

No evidence was given to me to show to what extent the delegates to the conference of 1903 represented the wishes of their local bodies, nor whether all the local bodies were represented at such conference, but it is clear that if the local bodies authorized or allowed their delegates to make the extravagant demands they did, they ought not now to be surprised that the work has been very costly.

The apportionment in this case presents very great and unusual difficulties. The amount involved is very large, and the apportionment will therefore be exceedingly burdensome and distasteful to all the local authorities. The statute lays down no definite basis of apportionment, and the result of the inquiry demonstrated that it is impossible to make any apportionment that can be demonstrated mathematically or proved by the ordinary rules of evidence. In addition to this, there are no less than ten parties to the inquiry, all of whom are in the position of defendants, and who were represented by able and well-known lawyers.

As there was no party in the position of plaintiff, I called the parties together on the 30th September, 1912, and with their concurrence ordered a tally of traffic to be taken by the Railway Department. This tally was taken at various places on the road for a period of three weeks, night and day. The results were afterwards carefully compiled by the Railway Department, and taking each item of traffic as of equal value, and reducing all traffic that used only part of the road to a proportionate use of the whole road, it appeared that the ratio of traffic for each district was as follows, which for the purpose of this report I call Result No. 1:—

Wellington	43.55 per cent. of total traffic.
Petone	15.25 ..
Lower Hutt	12.87 ..
Hutt County	7.42 ..
Onslow Borough	4.47 ..
Makara County	11.71 ..
Johnsonville	2.84 ..
Miramar	0.13 ..
Upper Hutt	1.48 ..
Eastbourne	0.28 ..

There being no statement of claim for the parties to answer, I adopted this result as showing *prima facie* what such claim might be, and I called upon the parties to show cause why the cost of the road should not be apportioned in that way accordingly, but I clearly stated that if any party was dissatisfied with these results it was open for such party to examine the tally-sheets and compile a summary therefrom, and also that I had not adopted these results as final.

When the parties appeared before me on the 1st May, 1913, the case was argued from this standpoint.

I will deal first with the legal questions which were raised at the inquiry, then I will consider the case against each district separately, but in considering the case against Wellington I will deal with all the main contentions that were raised in the case. Finally I will summarize my conclusions.

LEGAL QUESTIONS.

When the case was resumed on the 1st May, 1913, counsel for Onslow asked me to state a case for the opinion of the Supreme Court on the following points, before proceeding further:—

- (1.) Whether I had any jurisdiction whatever to act as Commissioner.
- (2.) If so, what procedure should be adopted in arriving at a basis for contribution.
- (3.) Whether I had a right to apportion the contribution on—
 - (a.) A capital-value basis;
 - (b.) A population basis;
 - (c.) A traffic-user basis.
- (4.) Whether in considering the proportion of the traffic and the basis of apportionment, traffic should be debited to the place of origin or to the place of destination.
- (5.) Whether in assessing the proportion payable by the Onslow Borough the value of the land gained by the Crown by the making of the road should be taken into consideration.

This proposition was supported by the counsel for Makara County and the Upper Hutt Town Board. It was contended by counsel for Onslow that I had no jurisdiction, but neither he nor any of the others gave any reasons whatever for such contention. As I believed that I had power to proceed, and as no *prima facie* reasons were given to show want of jurisdiction, I declined to stay proceedings; but promised that I would reserve the question as to the special case until after the evidence had been taken.