants and the adjoining municipality into which the railway has been extended; that agreement contains no covenant to pay any part of the receipts of the defendants to the corporation of that municipality, presumably because the defendants are already under obligation to pay a "percentage" of them to the plaintiffs; so that it is in no sense a case of a double tax upon any part of the defendants' receipts.

The last question is whether the words "gross receipts" include traffic receipts not yet earned, such as receipts from the sale of passengers' tickets still outstanding.

The defendants' contention that moneys thus received are not to be included cannot be given effect to. It would reduce the wide term "gross receipts" to the very much narrower one "earnings for which value has been actually given," and would exclude even proof of the profits, for instance, from tickets sold and lost, or in regard to which for any other reason no value happens ever to be actually given, and tend much to defeat the purposes of the use of the widest term, as well as reduce to some extent the plaintiffs' share in the receipts. All moneys thus received must be part of the defendants' gross receipts, entered as receipts in their books, and used as such in their business; they are in no sense impressed with any kind of trust, but are plainly part of the "gross receipts" of the defendants in which the plaintiffs are entitled to share.

As in the case of wills, each case of this kind generally differs so much in some material circumstance from any other, that great care must be exercised in seeking assistance from the decisions; and this is especially so in regard to those in any of the Courts of any of the United States of America; the statute law, the municipal laws, in the narrower sense, and the terms of the agreements, as well as other material circumstances, are often so different that it is quite dangerous to apply them without the closest scrutiny of every material matter or circumstance. So that, although much