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WRIT OF CERTIORARI.

(Allowed June 18, 1921; Returnable July 7, 1921.)

NEW JERSEY, *ss.*

The State of New Jersey to the State Board of Taxes and Assessment and the Mayor and Aldermen of Jersey City, a municipal corporation of the State of New Jersey. GREETING:

We being willing for certain reasons, to be certified of a certain assessment of taxes made by said the Mayor and Aldermen of Jersey City, for the year 1920, on property of Long Dock Company, a corporation, situated in Jersey City, County of Hudson and State of New Jersey, and described for the purpose of taxation as Lot B-1 in Block 16

Do COMMAND YOU that the said assessment of taxes, including the valuation upon which the same is based; all proceedings on appeal therefrom to said State Board of Taxes and Assessment; the final determination and judgment of said Board thereon; and all matters and proceedings touching and concerning the said assessment of taxes; to our Supreme Court at Trenton, on the seventh day of July, 1921, you certify and send, together with this writ, that therein may be done what of right and according to the laws and constitution of this State ought to be done.

WITNESS, WILLIAM S. GUMMERE, Esquire, Chief Justice of our said Supreme Court at Trenton, this eighteenth day of June, in the year of our Lord one thousand nine hundred and twenty-one.

ENOCH L. JOHNSON,
Clerk.

COLLINS & CORBIN,
Attorneys.

Allocatur:

I allow this writ. Let it be sealed.

F. J. SWAYZE,
J. S. C.

Dated June 18, 1921.

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RETURN OF STATE BOARD OF TAXES AND ASSESSMENT.

New Jersey Supreme Court

LONG DOCK COMPANY, a corporation, *Prosecutor,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR and ALDERMEN OF JERSEY CITY, a municipal corporation, *Defendants.*	*On Certiorari.*

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The State Board of Taxes and Assessment doth herewith send to the Supreme Court of the State of New Jersey the petition, judgment, memorandum and proceedings in the matter of the appeal of The Long Dock Company, a corporation, from the assessment of property located in the City of Jersey City, County of Hudson, as within it is commanded, as by the transcript under the seal of said Board hereto annexed more fully appears.

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STATE BOARD OF TAXES AND ASSESSMENT,

By FRANK D. SCHROTH,
Secretary.

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PETITION OF APPEAL.

In the matter of the application of THE LONG DOCK COMPANY, a corporation, for the reduction or cancellation of the tax assessment for the year 1920 on property situate in the taxing district of Jersey City, County of Hudson and State of New Jersey.	*Petition.*

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To the State Board of Taxes and Assessment:

Your petitioner, THE LONG DOCK COMPANY, a corporation, principal office of which is at the foot of Pavonia avenue, in the City of Jersey City, County of Hudson and State of New Jersey, and having an office at No. 50 Church street, in the City, County and State of New York, respectfully shows:

20

That it is the owner of certain property situate in the Taxing District of Jersey City, County of Hudson, described in the schedule hereto annexed and made a part hereof.

That said property has been assessed for the purpose of taxation for the year 1920 at the valuation shown on said schedule.

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Your petitioner is aggrieved at said valuation and assessment of said property for the year 1920 because said valuation and assessment were made by and upon erroneous and unlawful principles and are in excess of the true value of said property, the true value of said property being shown on said schedule.

Your petitioner is further aggrieved at said valuation and assessment for the year 1920 because they are in excess of the rate of assessment levied against other property of like character and similarly situated; are

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not in the same relative proportion of true value as that by which other property in the same taxing district was valued for assessment, and are in excess of and disproportionate to the value for assessment placed upon the property of other owners of the same class of property contributing to the common burden of taxation.

10 Your petitioner is further aggrieved at said valuation and assessment for the year 1920 because they are in other respects erroneous, wrongful, confiscatory, unconstitutional and illegal.

That an appeal from said assessment has been filed with the Hudson County Board of Taxation, which appeal said Board disposed of by confirming said assessment.

Your petitioner has therefore not paid the taxes so levied for the year 1920 except on the contended value as set forth in this petition, and prays that your Honorable Board will review and correct said valuation and assess-
20 ment by reducing or cancelling the same.

Dated, New York, Sept. 1920.

THE LONG DOCK COMPANY,

(Signed) By H. M. Andrews,
General Land and Tax Agent.

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STATE OF NEW YORK,
COUNTY OF NEW YORK. } *ss.*

H. M. ANDREWS, being duly sworn according to law, on his oath, says that he is the General Land and Tax Agent of THE LONG DOCK COMPANY, a corporation, the petitioner named in the foregoing petition, and has charge of all matters of assessment and taxation of the property of said petitioner; that he has read the foregoing petition and knows the contents thereof and that upon information and belief the statements set forth and contained therein are true.

(Signed) H. M. ANDREWS.

Subscribed and sworn to before me
this 20th day of September, 1920.

(Signed) A. L. TRAVIS,
(SEAL) *A Foreign Commissioner of Deeds for New Jersey in New York.*

SCHEDULE.

The Long Dock Company.

Lot B-1 Block 16 Land under water foot of Pavonia Avenue.

Size of lot, 448,600 sq. ft.

10 Character of building, Grain Elevator, Monthly rental value, $5,050,

	Assessed for taxation for the year 1920 at a valuation of	True Value does not exceed
Land,	$897,200	$514,000
Bldg.	507,000	507,000
Total,	$1,404,200	$1,021,000

Note: At hearing on April 12/21, petition amended to ask for same figures as fixed by State Board for 1919, namely,

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Land,	$655,982
Bldg.	507,000
	$1,162,982

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State of New York,
County of New York. } *ss.*

John O. Totten, Jr., being duly sworn according to law, on his oath says: I am the District Land and Tax Agent of the Long Dock Company; I served a copy of the attached petition of appeal upon John Bentley, Corporation Attorney for Jersey City, on September 20, 1920, by delivering said copy to him personally; I did serve copy of the annexed petition of appeal upon Philip M. McGovern, Jr., Assistant Secretary of the Hudson County Board of Taxation, by delivering the same to him personally at his office in the Court House, Jersey City, N. J., on September 23, 1921.

(Signed) JOHN O. TOTTEN, Jr.

Sworn and subscribed to before me
this 24th day of Sept., 1920.

(Signed) A. L. Travis,
(seal) *A Foreign Commissioner of Deeds for New Jersey in New York.*

JUDGMENT.

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

In the Matter of Appeal of THE LONG DOCK COMPANY from the assessment of property in the Taxing District of Jersey City, in the County of Hudson, for the year 1920.	*Judgment.*

An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by THE LONG DOCK COMPANY, in which it is alleged that an injustice has been done the said complainant by the assessment of its property for taxation for the year 1920, located at Jersey City, in the County of Hudson, consisting of Lot B-1 in Block 16 (Fowler's Official Assessment Map of Jersey City) land under water, foot of Pavonia avenue, size of lot 448,600 sq. ft.; character of building, grain elevator; and that said property is assessed higher than the true value thereof;

After hearing evidence produced on the part of said complainant, and the said respondent, and the argument of Robert J. Bain for the complainant, and Edward P. Stout for the respondent and after considering the same, it is on this nineteenth day of April, nineteen hundred and twenty-one, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1918, that the assessment of $1,404,200 ($897,200 on the land and $507,000 on the improvements) made

by the Taxing District of Jersey City, and affirmed by the Hudson County Board of Taxation, be and the same is hereby affirmed; and that complainant's appeal from the judgment of said County Board, in respect to the land, be and the same is hereby dismissed.

.....President,

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.....

M. R. MARGERUM,
JAMES BAKER,
ISAAC BARBER,
State Board of Taxes and Assessment.

Attest:

FRANK D. SCHROTH,
Secretary.

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DOCKET.

1819. THE LONG DOCK COMPANY, *Petitioner,* *vs.* CITY OF JERSEY CITY, COUNTY OF HUDSON, *Respondent.* 1920.	*Petrs. Atty., Robert J. Bain.* *Respdt's Atty.,* *Assessment of 1920.* *Property: Lot B-1, Block 16, being land under water (448,600 sq. ft.) at foot of Pavonia Ave., with grain elevator thereon.* *Amount, $1,404,200.* *L., $897,200.* *B., $507,000.* *Judgment, $* *Assessment Affirmed.*

10

Sept. 27.	Petition filed.
Oct. 5.	Hearing fixed for December 1st at Jersey City and notice sent.
Dec. 1.	Adjourned without date on request of counsel for petitioner.
1921.	
Jan. 25.	Hearing fixed for March 9th and 10th at Jersey City and notice sent.
Mch. 9, 10.	Not reached. Continued without date.
" 22.	Hearing fixed for April 6th at Jersey City and notice sent.
April 6.	Case not reached. Continued to following day.
" 7.	Case not reached. Continued to April 12th at Trenton.
" 12.	Case heard. Petition amended to ask only for Board's action for previous year.
" 19.	Judgment dismissing petition entered.
" 26.	Dissenting memorandum filed by Mr. Jess.

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MINUTES.

State House, Trenton, New Jersey,
Tuesday, October 5, 1920.

The State Board of Taxes and Assessment met at 10:30 A. M., Standard Time, on the above date.

Present, President Jess, Mr. Mutchler, Colonel Margerum, Mr. Baker and Dr. Barber. 10

* * * * * *

The following list of dates for hearing appeals, submitted to the Board by the Secretary, was approved:

* * * * * *

Wednesday, December 1st, City Hall, Jersey City, 14 Railroad cases.

* * * * * *

City Hall, Jersey City, New Jersey, 20
Wednesday, December 1, 1920.

The Board met at 10:30 A. M., for the purpose of hearing appeals.

Present, President Jess, Mr. Mutchler, Colonel Margerum, Mr. Baker and Dr. Barber.

The following calendar of appeals was called:

* * * * * *

14. The Long Dock Company vs. Jersey City.

Mr. Robert J. Bain was present to represent the Central 30 Railroad Company of New Jersey, Communipaw Central Land Company, Lehigh Valley Railroad Company of New Jersey, Lehigh Valley Harbor Terminal Railway Company, Morris Canal & Banking Company, United Real Estate Company, National Storage Company, and Long Dock Company, and Mr. Albert C. Wall to represent The Associates of the Jersey Company, New York Bay Railroad Company, and the Pennsylvania Railroad Company, Lessee. Mr. Edward P. Stout was present on behalf of the City. At the request of Mr. Bain and Mr. Wall the 40

entire calendar was adjourned to a date to be fixed for the reason that their time was so taken up with the preparation of the railroad appeals from first and second class assessments that it would be impossible to present the third class appeals at this time.

* * * * * *

10 STATE HOUSE, TRENTON, NEW JERSEY,
Tuesday, January 25, 1921.

The State Board of Taxes and Assessment met at 10:30 A. M. on the above date.

Present, President Jess, Mr. Mutchler, Colonel Margerum and Dr. Barber.

* * * * * *

The Board took under consideration a number of pending appeals from local assessments, and decided upon the following list of dates for hearings:

20 * * * * * *

Wednesday, March 9,)	at Jersey City;	To hear 14 appeals from various railroads from assessments in Jersey City.
Thursday, " 10,)		

* * * * * *

COURT HOUSE, JERSEY CITY, NEW JERSEY,
30 Wednesday, March 9, 1921.

The Board met at 10:30 A. M. for the purpose of hearing appeals.

Present, President Jess, Mr. Mutchler, Colonel Mergerum, Mr. Baker and Dr. Barber.

The following calendar of appeals was called:

* * * * * * *

14. Long Dock Company vs. Jersey City.

This case was not reached; continued to the following day.

* * * * * * *

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COURT HOUSE, JERSEY CITY, NEW JERSEY,
Thursday, March 10, 1921.

The Board met at 10:30 A. M. for the purpose of continuing the hearing of railroad appeals.

Present, President Jess, Mr. Mutchler, Colonel Margerum, Mr. Baker and Dr. Barber.

The following calendar of appeals was called: 10

* * * * * *

14. The Long Dock Company vs. Jersey City.

This case was not reached. Continued without date.

* * * * * *

STATE HOUSE, TRENTON, NEW JERSEY,
Tuesday, March 22, 1921.

The Board met at 10:30 A. M., on the above date.

Present, President Jess, Mr. Mutchler, Mr. Baker and Dr. Barber. 20

* * * * * *

The Board fixed Wednesday April 6th, and Thursday, April 7th, if necessary, at the Court House, Jersey City, for continuing the hearing in the appeals of various railroad companies from assessments levied by the City of Jersey City.

* * * * * *

COURT HOUSE, JERSEY CITY, NEW JERSEY, 30
Wednesday, April 6, 1921.

The Board met at 10:30 A. M. for the purpose of hearing appeals.

Present, President Jess, Mr. Mutchler, Colonel Margerum, Mr. Baker and Dr. Barber.

* * * * * *

8. The Long Dock Company vs. Jersey City.

This case was not reached. Continued to the following day.

* * * * * * 40

COURT HOUSE, JERSEY CITY, NEW JERSEY,
Thursday, April 7, 1921.

The Board met at 10:30 A. M. for the purpose of continuing the hearing of railroad appeals.

Present, President Jess, Mr. Mutchler, Colonel Margerum, Mr. Baker and Dr. Barber.

10 The following appeals were called for hearing:

* * * * * *

3. The Long Dock Company vs. Jersey City.

This case was not reached. Continued to April 12th at the State House, Trenton.

* * * * * *

STATE HOUSE, TRENTON, NEW JERSEY,
Tuesday, April 12, 1921.

20 The State Board of Taxes and Assessment met at 10:30 A. M. on the above date.

Present, President Jess, Mr. Mutchler, Colonel Margerum, Mr. Baker and Dr. Barber.

* * * * * *

The appeal of Long Dock Company vs. Jersey City, adjourned from April 7th to this date, was called for hearing. Mr. Robert J. Bain was present on behalf of the petitioner, and Mr. Edward P. Stout for the City of 30 Jersey City. Mr. Bain stated that he desired to amend the petition and ask that the assessment be reduced to the Board's figures for the year 1919. The Board heard the testimony of Thomas Ryer and John O. Totten for the petitioner, and of Frederick Dunham and Thomas P. Graham for the City.

The Board then heard the argument of counsel on all pending railroad appeals from the assessment of third class property in Jersey City. Mr. Bain was heard on behalf of the Lehigh Valley Railroad System, the Central Railroad System and the Long Dock Company, and Mr. 40

Stout for the City of Jersey City. Counsel for the Pennsylvania Railroad System was not present.

* * * * * * *

State House, Trenton, New Jersey,
Tuesday, April 19, 1921.

The Board met at 10:30 A. M. on the above date. 10

Present, President Jess, Mr. Mutchler, Colonel Margerum, Mr. Baker and Dr. Barber.

* * * * * *

The following motion was offered by Mr. Baker:

That the Board proceed to the consideration of these appeals:

* * * * * *

14. Long Dock Company vs. Jersey City.

The vote on this motion follows:

Aye: Baker, Barber, Margerum. 20

No: Jess, Mutchler.

As corrected 4/26/21.
F. D. C.

President Jess directed that the minutes show that he protested against the consideration of these appeals at this time, because of the lack of opportunity to consider the evidence, and because he desired first to have an analysis made by the Chief Engineer of the expert testimony submitted. 30

The Board then proceeded to the consideration of these appeals, and took action as follows:

* * * * * *

Long Dock Company.

Block 16. Lot B-1:

Motion by Colonel Margerum, seconded by Mr. Baker that the appeal on this item be dismissed.

This motion was carried by the following vote:

Aye: Baker, Barber, Margerum.

No: Jess, Mutchler. 40

A description of the property involved in all of the foregoing railroad appeals, with the assessment by the City, the reduction asked by the companies, and the action of the Board, here follows:

* * * * * *

Long Dock Co.—Assessment 1920.

10

Block	Lot	Location		Assessed	Wanted Reduced to	State Board Action
16	B-1	Foot Pavonia Ave., Elevator tract	Land	$897,200	$655,982	$897,200
			Impts.	507,000	507,000	507,000
				$1,404,200	$1,162,982	$1,404,200

STATE HOUSE, TRENTON, NEW JERSEY,

20 Tuesday, April 26, 1921.

The Board met at 10:30 A. M., Standard Time, on the above date.

Present, President Jess, Mr. Mutchler, Colonel Margerum, Mr. Baker and Dr. Barber.

Consent was asked by Senator Mutchler to change the record of his vote as it appeared in the minutes of the meeting of Tuesday, April 19th, in several instances. He asked that on the motion offered by Mr. Baker to proceed 30 with the consideration of the railroad appeals, his vote be changed from "Aye" to "No"; that on the motion by Colonel Margerum to dismiss the appeal of the Central Railroad Company of New Jersey on Block 1497, Lot 1, his vote be changed from "Aye" to "No." This request was unanimously granted.

The minutes of the meeting on Tuesday, April 19th, were approved as above corrected.

President Jess filed with the Board his dissenting memorandum in the matter of the appeals of The Central Railroad Company of New Jersey, the Communipaw Central

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Land Company, Lehigh Valley Railroad Company of New Jersey, Lehigh Valley Harbor Terminal Railway Company, Morris Canal and Banking Company, United Real Estate Company, National Storage Company, Associates of the Jersey Company, New York Bay Railroad Company, Pennsylvania Railroad Company, Lessee, and the Long Dock Company, from the assessment of property in Jersey City. This memorandum follows:

"I wish to file this memorandum amplifying my reasons for protesting against final consideration of these appeals at the meeting of the Board on Tuesday, April 19th. It is not pertinent to this question whether the majority were right or wrong in sustaining the assessments. My objection was to proceeding to a judgment without a reasonable opportunity to review and digest the evidence. Five days were consumed in the taking of this evidence. The hearings were not concluded until Tuesday, the 12th of April. The stenographic record covers over eight hundred typewritten pages. It was impossible to analyze and weigh this large volume of testimony within a single week. There was not sufficient time even for the Chief Engineer of the Board to prepare abstracts of the evidence in the form which has, in the past, facilitated a careful and intelligent consideration of appeals like these which involved fifty or more separate parcels of property, with assessments ranging from $1,200 to $4,575,000, and aggregating nearly $30,000,000. No reason for undue haste or a departure from the usual deliberative procedure, was urged. Indeed, no reason could be advanced which would, in my opinion, outweigh the fundamental requirement that a full consideration of the proofs should precede the judgment of the Board."

* * * * * *

CERTIFICATE.

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

I, FRANK D. SCHROTH, Secretary of the State Board of Taxes and Assessment, do hereby certify, that the foregoing are true copies of the petition, judgment, memorandum and proceedings in the matter of the appeal of The Long Dock Company, a corporation, from the assessment of property in the City of Jersey City, County of Hudson, for the year 1920, as the same are taken from and compared with the originals, filed in the office of the State Board of Taxes and Assessment, on the twenty-seventh day of September and other dates, A. D. 1920 and 1921, and now remaining on file and of record therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Board, at Trenton, this seventh day of July, A. D. 1921.

(SEAL)

FRANK D. SCHROTH,
Secretary.

RETURN OF THE MAYOR AND ALDERMEN OF JERSEY CITY.

I, H. J. Mauchet, Acting Clerk of the Mayor and Aldermen of Jersey City, a municipal corporation of the State of New Jersey, in obedience to the command of the writ of certiorari, a copy of which is hereto annexed, do hereby certify and send to the Supreme Court, the assessments of taxes mentioned in said writ, as appears by the schedule hereto annexed. 10

In Witness Whereof, I have hereunto set my hand and the seal of said The Mayor and Aldermen of Jersey City, this twenty-fifth day of July, 1921.

(seal)

H. J. MAUCHET,
Acting Clerk of the Mayor and Aldermen of Jersey City, a Municipal Corporation. 20

SCHEDULE.

PROPERTY OF THE LONG DOCK COMPANY.

Property	Area	Assessed Valuation for the year 1920 as determined by the State Board of Taxes and Assessment		Taxes for the Year 1920
Block 16 Lot B-1 Foot of Pavonia Ave.	448,600 sq. ft.	Land	$897,200.	
		Impts.	507,000.	
		Total	$1,404,200.	$43,488.08

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STATE BOARD OF TAXES AND ASSESSMENT.

THE LONG DOCK COMPANY, *Petitioner,* *vs.* JERSEY CITY (1819), *Respondent.*	*Testimony.*

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STATE HOUSE, TRENTON, NEW JERSEY,
Tuesday, April 12, 1921.

Present, Mr. Jess, President; Mr. Margerum, Mr. Mutchler, Dr. Barber, Mr. Baker.

Appearances:

20 Robert J. Bain, Esq., for the petitioners.
Edward P. Stout, Esq., for the respondent.

This case was listed for March 9th at Jersey City and not reached.

Assessment of 1920 on Lot B-1, Block 16, land under water foot of Pavonia avenue; size of lot, 448,600 sq. ft.; character of building, grain elevator; monthly rental value, $5,050, assessed:

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	Assessed	Wants reduced to	State Board action 1919
Land	$897,200	$514,000	$655,982
Imp.	507,000	507,000	507,000
	$1,404,200	$1,021,000	$1,162,982

Appeal to County Board dismissed.

Mr. Bain. The assessment for the year 1919 on the property involved in this appeal was determined by this Board on appeal. While the true value of the property stated in the petition of appeal is somewhat less than the

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value last determined by the Board, all that we ask is that the present assessment be reduced to the value of the property as last determined by this Board; therefore, I assume the question would be whether any change in value has occurred since the value of the property was last determined by the Board.

The President. Yes. 10

Mr. Bain. I ask that the judgment of the Board on the assessment for the year 1919 be spread upon the record so that we will have a starting point.

"STATE OF NEW JERSEY.

"STATE BOARD OF TAXES AND ASSESSMENT.

"In the Matter of Appeal of LONG DOCK COMPANY, a corporation, from the assessment of property in the City of Jersey City, County of Hudson, for the year 1919.	*Judgment.*

20

"An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by the Long Dock Company, a corporation, in which it is alleged that an injustice has been done the said complainant by the assessment of its property for taxation for the year 1919, located at the City of Jersey City, in the County of Hudson, consisting of certain real property described for assessment as Lot B-1, Block 16, and that said property is assessed higher than the true value thereof: 30

"After hearing evidence produced on the part of said complainant, and the said respondent, and the argument of Robert J. Bain for the complainant, and Edward P. 40

Stout for the respondent, and after considering the same, it is on this eleventh day of May, nineteen hundred and twenty, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915, and Chapter 236 of the Laws of 1918, that the assessment of said property for said year 1919 be and it hereby is reduced as follows:

Assessment, Land	$897,200	)	)	Land $656,982
Imp.	507,000	)	)	Imp. 507,000
		)	)	
Total	$1,404,200	) reduced to	)	Total $1,162,982

(Signed) FRANK B. JESS, President.
HARRY W. MUTCHLER,
A. D. HERRICK,
M. R. MARGERUM,
State Board of Taxes and Assessment."

Attest:

FRANK D. SCHROTH,
Secretary.

Mr. Bain. I also ask that the testimony of Floyd S. Corbin on the appeal of the Pennsylvania Railroad Company and its associated companies from assessments by Jersey City for the year 1920 be incorporated in the record on this appeal, the testimony of Mr. Corbin having been general. Is that satisfactory to the city?

Mr. Stout. Yes.

Mr. Bain. I call Mr. Ryer.

THOMAS A. RYER, a witness produced on behalf of the petitioners, being duly sworn, testified as follows:

Direct examination by Mr. Bain.

Mr. Bain. Will counsel for the city consent that Mr. Ryer's testimony in the Pennsylvania case as far as qualifications are concerned be a part of the record in this case? 10

Mr. Stout. I will, under the same ruling as we had in the preceding cases.

Q Mr. Ryer, are you familiar with the property involved in this appeal described as Lot B-1 in Block 16 in Jersey City? A I am.

Q How long have you been familiar with that property? A For many years.

Q Where is the property located? 20

The President. What case is that?

Mr. Bain. No. 8.

A It is on the Hudson River south of Pavonia avenue and has no access to any rear street other than possibly Sixth street is just to the south of it.

Q That is the property on which the Erie grain elevator is located? A It is.

Q Have you been on the property frequently? A I have. 30

Q Have you made an appraisal of the value of the property? A I have.

Q Will you please state your valuation of that property as of October 1, 1919? A $526,000.

Q That is the value of the land alone? A It is; it does not include any of the improvements.

Q You have not made any valuation of the buildings? A I have not.

Q You say your valuation is $526,000? A It is. 40

Cross examination by Mr. Stout.

Q What is that per square foot? A $1.18.

Q And that is the same valuation that you placed on it as of October 1, 1918? A It is.

Q Is this property, in your opinion, similar in value to property of the International Elevating Company? A Well, it is waterfront property but it has a greater depth, much greater depth than the International Elevator property and is in a different location.

Q In your opinion is it more valuable or less valuable? A I think that it is less valuable.

Q You think the Long Dock property is less valuable? A I think the Long Dock property is less valuable than the International Elevator property.

Q What valuation did you place on that? A I didn't place any valuation on it.

Q What valuation would you place on it? A I don't know, Mr. Stout; I know what it was sold for, if you want that.

Q No, I want your opinion as to value? A I have not placed any valuation on the International property at all.

Q Would you compare the property known as Lot B-1 in Block 16 with the property of the Associates of the Jersey Company? A I wouldn't other than being waterfront properties.

Q Which, in your opinion, is the more valuable? A The Associates.

Q What valuation do you place on that? A Well, I have the figures I put on those properties in my bag if you want them.

Q You put a higher valuation? A Yes, I put a higher valuation on this.

Q How does this property, in your opinion, compare with the so-called Cunard property, Weehawken? A It is a different class of property entirely.

Q How does it compare in value? A I don't know that.

Q You don't. How do you arrive at $1.18 a square foot for property known as Lot B-1 in Block 16? A I took the front portion of the plot at $1,800 a front foot for a width of 273.66 feet, and then I placed the rear portion of about .706 of an acre at $47,000 an acre, $1.10 a square foot; taking the two together I got a valuation of $526,000, or $1.18 a square foot. 10

Q How much on the back land? A $47,000 an acre.

Q That is a little over a dollar a square foot? A It is. It is all land under water.

Q How much back from the front portion or the shore front, rather, did you place a value of $1,800? A I don't get you.

Q How far back from the shore front did you place a value of $1,800? A 1,500 feet. 20

Q How does that compare with the Delaware & Hudson property in depth? A That would be about similar; the Delaware & Hudson is probably a trifle less than that.

Q Do you know what that sold for a front foot? A I do.

Q How much? A $2,000, but that had upland and this has no upland.

Q How do you compare this property with the back land of the property in the adjacent neighborhood? A The backland of the property is more valuable in my judgment. 30

Q It is more valuable? A It is.

Q How much more valuable? A I couldn't say that.

Q Can't you give us any idea? A The backland, the factory properties to the rear, is worth about $2.00 a square foot, I should say.

Q $2.00 a square foot? A Yes, with the street frontages. 40

Thomas A. Ryer, re-direct.

Q Do you know of the sale of the Royal Baking Powder Company to Butler Brothers? A Can you give me the block? Is that the block where the building burned down?

Q It is Block 106, Lot 8. A That is a recent sale; I don't know about that.

10 Q You don't know about it? A No.

Q You don't know that that property sold for $4.40 a square foot? A It may have. I know that the asking price that I had on it was $4.00 a square foot. That is down on Morgan street.

Q Washington and Morgan. A Washington and Morgan is right.

Q Do you know of the purchase by the Pennsylvania Railroad Company in that locality? A I do.

Q And that was at what rate, about $4.00? A No, they paid from $2.00 to $8.00 a square foot, including the

20 improvements. They bought as low as $2.00 a square foot.

Q You, Mr. Ryer, placed the same value on this property as of October 1, 1919, as you did as of May 20, 1916? A 1917, yes; I don't know about 1916, but I think so.

Q 1917 in respect to the 1916 assessments? A Yes.

Re-direct examination by Mr. Bain.

Q Why, in your opinion, can't Lot B-1 in Block 16 be compared with the property purchased by the Interna-

30 tional Elevating Company and with the property of the Associates of the Jersey Company? A Because this property of the Long Dock Company is all land under water and the property of the International Elevator Company is land under water with upland, with the upland more valuable, the rear land more valuable than in back of the grain elevator, and the same refers to the Pennsylvania Railroad property at the foot of Exchange Place.

Q Does Lot B-1, Block 16, differ in location from the

40 International Elevator property and the property of the Associates of the Jersey Company? A It does.

Q Does that difference in location make a difference in value? A It does, in my judgment.

Q In your opinion can the backland or the back portion of Lot B-1, Block 16, be compared with the property sold by the Royal Baking Powder Company to Butler Brothers? A I don't think so.

Q What not? A The property sold by the Royal Baking Powder Company to Butler Brothers is land at Morgan and Washington street and within a very short distance of the Pennsylvania Railroad Company, and the land in there is selling at a higher figure than the land directly in back of the grain elevator. 10

Q In your opinion can the back portion of Lot B-1, Block 16, be compared with the property purchased by the Pennsylvania Railroad Company that you have mentioned? A I don't think so.

Q Is it not a fact, Mr. Ryer, that as the distance from Exchange Place in Jersey City increases the values of property decrease? A I think so. 20

Re-cross examination by Mr. Stout.

Q Wouldn't you say, Mr. Ryer, that the sale to Butler Brothers and the sale to the Pennsylvania Railroad Company would indicate an increase in the value of backland? A I don't think so.

Mr. Stout. That is all. 30

Mr. Bain. That is all, Mr. Ryer.

JOHN O. TOTTEN, Jr., a witness produced on behalf of the petitioners, being duly sworn, testified as follows:

Direct examination by Mr. Bain.

Q Are you employed by the Erie Railroad Company? A Yes, sir.

Q What is your position? A District land and tax agent. 40

Q Does that include property of the Long Dock Company? A Yes, sir.

Q Are you familiar with Lot B-1 in Block 16? A Yes, sir.

Q Are you familiar with the leases on that property? A Yes, sir.

10 Q Are there at the present time any leases? A No, sir.

Q Were there any leases on it? A Yes, sir.

Q Prior to January 1, 1921? A Yes, sir.

Q Were the leases terminated? A They were terminated; notice was given December 22, 1920, to terminate January 22, 1921, on the one lease and the other lease of the pier notice was given December 31, 1920, and was terminated and cancelled January 31, 1921.

Q Were the leases terminated by your company or by the lessees or by the lessees upon the request of your 20 company or of their own volition? A Of their own volition.

Mr. Stout. I think we are getting far afield.

Mr. Bain. The city has always made much of the lease on this property.

Mr. Stout. There is no lease on it.

Mr. Bain. I want to show lessees are voluntarily surrending their leases on waterfront property. I 30 think that is very material.

Q Have the leases actually been cancelled? A Yes, sir.

Q And when were they cancelled? A The big lease to the Erie Company was cancelled January 22, 1921.

Q And that covered the grain elevator? A Yes, sir.

Q When was the other lease cancelled? A January 31, 1921.

Mr. Stout. Take note, may it please the Board, this is all subsequent to the assessing date, a year 40 after.

The President. Notice, however, of the purpose to terminate them was given before the assessing date.

Mr. Bain. The purpose of it is to show the demand for such property has fallen off.

Cross examination by Mr. Stout.

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Q Is this property in use at the present time? A Yes, sir.

Q Who is using it? A The Railroad Company.

Q The Railroad Company? A Yes.

Q What is the Railroad Company using this property for? A Why, of my own knowledge, I can't answer your question.

Q You don't know whether it is being devoted to the same use as when it was under lease? A I can't say.

Q All you know is that the leases were terminated at the request of the lessee? A Yes, sir.

20

Re-direct examination by Mr. Bain.

Q Has your company had any applications for new leases on that property? A No, sir.

Re-cross examination by Mr. Stout.

Q Will you lease it? A Yes, sir.

Q For what rental?

30

Mr. Bain. I take it that is a matter to be submitted to the executive officers of the company. Mr. Totten cannot make leases here.

The President. I know, but I suppose if his testimony is admissible as to the fact the company will lease it it ought to be admissible as to what it would lease it for.

Mr. Bain. I think not. The question of rental must be fixed by the executive officers of the com-

40

pany unless they have determined on some rental value.

The President. He may know that.

(Question repeated.)

The President. That question is admitted, if he knows.

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A I know the company will not lease it for less than they were last getting for it.

Mr. Stout. That is all.

Mr. Bain. We rest.

PETITIONER RESTS.

FREDERICK DUNHAM, a witness produced on behalf of the respondent, being duly sworn, testified as follows:

20 *Direct examination* by Mr. Stout.

Mr. Stout. I move, if the Board please, that the testimony of Mr. Dunham as to qualifications and testimony as to value of properties in the Pennsylvania and the Lehigh and the Central Railroad cases be referred to by this Board and be considered as a part of the record in the Erie case.

Mr. Bain. Either party, I suppose, in case the record is used, to have the right to incorporate all or such part of the testimony of Mr. Dunham in the other cases as they desire.

30

The President. Yes. Does the Board understand that under this arrangement which gives the Board the right to consider the testimony in the other cases that in the event of a certiorari the Board would be required to return the testimony in the other cases?

Mr. Bain. I take it that would be so.

The President. That is understood, is it?

40

Mr. Stout. Yes.

The President. I should think we would have to do that so long as it was considered in the case. It will not be incorporated in the original record. If it is wanted subsequently it will become a part of the record.

Mr. Stout. That is the idea. In other words, as I understand it, the record is before you the same as if it were actually incorporated. 10

The President. Yes.

Mr. Stout. And in case of certiorari it then must be actually incorporated in the record.

Mr. Bain. Of course the testimony will be subject to objections for materiality in whatever instances the testimony is immaterial.

Mr. Stout. I don't see how it can go in unless it goes in that way. 20

The President. Yes. All right.

Q Mr. Dunham, you are familiar with property of the Long Dock Company here under appeal known as Lot B-1 in Block 16? A Yes.

Q In your opinion was that property more valuable on October 1, 1919, than it was on October 1, 1918? A Yes.

Q In your opinion did this property have on October 1, 1919, a valuation equal to the City's assessment? A Yes. 30

Q And what is the rate per square foot? A $2.00 per square foot is the assessment.

Q What property in that vicinity is similar in value and similarly located? A All of the Erie yard and the Harsimus yard of the Pennsylvania Railroad are similarly located or similar properties.

Q How does this property compare in value with the property of the International Elevator Company? A It is better property. 40

Q Why do you say that? A It is larger property, has a greater depth and it has full State rights, whereas—

Mr. Bain. What kind of rights?

The Witness. Full State rights in land under water—the property of the International Elevating Company has no State grant. The title is better. For that reason it is more valuable.

10

Q How does it compare in value with the property of the Associates of the Jersey Company known as piers B and C? A It is not as good property as the property of the Associates because it is not as well located. It has not the same facility of access as the piers B and C, although it has some advantages over that property on account of the greater depth of the property and it is more available for large ships. Piers B and C are not over 550 feet in length, whereas on the Erie Elevator property you can get a thousand-foot pier in there, it would accommodate larger ships.

20

Q How would you compare the International Elevator Company property with the stock yard property of the Pennsylvania known as plots C-5 and C-6 in Block 15? A You mean the International Elevating stock yards?

Q Yes. A The same reason would apply to that as to the Erie Elevator properties inasmuch as they are both adjoining properties.

30

Q Do you consider the sale of the American Coal Company to the International Elevator Company as a sale at true value or market value? A I think it was a fair sale, that is it indicated the market value of the property, the condition in which it was; in other words, it is a sale which cannot be compared directly with the other properties because one property has the State riparian rights and the other property has not, and the thing that is left open on the International Elevating Company's properties is the amount which they eventually will have to pay to the State in order to get full title

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to the property; in other words, to have the full use and fee of the land under water in front of the property.

Q In other words, take the International Elevator Company property without State rights and eliminating the question as to title, would you say that that property was worth at least the selling price? A Oh, yes.

Q And you use that sale as a base for determining the value of the Long Dock Company property and the properties of the Associates of the Jersey Company and the stock yards of the Pennsylvania? A I use that as one of the elements; I don't rely entirely upon that sale.

Q I am not asking that, but don't you consider that sale in determining? A Oh, yes, that sale must be considered.

Q If that sale had State rights or if that property rather in that sale had State rights and there was no question as to the title, wouldn't it be an almost invaluable factor in determining the value of other properties there? A In the immediate vicinity, yes, because you are dealing now in the case of the International Elevating Company's sale, you are dealing with a property which carried with it only 100 feet behind the bulkhead. That is all they really got the fee to. They bought eight lots behind the bulkhead together with such rights as the American Coal Company had in the land under water in front of the bulkhead. The American Coal Company had acquired, of course, such rights as the Associates of the Jersey Company had and in all those deeds the fee is only for the eight lots behind the bulkhead, that is the only part of the property that is described by meets and bounds, and the deeds say together with such rights as they have in the land under water in front, so that when you compare that with the property having full State rights you have got to make an allowance; in other words, there is something to be added to that for the acquisition of the State rights, and that is a very considerable sum.

Q Well, Mr. Dunham, is there a sale that you know of in the immediate neighborhood of these properties that helps you more than the International Elevator Company sale? A No, I think that is the most helpful sale we have in that vicinity.

Q You have knowledge of the sale to Butler Brothers
10 of property on Morgan and Washington streets? A Yes, that sale was July 21, 1920, the sale of the Royal Baking Powder Company to Butler Brothers of a tract 200 feet by 300 feet. It was two-thirds of an entire plot. It contained 60,000 square feet. The price paid was $264,000, which was at the average rate of $4.40 per square foot. Then there was also a sale in the same block of the corner lots, lots corner of Washington and Morgan streets of Treslow & Fuller to Butler Brothers July 21, 1920. The consideration was $25,000. That was 5,000 square feet.
20 That was at the rate of $5.00 a square foot.

Now, if the Board recalls, I put this in evidence the year before, that a series of sales to the Pennsylvania Railroad Company of property immediately across the street from this block in question, and they showed this one sale of four corner lots at the corner of Steuben and Wahsington streets diagonally across from this plot at the rate of $4.00 a square foot and sales of the Pennsylvania Railroad Company corner of Warren and Steuben streets directly across from this sale at the rate of $3.00
30 per square foot. This sale shows that Butler Brothers paid from 25 to 50 per cent. more for the same kind of lands than the railroad itself paid.

Q And does that indicate to your mind an increase in value as of October 1, 1919? A Yes.

Q Over October 1, 1918, of back land property? A Very clearly indicates an increase of from 25 to 50 per cent. in a year.

Mr. Stout. That is all.

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Cross examination by Mr. Bain.

Q Mr. Dunham, you valued the property involved in this appeal as of October 1, 1918, didn't you? A Yes.

Q And testified before this Board as to the value of the property on that date? A Yes.

Q And as of October 1, 1918, you valued this property at $2.00 a square foot? A $2.00, yes. 10

Q So that you valued the property at the same sum as of October 1, 1918, and October 1, 1919? A No, I didn't.

Q You say you valued the property as of October 1, 1918, at $2.00 a square foot? A I did.

Q And you just stated now that you valued the same property as of October 1, 1919, at $2.00 a square foot? A No, I didn't; I said it was worth at least as much as the assessed value.

Q Do you mean to say the assessed value is the true value, is not the true value? A No, I don't think the assessed value October 1, 1919, is the true market value of the property, it is below it. 20

Q Mr. Dunham, you made an appraisal of the property prior to the time when the present assessment was made by Jersey City? A Yes.

Q And was that value higher than the present assessment? A Yes.

Q Did you hand your valuation to the taxing authorities of Jersey City before they made the present assessments? A Yes. 30

Q So that notwithstanding you made and gave the tax authorities of Jersey City a valuation of the property at a higher rate than $2.00 a square foot the city has assessed property at either $2.00 a square foot or less? A They have assessed it at $2.00 a square foot, whereas the value I placed on it was $2.50.

Q Now, have you read the judicial decisions on the character of the title to the International Elevating Company's property? A Judicial decisions? 40

Q Yes. A I have read several decisions. When were the last ones?

Q Do you know? A No.

Q Do you know what the Court held in regard to that title? A The Court has held as far as I have been able to learn that the Associates of the Jersey Company had no right to sell anything which they had not reclaimed.

Q Don't you know that the Court held that the Associates of the Jersey Company had good title to so much of the land under water as they had actually appropriated? A That is exactly it, that is exactly what I said.

Q Do you know what kind of a grant the Long Dock Company has to its property? A No; wasn't that the old Budd grant?

Q Do you know? A That is my understanding of it. Part of the old Budd grant.

Q You don't know anything about the title or the grant that the Long Dock Company has to the present property? A No, I am assuming that the title is good.

Q Don't you know the title of the Long Dock Company is derived under its charter? A I don't know anything about that title. I am assuming that the title is good.

Q As a matter of fact, Mr. Dunham, you are not entirely familiar from a legal standpoint with the title of either the International Elevating Company's property or the property of the Long Dock Company, are you? A Yes, I am with the title of the International Elevating Company, I think I am familiar with that.

Q You can't say whether the title to the two properties is similar or dissimilar, can you, because you don't know anything about the title of the Long Dock Company? A I don't know whether the Erie Railroad Company have the right to build new structures upon their property. If they have not that right that is a different proposition. In order to be in the same position as the International Elevating property they would not have the

right to either extend or broaden or make any use of any more land than they have occupied, under the old Associates action.

Q You try to keep yourself informed as to the question of the title of water front, don't you A No, I don't make any particular studies of the titles except that in this case I happen to be familiar with it for certain reasons. 10

Q Don't you know the New Jersey Supreme Court in February, 1915, on a certiorari by the Long Dock Company against the Board of Equalization of Taxes and the City of Jersey City spoke of the title to this property? A I didn't read that.

Q You didn't know anything about that opinion? A No.

Q Well, then, Mr. Dunham, of course you don't know and have no real information as to the character of the title of the Long Dock Company? A I have placed my valuation on it assuming that the title is good. If your title is not good there must be some— 20

Q Your valuation is based upon the Long Dock Company having a riparian grant? A Having full State rights.

Q Which would be given by a riparian grant? A Having the right to use the property to its fullest extent.

Q As would be the case of a riparian grant? A Yes.

Q In other words, you value this property as if there were a riparian grant? A As if they had the full right of use, full and unrestricted right of use of the property. 30

Q Did you value this property in the same manner you value other property that has a riparian grant from the Riparian Commission? A Yes.

Q And if this property has not such a grant and its title to the property is somewhat different then of course it would affect your value, wouldn't it? A Yes.

Q I think you said that the property purchased by Butler Brothers from the Royal Baking Powder Company 40

at $4.00 a square foot was diagonally opposite some property purchased by the Pennsylvania Railroad Company at the same price. A No, I said that the property purchased by Butler Brothers on Morgan street is almost diagonally opposite the property purchased by the Pennsylvania Railroad from Ames. That was on the southeast corner of Steuben and Washington streets.

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Q That was at the same price? A That was at $4.00.

Q So that Butler Brothers paid the same price for the property they bought as did the Pennsylvania Railroad Company? A No, Butler paid for the southwest—

Q I am speaking of the $4.00 price. A I am talking of a corner plot.

Q Don't let us fuss about corner plots. The fact is that upon two separate plots separated only by one street Butler Brothers bought some property for $4.00 a square foot. A No, they did not, they bought some property for $4.40 a square foot.

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Q Didn't you say they bought 60,000 square feet for $264,000? A That is $4.40.

Q You said $4.00. A Read the record.

Q Let me ask you, Mr. Dunham, at the time Butler Brothers made this purchase, they had a large plant adjoining the property they purchased, didn't they? A Yes.

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Q A very large plant covering almost a whole block? A Yes.

Q And this property they bought was for the purpose of extending their plant? A I don't know. It was separated by a street; it is an entirely different block; I presume so.

Q You presume it was made for the purpose of extending their plant? A I presume so.

Q Do you know how long Butler Brothers have been in business in Jersey City? A It must be close to twenty years.

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Q You know, Mr. Dunham, that Butler Brothers do a large business, of your own knowledge, don't you? A They do a large business.

Q What is the nature of their business? A General merchandise, I think.

Q How far is this property purchased by Butler Brothers from the property involved in this appeal measured along—Washington street would be the nearest street, wouldn't it? A Yes, Washington street would strike right in through the Erie Yard. 10

Q Or would it be Green street? A Green, Washington or Warren, they all extend right through the railroad yard.

Q What is the difference between the two measured along the first street next to the river? A 1,700 feet.

Q That is approximately one-third of a mile? A About, yes. 20

Re-direct examination by Mr. Stout.

Q Mr. Dunham, in placing your valuation upon lot B-1 in Block 16 you comprehend the land up to the pier line and not to the extended pierhead line? A Up to the pier line, the actual pier line, yes. I don't know now exactly, it would be immaterial whether it went to the actual pierhead line or the extended pierhead line.

Mr. Stout. I think it ought to be pointed out that the city only assesses up to the pierhead lines since the decision in the case which Mr. Bain referred to in the Supreme Court. 30

Mr. Bain. I think you are mistaken. They assess up to the present pierhead line as extended. What the Supreme Court held in the case I referred to was there could be no separate assessment on the land under water between the old and new pier lines. Ever since that decision the city has assessed all the land up to the extended pier line. 40

Mr. Stout. We cut down the territory.

Mr. Bain. I think not.

Mr. Stout. Yes, we did. I want that before the Board, we did.

Mr. Bain. I think you will find you are assessing up to the extended pier line.

10 *The President.* That was the decision. I know that they couldn't make a separate assessment.

Mr. Bain. The Court said they could take into consideration the value the land between the old and new pier lines had and the city has been doing that.

Mr. Stout. Here is the fact that since that decision Jersey City has been assessing upon 10.297 acres, prior they were assessing on 11.678 acres. That is all.

20 *The President.* Has the International Elevating Company made any change in the use of the property since it acquired it, that is as to the extent of the use?

The Witness. No.

The President. Has it developed the piers or extended them? A No.

The President. It has not?

30 *The Witness.* No, they can't. The State Board of Commerce and Navigation won't permit them to do it, they had an application in for the extension of the piers and the State Board of Commerce and Navigation refused to give them a permit unless they took out a grant.

Re-cross examination by Mr. Bain.

Q Didn't the State Board of Commerce and Navigation do the same thing to the Long Dock Company when the Long Dock Company asked to extend the elevator pier?

40 A That I don't know; I am not familiar with that.

Mr. Stout. That is all, Mr. Dunham.

THOMAS P. GRAHAM, a witness produced on behalf of the respondent, being duly sworn, testified as follows:

Direct examination by Mr. Stout.

Mr. Stout. I move that Mr. Graham's testimony as to qualifications and his testimony as to value in the Pennsylvania, Lehigh and Central Railroad cases be referred to as part of the record in the Long Dock Company case now under appeal. 10

Mr. Bain. Subject to what was said in connection with Mr. Dunham's testimony.

The President. Yes.

Q Mr. Graham, you are familiar with the property known as Lot B-1 in Block 16 of the Long Dock Company? A I am. 20

Q What in your opinion was the value of this property as of October 1, 1919? A $2.50 a square foot.

Q In your opinion was it more valuable then than it was on October 1, 1918? A It was.

Q Would you compare this property with the property of the International Elevator Company? A Well, it is a different shaped property. It is waterfront property.

Q Would you compare it in value? A I should think this property was worth equally as much if not more. 30

Q Will you compare the International Elevator Company's property with property of the Associates of the Jersey Company piers B and C? A I would.

Q Which having the greater value? A I think they are fairly comparable as to value.

Q Is that also true of the stock yards of the Pennsylvania? A It is. Immediately adjoining to the south you mean?

Q Yes, Lots C-5 and C-6 in Block 15. A Yes, immediately adjoining this plot to the south. 40

Cross examination by Mr. Bain.

Q Piers B and C of the Pennsylvania Railroad Company are about a block south of Exchange place, are they not? A Yes.

Q And this property is almost half a mile, the property involved in this appeal is almost half a mile north? A Yes, just one block south of the Erie ferries.

Q Haven't piers B and C a value peculiar to themselves because of their location? A Well, they immediately adjoin the Pennsylvania ferry. This plot immediately adjoins the Erie ferry.

Q The location with respect to the development of the city of piers B and C and of the lot involved in this appeal are different? A Very different, but I take my value from the waterfront side not from the back of the properties.

Q You don't consider the city development immediately in the rear of the waterfront property in determining the value of the waterfront property? A Not controlling.

Q Don't you recognize each piece of waterfront property has a locality value? A Yes.

Q And that locality value is governed to some extent at least by the condition of the abutting land in the rear? A To some extent, yes, but waterfront property don't usually get its maximum uses from the water that immediately adjoins it if it is developed for other purposes than waterfront property.

Q You recognize differences in value because of location? A Yes.

Q And you put different values up and down the Hudson River and New York Bay because of differences of location? A Very often do, yes.

Q You do? A Yes, I do; it is a fact I do.

Q When did you last value this property under appeal? A This last time?

Q Before this. A In 1917.

Mr. Bain. That is all.

Mr. Stout. That is all.

Mr. Bain. I offer in evidence a copy of the opinion of the Supreme Court filed February 23, 1915, in the case of the Long Dock Company *v.* Board of Equalization of Taxes.

Mr. Stout. I object to it as not being proper. The decisions of our courts this Board will take judicial notice of.

Mr. Bain. I want to have it before the Board in this case in rebuttal of Mr. Dunham's testimony

Mr. Stout. They know it.

The President. It will be admitted and marked.

(Paper received in evidence and marked Exhibit P. 1.)

Mr. Bain. That is all.

PETITIONER'S EXHIBIT.

"New Jersey Supreme Court,
"November Term, 1914.

"LONG DOCK COMPANY,
10 *vs.*
"BOARD OF EQUALIZATION OF TAXES.

"Submitted November Term, 1914; Decided February , 1915.

"Certiorari.

"Before Justices Swayze, Parker and Kalisch.

"For Prosecutor, Robert J. Bain (Collins & Corbin on the Brief).

20 "For Jersey City, John Bentley (John Milton on the Brief).

"The opinion of the court was delivered by SWAYZE, *J.*

"A new pier line was established in the Hudson River in 1913. The effect was to permit the Long Dock Company to extend its pier further out into the river. The city conceived that this made the land under water in front of the former pier line taxable, although nothing had been done to reclaim it and no use was made of it except as boats might sail over it. The rule of law is thus stated in Jersey City *v.* Board of Assessors, 73 N. J. L. 164, at p. 166: 'The proper method of assessment must be determined by the nature of the title of defendants. If the defendants had title to the land under water that land should be included with the land back of the exterior line for solid filling in a single description or separately assessed by a

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distinct description. It should not be altogether omitted from the assessment and treated as merely increasing the value of the land back of the line. If, on the other hand, the defendants have only a right in the land under water as appurtenant to the land back of the exterior line for solid filling, the value of that right is properly included in an assessment upon the land back of the line.' This ruling has been approved by the Court of Errors and Appeals, 75 N. J. L. 571.

"The question, therefore, is whether the Long Dock Company had title to this land under water. By the charter of the Long Dock Company P. L. 1856, 67, it was authorized to improve all lands under water that should be purchased or held by them or erect buildings thereon and lay out the land into blocks, etc., and was given liberty to fill up, raise, occupy, possess and enjoy as their own property, all lands covered with water which they might hold or purchase or which might lie in front of lands along any shore which they might hold or purchase; and to build, enlarge and improve on such lands, any dock, wharf, pier, bulkhead, slip or other structure; provided, that in carrying out the provisions of the act they should not injure the navigation of the Hudson River and should not interfere with the legal rights or privileges of others, or fill in or reclaim any lands under water except in front of the lands which they might purchase along the shore. The nature of the right conveyed by a charter of this character is similar to that conveyed under the Riparian Act and the rule established by the Court of Errors and Appeals in Polhemus *v.* Bateman, 60 N. J. L. 163, is applicable. It was there held that Bateman acquired no title to the exclusive use of any portion of the land under water until he filled in and reclaimed or improved

it, and that the grant was only for the purpose of reclamation. Following this rule, the right of the Logn Dock Company in this case does not amount to a legal title until the land is reclaimed. It is, therefore, not assessable as a separate tract. Whatever, if anything, is added to the value of the up land to which the right to reclaim is appurtenant, is a question that cannot be determined upon this record. The present assessment must, therefore, be set aside, with costs."

10

Certificates to Testimony.

I, Alta R. Gulliver, the stenographer designated by the State Board of Taxes and Assessment to report stenographically the evidence given before said Board upon the hearing of an appeal by Long Dock Company, a corporation, from an assessment of taxes made by the Mayor and Aldermen of Jersey City, a municipal corporation, for the year 1920, on certain property of said corporation, do hereby certify that the foregoing transcript is a true and correct transcript of the evidence given before said Board upon the hearing of said appeal.

20

In witness whereof, I have hereunto set my hand and seal this 7th day of July, 1921.

30

ALTA R. GULLIVER. (seal)

40

Certificate of Secretary of State Board.

I, Frank D. Schroth, Secretary of the State Board of Taxes and Assessment, do hereby certify and send to the Justices of the Supreme Court, the foregoing transcript as a true and correct transcript of the evidence given before said Board upon the hearing of an appeal by Long Dock Company, a corporation, from an assessment of taxes made by the Mayor and Aldermen of Jersey City, a municipal corporation, for the year 1920, on certain property of said corporation.

In witness whereof, I have hereunto set my hand and affixed the official seal of the Board at Trenton, this seventh day of July, 1921.

FRANK D. SCHROTH, (seal)
Secretary.

REASONS.

Filed July 16, 1921.

New Jersey Supreme Court

10

LONG DOCK COMPANY, a corporation, *Prosecutor,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, a municipal corporation, *Defendants.*	*On Certiorari.* *Reasons.*

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The prosecutor presents the following reasons for setting aside the valuation and assessment brought before this honorable Court by the writ of certiorari in the above-entitled cause:

1. Because the State Board of Taxes and Assessment determined said valuation and assessment arbitrarily and regardless of the evidence before said Board on the appeal of prosecutor.

2. Because said assessed valuation as determined by the State Board of Taxes and Assessment is excessive and erroneous.

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3. Because said assessment was determined by and upon an erroneous principle in that said assessed valuation was based upon a supposed general increase in the value of waterfront property on the Hudson River and New York Bay in Jersey City.

4. Because the judgment of the State Board of Taxes and Assessment on said valuation and assessment is not supported by any evidence before said Board on the appeal of prosecutor.

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Reasons.

5. Because the judgment of the State Board of Taxes and Assessment on said valuation and assessment is against the clear weight of the evidence before said Board on the appeal of prosecutor.

6. Because the State Board of Taxes and Assessment on its hearing of prosecutor's appeal from said valuation and assessment erroneously permitted certain testimony to be given against objection of prosecutor. 10

7. Because said assessment is excessive.

8. Because said assessment deprives prosecutor of its property without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States for the reason that it was determined without a real and substantial hearing of prosecutor thereon.

9. Because for the reasons above stated, or one, or more of them, and in other respects, said valuation and assessment are erroneous, unconstitutional, unlawful and illegal. 20

COLLINS & CORBIN,
Attorneys of Prosecutor.

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OPINION OF SUPREME COURT.

Filed February 21, 1922.

NEW JERSEY SUPREME COURT.

LEHIGH VALLEY RAILROAD CO.,
Prosecutor,

vs.

THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY,
Defendants.

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On certiorari to set aside assessment for local taxes levied against the property of the prosecutor.

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Argued November Term, 1921, before Justices Trenchard, Bergen and Minturn.

Collins & Corbin, and Wall, Haight, Carey & Hartpence, for prosecutors.

John Milton and Edward P. Stout, for defendants.

Per Curiam:

This case is one of numerous other numbers on the list for the November Term of this court as 268 to 275 inclusive and 421, 422 and 423. The writ of certiorari allowed in each of these cases challenges the legality of taxes assessed by the City of Jersey City for the year 1920 against the land of the prosecutors, which on appeal to the State Board of Taxes and Assessment was confirmed, and it is that action of the Board which these writs respectively seek to reverse.

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The lands are, for the most part, what is called shore front property lying along the Hudson River and Bays connected therewith, and of course have a particular value

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for use in the harbors adjacent to the cities of New York and Jersey City. While the record in these cases is somewhat voluminous, the proofs of value are similar, so much so, that they were argued as one case, the proof in one being used in all the others. The facts that are not disputed are: that in 1918 the taxable value of these lands was fixed by the State Board after litigation, the result being that the value was reduced, in most cases, below that fixed by the local assessor, and taxes levied at those rates for 1919; that in preparing the ratables in 1919 for 1920, the city employed a Mr. Durham and Mr. Graham to appraise the value of these lands, in consequence thereof, and undoubtedly influenced thereby, the local assessor increased the taxable value above that fixed by the Board for 1919 taxation, which the State Board confirmed which order prosecutors seek to have reviewed.

The Board had fixed the value for 1919 after hearing testimony, and was of opinion that such value was right at the time it was established, and suggested that the additional evidence be limited to the increased value since that date. But the testimony took a wider range and the witnesses for the city testified to its market value in October, 1919, which was disputed by expert witnesses called for the prosecutors. The real question tried and determined was the market value of the property October 1, 1919, which was the proper basis, neither prosecutors nor defendants could be held to the value fixed in October, 1918, for if it was too high the prosecutors were not bound by it, and if too low, the Board was bound to fix its true value in 1919, without regard to what it did in 1918, for property must be fixed at its true value. It was perhaps right to consider its value as fixed in 1918 and hear proofs as to any increase during the next year as an aid in reaching its value, but the former action was not a conclusive element in fixing true value in 1919. The prosecutors in all but Nos. 421, 422 and 423, called in the briefs "The Pennsylvania Cases," contend that the mat-

ter was too hastily decided, the conclusion being reached a week after the testimony was concluded, and in fact of the opposition of a minority of the Board. We do not think this is a meritorious ground. The Board was familiar with the property, having repeatedly considered the very question passed on, and the evidence offered by the prosecutors was principally confined to one witness, and that of defendants to two, and if the testimony offered justified the conclusion, a prompt determination can hardly be said to be illegal. A prompt decision, if the result is justified by the proof, cannot be a ground of illegality, for if it was, verdicts by juries might often be set aside, for it would be an extreme case where it takes a jury seven days to settle the facts. The criterion is, does the evidence support the findings? The second contention of defendants is that the valuations are excessive. The city produced two expert witnesses who supported the valuations fixed by the local assessors which the State Board sustained, and which is the matter under review. The prosecutors urged that the testimony is not to be credited because not based on sales of property of similar character. We can understand the difficulty of fixing values of property of this description, for little of it is sold owing to the fact that it is located in the harbor of New York, and is held by railroad and steamship corporations which seldom part with such property once acquired, because of lack of quantity of such land, and its urgent necessity to such corporations, but there was proof of some sales in the vicinity, perhaps in a better location, but its relative value in the market to purchases of that class is some criterion of the value of like property not, perhaps, quite so advantageously located, and we cannot say that the reason given by the experts is based on any false premise insufficient to support their opinions. It cannot properly be said that because no property of this character has been sold in the neighborhood that it has no taxable value, and how in

the absence of actual sales, can it be better demonstrated than by testimony of persons who are well acquainted with its location, and the use to which it can be put, and who are familiar with all the property of like character fronting on the Hudson River and bays connected therewith and adjacent to the largest maritime city in the country. It will serve no useful purpose to explain the reasons given for the opinion of the experts as to each parcel in detail. The experts were qualified, and the opinions they give are based on facts with which the Board had to deal. We think the facts found by the Board are supported by evidence.

The brief filed in the Pennsylvania cases is a substantial reiteration of the points made in the other cases, (1) that no full consideration was given to the evidence by the Board. This had been disposed of; (2) that it was error to find that there was a general increase of land values along the water front where the property is located. This has also been dealt with. It is not the advance in value from one year to another that fixed taxable value, but its present true value is the question for determination. (3) That the judgment of the Board was against the weight of the evidence. We think the weight of the evidence is in favor of the judgment of the State Board.

The assessments in each of the cases will be affirmed.

RULE FOR JUDGMENT.

Entered March 10, 1922.

NEW JERSEY SUPREME COURT.

LONG DOCK COMPANY, *Prosecutor,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants.*	*On Certiorari.* *Rule Affirming Judgment.*

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The Court having heard the argument of counsel, and inspected and reviewed the assessments of taxes and the proceedings thereon, and the judgment of the State Board of Taxes and Assessment in respect thereto, returned by the certiorari in this cause, and duly considered the reasons filed, it is ORDERED that the assessments of taxes, as fixed and determined by the judgment of said State Board of Taxes and Assessment, be in all things affirmed, with costs.

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Entered March 10, 1922.

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On motion of

EDWARD P. STOUT,
Attorney for Defendants.

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NOTICE OF APPEAL.

Served March 23, 1922.

Filed March 26, 1922.

NEW JERSEY SUPREME COURT.

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LONG DOCK COMPANY, a corporation, *Prosecutor,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, a municipal corporation, *Defendants.*	*On Certiorari.* *Notice of Appeal.*

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To Thomas F. McCran, Esq., attorney-general, attorney of The State Board of Taxes and Assessment, defendant; and

Thomas J. Brogan, Esq., attorney of The Mayor and Aldermen of Jersey City, defendant:

TAKE NOTICE that the prosecutor in the above-entitled cause appeals from the whole of the judgment entered in said cause, to the New Jersey Court of Errors and Appeals, on the following ground:

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Said judgment is erroneous in that it affirmed the valuations and assessments of taxes, as fixed and determined by the judgment of The State Board of Taxes and Assessment, brought before the Supreme Court by the writ of certiorari in said cause, whereas said Court by its judgment should have set aside said valuation and assessment of taxes, as fixed and determined by the judgment

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of said Board, for one or more of the reasons filed in that court.

COLLINS & CORBIN,
Attorneys of Prosecutor-Appellant.

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INDEX.

BEFORE THE

State Board of Taxes and Assessment

An Appeal of PENNSYLVANIA RAILROAD Co. and its Associated Companies from Assessment by Jersey City for the Year 1920.	*Testimony*	10

March 10, 1921.

FLOYD S. CORBIN, a witness produced on behalf of the petitioner, being first duly sworn, testified as follows:

Direct examination by Mr. Wall.

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Q Mr. Corbin, what is your business? A I am a real estate broker, making a specialty of the sale and lease of commercial water front property, docks, warehouses, factories and factory sites in and adjacent to New York Harbor.

Q You have specialized in that class of properties for what length of time? A For about twenty-two years.

Q Are you able to state what portion of the sales in the last ten, fifteen years, you have had to do with as broker? A I cannot within the last five or six years, but prior to that time I think it is safe to say that I was interested in perhaps one-half of the sales that were made up to that period.

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Q From what period? A From the period of 1898, the fall of 1898 to about 1910, 1908.

Q And that experience covers all the shores of New York Harbor, including the Jersey shore? A That experience covers all the navigable streams in and

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around New York Harbor, including the Jersey shore. I bought and sold and leased properties and owned properties myself, various places, in every navigable stream around the harbor or near the harbor.

Q Are you familiar with this Cunard sale? A I am.

10 Q What are the outstanding—

Mr. Stout. If the Board please, I would like to know whether Mr. Wall has completed his examination in respect to qualifications?

Mr. Wall. I have.

Mr. Stout. I think I ought to have the opportunity to cross examine.

The President. You may cross examine, Mr. Stout.

20 *Cross examination* by Mr. Stout.

Q Mr. Corbin, how many sales of Jersey City shore front property have you participated in since 1910? A Only one sale in Jersey City property.

Q Where was that sale? A Foot of Morris and Essex streets, Jersey City.

Q When was that sale? A That sale was made in 1916, July, 1916.

Q Have you made any leases of Jersey City water
30 front property since 1910? A No, I have not.

Mr. Stout. I submit, may it please the Board, the qualifications of the witness relate to transactions, with the exception of one, prior to 1910, and that it is too remote, sales prior to 1910, and this one lease made in 1916 to determine the value of property as of October 1, 1919.

The President. The expert's qualifications would not depend entirely, Mr. Stout, upon his
40 having participated in the sale of this property.

Mr. Stout. Very true, but—

The President. If it did, most of our experts would be disqualified.

Mr. Wall. Mr. Dunham never made a sale, did he?

Mr. Stout. He has knowledge of them. The direct examination of his qualifications of this witness is not in respect to sales and leases. I don't recollect his testimony shows anything else. 10

The President. If there is any doubt about that point, Mr. Wall, will you question him fully as to knowledge? I thought that was covered in the direct examination.

Continuation of direct examination.

Q Did you make one hundred per cent. of the sales of Jersey City water front since 1915? A I think so. 20

Mr. Stout. Since 1915?

Mr. Wall. 1915.

Q Was the sale you testified to as being made at the foot of Morris street the only sale that has been made of Jersey City water front since 1915? A I think it is.

Cross examination by Mr. Stout. 30

Q Have you forgotten the sale of Leary to the Lehigh Valley? A That is on the Communipaw Bay.

Q It is Jersey water front property, isn't it? A Well, yes, I thought you had reference to Jersey City. I have the record of about three hundred and fifty sales of water front properties in New York Harbor covering the period of about eighteen years, authoritative records.

Q I didn't ask you about that. I asked you about sales— 40

Floyd S. Corbin, direct.

Mr. Wall. I would be delighted if the Board please, if such strict rules as to experts as Mr. Stout contends for should be applied, and if the Board would simply state it is going to apply your rule, I would have a motion to make.

Continuation of direct examination.

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Q But, Mr. Corbin, have you by a study, as well as by actual participation in sales of water front property, familiarized yourself with the question of the value of water front property in New York Harbor and vicinity? A I have.

Q And that book you have before you is your own record of sales with the data as to each particular sale and a plot or plan set forth where the rest of the data is set forth, drawn to scale? A It is, and besides that in more than one-half of the instances I have not only the diagram of the property with the description of its physical characteristics, but the deed description also, also the liber page number, the grantor and grantee, the area in square feet, the frontage, the depth of the property and the improvements. I have about three hundred and fifty such sales, records of such sales in my office, and I am confident in saying there is not any half dozen men in New York City or Jersey City or anywhere around New York that have that much information that is reliable.

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Q You have qualified a number of times as an expert of water front property before this Board? A I have.

Q And the State Board of Assessors? A I have.

The President. The witness will be admitted as an expert.

Q What are the outstanding features, to your mind as a water front expert, of the Cunard sale which has been testified to here? A The sale of the property by the Delaware & Hudson to the Cunard Company in 1920

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of a property on the Hudson River frontage of about 1102 feet on the pierhead line and an approximate depth of about 1,400 feet from the pierhead line westerly shows it was a very large piece of property capable of being improved with long piers for the very largest ocean-going steamers in existence. In addition to that it was adjoining on the south of a property owned by the West Shore Railroad, having a frontage of 2,478 feet, which the Cunard Company also leased for a long term of years, and a combined frontage of those properties was approximately 3,600 feet, both properties being capable of the development for the same class of piers and warehouses with railroad connections, as well as ferry and trolley connections, and so forth, right at hand. This piece of property, the like of it did not exist in New York Harbor at all and could not possibly have been duplicated, with the depth of water, the frontage, the area and all the other physical characteristics.

Q How about the depth of water? A The depth of water at the pierhead line there is about forty feet. It would float any steamer that exists today.

Q What have you to say as to whether that property is fairly comparable with the water front property in Jersey City, having reference particularly to the stockyards and the Piers B and C? A It is not fairly comparable at all, either in the frontage or the class of development, which could be made there. The only piece of property that would be compared with it in depth would be the stockyards property of the Pennsylvania Railroad.

Q And that is in land depth? A Land depth; yes, sir.

Q Is the stockyards property an improved property? A Only partially improved.

Q Is it improved in the sense of being property which could be easily placed in condition for steamship use? A I don't think so.

Q Well, how about the relative depth of water at the stockyards, and also in front of Piers B and C? A The depth of water is very much less than in front of the Cunard properties I have just referred to, formerly known as the D. & H. and the West Shore Railroad properties.

10 Q Does the element of size having a great, unbroken tract in your judgment have any effect on the value of the tract such as the Cunard tract; is there an additional value in having a great aggregation of unbroken ownership? A Absolutely in a property of this size and one that is as well suited for a high-class development as the Cunard properties, it would make a vast difference in the value of the property either per front foot or per square foot. As a matter of fact, I have just had one sale of property turned down because it was so small that the parties contemplating it could not 20 make a development of this kind to advantage, whereas, if the property had been twice or three times the size, I could have sold it.

Q In your judgment, is the price at which the Cunard property was sold normal or abnormal? A I think the price was normal at the time, because no such property, as I say, could have been purchased last year in New York Harbor, and on account of its immense size, it permitted of a very extensive development, a very high-30 class development, warehouses and piers.

Q Something was said yesterday by some of the witnesses for the city that one reason that the water front property constantly increased in value was that the market was being narrowed all the time. What do you understand that to mean? A Well, I don't subscribe to the theory that water front properties are having a constant advance in value. I think it depends entirely upon the property itself, its size, its location and its adaptability for certain purposes. I studied the situa-40 tion for twenty-two years, and while I have seen marked

advances in the values of water front properties, they have been for particular reasons. For instance, I have properties today I am trying to sell for $325,000 that I could not have bought for $400,000 three years ago.

Q What do you ascribe that to? A Because there is no particular demand at the present time for any unimproved properties, and for property of this particular character and in this particular section and for purposes which this property would be well adapted for.

Q Take the years October 1, 1918 and 1919, in your judgment, was there an advance in the value of this property which is here under appeal, referring particularly to the stockyards, and those two piers and the Greenville property as between those two dates? A No, I don't. I think in that period there did exist for a time an abnormal demand for improved properties, docks, covered piers and warehouses suitable for the transshipment of goods from an ocean steamer to rail or vice versa, but there was not very much demand for unimproved properties, due to the high cost of material, the high cost of labor, the uncertainties of the delivery of material and the uncertainties of the labor situation, as well as the high cost of money.

Q So your idea is that there was for a time an abnormal increase, but only in the improved properties? A Absolutely, abnormal at a time when a great many concerns who were in the export and shipping business had contracts for the sale and delivery of materials and had to have a place to handle them, and if they could get some places they could go upon quickly it was not a question of price, they simply took what they could get and paid the price.

Q Has there been any recession from those prices since? A Why, yes, there has been, in my opinion, there has been quite a difference, because there is very little demand today for water front property around New York Harbor on account of the condition of shipping for one

thing, and on account of general conditions all over the world for another.

Q Well, what were the contributing causes to those abnormal prices you have referred to? A Well, at that time we had reached the peak of shipping here in New York Harbor, primarily due to the war, and it was a
10 period where a great many individuals and corporations in that line, exporting and shipping, had made very large sums of money and they expected apparently the business to continue, and they were anxious and willing to invest some of that money in dock property. The situation since that time has changed considerably, as is evidenced by the large number of idle steamers, not only in New York Harbor but in various other places. I believe it is said the United States Shipping Board has several hundred steamers today idle at Hampton Roads.

20 *Mr. Stout.* I object to this testimony. It is purely hearsay and it does not go to the point.

Mr. Wall. Those are general conditions. I don't see why a man with a special knowledge cannot testify as to general conditions. It does not have the accuracy, of course, as if he were giving schedules.

The President. I should think it would depend a good deal on the source of his knowledge.

30 *Mr. Stout.* Yes. Mr. Wall objected yesterday to talking about anything subsequent to the assessment date.

Mr. Wall. I was overruled.

Mr. Stout. All right.

Q Mr. Corbin, would you characterize then this Cunard sale as a shipping sale? A I would, positively. It could not be considered in any other light.

Q Do you think the income tax, excess profits tax,
40 has exerted any abnormal influence on companies who

made such ventures as the Cunard made with reference to this particular sale.

Mr. Stout. I object to that as being immaterial and incompetent.

Mr. Wall. He said the condition is abnormal. It is a fact, and I presume the Board will take judicial notice of it anyhow, that the very provisions of the income tax laws make companies that have made a lot of money anxious to tie it up in construction and in land purchase, so that there is not an income coming from it and so that in the future when presumably the tax situation will be somewhat alleviated by cutting down the taxes, then they will get the increment of value coming from the investment. We know that is the case. Here is a situation when the shipping interests made money during the war and they gathered these great bundles of money—that all enters into the factors of abnormality.

The President. I can't see any objection to the witness saying that he considers the conditions abnormal and that this is one of the conditions. Of course, there is no evidence, could not be from this witness, I assume, that that particular factor had anything to do with this purchase. He is describing abnormal conditions, and he says that that is one of them. I think that is admissible.

Mr. Wall. There is not any evidence in this proceeding the Cunard owns a ship and we know they do.

The President. That is not quite as violent an assumption as the other one.

Mr. Wall. That goes to the weight of it.

Mr. Stout. It seems to me it is a very violent assumption for this witness to testify that it was

due to possible income tax that other prospective purchasers were kept away from this purchase.

The President. I don't understand he says that, Mr. Stout. I think he said that this was one of the conditions in response to the question of Mr. Wall.

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Mr. Stout. That kept others away.

Mr. Wall. I didn't say kept any others away.

Mr. Baker. I think you said in response to Mr. Wall's interrogatory that this Cunard sale was a shipping sale. I am in quest of light. What do you mean by a shipping sale?

The Witness. I mean it is sold to a transportation company purely for the purpose of handling goods for export and import.

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Mr. Baker. All right.

The Witness. I meant not for industrial purposes, manufacturing.

Q In what way, in your judgment, do the excess profits taxes and income taxes affect the abnormality of price that existed in improved properties for the short period of time that you mentioned, 1918 to 1919?

Mr. Stout. I object again on the ground it is immaterial.

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The President. The objection is overruled. The question is allowed.

Q (Question repeated.) A Well, in the first place I know of one or two particular sales where concerns have made large sums of money and invested them in extensions of their plants because they did not want the income from the money itself at that time, and they felt the cost of material and labor might continue for a number of years, and that was a good way of investing the

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money where it would produce no immediate return, but yet be absolutely safe in the future.

Q Well, Mr. Corbin, returning to the Cunard sale, does it in your judgment furnish a safe guide in the valuation of water front property to take a sale way up in the northern part of the county as that is and then seek to apply that figure, that acreage figure to everything down as far as these piers in Jersey City; is that a safe method in your judgment of ascertaining market value? A I don't think so, because the properties are so dissimilar in size and in adaptability, and as I stated before, these two properties we referred to could not possibly be developed in New York Harbor. The location is very different.

Q If there were some percentage of increase that could be applied, increase in value year after year, why then all the difficulties of valuation would disappear, wouldn't they? A Absolutely.

Q There would be no necessity for this Board exercising any appellate powers, it could all be done by a clerical force? A Yes, I want to say as illustrating how very difficult it would be and how impossible it would be to take the sales of a particular piece of property and use it as a basis. You could take the sales of some water front properties recently on the Hudson River; I made one myself on a property exactly similar and adjoining, and yet where the property was sold for about twenty per cent. less than the property either immediately to the north or to the south. You have got to take into consideration the peculiar conditions in many instances of the buyer and the seller. The property I sold was owned by people who were enormously wealthy, but had absolutely no use for the property and never expected to use it. Their plans had changed since they purchased it, and they were perfectly willing to sell the property for less than either of the owners directly to the north or directly to the south of them.

You have to take into consideration these conditions at different times, and know when a sale is made, you have got to use some judgment and opinion as to whether it is a fair market price, a sale as between a willing buyer and a willing seller or the one very desirous and willing to buy and the other very desirous and willing to sell. 10 I have myself sold properties immediately adjoining where there was a difference of fifty per cent. in the price of properties exactly alike, in the same neighborhood, which was due to those conditions.

Q You mean when you try to get the hypothetical sale, the theoretical sales that the law calls for that you translate the word "willing" to mean desirous of selling? A Exactly.

Q In other words, it is not to be a listless attitude that can be translated into a sale if a lot of money is 20 offered, but there is no particular keenness to bring the sale about? A Positively.

Cross examination by Mr. Stout.

Q Mr. Corbin, do you know for what purpose or use the Cunard people are going to devote this property which they have purchased? A Yes, they are going to erect piers and warehouses.

Q How do you know that? A Because I was told so by one of the Cunard officials myself. I was nego- 30 tiating with the Cunard Company prior to the purchase of both of these properties, endeavoring to interest them in another location.

Q Are they going to erect freight or passenger piers? A I am not sure about that, but I rather think they are going to have both freight and passenger there.

Q You don't know, then? A No, I don't think the question of freight or passenger was used. They simply told me they were going to erect large piers and large warehouses and they had made a special arrange- 40

ment with the New York Central and the West Shore Railroad for the delivering and handling of freight.

Q Have you seen their plans? A No, I have not.

Q You do know that the Piers B and C of the Pennsylvania Railroad here under appeal are devoted to the handling of freight? A Yes.

Q Which is the more profitable use, for freight or for passenger? A Well, I couldn't pose as an expert traffic man, I wouldn't attempt to say, but I believe it is generally assumed the freight business is the most profitable as a rule. 10

Q Don't you think that is an element to be taken into consideration, the adaptability or the location of the property as to its utility? A Absolutely.

Q How do you know the water front of this property has a depth of forty feet? A Government charts.

Q Of the Cunard property? A The Government charts show it. 20

Q You have had no soundings made? A No, I am not in that business. I am a real estate broker. I don't survey properties or make soundings.

Mr. Stout. I move, if the Board please, that this testimony as to these depths of this water be stricken out, because that is purely secondary and hearsay evidence. The chart properly proven would be the evidence or some one who has actually made a measurement. This witness cannot testify to something he saw somewhere. 30

The Witness. The Government charts are accepted by buyers of water front property.

Mr. Stout. All right, but the chart is not here. I move that testimony be stricken out.

The President. It seems to me if it became very material as to what the depth was there, we ought to have the best evidence, but it has been the practice of the Board to take the testi- 40

mony of experts as to the various depths of the Jersey City front, Mr. Stout. We have taken the testimony of Mr. Dunham. Mr. Dunham testified yesterday to the depth as thirty-five feet.

Mr. Stout. Mr. Dunham had made measurements.

10 *The President.* Perhaps so, that was not brought out. I do not know as there was any objection to his testimony.

Mr. Wall. There is this, too, to consider, that this witness is giving opinions, these are opinions, and, of course, if a man gives an opinion and he then states what assumption he made in that opinion, he says I am going on the basis there is forty feet there. The real inquiry is not whether there is forty feet or not. If they want to show his 20 opinion is based on wrong factors they can show that. You have always taken the Government charts, and he has based it on that.

Mr. Stout. Where are they?

Mr. Wall. If they become of any importance we can produce them if the Board wants them.

The President. The motion to strike out is denied.

30 Q Mr. Corbin, was there any competing or similar property to the purchase of the Cunard? A No, nothing of that size.

Q You don't consider the Shamburg and the Woodcliff? A No, the Woodcliff property at that time was under option. The Shamburg property was for sale, and I tried to interest them in that, but it was too small for them, they wanted more than 1,629 feet. They got about 3,600 feet in their two purchases and lease.

Q How many feet did the Cunard people purchase? 40 A They purchased about 1,102 feet frontage from the

Delaware & Hudson Company and they have obtained by lease about 2,478 feet from the West Shore Railroad.

Q That is a lease? A Yes, a long-term lease.

Q So the amount they purchased was comparatively small? A But the purchase was dependent upon the lease also from the West Shore Railroad.

Q How long a lease? A For a long term of years, I don't know the exact number and it was also dependent upon a special arrangement they had with the West Shore Railroad for the handling of their freight in and out of those piers. 10

Q Don't you know the West Shore went up the river and bought more property? A I do. They bought 600 feet.

Q Isn't it a fact, Mr. Corbin, that some purchasers desire a large tract of water front property while other purchasers desire a smaller tract? A Yes, all purchasers don't desire to buy the same size piece of property. 20

Q So in making the comparison on a large tract with a small tract, it depends upon the purchaser and the use to which he is going to devote it? A Absolutely.

Q And generally there is a greater market and demand for smaller tracts than there is for the larger tracts? A Yes, but that does not apply to properties of this particular character like the Cunard purchased.

Q Take the Jersey Shore front property, wouldn't that be a fact? A No, I don't say that, there necessarily must be a limit, but the Jersey City property, I speak of Jersey City north of the Morris Canal basin up to Hoboken; for instance, the water front property today is too expensive for ordinary industrial purposes, and I am told by shipping people that in order to operate to the very greatest advantage they have to have a good-sized property and the very fact that I have some people now for whom I am trying to find a property suitable, they won't take a piece of property I have 30 40

because it is too small in size, it has only 429 feet frontage.

Q You would not have any difficulty, would you, in disposing of Piers B and C of the Pennsylvania Railroad on account of their size? A At the present time?

Q Yes. A I think you would, I think you would have difficulty in disposing of anything at the present time.

Q Don't you know that the Pennsylvania Railroad or one of the associates have recently made a lease at a great increase over a previous lease? A Yes.

Q That is due to the lack of demand, I assume? A You said could I dispose of it, could it be disposed of?

Q I am assuming a good title could be given to it and the owners thereof could sell it. Would the size handicap you in disposing of it? A Yes. I don't think that property would be very attractive to a large shipping concern. It is not large enough in frontage or in area and the depth from the pierhead line to the bulkhead line is not great enough to accommodate very large steamers.

Q You would not say there has not been an increase in demand for property like Piers B and C, Jersey City? A Since when?

Q Since October 1, 1918. A There was for a time. There is no increased demand now.

Q Why, in your opinion, did the Pennsylvania Railroad Company get a larger rental for this recent leasing of these piers? A Because it just happened to suit the concern who leased it.

Q Because it happened to suit them they were willing to pay more? A Because it was there, and that same concern was looking around—

Q Don't you know there was competitive bidding for that pier? A I had nothing to do with the bidding.

Q Don't you know it from hearsay? A I heard Mr. Graham testify he made an offer for it.

Q What is that? A The only knowledge I have of the competitive bidding was the statement made by Mr. Graham yesterday.

Q Have you made any inquiries about whether there was? A No.

Q Are there any idle piers that you know of along the Jersey City shore front? A No, none that I know of. 10

Q Or of the Hudson River? A No, I don't know of any present.

Q Or South Brooklyn? A Yes, I think there are some piers in South Brooklyn that you could get.

Q Are they idle? A Practically.

Q Where are they? A Down near the State Barge Canal Terminal.

Q That is a different class of property, isn't it? A There is about twenty-eight feet of water front in there, handles vessels of five or six hundred feet in length. 20

Q Don't you know that during the year 1919 there was a great demand for pier properties in the whole of New York Harbor and for a time there was a considerable demand for improved properties? A For a time there was a considerable demand for improved properties.

Q Pier properties? A Any pier property in the sense that could be applied generally, no, but for improved properties, improved warehouses on the water front and piers or docks, ready to go upon. 30

Q Do you know, Mr. Corbin, how much property has been sold on the New York Harbor since October 1, 1919? A You mean altogether in New York Harbor, everywhere?

Q Yes. A Yes, I have a fairly good idea.

Q How much? A I couldn't tell off hand.

Q Can you give us an approximate idea of the amount of money that has been involved? A I could by a little time, yes; I couldn't off hand, though. 40

Q Has it been small or large in comparison? A There has been a number of sales since the latter part of 1919, and 1920, large properties.

Q Have those sales shown a decrease or an increase over previous sales? A What do you mean by previous sales? There are some it would be very difficult to compare them with.

Q I mean with comparable property. A Well, I couldn't say as to that. I think some of them have shown a decrease; some of them have shown an increase.

Q Do you know of any of that property that has sold for less than the previous sale of the same property? A No, I don't recall any actual sales now.

Q You know, as a matter of fact, there is not any such thing? A I don't say that. I can sell you a property today for $325,000 I could not buy for $400,000 a year ago.

Q I am asking you whether any of these properties sold since the latter part of 1919 show a less price than the previous sale of the same property? A Some of them have not been sold for many years before that, twenty years.

Q According to your standard, there is never any rise in this class of property? A I didn't make any such statement.

Q Do you know, Mr. Corbin, that in October, 1919, the City of New York acquired property in Staten Island for the purpose of building piers to meet this demand? A I do, because I am engaged in several of those cases now.

Q You wouldn't say that there was not a greater demand for a class of property like Piers B and C of the Pennsylvania Railroad Company in 1919 than there was in 1918? A No, I don't think there was any greater demand in 1919 than there was in 1918.

Q There was not? A No.

Q Would you say that the property of the Pennsylvania Railroad Company, known as Piers B and C, Plot A and D, in Blocks 4 and 5, was more valuable on October 1, 1919, than it was on October 1, 1916? A No, I don't think there is very much difference in the values within that period.

Q What, in your opinion, was the value of that property on October 1, 1916? 10

Mr. Wall. I object to that. That is all covered by the findings of the Board.

Mr. Stout. I am doing this to test the knowledge.

The President. That is allowed.

A I don't recall I valued that property in 1916 at all.

Q What would you say it was worth on October 1, 1919? A That is Lots A and D, is that the one you refer to? 20

Q Yes. A I think it was worth $670,000.

Q $670,000? A Yes, that is the land value.

The President. What time was that?

Mr. Stout. October 1, 1919.

Q Then you disagree with the finding of the State Board as to its value as of October 1, 1918? A You asked me what I thought was the value?

Q Yes. 30

The President. What did you give it?

The Witness. $670,000.

Q In other words, this is some of that unchangeable property?

The President. Is that for both years?

Mr. Stout. Yes, that is for both.

Q The Board's assessment is $766,260 and that is what the Pennsylvania asked to have it fixed at, but you are 40

almost $100,000 less than the Pennsylvania. A I don't know what the Pennsylvania has.

Q And don't you know, Mr. Corbin, you testified to that valuation in 1916? A I don't recall about that.

Q You testified in 1917 in respect to the 1916 appeal, and you were asked by Mr. Wall, "What is your valuation, Mr. Corbin, of Blocks 4 and 5, Lots A and D? A $670,000, that is for Lots A and D." You so testified? A I presume it is correct. You have the statement there.

Q So there has not been any change in the value of this property in your opinion between October 1, 1916, and October 1, 1919? A No, I don't think so.

Q So the State Board is $100,000 out of the way, so is the Pennsylvania?

Mr. Wall. That is his own inference; he ought not to ask the witness about that.

Q Mr. Corbin, you are familiar with the sale of the American Coal Company to the International Elevator Company? A Yes, I made that sale.

Q And the selling price was $300,000? A $300,000.

Q Do you remember testifying in the Eighth Avenue Railroad cases in New York City that the purchasers were offered $50,000 more than they paid for it? A Yes, that is so understood.

Q And could have gotten that? A I don't know about that.

Q And you recall being asked these questions, "Yes, and the price I stated was correct or incorrect. A $300,000. Q That is the one you testified you thought the value was too high? A Yes, I thought at the time I sold the property it was more than it was worth. You testified it was worth about $225,000?" A No, $250,000.

Q Here is your answer, "either $225,000—

Mr. Wall. That is nothing but a printer's—

Mr. Stout. Let me finish it.

Q —or $250,000." That was your answer. Then the question was asked, "They were afterwards offered $50,000 more than they were paid for it, were they? A Yes, I think they could have gotten $100,000 more." A No, that is wrong; I did not make that statement.

Q You say that is an incorrect statement? A Yes, I did not know about the $100,000. 10

Q The part you like you say is true and the other part you say is incorrect? A I don't know anything about it, I know—

Q In your opinion, Mr. Corbin, this property of the International was not worth more than $250,000? A At the time I made the sale?

Q At the time you made the sale? A Yes.

Q And yet the purchaser could obtain $50,000 more than the purchase price, which would make a price of $350,000? A I so understood that afterwards. I didn't have that offer myself. 20

Q Looking at that transaction in the light of a willing purchaser who was willing to pay $350,000, don't you think that is pretty strong evidence as to the market value of the property if somebody is willing to pay $350,000 for it? A Evidence that they wanted it, but I don't say it was the fair market value, because the International Elevating Company at the time they purchased that property for $300,000 they were not a willing buyer. 30

Q They were not a willing buyer? A No.

Q But somebody comes along and offers them $50,000 more? A They were probably placed in the same position the International Elevator Company was placed in. They had to have a place down there.

Q What makes a market value if it would not be two parties competing to get the same thing and willing to pay the price? A You may some time pay more than a fair market value. 40

Q You mean in your opinion— A Due to certain conditions, and later on you find you have paid more than a fair market value for it, as many people do in buying properties. The sale of one piece of property does not establish a unit of value and particularly this class of property. These people had to buy this property in order to conserve their business.

Q Will you state to me a sale that has been made of water shore front property since 1910 which you say would evidence the true market value of the property? A Well, there are a number of those sales and I can tell you some that were sold for a great deal more than they were worth in my opinion, a great deal more could have been gotten for them now.

Q The sale of Leary to the Lehigh Valley, you were familiar with that sale? A Yes.

Q And the property sold for $7,500 an acre, plus the taxes, didn't it? A I think so.

Q Which would make about $9,000 an acre, but in your opinion it was not worth more than half that amount? A I don't think it was worth anything like that figure.

Q So along the line when the railroad buys a piece of property they pay a great deal more than what it is worth, because they want it, is that your theory? A I know one piece of property that sold on the Communipaw flats for more than twice what I could have bought the property for sixty days before that.

Q In other words, you think that a railroad company when it works out in the open pays more than property is worth, but when it works in the dark through a dummy then it may get property for what it is worth? A I think sometimes they pay a great deal more than what properties are worth.

Q And that is your opinion? A They are justified by events and results.

Q Now, Mr. Corbin, will you name to me a sale of shore front property in Jersey City made since 1910 which you say evidences the market value of the property? A I don't know of but one sale outside of this Communipaw Bay property, which I don't think you can compare with the Hudson River properties you are discussing; there is only one sale I know of and that is the American Coal Company to the International Elevating Company. 10

Q Don't you know that in reference to that sale the purchaser could not give a good title? A I do not, and that is not true, and that is—

Q What was the status of the title at the time of the sale? A That was a matter that was not agreed upon by the different attorneys who were originally in the case, nor by the title company, so I am not competent to pass upon it. 20

Q Don't you know that the deed makes certain reservations as to the title? A Yes, I have a copy of the deed.

Q There is somewhat of a cloud there at least.

Mr. Wall. If he wants to put it in, I object.

The President. Is that the property that sold for $300,000?

Mr. Stout. That is the property that sold for $300,000, yet Mr. Corbin testified it is only worth $225,000. 30

The Witness. I didn't say that at all. I positively deny that I made any such statement. I said I thought the property was not worth over $250,000 at the time it was sold.

The President. That is what I wanted to clear up, what Mr. Stout's question was. I think it was if he knew of any sale within the past ten years which in his judgment represented the fair mar- 40

ket value of the property, and I thought he said this International Elevator was the only one.

Mr. Stout. Yes, but his previous testimony is to the fact that it was worth only $250,000, so that is not the sale then.

10 *The President.* I wanted to get Mr. Corbin's explanation of that.

The Witness. The buyer, at the time this sale was made—

Mr. Stout. Just a minute. We have a question here.

The President. Mr. Corbin, to straighten it out in my own mind, the question was whether within the past ten years you knew of any sale of water front property here in Jersey City which in your 20 opinion represented the fair market value of the property? A No, I do not.

Q Then, Mr. Corbin, how can you use the sales of shore front property as a criterion of value? A You cannot use any one sale as a criterion of value.

Q When you have all of them in and not any of them evidence the fair market value of the property, then you cannot use any of them? A Oh, yes, you must use them, but you must use them with some discretion.

30 Q You mean use them with your discretion? A Necessarily, it must be my discretion as I am testifying as to what my opinion of the value is.

Q You say there has been a recession in demand of water front properties since 1919? A I am sorry to say there has, because I own a big piece of property myself I would like to lease or sell.

Q Yet we have the fact that the Pennsylvania Railroad Company is getting a greater rental for part of this property? A That may be in that particular case.

40

Q There has been a number of sales on the Jersey side since the latter part of 1919? A Yes, since about November or December, 1919, and August, 1920, there have been several sales.

Q Do you know that the Pennsylvania Railroad has sold property in the rear of its freight yard in Greenville? A Yes, I understood they had sold. 10

Q At the rate of $15,000 an acre? A I think so.

Q What would be your valuation of that property? A I have not examined that particular property so I couldn't tell you.

Q You know all about it, Mr. Corbin, you have it all there in the book; do you mean to say you have got to go down there and actually look at it again? A I don't say that, I would have to study the conditions.

Q Study what conditions? A I have sold property down there. 20

Q You say conditions, study what conditions? A Take into consideration when the sale was made and by whom purchased, and so forth, as to whether it is a fair market value. As I stated before, you cannot take any one sale—

Q You cannot take any of them? A —of these properties. From my experience of twenty-two years, I have never yet sold property of this character unless there were some special conditions attached to it.

Q Mr. Corbin, there has not been any change in your opinion of any of this property of the Pennsylvania since 1916 in value? A You mean up to date? 30

Q Yes. A Up to 1920?

Q Yes. A 1921?

Q No, up to 1920? A Yes, I think so.

Q I thought you said a while ago there had not been? A No, I didn't.

Q You think that some properties do show a change now, do you? A I think this—

Q Name the ones that— 40

Mr. Wall. Let him answer the question.

Q I am going to let him do it now, which ones show the change? A I think where a large number of properties have been taken out of the market since 1920, the early part of 1920, necessarily that diminishes the supply of available properties, particularly if they have gone into the hands of purchasers who finally improve them. They don't always go into the hands of purchasers who improve them and take them out of the market, they do sometimes come back on the market. It is just a mere guess as to what difference that would make in the value of other water front properties. No set rule you can apply to it.

Q Do you think there has been a change or an increase in the value of the New York Bay property on the Pennsylvania since 1916? A Well, I think possibly you might say there has been some change since the early part of 1920.

Q Has it a greater value? A I think it has some more value since 1920. I think taking out of the market of properties like the Shamburg, the Woodcliff, the Jones Brothers and the Cunard purchase, the West Shore Railroad, would make a difference.

Q How much difference? A No living man can tell, and any man who would attempt to say he could is foolish, that is all.

Q Don't you think it is just as foolish, Mr. Corbin, to say when there have not been any sales that the value of these properties has stood still because you have not had sales? A I think it would be just a matter of opinion.

Q Yes, and probably both are foolish. A It may be.

Q Do you know that you testified in 1916 that the New York Bay property of the Pennsylvania was worth or its value was $8,500 an acre? A I don't recall now my testimony at that time.

Q If you did so testify, was it true? A I presume it must have been my opinion at the time I testified.

Q Now, then, if this property or a portion of it sold for $15,000, a portion of it sold for $15,000 an acre in 1920, do you think that would show an increase in value? A Not necessarily, it would depend upon the size of the property sold and the location of the property. 10

Q Would you say a portion of the rear would be more valuable than the front? A No, I would not.

Q It would be less, wouldn't it, so that if the rear sold for $15,000 an acre, and that was the fair market value, assuming that, then the average value of the whole tract would be more than $15,000 an acre, I am dealing in assumption, now— A As I say, one sale does not mean anything, I know one sale down there a certain place, as I told you, I could have bought the property— 20

Q You told me two or three times about that? A I know several down there.

Mr. Wall. May I read this? I don't think Mr. Stout's question was quite fair. He insinuated the witness had testified this was worth $8,500 an acre.

Mr. Stout. I will read this if it is going to be read.

The President. Mr. Stout is still conducting the cross examination, Mr. Wall. 30

Mr. Stout. I will read it.

Mr. Wall. All right, read it.

The President. Give the witness the page number, Mr. Stout.

Mr. Stout. Yes, page 38.

Q Now, I direct your attention to appeal No. 5 on the Board list, the New York Bay Railroad Company assessment of 1916 on the Greenville property, and ask 40

you whether there has been any change in the value of that property since this Board fixed the value for the year 1915 at $8,500 per acre?

Mr. Wall. Since the Board fixed the valuation, not Mr. Corbin.

Mr. President. Go ahead.

10 *Mr. Stout.* "You mean has there been any change in my opinion in the value of these properties since then from May 20, 1915, to May 20, 1916, not now I don't think in that twelve months there is any particular change." I would infer and assume from that that Mr. Corbin's valuation of that property was $8,500 and Mr. Wall put the question in that indirect way, and I assume that was so.

Q I will ask you, Mr. Corbin, whether it was your 20 opinion—

The President. That, I think, was just inadvertent. You put the question to Mr. Corbin, you said you testified that the value was $8,500. I say that was an inadvertence.

Mr. Stout. I meant it in the same sense that the value he would place on the property at that time.

The President. He didn't place any value.

30 *Mr. Stout.* I know he didn't in that sense.

Q I will ask you now the question whether your value of that property in 1916 was higher than that of the Board? A I don't recall.

Q Haven't you any knowledge? A I don't remember off hand.

Q Do you know what the value of that property was in 1916? A No, I haven't my figures here.

Q Do you know what the value of it was on October 40 1, 1919? A Which piece are you speaking of?

Q The New York Bay tract. A Which particular piece now?

Q It is all in one tract, Block 1507, Lot 2-L. A No, I haven't those figures with me here. Block 1507 2-L.

Q Yes. A That is 1.98 acres.

Q Yes. A I think if I recall the valuation was about $1,098,000. 10

Q A million what? A About $1,098,000.

Q That is about $10,000 an acre? A Yes.

Q There has been no increase in the value of this property since 1919? A I think I answered that before in the explanation I gave you a while ago.

Q There has not been? A I didn't say that.

Q If there has, how much has it been? A I explained that at length when you asked me that a short time ago.

Q You didn't reach any definite conclusion on it? A No, I will repeat myself if you want to fill up— 20

The President. No, you need not do that, Mr. Corbin.

Q Just answer this question. If the rear portion of this tract of the New York Bay sold for $15,000 an acre in the latter part of 1920, would that in any way affect your opinion as to the value of this property as of October 1, 1919? A It would not.

Q In your opinion if the rear portion of this lot, the latter part of 1920 sold for $15,000 an acre, in your opinion was that the fair value of the property? A I would not say offhand because I know nothing about the particulars of the sale, and it might have been a willing purchaser. I have sold properties for one hundred per cent of a fair market value, but I wouldn't use it as a criterion to base the values of similar properties on. 30

Q Well, Mr. Corbin, you don't know of any sale made of shore front property since 1910 where there was a willing purchaser? A In the Harbor of New York? 40

Q Yes. A I do.

Q Where was that? A I sold a number of them myself.

Q Jersey City water front? A Not Jersey City, you said New York Harbor.

Q I mean Hudson County, Jersey City? A No, I
10 don't know.

Q You don't know of a willing purchaser? A 1920, yes, I sold one piece myself.

Q What? A I sold one piece myself in Hudson County in 1920.

Q Where was that? A A willing purchaser. That was on the Hudson River near Shadyside, New Jersey.

Q Is that Jersey City? A You said Hudson County.

Q What was the selling price? A $350,000.

Q When was the property previously sold? A Dur-
20 ing the panic of 1907, thirteen years before.

Q How much did it sell for then? A $190,000.

Q When was the previous sale to that? A About 1904.

Q What did it sell for then? A About $125,000, I think it was.

Q Are you sure about that, Mr. Corbin? A Yes. I made all the sales myself.

Q It was not $90,000? A No, I owned the property at one time.

30 Q That property then has shown some increase between those two dates, the first date and the last date from $125,000 to $300,000? A Well, there was a long period of time back there, over fifteen years.

Q Isn't that any evidence to your mind, Mr. Corbin? A Simple interest at six per cent., compounded.

Q All right, it goes into the value of property. A You can figure it up and see what it would bring.

Q Doesn't that evidence to your mind that this class of property does increase in value as the years go along?
40 A Some of it does increase in value, it doesn't all increase

in value. I have instances where it has not increased in value. That could not apply as a general proposition.

Q Yet you don't know of any property in Jersey City since 1910 that has sold for less than the previous sale of the property? A I don't know of any property in Jersey City since 1910 that it has been possible to buy or anybody that was anxious to sell, which was of any use. 10

Q How about the Lehigh Valley purchase which was spoken about? A When I speak of that—

Q You are speaking of Jersey City? A I am not speaking of the Communipaw flats. Of course those sales were made.

Re-direct examination by Mr. Wall.

Q Mr. Corbin, Mr. Stout directed your attention to this $8,500 an acre for the Greenville property, at which the Board had fixed the valuation. Do you recollect what 20 your testimony was as to the difference in price between the improved acreage and the unimproved acreage, what did you fix the improved acreage at? A The difference between filled land and unfilled land?

Q Yes. A I think at that time my estimate was about $3,600 less for unfilled land per acre.

Q Less than what? A Less than the filled land.

Q Do you recollect what you put the filled land at? A I don't recall, no. 30

Q Do you know whether your filled land estimate was higher than the Board's $8,500? A I don't recall that. I know something about the cost of filling ground there some years ago for the reason I filled a good part of the Greenville terminal, or acted as the agent of the firm who did, so I got the contract for them and handled it through the Pennsylvania Railroad. I represented them here in New York Harbor.

Q Counsel directed your attention to the Leary sale at $7,500 an acre. Do you know what the Blair property right next door sold for? A Yes, I think I have the 40

price of that right here. You speak of what is known as the Blair-Livermore property?

Q Yes. A That sold for $3,457 per acre.

Q And it was right next door to this Leary tract? A Yes, sir; adjoining.

Q Does that wide difference in acreage price in your judgment uphold or overthrow your opinion that you cannot go on any absolute standard of increase? A No, I think it shows very clearly that you cannot because the sale I made last year of Hudson River properties that I have just recited here a while ago is an evidence of that. You can find numerous evidences of it.

Q What does it indicate to your mind as to the safety of following one or two sales as criteria of value? A I think it is absolutely impossible to value these properties by any single sale or number of sales unless you take a large number of them and make a comparison of the uses to which the properties can be put, and then if they are fairly comparable and you know the conditions of the sale and the time they were made and all, you can draw your conclusions.

The President. Mr. Corbin, you testified, I think, in answer to Mr. Stout that in your opinion there had been an increase in value from 1916 to 1920? A No, I don't think I said that. I think I said that due to the fact that a number of sales of large properties on the Hudson River had been made from the latter part of 1919 to the first half of 1920, would warrant one in assuming that as those properties had been taken by purchasers financially able to improve them took them out of the market, that the available supply had been diminished that much, and it is a fair assumption that if you do diminish the available supply there might generally be some increase in values as a general proposition. Those sales were not consummated in 1920. All that property was for sale up there for many, many years.

The President. That, of course, creates a condition, according to your theory which could possibly have no effect upon these valuations made two years prior to that time? A Absolutely not. All those properties were in the market to anybody who would purchase them.

The President. How would you, Mr. Corbin, attempt to arrive at the fair market value of these properties here involved in this appeal if you were required to do so? A Why, I should simply take into consideration first the character of the properties themselves and then make comparisons by taking into account all the sales of properties of a similar character and those adapted to a similar use for several years past. You cannot do it for one year, of course, because the sales of these properties are infrequent. There happens sometimes, as I say, where one sale of the property is at a price very much in excess of its fair value for particular reasons, and in other cases where it is less. That is very largely due to either the financial condition or the other conditions that affect the buyer and the seller or either one.

Mr. Margerum. Wouldn't a large increase in rental of piers change your mind, in that respect, wouldn't that make it more valuable?

The Witness. Well of course, the value of all property is what might be termed a potential value. The intrinsic value, if you may use such an expression as to one of these water front properties is nothing. For instance, land under water, as it is in Communipaw Bay is worth nothing. People only buy it and pay for it because they feel they can put it to a profitable use, therefore it has potential value.

Re-cross examination by Mr. Stout.

Q Mr. Corbin, wouldn't you consider the sale between Leary and the Lehigh Valley the case of a willing seller and a willing purchaser? A Well, I wouldn't like to characterize that sale, because I know that Mr. Leary was not a very willing seller. I tried to negotiate with him a great many times for that property, and on the other hand I tried to negotiate with the Blairs, Judge John A Blair.

Q I am talking about Leary now, not the Blairs. Then if Mr. Leary was not a willing seller, would you say that in the Blair transaction the sellers there were willing sellers? A I think they were much more willing sellers than Leary.

Q You know the sellers of the Blair property took it in under foreclosure and were anxious to get rid of it. A I knew some years before that Judge Blair had been anxious to dispose of his interests in it.

Q Don't you think in that case the seller might have taken a lot less than the value of the property? A I don't say a whole lot less.

Q If you have somebody that has the property on his hands and is anxious to get rid of it, he is more likely to sell at a lower value than the fellow who does not care whether he sells or not, isn't that so? A Absolutely.

Re-direct examination by Mr. Wall.

Q But do you characterize a sale where a man is anxious to sell, keenly desirous of selling, as a forced sale? A No, I do not consider it a forced sale, because I know in my own case I sold some years ago a very large water front property. I was extremely desirous of selling it, and did sell it, but I was not forced to sell it. I could have carried it.

Q Isn't a forced sale a sale that is brought about under compulsion that the seller has nothing to do with such as a sheriff's sale or a foreclosure sale or some sale he had no control over? A It is.

Q In valuing the properties in talking about a willing purchaser, you are treating that willingness as a keen desire to sell? A Yes.

Q But not compulsion? A Exactly, and a difference between a reluctant seller. Mr. Shamburg, for instance, was a very reluctant seller, because I had been negotiating for years for the sale of that property and once or twice had contracts drawn up for the sale of it, but he never was desirous of disposing of it.

Mr. Wall. That is all.

Mr. Baker. Is your definition of forced sale limited to sheriff's sale and foreclosure?

The Witness. No, I don't think so. I have purchased property myself; for instance, a few years ago I had a man who wanted to sell me a piece of property and practically forced it upon me by continually reducing the price because he wanted some money, and I bought the property and bought it really under compulsion, you might say, and much to my profit later on, several years later I sold it for a very handsome profit. That was in a sense a man very desirous of selling.

Re-cross examination by Mr. Stout.

Q You know that the Blair tract was heavily encumbered by taxes and that if Mr. Blair or the people who owned it didn't sell it the city would sell it for them? A No, I don't know that.

Q Don't you know it was heavily encumbered by taxes, taxes had not been paid for twenty-five or thirty years? A I know there was a dispute about taxes, just what the dispute was or what the legal situation was I didn't go into that.

Q The Leary tract was also heavily encumbered by taxes, do you know that? A I knew there was a dispute on the taxes on that.

Q Don't you know the taxes were tied up in the courts and had been for years, and that the city's hands were tied to sell the property? A No, I don't know anything about the city's hands being "tied."

FREDERICK DUNHAM, a witness being called on behalf of the respondent, being first duly sworn, testified as follows:

Direct examination by Mr. Stout.

Mr. Stout. Now, Mr. Wall, do you admit Mr. Dunham's qualifications?

Mr. Wall. No, but I should like, if I may, to incorporate the choice excerpts from the examination as to his qualifications from the appeals for the last five years, rather than take up the time of the Board in going through it.

Mr. Stout. Do you admit him or don't you?

Mr. Wall. If it is put up to me, I will have to examine him, but seriously I don't see why that cannot be done. In these railroad appeals, his qualifications have been gone into. It takes a long time and the Board has overruled me in the past and I presume will admit him in the future on his qualifications. I would like, in case there is any necessity of taking this case up, to have the records so the facts as to Mr. Dunham's qualifications show, so that we could get a finding on that. Isn't it a perfectly possible thing?

Mr. Stout. Why can't we offer the record in the cases?

Mr. Wall. No, there is no need of actually offering them if I have leave to put in the examination on these appeals in previous years of Mr. Dunham's as to his qualifications and object on the same ground as I objected then, that will be all right.

The President. That is your own examinations of Mr. Dunham as to his qualifications in some other case?

Mr. Wall. Yes. I suppose you will want the other side in.

The President. Yes. I mean he has been examined by other attorneys? 10

Mr. Wall. It seems idle to go through all this thing.

The President. It does.

Mr. Wall. When we know exactly what it is. I want the record to be in such shape that we can have a case to take up in case we want to.

The President. There is no objection to that, is there?

Mr. Stout. No. It was my motion to offer the testimony of Mr. Dunham in previous cases as to his qualifications. 20

The President. And the cross examination?

Mr. Stout. Yes, the cross examination.

The President. All right, that will be done.

Mr. Wall. I would like to have Mr. Bain's cross examination of Mr. Dunham, too.

Mr. Stout. Yes.

Mr. Wall. You don't mind that, do you? 30

Mr. Stout. No, I don't.

The President. All right, then, Mr. Bain's cross examination in the case of the Jersey Central will go in.

(A recess was here taken until 1:45 P. M.)

40

AFTER RECESS.

FREDERICK DUNHAM, resumes the stand.

Direct examination by Mr. Stout.

Q Mr. Dunham, were the properties of the Pennsylvania Railroad Company and its associated companies more valuable on October 1, 1919 than they were on October 1, 1918? A They were more valuable.

Q In your opinion what was the increased valuation? A Between ten and twenty-five per cent.

Q Is that depending upon the class of property? A It is depending upon the class of property and its location.

Q Were there any sales that you have knowledge of property comparable with properties here under consideration in the year 1919? A Yes, there were sales practically made in 1918 and consummated in 1920. There were sales to the Cunard Steamship Company at Weehawken and sales in Bayonne and Constable Hook; the Delano sale to the Standard Oil Company and sales to the International Nickel Company which were made prior to 1919. There was a series of sales there extending from 1916 up to 1920 on adjoining properties.

Q When was the sale of the Curry Homestead property consummated? A That sale was consummated in 1919. The contract was made in 1918, as I recall it.

Q Is that property comparable with any of the properties of the Pennsylvania Railroad Company here under appeal? A That property is comparable in a way with the rear part of the New York Bay yard of the Pennsylvania and not as good property in my judgment being separated from the water front by the Morris Canal.

Q What was the selling price of that property? A $15,000 per acre.

Q Do you know what the assessed valuation of the Curry property was prior to the consummation of that sale?

Mr. Wall. What bearing does that have, the assessed valuation?

Mr. Stout. Just to show the increase.

Mr. Wall. I object to that.

Mr. Stout. The assessment fixed by this Board, it seems to me to be along the line of your examination. 10

Mr. Wall. Assessed by this Board.

Mr. Stout. Fixed by this Board on appeal.

Mr. Wall. I don't object, of course, to it if this Board fixed it. At what time?

Mr. Stout. Prior to the 1919 sale.

The President. All right, the question is allowed.

Q In 1919 the assessed value of the Curry homestead plot was $3,600 per acre.

The President. By the assessed value, what do you mean, Mr. Dunham? 20

Mr. Stout. The amount fixed by this Board.

The Witness. That was the amount, as I understand it, that was fixed after appeal.

Q By this Board? A Yes. It is not third class property. It came to this Board, as I understand it, on appeal from ordinary city property, it is not railroad property.

Q But did you say it is comparable with property here under appeal? A It is almost adjoining, separated by the Morris Canal. It is back land, it is comparable with the round house plot of the New York Bay yard. It practically adjoins it. 30

Q What is the difference in your opinion between this class of property and third class property, a matter of ownership? A The third class water front properties are—

Q Yes, but the third class property which is not water front property, how does that differ from this? A It 40

differs from it, the third class properties under appeal are strictly water front properties. The Pennsylvania, and I am speaking of the New York Bay which is the nearest property to it that is water front property whereas the Curry tract, while it is almost adjoining is not water front property. It is separated from the water
10 front by the canal and in my judgment is not as valuable.

Q Not as valuable? A Not as valuable as the water front.

The President. Do you know when that assessment was made, Mr. Dunham, for what year, do you have any information on that?

The Witness. The year 1919.

The President. That is $3,600 per acre.

The Witness. Yes, just prior to the sale.

20 Q You mean it was 1918 and before the Board in 1919? A I am not so sure as to that. Mr. Hickey will have the record of that. The 1919 assessment was $3,600.

The President. All right.

Q I assume you want the record straight. This property we are now concerned with, Mr. Dunham, is as to the assessments for 1919. A The Curry homestead plot.

Q Yes, and there was no appeal, so it must have been for 1918. We want the facts. A Well, the assessment
30 runs over there. There are a couple of years involved. Prior to the sale of the property the assessed value was $3,600 per acre.

Q That was the assessment as of October 1, 1918? A 1918.

Q Do you know what the assessment was as of October 1, 1919? A The assessment was $14,500 per acre, the assessed value.

Mr. Wall. By whom?

The Witness. By the city.

40

Q The last assessment is by the city? A Yes.

Mr. Wall. He has testified before it was by this Board.

The Witness. On appeal, I said before the Board.

Q He testified that the assessment of October 1, 1918 was before this Board and the value fixed at $3,600. A That is my understanding of the record. I am not so absolutely sure of that. Mr. Hickey can tell that, if there was no appeal. 10

Mr. Hickey. That was the assessment, $3,600.

The Witness. Then that is wrong. This Board had nothing to do with it.

Mr. Wall. Why not strike it all out as to the Curry property.

Mr. Stout. If it has not been before the Board, all right. 20

Q The Point Breeze property adjacent to the Curry property is that similar property? A The Point Breeze is water front property.

Q In your opinion is it more or less valuable than the Curry property? A More valuable.

Q That property was before the State Board in 1919 on the assessment of October 1, 1918? A Yes.

Q Do you know what value was fixed by the State Board? A An average value of $5,700 per acre. 30

Mr. Baker. That is the Point Breeze Ferry Company, isn't it?

The Witness. Yes, that is the tract immediately in front of the Curry homestead tract.

Mr. Baker. A trifle north, isn't it?

The Witness. Immediately in front (indicating on the map.)

Mr. Baker. Directly east. 40

The Witness. Yes, separated from it by the Morris Canal.

Q You are familiar with the location and the value of the properties of the Pennsylvania Railroad Company here under appeal? A Yes.

Q Will you state to the Board what in your opinion was the fair market value of those properties as of October 1, 1919? A The property of the New York Bay Railroad Company known as Plot 2-L in Block 1507, that is the Greenville yard, my judgment is that on October 1, 1919 the value was $25,000 per acre.

Q That is in excess of the assessed valuation? A Yes, the assessed valuation is $20,000 per acre.

Q Take the next parcel? A The next parcel is known as the stockyard on the Hudson River at the foot of Sixth Street, designated as Plot C-5 and Plot C-6 in Block 15. I value those properties as of October 1, 1919 at $2.50 per square foot. Then there is the property of the Associates of the Jersey Company located at the foot of Grand and York Streets designated as Plots A and D in Block 4 and 5, upon which are located the Piers B and C.

Q Piers B and C? A Lot A and D, 4 and 5, Lot A and D upon which are located Piers B and C. I think Mr. Graham stated that wrong. It is Piers B and C. I value that property as of October 1, 1919 at $2.50 per square foot. That is all of the Pennsylvania Associated water front property under appeal.

Q Let us have the other property of the Pennsylvania here under appeal.

Mr. Wall. I did not understand that Mr. Dunham had ever sought to qualify as an expert on the value of the back land.

Mr. Stout. Oh, yes; he has always been our principal expert.

Mr. Wall. This is not water front property?

Mr. Stout. No, on the back land.

Mr. Wall. Is it the Board's understanding he has ever qualified as an expert on back land? I thought it was always on water front. I make the objection he has shown no qualifications to testify as to value of back land.

Mr. Stout. He testified on that last year.

The President. I think he has, that is my impression, but I have not the record here, and I don't know whether the examination will show his qualifications or not. We will take the testimony subject to whatever the examination shows as to his qualifications. 10

Mr. Wall. Very good, sir.

Q Mr. Dunham, did you testify as to Plot C-5 in Block 15, which is the stockyard property? A I did.

Q And what is your value there as of October 1, 1919? A I gave that. 20

Q I see, all right. A The next plot is a plot located on the Hackensack River at Newark Avenue.

Mr. Margerum. What number is that on our list?

The Witness. That is No. 10.

Mr. Wall. What is the Block?

Mr. Bakers Block 601, Lot No. 1.

The Witness. Number 12, that is, it is a water front plot. 30

Mr. Wall. What is the lot and block?

The Witness. Block 602, Lot 1, located on Newark Avenue and Duffield Avenue with a frontage on the Hackensack River. I valued that property at $15,000 per acre.

Mr. Baker. Where are you, in this part of the city now (indicating)?

The Witness. Yes. Here it is on the list (indicating). 40

A (Continuing). That is assessed at $44,000. It is assessed at the rate of $12,000 per acre.

Block 76, Lot H-4 Washington, Green, First and Bay streets, I valued that property as of October 1, 1919, at $4 per square foot.

10 Block 11, Lot A, Morgan street, I valued that property as of October 1, 1919, at $5 per square foot.

No. 10, Block 601, Lot 1, located on Newark Avenue, between Charlotte and Duffield avenue, I value that property at $12,000 per acre.

Q Have you any sales to support that valuation? A Yes.

Q What sale is that? A There is a sale here of the Woodstock Company to Charles F. Hofferbarth, Novem-
20 ber 12, 1919, on James avenue. The price paid $25,000 for 31,400 square feet, eight-tenths of an acre. There was on this property a building assessed at $7,000. That would show a land value much in excess of $12,000 per acre.

Q And that land is comparable with Lot No. 1 in Block 601? A It is about the same class of property, but if anything not as good, because the other property has a direct frontage on Newark Avenue.

Q That is the Pennsylvania property? A Yes.

30 Q You mean on Newark avenue or the Hackensack? A On Newark avenue. Then there is number 13.

Q What is 13, you mean on the calendar?

The President. There is 13 marked here.

Mr. Stout. On the calendar?

The President. Yes.

Mr. Stout. In respect to 13 I am advised by the Department that the City there consents to the valuation asked for by the appellant. What is that
40 block and lot?

The Witness. Block 510, Lot 21. That has gone into second class.

Q Have you covered all of the property now of the Pennsylvania here under appeal? A I think I have.

Mr. Baker. Does the city consent to all those assessments scheduled under 13? 10

Mr. Stout. Yes.

Mr. Baker. That is Block 510, Lot 5 and one.

Mr. Wall. The City consents to it.

Mr. Baker. 21 is disposed of and 5 is disposed of and one is disposed of, is that right?

Mr. Stout. Yes, that is right.

Q Mr. Dunham, in your opinion is the assessed valuation of these properties the true value of them as of October 1, 1919? A I don't know that I would say that. 20 If anything they are below the true value.

Q In other words your valuation would be higher than the assessed valuation? A I think if the property was valued for an actual sale it would be valued higher.

Q Isn't that the standard you must use in determining value for the purpose of taxation? A Yes, as near as you can get to it, giving the tax payer the benefit of the doubt.

Mr. Stout. Take the witness. 30

Cross examination by Mr. Wall.

Q Now, Mr. Dunham, the values that you have testified to, how do they compare with the State Board's valuations for October 1, 1918? A Well, I will have to refer to the list and read you from the list.

Q You don't know? A I don't recall off hand, no.

Q Isn't it rather difficult for you to say just what the increase in value was between October 1, 1918 and October 1, 1919? A No, I don't think it is very difficult.

40

Q Perfectly easy, is it? A Yes, very evident, it is self-evident.

Q And what is the thing that imports that self evidence? A Sales.

Q And these sales are the ones you have referred to? A No, that and subsequent sales.

10 Q Well, for how long a period do you take any subsequent sales, subsequent to what, to 1918? A Yes, I take a series of sales from 1916 to 1920.

Q I see. Some of those sales that you take are sales that have already been considered by this Board in reference to the appeals of 1919, are they not? A I think so, yes.

Q Well, now, can you separate the sales that have been considered by the Board and those which have not? A I can give you some sales in 1920 if the Board wants to consider those sales. I must consider them because I know

20 of them and that is the only way you can show a steady increase.

Q You cannot really arrive at your valuations without considering sales since 1919, is that correct? A There were very few sales in the year 1919.

Q That is not an answer to my question. A Those sales taken into consideration with the sales of 1918 and the sales of 1920. From those sales you could arrive at a pretty fair percentage of increase.

30 Q What I am trying to get at is to separate the sales which you have taken into consideration and which were not before the Board. Those sales you say run down as far as 1920? A Yes, the sales were consummated in 1920, but that necessarily was not the price of 1920. It may have been the value fixed as of 1919.

Q It may have been, but do you happen to know about that yourself? A Well, in some of the cases I know where the deeds were recorded in 1919, where prices were actually fixed in 1916, deeds recorded in 1920. Prices

40 were fixed in 1919.

Q How do you know when the prices were fixed? A By the contracts.

Q You have seen the contracts, have you? A In many instances, yes.

Q You cannot specify which, I suppose? A Well, I have seen, for instance, the contracts for Curry, contracts for Cunard— 10

Q The Curry sale, that is considered by this Board in the 1919 appeal? A I think so.

Q We can leave that out because they have already passed on it.

Mr. Stout. That was only considered by this Board in respect to the appeal of the Point Breeze Ferry Compnay.

Mr. Wall. No, I am assuming that the Curry sale was testified to in these railroad appeals.

Mr. Stout. No. 20

Mr. Wall. And considered in the 1919 appeals, isn't that correct?

The Witness. I believe that the contract was produced before this Board. The contract was of 1918, I think. The Board did—

Mr. Wall. Whenever it was the Curry sale was considered by this Board. As I understand it, the Board is not interested in the things it has already considered. 30

Mr. Stout. Only he didn't have it on the appeal in respect to third class railroad property. I think it was on the Point Breeze.

Mr. Wall. He is talking about a different thing. He is talking about whether there was an appeal by the Curry interest.

Mr. Stout. No, I am not. I am saying this, that the evidence that was produced to this Board in respect to some other appeal but not the appeal of the Pennsylvania Railroad Company, that evidence 40

would be evidential in these cases because we have never had it before the Board in respect to third class property—the Curry sale.

Mr. Wall. Mr. Bain calls my attention to the fact that Mr. Curry was subpoenaed.

Mr. Stout. Yes, but that was in reference to the Point Breeze appeal.

10

The President. I don't recall, I may be wrong about that, but I don't recall that testimony was brought out in these railroad appeals. We had the case of the Point Breeze appeal, and I think it was in that case.

Mr. Stout. I had Mr. Curry subpoenaed and produce his contract and Mr. Ryer also testified at the same time and we had a witness, a real estate man from Bayonne testify, and that was in the Point Breeze appeal.

20

Mr. Wall. Well our difficulty is what the examination of Mr. Curry shows. Nobody knows it.

Q Don't you recollect, Mr. Dunham, whether there was any talk about the Curry sale at the time Mr. Curry testified? A When Mr. Curry testified, yes.

Mr. Stout. I want to say to this Board as a matter of fact that Mr. Curry was only produced in the Point Breeze appeal.

30

Mr. Wall. That is just the very point I made. It does not make any difference what appeals he was produced in if in these railroad tax appeals this Board considered that sale in arriving at its judgment.

The President. He says we have not. That is the point, as I understand it, that that was before us in the appeal of the Point Breeze Ferry Company and considered in that case, but technically it is not before us in any of these railroad appeals.

40

Mr. Stout. You don't suppose the Board goes looking all over for evidence. It bases its judgment on all the evidence in the case before it.

Q Mr. Dunham, didn't you in your testimony in the 1919 railroad appeals testify to this very Curry sale? A I may have.

Q Don't you think you did? A It would have been natural for me to do so, knowing of it. 10

Q You knew of it at that time? A I did, yes.

Q Isn't it your custom to have a memorandum made of all the sales that have occurred and then testify to them all? A Yes.

Q Didn't you testify that Mr. Curry had been to you about that matter and that you got your figures from Mr. Curry? A I testified in the second class, I testified in the third class and I testified on the Point Breeze appeals and I have testified every year, as you know. Now, I can't recall now as to all these things I have testified in the various cases. I have testified before this Board as to the Curry sale. That I know. 20

Mr. Wall. Isn't it this way, if the Curry sale was testified to and considered by the Board in the railroad tax appeals that that is out of this present inquiry because it has been considered?

The President. Yes, if that has been before us and has been used. In other words, if it has been before us in the railroad cases involving this particular property, of course, that is not new evidence, that is already in. 30

Mr. Stout. I thought that the ruling of the Board was that the Board would not permit a witness to testify to a sale or transaction which the witness had testified to at a previous hearing in another appeal, but that the Board would consider that evidence together with other evidence in fixing that valuation for the succeeding year. In other words, 40

haven't you in the past had the evidence in respect to sales testified in previous appeals introduced and received in evidence to be considered in your later appeals. Isn't your judgment made up of the evidence you had before you last year, plus what is produced this year?

10 *The President.* Yes, that is right.

Mr. Stout. So then, if it has been testified to by the witness last year he does not testify to it this year under your ruling, but you consider it just the same because it is already in evidence.

The President. That is right, yes; I thought there was no difference between us on that, yes.

Mr. Stout. But I know that we only had Mr. Curry in the Point Breeze. Mr. Dunham may have testified in the third class, but I don't think he did. He may but the evidence and the introduction of 20 the contract and the examination of Mr. Curry and Mr. Ryer was in the Point Breeze appeal.

Q Well, now, what other sales, Mr. Dunham? A There was the sale to the Cunard Terminals Company, Weehawken.

Q That was what date? A That was in 1920, that is the actual date of the deed in 1920.

Q What was the actual date of the deed? It was 30 August 26, wasn't it? A I have a certified copy of it here.

Q August 26, 1920, isn't that right? A August 26, 1920.

Q Yes, and do you know personally about that sale? A I saw the contract.

Q That is not what I asked you. You saw the contract? A Yes.

Q When did you see the contract? A Some time previous to that, just how long I don't recall, but some time previous to that. The contract was filled out with 40

the exception of the price per front foot and they sent the contract over to me and I was to determine the amount of frontage upon which they paid.

Q They being who? A The lawyers for the Cunard people.

Q You were to figure the front feet for them? A Yes.

Q And that was your relation in the matter? A My relation to the matter was there was a dispute as to about two feet in there. 10

Q Did you make a survey? A Yes.

Q You didn't have anything to do with the negotiation for the price or fixing of the price? A No, the price had been fixed.

Q Your connection with it was as surveyor? A Yes.

Q What other sales? A There is the sale at Constable Hook.

Q When was that? A The last sale that is Fenallie & Despeaux to the Standard Oil Company of New Jersey. That was December 4, 1919. 20

Q Didn't you testify to that in the 1919 appeals? A I think I did.

Q Then that is out.

Mr. Stout. You didn't testify to the Cunard, did you?

Mr. Wall. Yes, he surveyed the front feet.

The Witness. I don't recall testifying to the Cunard in the 1919 cases. That has taken place since then. 30

Then there are some contracts for sales in Bayonne which were made last year, 1920.

Q Considered by this Board? A No, they have not been considered by the Board.

Q Did you testify to them last year? A No.

Q Did they influence you in any way in forming your opinion as to whether there was an increase between 1918 40

and 1919? A As to whether there was a permanent increase, yes.

Q Did the Cunard sale have any influence on you in that respect? A Yes.

Q It didn't have the kind of influence that would have changed your present testimony if it had never occurred; suppose it hadn't taken place, your testimony would be just the same, wouldn't it? A As to the increase?

Q Yes. A I am not so sure it would. If those sales had shown a decrease it would have altered my judgment.

Q As long as they showed an increase you could either put it in or keep it out as far as your opinion now as to the increase in value of 1919 over 1918 is concerned? A No, I would not say that.

Q Then it was an essential factor in your making up assessments as to the increase, is that right? A Yes, the sales of 1920, following the year 1919, have a very important bearing.

Q You would say the Cunard sale was an essential factor in your arriving at your conclusion as to the increase of 1919 over 1918? A One of the factors, yes; a very important factor.

Q You would not say it was an essential factor? A Taken in connection with the others. There were sales at North Bergen, sales of the Twombly property.

Q That was considered by the Board, wasn't it? A No.

Q Is that one of the later sales? A Yes, later sales. Sales of the Woodcliff property.

Q The Twombly sale was March 26, 1920, wasn't it? A 1920.

Mr. Stout. That was the deed.

Q And the Woodcliff sale was December 30, 1919? A There were some sales prior to that. There was a contract which the Board, as I recall it, had produced in the

Hoboken cases, a contract for the sale of the Woodcliff property.

Q Did you testify to that before the Board on the 1919 appeals? A No, Mr. Walker, who was the agent of the Woodcliff testified before this Board in the Hoboken cases on the two million dollar contract. That afterwards resulted in the sale of the Woodcliff property to the Edgewater Company, and then from the Edgewater Company there were sales to the Lord Construction Company and then there were later sales from them to the Realty Company. 10

Q Those were all in March, 1920, weren't they? A The deeds, yes, the deeds were recorded in 1920, but practically all of these transactions except that the contract of the Woodcliff property was made some years previous to that. The sale of the Woodcliff was the result of the closing of the option of the contract made some years previous. 20

Q Weren't all the contracts except the Woodcliff property made in the year 1920, all those sales you have been testifying to? A No, negotiations there for the best part of a year.

Q Which one of those sales were you intimately concerned with? A I was not intimately concerned with any of them.

Q Well, how did you get access to these contracts? A Well, the contract of the Woodcliff, that was subpoenaed and I heard the sworn testimony of Mr. — 30

Q Meeks? A Mr. Walker, and also of Mr. Rodermond, who was the vice-president of the company that was purchasing that, that had the contract.

Q And that was the only one of these contracts of which you yourself knew? A Yes, that one, and the Shamburg transaction. My information on that is directly from Mr. Shamburg himself.

Q When did you get that? A Oh, shortly after the deed was recorded I saw Mr. Shamburg in order to verify the consideration. 40

Q That was late in the spring of 1920, wasn't it? A Yes.

Q And you didn't learn of that until late in the spring of 1920, did you? A Of the sale?

Q Yes. A Oh, I knew negotiations were going on because I had two or three talks with Mr. Shamburg on it.

10 Q How long were they going on? Be careful, I was in the case myself. A That may be. I don't know who was in the case, only I know Mr. Shamburg and I had two or three conversations on it.

Q You talked to Mr. Shamburg and that is all you know about it? A What I know about the first part of it was that Mr. Shamburg came to me in order to get the map of his property.

Q That didn't have anything to do with price, did it? A That didn't have anything to do with price but he

20 informed me at that time he was negotiating.

Q Hasn't Mr. Shamburg been in a chronic state of negotiation for the last ten years about that property? A No, I don't know that he has. I know I put one or two propositions up to him.

Q Now, you have not considered in dealing with the question of advance in price of 1919 over 1918 anything that this Board did with reference to the appeals which were decided in the railroad cases by the Board for the year 1919, have you? A You mean have I considered

30 the Board's judgment?

Q Yes. A Well, I have considered the Board's judgment, of course.

Q How does it enter into your conclusion? A Well, it does not enter into my conclusions, because I—

Q Stop there. It doesn't make any difference whether you— A I have considered the Board's judgment.

Q You have respectfully considered it and discarded it? A Exactly.

Q Don't you think we ought to delete the word "re-

40 spectfully"? A No.

Q Assuming that that Board's judgment in the 1919 appeals was right, then your conclusions as to this advance in price of 1919 over 1918 would be erroneous, isn't that right? A If the Board is right I am all wrong.

Q Yes, exactly. Mr. Dunham, you are a believer in the steady advance in price of this property from the earliest business activities down to date, aren't you? A I believe in just what the record shows, and no more. 10

Q Why don't you answer my question? A That is what I say, I believe just what the record shows and no more. I don't draw on my imagination.

Q You don't draw on your imagination? A I don't draw on my imagination.

Q You can say a thing like that? A I stick to the facts and to the record absolutely.

Q Do you believe in the doctrine of steady advance or not? A I believe that so far as this class of property is concerned or any class of property, that if there is no normal advance of five per cent. a year you are stuck, you are losing. 20

Q I am not asking you that. I am trying to get from you an answer yes or no to the simple proposition whether you are a believer in the theory that there has been a steady advance which can be assigned in percentages in the value of this property since it first was taken over for business use down to and including the present day? A I believe in what the records show, no more. 30

Q I want to bring to your respectful consideration the word "yes" and also the word "no" and suggest that you use one or the other of them. A You might ask me if I beat my wife. I have got to answer yes or no.

Q That is a question with an assumption in it. I am not making any assumption. I am asking you if you believe in a theory or not, buck up and say yes or no. A I am not theorizing at all on this thing. I believe in just what the record shows and the record shows there is an increase. 40

Q Then you believe in the increase? A I believe in what the record shows, yes.

Q The answer is yes? A The answer is yes so far as that is concerned, with that qualification.

Q In what definite percentage would you assign that advance from year to year? A The records show from 1880 to 1910 a minimum average increase of four per cent. a year, that is a minimum. The record shows from 1916 to 1920 an increase of 100 per cent. over the four years. Of all the analyses I have made of water front sales, and I have taken I think every sale that is available from 1880 up to the present time, the minimum is four per cent. The maximum extended over the whole period of years is about fifteen per cent.

Q Well, then you don't mean there is any percentage which you would assign as a steady annual percentage, you change your percentages, is that right? A Well, real estate values—

Q Tell us, Mr. Dunham— A —don't work that way; for instance they may increase over night apparently, so far as the record shows.

Q I am asking what you believe. A It don't make any difference what I believe in, I am telling you what the records show.

Q What you think is the fact? A I am not telling you what I think, I am telling you what I think is the fact, yes, so far as the record shows that there has never been a sale or a re-sale of water front property on the New York Bay or on the Hudson River that shows a recession in price, that every sale indicates an advanced price over the previous sale.

Q Well, I know, but now tell us in answer to the question whether you think it is a steady advance of five per cent. a year or any other per cent. or whether it is an unsteady advance, that sometimes it is five and sometimes it is fifteen or what, tell us which it is. A Oh, yes, it is not a steady per cent., I don't mean to say there

is an average normal increase of five per cent. year after year. That does not happen because there are periods of depression and inflation, and all that sort of thing, but when you average them for a long series of years you get an average percentage. I say the absolute minimum taking the worst cases, the absolute minimum is four per cent. a year. 10

Q That is not the way you valued this property, is it? A No.

Q You value it by actual sales, don't you? A Yes, sir.

Q Now, with this Block 602, Lot 1, you said the assessment was $12,000 per acre, which assessment was that, the State Board's assessment? A That was the city's assessment.

Q Do you know what the State Board's assessment was? A No, I don't, I don't recall just now. I could tell you in a minute. About $8,000 an acre. 20

Q Did any of these sales show a higher advance, annual advance than fifteen per cent.? A There were very few sales down in that locality. $12,000 an acre is the average assessed value for all of that class of property, and that is the value upon which the Public Service are paying taxes without protest.

Mr. Wall. I ask that that be stricken out.

The President. Yes, it was not responsive to anything Mr. Wall asked. 30

Q Now, Mr. Dunham, what do you say was the advance in the water front property here under appeal from 1918 to 1919, using October 1st in each year? A Referring to the Hudson River and New York Bay?

Q Yes. A There was a one hundred per cent. increase from 1916 to 1920.

Mr. Wall. Won't the Board strike that out?

The President. He has not answered it. Let him complete his answer. 40

A (Answer continued.) If you average that over the four years you would get an average of twenty-five per cent. a year. In other words—

Q That is the only way you can get at it, is it? A That is on this particular class of property, yes, where you have no adjoining sales you have to take that by analogy.

10 Q Is the only way you can get at the idea of an advance of 1919 over 1918 on the water front property here under appeal by that method which you have just described? A You take—

Q Tell us whether or not that is, if it is not— A For instance, if you have a sale—

Mr. Wall. I think the witness ought to answer the question.

The President. Yes, just repeat the question.

20 Q (Question repeated as follows): Is the only way you can get at the idea of an advance of 1919 over 1918 on the water front property under appeal by that method which you have just described? A In some properties, yes, it depends on where the property is located. You might have one particular piece of property where there are sales from year to year, you may have another particular piece of property upon which there are no sales for four or five years, but you have not to be influenced by what is happening all around you.

30 In the case of the stock yard property or in the case of the Erie Elevator property or in the case of the piers B and C, we know what is happening all around those properties. We have sales of adjoining property in the immediate neighborhood which show fair average yearly increase. An analysis of those sales shows what is taking place generally in that immediate vicinity.

Q Take Greenville, what was the advance in value of 1919 over 1918? A Now, you take the Greenville water front, which is comparable with the Bayonne water front.

40

Q Can you tell me any water front that is not comparable with any other water front? A Oh, yes, I don't consider water front on the Hackensack River comparable with water front on the Hudson River, neither do I consider water front on the Newark Bay comparable with water front on the New York Bay.

Q It is not possible to compare them? A No, not as to value. 10

Q You mean fairly comparable? A No.

Q What is the reason you cannot compare the East River with the North? A No more than you can compare Broadway with some other street.

Q You can do it, can't you? A There is a particular value attached to the location which you cannot carry for a couple of miles and make a comparison.

Q You mean you can't make a good comparison, a fair comparison? A Not a fair comparison, no, because they are not competing properties. I consider properties on the Hudson River and the New York Bay competing properties. 20

Q Well, now, what is the increase for the period named as to the properties of the Pennsylvania located at Greenville which is Block 1507, Lot 2-L, 100 acres, what was the increase from 1918 to 1919? A Well, you have no sale in 1919.

Q Tell us the increase? A If you permit me to go to 1920. 30

Q Tell us the increase and give reasons afterwards. A I will give you the increase from 1918 to 1920.

Q I did not ask you that. Give me the increase for that one year. A I can by interpolation between 1918 and 1920.

Q Give it to us in money, however you get at it, give it to us in money. A All right. 1918 the nearest sale to 1918 is 1916.

Q Give it to us in money, give your reasons afterward. A You can't in the absence of particular sales. 40

Q It is either one dollar or some other sum. A I will tell you what it was from 1918 to 1920.

Q It seems to me we are entitled to an answer. A If you are going to insist on a particular year where there was no sale, I can't tell you.

Q The answer is you can't tell, isn't it? A I can't
10 tell for the one, the particular year taken by itself.

Q For the year I asked you you cannot tell, can you? A Not for that particular locality.

Q And for that year? A No, not that particular locality.

Q I am not asking about any other locality just now. Take the stock yards, is the same true of the stock yards? A No.

Q What was the increase of 1919 over 1918 with reference to the stock yards? A The stock yards is a
20 different class of property.

Q Tell us the increase? A The increase as evidenced by the general increase—

Q No. A —is twenty-five per cent.

Q Well, do you think that was the increase? A Yes.

Q Is that your testimony? A Yes.

Q For that period? A Yes.

Q And you have nothing to base that on except these sales that occurred after that date and the sales that were testifed to before this Board on the 1919 appeals, do you?
30 A Sales occurring before and sales occurring after.

Q You don't know whether they are testified to or not? A I don't recall.

Q You don't know what the State Board's valuation was in 1919, do you? A I don't recall it now.

Q The State Board's valuation was $1,540,138. Now, what was your valuation in 1918, October 1, 1918? A $2.00 as I recall it.

Mr. Stout. Is that what is worked out as $1.70.

40 *Mr. Wall.* I think it is.

The Witness. I think the State Board was $1.46.

Mr. Wall. Mr. Ryer says we did not work that out.

Q Anyway, you were $2.00 a square foot at that time, your valuation? A That is my recollection, $2.00, and I increased it to $2.50.

10

Q The $2.50 is the increase for that single year or down to $1920? A It was the increase for that year.

Q It was? A Yes.

Q Well, then are you sure about that? A Yes.

Q It increased fifty cents a square foot in your judgment, from 1918 to 1919? A Yes.

Q And you based that on general considerations? A General increase.

Q Not specific sales? A General increase from sales.

Q What? A General average sales.

20

Q Do you know the size of these properties up the river that you considered in arriving at your valuations, these sales like the Cunard, do you know the size of the plot sold? A Yes, I surveyed them all.

Q You did? A Yes.

Q You mean you surveyed the Cunard? A Every one of them.

Q You surveyed them all? A Every one of them.

Q Then you do know. How did they compare in size, how does the Cunard compare in size with, for instance, these Piers B and C? A Piers B and C?

30

Q Yes. A The Cunard is about twelve—feet deep, from twelve to thirteen hundred feet deep from the pierhead line back to the railroad. Piers B and C about six hundred feet, and you get, if you include with that the land behind it, which is owned by the same company, you get about a thousand feet, a thousand or eleven hundred feet from Hudson street to the pierhead line.

Q That is not under appeal, is it? A The back land is not under appeal.

40

Q You are talking about the Pennsylvania? A Yes, I am talking about the holding company.

Q It is separated by a street, isn't it? A There is a street along the bulkhead part of the way.

Q Do you consider the Cunard properties similar properties to these here? A It is the same class of property.

10 Q Tell us whether or not you do consider them similar or not? A Similar inasmuch as they are the same class of property suitable for the same uses.

Q Are they similar or not? A They are not similarly located.

Q Are they similar properties? A Yes, in a way they are similar properties.

Q Do you consider them similar or not is what I am trying to get at? A It depends entirely on what you mean by similar.

20 Q I am asking you what you mean by similar, you have a right to use it an any sense you want. A Very well, the Cunard property—

Q Is it similar or not? A I am trying to get at this distinction of similar. In the first place, the Cunard property was an unimproved piece of property. It was an abandoned coal yard of the Delaware and Hudson Canal Company.

Q Then it was not similar in respect of being improved or unimproved? A It was not similar—

30 Q Did you say unimproved and the other was improved? A That was unimproved and the other was improved. That is where they were dissimilar. They were dissimilar as to location.

Q Naturally, we can all agree to that, not being superimposed upon one another. A They are about three miles apart, we will say. In other words, the Cunard property is about three miles further up the Hudson River than Piers B and C.

Q Then they are not similarly situated, are they? A

40 They are not similarly situated.

Q They are not in the vicinity of one another, are they? A They are not similar inasmuch as—

Q Are they in the vicinity of one another? A It depends on what you call vicinity.

Q You have the right to use the word, what do you say? A They are both on the Hudson River, they both front on the same river and they are both suitable for the same class of use. 10

Q If they are three miles apart will you say they are in the vicinity of one another or not? A No, I should say not, they are not in the same vicinity.

Q That is all. A You can stretch the word vicinity, of course, to embrace a whole lot of territory.

Q Now, then, what allowance have you made for these dissimilarities of location and condition when you compared the values of these properties, one with another? A Why, I think— 20

Q In the first place have you made any allowance for that? A Yes.

Q Can you specify them? A Yes, I think I can. The Cunard property, comparing Piers B and C property with the Cunard property, I think that the Pier B and C property put on the square foot basis is worth at least seventy-five per cent. more than the Cunard.

Q And for what dissimilarity do you allocate that seventy-five per cent.? A Location.

Q Now, then, how much do you put for condition? A Well, the condition would be about the difference between an improved and an unimproved, that is the difference of the cost of improvement. When you first take into consideration the difference in the value, due to location, then the only other difference would be the difference between improving it to the same use or the same class of improvements as Piers B and C, which does not amount to so very much in dollars and cents. It might amount to twenty-five or thirty cents a square foot, which depends upon the class of— 30 40

Q Are you able to put that in the percentage, you put the seventy-five per cent. for location? A No, you can't do that, because some properties even devoted to the same uses cost fifty or one hundred per cent. more to improve than the same kind of property in another location.

Q Then you are unable to testify as to the amount which should be allocated to this dissimilarity of condition? A I know the condition in both places and I should say that it would probably be somewhere between ten and fifteen thousand dollars per acre.

Q What would that amount to in percentages? A Well, percentage on which?

Q You said it was seventy-five per cent. more in value by reason of location, what would be the extra cost by reason of condition, the extra value by reason of condition? A That is pretty hard to put in percentages.

Q You didn't have any difficulty with the other? A No, I give you say about ten to fifteen thousand dollars per acre would be added to the Cunard sale in order to make the physical condition about the same as Piers B and C, and then you have got another increased value there due to location.

Q You have already dealt with that. A I think I have.

Q Would you consider this seventy-five per cent. a scientific summary of what should be allocated to that quality of location, or is that just a kind of guess? A That is my judgment, that is my judgment.

Q That is no guess? A Well, you can call it a guess if you like, but that is a judgment based on experience and a study of the whole situation.

Mr. Wall. That is all.

Re-direct examination by Mr. Stout.

Q Mr. Dunham, what was the price paid per square foot for the Cunard property?

Mr. Wall. I object to that as being too remote, 1920, that was.

Mr. Stout. The sale was consummated in 1920, but I understand it was made in 1919.

The President. Objection overruled.

Mr. Wall. I don't understand he testified it was made in 1919, the Cunard, I don't think he knew about that. 10

The Witness. I know of the Cunard.

Mr. Wall. When did you see a contract.

The Witness. I think it was in the spring of 1920, two or three months prior to the—

Mr. Wall. That is after the date.

Q When was the deed made? A The deed was made in August, 1920.

Q Do you know whether that contract was made in 1919, was it dated in 1919? A I don't recall the date of the contract. I first saw the contract in the spring, early spring of 1920. I don't recall the date of the contract now, in fact, I don't know whether it was dated when it came to me or not, I am not sure as to that. 20

Q Do you know whether negotiations had been pending for some time? A Yes, I know that.

Mr. Wall. Was the contract consummated when it came to you or were they getting ready to make a bid and getting your help on the front feet? 30

The Witness. The contract, as I recall it now was not yet executed when it came to me. The price per front foot was fixed but they had to get the total number of feet along the front before they could get the total amount to be paid. The price was $2,000 a front foot, and the frontage was 1,102 feet, and if you look at the consideration you will find it is 1,102 feet multiplied by $2,000, that was the true consideration. 40

Q How much is that a square foot?

Mr. Wall. I submit that sale ought not to be considered.

The President. On the ground it is too remote?

Mr. Wall. Too remote.

10 *Mr. Stout.* Mr. Wall has examined Mr. Dunham pretty well at length with respect to it.

Mr. Wall. You didn't bring out the price.

Mr. Stout. I know that.

The President. We have taken sales as remote as that, Mr. Wall. The question is allowed.

Q What was the price per square foot? A The price per square foot figured on the first deed which went to the New Jersey State Pierhead line, that was $1.64. They 20 afterwards made application to the Board of Commerce and Navigation for the extension of the grant out to the United States Government pierhead line, and that added some area, for that they paid $50 per front foot. If you allow the area to extend out all the way to what we call the revocable permit pierhead line, you get about $1.46. If you extend the area out to the permanent pierhead line you get something over $1.50, so that it is about $1.50 a square foot.

30 *The President.* What is it per acre, have you figured that out?

The Witness. It is about $64,000 per acre.

The President. That is figured on the full area out to the revocable permit pierhead line.

The Witness. The full area out, as I recall it.

Mr. Wall. The full area what?

The Witness. Wait a minute. I will verify it.

Mr. Wall. Of course, the truth is it is all revocable; this is an arbitrary distinction.

40

The Witness. That is not so, you are absolutely wrong on that.

Mr. Wall. The United States Supreme Court has decided no State can make a grant that is not subservient to the needs of the nation for defense, and I went down to Washington and argued before the Secretary of War on this thing. He decided it just as I am about to say, and we looked it up very carefully before we went down and found it didn't make any difference how solemn the grant was from the State, if the Federal Government said the piers had to be cut off at the shore line, they would have to be cut off and the owners couldn't get a dollar compensation from the Government. That is the state of the law on the thing, and to make a distinction here, there is a line out in the river that is revocable with the supposition there is some irrevocable line is a misleading distinction.

The President. As far as this Board is concerned, it does not make that distinction, it considers the full area in determining the price per acre it would consider the area the company is purchasing and is using.

Mr. Wall. There the value resides in the use, of course.

The President. That is the position of Jersey City, I understand with reference to their properties.

Mr. Stout. Yes.

The Witness. There is no use here yet, of course. This pierhead line is in the same situation as the pierhead line on the other side of the river in front of the Chelsea piers which the Government has just ordered set back. There was a revocable pierhead line out there.

Mr. Wall. My point is it is all revocable.

The Witness. No, not in the same sense this is, clearly, so that it is a small matter anyhow.

The President. What does it figure?

Mr. Wall. I don't think it is a small matter.

The Witness. If you figure to the revocable pierhead line, it is $1.46 a square foot and about $64,000 an acre, and if you figure to the State pierhead line it is $1.54 a square foot or $67,000 an acre. If you figure the amount which the purchaser before that got the right of extension, it was $1.66 per square foot, or at the rate of $72,500 an acre. That is what they actually got first, under the first purchase.

Q How did that property compare with Piers B and C of the Associates? A I said by reason of the location the Piers B and C property on a square foot basis is worth about seventy-five per cent. more than this property.

Q Would you add anything else on outside of location? A The Piers B and C property is an improved piece of property in use and been in use for a number of years and is under lease. Of course, the value of that improvement and use has got to be added to the Cunard. In other words, you could get a better comparison with the Cunard after the Cunard had developed it.

Q In your opinion if the Cunard property is worth $1.50 a square foot what was the value of Piers B and C as of October 1, 1919? A Well—

Q Per square foot? A On that basis it would be $2.62½.

Q Is this property of the Cunard at a greater distance from Piers B and C than the property in Bayonne you have been testifying to? A Oh, yes, a greater distance.

Q Yes? A Oh, you mean with regard to the Pennsylvania Greenville yard?

Q Yes. A I don't think there is a great deal of difference, as I recollect it. I would have to look at the map. I think there is about three miles between them. I don't believe there is a great deal of difference as to the distance.

Q Don't you consider the Bayonne property that you have testified in respect to in the vicinity for the purpose of making a comparison as to the Greenville property of the Pennsylvania? A Well, there is a distinction between the Hudson River properties and New York Bay properties, they are in the vicinity, true.

Q If the property is not in the vicinity, why do you consider it? A Well, because there is a relative value in all water front properties which you have got to take into consideration. As I stated before, they are competing properties whether they be on the Kill von Kull, Constable Hook, New York Bay or the Hudson River.

Q Do you think they can be competing in the sense that you use the word without being in the same vicinity? A Oh, yes.

Q You would not say that shore front property in Philadelphia was competing with property in Jersey City? A No, but it is competing with other properties in that vicinity.

Q Would you take into consideration property that was not in the same vicinity? A I might for certain uses. For instance for an industrial use, for an industrial use the Hudson River properties competed for industrial use, up to a certain point. When they became too high in value to be used for that purpose, that forced industry to another location. The properties after a while become of too great value for certain use when they cease to compete for that class of business, but all property on the Hudson River and the New York Bay have been competing in so far as the railroads are concerned.

Q Then don't you consider them in the same vicinity for the purpose of fixing valuations? A In a measure,

yes, because you have got to take it all into consideration, there is no use trying to get away from it. There is a certain stretch of shore front there from Constable Hook to Fort Lee on the New York Bay and the Hudson River, and when you attempt to value any of this property, you have got to take into consideration the relationship one
10 to the other and its relative value.

Mr. Baker. Would you say the Cunard property which I think is in Weehawken bears a relativity to the Pennsylvania property which is in Jersey City?

The Witness. No, I should say it did not. It is an entirely different use, it is a different location and it is a different class of property in the sense the Cunard property on the Hudson River is located immediately on the channel of the Hudson River
20 whereas the Pennsylvania property in Greenville is located a mile or more from the main ship channel of the bay. In that respect they are not similar properties.

Q Then how does the sale of the Cunard property influence you in determining the value of Piers B and C in Jersey City? A Well, they are both properties faced upon the channel of the Hudson River, and it is just like
30 lots fronting upon the same street and all practically in the same use, same class of business conducted there. There is a relative value there that you cannot neglect.

Q To your mind does an increase in the selling price of the property located anywhere along the Jersey City shore front evidence an increase in value of all other property along the shore front? A Yes, it reflects in everything else, because here is what happens. Every sale of property on the Hudson River takes that much property out of the market and you have decreased your
40 supply. Now, what has happened in the year 1920 is that

every available foot of property on the Hudson River has been taken out of the market, there is nothing left.

Q Mr. Dunham, would you also say that it would be necessary to have a sale of this class of property within the taxing year to determine whether there had been an increase in the value of similar property? A No, it must not necessarily occur that year. You take sales that occurred the year or two years before or after. It gives you a fair indication of the trend of values.

Q So that if the subsequent sales show an increase over the previous sales, that shows a general rise from time to time? A Yes, providing there are other sales which bear that out. You can't take any single sale by itself and arrive at any such conclusion as that. You have got to take a series of sales in different localities of the same class of property.

Q For example, if a piece of property sold for $50,000 per acre in 1918 and there was not any sale in 1919 but there was a sale of the same property in 1920 for $100,000, you would say part of that should be reflected in the value for 1919? A Yes.

Mr. Stout. That is all.

By the President.

Q I wanted to ask you, you think if the Cunard property, knowing conditions as you do, had been sold in 1918 there would have been any difference in the price according to market conditions as of that time? A I can't say as to that positively.

Q You don't know whether it would have been lower or higher, in your judgment? A It would not have been, I don't think it would have been any higher.

Q How do you regard the Cunard sale, do you think that was a fair price? A I think it was absolutely a fair price, because the property was in the market and had been in the market for years.

Q Then you regard that price as establishing a standard for property of that character at that time? A At that time?

Q Yes. A In that vicinity.

Q Then in your judgment $64,000 an acre was a fair price for similar property as of the time of that sale? A In that vicinity?

Q Yes, in that vicinity, of course. A Yes.

Q Do you think if Piers B and C had been in the market at that time they would have competed with this Delaware & Hudson property? A No.

Q Why not? A Because Piers B and C were an improved property, the other was not.

Q Suppose it had not been improved. A Suppose Piers B and C had not been improved?

Q Yes, and nothing but the land? A I think there would have been ten customers for that to one for the other.

Q I am limiting it now to the Cunard purchase, whether if the Cunard people had been in the market for the land just as they were and ultimately bought this land and this land had been in the market unimproved, would it have, in your judgment, competed with the land they purchased, would it have been considered for the purpose for which it was bought? A You mean would the Cunard people have considered the purchase of that property?

Q Yes. A I don't think so.

Q Why not? A It was not a large enough property for them.

Q Was there very much difference in area? A It hadn't the area the other piece had. Not only that but the purchaser of the Cunard property, you have got to tie up with the lease of the New York Central's property adjoining it, they would not have gotten any such thing as that down below.

Mr. Baker. The Cunard property was absolutely bare, no improvements on it?

The Witness. There was an old tumble-down bulkhead and wreckage left there by the Delaware & Hudson; it is a liability instead of an asset; it has got to be torn out altogether.

Mr. Baker. It served as a sort of morgue for old boats. 10

The Witness. Yes, it was filled with wrecks. The Cunard sale would never have taken place had they not been able to tie up with the New York Central lease of the adjoining piece which was much larger in area than the Delaware & Hudson. Even the Delaware & Hudson property was too small for their uses. They have about 3,600 feet of front, of which 1,100 feet was by purchase, the remaining being by lease from the New York Central. 20

Q All those conditions, of course, contributed, didn't they, in your judgment, to this price that was paid; hadn't this property been on the market for a long time? A Yes.

Q Hadn't it been offered at a much lower price, if you know about that? A I believe it had at one time, and they had been offered a higher price for the Cunard piece, too, that I know. 30

Q Isn't that sale of this Cunard property or the property to the Cunard people, one of the best criteria of value, of the market value of this kind of property that we have had here in a considerable time. A I think it is, yes.

Q Then if that sale is used as a basis of what water front property is worth in Jersey City you ought to be able to get at, approximately, a fair idea of the market value. A Yes, if you take into consideration location. 40

Q Location? A If you add to the other properties the increase due them because of the location.

Q Yes, I am assuming if you do that. A And surroundings. Take the Delaware & Hudson sale, you must take into consideration that that is a piece of restricted property in the sense that they go back the limit of 1,200 feet to the railroad track and you have behind that the Palisades, and they are forever restricted, particularly to the use, without further extension, and in the sense that that property really is not comparable with the piece of property that extends back half a mile and has unlimited fill for extension, but it is fairly comparable, you might say, with the front part or back to the same extent with other properties, plus the increased value of the improvements on the other properties, plus the value of access to the other properties. The Delaware & Hudson, the only access you had to it was through a little lane over the Erie tracks, over a grade crossing. It is a quarter of a mile to the nearest trolley line, it is fairly adjacent to the West Shore Ferry, but it is a mile or more, a mile and a half nearly away from the Hoboken Tube Station trolley terminal, and in a sense it has not anywhere near the location value of any of the Hoboken or Jersey City water front property. There are trolley lines running down to the West Shore Ferry.

Mr. Baker. Approaches are always an element of value, are they?

The Witness. Oh, yes, and the adjacency to the built up streets and sections of the city.

Q Mr. Dunham, you have stated in a general way now the different factors and elements which must be considered in your judgment in arriving at the value of other water front property if this is to be used as a sort of basis, sales price? A Yes.

Q Well, now, you have this market price to begin with, don't you? A Yes.

Q Of that property? A Yes.

Q In other words, that would fix the value of the same kind of property immediately adjoining, we will say, where all the conditions were the same? A Yes.

Q And the Board, in your judgment, or the city assessors would be warranted in assuming that property of the same character immediately adjacent where all the conditions were absolutely the same, in assessing that at the same value or at the market price as established by the sales? A Yes.

Q Then, of course, as you proceed along the water front you meet different conditions, don't you? A Yes.

Q The conditions of access, physical conditions and all that sort of thing which you say ought to be taken into consideration in determining how much sales value reflects upon the value of this property or fixes its value? A Yes.

Q Isn't it a question largely of the judgment of experts and the judgment of assessors as to what value shall be given to those differences? A Yes.

Q My question may be involved, but I mean doesn't it all come down to that? A I understand exactly what you are getting at. You can go so far until you run up against another sale that causes you to change your view.

Q If you have no other sale you say I consider the access here so far superior that this is hardly comparable with that property that has been sold, that is true, isn't it? A That is true.

Q But, generally speaking, it is largely a matter of judgment, isn't it, and of expert opinion? A Yes, but it is providing you have the proper foundation and the proper records and data upon which to base a judgment.

Q Let me ask you this, Mr. Dunham, and I think I am through with it. If you had some definite and scientific and mathematically accurate method of determining what value these various other elements outside of sales contribute to the value of this water front property, the ideal

method would be to take this sale, wouldn't it, that you know about that established the values and add to it or subtract from it these various other elements of value? A Yes.

Q And then the only difficulty now would be in applying that rule that experts and assessors will differ as to
10 what those elements amount to? A Yes, you can carry that to a certain point until you run up against some other sale which gives you a different influence.

Q For illustration, Mr. Dunham, the assessments on the Piers B and C I think amount to—I have not figured it out, but I know it is over $70,000 an acre? A Yes.

Q The sale price of the Cunard property two years ago— A Now, you are going astray again. You have a sale nearer than that which you cannot disregard.

Q Which is that? A That is the sale to the Inter-
20 national Elevating Company, which is an adjoining property.

Q You compare the sale of the International Elevating Company, do you compare that tract of land with these thirty acres of land? A It is more nearly comparable with B and C than the other piece.

Q In what respect? A Because it is a similar property devoted to similar uses and it has a more ready market than the bigger piece.

Q What is the assessment on the International Ele-
30 vator property, if you know, Mr. Dunham? A It is around $70,000 an acre.

Q It is not that much, is it? A I think it is, yes.

Q What did that sell for? A That sold for $70,000 an acre in 1916.

Q I want to be fair about that. I think our investigations showed it was assessed under the selling price of the property. A The property sold for $300,000, that is what it sold for, without a State grant. There is another element in there which you have to add to the
40 International Elevating property in order to make it even

comparable with Piers B and C. You have got to add to that again another value which would give it the full State right, the same as Piers B and C have. For instance, Mr. Wall knows, he made an application to the Board of Commerce and Navigation for the extension of one of those piers, and they asked the Board to fix the price for the extension of the Morris Street pier out to the pierhead line, some two hundred and odd feet, and the State Board of Commerce and Navigation said, "Yes, we will give you such consent, but the price will be $2,000 a front foot." That is more than they paid for the property.

Q Well, then, if this International Elevator property sold at, you say, $70,000— A Yes, $70,000 an acre, about $300,000 and there were four and a fraction acres.

Q And Piers B and C are assessed at $80,000, I don't know just what it is, $70,000 plus per acre, what is your comment on that as to the selling price of this property, the International Elevator, and the assessment on the Piers B and C? A I will tell you what it is, Piers B and C what the International Elevating Company bought was eight lots behind the bulkhead together with whatever rights the American Coal Comany had in the waters in the Hudson River in front there. In other words, all they got a fee for was eight building lots behind the bulkhead, and in front of that all they got was the rights which the Associates of the Jersey Company had to use and maintain half of two old piers there. They cannot drive another stick.

Mr. Wall. I think I ought to protest.

The Witness. You can protest.

Mr. Wall. Against all this wild talk about what they got. In the suit that was decided by the Court of Errors a number of years ago, it said that the Associates own to the center of the river. Now, he is testifying as to legal conclusions. If he is as

far off on his expert testimony as he is on his statements of legal conclusions, he is in mid-ocean. There is not a word of truth in what he says there. He says they applied for an extension. They did not apply for an extension. What they applied for was a right to have a certain paper which the act of 1864 provided that you could get from the State if you paid $50 a foot. I don't want to take up the time of the Board.

Mr. Stout. I think I ought to object to Mr. Wall arguing the case before it is closed.

Mr. Wall. I am not arguing the case. He appealed to me about my knowing something.

The President. Who did?

Mr. Wall. Mr. Dunham, and a man that accuses me of knowing anything takes an awful chance. I will content myself with saying he is all wrong.

The Witness. Mr. Wall, I am not wrong. The application was made and you know the price was fixed and you refused to take it up, not you but your tenants.

Mr. Wall. The application was made, as I say for $50 a foot, and the Board came back and said, "You can have the thing for $2,000 a foot." He is right up to there, but we never applied in the way he says, we never applied with any idea of paying $2,000 a foot. He does not understand the law of it. It is the fourth section of the Act of 1856.

The Witness. The only thing I understand is that the State said if you want it you pay $2,000 a front foot for it. That is the part I understand perfectly.

The President. Were you through, Mr. Stout, when I broke in?

Mr. Stout. I think so.

Re-cross examination by Mr. Wall.

Q What is the depth of water in front of the Cunard piece? A Thirty feet, low water.

Q At low water? A Yes.

Q What is the depth of the water in front of Piers B and C? A Twenty-five to thirty, at least twenty-five. That it what it was dredged for. 10

Q Are you sure about your figures? A It was dredged for twenty-five.

Q What is the depth? A I sounded it out in front of your Morris Street pier, and we had twenty-eight feet of water there at low water.

Q Do you know what it is on Pier B, or not? A I can't tell, I have not sounded there. It was dredged for twenty-five feet channel for the Government.

Q Where is that ledge of rock you have testified to before? A The ledge of rock was in the gap. I have not testified to the ledge of rock. 20

Q You don't know of any ledge of rock near Pier B? A Yes, I do.

Q Tell us about it? A I don't know about Pier B, I know of Morris Street.

Q Isn't there a ledge of rock near Pier B? A I don't know, I have not sounded there.

Q You don't really know the depth of water in front of Pier B? A No, I have not sounded there. 30

THOMAS P. GRAHAM, a witness being produced on behalf of the respondent, being duly sworn, testified as follows:

Direct examination by Mr. Stout.

Mr. Stout. Do you admit Mr. Graham's qualifications, Mr. Wall?

Mr. Wall. The qualifications of what, what is he produced as, a water front expert? 40

Mr. Stout. Yes.

Mr. Wall. I think you had better qualify him.

Q Mr. Graham, where do you reside? A Paterson, New Jersey.

Q How long have you lived there? A Twenty-odd years.

10 Q What is your business? A Real estate—

Q Or profession? A Real estate broker and specializing in commercial water fronts all around New York Harbor.

Q How long have you been in that class of business? A Twenty years.

Q Have you appeared and testified before this Board as an expert on the value of Jersey City water front property? A I have.

Q State to the Board your experience dealing with
20 water shore front property in Jersey City. A In Jersey City my experience has been making an appraisal for Burns Brothers for the old North American Coal Pier belonging to the Central Railroad of New Jersey and testifying as to its value before the Interstate Commerce Commission, and besides my appraising property for Jersey City in my previous testimony, and I think on the Jersey City water front. That is the only experience I have had.

30 Q Have you recently had any negotiations with the Pennsylvania Railroad Company or the Associated Companies? A Yes, I made a bid for Piers B and C for Pearce Brothers Steamship Company, a formal bid.

Q Did you put an appraisal upon the land for the purpose of making a bid.

Mr. Wall. I object to that. That is not a qualification because a man makes a bid or an appraisal.

The President. For whom?

Mr. Stout. For someone who made a bid to the
40 Pennsylvania, put an appraisal upon the property.

Mr. Wall. If it were consummated in a sale and the price was the sale price or something like that, that might be different, but just because a man blows into an office of a company and makes a thing that he calls a bid—

The President. If he was employed for the purpose of making a bid it would be some evidence that he was regarded as an expert, wouldn't it? 10

Mr. Wall. I shouldn't think so, because then that would delegate to his employers the question of whether he was an expert, whereas the issue here is whether this Board thinks he was an expert from experience with actual sales and study of the condition.

The President. The question is allowed.

A No, I made no appraisal of this property in order to make the bid. The Pennsylvania Railroad Company issued a circular offering this property. 20

Mr. Wall. I object.

The President. All right. The objection is sustained. He said he didn't.

Q You placed no value on the property?

Mr. Wall. I object to that.

A Not to make the bid, no. 30

Q Did you at that time place any value on the property for the intending purchaser or—

Mr. Wall. I object to that.

The President. The objection is sustained.

Q For the purpose of a lease, did you place any value on the property? A I told the purchaser what the pier was worth, the rental value.

Mr. Wall. I object to this. 40

Q You are familiar with the Packard sale? A That is not in Jersey City, it is in Bayonne.

Q I know that. Are you familiar with sales of property on the water front of Jersey City comparable with that property?

10 *Mr. Wall.* I object to that. There is not any property that is not comparable with other property. You can compare one thing with another, but how near and similar they are is a different question entirely.

The President. We will allow the question.

Q (Question repeated.) A I know the sales that were made on the water front in Jersey City, yes.

The President. That does not answer it.

The Witness. Comparable to this property.

20 *The President.* Is that your answer?

The Witness. Yes.

Q Have you made a study of value of water front property in Jersey City? A I have.

Q What has that study consisted of? A Examination of all sales and leases.

Q Over what period? A For a number of years. There have been comparatively few sales on Jersey City water front.

30 Q How do you arrive at the value of this class of property? A By comparing it with property of similar potentialities in Jersey City and all around New York Harbor.

Q And have you made an appraisement for the purpose of testifying on behalf of the city in respect to the property of the Pennsylvania Railroad Company? A I have.

Mr. Stout. I submit this witness is qualified.

Mr. Wall. I would like to ask him a few questions.

40

Cross examination by Mr. Wall.

Q You have valued all these properties that you have dealt with in this appraisal on the basis of their potentiality, is that correct? A Yes.

Q And the standard of value which you have in mind for property on the Jersey City water front is a standard based on the potentialities of the property in question. A Use, demand, potentialities so-called. 10

Q What do you conceive to be the standard of valuations of water front property by such a Board as this? A I don't quite understand that question.

Q For example, if you value a property for a new corporation, if you were given the work of valuing the property for a corporation to be formed, you would take reproductive cost, would you not? A No, I would take what I consider the fair market value of the property.

Q You would take that? A Yes. 20

Q You would tell them that is what they would have to pay? A Yes.

Q Now then, what do you conceive to be the standard of valuation in such a proceeding as this? A Fair market value.

Q Fair market value? A Yes.

Q Can you give a further definition of that? A What a willing buyer would be willing to pay to a willing seller. They take into consideration the use of the property, the rental values and everything that goes with it to make it. 30

Q You didn't quite mean that when you said you valued it on the basis of potentialities? A I would call that a potentiality.

Q That is one factor. A I think potentiality has a much wider meaning than that. It means the possibilities of improvements, its adaptability and many things. That is a potential value of any property.

Q Is it a factor in market value or is it itself greater than market value as an important factor? A It is the things that entered into the mind of the willing seller 40

and the willing buyer which makes a market value, that is the element.

Q I am trying to get from you whether potentiality is a standard of more importance in your mind in valuation than this so-called market value or whether it is a mere factor in market value. A It is a factor.

10 Q When you say you have made a study of the Jersey City water front, what do you mean by that ? A I mean the Jersey City water front is a part of New York Harbor. It is adaptable for all uses that water front can be put to. There is always a question, constant negotiations for water front of all character, including the Jersey City water front. Necessarily we have to keep posted on conditions.

Q You didn't mean that you made any special study of sales out of Jersey City? A Because there are practically no sales of recent dates with the exception of one
20 or two that you could use.

Q You didn't make a study of any such sales? A I know the sales were made and I study the sales.

Q How did you study these sales? What do you mean by that? A Examined the sales and saw the property and examined its location, its adaptability, accessibility and the many things that go into it, and compared it with other property.

Q You examined physically this property? A Yes,
30 and on the maps.

Q Did you ever take part in any sale of any such property as this? A In Jersey City?

Q Yes. A No, because there has only been practically one sale. I did take part in one in Hoboken.

Q What other sales of any kind of water front property have you personally taken part in or personally known about? A Many.

Q In Jersey? A In Jersey, yes. I sold property in Bayonne, I sold property at Kill von Kull, on the Jersey
40 shore and the Staten Island shore.

Q What properties were those? A The Packard sale, the Delano sale.

Q Were you the broker? A Yes, one of the brokers.

Q You knew the sale price in those cases? A Yes, knew the sale prices.

Q Those properties were similar properties to the properties here under appeal? A They are water front property. They were not pier properties. 10

Q Tell me whether they were similar or dissimilar to the properties here under appeal? A Which properties do you refer to?

Q The ones you were telling us about. A You said the Pennsylvania Railroad property, you referred to the pier property.

Q You don't know then which properties are here under appeal? A Yes. 20

The President. There are—you see all these appeals have been heard together as far as he knows, and there is a great number of them.

Mr. Wall. I am only directing his attention to the Pennsylvania.

The Witness. I generally know what the Pennsylvania property is.

Mr. Wall. He testified he made a special study of this. 30

The Witness. Of water front.

Mr. Wall. Of this water front in order to come here and give this testimony.

The President. Will you kindly repeat the question.

Q (Question repeated as follows): "Those properties were similar properties to the propertes here under appeal?" A Excepting they were water front properties. 40

Q The only similarity is that the river flows by them and they are on the shore? A The river flows by one and the New York Bay on the other.

Q They don't even have a river flowing by them as evidence of similarity. One is a bay property and the other is a river property, and they are the only points of similarity. A They are water front property.

Q Water front property is anything on the water, isn't it? A Yes, but I wouldn't compare property way upon the Hackensack River.

Q Are there any other sales of which you have intimate knowledge made in Jersey? A I have intimate knowledge of many sales, but I was not the broker.

Mr. Stout. The Ocean Steamship.

Witness. The Ocean Steamship Company sale at Hoboken, Twelfth Street,—I participated in that sale.

Q Did you participate in such a way that you know the price? A Yes, sir.

Q At Hoboken? A Yes, sir. It was on a river, too, on the Hudson River, it was a pier property similar to this.

Mr. Wall. Don't tell him any more.

The Witness. You were confining me to Jersey City.

Mr. Wall. No, I was not.

Q Was it so similar that the question of value there was a helpful guide to the value here of these properties under appeal? A It gave some information, it was not controlling.

Q Do you regard them as not only comparable but fairly comparable property? A I regard them as having many potentialities in common.

Q Can't you answer my question a little more accurately? A I don't think so.

Q That is as near as you can come to it? A Yes.

Q You can't say whether the properties are fairly comparable or not? A This had a great deal more upland than your property back of it except one piece, which is the stockyard piece but your property down below is practically a bulkhead property with land under water and a street back of it, improved by piers and slip.

Q You are speaking of the Greenville property? A I am now speaking of the property on the Hudson River. These sales in Bayonne are comparable to your Greenville property. I didn't have that in mind. I was looking at the Hudson River.

Q Which of the properties here under appeal is the Ocean Steamship sale fairly comparable to? A To the properties Piers A and B.

Q That is all? A Yes, and somewhat in connection with the other live stockyards.

Q When was the Packard sale made? A 1915 or 1916. It has been testified here so many times.

Q When was the Delano sale? A One of them was made in 1920. I can tell you in just a minute. I have that all here. Which Delano do you mean? Delano was made in 1918.

Q 1918? A Yes.

Q When you testified before the Interstate Commerce Commission on this North American Coal pier property, did you testify there to a standard of value based on the market value as you defined it here today? A Yes.

Q Sure about that? A That was my opinion, yes.

Q That was what it was based on? A Yes, sir; as I remember it. That was in 1914.

Q That you testified? A Yes.

Mr. Wall. I submit that this witness has shown absolutely no qualification to testify as to the issue that is now before the Board. The issue that is before the Board is governed by the question of change since the Board's finding and the Board will

notice there is no testimony that upholds his ability to testify as to change in that.

Mr. Stout. I submit, may it please the Board, that if Mr. Graham was not qualified as an expert to testify to the value of this class of property when I completed my direct examination, Mr. Wall has certainly qualified him.

10

The President. He will be admitted.

Mr. Stout. And it is also a significant fact, that Mr. Graham appeared before this Board in 1917, and was accepted by this Board. The Pennsylvania Railroad Company use him as an expert in New York.

Mr. Wall. He is trying to convince your Honors you are wrong. I understand the testimony is admitted.

20

The President. It is. Proceed Mr. Stout.

Continuation of direct examination by Mr. Stout.

Q Mr. Graham, has there been an increase in value of the shore front property of the Pennsylvania Railroad Company and its associated companies here under appeal as of October 1, 1919, over October 1, 1918? A In my opinion there was.

Q A material increase? A Well, there was some increase, yes; material increase.

30

Q What in your opinion was the fair market value of the New York Bay Railroad Company property known as Plot 2 L-1 in Block 1507? A $20,000 an acre.

Q Of Plot C-5 in Block 15 of the Pennsylvania Railroad Company? A $2.50 a square foot.

Q Plot C-6, in Block 15 of the Pennsylvania Railroad Company? A $2.50 a square foot.

The President. I don't wish to interrupt you but I suppose you will have the witness show what the value of this property was on October 1, 1918?

40

Mr. Stout. Yes.

The President. In other words, his testimony or any testimony ought to be directed especially to the question of the increase rather than the value, although I suppose that is another way of arriving at it. Under the rule I don't think we would care to have an expert produced here and testify as to what the value of this property was at the time we fixed the assessment. The only question is what the increase was.

Mr. Stout. Isn't that sufficiently answered by the witness testifying that there was a material increase in the value of the property as of October 1, 1919 over October 1, 1918 and then it is up to counsel for the other side to prove the reasons for the change in value as determined by this.

The President. I think that is a pretty broad interpretation of the rule. It simply admits the production of expert testimony as to the value of the property as to a certain date. To be helpful to the Board we must know what the increase was between those two dates.

Mr. Stout. I will see whether I can assist the Board on that.

Q Mr. Graham, take property known as A and D in Block four and five of the associates of the Jersey Company known as Piers B and C.

The President. Allow me to interrupt a moment. Have you our calendar before you?

Mr. Stout. Yes.

The President. In asking those questions will you indicate the numbers so that we can readily turn to them here, if you can do that.

Q (Question repeated), and state what the value of those two plots was as of October 1, 1919? A $2.50 a

square foot, that is the land exclusive of the improvements.

Q What was the value as of October 1, 1919, Plot A-1 in Block 8 of the associates of the Jersey Company? A same price, $2.50 a square foot.

Mr. Stout. That is also on your calendar, under eight.

10

Q Mr. Graham, are these values which you have testified to the true market value of these properties as of October 1, 1919? A In my opinion, yes.

Q And would the price be obtainable if there was a willing purchaser and a willing seller? A In my opinion, yes.

Q What in your opinion was the increase in valuation of these properties as of October 1, 1919 over October 1, 1918? A I valued these properties in 1917, $2 a square foot. I value them in 1919 at $2.50 a square foot and I think the increase is just divided between the two years. I would put $2.25 a square foot on that at that time in 1918, increase it 25c a square foot.

20

Mr. Stout. Take the witness.

Continuation of cross examination by Mr. Wall.

Q What do you base that increase on? Were there any sales that occurred in that period that you have in mind? A No; on demand for water front property in that period.

30

Q That is all you have to base it on, is it? A Yes, sir.

Q What demand are you talking about, a demand on the New York shore? A A demand all around New York Harbor.

Q You cannot allocate that demand especially to Jersey City, can you? A I can allocate it all over the harbor where there were pier properties in use.

Q You testified that in your judgment there was a horizontal advance of 25c per square foot on 1919 over

40

1918, using October 1 as the date in each year? A That is my opinion, yes.

Q When did you first form that opinion? A On this particular instance?

Q You know what you testified to. When did you first form that opinion? A I have had an opinion of the increased value of water front property all around New York Harbor. 10

Q I ask for that opinion, when did you first form that opinion. A When I made my appraisal.

Q Have you got any figures in your appraisal that show it? A As I stated, I appraised this property in 1917 at $2 a square foot. I appraised it as of the first of October, 1919 at $2.50 a square foot.

Q And today you split the difference? A Today I split the difference.

Q When did you first split the difference? A Right now. 20

Q Since you have been on the witness stand? A Yes, sir.

Q As a sort of inspiration? A I was not asked that question before. Had I been asked the question before I would have done it. Mr. Stout asked me to appraise this property October 1, 1919 and I did.

Q You have had a good deal of experience in water front, according to the ruling of the Board, haven't you? A I have had a great deal of experience in water front, yes. 30

Q Aren't you the last man on the face of the earth to believe in a horizontal advance of any one figure all over such a water front as New York, New York Harbor? A No, I am not.

Q You believe in horizontal advances? A I believe in increased values all around the water front. I believe it has been demonstrated by the demand and the supply.

Q And you testify here that in your judgment there was an advance of 25c a square foot in how great an 40

area? A At this particular point I am speaking of now, I know there is a good deal greater advance in other sections of the water front.

Q Isn't every case different? A Yes.

Q Isn't that your experience? A No cases are exactly alike.

10 Q It is impossible to talk about horizontal advances up and down a thing like the New York water front, isn't it? A You can talk about a general trend all around the Harbor.

Q I am asking about a horizontal advance? A That was your expression, not mine. I said nothing about a horizontal advance.

Q You said 25c? A Yes.

Q Tell us to what area that 25c applies. A To this particular property.

Q To only this particular property? A Yes. I
20 know the lease of that property. It is a lease for $125,000 a year to Harris, the stevedore. I can get a great deal more money for it, and the railroad came to that conclusion when they asked for bids and leased the property for a substantial increase which capitalized would show a much larger square foot area.

Mr. Stout. What was the increase?

Mr. Wall. I am talking to the witness.

30 Q Did that influence you in fixing this 25c? A It confirmed my opinion, it was an increase in value.

Q It did not influence you? A I knew the facts. It all influenced me.

Q Why can't you say whether or not it did. It might have, one way or the other. A I had knowledge of it, of course.

Q The answer is yes; it did increase? A I had knowledge of it, of course.

Q Now, then, how did your assessment for 1918, October 1, 1918 compare with this Board's assessment? A
40 I don't know.

Q For that same period? A I don't know, Mr. Wall. This is my opinion. I don't know what the Board's assessment was that they fixed the assessed value at.

Q You don't? A I absolutely do not.

Q So you don't know whether you are testifying or not to a value that has already been overthrown by the judgment of the Board? A No, I do not. 10

Q It was not within the power of mortal man to find out in the time you were given? A I didn't think it was at all necessary. I was asked for the fair market value, in my opinion.

Q In percentages that 25c a square foot would amount to eight per cent. is that right? A Well, eight per cent. on $2 would be sixteen cents, it would be $2.16. I divided it, 25c eight per cent., $2.25, no, it would not, twelve and one-half per cent., that would be it.

Q Well, we have the figures in. This is all under water, isn't it, this property that you speak of as the piers? A Most of it. 20

Q In Block 4 and 5, all of it is, isn't it? A Practically all of it.

Q And this New York Bay, do you know what the Board valued that property at per acre? A No, I do not.

Q You put it at how much per acre? A $20,000 an acre. 30

Q $20,000 or $30,000? A $20,000.

Q You didn't know this Board had valued it at, I think it was, $11,200, wasn't that it? A No, I did not.

Mr. Stout. I think it is immaterial what value the Board put on this property. This man is testifying as to his opinion of the value of this property.

Mr. Wall. It is highly material, it seems to me, to find out what this testimony is. As the president pointed out they tried to get the value in as a novelty, whereas what we are dealing with is change. 40

Mr. Stout. If the Railroad Company appraisers fixed their opinion by the Board's finding, that is all right, but we do it another way, we let the witness determine for himself the value of the property, and I say it is immaterial whether he knew or didn't know the State Board's findings of last year.

10

Mr. Wall. There are three things we must do, first find out the value that the Board had. We have to keep that in mind, and then we have to have the changes over that value for October 1, 1919 and then if an expert is produced we have to take his starting point with reference to the Board's valuation, not his own, because he should have been higher or lower. We are looking for a margin between.

20

The President. I think it is material, Mr. Stout, in that view of it, because the question is whether there has been an increase in the value, and the value for our purpose is the judgment fixed by this Board.

Mr. Stout. But the witness has testified there was a 25 per cent. increase in 1919 over 1918.

The President. Yes.

Mr. Stout. So it makes no difference whether he takes your valuation or his own valuation for 1918, there is a 25 per cent. increase.

30

The President. Twenty-five per cent. for what?

Mr. Stout. Twenty-five cents a square foot more in 1919 than in 1918. Add twenty-five cents to your valuation, or you may add it to his valuation.

Mr. Wall. I will bring it out by a question.

Mr. Stout. I say it is immaterial.

Q Assuming that the valuation placed by this Board on the Greenville property for 1918, was at the rate of

40

$11,200 per acre what in your judgment would be the value for October 1, 1919? A At that particular point there was a finished property I appraised that property in 1917 at $20,000 an acre and don't give any additional value to it afterward.

Q You don't? A No.

Q You don't think there has been? A Just at that particular point, no; with the conditions that existed. Every piece of property is different, as you say. 10

Q Going back to the other properties you testified to way from Greenville up to the piers again, does the same thing hold true there? A No.

Q What did you testify those properties were worth in 1917? A $2 a square foot.

Q $2 a square foot? A Yes.

Q Assuming that the valuation placed by the Board as of October 1, 1918 was on Block 4 and 5, Pier B $766,-260 for the land? A What does that measure in the square foot? 20

Q Mr. Ryer tells me that would be $1.70 a square foot on the State Board's valuation in the 1919 taxes.

Mr. Stout. I object to the question. It is immaterial and it is very easy for the Board to determine upon the witness' testimony by adding twenty-five cents, $1.70, if that be the correct amount. You don't need an expert to do that. 30

Mr. Wall. The question is not finished as it is there. Strike that out, I think.

Q Assuming that the Board's valuation as of October 1, 1918 on the land in Block 4 and 5, Lot A and D, Pier B was $766,260, which figures at the rate of $1.70 a square foot, what in your judgment would be the advance to be placed as of October 1, 1919? A The proportionate increase as shown by the difference between $2 and $2.50 between 1917 and 1918. 40

Mr. Stout. Adding twenty-five per cent.

The Witness. Yes.

The President. You would add more than twenty-five?

The Witness. No, as a ratio of increase I would add twenty-five per cent.

10 *The President.* You would assume—

The Witness. Assume?

The President. Assuming that judgment was the proper value, you would add what?

The Witness. Twenty-five per cent., twelve and one-half per cent. for that year.

Q You would add twelve and one-half per cent. for 1919 over 1918, is that correct? A I divided my increase between 1917 and 1919 equally. That amounted to twenty-
20 five per cent. for two years.

Q I understand you can give that answer if you make that division, but do you as an expert say that there was twelve and one-half per cent. increase in 1919 over 1918? A In my opinion there was.

Q That opinion is also one of those opinions you reached only after you came to the stand, isn't it? A I was not asked the question. If I had been asked by anybody else I would have reached the same conclusion,
30 same premise.

Q You can always beat the question. A I am trying to answer your questions. They are rather involved.

Q Which one do you consider involved?

The President. Never mind, he has answered them all now.

Q What do you base that increase on and how do you arrive at that exact percentage?

Mr. Stout. I object. The witness has already
40 answered it. He says it is on increased demand.

The President. Well, the objection is overruled.

A On increase in demand, increasing supply, increasing rental of the property. Of course that percentage is arbitrary absolutely. That is my opinion from all the facts I have.

Q You would have taken, in order to arrive at that, you would have taken the average between 1917, as you testified to it, and the figure that you now give for 1919, wouldn't you, that is, what you mean by arbitrary? A Yes. 10

Q You don't mean any special thing happened between 1918 and 1919 which to the mind of any man familiar with water front property would indicate there had been an exact percentage of advance which you could apply to this particular property? A Not as an exact mathematical proposition. 20

Q You are not able to point to any single thing which would indicate the advance and your feeling that there was an advance in water front property due to supply and demand? A To everybody it is obvious, the increased American Marine demanding berthing and pier propositions and the harbor supply absolutely inadequate to demand. The low percentage of increase is extremely moderate under the conditions. After that period there was a tremendous increase.

Q I am asking just as to that change? A It was absolutely apparent there was at least that much. 30

Q The demand, whatever the demand was, then for shipping was an abnormal demand, was it not? A I would not call it abnormal, no.

Q You would call it normal? A Normal under its conditions, yes.

Q You would call a demand— A It is going to be normal, it is going to continue.

Q I am asking you about that period. In other words, you rest more on the mathematical average then on any 40

other single factor, don't you? A No, I am not a statistician.

Q You are not a statistician? A No, I think some experts are, but I cannot be called a statistician.

Q You speak of the demand of the American Merchant Marine. Isn't that a demand that was based on tremendously abnormal conditions, such as virtual temporary retirement of the Germans from the Marine? A We still have the ships and they are going to be used, and they still have places to load and unload and berth. You are talking about the absence of the German ships. They are still absent and will remain absent, I think.

Q Are the conditions now existing which you referred to similar to the conditions that existed between 1918 and 1919? A At present there is a temporary slump in shipping, it is merely temporary.

Q And there was a temporary hump in shipping? A Yes, but I can lease every pier in New York Harbor today that I can get. I have demand for piers that I cannot supply with all the shipping slump evidenced by a recent lease I guess you know all about.

Q When it was up you say it was normal and when it is down it is temporary and abnormal. A Oh, no, I don't. The conditions there, there has been an increased demand and increased number of ships looking for wharfage, but that is going to continue.

Q No living man can put his finger on the situation existing as between October 1, 1918 and October 1, 1919, and say with reference to this particular property you have testified to that there was an advance in the price, can he? A There is no living man who knew anything about harbor conditions can say there was not a demand if he knew his business as between 1918 and 1919, because the demand was there.

Q But what does he mean to say? A You cannot absolutely say. It is merely opinion what it was. There was an increase, no question about it.

Q Is that true all you have testified with reference to these piers, true, as to pier— A True as to that property, yes.

Q As to pier in Block 2, is that two or eight? A You mean the small pier?

Q Pier C and also as to the stockyard property? A Yes. 10

Mr. Wall. That is all.

I submit he has not shown any advance in property. He said his valuation as to Greenville was $20,000 before 1918 and that he had not given any advance as to Greenville, so Greenville is out of it as far as he is concerned, that drops that.

Now, as to these others, this method of going on the stand when confronted with his testimony in 1917 and the Board's finding to just split the thing in two and say that is the advance, seems too superficial and trivial a method of getting at values to be testimony of any weight on the subject of there being a real advance. 20

Re-direct examination by Mr. Stout.

Q Tell the Board about this lease, which you say Mr. Wall knows all about. That might show that conditions are not so abnormal as he would try to make it appear. What is the increase there. 30

Mr. Wall. What is the date of the lease. We are dealing with a definite period.

Mr. Stout. You injected the question of abnormal conditions. I am going to show you are getting more today for the lease of this property than you did in 1918.

Mr. Wall. If it is dealing with conditions today I object to it. It is one thing to talk about abnormalities— 40

The Witness. This particular property I am speaking of is your property.

Mr. Wall. I submit the valuation of a thing today is not of any importance.

The President. In order to determine that we will have to know the date of the lease referred to.

10 *Mr. Stout.* The lease was subsequent to the assessing date, but Mr. Wall has injected the question of conditions being abnormal. I want to show that the Pennsylvania Railroad Company for one of these piers is getting a big increase, showing the demand for this class of property, and that we are not in abnormal conditions, we are only in normal condition.

Mr. Wall. We are not trying the issue of whether we are in normal conditions today.

20 *Mr. Stout.* As you like it.

The President. Is there any question pending?

Q (Question repeated).

Mr. Wall. I object to that as being outside the period of the assessment.

The President. The question is allowed.

Mr. Wall. What is the date, let us know the date.

30 *The Witness.* The date was—

Mr. Wall. Is it made yet.

The Witness. The tenants are in possession, I presume it is made.

Mr. Wall. Do you know anything more about it than that?

Mr. Stout. I object to Mr. Wall's going to this. Let the witness answer the question.

Mr. Wall. Can't I cross-examine him?

40 *The President.* As to what?

The Witness. I have not said anything yet.

Mr. Stout. I say to the Board the witness should answer the question and let Mr. Wall cross-examine then.

The President. We will hear Mr. Graham's testimony about this lease and then decide whether the evidence is material or not. 10

A I made two formal bids to the Pennsylvania Railroad Company when they asked for tenders. One was $165,000 a year under the conditions for one year, a six months' notice and one was for $185,000 a year. $165,000 a year was rejected as being too low and $185,000 was thrown out because it was irregular. It was over a longer period. My information is that it was rented for more than $165,000.

Q What was the rental value as shown by the lease for the previous time? A $125,000 and under the same conditions, the tenants to do the dredging, and I was informed by the dredgers who did the dredging for the present owners— 20

Mr. Wall. I object to this.

The President. The objection is sustained.

Re-cross examination by Mr. Wall.

Q When was this? A In October last year, 1920. 30

Q October, 1920? A Yes.

Q Your offer was for both piers or one? A For the pier and a half.

Q Does that encompass both? A Yes, subject to the right to use the outer end and some other restrictions for one year.

Q Did anybody else get the pier? A Yes, the United States Steel Products Company got it.

Q You don't know what they bid? A Not actually, I know generally. 40

Q You have either got to know or not. A I will tell you what I was told.

Q I am not asking that. You understand when you are asked whether you know a thing, it means you know it of your own knowledge and not by hearsay. Do you understand that? A Yes, I have not the lease.

10 Q That is the way you have been testifying here, on that basis? A Do I have to answer that question?

Q I have a right to find out? A No.

Q It is not? A No.

Q You have been testifying on the basis— A Of knowledge, I have knowledge. I offered $165,000. The Pennsylvania Railroad told me my bid was too low.

Q Which did you mean, Mr. Graham, that you are testifying from knowledge or— A From knowledge.

Q From your own knowledge? A From my absolute
20 knowledge. I made the bid under my own name for Pearce Brothers at $185,000 and one was at $165,000. The $185,000 bid was rejected because it was irregular.

Q You don't base any of your notions of increase on the action of the Pennsylvania in so dealing with your bids at that time? A No, because they rejected a bid, no. I know somebody bid more than I did for it.

Q Do you base your values and your testimony as to increase in any way on the fact of your making that bid
30 for that amount and the bid being rejected? A No, it merely goes on to confirm my previous opinion.

Q It has nothing to do with your opinion as to the increase? A No, it simply confirms my opinion.

Q What would that figure out a square foot, that bid you made for both piers? A The bid I made would figure something about $2.50 a square foot.

Q What would it figure? A I have it analyzed at $180,000, which I was informed was the real consideration in the lease, and it figures out $3.08 a square foot. Scale
40 that down and you will get—

Q Do you know from the study which you have given this thing how much your bid for those piers figured per square foot? A You asked me if that had any connection.

Q Forgive me for what I did, but answer the question. A I said it merely confirmed it in my opinion; I think there is no question about it confirming my value. 10

The President. The question is, do you know?

Q (Question repeated.) A I have not made that calcution.

Q You don't know? A I have not made the calculation.

Q Do you know? A If I have not made the calculation—I am certain it will confirm it.

Q Tell us how much it is a square foot? A I said I have not made the calculation. 20

Q Then you don't know? A I can't answer it any other way.

Q How long would it take you to make the calculation? A It would take me some time.

The President. He does not have to make the calculation. Why should he.

Mr. Wall. He does not know how much he has offered per square foot.

The Witness. Will you admit $180,000 is the real consideration in that lease and then I will make the calculation. 30

Q I don't know anything about it, I don't know whether it is or not, I was not there. A I only told you what I know about it. I offered $165,000 and did not get it.

Mr. Wall. I ask that the testimony as to this negotiation, or whatever it was, where he made a bid, be stricken out as being too remote, as there was no help in ascertaining true value, not being 40

consummated by a sale. and it not being possible to say anything definitely from that negotiation. It might have had entirely different reasons for refusing to have anything to do with such a bid as that. It might be they did not like or trust his principal. That is an absolutely unsafe standard of value to go on where doing such an important thing as taking up the question of a horizontal advance to water front property over and above what the Board takes after a careful consideration on the whole thing. I ask it be stricken out.

Mr. Stout. If Mr. Wall thinks the value that was put in by Mr. Graham as to the rental value of this property is too high, let him produce the lease. I think that will manifest Mr. Graham was too low.

Mr. Wall. No lease was made. Mr. Graham's testimony is his negotiation did not end up with a lease.

Mr. Stout. He said a lease was made.

Mr. Wall. He said he presumed some lease was made. That is another lease now. That is not the one he testified to.

Mr. Stout. I think you have a lease for it. If you think Mr. Graham's testimony is too high, produce the lease. His testimony was only offered on the question of whether conditions were abnormal as to whether the demand prevailing in 1918 was an unusual demand, and we offered this witness to show that the Pennsylvania Railroad Company can get more for their piers in 1920 than they could in 1919, and I say on that question it is admissible and should stand. If Mr. Wall wants to inject into it abnormal conditions, he must go the whole way, not only the distance he wants to go.

Mr. Wall. I don't think there is very much in that argument, may it please the Board. If there

is any idea I have opened the door by asking about shipping conditions generally, that is another thing. I wanted to direct the witness' attention to the fact that shipping conditions were abnormal, that there was an abnormal demand at the time the Board is interested in, that is between 1918 and 1919, and the way I sought to direct his attention to that was to indicate that there had been a very violent change from those conditions, speaking generally, and therefore it was fair to suppose, as we were down low, which the Board would take judicial notice of anyway, that we were then up high.

That is a very different thing from the question of going into values now as ascertaining what values were then. As I see it, I did not open any door, I did not intend to. I was just talking generally about the general comparison. I maintain we ought not to go into any sale a day after the taxing date. That is what we maintain all along. It does not seem as though that foreclosed the testing of a witness' judgment as to normality or abnormality by showing an entirely different condition in a large sense now obtained. This thing is not a sale we are talking about now.

Mr. Stout. It was not produced for that purpose.

The President. This, of course, cannot be accepted as evidence of value and I don't understand it is put in for that purpose. It was brought out by the examination in which the witness testified there had been an increase, and when he was asked for reasons or the grounds on which he based that, he cited this lease as one of the grounds, and said he had made an offer which was rejected. I don't think there is any question that that is not any evidence which the Board can consider as value, but it is part of his testimony as to the reasons on

which he based his opinion there had been an increase. I don't know whether I make myself clear.

Mr. Wall. If it is not admissible as to value, can it be admissible as to anything else. If it is not testifying as to value that is the only issue here, value.

10

The President. This would be the effect, I don't know whether I am right on it or not, this would be the effect on my own mind. This witness has testified there has been an increase. If that is merely an opinion with nothing in the case or nothing in his testimony to support it, it has little value. Now he says here is this lease. Exaggerate that a moment. Suppose he had shown a lease had been made for $200,000. To my mind I would say the witness evidently had some basis for his belief, there has been an increase, but in figuring if I reached the point of computing what that increase was, I would not consider the $165,000 as evidence. I would not feel that properly was before us.

20

Mr. Wall. We are dealing with a single issue, value at different periods, and he states something to show value which is something the law says does not show value, therefore it would seem as though it ought to go out.

30

The President. Why do you say the law says it does not show value, because it is too remote?

Mr. Wall. That is too remote in time and too uncertain in essence. I don't think anybody can bring in a decision at least I have never seen one that says if I go into a man's office and make him a bid and he turns the bid down that is evidence of value.

The President. I think they have held it is not evidence.

40

Mr. Wall. Yes, sir; exactly. If it is not evidence it ought to go out. That is my only point. The only issue we are dealing with is value. It is too remote in time to stay in. If it were good, if it were a real lease, but not being a lease, not being consummated, being more talk and not amounting to anything, it ought to go out on that ground, too. 10

The President. The motion to strike it out is denied.

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Arthur W. Cross, Law Printer, 243 Market Street, Newark, N. J.

New Jersey Court of Errors and Appeals

LEHIGH VALLEY RAILROAD COMPANY OF NEW JERSEY, *Prosecutor-Appellant,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	*On Appeal from Supreme Court.*
MORRIS CANAL AND BANKING COMPANY and LEHIGH VALLEY RAILROAD COMPANY, Lessee, *Prosecutors-Appellants,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	*On Appeal from Supreme Court.*
LEHIGH VALLEY HARBOR TERMINAL RAILWAY COMPANY, *Prosecutor-Appellant,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	*On Appeal from Supreme Court.*
UNITED REAL ESTATE COMPANY, *Prosecutor-Appellant,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	*On Appeal from Supreme Court.*
NATIONAL STORAGE COMPANY, *Prosecutor-Appellant,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	*On Appeal from Supreme Court.*
THE CENTRAL RAILROAD COMPANY OF NEW JERSEY, *Prosecutor-Appellant,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	*On Appeal from Supreme Court.*

COMMUNIPAW CENTRAL LAND COMPANY, *Prosecutor-Appellant,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	*On Appeal from Supreme Court.*
LONG DOCK COMPANY, *Prosecutor-Appellant,* *vs.* THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	*On Appeal from Supreme Court.*

BRIEF FOR APPELLANTS.

(1)

Statement of the Cases.

These are appeals from judgments of the Supreme Court, eight in all, affirming assessments of taxes levied by the mayor and aldermen of Jersey City for the year 1920 on certain property of the respective appellants, prosecutors below, as the same were determined by the State Board of Taxes and Assessment. The property involved consists of various parcels along the shore of the Hudson River and New York Bay and several parcels of back lands in Jersey City. They are owned by railroad companies, but not being used for railroad purposes, are subject to local taxation under the general tax act of 1918. Appellants considered the original assessments excessive and appealed therefrom to the Hudson County Board of Taxation but obtained no relief. Thereafter appeals were taken to the State Board of Taxes and Assessment. The cases of the Lehigh Valley Railroad Company of New Jersey and its associated companies, the Morris Canal and Banking Company (Lehigh Valley Railroad Company, lessee), Lehigh Valley Harbor Terminal Railway Company, United Real Estate Company and National Storage Company, were heard by

the State Board in a group. The cases of the Central Railroad Company of New Jersey and its associated company, the Communipaw Central Land Company, were heard by the State Board together. The case of the Long Dock Company, which is one of the companies of the Erie Railroad system, was heard by the State Board separately from the others. Before hearing those cases, the State Board had heard appeals of the Pennsylvania Railroad Company, and several of its associated companies, from assessments by the city for the same year, and as the witnesses who testified on the appeals of the Pennsylvania Railroad Company, also testified in the present cases, in order to save time and duplication of testimony, the testimony on the Pennsylvania Railroad Company's appeals was incorporated in the record in the present cases by consent of counsel. The assessments as originally made were affirmed by the State Board, with a few exceptions in the case of the Lehigh Valley Harbor Terminal Railway Company. Writs of certiorari for review of the assessments were allowed on application of the appellants. All of the cases were argued together before the Supreme Court, there being certain matters common to all and the reasons presented for setting aside the assessments in each case being the same. The Supreme Court affirmed the assessments in all of the cases by a single opinion. The records in the cases of the Lehigh Valley Railroad Company of New Jersey and its associated companies were printed together for use in the Supreme Court and have again been so printed. They will be hereafter referred to as the *Lehigh Valley case.* The records in the cases of the Central Railroad Company of New Jersey and its associated company were and have been printed together and will be hereafter referred to as the *Central Railroad case.* The record in the case of the Long Dock Company was and has been printed separately from the others and will be hereafter referred to as the *Long Dock case.* The testimony on the appeals of the Pennsylvania Railroad Company was

and has been printed as a supplement and will be hereafter referred to as the *Supplement.*

The assessments on the same parcels for the preceding year, 1919, were determined by the State Board of Taxes and Assessment on appeals of the owners. The original assessed values for the year 1920 were millions of dollars in excess of those for the year 1919, the increase on one parcel owned by the Central Railroad Company of New Jersey being over $5,000,000. The State Board, for some reason, cast aside its prior determination and affirmed the increased assessments.

Appellants contended before the Supreme Court that the assessments should be set aside for the following reasons (Lehigh Valley case, pp. 227-228; Central Railroad case, pp. 150-151; Long Dock case, pp. 48-49):

The State Board of Taxes and Assessment determined said valuations and assessments arbitrarily and regardless of the evidence before said board on the appeals of prosecutors.

Said assessed valuations as determined by the State Board of Taxes and Assessment are excessive and erroneous.

Said assessments were determined by and upon an erroneous principle in that said assessed valuations were based upon a supposed general increase in the value of waterfront property on the Hudson River and New York Bay in Jersey City.

The judgment of the State Board of Taxes and Assessment on said valuations and assessments is not supported by any evidence before said board on the appeals of prosecutors.

The judgment of the State Board of Taxes and Assessment on said valuations and assessments is against the clear weight of the evidence before said board on the appeals of prosecutors.

The State Board of Taxes and Assessment on its hearing of prosecutors' appeals from said valuations and

assessments erroneously permitted certain testimony to be given against objection of prosecutors.

Said assessments are excessive.

Said assessments deprive prosecutors of their property without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States for the reason that they were determined without a real and substantial hearing of prosecutors thereon.

For the reasons above stated, or one, or more of them, and in other respects, said valuations and assessments are erroneous, unconstitutional, unlawful and illegal.

(2)

Grounds of Appeals.

The judgments of the Supreme Court are erroneous in that they affirmed the valuations and assessments of taxes, as fixed and determined by the judgments of the State Board of Taxes and Assessment, brought before that Court by the several writs of certiorari in these cases, whereas said Court by its judgments should have set aside said valuations and assessments, as fixed and determined by the judgments of said board, for one or more of the reasons filed in that Court.

(3)

Brief of the Argument.

As these cases were argued together before the Supreme Court and but one opinion written by that Court deciding all of them, counsel ask leave to argue the cases together before this Court. The decision of the Supreme Court being conclusive as to facts, the argument before this Court will be confined to matters considered by counsel to present questions of law.

I.

The State Board of Taxes and Assessment determined said valuations and assessments arbitrarily and regardless of the evidence before said Board on the appeals.

The Supreme Court said in its opinion that:

> "The experts were qualified, and the opinions "they give are based on facts with which the board "had to deal. We think the facts found by the "board are supported by the evidence."

That statement suggests that the Supreme Court believed the State Board of Taxes and Assessment gave full consideration to the evidence before it as to the value of the property involved, and, therefore, that the Court attributed weight to the judgment of the State Board.

The record shows that the matters were determined by three of the five members of the State Board hastily and apparently without due consideration of the evidence.

The property assessed consists of unimproved mud flats on the shore of New York Bay, partially improved lands on the shore of that bay, lands on the Tide Water Basin of the Lehigh Valley Railroad and on the Little Basin of the Morris Canal; coal dock property, grain elevator property, pier property, and several parcels of interior property. There are a large number of parcels involved. Many matters must be carefully considered in order to determine their value. Much testimony as to the values of the parcels was produced before the State Board. The hearing of prosecutors' appeals was concluded on April 12, 1921. The assessments were determined by the State Board on April 19, 1921. The minutes of that board show no consideration of the matters between those dates, and it is fair to assume that the assessments were determined by the board at its first meeting after the hearings were concluded. The determination of the appeals was moved by one of the members of the board so hastily that its president, Mr. Jess, protested

and was later joined in his refusal to take hasty and inconsiderate action by his colleague, Mr. Mutchler. The protest of Mr. Jess as shown by the minutes of the board was as follows (Lehigh Valley case, pp. 18-19, pp. 42-43, pp. 64-65, pp. 86-87, pp. 108-109; Central Railroad case, pp. 20-21, pp. 42-43; Long Dock case, pp. 16-17):

> "I wish to file this memorandum amplifying "my reasons for protesting against final considera- "tion of these appeals at the meeting of the board "on Tuesday, April 19. It is not pertinent to this "question whether the majority were right or "wrong in sustaining the assessments. My objec- "tion was to proceeding to a judgment without a "reasonable opportunity to review and digest the "evidence. Five days were consumed in the taking "of this evidence. The hearings were not con- "cluded until Tuesday, the 12th of April. The "stenographic record covers over eight hundred "typewritten pages. It was impossible to analyze "and weigh this large volume of testimony within "a single week. There was not sufficient time even "for the Chief Engineer of the board to prepare "abstracts of the evidence in the form which has, "in the past, facilitated a careful and intelligent "consideration of appeals like these which involved "fifty or more separate parcels of property, with "assessments ranging from $1,200 to $4,575,000, "and aggregating nearly $30,000,000. No reason "for undue haste or a departure from the usual "deliberate procedure was urged. Indeed, no rea- "son could be advanced which would, in my opin- "ion outweigh the funamental requirement that a "full consideration of the proofs should precede "the judgment of the board."

Mr. Jess is a member of the bar of this State. He has been a member of the State Board for many years, has carefully investigated and studied the subject of taxation and knows well that the value of property for taxation can be determined only after a most careful inquiry. His statement that it was impossible to analyze and weigh the evidence before the time when the matters were disposed of by three members of the board is a statement of fact which cannot be contradicted.

If the determination of three members of the State Board was merely a prompt decision based upon the evidence, as the Supreme Court apparently believed it to be, no fault could be found with it on that ground, but the protest of Mr. Jess, coupled with a lack of lawful evidence in support of the assessments which will be hereafter discussed, indicates that there was no real consideration of the evidence. We submit the Supreme Court erred in concluding that the State Board had dealt with the facts, and therefore, that its judgment had weight.

II.

Said assessments were determined by and upon an erroneous principle in that said assessed valuations were based upon a supposed general increase in the value of water-front property on the Hudson River and New York Bay in Jersey City.

For the purpose of determining the value of real property it is lawful to consider the prices paid upon sales of similar property in the vicinity. It was said in case of *Laing* v. *United New Jersey Railroad and Canal Co.*, 54 N. J. L. 576, that:

> "Generally in this and other States (Lewis Em. "Dom., sec. 443) evidence of sales of land in the "neighborhood is competent on an inquiry as to "the value of land, and if the purchases or sales "were made by the party against whom the evi-"dence was offered it might stand as an admission. "Wyman *v.* Lexington, &c., R. R. Co., 13 Metc. 316. "But such testimony is received only upon the idea "that there is substantial similarity between the "properties. The practice does not extend, and "the rule should not be applied, to cases where "the conditions are so dissimilar as not easily to "admit of reasonable comparison, and much must "be left to the discretion of the Trial Judge in the "determination of the preliminary question "whether the conditions are fairly comparable. "Chandler *v.* Jamaica Pond Aqueduct Co., 122 "Mass. 305."

Professor Wigmore in his treatise on evidence says that (Vol. 1, p. 575, sec. 463):

> "There is, however, one question indirectly in-
> "volving a rule of evidence—the question whether
> "the value of *another article* is receivable in order
> "to show the value of the article in issue. As
> "the price at a sale is, by the law of damages,
> "conceded to be an element in the test of value
> "(except perhaps in forced sales), this question
> "is usually presented in the form, whether a *sale*
> "*of other property* is admissible as evidence of
> "the value of the property in question. In answer-
> "ing this question, it is found that the two leading
> "principles already expounded come into joint
> "application—the principle of relevancy and the
> "principle of auxiliary policy (ante secs. 442-444).
> "According to the former, the value or sale price
> "of the other property is irrelevant unless the
> "property is *substantially similar in conditions;*
> "according to the second, it may also be excluded,
> "although relevant, if it involves in the case in
> "hand a disproportionate *confusion of issues* and
> "loss of time. The latter consideration has
> "weighed so much with a few courts that they
> "have treated it as requiring the absolute and
> "invariable exclusion of such evidence."

Neither the original assessed values nor the appraisals of the witnesses produced by the city in the present cases were based directly upon sales of property situated similarly to and in the vicinity of any of the parcels under consideration. The testimony contains no reference to sales of such property which were relied upon either by the city's taxing officials or the witnesses for the city as evidence of the value of the parcels involved in these cases by direct comparison. Certain sales were mentioned by the city's witnesses but for another purpose. It appears from the testimony of Mr. Dunham, one of the city's witnesses, that in the years 1919 or 1920, the Cunard Steamship Co. bought some waterfront property on the Hudson River in or near Weehawken for a new terminal at a price of about $64,000. per acre; the Lord Dry Dock Co. and the Luckenbach Co. bought same water-

front property in the same vicinity at prices not stated; and there were a few sales of waterfront property on the Kill-von-Kull in Bayonne at prices of from $40,000. to $60,000. per acre. He admitted that the parcels under consideration are not substantially similar in condition and location to the properties involved in those sales (Lehigh Valley case; p. 190, ll. 7-40; Supplement; p. 62, l. 8-p. 64, l. 36). That is self-evident as he said. Mr. Dunham referred to those sales, not for the purpose of justifying his conclusion as to the value of any of the parcels involved in these cases by direct comparison, but in support of a theory he advanced that the value of waterfront property along the New Jersey shore of the Hudson River and New York Bay in Hudson County had increased generally and that such increase can be stated in percentage (Supplement; p. 45, l. 32-p. 61, l. 20). He said that the increase was 100 per cent. between the years 1916 and 1920, but could not state the particular percentage of increase for any year except by averaging his assumed increase of 100 per cent. over the four years (Supplement; p. 57, l. 31-p. 58, l. 30; p. 59, l. 24-p. 60, l. 14).

Mr. Graham, the other witness for the city, indulged in the same theory of a general increase in value, but said he did not base it upon sales. His idea was that the general increase in value was shown by the demand for waterfront property all around New York Harbor. He said the increase in the value of Hudson River pier property in Jersey City was about 12½ per cent. between the years 1918 and 1919, but admitted he determined that percentage while he was on the witness stand (Supplement; p. 90, l. 27-p. 93, l. 19). He was careful not to say that the increase in value was the same at all points.

The testimony in support of the assessments produced by the city before the State Board of Taxes and Assessment was based entirely on the theory that waterfront property along the New Jersey shore of the Hudson

River and New York Bay in Hudson County had increased in value generally and that the increase can be stated in percentage. Mr. Dunham appraised the stock yard property of the Pennsylvania Railroad Company on the Hudson River in the year 1918 at $2. a square foot. He valued the same property in the year 1919 at $2.50 a square foot, the increase being based upon the theory of a general increase of 25 per cent. in the value of waterfront property (Supplement; p. 60, l. 18-p. 61, l. 20). His appraisals in the other cases were also based upon the theory of a general increase in value. Mr. Graham, the other witness for the city, appraised the pier property of the Pennsylvania Railroad Co. on the Hudson River in Jersey City at $2. a square foot in the year 1917 and at $2.50 a square foot in the year 1919. To get the increase in value between the years 1918 and 1919, he split the percentage of increase into 12½ per cent. for each year (Supplement; p. 90, l. 16-p. 91, l. 27).

The reason for the theory of a general increase in value is plain. Neither the original assessments nor the appraisals by the witnesses for the city could be supported by any other means. The State Board of Taxes and Assessment had determined the value of each of the parcels under consideration for taxation for the year 1919, the preceding year. The values so determined by the State Board were much lower than the assessed values for the year 1920. A rule had been adopted by the State Board that in cases where it had determined the value of property for taxation for one year, and appeals were taken from the assessment for the succeeding year, the testimony would be limited to new facts and evidence of increase or decrease in value since the time when the value was last determined by that board. The necessity for such a rule is apparent to anyone familiar with the taxation of railroad property in Jersey City. Year after year, the city assessed such property, appeals were taken by the railroad companies to the State Board, much testimony as to value was produced, and the value was de-

termined by the board. The testimony on the appeals was transcribed and preserved by the State Board. There can be no doubt that it included every fact of consequence from the early development of the waterfront to the present time, as well as the conclusions therefrom of all of the witnesses who testified in these cases. Repetition of such facts and conclusions each year resulted only in waste of time and needless expense. Under the circumstances, the rule of the State Board is justified. Expert witnesses and the State Board give much attention to sales as evidence of value, but there were no sales of property situated similarly to and in the vicinity of the parcels under consideration which evidenced an increase in the value of each and all of them between the years 1918 and 1919. Any conclusion as to such increase could be based only on generalities so far as sales were concerned.

The theory that there had been a general increase in the value of all waterfront property on the New Jersey shore of the Hudson River and New York Bay between Weehawken and Bayonne a distance of over eight miles, and that such increase can be stated in percentage, is not based upon disclosed facts in these cases is highly imaginative, is unreasonable, and if followed results in error and injustice.

Mr. Dunham thought the sales of waterfront property in Weehawken and in Bayonne showed a general increase in the value of the whole waterfront. Mr. Graham predicated his conclusion as to increase in value upon the demand for waterfront property and not on sales.

The sales in Weehawken and Bayonne in themselves show no increase in value. The waterfront property in Weehawken which was purchased by the Cunard Steamship Co. and the other properties purchased in that vicinity have been practically unused for years, notwithstanding the undisputed testimony was that the property purchased by the Cunard Steamship Co. because of its loca-

tion and condition is exceptionally available for use as a steamship terminal. There is no testimony as to any facts showing that waterfront property in the vicinity of that purchased by the Cunard Steamship Co. and having the same peculiar characteristics sold for less than that company paid, one, two, three or four years before its purchase. The same thing applies to the other sales mentioned. The value of waterfront property is peculiarly one of location and condition and sales of property dissimilar in those respects are not evidence of value, for the dissimilarities cannot be capitalized with reasonable accuracy. Mr. Dunham's attempt to make allowances for the differences between the Pennsylvania Railroad Company's property and that purchased by the Cunard Steamship Co. is absurd (Supplement; p. 63, l. 17-p. 64, l. 35).

Mr. Dunham said the general increase in value between the years 1916 and 1920 was 100 per cent. which he averaged over the four years, giving 25 per cent. to each. Mr. Graham said that the increase in value of some particular property was 25 per cent. between the years 1917 and 1919 which he averaged for the two years, giving 12½ per cent. to each. They were both speaking of property on the Hudson River. Mr. Dunham could not state the increase in value of property on New York Bay in Jersey City between the years 1918 and 1919, while Mr. Graham thought there was no such increase (Supplement; p. 59, l. 24-p. 60, l. 14; p. 94, l. 39-p. 95, l. 12). The imaginative quality of the assumed increase is demonstrated by the divergent ideas of the city's witnesses. It is without definite basis and there is no reasonable certainty about it.

The theory of a general increase in value assumes that property in one locality and subject to certain conditions having increased in value, property in other localities and subject to different conditions increased in value to the same extent, because, as Mr. Dunham explained, the

property is competing, all of it being susceptible of the same uses. He testified in the Lehigh Valley case as follows (Lehigh Valley case; p. 176, ll. 1-10; p. 178, ll. 38-40).

> "Q. The point there is by analogy Sak's store "on Broadway and Wanamaker's store on Broad-"way are both used for the same purposes? A. "Yes, and there is a relative value between the two "properties, because they are both used for the "same purpose.
>
> "Q. They are both used for the same purpose? "A They are in competition with each other.
>
> * * *
>
> "Q. Do you consider a $5,000. property and a "$50,000. property competing properties? A. If "they are the same class of property, yes, abso-"lutely."

His idea in that regard is anomalous. It is hard to see how property on Broadway at Tenth street competes with property on Broadway at Thirty-fourth street in New York City, or how property worth only $5,000. competes with property worth $50,000. Assuming, however, that there is some competition between properties different in location and condition, and, therefore, some relation in value, by what reasonable test can such relative values be determined? Mr. Dunham suggested none.

The parcels under consideration which are on the Hudson River include that upon which the Erie grain elevator stands at the foot of Pavonia avenue; the stock yard property of the Pennsylvania Railroad Co. adjoining; several parcels owned by that company upon which its piers are erected immediately south of Exchange place; and the Little Basin of the Morris Canal. The parcels on New York Bay include a large tract owned by the Central Railroad Company of New Jersey back of Ellis Island upon part of which piers have been erected and some of which is unimproved; parts of Black Tom Peninsula owned by the National Storage Co.; a large parcel of unimproved mud flats owned by the Central

Railroad Company of New Jersey; several large parcels purchased in an unimproved condition by the Lehigh Valley Harbor Terminal Railway Co. for its new terminal; and some property owned by the Pennsylvania Railroad Co., or one of its subsidiaries, near the southerly boundary line of Jersey City. There are also some parcels on the Big Basin of the Lehigh Valley Railroad Co. The parcels are different in location, condition and use, which are the principal elements of value. There is no evidence of any relation between the value of waterfront property in one locality and that in another, nor between its value in one condition and that in another, nor between its value for one use and that for another. It is manifestly erroneous and unjust to mark up the value of all of the waterfront property on the New Jersey shore of the Hudson River and New York Bay in Jersey City, which obviously has different values according to location, condition and use, by some uniform percentage upon a mere theory unsupported by any facts and incapable of reasonable demonstration.

This phase of these cases presents two questions of law, viz.: (1) Is the legal rule for the determination of value of property by comparison with the prices paid for substantially similar property to be enlarged so as to permit determination of value by comparison with the prices paid for dissimilar property, making arbirary additions or subtractions for the dissimilarities and, (2) can the value of a large territory, in which property has various values because of location, condition and use, be increased or decreased by a uniform percentage which cannot be ascertained with reasonable certainty? The Supreme Court apparently decided both of those questions affirmatively, for the values stated by the city's witnesses were determined in that way, and the Court said the reason given by the city's witnesses was not based on any false premises insufficient to support their opinions. We submit that the value of property so determined is not supported by facts and is arbitrary. If permitted for

the purpose of taxation, taxpayers are at the mercy of taxing officials and those upon whom they call to justify their assessments, for their unsupported opinions will be controlling. Such method of valuation should not have judicial sanction.

III.

The Judgment of the State Board of Taxes and Assessment on said valuations and assessments is not supported by any evidence before said board on the appeals.

The Supreme Court said that the opinions expressed by the city's witnesses were based upon facts, and that the facts found by the State Board of Taxes and Assessment are supported by the evidence. We submit that the conclusions of the city's witnesses as to a general increase in the value of all waterfront property on the New Jersey shore of the Hudson River and New York Bay between Weehawken and Bayonne, determined by percentage, are not based upon facts, but are arbitrary as heretofore stated.

The assessments in question were affirmed by the State Board, but it gave no reasons for such action, and, therefore, the only facts found by the board are the assessed values themselves. What evidence is there which supports those assessed values?

Property on the Hudson River is valued for assessment at the rate of $2. per square foot or $87,120. per acre. Such property includes that upon which the Erie grain elevator stands near the foot of Pavonia avenue, the adjoining stock yard property of the Pennsylvania Railroad Co., some pier property of the last named company south of Exchange place, and a parcel adjoining the Little Basin of the Morris Canal. The assessed value of property on the Big Basin of the Lehigh Valley Railroad Co. is at the same rate. The assessed value of the Little Basin property of the Morris Canal and Banking Co. and

its lessee, is at the rate of $83,000. per acre. The undisputed testimony was that the highest price paid for water-front property on the Hudson River was at the rate of about $70,000. per acre in the year 1916. That property is in Jersey City at the foot of Sussex street which lies between Exchange place and the Lehigh Valley Railroad Basin (Lehigh Valley case; p. 212, l. 36-p. 213, l. 4). According to the testimony, the next highest price paid for water-front property on the river was that paid by the Cunard Steamship Co. for the property it purchased in Weehawken in the years 1919 or 1920, which was at the rate of $64,000. per acre. Witnesses for both appellants and the city testified that the property purchased by the Cunard Steamship Co. because of its location and condition is exceptionally useful for a steamship terminal. There was also testimony as to the sales of some water-front property on the Kill-von-Kull in Bayonne at rates of $40,000. to $60,000. per acre. Those sales obviously do not support assessed values of $87,120. and $83,000. per acre, according to the legal rule for determining the value of property by comparison with substantially similar property. If there was such comparison, the assessed values would not be higher than the prices paid. The only other testimony in support of the assessed value of property on the Hudson River consisted of the conclusions of Messrs. Dunham and Graham, the city's witnesses. Mr. Dunham did not testify as to the particular value of all such property, but in those instances in which he testified particularly, he valued the property at $2.50 a square foot or $108,900. per acre (Long Dock case; p. 35, ll. 32-37; Supplement; p. 60, l. 15-p. 61, l. 10). Mr. Graham also valued the Hudson River property at $2.50 per square foot or $108,900. per acre, and the property on the Big Basin of the Lehigh Valley Railroad Co. and the Little Basin of the Morris Canal at $2. per square foot or $87,120. per acre (Long Dock case; p. 41, ll. 18 22; Supplement; p. 88, l. 31-p. 90, l. 4; Lehigh Valley case; p. 209, l. 8-p. 210, l. 14; p. 212, ll. 1-30).

Mr. Dunham did not consider the price paid for the property on the Hudson River at the foot of Sussex street in Jersey City direct evidence of the value of waterfront property in that vicinity because he thought the title thereto did not extend far enough into the river—a legal conclusion he was not competent to draw (Supplement; p. 77, l. 16-p. 78, l. 40). However, that left him with no support for his conclusion as to value except the sales of property on the Hudson River in Weehawken and on the Kill-von-Kull in Bayonne. It was shown by the testimony that the property in Weehawken purchased by the Cunard Steamship Co. was exceptionally well located and the Supreme Court referred to it as perhaps better located than the property under consideration. That being so, the price paid for that property, which was at the rate of $64,000. per acre, does not support Mr. Dunham's conclusion as to value. In the last analysis his conclusion was based only upon his untenable theory of general increase in value by percentage. That theory, as heretofore stated, is not based upon facts nor the legal rules of evidence, and is incapable of reasonable demonstration.

While Mr. Dunham attempted to justify his conclusion as to value by a theory which fails when subjected to analysis, Mr. Graham's conclusion was arbitrary, being based upon nothing more than a supposed general demand for waterfront property in New York Harbor (Supplement; p. 96, l. 37-p. 98, l. 40).

Attention is directed particularly to Lot 22 J in Block 2154 owned by the Central Railroad Company of New Jersey. That parcel is situated on New York Bay behind Ellis Island and contains 405 acres. It is partially improved, having some piers upon it. The city, for some unknown reason, divided it for assessment into three sections by lines drawn at right angles to the pierhead line, calling the sections the north, centre and south sections, respectively. The northerly section, containing 102 acres, is assessed at the rate of $30,000. per acre or $3,060,000.

The centre section, containing 183 acres, is assessed at the rate of $25,000. per acre or $4,575,000. The southerly section, containing 120 acres, is assessed at the rate of $20,000. per acre or $2,400,000. The total assessed value of the entire parcel is $10,035,000. The value of the entire parcel as determined by the State Board of Taxes and Assessment for assessment for the year 1919, the preceding year, was $4,540,000. *The increase in the assessed value is about $5,500,000. or over 120 per cent. in a single year.* What evidence was there which justified such an enormous increase?

The testimony shows that several years ago the Lehigh Valley Harbor Terminal Railway Co. purchased two large parcels of waterfront property on the bay in Jersey City about a mile south of the parcel under consideration, one called the Blair tract and the other the Leary tract. The price paid for the former was at the rate of $3,500. per acre and for the latter at the rate of $7,500. per acre, subject to arrears of taxes, which if added to the purchase prices brought the rates per acre to $5,000. and $9,000., respectively. Both of those parcels were almost entirely under water and unimproved at the time they were purchased. The same company in the year 1920, purchased from the New York Bay Railroad Co., a subsidiary of the Pennsylvania Railroad Co., some adjoining property which was particularly necessary for the construction of its new terminal, for which it paid at the rate of $5,000. per acre for land under water and $15,000. per acre for upland (Lehigh Valley case; p. 219, l. 32-p. 220, l. 32). The testimony also contains references to the purchase by the Tide Water Oil Co. of the Curry homestead property near, but not on, the shore of the bay at a price of $15,000. per acre. That property is in Jersey City and about a mile south of the parcel under consideration. Those sales do not support the assessed values of $20,000., $25,000. and $30,000. per acre placed upon the parcel in question according to the legal rule for determining the value of property by com-

parison. Mr. Dunham valued the northerly section at $35,000. per acre, the centre section at $30,000. per acre and the southerly section at $25,000. per acre (Central Railroad case; p. 115, ll. 10-13). Mr. Graham said he valued the northerly section at $18,000. per acre, the centre section at $22,000. per acre and the southerly section at $27,500. per acre, but it is plain from his subsequent testimony that he inadvertently reversed the values of the northerly and southerly sections (Central Railroad case; p. 146, ll. 16-36). Mr. Graham's valuation of the entire parcel was $8,892,000. which is over a million dollars less than the assessed value affirmed by the State Board. Evidently the State Board disregarded the testimony of the city's witness when it did not support the assessed value.

Mr. Dunham did not rely upon the purchase by the Lehigh Valley Harbor Terminal Railway Co. of the so-called Blair tract nor its purchase from the New York Bay Railroad Co. as evidence of value. The first he said was at less than market value in his opinion, and the second he disregarded merely because it was a sale by one railroad company to another (Central Railroad case; p. 140; ll. 21-23; Lehigh Valley case; p. 194, ll. 7-20; p. 200, l. 33-p. 201, l. 17). It also appears from Mr. Dunham's testimony that he was not influenced by the sale of the Curry homestead property to the Tide Water Oil Co. Instead of relying upon the sales mentioned, Mr. Dunham considered some alleged sales of waterfront property in Bayonne several miles further away from the parcel in question than the parcels purchased by the Lehigh Valley Harbor Terminal Railway Co. His conclusion was that the Central Railroad Co. having built a new coal dock on the parcel in question and abandoned its coal dock in Bayonne, where he said part of the coal dock property was sold at a price of about $35,000. per acre, therefore, some part of the parcel in question must be worth as much as the property in Bayonne (Central Railroad case; p. 138, ll. 1-22). He knew nothing of the

reasons for such change and his conclusion in that regard is without support. There has been no actual sale of the other property in Bayonne mentioned by him although a contract for the sale of it has been made. Mr. Dunham may have been familiar with all of the terms and conditions of that contract, but, if so, he did not state them (Central Railroad case; p. 138, l. 23-p. 140, l. 10).

Notwithstanding the sales of unimproved waterfront property on the bay in Jersey City to the Lehigh Valley Harbor Terminal Railway Co. at rates of $3,500. and $7,500. per acre, subject to arrears of taxes which brought the respective rates up to $5,000. and $9,000. per acre, and the other sale to that company at the rate of $5,000. per acre for land under water and $15,000. per acre for upland, Mr. Dunham valued the unimproved portion of the parcel under consideration at a rate of $25,000. per acre and added $10,000. per acre for improvements consisting of filling and bulkheading, although he did not know the exact condition of the parcel with regard to such improvements (Central Railroad case; p. 132, ll. 18-29; p. 136, ll. 1-10). After admitting that he followed that course, he denied that he made his valuations in that way, insisting that he based it upon sales of other property, presumably in Bayonne. It is difficult, if not impossible, to determine the basis of Mr. Dunham's valuation. The most that can be said of it is that it was an expression of opinion unsupported by relevant facts.

Mr. Dunham's testimony as to the value of the parcel in question was weak, but Mr. Graham's was weaker. He knew practically nothing as to the physical condition of the parcel and gave no reasons for his valuation (Central Railroad case; p. 147, l. 21-p. 148, l. 15).

The value of the parcel in question for assessment for the year 1919, the preceding year, was fixed by the State Board of Taxes and Assessment at $4,540,000. after careful consideration. The theory upon which the city proceeded before the State Board was that the value of

waterfront property along the New Jersey shore of the Hudson River and New York Bay in Hudson County increased generally between the assessing dates for the years 1919 and 1920. Although Mr. Dunham could not state the percentage of increase in the value of property on the bay between those years, his general statement may indicate that he believed it was 25 per cent. On that theory, erroneous as it is, the value of the parcel in question for taxation for the year 1920 would be not more than $5,675,000., yet the assessed value as affirmed is almost twice that sum.

No testimony whatever was produced by the city as to the particular values of Lots 40-B and 41-A in Block 2145 owned by the Lehigh Valley Railroad Company of New Jersey; Lots 22, 24 and 30 in Block 60 and Lot 1 in Block 1493 owned by the United Real Estate Co., lots 3-C, 3-D, 3-E and 3-F in Block 1497 owned by the National Storage Co.; Lots 6, 8, A, 17-B, 19, 21-B, 23, 25 and 28 in Block 60, Lots 49-C, 49-A and 49-B in Block 2145, Lots 50-B, 50-C, 50-D, 50-E and 50-F in Block 2145, and Lot 21-B in Block 2154 owned by the Central Railroad Company of New Jersey. The only testimony in behalf of the city as to the values of those parcels was a general statement by Mr. Dunham that the values of the parcels involved in the respective cases were in excess of the assessed values. Mr. Graham did not testify as to the values of the last mentioned parcels. We submit that Mr. Dunham's general statement does not constitute evidence supporting the assessed values.

The State Board of Taxes and Assessment valued property on the Hudson River for assessment for the year 1919, the preceding year, at various rates. The Erie grain elevator property was valued for assessment for that year at the rate of about $63,782. per acre; the adjoining stock yard property of the Pennsylvania Railroad Co. was valued at the rate of about $62,990. per acre; the pier property of the last named company was valued

at rates of about $75,000. and $78,000. per acre; the property of the Morris Canal and Banking Co. and its lessee adjoining the Little Basin of the Morris Canal was valued at the rate of $66,375. per acre; and the Little Basin property was valued at the rate of $62,900. per acre. The property on the Big Basin of the Lehigh Valley Railroad Co. was valued for assessment for that year at the rate of $62,900. per acre. The State Board obviously recognized variations in value according to the location and condition of the several parcels when the assessed values for the year 1919 were determined. Such variations in value were overlooked by the State Board in affirming the assessed values for the year 1920, for the property on the Hudson River is assessed for the latter year at a uniform rate of $87,120. per acre, except that one of the Pennsylvania Railroad Company's pier parcels is assessed at a slightly higher rate, and the property constituting the Little Basin of the Morris Canal as well as the property on the river adjoining it on the north are assessed at the rate of $83,000. per acre. There is no evidence of any particular change in the value of property in the respective localities nor of any change in the condition of the several parcels between the assessing dates for the years 1919 and 1920, and, therefore, no evidence which justified a conclusion that the variations in value which existed on the assessing date for the year 1919 had ceased to exist on the assessing date for the year 1920. It is hard to find a reason for the action of the State Board in that regard.

The values of all of the parcels involved in these cases for taxation for the year 1919, the preceding year, were determined by the State Board of Taxes and Assessment after careful investigation and consideration. Such values are presumably in harmony with the prices paid for substantially similar property up to that time. All that has occurred since were a few sales of waterfront property on the Hudson River in Weehawken and on the Kill-von-Kull in Bayonne, and the sale of a comparatively

small parcel on the shore of New York Bay by the New York Bay Railroad Co. to the Lehigh Valley Harbor Terminal Railway Co. The last mentioned sale was not relied upon by the city's witnesses as evidence of value, and, in any event shows no particular increase in the value of property in that vicinity. The city's taxing officials apparently did not believe the value of the waterfront property was higher on the assessing date for the year 1920 than it was on the assessing date for the preceding year, for the original assessed values for both years were alike. Under the rule of the State Board the city was compelled to prove that the values had increased between the two years in order to support assessed values in excess of those determined by the State Board for the preceding year. That could not be done by referring to prices paid for substantially similar property. To remedy such deficiency of evidence, the city boldly departed from the legal rule for determining the value of property by comparison with the prices paid for substantially similar property. Admitting that the several parcels in these cases are not similar in location and condition to the property sold in Weehawken and in Bayonne, and, therefore, that there can be no direct comparison in value, the city proceeded to evolve from the sales in Weehawken and Bayonne, a theory of a general increase in the value of all property on the waterfront between those two places; such increase being reckoned and applied by percentage. The conclusion of Mr. Dunham, one of the city's witnesses, as to value was based upon those sales and that theory. The conclusion of Mr. Graham, the other witness for the city, as to value was based upon nothing more than a supposed general demand for waterfront property in New York Harbor.

The values of the several parcels as stated by the witnesses for appellants are somewhat lower than their values as determined by the State Board for assessment for the year 1919, but appellants asked only that the as-

sessed values for the year 1920 be reduced to those for the preceding year, there being no evidence of change in values between the two years. A schedule of the assessed values of the parcels as determined by the State Board for year 1919, the original assessed values for the year 1920, the assessed values as determined by the State Board for the year 1920, and the values stated by the witnesses for appellants is hereto annexed.

Reduced to final analysis, the assessed values, which were the only facts found by the State Board, are based solely upon the conclusions of Messrs. Dunham and Graham, the city's witnesses. Their conclusions are not supported by facts heretofore regarded as relevant under any rule of law for determining the value of property, but depend upon theories alone. If such method of valuing property is given judicial sanction, the question of value will be a matter of opinion which need not be supported by facts reasonably evidential of value.

Conclusion.

We respectfully submit that for one or more of the above reasons the Supreme Court should have set aside the valuations and assessments in question and ordered the assessed values of the several parcels for the year 1920 reduced to those determined by the State Board of Taxes and Assessment for the year 1919, there being no lawful evidence of any change in the values between the assessing dates for the two years.

COLLINS & CORBIN,
Counsel for Appellants.

ROBERT J. BAIN,
Of Counsel.

SCHEDULE.

LEHIGH VALLEY RAILROAD COMPANY OF NEW JERSEY

Property	Assessed values as determined by State Board for 1919.	Original assessed values for 1920.	Assessed values as determined by State Board for 1920.	True values on October 1, 1919, as stated by witnesses for Appellant.
Lot 38B, Bl. 60	Land $ 45,100	Land $ 62,400	Land $ 62,400	Land $ 31,200
	Imp. 12,000	Imp. 12,000	Imp. 12,000	Imp. 12,000
	Tot. $ 57,100	Tot. $ 74,400	Tot. $ 74,400	Tot. $ 43,200
Lot 40B, Bl. 2145	Land $ 32,800	Land $ 103,000	Land $ 103,000	Land $ 16,000
	Imp. 5,000	Imp. 5,000	Imp. 5,000	Imp. 5,000
	Tot. $ 37,800	Tot. $ 108,000	Tot. $ 108,000	Tot. $ 21,000
Lot 41A, Bl. 2145	Land $ 105,600	Land $ 120,000	Land $ 120,000	Land $ 40,000

MORRIS CANAL AND BANKING COMPANY and LEHIGH VALLEY RAILROAD CO., Lessee

Property	Assessed values as determined by State Board for 1919.	Original assessed values for 1920.	Assessed values as determined by State Board for 1920.	True values on October 1, 1919, as stated by witnesses for Appellant.
Lot C, Bl. 2	Land $ 461,970	Land $ 576,000	Land $ 576,000	Land $ 420,000
	Imp. 11,000	Imp. 19,200	Imp. 19,200	Imp. 11,000
	Tot. $ 472,970	Tot. $ 595,200	Tot. $ 595,200	Tot. $ 431,000
Lot L, Bl. 33	Land $ 38,298	Land $ 50,200	Land $ 50,200	Land $ 25,100
	Imp. 1,200	Imp. 4,200	Imp. 4,200	Imp. 4,200
	Tot. $ 39,498	Tot. $ 54,400	Tot. $ 54,400	Tot. $ 29,300
Lot 37, Bl. 60	Land $ 707,625	Land $ 947,050	Land $ 947,050	Land $ 490,050
	Imp. 12,450	Imp. 12,450	Imp. 12,450	Imp. 12,450
	Tot. $ 720,075	Tot. $ 959,500	Tot. $ 959,500	Tot. $ 502,500

LEHIGH VALLEY HARBOR TERMINAL RAILWAY COMPANY

Property	Assessed values as determined by State Board for 1919.	Original assessed values for 1920.	Assessed values as determined by State Board for 1920.	True values on October 1, 1919, as stated by witnesses for Appellant.
Lot IA, Bl.1500	Land $ 14,600	Land $ 14,600	Land $ 14,600	Land $ 10,600
Lot 3A, Bl.1500	Land $ 58,630	Land $ 58,630	Land $ 58,630	Land $ 42,640
Lot 4, Bl.1500	Land $1,033,890	Land $1,503,840	Land $1,221,870	Land $ 516,945
Lot 3A, Bl.1507	Land $ 34,760	Land $ 40,000	Land $ 40,000	Land $ 17,380
Lot 4A, Bl.1507	Land $ 14,652	Land $ 25,000	Land $ 25,000	Land $ 13,320
Lot 4B, Bl.1507 Lot 7B, Bl.1507	Land $1,525,040	Land $2,764,600	Land $1,802,320	Land $ 762,520
Lot 6, Bl.1507	Land $ 6,798	Land $ 11,225	Land $ 11,225	Land $ 6,180
	Imp. 32,000	Imp. 32,000	Imp. 32,000	Imp. 32,000
	Tot. $ 38,798	Tot. $ 43,225	Tot. $ 43,225	Tot. $ 38,180
Lot 7A, Bl.1507	Land $ 66,792	Land $ 106,600	Land $ 66,792	Land $ 60,720

UNITED REAL ESTATE COMPANY

Property	Assessed values as determined by State Board for 1919.	Original assessed values for 1920.	Assessed values as determined by State Board for 1920.	True values on October 1, 1919, as stated by witnesses for Appellant.
Lot 22, Bl. 60	Land $ 63,360	Land $ 104,550	Land $ 104,550	Land $ 28,800
	Imp. 1,000	Imp. 1,000	Imp. 1,000	Imp. 1,000
	Tot. $ 64,360	Tot. $ 105,550	Tot. $ 105,550	Tot. $ 29,800
Lot 24, Bl. 60	Land $ 97,152	Land $ 160,000	Land $ 160,000	Land $ 58,900
	Imp. 1,000	Imp. 1,300	Imp. 1,300	Imp. 1,000
	Tot. $ 98,152	Tot. $ 161,300	Tot. $ 161,300	Tot. $ 59,900
Lot 30, Bl. 60	Land $ 11,548	Land $ 14,000	Land $ 14,000	Land $ 7,000
Lot 1, Bl. 1493	Land $ 150,000	Land $ 150,000	Land $ 150,000	Land $ 90,000

NATIONAL STORAGE COMPANY

Property	Assessed values as determined by State Board for 1919.	Original assessed values for 1920.	Assessed values as determined by State Board for 1920.	True values on October 1, 1919, as stated by witnesses for Appellant.
Lot 3C, Bl.1497	Land $ 11,382	Land $ 20,300	Land $ 20,300	Land $ 9,420
	Imp. 225,000	Imp. 225,000	Imp. 225,000	Imp. 225,000
	Tot. $ 236,382	Tot. $ 245,300	Tot. $ 245,300	Tot. $ 234,420
Lot 3D, Bl.1497	Land $ 11,382	Land $ 20,300	Land $ 20,300	Land $ 9,420
Lot 3E, Bl.1497	Land $ 14,645	Land $ 25,700	Land $ 25,700	Land $ 12,120
Lot 3F, Bl.1497	Land $ 226,780	Land $ 394,400	Land $ 394,400	Land $ 93,840
	Imp. 30,000	Imp. 30,000	Imp. 30,000	Imp. 30,000
	Tot. $ 256,780	Tot. $ 424,400	Tot. $ 424,400	Tot. $ 123,840

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY

Property	Assessed values as determined by State Board for 1919.	Original assessed values for 1920.	Assessed values as determined by State Board for 1920.	True values on October 1, 1919, as stated by witnesses for Appellant.
Lot 6, Bl. 60	Land $ 1,597	Land $ 2,200	Land $ 2,200	Land $ 700
Lot 8, Bl. 60	Land $ 6,824	Land $ 10,400	Land $ 10,400	Land $ 3,100
	Imp. 1,000	Imp. 1,000	Imp. 1,000	Imp. 1,000
	Tot. $ 7,824	Tot. $ 11,400	Tot. $ 11,400	Tot. $ 4,100
Lot A, Bl. 60	Land $ 63,492	Land $ 96,200	Land $ 96,200	Land $ 57,700
	Imp. 11,000	Imp. 11,000	Imp. 11,000	Imp. 11,000
	Tot. $ 74,492	Tot. $ 107,200	Tot. $ 107,200	Tot. $ 68,700
Lot 17B, Bl. 60	Land $ 36,287	Land $ 55,000	Land $ 55,000	Land $ 16,500
Lot 19, Bl. 60	Land $ 204,600	Land $ 310,000	Land $ 310,000	Land $ 93,000
	Imp. 6,200	Imp. 6,200	Imp. 6,200	Imp. 6,200
	Tot. $ 210,800	Tot. $ 316,200	Tot. $ 316,200	Tot. $ 99,200
Lot 21B, Bl. 60	Land $ 3,643	Land $ 6,000	Land $ 6,000	Land $ 3,200
Lot 23, Bl. 60	Land $ 57,156	Land $ 94,300	Land $ 94,300	Land $ 34,640
	Imp. 500	Imp. 500	Imp. 500	Imp. 500
	Tot. $ 57,656	Tot. $ 94,800	Tot. $ 94,800	Tot. $ 35,140
Lot 25, Bl. 60	Land $ 83,424	Land $ 317,550	Land $ 317,550	Land $ 38,000
Lot 28, Bl. 60	Land $ 80,520	Land $ 132,500	Land $ 132,500	Land $ 61,000
	Imp. 4,500	Imp. 4,500	Imp. 4,500	Imp. 4,500
	Tot. $ 85,020	Tot. $ 137,000	Tot. $ 137,000	Tot. $ 65,500
Lot 1, Bl.1497	Land $1,719,190	Land $1,875,480	Land $1,875,480	Land $ 859,595
Lot 49C,Bl.2145	Land $ 143,935	Land $ 193,800	Land $ 193,800	Land $ 91,200
Lot 49A,Bl.2145	Land $ 1,925	Land $ 2,550	Land $ 2,550	Land $ 1,200
Lot 49B,Bl.2145	Land $ 3,355	Land $ 3,315	Land $ 3,315	Land $ 1,560
Lot 48F,Bl.2145	Land $ 523,750	Land $1,047,500	Land $1,047,500	Land $ 360,000
Lot 50B,Bl.2145	Land $ 1,140	Land $ 1,700	Land $ 1,700	Land $ 1,000
Lot 50C,Bl.2145	Land $ 1,640	Land $ 2,400	Land $ 2,400	Land $ 1,440
Lot 50D,Bl.2145	Land $ 820	Land $ 1,200	Land $ 1,200	Land $ 720
Lot 50E,Bl.2145	Land $ 820	Land $ 1,200	Land $ 1,200	Land $ 720
Lot 50F,Bl.2145	Land $ 820	Land $ 1,200	Land $ 1,200	Land $ 720
Lot 21B,Bl.2154	Land $ 165,200	Land $ 330,400	Land $ 330,400	Land $ 132,200
Lot22J,Bl.2154 South Side		Land $2,400,000	Land $2,400,000	Land $ 497,040
Center		Land $4,575,000	Land $4,575,000	Land $1,924,200
	Tot. $4,540,000	Imp. $1,500,000		$ 31,800
North Side		Land $3,060,000	Land $3,060,000	Land $1,465,800
		Tot. $11,535,000	Tot. $10,035,000	Tot. $3,918,840

COMMUNIPAW CENTRAL LAND COMPANY

Property	Assessed values as determined by State Board for 1919.	Original assessed values for 1920.	Assessed values as determined by State Board for 1920.	True values on October 1, 1919, as stated by witnesses for Appellant.
Lot 21A, Bl. 60	Land $ 58,489	Land $ 102,500	Land $ 102,500	Land $ 53,172

LONG DOCK COMPANY

Property	Assessed values as determined by State Board for 1919.	Original assessed values for 1920.	Assessed values as determined by State Board for 1920.	True values on October 1, 1919, as stated by witnesses for Appellant.
Lot B1, Bl. 16	Land $ 655,982	Land $ 897,200	Land $ 897,200	Land $ 526,000
	Imp. 507,000	Imp. 507,000	Imp. 507,000	Imp. 507,000
	Tot. $1,162,982	Tot. $1,404,200	Tot. $1,404,200	Tot. $1,033,000

New Jersey Court of Errors and Appeals

THE PENNSYLVANIA RAILROAD COMPANY, Lessee, *Prosecutor-Appellant,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	On Appeal from Supreme Court (Pennsylvania Cases.)
THE NEW YORK BAY RAILROAD COMPANY, *Prosecutor-Appellant,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	
THE ASSOCIATES OF THE JERSEY COMPANY, *Prosecutor-Appellant,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	

LEHIGH VALLEY RAILROAD COMPANY OF NEW JERSEY, *Prosecutor-Appellant,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	On Appeal from Supreme Court (Lehigh Valley Cases.)
MORRIS CANAL AND BANKING COMPANY AND LEHIGH VALLEY RAILROAD COMPANY, Lessee, *Prosecutors-Appellants,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	
LEHIGH VALLEY HARBOR TERMINAL RAILWAY COMPANY, *Prosecutor-Appellant,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	
UNITED REAL ESTATE COMPANY, *Prosecutor-Appellant,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	
NATIONAL STORAGE COMPANY, *Prosecutor-Appellant,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	

THE CENTRAL RAILROAD COMPANY OF NEW JERSEY, *Prosecutor-Appellant,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	On Appeal from Supreme Court (Central Cases.)
COMMUNIPAW CENTRAL LAND COMPANY, *Prosecutor-Appellant,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	

LONG DOCK COMPANY, *Prosecutor-Appellant,* vs. THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, *Defendants-Respondents.*	On Appeal from Supreme Court (Long Dock Case.)

BRIEF FOR RESPONDENTS.

The instant appeals bring up for review the several judgments of the Supreme Court affirming the assessments of taxes for the year 1920, as fixed and determined by the judgments of the State Board of Taxes and Assessment, of the respective lands of the Appellants situate in the Taxing District of Jersey City.

The cases, eleven in all, were argued together before the Supreme Court for the reason that the testimony in each case is so interwoven with the other that it seemed necessary and desirable to argue them together. Respondents, therefore, respectfully ask leave to present this Brief for all of the cases, referring to the first three cases above mentioned as the Pennsylvania Cases, the next five as the Lehigh Valley Cases, the following two as the Central Cases, and the last one as the Long Dock Case.

Statement of the Cases

Practically all of the lands involved in these cases front either on the shore of the Hudson River or New York Bay and are what is known as Third Class Railroad Property. They were locally assessed as of October 1st, 1919, by the City of Jersey City. Appeals therefrom were taken by Appellants to the Hudson County Board of Taxation, which confirmed the City's assessments. Appellants then appealed to the State Board of Taxes and Assessment, which, with a few exceptions, affirmed the judgments of the County Board. Appellants then sought review by certiorari in the Supreme Court and that Court, after

hearing argument of counsel and considering the reasons filed for reversal, affirmed the assessments in each case as fixed and determined by the judgments of the State Board.

Appellants on the hearing before the State Board rested their cases on the judgments of that Board in respect to the valuations of these lands for the year 1919 and moved that the valuations for the year 1920 be fixed at the same amounts. Jersey City objected to this procedure contending that the Appellants should present proof of their valuations as of October 1st, 1919. The State Board, however, ruled that since Jersey City had assessed these lands for 1920 in excess of the Board's valuations for 1919 that the burden of proof was on Jersey City to establish the valuations for 1920, even though the Railroad Companies were the Appellants.

This ruling of the State Board was manifestly erroneous, as appears by the opinion of the Court below which is as follows:

> "The Board had fixed the value for 1919 after hearing testimony, and was of opinion that such value was right at the time it was established, and suggested that the additional evidence be limited to the increased value since that date. But the testimony took a wider range and the witnesses for the City testified to its market value in October, 1919, which was disputed by expert witnesses called for Prosecutors. *The question tried and determined was the market value of the property October* 1, 1919, *which was the proper basis, neither Prosecutors nor Defendants could be held to the value fixed in October,* 1918, *for if*

it was too high the Prosecutors were not bound by it, and if too low, the Board was bound to fix its true value in 1919, *without regard to what it did in* 1918, *for property must be fixed at its true value.* It was perhaps right to *consider* its value as fixed in 1918 and hear proof as to any increase during the next year as an aid in reaching its value, *but the former action was not a conclusive element in fixing true value in* 1919." (Our italics.) (Lehigh Valley Cases, p. 230.)

"It is not the advance in value from one year to another that fixed taxable value, but its present true value is the question for determination." (Lehigh Valley Cases, p. 232.)

Jersey City, in compliance with the State Board's ruling, produced experts who testified that there was a material increase in the market value of these lands between October 1st 1918 and October 1st 1919, as manifest by sales and leases of substantially similar or comparable properties; that there was an increased demand between those dates for this class of property; and that the true value of the lands under consideration as of October 1st 1919, the assessing date, based upon actual sales and leases of comparable properties, equalled or exceeded the City's assessments.

The Appellants then called witnesses who testified that these lands were no more valuable on October 1st 1919, than they were on the previous assessing date, in fact, there had been no change in the value thereof since 1916. Their valuations were, in many instances, only half of the amounts of the State Board's Judgments for the year 1919.

They testified to the same valuations they had given the Board for several years last past, although the Board, on appeals of the Appellants for those years, had determined the value of these lands to be several millions of dollars in excess of the railroad witnesses' valuations. They also testified that there had not been a sale of shore-front property in Jersey City in the past ten years, which evidenced the market value of the property at the time of the sale. They relied solely upon their judgment of value rather than upon the selling price of the property. They depreciated every sale of property to railroad companies for railroad purposes, because in their opinion such companies pay more than true value to acquire it, thereby disregarding the rule laid down by Chief Justice Beasley in *Central R. R. Co.* vs. *State Board of Assessors,* 49 N. J. L. 1 at Page 5, that there is no reason to suppose that land acquired by a railroad company for railroad purposes, if sold in the market for that purpose would not bring a sum equal to the cost of its acquisition.

Obviously, the State Board and also the Supreme Court placed no reliance upon the untrustworthy and baseless testimony of Appellants' witnesses, and affirmed the City's assessments of the lands in question upon the evidence as to valuations given by the City's experts, and the selling prices by private sales of comparable properties testified to by them.

BRIEF OF THE ARGUMENT.
Point I.

The State Board of Taxes and Assessment had ample time in which to consider the evidence and reach its determination as to the value of these lands.

Appellants contend that the State Board determined the valuations arbitrarily and regardless of the evidence before it.

The Pennsylvania Cases were heard March 9th 1921; the Lehigh Valley Cases on March 10th 1921; the Central Cases, April 6th and 7th 1921; and the Long Dock Case, April 12th 1921.

The decision of the State Board in respect to all of the cases was rendered on April 19th 1921; therefore, instead of that Board only having a week in which to consider the testimony—as stated in dissenting Memo. of its President—it had more than a month to consider the Pennsylvania and Lehigh Valley Cases, about two weeks to consider the Central Cases, and a week for the Long Dock Case which comprises only 21 pages of testimony.

These appeals presented no novel questions to the Board. Each member was familiar with the location, physical characteristics and potentialities of the lands involved. They had heard testimony year after year in respect to the market values thereof. As stated in the Brief for Appellants (Lehigh Valley et al):

> "Year after year, the City assessed such property, appeals were taken by the railroad companies to the State Board, much testimony as to value was produced and the value was determined by the Board. The testimony on the appeals was transcribed and preserved by the State Board.

> There can be no doubt that it included every fact of consequence from the early development of water front to the present time, as well as the conclusions therefrom of all of the witnesses who testified in these cases."

It is significant that one of the members of the Board, who voted with the majority on April 19th 1921 to consider these appeals, thereafter, on April 26th 1921—when the President of the Board filed his dissenting Memo.—requested to change his vote. He evidently must have thought that he was sufficiently conversant with the testimony to take action on these appeals, when he voted with the majority. The members of the Board had had sufficient time in which to analyze the evidence, if they so desired, and there seems to be no apparent reason why the Chief Engineer of the Board should have abstracted the testimony. In fact, there was no evidence offered by the Appellants which would aid and assist the Board in arriving at the market value of these lands as of Oct. 1st 1919. Their witnesses testified to valuations several millions of dollars less than the State Board's judgments for the previous year, which Judgments Appellants contended should be the valuations for 1920.

Furthermore, Appellants' witnesses testified that the lands were of the same value for 1920 as they were in 1916, and the Board, having rejected these valuations in former years, it would have been useless for the Board to again consider this valueless testimony. To have considered it, would have been an absurd attempt to find an excuse to reduce its own judgments which had been accepted by Appellants. Therefore, it was only necessary for the Board to consider the evidence of the

City's experts, which was not very voluminous, (177 pages of the respective States of Cases). Their testimony consisted of sales of property similar to that under review; increase in rentals, and the great demand for this class of property within the taxing year; and the opinion of these experts as to the value of the lands in question, founded upon these facts.

Surely it did not require days of deliberation by the Board to reach a conclusion as to the value of these lands. It is submitted that the Board, sitting as a jury to determine the market value of these lands based upon the evidence, had ample time to properly consider the testimony, and that it should have reached its conclusions while the evidence, the source of knowledge of the experts and the creditability of their testimony, and the reasons given by them for their valuations, were fresh in the mind of each member of the Board. Therefore, there is no merit in the dissenting Memo. of the President. It is to be noted that he only objected to the "undue haste" in considering the testimony and not to the valuations fixed by the majority.

Counsel for Appellants concedes (Brief for Lehigh Valley et al):

> "If the determination of three members of the State Board was merely a prompt decision based upon the evidence, as the Supreme Court apparently believed it to be, no fault could be found with it on that ground."

The Court below, on this point said (Lehigh Valley Cases, p. 231):

> "The Board was familiar with the property, having repeatedly considered the very question passed on, and the evidence

> offered by the prosecutors was principally confined to one witness, and that of defendants to two, and if the testimony offered justified the conclusion, a prompt determination can hardly be said to be illegal. A prompt decision, if the result is justified by the proof, cannot be a ground of illegality, for if it was, verdicts by juries might often be set aside, for it would be an extreme case where it takes a jury seven days to settle facts. The criterion is, does the evidence support the findings?''

Since the only evidence to be considered was that given by the City's experts, and the Supreme Court finding that this evidence was sufficient to support the judgments of the majority of the State Board, this finding of fact is conclusive.

Point II.

The State Board's Judgments were based upon the market value of Appellants' lands.

The next contention of Appellants is that the valuations were erroneously based upon a supposed general increase in value of water-front property.

Evidence was offered on behalf of Jersey City to show that there had been, between October 1st 1918 and October 1st 1919, a general increase in the value of water-front property on the Hudson River and New York Bay in Jersey City; but it is unwarranted to assume, as Appellants do, that the State Board's findings were based solely upon a general increase in value of Appellants' lands. The City's experts testified specifically to the market value of each tract of land under con-

sideration, as of October 1st 1919, basing their valuations upon sales or leases of the same or substantially similar properties.

It is a disregard of the facts to state, as Appellants' counsel does, that the City's experts admitted there were no sales of substantially similar properties to those under review. Their testimony is replete with reference to sales or leases of comparable properties. The presumption is, that the State Board followed the law and predicated its Judgments upon the specific evidence as to the true market value of each tract.

The testimony, as to general increase, was not offered to overthrow the established theory of our Courts that the true value of property for taxation, under the constitutional mandate, is that amount of money it would sell for at a fair private sale. It was presented to the Board to show the general market situation as to shore-front property in Jersey City, and that the decreasing supply and increasing demand enhanced the selling price—merely an example of the effect of supply and demand on the market—which had been taken into consideration by the City's experts in arriving at the true value of each tract of Appellants' lands. It must be borne in mind that practically all the shore-front properties in Jersey City have been taken out of the market and are now owned by railroad companies which seldom sell or rent them. Consequently, the experts must resort to hypothetical sales which require a consideration and study of general market conditions, the decreasing supply and increasing demand, the available uses of the properties within reasonable contemplation, and what they would sell for if on the market, and any other factor or element which goes to make up the amount of money that a willing seller—who is not required to sell a given

piece of property—would accept from a willing purchaser—who is not required to buy it.

It is submitted that the City's experts properly considered the general increase in value of shore-front in Jersey City in arriving at the selling valuations of Appellants' lands, and that the State Board's judgments were based on the market value thereof.

Point III.

The valuations for 1920 of the respective Appellants' lands, as determined by the State Board and affirmed by the Supreme Court, are supported and sustained by the evidence in every instance.

Appellants further contend that the assessments are not supported by any evidence before the State Board.

An analysis of the testimony, which is shown by the following summary, demonstrates that the State Board's judgments are supported and sustained by the evidence in each case.

PENNSYLVANIA CASES:

(1) Lands of *The Associates of the Jersey Company*:

(a)

Block	Lot	Location	Area
4 & 5	A & D	Pier B and the North Half of Morris St. Pier	449,630 Sq. Ft.

Assessed Valuation	$899,250	or	$2.00	a	Sq.	Ft.	(Penn.	Case	p. 67)
Appellant Wanted Reduced to	766,260	"	1.72	"	"	"	"	"	"
State Board's Judg.	899,250	"	2.00	"	"	"	"	"	"
Val. by City's Experts:									
Graham and Dunham	1,124,075	"	2.50	"	"	"	"	pp. 89, 90	
Val. by Appellant's Witnesses:								113, 116	
Corbin and Ryer	670,000	"	1.50	"	"	"	"	pp. 169, 190	

These lands are more valuable but are comparable with the adjoining property of the International Elevator Company which was purchased by it in 1916 for $300,000 or at the rate of $70,000 an acre, without a State Grant (Penn. Case, pp. 147, 148). Corbin testified, in Eighth Avenue (New York) case, that the purchaser was offered $50,000 more for the property than it paid, and admitted this fact in the instant case (Penn. Case, p. 170), which would be at the rate of about $1.80 a sq. ft. Corbin also testified in the Eighth Avenue Case, supra, according to the transcript of the record, that the purchaser could have obtained $100,000 more than it paid (but repudiated this statement when confronted with it on cross-examination before the State Board, Penn Case, p. 171), which would be at the rate of $2.10 a sq. ft. Graham testified (Penn. Case, pp. 101, 102, 103) that the rent of these lands was increased in October, 1920, over October, 1919, from $125,000 to $180,000 per annum. He offered $165,000 rent for these lands, which was based on a valuation of $2.50 a sq. ft., and was told by the Pennsylvania Railroad Company that his offer was too low. The rental of $180,000 per year would be at the rate of $3.08 a sq. ft. Corbin also testified to this increase in rental (Penn. Case, p. 166).

In *Heard* v. *Cook,* 60 N. J. L. 70, Mr. Justice Depew said:

> "A yearly rental of the premises may also be taken into consideration as an element in the ascertainment of true value, where the property is so situate that the yearly rental reflects upon true value."

Dunham testified (Penn. Case, pp. 139, 140) that the Cunard property was purchased by it

in 1920 for $72,450 an acre, or $1.66 a sq. ft., and that the lands under consideration were 75 per cent. more valuable than the Cunard property at the time of the purchase, and on that basis were worth $2.62½ a sq. ft. Corbin testified that the price paid for the Cunard property was normal. (Penn. Case, p. 156.) Dunham also testified (Penn. Case, p. 127) that the record of sales of water-front property from 1916 to 1920 showed an increase of 100 per cent.

Obviously the State Board's valuation of $2.00 a sq. ft. for the lands in question was established by the sales of substantially similar properties and the lease of these lands.

(b)

Block	Lot	Location	Area
8	A-1	Pier C	159,900 Sq. Ft.

Assessed Valuation	$345,950	or	$2.16 a	Sq. Ft.	(Penn.	Case	p.	67)	
Appellant Wanted Reduced to	282,590	"	1.79	"	"	"	"	"	"
State Board's Judg.	345,950	"	2.16	"	"	"	"	"	"
Val. by City's Experts:									
Graham and Dunham	399,750	"	2.50	"	"	"	"	pp. 90, 113	
Val. by Appellant's Witness:									
Ryer	240,000	"	1.50	"	"	"	"	pp. 190, 191	

These lands adjoin Pier B, Supra, and are devoted to the same use. Pier B is entirely under water, while part of Pier C is upland. The land under water is assessed at $2 and the upland at $3, making an average of $2.16 a Sq. Ft. The sales and lease referred to and argument made above apply here.

(2) Lands of *The Pennsylvania Railroad Company, Lessee*:

(a)

Block	Lot	Location	Area
601	1	Newark, Charlotte and Duffield Sts.	3 Acres

Assessed Valuation	$36,000	or	$12,000 an A.	(Penn.	Case	p.	29)		
Appellant Wanted Reduced to	26,000	"	8,666	"	"	"	"	"	"
State Board's Judg.	36,000	"	12,000	"	"	"	"	"	"
Val. by City's Expert:									
Dunham	36,000	"	12,000	"	"	"	p. 115		
Val. by Appellant's Witness:									
Ryer	20,000	"	6,666	"	"	"	p. 188		

These lands are more valuable but are comparable with the adjacent lands on James Ave. sold Nov. 12th 1919 by Woodstock Co. to Hofferberth, which Dunham testified was in excess of $12,000 an Acre (Penn. Case, p. 115).

(b)

Block	Lot	Location	Area
15	C-5 C-6	Hudson River, Stock Yards	1,065,046 Sq. Ft.

Assessed Valuation	$2,130,050	or	$2.00	a	Sq.	Ft.	(Penn.	Case	p.	29)
Appellant Wanted Reduced to	1,540,138	"	1.50	"	"	"	"	"	"	"
State Board's Judg.	2,130,050	"	2.00	"	"	"	"	"	"	"
Val. by City's Experts: Graham and Dunham	2,662,615	"	2.50	"	"	"	"	pp. 88, 90, 113, 114, 116		
Val. by Appellant's Witness: Ryer	1,215,800	"	1.15	"	"	"	"	p. 190		

These lands are adjacent to and comparable with Pier B, Supra; and the sales referred to and argument made there, apply here.

(c)

Block	Lot	Location	Area
11	A	Morgan Street	32,500 Sq. Ft.

Assessed Valuation	$97,500	or	$3.00	a	Sq.	Ft.	(Penn.	Case	p.	29)
Appellant Wanted Reduced to	85,000	"	2.60	"	"	"	"	"	"	"
State Board's Judgment	97,500	"	3.00	"	"	"	"	"	"	"
Val. by City's Expert: Dunham	172,500	"	5.00	"	"	"	"	p. 115		
Val. by Appellant's Witness: Ryer	73,800	"	2.27	"	"	"	"	p. 188		

These lands are adjacent to and comparable with lands sold by Royal Baking Powder Co. to Butler Bros. at $4.40 a Sq. Ft., and by Treslow & Fuller to Butler Bros. at $5 a Sq. Ft. (L. D. Case p. 34).

(d)

Block	Lot	Location	Area
76	H-4	Washington Street	10,945 Sq. Ft.

Assessed valuation	$23,000	or	$2.10	a	Sq.	Ft.	(Penn.	Case	p. 29)
Appellant Wanted									
Reduced to	19,700	"	1.80	"	"	"	"	"	"
State Board's Judg.	23,000	"	2.10	"	"	"	"	"	"
Val. by City's Expert:									
Dunham	43,780	"	4.00	"	"	"	"	"	115
Val. by Appellant's Witness:									
Ryer	16,400	"	1.50	"	"	"	"	"	188

These lands are adjacent to Block 11 Lot A, Morgan St. (c) Supra, and the sales referred to there, apply here.

(e)

Block	Lot	Location	Area
602	1	Newark Avenue	3.7 Acres

Assessed Valuation	$44,000	about	$12,000	an	A.	(Penn.	Case	p. 29)	
Appellant Wanted									
Reduced to	28,000	"	7,600	"	"	"	"	"	
State Board's Judg.	44,000	"	12,000	"	"	"	"	"	
Val. by City's Expert:									
Dunham	44,400	"	12,000	"	"	"	p. 115		
Val. by Appellant's Witness:									
Ryer	25,750	"	7,000	"	"	"	p. 188		

These lands are comparable with lands purchased by Hofferberth (a) Supra, and that sale applies here.

It is to be noted that the Judgments of the State Board, in respect to the other lands of the Penn. R. R. Co., Lessee, are the same as the conceded values of Appellant.

(3) Lands of *The New York Bay Railroad Company.*

Block	Lot	Location	Area
1507	2-L	New York Bay	100.98 Acres

Assessed Valuation	$2,019,600	or	$20,000	an	A.	(Penn.	Case	p. 48)	
Appellant Wanted									
Reduced to	1,130,976	"	11,200	"	"	"	"	"	
State Board's Judg.	2,019,600	"	20,000	"	"	"	"	"	
Val. by City's Experts:									
Graham	2,019,600	"	20,000	"	"	"	p. 88		
Dunham	2,524,500	"	25,000	"	"	"	p. 113		
Val. by Appellant's Witness:									
Corbin	1,009,800	"	10,000	"	"	"	p. 179		

Part of the back upland of this tract was sold by N. Y. Bay R. R. to L. V. R. R. in 1920 for $15,000 an Acre (Penn. Case p. 198). Dunham testified (L. V. Case p. 191) for the City, and Ryer (Cent. Case p. 104) for Appellant, that the back lands were less valuable than the front. Also, Curry property, immediately back of lands in question, comparable but less valuable, sold for $15,000 an Acre in 1919 (L. V. Case p. 192; and Penn. Case pp. 109, 110). Manifestly, if back lands of N. Y. Bay R. R. (which are less valuable than front) had a valuation of $15,000 an Acre, then the average valuation of these tracts is at least $20,000 an Acre and supports State Board's Judgment.

LEHIGH VALLEY CASES:

(1) Lands of *The Lehigh Valley R. R. Co. of New Jersey.*

(a)

Block	Lot	Location	Area
60	38-B	Fronting on Washington St.	41,600 Sq. Ft.

Assessed Valuation	$62,400	or	$1.50	a	Sq.	Ft.	(L. V. Case p. 17)		
Appellant Wanted Reduced to	45,100	"	1.08	"	"	"	"	"	"
State Board's Judg.	62,400	"	1.50	"	"	"	"	"	"
Val. by City's Experts:									
Graham	83,200	"	2.00	"	"	"	"	p. 209	
Dunham—In Excess of City's Assess.						"	"	p. 168	
Val. by Appellant's Witness:									
Ryer	31,200	"	.75	"	"	"	"	p. 145	

An improved piece of property, more favorably located than the Cunard property, Supra, which sold for $1.66 a Sq Ft. These lands may also be compared with the International Elevator Co. property, Supra.

(b)

Block	Lot	Location	Area
2145	40-B	Jersey Avenue	206,000 Sq. Ft.

Assessed Valuation	$103,000	or	50c	a Sq. Ft.	(L. V. Case				p. 17)
Appellant Wanted Reduced to	32,800	"	16c	"	"	"	"	"	"
State Board's Judgment	103,000	"	50c	"	"	"	"	"	"
Val. by City's Expert:									
Dunham—In excess of City's Assess.						"	"		p. 168
Val. by Appellant's Witness:									
Ryer	16,000	"	8c	"	"	"	"		p. 145

NOTE—Appellant desired the valuation of these lands to be reduced to an amount less than a third of the assessment, and Ryer even testified to a value less than half that amount.

Obviously, it was necessary for the State Board to exclude Ryer's Testimony, and affirm the City's assessment, which was supported by Dunham's Testimony.

(c)

Block	Lot	Location	Area
2145	41-A	Hudson River and New York Bay	8 Acres

Assessed Valuation	$120,000	or	$15,000	an A.	(L. V. Case				p. 17)
Appellant Wanted Reduced to	105,600	"	13,200	"	"	"	"		
State Board's Judg.	120,000	"	15,000	"	"	"	"		
Val. by City's Expert:									
Dunham—In excess of City's Assess.						"	"		p. 168
Val. by Appellant's Witness:									
Ryer	40,000	"	5,000	"	"	"			p. 145

NOTE—In this instance, Ryer testified to a valuation of these lands less than 40% of what the Appellant wanted it reduced to.

Dunham testified to a valuation in excess of City's assessment, and the State Board affirmed it.

(2) Lands of *The Lehigh Valley Harbor Terminal Railway Company*:

(a)

Block	Lot	Location	Area
1500	1-A	New York Bay	2.65 Acres

Assessed Valuation	$14,600 or $5,500 an A.	(L. V. Case pp. 34, 42, 46)	
Appellant Wanted Reduced to	14,600 " 5,500 "	" " " " "	
State Board's Judg.	14,600 " 5,500 "	" " " " "	
Val. by City's Expert:			
Dunham—In excess of City's Assess.		" "	p. 168
Val. by Appellant's Witness:			
Ryer	10,600 " 4,000 "	" "	p. 145

NOTE—Ryer's valuation of these lands, $4,000 less than City's assessment, which Appellant accepted.

Since Appellant conceded City's valuation, the State Board affirmed the assessment.

(b)

Block	Lot	Location	Area
1500	3-A	New York Bay	10.66 Acres

Assessed Valuation	$58,630 or $5,500 an A.	(L. V. Case pp. 34, 42, 46)	
Appellant Wanted Reduced to	58,630 " " " "	" " " " " "	
State Board's Judg.	58,630 " " " "	" " " " " "	
Val. by City's Expert:			
Dunham.	In excess of City's Assess.	" "	p. 168
Val. by Appellant's Witness:			
Ryer	42,640 or $4,000 an A.	" "	p. 145

NOTE: Ryer's valuation of these lands is $15,000 less than the City's Assessment, which Appellant accepted.

Since Appellant conceded City's assessment, State Board affirmed it.

(c)

Block	Lot	Location	Area
1500	4	New York Bay	187.98 Acres

Assessed Valuation	$1,503,840 or $8,000 an A.	(L. V. Case pp. 34, 42, 46)	
Appellant Wanted Reduced to	1,033,890 " 5,500 " "	" " " " " "	
State Board's Judg.	1,221,870 " 6,500 " "	" " " " " "	
Val. by City's Experts:			
Dunham	2,819,700 " 15,000 " "	" "	pp. 192, 207
Graham	1,879,800 " 10,000 " "	" "	pp. 210, 211
Val. by Appellant's Witnesses:			
Corbin and Ryer	516,945 " 2,750 " "	" "	pp. 132, 145

These lands, part of the Railroad Terminal of the Lehigh Valley, are known as the Blair Tract, and were purchased by the Lehigh Valley in 1916 at $3,500 plus $1,500 Taxes, making $5,000 an Acre. The testimony shows that the seller was *required to sell* (Penn. Case p. 184). Adjoining identical lands, known as the Leary Tract, sold to the Lehigh Valley in 1916 at a *bona fide sale* for $7,500 and $1,500 Taxes, making $9,000 an Acre, or an average valuation for the two Tracts, *in 1916,* of $7,000 an Acre. Yet both of Appellant's witnesses testified to a valuation in 1920 of only $2,750 an Acre, or just one-half the amount conceded by Appellant.

Comparable also, with lands of New York Bay R. R. Co. sold to Lehigh Valley in 1920 at $15,000 an Acre, to be used for a part of its terminal.

Obviously, State Board's Judgment of $6,500- - —less than the average value of the lands in 1916, which are a great deal more valuable to-day (L. V. Case, p. 191)—must be sustained.

(d)

Block	Lot	Location	Area
1507	3-A	New York Bay	6.32 Acres
Assessed Valuation		$40,000 or $6,500 an A. (L. V. Case pp. 34, 42, 46)	
Appellant Wanted Reduced to		34,760 " 5,500 " " " " " " " " "	
State Board's Judg.		40,000 " 6,500 " " " " " " " " "	
Val. by City's Experts:			
Dunham		94,800 " 15,000 " " " " pp. 202, 207	
Graham		63,200 " 10,000 " " " " pp. 210, 211	
Val. by Appellant's Witnesses:			
Corbin and Ryer		17,380 " 2,750 " " " " p. 132	
		" " p. 145	

These lands also adjoin Lot 4 Block 1500 (c), and are part of the Railroad Terminal of the Lehigh Valley and the sales referred to and argument made there, apply here.

NOTE: Corbin and Ryer testify to a valuation just one-half of the amount conceded by Appellant.

(e)

Block	Lot	Location	Area
1507	4-A	New York Bay	2.5 Acres
Assessed Valuation		$25,000 or $10,000 an A.	(L. V. Case pp. 34, 42, 46)
Appellant Wanted			
Reduced to		14,652 " 5,500 " "	" " " " " "
State Board's Judg.		25,000 " 10,000 " "	" " " " " "
Val. by City's Expert:			
Graham		25,000 " 10,000 " "	" " pp. 210, 211
Val. by Appellant's Witness:			
Ryer		13,320 " 5,330 " "	" " p. 145

These lands also adjoin Lot 4 Block 1500 (c), Supra, and are part of the Railroad Terminal of the Lehigh Valley and the sales referred to and argument made there, apply here.

(f)

Block	Lot	Location	Area
1507	4-B 7-B	New York Bay	276.46 Acres
Assessed Valuation		$2,764,600 or $10,000 an A.	(L. V. Case pp. 34, 42,46)
Appellant Wanted			
Reduced to		1,525,040 " 5.500 " "	" " " " " "
State Board's Judg.		1,802,320 " 6,500 " "	" " " " " "
Val. by City's Experts:			
Graham		2,764,600 " 10,000 " "	" " pp. 211, 218
Dunham		4,146,900 " 15,000 " "	" " pp. 202, 207
Val. by Appellant's Witnesses:			
Corbin and Ryer		762,520 " 2,750 " "	" " p. 132 " " p. 145

This is the Leary Tract mentioned above, and is part of the Railroad Terminal of the Lehigh Valley, and the sales referred to and argument made in respect to Block 1500 Lot 4, Supra, apply here.

NOTE: Appellant's witnesses testify to a valuation just one-half of the amount conceded to by it.

(g)

Block	Lot	Location	Area
1507	6	New York Bay	1.03 Acres
Assessed Valuation		$11,225 or $11,000 an A.	(L. V. Case pp. 34, 42, 46)
Appellant Wanted			
Reduced to		6,798 " 6,600 " "	" " " " " "
State Board's Judg.		11,225 " 11,000 " "	" " " " " "
Val. by City's Experts:			
Dunham		15,450 " 15,000 " "	" " pp. 202, 207
Graham		10,300 " 10,000 " "	" " pp. 211, 218
Val. by Appellant's Witnesses:			
Corbin and Ryer		6,180 " 6,000 " "	" " pp. 132, 145

These lands are in the same Block as the Leary Tract, but more valuable, and are part of the Railroad Terminal of the Lehigh Valley, and the sales referred to and argument made in respect thereto, apply here.

(h)

Block	Lot	Location	Area
1507	7-A	New York Bay	10.66 Acres
Assessed Valuation		$106,600 or $10,000 an A.	(L. V. Case pp. 34, 42, 46)
Appellant Wanted			
Reduced to		66,792 " 6,250 " "	" " " " " "
State Board's Judg.		66,792 " 6,250 " "	" " " " " "
Val. by City's Experts:			
Dunham		159,900 " 15,000 " "	" " pp. 207, 208
Graham		106,600 " 10,000 " "	" " pp. 211, 218
Val. Appellant's Witnesses:			
Corbin and Ryer		60,720 " 5,700 " "	" " pp. 132, 145

These lands are also in the same Block as the Leary Tract and are part of the Railroad Terminal of the Lehigh Valley, and the sales referred to and argument made in respect thereto, apply here.

(3) Lands of *The Morris Canal & Banking Company*:

(a)

Block	Lot	Location	Area
2	C	Hudson Street	6.95 Acres or 302,742 Sq. Ft.
Assessed Valuation		$576,000 or $1.90 a Sq. Ft.	(L. V. Case pp. 64, 68)
Appellant Wanted			
Reduced to		461,970 " 1.50 " "	" " " " " "
State Board's Judg.		576,000 " 1.90 " "	" " " " " "
Val. by City's Expert:			
Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witnesses:			
Corbin and Ryer		$420,000 or $1.39 a Sq. Ft.	" " pp. 132, 146

These lands are improved and adjacent to lands of the International Elevator Co. and may be devoted to similar use; and that sale, Supra, is used as criterion of value here.

(b)

Block	Lot	Location	Area
33	L	Hudson Street	25,100 Sq. Ft.
Assessed Valuation		$50,200 or $2.00 a Sq. Ft.	(L. V. Case pp. 64, 68)
Appellant Wanted			
Reduced to		38,298 " 1.60 " "	" " " " "
State Board's Judg.		50,200 " 2.00 " "	" " " " "
Val. by City's Expert:			
Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness:			
Ryer		$25,100 or $1.60 a Sq. Ft.	" " p. 146

These lands are also improved and adjacent to lands of the International Elevator Co. and may be devoted to similar use; and that sale, Supra, is used as a criterion of value here.

(c)

Block	Lot	Location	Area
60	37	Hudson River	11.376 Acres or 495,539 Sq. Ft.
Assessed Valuation		$947,050 or $1.90 a Sq. Ft.	(L. V. Case pp. 64, 68)
Appellant Wanted			
Reduced to		707,625 " 1.40 " "	" " " " "
State Board's Judg.		947,050 " 1.90 " "	" " " " "
Val. by City's Expert:			
Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness:			
Ryer		$490,050 or $1.00 a Sq. Ft.	" " p. 146

These lands, too, are improved and adjacent to the lands of International Elevator Co. and may be devoted to similar use; and that sale, Supra, is used as a criterion of value here.

(4) Lands of *The United Real Estate Company*:

(a)

Block	Lot	Location	Area
60	22	Morris Canal	209,100 Sq. Ft.
Assessed Valuation		$104,550	(L. V. Case pp. 85, 90)
Appellant Wanted			
Reduced to		63,360	" " " " "
State Board's Judg.		104,550	" " " " "
Val. by City's Expert:			
Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness:			
Ryer		28,800	" " p. 146

NOTE: Ryer testified to a valuation of these lands *less than one-half* of the amount conceded by Appellant.

(b)

Block	Lot	Location	Area
60	24	Morris Canal	320,000 Sq. Ft.
Assessed Valuation		$160,000	(L. V. Case pp. 85, 90)
Appellant Wanted Reduced to		97,152	" " " " "
State Board's Judg.		160,000	" " " " "
Val. by City's Expert: Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness: Ryer		58,900	" " p. 146

NOTE: Ryer testified to a valuation of these lands, of about half of the amount conceded by Appellant.

(c)

Block	Lot	Location	Area
60	30	Warren Street	7,740 Sq. Ft.
Assessed Valuation		$14,000	(L. V. Case pp. 85, 90)
Appellant Wanted Reduced to		11,548	" " " " "
State Board's Judg.		14,000	" " " " "
Val. by City's Expert: Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness: Ryer		$7,000	" " p. 146

NOTE: Ryer testified to a valuation of these lands of about $4,500 less than that conceded by Appellant.

(d)

Block	Lot	Location	Area
1493	1	Caven Point Road	15 Acres
Assessed Valuation		$150,000	(L. V. Case pp. 85, 90)
Appellant Wanted Reduced to		150,000	" " " " "
State Board's Judg.		150,000	" " " " "
Val. by City's Expert: Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness: Ryer		$90,000	" " p. 146

These lands are comparable with Block 1507, Lot 4-A, Supra.

NOTE: *Appellant concedes City's assessment of* $10,000 *an Acre although Ryer testified to a valuation of* $6,000 *an Acre.*

(5) Lands of *The National Storage Company*:

(a)

Block	Lot	Location	Area
1497	3-C	New York Bay	35,000 Sq. Ft.
Assessed Valuation		$20,300 or $25,000 per A.	(L. V. Case pp. 108, 112)
Appellant Wanted Reduced to		11,382 " 14,000 " "	" " " " "
State Board's Judg.		20,300 " 25,000 " "	" " " " "
Val. by City's Expert: Dunham.		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness: Ryer		$9,420 or $12,000 per A.	" " p. 146

These lands are adjacent to and comparable with Block 2154 Lot 22-J Communipaw Avenue, of the Central R. R. Co. of N. J., Infra, and the sales referred to and argument made there, apply here.

(b)

Block	Lot	Location	Area
1497	3-D	New York Bay	35,000 Sq. Ft.

(Same as for Lot 3-C in Block 1497, above.)

These lands are also adjacent to and comparable with Block 2154 Lot 22-J Communipaw Ave., of the Central R. R. Co. of N. J., Infra, and the sales referred to and argument made there, apply here.

(c)

Block	Lot	Location	Area
1497	3-E	New York Bay	44,240 Sq. Ft.
Assessed Valuation		$25,700 or $25,000 per A.	(L. V. Case pp. 108, 112)
Appellant Wanted Reduced to		14,645 " 14,000 " "	" " " " "
State Board's Judg.		25,700 " 25,000 " "	" " " " "
Val. by City's Expert: Dunham.		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness: Ryer		$12,120 or $12,000 per A.	" " p. 146

These lands are also adjacent to and comparable with Block 2154 Lot 22-J Communipaw Avenue, of the Central R. R. of N. J., Infra, and the sales referred to and argument made there, apply here.

(d)

Block	Lot	Location	Area
1497	3-F	New York Bay	680,000 S. Ft.
Assessed Valuation		$394,400 or $25,000 per A.	(L. V. Case pp. 108, 112)
Appellant Wanted Reduced to		226,780 " 14,000 " "	" " " " "
State Board's Judg.		394,400 " 25,000 " "	" " " " "
Val. by City's Expert:			
Dunham. In excess of City's Assess.			" " p. 168
Val. by Appellant's Witness:			
Ryer		$93,840 or $6,000 per A.	" " p. 146

NOTE: Ryer's valuation is $130,000 *less than the valuation conceded by Appellant.*

These lands, too, are adjacent to and comparable with Block 2154 Lot 22-J, Communipaw Ave., of the Central R. R. Co. of N. J., Infra, and the sales referred to and argument made there, apply here.

CENTRAL CASES:

(1) Lands of *The Central Railroad Company of New Jersey*:

The description, location and area of the lands, assessed valuations, amount Appellant wanted them reduced to, and the Judgments of State Board, are found on Pages 19, 24, 25 and 26 of State of Case for Central R. R. et al. Only the value of the 5 largest tracts will be specifically argued.

(a)

Block	Lot	Location	Area
1497	1	New York Bay	312.58 Acres
Assessed Valuation		$1,875,480 or $6,000 an A.	(Cent. Case pp. 19, 25)
Appellant Wanted Reduced to		1,719,190 " 5,000 " "	" " " " "
State Board's Judg.		1,875,480 " 6,000 " "	" " " " "
Val. by City's Experts:			
Dunham		3,125.800 " 10,000 " "	" " p. 113
Graham		2,813,220 " 9,000 " "	" " p. 146
Val. by Appellant's Witnesses:			
deSelding and Ryer		859,595 " 2,750 " "	" " p. 90
			" " p. 95

These lands are adjacent to and comparable with the Leary Tract and the Blair Tract sold to the Lehigh Valley in 1916 at an average of $7,000 an Acre, above referred to, and those sales and the argument made in respect thereto apply here.

(b)

Block	Lot	Location	Area
2145	48-F	Hudson River and New York Bay	20.95 Acres

Assessed Valuation	$1,047,500	or	$50,000	an	A.	(Cent.	Case	pp.	19, 25)
Appellant Wanted Reduced to	523,750	"	25,000	"	"	"	"	"	"
State Board's Judg.	1,047,500	"	50,000	"	"	"	"	"	"
Val. by City's Experts:									
Dunham and Graham	1,047,500	"	50,000	"	"	"	"	pp.	114, 146
Val. by Appellant's Witnesses:									
Corbin, deSelding and Ryer	360,000	"	17,183	"	"	"	"	pp.	52, 89, 95

These lands are comparable with the Terminal Yard of the Central and other properties used for similar purposes, like the Coal Pier of the Penn. and the Harsimus Yard (Cent. Case p. 115). They are also comparable with the International Elevator Co. lands, Supra, but not as valuable as to location, etc.

This property is used for a coal pier in connection with the Central R. R. Yard—more favorably located than the adjacent property to the South; easier of access; has practically a Hudson River frontage; whereas, the others have a New York Bay frontage (Cent. Case, pp. 120, 121, 122).

(c)

Block	Lot	Location	Area
2154	22-J	Communipaw Avenue (South Side)	120 Acres

Assessed Valuation	$2,400,000	or	$20,000	an	A.	(Cent.	Case	pp.	19, 26)
State Board's Judg.	2,400,000	"	20,000	"	"	"	"	"	"
Val. by City's Experts:									
Dunham	3,000,000	"	25,000	"	"	"	"	"	115
Graham	2,160,000	"	18,000	"	"	"	"	"	146
Val. by Appellant's Witnesses:									
Corbin and Ryer and deSelding	497,040	"	4,000	"	"	"	"	pp.	25, 95, 88

Although more valuable, these lands are comparable with Block 1507 Lot 2-L of the N. Y. Bay R. R., Supra, and the sales there referred to and argument made, apply here.

Dunham's testimony as to these lands is, that

> "It is comparable with the New York Bay R. R. Co.'s property, although it is better property on account of its near approach to the main channel of the Bay. It is more accessible than the New York Bay Co.'s property." (Cent. Case, p. 115.)

Valuation of New York Bay Co.'s property is $20,000 an Acre, as evidenced by sales.

(d)

Block	Lot	Location	Area
2154	22-J	Communipaw Ave. (Center Side)	183 Acres

Assessed Valuation	$4,575,000	or	$25,000	an	A.	(Cent.	Case	p.	19)
State Board's Judg.	4,575,000	"	25,000	"	"	"	"	"	"
Val. by City's Experts:									
Dunham	5,490,000	"	30,000	"	"	"	"	"	115
Graham	3,926,000	"	22,000	"	"	"	"	"	146
Val. by Appellant's Witnesses:									
Corbin, deSelding and Ryer	1,924,200	"	10,000	"	"	"	"	pp.	52, 76, 95

Upon these lands is erected a new million and a half dollar coal pier. The lands are more valuable but are comparable with New York Bay R. R. Co. property, Block 1507 Lot 2-L, Supra (Cent. Case, pp. 115, 136), and with lands formerly of the Central R. R. Co. at Port Johnson, on the Kill von Kull, Bayonne, used for a similar purpose, which it abandoned and sold for $35,000 an Acre and moved to this property (Cent. Case, pp. 136, 138). Dunham arrived at the value of this Tract:

> "By taking a value of $20,000 an Acre for the land and adding to that, $10,000 as the value of the bulkhead, the value of the channel. I then compared that with other

properties that are similar, that would be similar where this property is, bare land without any improvement." (Cent. Case, p. 115.)

He further testified that these lands were comparable with, but better than, property of the New York Bay R. R. Co., his reason being because:

"It has access to the main channel of the New York Bay. It could be approached by vessels of thirty-foot draught from the main channel of the Bay. It is much nearer the Battery. Its location gives it the higher value than the properties of the New York Bay Railroad Company. For instance, the New York Bay Railroad Company is approached by a channel, having a depth of eighteen feet at mean low water from the main channel of the Bay. That channel is about a mile or a mile and a half further down the Bay than the approach to the Central Railroad Company's channel. In other words, the Central Railroad Company's channel comes out between the two islands and gives it ready access for vessels and floats coming down into the Hudson River for the East River. It is more accessible in every way than the New York Bay Railroad property." (Cent. Case, pp. 115, 116.)

He based his valuation of Lot 22-J on sales of comparable properties. He testified that:

"I made it by comparison with the sales and comparing it with other properties. For instance, you take 22-J, upon which is erected a new million-dollar and a half coal pier. Now, the business of that pier

was formerly done in Port Johnson on the Kill von Kull in Bayonne on the old coal piers down there. Those piers were abandoned and they are now to be put in a location which is far superior to the location they had on the Kill von Kull. Nevertheless, the properties on the Kill von Kull at Port Johnson, the Central Railroad Company sold for $35,000 an Acre, unimproved." (Cent. Case, p. 136.)

Obviously, Dunham was very familiar with the locations of these lands, their area, the uses to which they were applied, and the extent and condition of the improvements, and a knowledge of the market or selling price of comparable lands in the neighborhood. These are the essential qualifications of an expert witness as to the market value of lands, and Dunham demonstrated here, as he did in respect to every tract of land upon which he placed a valuation, that he possessed these qualifications.

(e)

Block	Lot	Location	Area
2154	22-J	Communipaw Avenue (North Side)	102 Acres

Assessed Valuation	$3,060,000	or	$30,000	an	A.	(Cent.	Case,	p.	19)
State Board's Judg.	3,060,000	"	30,000	"	"	"	"	"	"
Val. by City's Experts:									
Dunham	3,570,000	"	35,000	"	"	"	"	"	115
Graham	2,806,000	"	27,500	"	"	"	"	"	146
Val. by Appellant's Witnesses:									
Corbin, deSelding and Ryer	1,465,800	"	14,000	"	"	"	"	pp. 52, 69, 95	

These lands are the most valuable of Lot 22-J. They adjoin the main Terminal Yard of the Central R. R. Co. of N. J., and are more valuable than the Port Johnson property, Supra, which sold for $35,000 an Acre (Cent. Case, p. 138).

As to this Tract (North Side of Lot 22-J), Dunham testified that he took into consideration the sale of property in Bayonne at $35,000 an Acre, in determining its value. He said:

> "Yes, I considered that sale. I considered it in this way, that if the property of the Central R. R. Co. at Port Johnson, Bayonne, located on the Kill von Kull, was worth $35,000 per Acre and they abandoned that property and moved their whole coal business up into Block 22-J, which is far more desirably located for that business, it eliminates about four miles of towing." (Cent. Case, p. 138.)

Appellant made no denial of this sale, and offered no evidence in respect thereto. Therefore, the testimony of the City's expert, Dunham, stands unimpeached in the record, and establishes the valuation of Lot 22-J in Block 2154 (South, Center and North Sides), based upon the sale of the Port Johnson property and the sales of other properties to which he referred, among them the sale of the Andrus property in Bayonne at $25,000 an Acre, without any improvements (Lehigh Valley Case, pp. 177, 178).

It is to be noted, in respect to the valuation of the other lands of the Central Railroad Company of New Jersey under review, that Dunham, the City's expert, testified that in his judgment the assessed valuation was below the true market value of the properties as of Oct. 1st, 1919 (*Cent. Case, p.* 113).

(2) Lands of *The Communipaw Central Land Company*:

Block	Lot	Location	Area
60	21-A	East of Jersey Avenue South of Morris Canal	4.76 Acres
Assessed Valuation		$102,500 or $21,500 an A. (Cent. Case, p. 41)	
Appellant Wanted Reduced to		58,489 " 12,000 " " " " " "	
State Board's Judg.		102,500 " 21,500 " " " " " "	
Val. by City's Expert: Dunham		118,000 " 25,000 " " " " pp. 117, 118	
Val. by Appellant's Witness: Ryer		53,172 " 11,000 " " " " pp. 109, 110	

These lands are comparable with the back-lands of the Central Railroad Company, Lot 22-J in Block 2154, Supra.

LONG DOCK CASE:

Block	Lot	Location	Area
16	B-1	Foot of Pavonia Avenue	448,600 Sq. Ft.
Assessed Valuation		$897,200 or $2.00 a Sq. Ft. (L. D. Case, p. 16)	
Appellant Wanted Reduced to		665,982 " 1.48 " " " " " " "	
State Board's Judgment		897,200 " 2.00 " " " " " " "	
Val. by City's Experts: Dunham and Graham		1,121,600 " 2.50 " " " " " pp. 35, 41	
Val. by Appellant's Witness: Ryer		526,000 " 1.18 " " " " " p. 24	

These lands are substantially similar to Piers B and C of the Associates of the Jersey Co., Supra; the Stock Yards of the Penn. R. R. Co., Lessee, Supra; and the property purchased by the International Elevator Co., Supra. All of these lands have the same potentialities and were assessed by the City at $2 a sq. ft., which the State Board affirmed.

Dunham testified that the Long Dock property was comparable with, but more valuable than, the International Elevator Co. property (L. D. Case, p. 31), and that the sale of the American Coal Co. to the International Elevator Co. was a fair sale;

"that is, it indicated the market value of the property, the condition in which it was." (L. D. Case, p. 32.) Graham made the same comparisons (L. D. Case, p. 41.)

From the foregoing, it appears that the valuations of these lands, as determined by the State Board, have in every instance been supported and sustained by evidence.

Appended hereto is a Map showing the location and area of each tract of water-front property, and the sales thereof referred to under this Point. It also contains other data taken from the testimony.

The object in submitting this Map is to show the exact location and proximity to each other of the respective properties of the Appellants, and to exhibit the comparisons made by the City's experts.

Point IV.

The opinions of the City's experts as to the market value on the assessing date, of the lands of the respective Appellants were based on sales of comparable or substantially similar properties.

The reliability and value of an expert witness's opinion depends upon the extent of his experience and study, his sources of knowledge, and the facts and reasons on which he bases his conclusions.

Jersey City's expert, Dunham, testified (Penn. Case, pp. 127, 128) that he had analyzed every available sale made since 1880 of water-front property on the New York Bay or on the Hudson River; that the sales or re-sales of this class of

property had never shown a recession in price but an advance over previous sales; and that the record of sales from 1916 to 1920 showed an increase of 100%. He also testified (Penn. Case, p. 116) that he used the standard of sales in determining valuation of lands for the purpose of taxation.

The City's other expert, Graham, testified (Penn. Case, pp. 80-88) that he was a real estate broker specializing in commercial water-front properties all around New York Harbor; that he had been in that business for 20 years; that he had appraised and sold this class of property and had made a study of all sales and leases; that he had qualified as an expert on the value of Jersey City water-front properties before the State Board and before the Interstate Commerce Commission; and that he used the standard of fair market value, based upon sales, in arriving at the taxable valuation of property.

These experts used the sales mentioned under Point III hereof as a basis for determining the valuation of Appellants' lands in the respective localities. For example, they used the sale of American Coal Company to International Elevator Co. as a criterion of valuation in arriving at the market value as of Oct. 1st, 1919, of Piers B and C of the Associates of the Jersey Company, the Stock Yards of the Penn. R. R. Co., Lessee, and the lands of the Long Dock Company, and other similar properties. Although the International Elevator Co. property, having no State grant, was not as valuable as the lands with which it was compared, it was a foundation sale upon which these experts erected their valuations of substantially similar properties, taking also into consideration, the Cunard purchase.

They used the sale of the Curry property to the Tide Water Oil Co., and the sale of New York Bay R. R. Co. to the Lehigh Valley Harbor Terminal Railway Co., in determining the market value of the New York Bay R. R. Co. lands. These sales were of back-lands at $15,000 an Acre, and not nearly as valuable as the average valuation of the lands with which they were compared, but they were most helpful, one being a sale of the back-land of the New York Bay R. R. Co. property, here under consideration.

They used the sales of the Leary and Blair Tracts to the Lehigh Valley Harbor Terminal Railway Co. in arriving at the market value of these tracts. These sales were in 1916 and showed an average valuation of $7,000 an Acre then, which is more than the State Board's judgment here under review.

They used the Curry sale, the New York Bay R. R. Co. sale, and the sale of the Central R. R. property at Port Johnson on the Kill von Kull, Bayonne, in establishing the market value on the assessing date, of Lot 22-J in Block 2154 of the Central R. R. Co. of N. J.; and so on, in respect to each tract of land of the respective Appellants, a sale of substantially similar property may be gleamed from the testimony produced on behalf of Jersey City to support the State Board's judgment.

On this point the Court below said (Lehigh Valley Cases, p. 231):

> "The City produced two expert witnesses who supported the valuations fixed by the local assessors which the State Board sustained and which is the matter under review. The Prosecutors urged that the testimony is not to be credited because not

based on sales of property of similar character. We can understand the difficulty of fixing values of property of this description, for little of it is sold owing to the fact that it is located in the harbor of New York, and is held by railroad and steamship corporations which seldom part with such property once acquired, because of lack of quantity of such land, and its urgent necessity to such corporations, but there was proof of some sales in the vicinity, perhaps in a better location, but its relative value in the market to the purchasers of that class is some criterion of the value of like property, not, perhaps, quite as advantageously located, and we cannot say that the reason given by experts is based on any false premise insufficient to support their opinions. It cannot properly be said that because no property of this character has been sold in the neighborhood that it has no taxable value, and how, in the absence of actual sales, can it be better demonstrated than by the testimony of persons who are well acquainted with its location, and the use to which it can be put, and who are familiar with all property of like character fronting on the Hudson River and Bays connected therewith and adjacent to the largest maritime city in the country*****."

In *Benham* vs. *Dunbar,* 103 Mass. 365, the issue was the value of a lot of low land and flats on an island in Boston harbor. Evidence was admitted by the trial court of the price of lands sold at different times, from eight years to one year before,

on islands and headlands in the harbor, from half a mile to six miles distant.

On review of the admissibility of this evidence, the highest court of Massachusetts said (pp. 368, 369):

> "Much must be left to the discretion of the judge who presides at the trial, in determining whether the lands, sales of which were admitted in evidence, were so similar in situation, and adaptation to profitable occupation, and the sales of them so recent, as to make such sales evidence proper to be submitted to the jury.
>
> "It certainly does not appear from the facts stated in these exceptions, that the lands upon other islands and head lands in Boston harbor were at such distances, or devoted to such dissimilar uses, or that the sales testified of were so remote in point of time, that the evidence became irrelevant or immaterial to the issue. It may be that there were no sales more recent to be shown. The rule must vary with the circumstances of each case. If the value of a town lot was in question, it is plain that the evidence should be confined to sales of comparatively recent date and of land in the near vicinity. If it was wild land, in a thinly settled part of the country, a more liberal rule would be applicable. Without some further evidence, we cannot suppose that the changes in the title to real estate in the islands and headlands of the harbor are so frequent, or the difference in situation and value so great, as to render the evidence here objected to inadmissible."

Further answering the contention of Appellants that the valuations of their lands were based upon a false premise by the State Board because the City's experts used the selling prices of properties which were dissimilar in location and condition to the lands involved in these appeals to arrive at their value, the case of *Long Dock Company* vs. *State Board of Assessors,* 89 N. J. L. 108 is cited by Respondents. In that case the Prosecutor contended that the valuation of its lands had been based illegally in whole or part by the State Board on the value of other land not similarly situated and on the selling prices of lands in the neighborhood not similar as to conditions. Mr. Justice Parker, speaking for the Court, said (p. 112):

> "We fail to see why, for purposes of comparison, all the land in lower Jersey City and Hoboken should not be considered. It is impossible to secure identical conditions. What is looked for is substantially similar conditions. There is at least enough similarity along this water front to justify a comparison of values."

On affirmance by this Court (90 N. J. L. 701, 702, 703), it was said:

> "Legal questions were first dealt with in the opinion of Mr. Justice Parker in the Court below, so as to lay a foundation for the consideration of the facts, and those questions were, in our opinion, rightfully decided. As there was evidence to support the finding of facts made by the Supreme Court, that finding is not reviewable in this Court."

In contradistinction with the decisive and convincing opinions of the City's experts, the Appellants' witnesses did not use a single sale, a fact or reason to support their opinions. They disregarded the International Elevator Co. sale, the Cunard sale, the Curry sale, the New York Bay R. R. Co. sale, the Leary sale, the Blair sale, the Central R. R. sale, and the other sales set forth under Point III, hereof, and testified that there had not been a sale of shore-front property in Jersey City in the past 10 years which, in their judgment, evidenced its market value, although all of the above sales were made in the past 5 years. They testified to the same valuations in 1921 that they used in 1917; in fact, they made up their figures then and have not changed them (L. V. Case, p. 149). These figures are millions of dollars less than the State Board's judgments for 1919, and yet Counsel for Appellants (Penn. Case) argues that Railroad Companies no longer attempt to get the valuations of their properties as low as possible for the purpose of taxation, but now insist that their properties shall be assessed at their full value, because they fear that the Government may take their properties away from them on the valuations testified to by their experts in Tax Cases. These Appellants, as well as their Counsel, know that real estate experts for Railroad Companies, have one valuation for their properties when appearing before Taxing Boards (which is ridiculously low, as evidenced by their testimony in these cases), and another valuation when appearing before the Interstate Commerce Commission or other rate-fixing bodies. There is no probability of Government ownership of Railroads for many years to come. Obviously, this Court will not consider seriously this contention of Appellants or their Counsel. The question to

be decided on these appeals is what was the true value of Appellants' lands on October 1st, 1919, based on sales of comparable or substantially similar properties and the opinion of the experts as to value as shown by the testimony and not the motives or incentives of the parties litigant as to their respective valuations.

The Court below said (Lehigh Valley Cases, p. 231):

> "The experts were qualified and the opinions they gave are based on facts with which the Board had to deal. We think the facts found by the Board are supported by evidence."

Conclusion

Respondents in conclusion contend that there are no legal questions involved and that these appeals are without merit:

(1) *Because the evidential facts as to the value of Appellants' lands have been passed upon by the Hudson County Board of Taxation, the State Board of Taxes and Assessment and the New Jersey Supreme Court, each sustaining the City's Assessment;*

(2) *Because Appellants contend for the valuations of the State Board for the year* 1919, *in respect to these lands, without offering any evidence to show that the assessed valuations for the year* 1920 *should be reduced to those amounts;*

(3) *Because Appellants' witnesses testified to valuations of these lands, millions of dollars less than the State Board's judgments for the year* 1919 (*which judgments Appellants contend should be the valuations for* 1920), *using neither sales, facts nor reasons to support their valua-*

tions which were, in many instances, only half the amount of the State Board's judgments for the year 1919;

(4) *Because the judgments of the State Board fixing its values of these lands for* 1919 *are of no probative force or effect in determining the valuations for* 1920;

(5) *Because the Assessments of these lands for* 1920 *are supported and sustained by the opinions of the City's experts, which are based on sales, facts and reasons;*

(6) *Because the Assessments of these lands for* 1920 *are supported and sustained by the sales, alone, of comparable or substantially similar properties.*

(7) *Because the finding of facts made by the Supreme Court is conclusive.*

It is, therefore, respectfully *submitted* that the respective judgments of the Court below be affirmed.

EDWARD P. STOUT,
Counsel for Respondents.