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Writ of Certiorari.

(Issued Nov. 6, 1912.)

(Returnable Nov. 26, 1912.)

NEW JERSEY, SS.:

THE STATE OF NEW JERSEY TO 10
CHARLES E. HENDRICKSON, JR.,
GEORGE E. HALSEY, GEORGE L.
(L. S.) RECORD and ISAAC BARBER, STATE
BOARD OF ASSESSORS, and EDWARD
I. EDWARDS, COMPTROLLER OF THE
TREASURY, GREETING:

We being willing for certain reasons (a proper case having been presented, and due notice of this application having been given to the Attorney General of the State of New Jersey, and the Mayor and Aldermen of Jersey City) to be certified of the valuation, assessment and tax for the year 1911 made pursuant to "An act to revise and amend an act for the taxation of railroad and canal property," approved April 10, 1884, which revision and amendment was approved March 27th, 1888, and the acts amendatory thereof and supplements thereto, on the lands and property of Long Dock Company, enumerated as follows: 20

DESCRIPTION OF PROPERTY:

Assessed
Valuation
for 1911

Main Line:

Land outside main stem; Tract used for Terminal purposes, bounded as follows: Beginning at a point in the

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Writ of Certiorari.

- southerly line of Pavonia Avenue 108 feet east of Provost street; thence easterly along the southerly line of Pavonia avenue to the exterior line for solid filling; thence southerly along the exterior line for solid filling to a point $272\frac{1}{2}$ feet north of the center line of 7th street produced; thence westerly parallel with and distant $272\frac{1}{2}$ feet from the center line of 7th street produced, to a point 1225 feet east of the center line of Provost street; thence southerly parallel with and distant easterly 1225 feet from the center line of Provost street to the center line of 7th street produced; thence westerly along the center line of 7th street produced, to a point 255 feet east of Provost street; thence northerly to the north line of 8th street and in the westerly face of Cattle pens; thence westerly along the northerly line of 8th street to a point 125 feet east of Provost street; thence northerly parallel with Provost street and distant easterly 125 feet; 100 feet; thence northerly to the place of beginning. Being Block 16, Plot B-6; 16.039 acres \$1,098,480
- 10
- 20 Land outside main stem; Terminal tract: Beginning at the point of intersection between the easterly line of Provost Street and the center line of 12th street; thence easterly along the center line of 12th street to the exterior line for solid filling; thence southerly along the exterior line for solid filling to a point in the northerly line of Pavonia avenue; thence westerly along the northerly line of Pavonia avenue to the easterly line of Kelso street; thence northerly along the easterly line of Kelso.
- 30
- 40

Writ of Certiorari.

street 100 feet; thence westerly parallel and distant northerly 100 feet from the north line of Pavonia avenue 185 feet; thence southerly 100 feet to the northerly line of Pavonia avenue; thence westerly along the northerly line of Pavonia avenue to a point in the dividing line between lots No. 11 and No. 30, Block 150; thence northerly along the dividing line between said lots to the northerly line of 9th street; thence westerly along the northerly line of 9th street to the easterly line of Provost street; thence northerly along the easterly line of Provost street 65 feet more or less; thence northwesterly 45 feet more or less to the center line of Provost street; thence northerly along the center line of Provost street to a point 45 feet south of the northerly line of 11th street; thence easterly at right angles to the center line of Provost street to the easterly line of Provost street; thence northerly along the easterly line of Provost street to the center line of 12th street, place of beginning. Being Block 17, Plot A-2 (including value of land under water in front thereof), 43.872 acres

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3,856,956 30

Land outside main stem: Land at foot of Pavonia avenue, 130 feet along the exterior line for solid filling from the northerly side of Pavonia avenue southward, including the value of land under water, 2.09 acres

116,196

Land outside main stem: Beginning at a point in the exterior line for solid filling 130 feet south of the northerly line of Pavonia avenue; thence easterly to the exterior line

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Writ of Certiorari.

	for piers; thence southerly along the exterior line for piers to a point 272½ feet north of the center line of 7th street produced; thence westerly parallel with and distant northerly 272½ feet to the center line of 7th street produced, to the exterior line for solid filling; thence northerly along the exterior line for solid filling 140 feet more or less to the place of beginning. Being Block 16, Plot B-7, 2.498 acres	138,878
10	Land outside main stem; Block 182, Plot C, .176 acres	13,812
	Land outside main stem; Block 183, portion of Plot A between the southerly line of 11th street and the northerly line of 10th street and from the easterly line of Henderson street to the center line of Pro-	
20	vost street, 1.118 acres	87,740
	Land outside main stem; Block 218, excess south of main stem (exclusive of land occupied by warehouse), .624 acres	40,810
	Land outside main stem; Block 323, excess south of main stem, .413 acres	21,588
	Land outside main stem; Block 360, excess south of main stem, .413 acres	21,588
30	Land outside main stem; Block 395, excess between the northerly line of main stem, Penhorn Creek Railroad and the southerly line of main stem, Branch A, Penhorn Creek Railroad, .362 acres	10,426
	Land outside main stem; Block 395, excess south of main stem, Long Dock Co., .470 acres	13,536
40	Land outside main stem; Block 421, excess between the northerly line main stem, Penhorn Creek Railroad, main line and southerly line main	

Writ of Certiorari.

stem, Branch A, Penhorn Creek Railroad, .090 acres	2,592	
Land outside main stem; Block 421, excess south of main stem, Long Dock Company, between center line of Brunswick avenue and center line of Division street, 1.290 acres..	37,152	
Land outside main stem; Block 547, Plot 4-A between center line of Division street and easterly line of New Jersey Junction Railroad, 1.090 acres	17,004	10
Land outside main stem; Block 547, portion of Plot 2-B, excess south of main stem, Penhorn Creek Railroad, .250 acres	3,900	
Land outside main stem; Block 547, Plot 2-D, excess north of main stem, .310 acres	4,836	
Land outside main stem; Block 961, Plot 1 (including Utica street), 3.957 acres	28,015	20
Land outside main stem; Block 961, Plot 3, 6.315 acres	45,468	
Land outside main stem; Block 961, Plot 5-B, 2.180 acres	15,434	
Land outside main stem; Block 1200, Plot 12, 14.180 acres	34,032	
Land outside main stem; Block 1200, Plot 57-A (exclusive of main stem, Penhorn Creek Railroad), 32.195 acres	57,952	30
Land outside main stem; Plot 59-A, 32.180 acres	46,925	
Terminal station, including ferry buildings, racks, platforms, floats, waiting room, train shelters and platform	145,000	
do command you, that the said valuation, assessment and tax, the statement or statements thereof certified and reported by said Board to the Comptroller of the Treasury of the State of		40

Writ of Certiorari.

New Jersey for the year 1911, the returns made by said company to said Board pursuant to the said statutes, together with the schedules accompanying the same pursuant to said statutes, the written protest and complaint made by said company with respect to said valuation, assessment and tax, the evidence, exhibits and statements taken upon the review before said Board of said valuations, assessment and tax, and the final determination of said Board upon such review, and all corrections made by said Board in said valuation, assessment and tax, and the certificate made by said Board to the said Comptroller upon such review and final determination, and also all certificates returned and filed with said Board by the Assessors of the several taxing districts of the State, together with all other proceedings and matters touching and concerning the said valuation, assessment and tax, as fully as the same remain before you, or any of you, or under your control, you do certify and send to the Justices of our Supreme Court at Trenton on the twenty-sixth day of November instant, together with this writ, that we may cause to be done thereupon what of right and according to law should be done.

30 WITNESS WILLIAM S. GUMMERE, Chief Justice of the said Supreme Court at Trenton, the sixth day of November, 1912.

JOSEPH P. TUMULTY,
Clerk.

COLLINS & CORBIN,
Attorneys of Prosecutor.

Allocatur.

Allowed in open court November 6, 1912, on condition that the prosecutor will not ask repayment of the taxes heretofore paid under the stipulation of January 27, 1912, in case the tax brought up for review by this writ should eventually be reduced below the amount so paid on account thereof.

THOMAS W. TRENCHARD, 10
J. S. C.

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Acknowledgement of Service of Writ.

(Writ served Nov. 13, 1912.)

New Jersey Supreme Court.

LONG DOCK COMPANY,

Prosecutor,

10

vs.

CHARLES E. HENDRICKSON, JR.,
 GEORGE E. HALSEY, GEORGE L.
 RECORD and ISAAC BARBER, State
 Board of Assessors, and ED-
 WARD I. EDWARDS, Comptroller
 of the Treasury,

*Defendants.*On Certio-
rari.(Assessments
and taxes
for 1911.)

20

Service of the original writ of certiorari in
 above matter is hereby acknowledged this 13th
 day of November, 1912.

IRVINE E. MAGUIRE,
 Secretary of State Board
 of Assessors.

30 Service of a copy of the writ of certiorari in
 above matter is hereby acknowledged this 13th
 day of November, 1912.

E. I. EDWARDS,
 State Comptroller.

40

**Order extending time to make return
to Writ.**

(Entered Nov. 23, 1912.)

New Jersey Supreme Court.

<p>LONG DOCK COMPANY, <i>Prosecutor,</i> <i>vs.</i> CHARLES E. HENDRICKSON, JR., GEORGE E. HALSEY, GEORGE L. RECORD and ISAAC BARBER, State Board of Assessors, and ED- WARD I. EDWARDS, Comptroller of the Treasury, <i>Defendants.</i></p>	}	<p>On Certio- rari. 10 (Assessments and taxes for the year 1911.) Order. 20</p>
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It is, on this 26th day of November, 1912,
ORDERED that the time of defendants to make re-
turn to the writ of certiorari in above suit be,
and it hereby is extended to December 15th,
1912.

THOMAS W. TRENCHARD,
J. S. C.

Entered November 23rd, 1912. On motion of 30
COLLINS & CORBIN,
Attorneys of Prosecutor.

**Order extending time to make return
to Writ.**

(Entered December 17, 1912.)

It is, on this 15th day of December, 1912,
ORDERED that the time for defendants to make
return to the writ of certiorari in above suit, be
and it hereby is extended to January 3, 1913.

10 Entered December 17th, 1912. On motion of
COLLINS & CORBIN,
Attorneys of Prosecutor.

Consent is hereby given to the making and
entering of the foregoing order.

EDMUND WILSON,
Atty. Gen'l. by John R. Hardin
Attorney for Defendants.

20

30

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**Order extending time to make return
to Writ.**

(Entered January 3, 1913.)

It is, on this 3rd day of January, 1913, ORDERED that the time for defendants to make return to the writ of certiorari in above suit, be and it hereby is extended to January 23, 1913.

Entered January 3rd, 1913. On motion of
COLLINS & CORBIN, 10
Attorneys of Prosecutor.

Consent is hereby given to the making and entering of the foregoing order.

EDMUND WILSON,
Attorney General,
By John R. Hardin,
Of Counsel, 20
Attorney for Defendants.

30

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Return to Writ by State Board of Assessors.

TO THE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF NEW JERSEY.

10 Charles E. Hendrickson, Jr., George E. Halsey, George L. Record and Isaac Barber, constituting the State Board of Assessors, and hereinafter referred to as such, pursuant to the commands of the writ of certiorari hereunto attached and for their return thereto, do certify as follows:

20 1. That pursuant to the provisions of an act entitled "An Act to revise and amend an Act for the taxation of railroad and canal property, approved April tenth, one thousand eight hundred and eighty-four," which revision and amendment were approved March 27th, 1888, and of the Acts amendatory of and supplemental thereto, they did value and assess for taxation for the year 1911, certain property of the Long Dock Company, prosecutor situate in the taxing district of Jersey City, County of Hudson, and State of New Jersey, consisting of real estate other than main stem, and used for railroad purposes, as shown upon the schedule hereto annexed and marked Schedule A, and did compute, assess and impose a tax upon the afore-

30 said assessed valuations of said property for local uses at the rate of Twenty Dollars per One thousand dollars of valuation, that being the full local rate of said taxing district for said year.

2. That on the 20th day of November, 1911, at 10 o'clock A. M., the Long Dock Company, Prosecutor, appeared before said State Board of Assessors and served upon and filed with

40 said State Board of Assessors, a written com-

Return.

plaint and protest, copy of which is hereto annexed and marked Schedule B.

3. That on the 23rd day of November, 1911, said State Board of Assessors served upon the Treasurer of the said Long Dock Company, Prosecutor, a copy of such valuation in detail of the property of said corporation, and of the tax assessed against the same, and gave notice that they would meet on the 12th day of December, 1911, at 10 o'clock in the forenoon, at the State House in Trenton, for the purpose of reviewing their said assessment, the date for such review of said assessment, having been extended by said State Board of Assessors, from the 20th day of November, 1911. 10

4. That on said 12th day of December, 1911, the said Long Dock Company, Prosecutor, appeared, pursuant to said last mentioned notice, and filed with said State Board of Assessors, its written complaint against said valuations, assessment and taxation, specifying its grievance, a copy of which written complaint is hereto annexed and marked Schedule C. 20

5. That on said 12th day of December, 1911, pursuant to above notice by said State Board of Assessors, and from time to time, pursuant to adjournments made by said State Board of Assessors, said Long Dock Company, Prosecutor, appeared and produced witnesses on the hearing of its complaint against said valuations, assessments and taxation, the depositions of which witnesses were reduced to writing and are herewith returned and made a part hereof and marked Schedule D. 30

6. That after such review of said valuations, assessments, and taxation, the said State Board of Assessors did, on the 2nd day of October, 1912, 40

correct the same as shown upon Schedule hereto annexed and marked Schedule E, and did certify to the Comptroller of the State, all corrections which they made in said valuation, assessment and taxation.

CHARLES E. HENDRICKSON, JR.,
GEO. E. HALSEY,
GEORGE L. RECORD,
ISAAC BARBER,

10 State Board of Assessors.

IRVINE E. MAGUIRE,
Secretary.

Schedule A.

STATE OF NEW JERSEY,

Department State Board of Assessors.

20 LONG DOCK Co.,
Taxing district of Jersey City, County of
Hudson.

Valuation and Assessment of Real Estate Other
Than Main Stem for Year 1911.

DESCRIPTION OF PROPERTY.

	Acreage.	Assessed Valua- tion for 1911.
30		
40		

Main Line:
Land outside main stem; Tract
used for Terminal purposes,
bounded as follows: Be-
ginning at a point in the
southerly line of Pavonia
Avenue 108 feet east of Pro-
vost Street; thence easterly
along the southerly line of
Pavonia Avenue to the ex-

Schedule A.

terior line for solid filling; thence southerly along the exterior line for solid filling to a point 272½ feet north of the center line of 7th Street produced; thence westerly parallel with and distant 272½ feet from the center line of 7th Street produced, to a point 1225 feet east of the center line of Provost Street; thence southerly parallel with and distant easterly 1225 feet from the center line of Provost Street to the center line of 7th Street produced; thence westerly along the center line of 7th Street produced, to a point 255 feet east of Provost Street; thence northerly to the north line of 8th Street and in the westerly face of Cattle pens; thence westerly along the northerly line of 8th Street to a point 125 feet east of Provost Street; thence northerly parallel with Provost Street and distant easterly 125 feet; 100 feet; thence northerly to the place of beginning. Being

10

20

30

Block 16, Plot B-6 16.039 \$1,098,480

Land outside main stem; Terminal tract: Beginning at the point of intersection between the easterly line of Provost Street and the center line of 12th Street; thence easterly along the center line of 12th Street to the exterior line for solid filling; thence southerly along the exterior line for solid fill-

40

Schedule A.

ing to a point in the northerly line of Pavonia Avenue; thence westerly along the northerly line of Pavonia Avenue to the easterly line of Kelso Street; thence northerly along the easterly line of Kelso Street 100 feet; thence westerly parallel and distant northerly 100 feet from the north line of Pavonia Avenue 185 feet; thence southerly 100 feet to the northerly line of Pavonia Avenue; thence westerly along the northerly line of Pavonia Avenue to a point in the dividing line between lots No. 11 and No. 30, Block 150; thence northerly along the dividing line between said lots to the northerly line of 9th Street; thence westerly along the northerly line of 9th Street to the easterly line of Provost Street; thence northerly along the easterly line of Provost Street 65 feet more or less; thence northwesterly 45 feet more or less to the center line of Provost Street; thence northerly along the center line of Provost Street to a point 45 feet south of the northerly line of 11th Street; thence easterly at right angles to the center line of Provost Street to the easterly line of Provost Street; thence northerly

Schedule A.

along the easterly line of Provost Street to the center line of 12th Street, place of beginning. Being Block 17, Plot A-2 (including value of land under water in front thereof)	43.872	3,856,956	
Land outside main stem: Land at foot of Pavonia Avenue, 130 feet along the exterior line for solid filling from the northerly side of Pavonia Avenue southward, including the value of land under water			10
	2.09	116,196	
Land outside main stem: Beginning at a point in the exterior line for solid filling 130 feet south of the northerly line of Pavonia Avenue; thence easterly to the exterior line for piers; thence southerly along the exterior line for piers to a point 272½ feet north of the center line of 7th Street produced; thence westerly parallel with and distant northerly 272½ feet to the center line of 7th Street produced, to the exterior line for solid filling; thence northerly along the exterior line for solid filling 140 feet more or less to the place of beginning. Being Block 16, Lot B-7.			20
			30
	2.498	138,878	40
Land outside main stem:			

Schedule A.

	Block 182, Plot C .....	.176	13,812
	Land outside main stem:		
	Block 183, portion of Plot A, between the southerly line of 11th Street and the northerly line of 10th Street and from the easterly line of Henderson Street to the center line of Provost Street	1.118	87,740
10	Land outside main stem:		
	Block 218, excess south of main stem (exclusive of land occupied by warehouse) ....	.624	40,810
	Land outside main stem:		
	Block 323, excess south of main stem .....	.413	21,588
20	Land outside main stem:		
	Block 360, excess south of main stem .....	.413	21,588
	Land outside main stem:		
	Block 395, excess between the northerly line of main stem, Penhorn Creek Railroad and the southerly line of main stem, Branch A, Penhorn Creek Railroad ...	.362	10,426
30	Land outside main stem:		
	Block 395, excess south of main stem, Long Dock Co. ...	.470	13,536
	Land outside main stem:		
	Block 421, excess between the northerly line main stem, Penhorn Creek Railroad, main line and southerly line main stem, Branch A, Penhorn Creek Railroad .....	.090	2,592
40	Land outside main stem:		

Schedule A.

Block 421, excess south of main stem, Long Dock Company between center line of Brunswick Avenue and center line of Division Street ..	1.290	37,152	
Land outside main stem: Block 547, Plot 4-A, between center line of Division Street and easterly line of New Jersey Junction Railroad ..	1.090	17,004	10
Land outside main stem: Block 547, portion of Plot 2-B, excess south of main stem, Penhorn Creek Railroad .....	.250	3,900	
Land outside main stem: Block 547, Plot 2-D, excess north of main stem .....	.310	4,836	20
Land outside main stem: Block 961, Plot 1 (including Utica Street)	3.957	28,015	
Land outside main stem: Block 961, Plot 3	6.315	45,468	
Land outside main stem: Block 961, Plot 5-B	2.180	15,434	
Land outside main stem: Block 1200, Plot 12	14.180	34,032	30
Land outside main stem: Block 1200, Plot 57-A (exclusive of main stem, Penhorn Creek Railroad)	32.195	57,952	
Land outside main stem: Plot 59-A	32.180	57,925	
Terminal station, including ferry buildings, racks, platforms, floats, waiting room, train shelters and platform..		145,000	40
Add Balance of Assessments undisputed		1,515,860	
Total		<u>\$7,385,180</u>	

Schedule B.

TO THE HONORABLE, THE STATE BOARD OF AS-
SESSORS :

10 THE LONG DOCK COMPANY respectfully objects
and protests because of the failure of your Honor-
able Board to serve upon or leave at the office
of their Treasurer a copy of the valuation in
detail by your Board of their property and of
the taxes assessed against the same under the
provisions of the General Railroad Tax Law, for
the year 1911, which, by the Ninth Section of
said Law, is required to be served on the first
day of November or within ten days thereafter.
The day for the filing by said Company of ob-
jections and protest is this 20th day of Novem-
ber, 1911, and they are now attending before
20 this Board at Trenton and demanding an in-
spection of the said assessment and taxes and a
copy thereof. They respectfully demand that
when the same shall have been made, they have
a copy thereof, and the full time and opportunity
to consider and examine the same and to be
heard thereon that they would have had if the
Board had served the same on November 1st,
as required by law. And they respectfully re-
serve all the grounds and reasons of objection
30 which they could have presented on this day, if
they had been served with notice and a copy of
the said assessments and taxes within the time
and in the manner required by law.

Respectfully,

THE LONG DOCK COMPANY,
By HARRISON WILLIAMS,
General Land and Tax Agent.

Dated, November 20, 1911.

Schedule C.

New York, December 11th, 1911.

TO THE STATE BOARD OF ASSESSORS OF
THE STATE OF NEW JERSEY.

Gentlemen :

THE LONG DOCK COMPANY hereby complains of the valuations, determination and assessments and taxation for 1911 upon it and its property made by the State Board of Assessors of the State of New Jersey for the year 1911 and specifies the following grounds of complaint and grievance on the said valuations, determination, assessments and taxation above referred to and the said Company requests your Honorable Board to review and correct the same. 10

First: Said Board erred in assessing and valuing the main stem of said Company at \$2,336,800 and imposing a tax thereon at such valuation, because such valuation is in excess of the true value of said property and because the Board proceeded on erroneous principles in capriciously, and without evidence, and without legal authority, doubling the value of the land in main stem which it had ascertained to be the true value thereof, and which its evidence showed to be the true value thereof. 20

Second: Said Board erred in assessing and valuing the franchise of said Company at \$230,200 and imposing a tax thereon at such valuation, in this, that such valuation is excessive and not the true value of the franchise, and said value was ascertained and determined on erroneous principles, and by illegal methods, and without regard to the actual value of the franchise of this particular company, and have valued the same by an arbitrary and capricious rule or method not appropriate or applicable to this 40

Schedule C.

franchise and without evidence of such value, and have considered in reaching such value factors entirely foreign to this Company's franchise, its earnings and its property; and moreover that it has failed to accept the actual income and disbursements of said Company as such but has wilfully substituted therefor imaginary and fanciful figures.

10

Third. Said Board erred in assessing and valuing real estate of said Company used for railroad purposes other than main stem at \$7,385,180 and imposing a tax thereon at such valuation, in that said valuation is greatly in excess of the true value of the property, and was arrived at by improper and illegal and capricious methods, and in that, after ascertaining the true value thereof, in the judgment of said Board a certain percentage thereof was arbitrarily added thereto, without evidence and without lawful authority.

20

Fourth. The said Board of Assessors erred in valuing the assessing the particular pieces of property set forth in the valuation and assessment of real estate used for railroad purposes other than main stem for the said year under the title "Description of Property" at the valuation therein set forth under the column entitled "Value" and also erred in valuing and assessing and imposing a tax on such property as real estate used for railroad purposes other than main stem.

30

Fifth. The State Board of Assessors erred, in including in its said assessment and valuation of main stem, and in its assessment of property other than main stem used for railroad purposes, and in its said valuation and assessment for

40

franchise, property not used for railroad pur-

Schedule C.

poses, property that is not taxable, and property that is not subject to valuation and assessment for taxes by said State Board of Assessors.

Sixth. The State Board of Assessors erred in finding and fixing a rate of taxation on main stem property, franchise and tangible personal property necessary for and used in State Commerce at \$1.896 per \$100.00 valuation.

10

Seventh. The said State Board of Assessors erred in valuing and assessing and imposing a tax upon the said Company in the manner set forth in their valuations and assessments for said year.

Eighth. The last valuations, determination, assessments and taxation are unlawful, unconstitutional and void, and the laws under which said Board acted in making and imposing said valuations, determination, assessments and taxation are unconstitutional and void.

20

THE LONG DOCK COMPANY,
By Harrison Williams,
General Land and Tax Agent.

30

40

SCHEDULE D.**Testimony.**

STATE BOARD OF ASSESSORS.

10	<p style="text-align: center;">LONG DOCK COMPANY, <i>vs.</i> STATE BOARD OF ASSESSORS.</p>	}	<p>Tax Appeal 1911 2d class property.</p>
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APPEARANCES:

Mr. William H. Corbin for the Railroad companies.

Messrs. J. Franklin Fort and John R. Hardin for the State.

20

TESTIMONY TAKEN IN JERSEY CITY, N. J. ON
MONDAY, JANUARY 29, 1912.

LONG DOCK CASE.

PERCY A. GADDIS, called and sworn, on behalf of the Company, testified as follows:

30 DIRECT EXAMINATION BY MR. CORBIN:

Q. What is your residence and what is your occupation? A. Residence 139 Sip Avenue Jersey City; occupation real estate and insurance.

Q. How long have you been in the business of real estate? A. For about 18 years for myself.

Q. In Jersey City all that time? A. Yes, sir.

Q. Have you bought and sold? A. Yes, sir.

40 Q. Have you been employed as appraiser? A.

I have.

Percy A. Gaddis—Direct.

Q. How many times? A. Oh, I should think seven or eight hundred.

Q. Have you bought lands for railroads? A. I have.

Q. In Jersey City? A. Yes, sir and other places.

Q. Have you kept yourself informed as to the values? A. I have. 10

Q. Do you acquaint yourself with sales as they take place in Jersey City? A. Yes, sir.

Q. This is your sole business is it, Mr. Gaddis, Real Estate and Insurance? A. Yes, sir.

Q. Have you examined the sales that have taken place in Jersey City? A. I have.

Q. For the Long Dock property for the last ten years? A. Yes, sir.

Q. And have you ascertained the prices for which land has sold? A. I have, sir. 20

Q. Now I see you produce a map; what is that; is there a title on it? A. No, there is no particular title; you can call it the Gaddis and Ryer map.

Q. Have you shown on this the second class property of the Long Dock Company and if so in what color? A. It is colored—

Governor, this would probably be more agreeable to you; you can see the different colors. 30

Q. What is this color blue indicated on this map—green. A. Oh, the green is second class property.

Q. And the red? A. First class property.

Q. And the yellow? A. Third class property.

Q. Not the red you have got here covers something other than the main stem of the Long Dock 40

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Company doesn't it? A. Covers the main stem of the Long Dock, the Pen Horn Creek, the Docks Connecting and Branch A of the Pen Horn Creek, all of the Erie system.

MR. WILLIAMS: The streets are also colored red.

10 THE WITNESS: I might say the streets having a pavement of Belgium block are brown; brick orange; asphalt blue showing improvements in area of comparison immediately back of the yard.

Q. Now this area of comparison includes land within what boundaries? A. The map covers the territory between 6th Street on the south, 18th Street on the north, Railroad Terminals on the east and the—

20 Q. That's about Provost Street? A. Yes, although two or three blocks show beyond; and to the west the foot of the hill. Also indicates—indicated there are the block numbers according to the City assessment Map and also the City Assessments as placed by the local Assessors on each block.

Q. You mean on the land alone? A. Yes.

30 Q. Have you reckoned up to see what the local assessment is per acre on that area which you have indicated? A. I have.

MR. FORT: Well now we are getting right on to that same question of how much evidential force there is in this assessment.

MR. CORBIN: For the purpose of comparison it seems as if it has some weight.

40 MR. FORT: Is it permissible to get it onto evidence this way; aren't we entitled

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to cross examine the assessors to find upon what basis of percentage they made this assessment; I don't want to object technically.

MR. HENDRICKSON: I never thought the assessed valuation was very good evidence; I don't think we should take it at all; we have had an abundance of sales. 10

MR. CORBIN: The law requires it to be reported to you, a large part of it, the assessment on third class property.

MR. FORT: I think, Mr. Corbin, I wouldn't object to your taking assessment put on 3rd class property. I think possibly that might be. Now, Mr. Gaddis is entirely competent to give his own values and in giving those values I don't see why he couldn't state that he thinks that land is worth so much more or less. 20

THE WITNESS: Generally speaking, I I think it is worth more; not much, but a trifle more.

MR. FORT: But as for putting the actual assessment of the Board in and asking that it shall go in as evidence I hardly think it ought to be done. I want to be fair with you people; want you to get in everything that's right but don't want you to put in a lot of stuff that isn't legal evidence try it the other way, Mr. Corbin. 30

Q. Have you examined the sales made within this area in the last ten years? A. Yes, sir.

Q. Have you got a schedule of that? A. I have a schedule of all sales made in detail showing the block and lot number, the grantee, the grantor, the date of sale, the area conveyed, the consider- 40

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ation and where there are any buildings, appraisal of the buildings. And in most cases I might say that the appraisal of buildings has been what the local assessors have used where there was any doubt, throwing the benefit in your way even though I knew they were worth more.

10 Q. Throwing it on to the land? A. Yes, Well, in some instances there has been an assessment higher than the price paid.

Q. Have you a map showing the sales parcels? A. I have no map but the sales can be followed out by the schedule.

20 Q. Let me see your schedule of sales made? Now, back of Provost Street by which I mean West what is the nature of the ground whether naturally meadow ground or good earth? A. The ground is all solid upland from 6 to 15 feet above high tide; from Provost Street west to the neighborhood of Coles Street the land is somewhat irregular; west of that the same as the original tide marsh; east of it is the border of the Lackawanna Yard in this map shows you the outline of the original high water line, high tide.

30 Q. First take the property south of Pavonia Avenue and what lands did you take where there have been sales for a comparison with the value of that land? A. For purposes of comparison I have included only the land between 7th Street and the center line of Pavonia Avenue and west along level ground below the hill, Jersey City.

Q. That is back to Coles and Monmouth Street? A. Back to Division Street.

40 Q. What is the natural character of the land east of Provost Street where the railroad yards are located? A. East of Provost Street for a distance of from four to six hundred feet varying

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was originally the shore line washed by the tide, but solid ground.

Q. It has been filled in now? A. It has been filled in now.

Q. Now we will take those blocks within that area which you have used for comparison, south of Pavonia Ave. on block 179; have you any sales? A. May I ask a question? Do you wish me to list these or put the whole 60-80 in by the block showing the description of each one? 10

MR. CORBIN: Just show that to the Governor?

THE WITNESS: We have thrown out from the list all old ones and anything over 10 years as we did not think them comparable. Any since 1900 are there.

Q. Then the sales you have got in the schedules you produce here are sales within that given area for the past ten years? A. Since 1900, yes, sir. 20

MR. HANSEL: Is the year of the sale there?

THE WITNESS: Year of sale; grantee; grantor and area conveyed.

Q. now, how many sales have you on block 179 in— 30

MR. HENDRICKSON: Do you think it necessary to go through each one of these blocks separately? My own idea is that thing there is a compact and concise and accurate statement; I don't think we will get a thing by testimony as to all these separate blocks.

MR. CORBIN: I will ask one or two questions with your permission. I want to show how it is made up; it isn't with a view to spending your time at all. 40

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Q. How many sales did you find within this area in Block 179? A. 74.

MR. RYER: Block 179.

THE WITNESS: Oh, block 179!

10 Q. And how many in block 180? A. Let me see if there are any in the back here—179 there were 6; 180, 4.

Q. And in 214 how many? A. 5.

Q. And have you set down here all the sales beside their appropriate block all the way back in this schedule? A. Yes, sir.

Q. And is the lot and block and the area indicated in each case? A. It is.

Q. And the date of sale? A. The year,—I guess the date is,—yes.

20 Q. And the names of the parties? A. Yes, sir.

Q. And your first column headed area; what does that show? A. That is the area actually conveyed.

Q. How expressed? In square feet? A. Expressed in square feet.

Q. And the next column, consideration; what does that express? A. The actual consideration paid for the property.

30 Q. That is land and buildings and all? A. Land and buildings.

Q. Then the last column, value of buildings, that is to be deducted from the total value, I suppose? A. Yes.

Q. And the difference between them would express the value of the land? A. It would.

Q. Now have you made a study of all these all the way back? A. Yes, sir.

40 Q. Have you personal knowledge of the values in that vicinity? A. I have.

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Q. From sales past and from other sources. Have you made an estimate of the value of this land per acre?

MR. HENDRICKSON; Of which land?

THE WITNESS: The land in the rear of the yard we are now talking about?

MR. FORT: Yes; between Provost Street and Coles. 10

Q. Comparing it on the basis of the sales you actually found for 10 years, of the land in the rear to the West of Provost Street and to the South of Pavonia Avenue as you have stated them on your schedule, what is your estimate of the value per acre of the land east of Provost Street belonging to the Long Dock Company? Now I am asking you about the upland not at all to estimate the value of land under water, nor the water front but the land— A. The land the property of the Erie itself? 20

Q. Yes. A. \$24000 an acre with the exception of the portion fronting on Pavonia Avenue which I have placed a value at the rate of \$5000 per lot.

Q. And have you—

MR. FORT: A lot of what size?

THE WITNESS: 25 x 100 feet city lot on a business thoroughfare. 30

Q. And have you the acreage of the Long Dock plot East of Provost so that you can tell some of your values? A. Yes, sir, the plot assessed in Block 16 Plot B-6 I might say I am now using the description of the State Board following them in appraising the same property, Long Dock Company, second class, South of Pavonia Avenue, my value there is \$679,376. 40

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Q. That's on your valuation? A. Yes, sir.

MR. HENDRICKSON: How much does that average an acre?

Q. Are you able to state that? What the average is an acre? A. I can tell in a minute, 16 acres into \$679,376.

10 MR. FORT: How many lots to the acre, 8 I suppose.

A. To be clear in figuring the acreage,—if I can clarify the position I take in figuring acreage for interior land, I have taken it for the entire area as it is there; when I came to where there is a bordering street and then you have, of course, lots on a street, I have given it a lot value such as that street would carry. Now on 20 Pavonia Avenue frontage the rate was \$5000 per lot for a lot 25 x 100; land in the rear of that, 100 feet from Pavonia Avenue, interior land, \$24000 an acre. That gives a value of \$406,400 to the Pavonia Avenue frontage and \$272,976 for the interior making a total of the \$679,376 as testified to.

Q. The interior land you have figured at so much per acre then, \$24000 per acre? A. I have.

30 Q. The land which has a frontage on Pavonia, you have figured by the lot? A. I have.

Q. And added these two together? A. Yes, sir.

Q. Now, is this schedule which you have produced, has it all the deeds that you found of sales for the purpose of comparison? A. Every transaction that I could run down where I either knew or could find out the consideration of record; there have been some transactions it is true in that territory, but nothing has happened that I 40 could possibly turn up either for or against—a

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great many have been Erie purchases at the prices that they paid.

MR. CORBIN: I offer in evidence the schedule to which you have been referring entitled list of property sold in the territory between Center Line of 7th Street and Center Line of Pavonia Avenue west of the Erie Terminal and ask it be marked. Received and marked Gaddis & Ryer Exhibit Long Dock No. 1 as of January 29, 1912. (See copy at end of this testimony). 10

Q. Now take the land to the north of Pavonia Avenue belonging to the Long Dock; with what did you make comparison of that? A. I made comparison in a similar manner by running down all the sales transactions in the territory immediately in the rear directly behind the tract between the center line of Pavonia Ave. and 12th Street. 20

Q. And Provost and what? A. Back to the coach yard and alongside of the coach yard.

Q. And have you a schedule of all the sales you could find or trace on that? A. Yes, sir.

Q. For instance, how many sales did you find on Block 181? A. I found on 181—there is no 181 in the territory South. 30

Q. North. A. 181 North—excuse me—181, I found 5.

Q. And 182? A. Two.

Q. And 184? A. Two.

Q. How many altogether on this area so used for comparison? A. A total of 93 conveying 16—

Q. While we are at it, how many did you find for comparison on the first parcel which we took for examination south of Pavonia Avenue? A. 40

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74 parcels conveying 6.30 acres \$147,425 or at an average rate of \$23,400 per acre.

Q. Now go back to North of Pavonia Ave. You found 74 I think? A. 93.

10 Q. 93 parcels. A. Conveying 16.30 acres for a consideration of \$330,385, land value only. Might I add that to the last one making it clear, land value. The value amounted I might say to something like a milliom and a quarter, total price if we include the buildings.

Q. But the land value only on these 93 appraisals— A. The land value is \$330,385.

Q. How much per acre? A. \$20,268 per acre.

Q. Now in your opinion— A. Do you want the assessments against that territory?

20 Q. Yes, how much? A. In the south section it is assesed for \$1,200,600 in the territory comprising 48.558 acres or at the rate of \$24770. The North Section comprising 55352 acres assesed for \$1,146,550 or at the rate of \$20,704 per acre, a difference of only \$400 between sales and assessments.

Q. That is the local assessments? A. Yes.

Q. For what year? A. This year 1911 latest assessment.

30 Q. Now at what value—

MR. CORBIN: Did you notice that, Governor, the sales for 10 years amounted to within \$400 of the assessment?

MR. FORT: Must have gotten the deeds.

40 THE WITNESS: I might inject here that while they may have gotten the deeds that this assessment is on the average of the entire territory showing they have not picked but their judgment has gone

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throughout and the sales are at random as they happened to come.

Q. What value do you give to the lands east of Provost Street and North of Pavonia Avenue belonging to the yard of the Long Dock Company? A. The lands?

Q. Yes. A. The plot known as the main yard, known as Block 17 Plot A-2 Long Dock Company, 2d Class North of Pavonia Avenue, area of 43.872 acres. I value in the same manner as I did the South, the Pavonia Ave. frontage at the rate of \$5000 per lot making a total of \$365,000 and the interior land at the rate of \$18,000 per acre making a total of \$714,294 with an entire price of the whole tract of \$1,079,294. 10

Q. How far East does that tract run? A. To the exterior line for solid filling, up land. 20

Q. And the piece on the south side of Pavonia did that in like manner run to the exterior line for solid filling? A. Part of it did and I might say it encircled the so-called Erie elevator making part run to the exterior line and part stop behind that.

Q. Now, in valuing these parcels to the North of Pavonia Avenue, have you included or excluded the area of the 100 foot main stem? A. Excluded. 30

Q. Well, what valuation did you put upon that line of the main stem? A. Long Dock Company main stem to exterior line of solid filling from Henderson Street, that's one block outside the yard, same manner that the State Board assessed the total acreage, 6.257 acres; I appraised in two parcels first to the center line of Provost Street.

MR. FORT: From Henderson to Provost?

THE WITNESS: Depends on which way you start; well from Henderson to Provost, 40

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one block there I appraise at \$25,330; the balance I appraised at \$94,860 making a total of \$120,190.

Q. At what rate per acre is that? A. The rate per acre is, in the yard proper East of the center line of Provost Street is \$18000 per acre. The full block out in the city is—

10

Q. That is between Provost and Henderson?
A. A little over \$25000 per acre based upon sales of the neighborhood.

Q. Now, I see there is a strip of second class property between Provost and Grove Streets, a strip on each side of the main stem; how did you value these? A. That's in block 150 isn't it?

20

Q. In Block 184 and—right in there, 183-82 and 3. A. In Block 182 there is a small plot. Plot C assessed value that at \$2500.

MR. FORT: That's that corner?

A. That's the Northeast corner of Block 182.

Q. And how about that portion in Block 183?

A. In block 183 plots known as B and C Long Dock Second Class, I appraise at \$28000.

Q. How much is that per acre? A. It is about \$24000—24-25 about \$25000 an acre.

30

MR. FORT: On what?

THE WITNESS: Plots B and C that I just testified to.

MR. FORT: They are \$25000 an acre?

THE WITNESS: Round figures we are getting out of the yard now, going West.

40

Q. There is a small parcel North of Pavonia Avenue and East of Provost Street marked as second class property on which tracks go through to cross over Pavonia Avenue; is that small parcel assessed separately? A. It is.

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Q. What is its area and its valuation? A. Its area—it is known as Block 150 Plot C-2 Long Dock Second Class, area of .273 acres assessed for true value \$19445.

Q. How do you assess that, as lots, acreage or what? A. By lots at the basis of \$5000 per lot on Pavonia Avenue and \$1800 a lot on the street in the rear, the tail end of 9th Street I believe it is. 10

Q. Now, from Henderson Street West to Erie or wherever you go how much did you assess the land in the main stem at? A. Block 218 Henderson and Grove, main stem Long Dock I value at \$28,150.

Q. Being at the rate of what? A. I have not put the acreage down in all this; I might say these are surrounded by streets and I have given them the street lot value as the individual sales there did not call it acres. 20

Q. That is really a strip 100 x 200 feet? A. Yes just one block.

Q. Having frontage at each end on streets and one side on streets. Your value is what? A. \$28150.

Q. And the next, between Grove and Erie? A. 253 \$26,800. 30

Q. And the next between Erie and Jersey Avenue? A. \$23,350.

Q. And the next between Jersey Avenue and Coles Street? A. Block 323 Long Dock Main stem \$24,560.

Q. Now, this is all marked as Main Stem there 200 feet wide. A. No, there are two main stems there.

Q. Your valuation is for the— A. For the Long Dock land. 40

Percy A. Gaddis—Direct.

—Q. 100 x 200 yes. Now from Coles to Monmouth 100 x 400 Block 360. A. Long Dock Main stem Block 360 \$24,560.

Q. Now, have you valued it from Monmouth Westerly to Palisade Avenue? A. Yes, sir.

10 Q. 100 Feet wide by how long. Take it in sections first Monmouth to Brunswick? A. Block 395 \$10328.

Q. Next Brunswick to the 50 foot Division line of Pen Horn Creek. A. Block 421 Long Dock Main Stem from the 30 foot limit of Pen Horn Creek to Brunswick Street, strip 547 feet long by 100 feet at one end to nothing at the other, true value \$12,244.

20 Q. Next from the Pen Horn Creek, crossing being also N. J. Junction Railroad crossing Easterly to Palisade Avenue to the North Bergen Tunnel. A. Block 547 Long Dock Main Stem, Bergen Tunnel Easterly portal to the 30 foot limit of the Pen Horn Creek true value \$198. It is 6% of an acre; that finishes all East of the Hill for the Long Dock.

Q. Now Mr. Gaddis, that brings us up to the portal of the tunnel, does it not? A. Portal of the tunnel East of the Hill.

30 Q. Now begin at the West portal of the tunnel; from there to a point 150 feet West of Tonnele what is your value of that? A. From a point 150 feet west of Tonnele Ave. to the mouth of the Tunnel, strip 766 feet long by 100 feet wide an area of 1.369 acres, total value \$7530.

40 Q. Now, from the West portal of the tunnel westwardly to a point 1465 feet North of the N. Y. Susquehanna & Western overhead crossing. A. That is a strip containing 7.856 acres true value \$17,632.

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Q. That is the end of the Long Dock main stem. Now return to the East side of the Bergen Hill and take up second class property in Block 323 on the excess of width South of the main stem. A. Long Dock main stem?

MR. RYER: 2nd Class; 18000 square feet in 323.

Q. It is .413 of an acre. A. Block 323 Long Dock 2d Class property, total of .413 acres, true value \$12,500. 10

Q. Now, the item in Block 360 land outside main stem excess south thereof, same area. A. Block 360 Long Dock 2d Class area .413 true value \$10,840.

Q. Now, block 395 land outside main stem; excess between the Northerly line of the main stem and the Pen Horn Creek Railroad and the Southerly line of main stem branch. A. Pen Horn Creek Railroad being an area of .362 acres. A. Total value \$3801. 20

Q. Now land outside main stem in Block 395 being excess south of Main Stem Long Dock Company, area of .470 acres. A. True value \$10,838.

Q. Now, land in Block 396 outside main stem, Plot C area .212. A. True value \$2544.

Q. Now Mr. Gaddis, not to follow all these items over have you made your estimate of each of these items of second class property and put it into the schedules here? A. I have. 30

Q. This second column which is entitled assessed valuation including multiple, that is the actual valuation made by the State Board for this year is it not? A. It is.

Q. And the red ink figures in the 3d column entitled True Value are what? A. My figures, Mr. Ryer and mine as to true value. 40

Percy A. Gaddis—Direct.

Q. Taking this entire schedule as to main stem and 2d class property being the main stem from Coles Street westward to the end and second class property within the same boundaries what is the total assessment and what is your total estimated value? A. In the case of the Long Dock Company, the valuation placed by the State Board of Assessors on the main stem.

Q. Between these points. A. Between those points is \$359,310.

Q. And your valuation, true valuation? A. True value \$93,332.

Q. Second class property? A. Second class property. The State Board of Assessors' valuation including multiple was \$471,074.

Q. True value, \$273,688.25.

MR. CORBIN: I offer in evidence this schedule and ask that it be marked.

Received and marked Long Dock Ex. No. 2 Jan. 29/12.

Q. On the West side of the hill did you make examination of sales there with which to make comparisons all along on the valuation of land on the West side? A. I have and I should like to present a map,—exhibit a map on which I have colored in yellow sales made by me personally or in which I have been interested; the majority of mine are personal sales and also indicated on that map, the lines in my judgment, of change of value of the western part of Jersey City running from the portals of the tunnel to the Hackensack River North of Newark Avenue.

Q. Have you any schedules of these sales with the prices or have you marked it right on the map? A. I have placed on the map my judgment as to values based upon these sales; in most

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instances the values are much higher if you want them in detail than what these properties have been sold for considering the increase.

Q. What do you mean by that? A. I mean some have improved; conditions have improved since the sale and I have then allowed that increase and applied that as against the road.

Q. And these figures on the west side of the hill are, in your judgment present values?— A. Yes. 10

Q. You say you made sales yourself? A. Yes inside there with the exception of this small one there and this one is a condemnation (indicating).

MR. FORT: That means nothing to the stenographer.

THE WITNESS: I will identify it in just a moment. The southerly parcel marked Public Service Corporations, that will identify it sufficiently; that I didn't make personal; I did make the rest. 20

Q. What are these parcels colored in yellow on the hill near the tunnel and to the eastward of the tunnel? A. Those are about 10% of the sales I have made. I thought of it at random and put down as I went along. 30

Q. You put down those near the tunnel? A. Yes.

Q. And how about these large parcels to the east of the tunnel; what are those? A. Those are—two of them are sales—four or five of them are sales I am interested in in lower Jersey City and the other two were purchased by the City of Jersey City for a High School site from the N. Y. Central Railroad, being the tract now used for the High School. 40

Percy A. Gaddis—Direct.

Q. Are the values put on there in figures? A. I would rather explain it. The High School site—the purchase that I speak of,—that I allude to as the High School site was made in two parcels. Plot S,—known as S in Block 545 was bought in 1903, West Shore Railroad to the Mayor and Aldermen of Jersey City for \$85000.

10 Q. How much per acre? A. I will give you that later. The adjoining portion which I sold myself to the Board of Education from Mrs. Kiersted and then afterwards swapped part of it to the Erie (and it was an even swap, it was not a question of money) that was in September '07 known as Plot 1 in Block 545 and the consideration was \$25000. The large parcel then that the City holds, the site contains about 10½ acres of ground.

20 Q. Bounded how? A. Bounded on the East by the Jersey Junction Railroad under the Hill and the Erie property East; and North by the Erie,—I mean the Docks connecting center lines and on the South by Newark Avenue, the main thoroughfare between Jersey City and Newark of more than 100 years of age, and Palisade Avenue on the West, an asphalt Street. I analyze this

30 of it which is fronting on Palisade and Newark Avenue with a depth of 100 feet; I have placed a lot value of only \$18000 on the Newark Avenue and \$1500 on the Palisade Avenue; that makes a value of the Palisade Avenue frontage of \$397.50 and of the 26½ lots on Newark Avenue at \$1800 each, \$47,700 and leaves 7½ acres of interior or rear land comparable but very much better with the land touching it by the Erie, at the rate of \$3000 an acre which is the price that

40 I have applied in my testimony which is \$22,500

Percy A. Gaddis—Direct.

making a total of \$110,000 the purchase price of the land.

Q. Now this lot price that you have deducted on Newark and Palisade Avenues are lots worth as much as you have deducted? A. \$1500 is a full value for the Palisade Avenue property; I sold one for you there a few years ago at less than that and I have made five or six sales directly opposite the High School and have sold part of the property twice within the last five years indicated on the map here. 10

Q. So you think these deductions are fair average rates? A. Absolutely fair; you see it is railroad and municipal purchase.

Q. This large parcel of land is partly rock on top of a bluff running down to meadow at the bottom? A. Yes. 20

Q. A very rough piece of land? A. Yes.

Q. Difference value in different parts? A. Yes, it varies.

Q. Take the triangular piece to the North of the Erie tracks how is that situated, on a bluff or in meadow? A. In meadow.

Q. How is it bounded? A. It is known now as the Erie Coach Yard or Monmouth Street coach yard. 30

Q. Bounded on the West by— A. By the edge of the Palisades or the N. J. Junction Road.

Q. On the East? A. On the East by Monmouth Street—by the main stem of the Docks Connecting Railroad.

Q. On the South? A. On the South by Branch A of the Pen Horn Creek.

Q. Is that hard ground or filled ground? A. Filled ground. 40

Q. On wet meadow? A. Yes.

Percy A. Gaddis—Direct.

Q. That you have marked down as a piece that has been sold; what is its value? A. Worth in the interior about \$10,000 an acre; the border at \$1000 a lot or \$12000 an acre on the street.

Q. Those two pieces to the Westward which you personally dealt in, you said, considerably to the North, towards Hoboken, are those meadow or upland? A. That is meadow; both of those are meadow absolutely comparable plots; same physical condition; both soft. It is a plot, Block 704 $\frac{1}{2}$, Plot A, June 10, 1905 William D. Edwards Trustee to Wm. F. Farmer \$7000 irregular tract fronting a little over two hundred feet on Hoboken, 408 feet on Ogden Ave. about 4 acres making a little less than \$2000 an acre in 1905. Now then there is the other sale, purchase by the Lackawanna Railroad Company which is the only large acreage tract sold the last three years,—the last seven or eight years as a matter of fact, comprising over two acres on 18th Street Jersey City,—I will give you that in detail in a moment. I was personally interested in that transaction, that is, not the selling of it, but I was an heir to the property and received some of the compensation so I know the consideration. I know of it very well. The sale was Plot A in Block 294 dated May 5 1910, the Executors of Richard Grant Estate to the Morris & Essex Railroad Company \$60,000, on the northerly side of 18th Street touching the Lackawanna property, together with lot B in Block 261 which is the adjoining block and a continuous plot; contains 104,607 square feet or 2.4 acres at the rate of \$24,829 an acre; there was in 1910.

MR. FORT: Now, that's 7 blocks from the railroad.

THE WITNESS: Yes, but immediately

Percy A. Gaddis—Cross.

touching the Lackawanna Main stem, a purchase of a railroad to a railroad.

MR. CORBIN: I offer in evidence first the map which was first produced which is in colors showing the Long Dock property east of Bergen Hill which I ask to have marked.

Received and marked Long Dock Exhibit 10
No. 3 Jan. 29/12.

MR. CORBIN: I offer also in evidence the large map produced by the witness showing entire length from the Hudson River to Pen Horn Creek and with the comparative appraisals shown in yellow as indicated by the witness which I ask to have marked.

Received and marked Long Dock Exhibit 20
No. 4 January 29, 1912.

CROSS EXAMINATION BY MR. FORT:

Q. How close to the main stem of the Long Dock Railroad is the nearest sale which you have made? A. Across the street. 25 foot street—no, the street is 60 feet in width. I stand corrected.

Q. How many sales just adjacent to the main stem have you made? A. Actually touching like that? 30

Q. Yes. A. Let me refresh my memory from the map so I can place them. (Witness refers to map.) Coles and 10th Street was the first sale I referred to.

Q. How far is that? A. That is across the street,—10th Street, the road runs down. The next nearest sale I can recall is Erie property at 12th Street. 40

Percy A. Gaddis—Cross.

Q. But isn't that several blocks from the main stem? A. No, touches the main stem.

Q. Oh, yes; that's right. Go on. I see. A. 5th and Brunswick Street, three blocks away; made a couple of sales there.

10 Q. Now, there, as compared with the land lying next to the main stem and between Grove and Provost Street, what is the character of the land, this sale you have just spoken of? A. The character of the land?

20 Q. Yes; compared with the other was the land in Block 217 and 216 between Grove and Henderson,—what was the character of the land there as compared with the character of the land in 418-392 between Division Street and Monmouth; Pavonia on one side and 8th on the other? A. Well, the land in 217 is, well, first the block marked Brunswick and 5th which is the block that I have testified I sold in, the southeast corner of Block 388 the land was originally swampy and filled in, in 388 and the land in Block 217 to the best of my knowledge has always been solid ground.

30 Q. The fact of the matter is, one is swamp and the other is good filled land? A. No, that isn't so; there are good paved streets around four sides, both blocks.

Q. I am not asking about streets; I am asking about the land in the block. A. The land on the former block the one that I sold in, first talked about, is on the border soft ground. Newark Avenue is solid; go across Newark Avenue and it is solid; there are no piles under that house and there is a cellar under it, brick foundation.

40 Q. Now, let me have an answer to the question. A. I say the other is the better.

Percy A. Gaddis—Cross.

Q. How much better; what percentage? A. About 25—30%.

Q. Well, I notice that on these figures which you have on this map there is a difference in the assessed value of over \$25,000 between the two blocks; is that a fair percentage higher on 217 than it is on the other? A. I can explain that.

Q. I didn't ask you for any explanation; just please answer yes or no. Is that a fair percentage? A. Not from my standpoint; no, sir. 10

Q. And yet you think these assessed figures should be taken into account do you in ascertaining values? A. No, sir. Not if arbitrarily taken in a single block; but if taken en masse they even themselves off in a space of 100 blocks.

Q. Then your application of these assessed figures on this map are of no importance in taking value? A. Generally so, but that is a corporate holding; they are assessed high; you will notice high figures where blocks are assessed against a corporation; you can pick out the Swift's Block, the Express Company Block— 20

MR. FORT: I object to that and ask the Court to strike it out as no answer to my question. It is mere opinion.

THE WITNESS: It is a fact. 30

MR. FORT: You have no right to say that on the witness stand. It is a piece of impertinence on the part of the witness to so characterize the assessment.

Question repeated.

Q. Now, let's get right down; I am not trying to catch you, Mr. Gaddis, I don't practice law that way; I want simple answers and we will get along beautifully. Now, take this main stem valuation which you have been giving here; in 40

Percy A. Gaddis—Cross.

making that valuation of the main stem have you considered its continuity for the purpose for which it is used? A. No, sir.

Q. Have you considered the fact in fixing the value on the main stem of the railroad that it cuts or doesn't cut lots irregularly and thereby is of more value than it otherwise would be?

10 A. In this case it doesn't do it, so I didn't have to consider that as an element.

Q. But if it takes an entire street right out of the center of the block and prevents lots from fronting on the street do you consider that as an element of value? A. Yes, sir; where the same corporation doesn't hold the balance of the block.

20 Q. What difference would that make as to the sale of the land? A. Because it cannot work injury to them.

Q. I am not talking about injury to the corporation but to the land; why cannot it? A. To them themselves.

30 Q. To the land? Never mind; let's get out of corporations and individuals; let's talk about land now. I want to ask you whether or not taking a street through the center of this block and putting a railroad on it and destroying it as a street, whether that makes any difference to the value of the adjoining land? A. If such a condition existed it would.

40 Q. Would it cost more to buy that land for railroad purposes and would it be worth more for that purpose used in that way than to be bought for building purposes? A. Answering the first part of the question, it would certainly cost more if bought, and they knew that the railroad wanted it.

Q. Well, now, I am speaking of the land pur-

Percy A. Gaddis—Cross.

chased and how it is bought. A. I am speaking from my experience.

Q. I see. You have a different idea. I know it would cost more and so do you, but I am talking about the railroad that's there now; it is in there and they have bought it for railroad purposes. Is that land, bought for such a purpose worth more than the land adjoining? A. I don't think I am competent to testify to special use; that's what I— 10

Q. It isn't a special use. A. You said, didn't you in the first part of the question, if for railroad purposes? Read that again.

Q. Then you don't want to answer the question? A. I would answer it I don't consider so, no.

Q. Then you don't consider that land purchased by a railroad being a street laid out on the map there, is any more valuable when purchased for use in the way I have mentioned than it would be if purchased for some other purpose? A. I do consider it more, but consider that a franchise value,—element of franchise because they had the right to use it that way. 20

Q. Then a railroad running through that street doesn't depreciate the value of adjoining land which abuts on the street? A. Has some detrimental effect, yes, sir. 30

Q. Well, how much? A. That's very hard to say. If reflected by the territory—we are talking about—by the assessment placed on it, it's been an advantage rather than otherwise, because the assessed valuation has been increased.

Q. If you go back ten blocks,—five block you think that land back there would be benefited? A. In Jersey City it wouldn't be benefited, not materially in a section— 40

Percy A. Gaddis—Cross.

Q. Well, would it be in a block adjacent to the railroad itself and the lots fronting on the railroad running through the street? A. It would be some injury.

10 Q. As compared with the land west of Provost Street how do you compute values with the land east of Provost Street which fronts on the river? A. When you say land that fronts on the river do you mean having Riparian rights, land under water, etc.? A. No, I mean land down to the exterior line of solid filling.

20 Q. I might say that I compare the property to the line of Hudson Street extended, west line, as acre for acre on the average of about the same territory immediately adjacent to the west. My reason for stopping there is that Hudson Street extended is what I believe the limit of the upland or city development and east of that would be water front property of a different proposition.

Q. I want to know the difference in value between land east of Provost Street and the land west of Provost Street about which you have testified. A. Taking a territory going an equal distance each way it is about the same thing.

30 Q. Then it is your judgment that it is as valuable to go away a thousand feet from the river front as it is to go within a hundred feet from the river front? A. If you have no river front rights; I stop at Hudson Street extended. Then, of course, there is the border street and water front which is a different proposition.

Q. If you have river front rights then what is the difference? A. If you have river front rights and reflect these rights in the value it is worth one-half as much again.

40 Q. Then the line lying between Provost Street and the river front here where they have river

Percy A. Gaddis—Cross.

front rights as shown on your map— A. Oh, but they don't, they are assessed separately.

Q. I am not talking about assessment. A. They are valued separately.

Q. I am talking about land—if you will please wait until I get through with my question—I want this all to go on the record, the Court will see it; let's keep this discussion up; I want to know, Mr. Gaddis, whether you mean that where you own river front rights, that the land between Provost Street and the Hudson River is worth 50% more in value to the owner of it than it is west of Provost Street for a distance say of 1000 feet? A. I do. 10

Q. How much more value is the main stem at that point, than it is 1000 feet back? A. None whatever, unless you consider a frontage value or the right to use it for the purpose it is. 20

Q. Doesn't it make any difference to the value of that main stem that it lies adjacent to piers and docks which may communicate and connect up with ocean going traffic? A. But it doesn't; the 100 ft. is not sufficient to build piers and docks.

Q. Do you mean there is no more than 100 feet between Provost Street and the Hudson River? A. No, there are hundreds of feet; but the small end, 100 ft. in width is all that lays against a dock or goes to the water front. 30

Q. If the 100 ft. width runs up alongside docks and piers on either side is it of any more value 1000 feet back along a pier? A. If it did it would but it stops at the exterior line for solid filling according to your maps there.

Q. There are no streets are there on this Block east of Provost Street; that are opened? A. No, the yard is practically one large parcel. 40

Percy A. Gaddis—Cross.

Q. Take a large tract of land like that, continuous, in fact altogether, is it of any more value per acre than a single lot would be lying on the other side of Provost Street? A. Yes, sir.

Q. Is it of any more value than a block would be on the other side? A. Yes, sir.

10 Q. How much? A. About 25% roughly, I wont get down into actual figures.

Q. Do you know any place in that section where you can buy a plot of land as large as this plot lying east of Provost Street and which you have colored in blue here? A. Do I know of any place where I can buy it? A. Right in that neighborhood? A. No, sir, none for sale within two or three miles from there.

20 Q. Does that put any greater value on this piece of land?

MR. CORBIN: That is a question of law.

Q. In your estimation?

MR. CORBIN: I don't think that is a question of fact.

A. Yes, sir.

30 Q. You think it does? A. I think so; that's my opinion.

Q. Why? A. Because values always increase (and it is the general principle of value) as property is built up and is used in any particular use, in fact developed for any use it is worth more.

Q. A large tract of land of this kind can be used for large purposes? A. Yes, sir.

40 Q. Is of more value is it not than a small strip of land lying there, say 100 feet wide? A. It is very likely to be.

Q. And why? A. Because you can use, use-

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ally, a large tract to much greater advantage than a small one if you are a large enough concern to need it.

Q. For a company or individual who was in need of a large tract like that for the purpose of carrying on his business land is of greater value to him than if it were a small tract, isn't it?

A. Greater value to him than a small tract? 10

Well, that you cannot answer because he simply wouldn't buy a small tract; would only take a large tract.

Q. Why? A. Because he needs a large tract.

Q. And because a small tract wouldn't do for his purpose? A. Certainly.

Q. Then it is of more value than a small tract? A. Yes, that's why I have allowed so much more on it. 20

Q. Have you taken that into consideration? A. Yes, sir.

Q. To what extent and in what way? A. About 25%.

Q. In what do you show that? A. I show it in this way; I have compared upland and taken the actual value, reduced them to acreage, what it sold for and I have not attempted to take the valuation that it has cost to make the developments, in other words, streets, sewers, pavements, sidewalk and other things; they would cost in the neighborhood of 25%; that may be a little excessive; and I didn't make any deduction from that when I applied it to the yard. I considered that one offset the other. 30

Q. In making your valuations you have taken for the purpose of value 12 lots as an acre? A. No, sir; I have taken the lots just as I found them and the area conveyed including the reversionary 40

Percy A. Gaddis—Cross.

as it was found; if small, small; if large, why, large; so it comes out absolutely fair on the average.

Q. But haven't you taken the valuation as 12, and then divided it by 17 which includes the streets? A. No, sir, I took the 25 ft. lot and 60 ft. street, would be 25 x 130 or 3125 square feet.
 10 If only 50 feet deep on a 10 foot alley, I would have added half the width of the alley and included that in the area conveyed because that is what you actually get if you make an arbitrary percentage which you don't need to when you are comparing with a developed city—in my schedule that is all brought out and will show on its own merit.

Q. Where the two rights of way or main stem lie adjacent as they do here in the case of the
 20 Long Dock Railroad and the Penhorn Creek Railroad have you increased the value of the land or decreased it on that account? A. I have treated it, neither one; I have treated it the same as if it were as originally developed or would be in my judgment if the improvements were removed and it went back into private hands, based upon sales immediately adjoining and in most of the sales that the Erie bought,
 30 that's what they did.

Q. In fixing your valuation upon these various lots of land have you considered the question as to the effect upon them of so many railroad lines at this particular point and of the peculiar character of the divergence of them? A. Yes, sir.

Q. And, therefore, you have put them lower than you otherwise would? A. No, sir.

Q. Why not? A. I appraised the land as I
 40 found in the year 1912 as we see it under the conditions now and, of course, these conditions,—

Percy A. Gaddis—Cross.

the loss or gain has been reflected in the sales that have been made. That is the best barometer in my judgment; I may be mistaken.

Q. If the railroad were not there, would you say the land was worth more or less? A. It would depend on what might be put there in the way of improvements; if improved in the same general average as the style of improvement that adjoins, the value, I think would be the same as I have placed on it. 10

Q. Whether a railroad was there or not? A. Yes, sir.

Q. And that applies to the lots lying adjacent to the railroad as well as those lying three or four blocks away? A. Yes, sir; because if the railroad should move the loss of income, vacancies through employees going away, etc., would work serious hardship; it would be fatal to have them drawn out for a period of five or ten years; they might recover. 20

Q. Then they have increased the value of the land by coming there? A. To a certain extent they have.

Q. Because it has furnished a market for it? A. Certainly; oh, materially; they have had a big effect upon it that way, because the average price the property was sold for in the late 80's or early 90's when the Cole Estate was thrown on the market, the average price,—I am not sure to a fraction, but should say about \$250—\$300 a lot for the unimproved lots and through the Erie coming there, furnishing a market, it made the Matthews companies rich and number of other people. 30

Q. Increased the value around there very materially? A. Yes, sir. The records would show that, but I, of course, didn't use that. 40

Percy A. Gaddis—Cross.

Q. Very materially? A. Very materially.

Q. During the course of this examination you have used the expression State Board value, State Assessors' values and given figures, and then you have a number of times in your testimony said "true value" so much. What do you mean by that? A. True value? My judgment
10 of the value of the property.

Q. That is, it was your value that you thought? A. The value I placed on it; I believed it to be true.

Q. And by the expression "true value" did you mean it was the value for which the land could now be sold? A. Yes, sir.

Q. Did you mean that as to the main stem values that you have put? A. Main stem? If
20 the main stem could be thrown into the same conditions, divided into blocks as private property.

Q. The main stem as it lies there now; you mean the values you would put on as true value of that main stem as it is there? A. If the main stem was cut off from the rest of the country it is twice what it is worth.

Q. I mean as it lies there, used as it is. A. You mean Penhorn Creek?

Q. I mean both, just as they lie there, railroad
30 use, as they lie today would you fix that as the value of the land? A. Yes, sir; not considering the element of special use.

Q. Not considering the fact it was used for railroad purposes. Now, if you were to purchase this—were given this tract to purchase,
40 main stem there, this tract of land, and it was known that you were purchasing it for a railroad, do you believe you could purchase it for

Percy A. Gaddis—Cross.

the prices you have named? A. Yes, sir; I do, because it is based upon recent purchases by the Erie themselves, the greater part of it.

Q. You mean land lying adjacent to their present road way? A. No, I mean a portion of their present roadway; it is a fact that they have increased their roadway in the last few years.

10

Q. What else have they purchased? A. Why, the Penhorn Creek.

Q. Yes; well, that lies right alongside. A. Yes, so therefore comparable.

Q. You purchased land,—that land right alongside the site of the National Dock right of way for the Penhorn Creek or somebody but that's what you mean, don't you? A. Yes, sir.

Q. Take 17th—16th—15th Streets, any of those and if you were starting to purchase land to the Hudson River, through those blocks; is it your judgment that it could be purchased for the prices that you name? A. If it was a well known and advertised fact that you were buying for a corporation, no, sir.

20

Q. Then the fact is that to acquire this land for corporation purposes, in your judgment is more expensive than for an individual? A. Usually so, yes, sir.

30

Q. Well, then, the land is worth what it costs, isn't it? A. No, sir.

Q. Why not? A. I never—it is worth what it costs? No, sir; not necessarily. If you have got a large tract and there is a little piece out of the corner of it and you have to pay an abnormal price for that corner you cannot say if that corner should jump from one to ten dollars per square foot,—you couldn't say the entire tract was worth ten dollars per square foot.

40

Percy A. Gaddis—Cross.

Q. The reason it jumped was because you did want that irregular corner, isn't it? A. When you are pinched to get a thing, any given land, or a definite location, you generally have to pay more than the thing is worth.

10 Q. That depends on the character of the strip of land that you want, doesn't it? A. A good deal.

Q. If you were to start to purchase that strip of land just as it lies there, from the Hudson River back to Palisade Avenue just as it lies, would you expect to pay more for it or only just as much as you would pay for adjoining land? A. Probably have to pay a little bit more.

20 Q. Wouldn't you have to do that for anybody under any given conditions, where it was a narrow strip of land running through lots and cutting them? A. Yes, but that is not the case here; they take entire blocks.

Q. Then you would have to do one of two things; have to buy more land than you wanted or pay much higher price? A. Yes, if you buy more than you want and handle it right, afterwards you can get out whole; that was my experience with the Lackawanna.

30 Q. Did you pay the average price in that case that the adjoining land was valued at? A. I bought lots for \$800—for \$10,000 less in 1906 in one strip than was paid for them in 1874, identical site sub-service easement.

Q. You realize that the value of money in '74 when it was not on a gold basis was 200% as compared with what it is now? A. Yes, sir.

Q. Then you didn't—

40 MR. CORBIN: It was about 115.

A. It was before '76, before the Centennial;

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I had nothing to do with it; but I saw the old deed and bought from some people who had improved it; I bought that easement for \$10,000 less; that's a fair criterion of conditions as they exist. That was sub-service right. That's just part of my experience; you can have it for what it is worth.

Q. Now, in these various sales that you have given these deeds, where did you get them? A. Where did I get them? They are the—I got them from the private records and experiences, individual purchases by the Matthews Company, Mr. Ryer, myself, my brother agents in the business and all that were of record besides. 10

Q. You got them from the public records and other sources? A. Yes, sir.

Q. Do you know anything about whether the deeds represent the true consideration for the land sold or not? A. I believe every one of them do. 20

Q. I don't want an opinion. A. I cannot say; I should say—I know 99 out of 100 do and I have no reason to doubt any one; there has been none put in these that I don't know of.

Q. Do you think all the deeds recorded in Hudson County represent the true consideration paid for the sale? A. The majority where the consideration is mentioned is true. Now, I might say there were a number of sheriff's sales and such considerations as that; those were not taken; I didn't think those were a proper element of value, although they reflected conditions as they existed at that time. 30

Q. This land has been filled east of Provost Street; much of it, hasn't it? A. East of Provost Street it is nearly all made ground. 40

Q. Do you add any value because of increased

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value owing to the fill? A. I shouldn't because I am comparing with ground much better because it is solid ground.

Q. Then you could answer by saying that you haven't added anything because of filling. Well, is it true or not that you didn't add any value because of filling? A. I have answered the question.

Q. Do you want that to stand? A. I should think so.

Q. Then you don't want to tell whether you have added any additional value because of the filling of land east of Provost Street? A. I have already allowed for it.

Q. In what way? A. In the way I have said because I have used as a comparison land not requiring filling, the highest standard.

Q. And you have used as a comparison land 1000 feet farther from the river? A. No, land touching it and going back to the same distance that goes forward.

Q. Then you would have us understand that the filled land next to the Hudson River is of no more value than the unfilled? A. I testified before it was worth 50% more.

Q. You may not have understood me. You testified that it was worth 50% more than the other land. Now, I am asking you if it isn't worth more filled than unfilled? A. Why, of course.

Q. How much more? A. That is a question I couldn't answer directly, how much more, because it wouldn't be worth a third what it is now if the filling were taken away.

Q. Worth the cost of filling, isn't it? A. If you want to put that at the original cost and

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the cost of filling, I would be ashamed to say it was worth only that; I put it two or three times as much as that.

Q. Then you say it is worth two or three times as much do you? A. As in the original condition, two or three times and a good many more, probably. The Erie Yard I happen to know as my grandfather was in business on Pavonia Avenue and owned property I was heir to; filled it and made all their land and it cost them very little besides their filling; as that was 40 years ago I don't consider that value; I have taken the up-to-date conditions. 10

Q. And do you put the same value on the land that lies between Pavonia Avenue and the Erie Basin between the point which would be the west line of Hudson Street if extended and the exterior line for piers? 20

MR. CORBIN: Not piers.

Q. Exterior line of filling. I will go back to the exterior line for solid filling? A. No, sir; I do not.

Q. Well, how much increased value did you put on the land that lies next to that Erie Basin, between Pavonia Avenue, and the Erie Basin for several hundred feet; how much per foot? A. 30
A. That is water front property pure and simple and partakes of water front values.

Q. What is it worth? A. I haven't had time to properly analyze that to testify properly.

Q. Then you haven't taken into account the increase in value in that in making your estimate for this land? A. When I stopped beyond the property, no, sir, for its private development of course there is no necessity to allow for that. 40

Q. I thought you were giving us the value of

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the land as it is today. A. I told you for the purpose,—first in my testimony on direct,—that for the purpose of comparison with your figures the State Board's, I had taken the prices to the exterior line for filling as you had assessed in the plot; otherwise there would have been serious confusion, but I didn't think it hardly fair to carry that value beyond the west line of Hudson Street extended. Now, I am clear I think.

10 Q. Then you practically have made no personal valuation or judgment valuation on the land lying between— A. Water front property.

Q. On the water front property?

MR. CORBIN: Judge, we conceded that there must be added to his figures per front foot for water front.

20 Q. Do you want to confine all your testimony in this case to the main stem? A. I do, unless I have time to go into it.

Q. Do you mean main stem and second class property? A. I, of course, mean main stem and second class property.

30 Q. The Commissioner suggests I ask what is the value of a lot on Pavonia Avenue at the foot of Pavonia Avenue. A. You mean down by the ferry?

Q. At the foot, yes. A. Well, I don't know as I could take a single lot; I testified that the average value was \$5,000 if you allowed for the entire strip; probably worth much less than that; there isn't any business, nothing doing; everything is dead since the tunnel has been opened.

40 BY MR. HENDRICKSON:

Q. Mr. Gaddis, there is a trolley runs through

Percy A. Gaddis—Cross.

Pavonia Avenue all the way to the foot of the avenue isn't there? A. Yes, sir.

Q. There is a ferry at the foot of Pavonia? A. Yes, sir.

Q. Which does a large wagon traffic? A. There is, yes.

Q. Montgomery Street and Exchange Place have a trolley down it and a ferry similar to Pavonia? A. Yes, sir. 10

Q. The same way with Hoboken? A. And absolutely the same conditions exist on the Plank Road between Jersey City and Newark.

Q. In Hoboken at the foot of Hudson Place there is a ferry and a trolley? A. Yes, and a great deal higher value than here.

Q. And the conditions in these three places are very similar? A. Very different. 20

Q. Now explain the difference. A. There is a vast difference between the Hoboken, the Erie and the Pennsylvania.

Q. What is the difference? A. The difference in development and general conditions in the case of the other two roads, the north and south, they have main arteries running,—Ferry Street or Newark Street running to the Hoboken Ferry and Montgomery Street to the Pennsylvania Ferry which are improved with high class property and development right down to the very end and have been improved more or less long before the ferry was ever there which is not the condition in the Erie. The Erie is all made, built in out of the swamps, filled in to the present exterior line for more than 1000 feet to my personal knowledge and has never been a street for business probably below Provost or Kelso; that has gradually died out till it is now prob- 30 40

Percy A. Gaddis—Cross.

ably Henderson Street as a business street good for anything; there is no local trade there; a store would starve to death; can hardly keep alive anything more than a peanut stand between Kelso and the ferry.

10 Q. Now, Mr. Gaddis, your discussion is interesting but not to the point. Isn't the fact true that the difference and the only difference between these three points is one of the ownership of the property? A. No, sir.

20 Q. If the railroad company owned the south side of Exchange Place and the land south of Montgomery Street and Exchange Place and west of the river, wouldn't you find it occupied exactly as you now find the Erie Railroad occupying the river front at the foot of Pavonia Avenue? A. No, I don't think so; the conditions as they exist do not bear out any such assumption.

Q. Well, now, then, haven't you, within your memory and your own personal experience, seen the Pennsylvania Railroad acquire additional land adjoining its property on the Hudson River front and enlarge and increase its yard; have you not? A. Yes.

Q. And add it unto the area of its yard? A. Yes, sir.

30 Q. Now, doesn't that change your mind with regard to the property south of Montgomery Street and Exchange Place if that were to be owned by the railroad company, wouldn't they use it as railroad yard property? A. No, because they now do own a good deal south of Montgomery Street and don't use it as railroad property in the sense that you made it, as a terminal with tracks and freight behind it; they use it as
40 dock property; they are owners of property immediately adjoining.

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Q. And what is the extent of that property they own which you refer to? A. Goes back to the first street,—I don't know the title,—never looked it up, but I believe it goes back to—

Q. Hudson Street? A. No, not all the way to Hudson Street but very near.

Q. What is the depth of that property in feet from the line for solid filling to the depth that it does run back? A. Referring to the Plot Map No. 1 would answer the question better than I could from memory. 10

Q. 200 feet? A. Speaking of the Pennsylvania property south of Exchange Place, are you not?

Q. Yes. A. From the bulkhead line or the exterior line for filling, judging from the map here which is the Index Land Map of Hudson County, Official Map, it is apparently about 400 feet back. 20

Q. That isn't comparable at all with the depth that these railroad yards fronting on the Hudson River— A. No, but it is very much more valuable property what there is of it.

Q. Now, isn't all land that is that close to the Hudson River, that fronts on the Hudson River running from Essex Street north to Hoboken, very much more valuable for such other purposes as you find down here, than it is for railroad purposes in your opinion? A. My opinion is that the highest use to which water front property in Jersey City, we'll say north of the Lehigh Valley or Central Railroad would be to steamship purposes, if they could be properly docked similar to the Hoboken docks. I believe that is the high point in the water front. 30

Q. Don't you think that railroads and railroad yards and railroad property is there because 40

Percy A. Gaddis—Cross.

that is the highest use for that property? A. No, because it is the only place convenient for them to go.

Q. Do you think that the Vanderbeck tract that was lately purchased by the Pennsylvania Rialroad is comparable in value with the front part of the Erie Railroad Yards? A. Not particularly, no.

Q. Why not? A. Well, it is one of those high peak sales where a railroad was squeezed—a hundred and seventy odd thousand dollars.

Q. What was the price the Vanderbeeks paid for it? A. \$170,000 odd.

Q. How much was that an acre? A. I don't know.

Q. About \$83,000 an acre, wasn't it? A. I wouldn't be surprised if it was.

Q. And that was the price that the Vanderbeeks paid for it to use it for a mercantile purpose of their own,—lumber? A. No, that's what they sold to the Pennsylvania Railroad; are we on the same sale?

Q. The price that Vanderbeeks themselves paid for it. A. Oh, that's ancient history; I have no idea; I understand they had that in the family a great many years.

Q. It isn't worth any less now is it than the price they paid for it when they bought it? A. May be worth a great deal less.

Q. You think it is worth less today than it was when Vanderbeek bought it for their own lumber yard, do you? A. If it was bought—

Q. I am not asking you when it was bought; I am asking if it is less—

Percy A. Gaddis—Cross.

that question until you know when it was bought. You have to take into account when it was bought. The next thing, he says he don't know what they paid for it.

THE WITNESS: If I have the sale, the details of it, I will be very much, pleased if you care to analyze it and compare it with the other. 10

Q. If you don't know I wish you would say so.
A. I would have to refresh my memory from the notes if I have it there—I will say I don't know.

Q. Now, then, Mr. Gaddis, that property was owned, occupied and used was it not by Vanderbeek and Sons for purely mercantile business for a good many years to your knowledge? A. The strip alongside Morgan Street, yes, with street frontage; I want to compare that with the Pavonia Avenue frontage. 20

Q. That property didn't have any water front connection did it? A. No, but it is adjacent—it had the rights to public dock and the only public dock in Jersey City making it have a peculiar value.

Q. But it had no ownership nor any right except the right of the general public in that dock? A. No, but it was far more— 30

Q. It had no more right in that dock than you?
A. It had more value for its adjacency.

Q. Yes; it was nearer than was property on the Hill? A. Yes, the same as the Summit Avenue tunnel would be good to me where the Exchange Place wouldn't; same condition.

Q. Don't you think that property had a value in it due to the fact specifically that it was close to the Hudson River? A. Most assuredly and immediately adjacent to a public dock. 10

Percy A. Gaddis—Cross.

Q. Well, now, why isn't that property more comparable or a more suitable comparison with regard to value than property lying west of Henderson or west of Provost Street? A. I did tell you it was reasonably comparable with the Pavonia Avenue frontage and I think if you will follow out my testimony as to the Pavonia Avenue frontage it was very different in the price—
 10 was it \$5000—if not I am—

(Question repeated.) A. It is comparable with the Pavonia Avenue frontage.

Q. Well, isn't it more comparable? A. Yes, with the Pavonia Avenue; it has a street in front of it.

Q. Then you don't think it is comparable with the land in the interior of the north side of the Erie Yard? A. Not more than the distance that
 20 went back for the finished street.

Q. Then you don't think any element of increase in value in land enters into it because it is nearer to the Hudson River? A. I do and have allowed it.

Q. What do you consider land worth a square foot 200 feet back from the bulkhead line of the Hudson River running through the Erie Yard?
 30 A. I am getting into water front and prefer not.

Q. We will take it 600 feet back. A. It has been answered.

Q. What do you consider that worth per square foot? A. Depends on the situation.

Q. When you get back 800 feet from the bulkhead? A. Same value—it is worth on the average the same thing from the back of the water front limit which we have defined as the west
 40 line of Hudson Street extended to the end of the

Percy A. Gaddis—Cross.

yard taking on the average. A. Six, eight hundred, a thousand would be the same.

Q. So you don't think there is any specific element in the value of the land because it adjoins and connects with the Hudson River unless on a street that runs to the river? A. Yes, I do.

Q. Well, now can't you say what you consider land worth a square foot in zones back from the bulkhead? A. If you want to compare those zones by laying a street division in there so that you have got a section with a street on either side and water, values would be high; that can easily be done, mainly a matter of arithmetic.

10

Q. You couldn't put streets in there now, could you? A. When it is owned by a railroad, no, but if thrown into private hands there is nothing to prevent it.

Q. You and I don't expect to see streets in there; then why talk about streets? A. You make a zone; there has to be a division.

20

Q. Isn't that value because you are near to the Hudson River itself as an artery? A. Yes, that's the reason I have been so liberal in the price I have applied to it, considering that element.

Q. In making up your comparative value of that acreage in there you based your comparisons entirely on the data you gathered together of sales back of Provost Street? A. No, sir; I stock that on my 20 years experience in the business purchasing and selling property in that and other territories, purchases for railroad companies and for private individuals.

30

By Mr. FORT:

Q. Now, I want to get an answer to this question if I can; what is the value per front foot

40

Percy A. Gaddis—Cross.

from the bulkhead to the west end of the Erie slip, value per foot? A. That is in the water front territory and I don't care to express an opinion on it at the present time.

Q. But you have testified and have put it all the way along on an average \$5,000 a lot; now I want to know at what figure you put this value to get your average? A. I testified what?

Q. That you had put on the land along there on Pavonia Avenue— A. On Pavonia?

Q. Yes, all that abuts against the Erie Basin— A. No, it doesn't go back to that.

Q. Pretty near it? A. 200 feet off.

Q. I will put it this way; did you or did you not put any value per lot or per acre upon the land lying between Pavonia Avenue from the bulkhead on the west of the Erie slip to the end of the Erie slip? A. No, sir, because the higher value was on the street front.

Q. How did you get your average? A. My average on the other part?

Q. On that whole strip the average must take in everything; now how did you get your average if you didn't put any value on it? A. I took the average of all property directly in the rear, west of the yard and in so doing I neglected to say in the record that I had automatically taken in the value of the Pavonia Avenue frontage double because the sales that are quoted in that schedule include sales all along Pavonia Avenue and I made no deduction for it so, therefore, the value of Pavonia Avenue is reflected in it by the average.

Q. Well that may mean something clear to you but it doesn't mean anything to me. I would like to know what value if any in making

Percy A. Gaddis—Cross.

up the general value, what you placed on this part of land lying south of Pavonia Avenue and adjacent to or between Pavonia Avenue and Erie Street? A. I will try to state it again; I based it upon the sale and knowledge of the average value of all land lying south of Pavonia Avenue west of the yard to 6th Street; that is on that there I applied the value of that which is the highest developed where there are banks and such as that. 10

Q. Then you mean land west of Provost? A. Most assuredly.

Q. Then you didn't attempt to value for the purpose of this valuation land east of Provost? A. I certainly did; I said I applied my basis or my comparison of the land that you have just pointed to, the land west of it, applied that value to the land in question. 20

Q. That is you put the same value on the land east as you put on the land west? A. Most assuredly.

Q. Made no difference in the valuation? A. No—yes—valued it considerably higher inasmuch as I have applied the highest standard; I have taken improved city property highly developed for 35 or 40 years with churches, hotels, schools, with banks and such property as the Pavonia Trust Company is in that territory there. 30

Q. Then you didn't attempt to put any present value on the land specifically lying east of Provost Street? A. I certainly did; I applied the value to it based upon my knowledge of the adjacent land which I understand is the comparison—that is what they use in the City of New York.

Q. Then what I understand you to say must be that the value you put on the land west of 40

Percy A. Gaddis—Cross.

Provost you put on the land east? A. You were perfectly right; the value that is there west I applied to the land east.

Q. Therefore, you consider land west equal to the land east in value? A. That's right; that's very clearly put.

10 MR. CORBIN: He excludes the water front, that's all.

MR. HENDRICKSON: He cannot conceive that this land, being nearer the river is worth more.

20 MR. CORBIN: There is a strip, of course, along the shore; we have taken this line on the bulkhead because you did; the proper way is a little further back. There is a part there, that, of course, ought to be valued with the water front; when you get back of that unless under very special circumstances, water front has very little to do with it, it seems to me.

MR. HENDRICKSON: We will adjourn now until Wednesday.

30

40

Percy A. Gaddis—Direct.

Testimony, January 31, 1912.

MR. CORBIN: Mr. Chairman, the other day I offered a large map of Jersey City marked Exhibit Long Dock No. 4 January 29, 1912. I have here another print exactly like it, the same map except that on this we have colored the main stem and with your permission I would like to substitute this print for the other one. 10

MR. HENDRICKSON: There is no objection to your substituting one for the other.

Map with main stem in color received and marked Exhibit Long Dock No. 4 January 29, 1912.

PERCY A. GADDIS, recalled. 20

DIRECT EXAMINATION BY MR. CORBIN:

Q. Mr. Gaddis, what change in value if any has there been in the general values of land in Jersey City in the District that you have been speaking of, that is, from the Bergen Hill eastward to the Hudson River? A. Practically none whatever with a slight variation of occasionally up and down to even itself up; in special places where people wanted something, they would go higher; other places, there would be quite a sacrifice. You allude to the period of the last three or four years? 30

Q. Yes, I said five or six years; my question was 5 or 6. A. That will hold good for that time.

Q. What would you say as to the lands west of the Bergen Hill that you have shown on this 40

Percy A. Gaddis—Direct.

map in the neighborhood of the railroads; has the value advanced or decreased within the last five or six years? A. The southerly portion of the city, that section lying south of the Erie and Lackawanna lines and west of the hill there has been a slight increase in the last five or six years, considerably along the water front, down Newark Avenue and in the section of the Public Service Power Plant, so called Marion section; north of there going towards the County road there has been no increase whatever; a decrease if anything.

MR. FORT: I don't think I want to ask any questions further than the other day.

MR. GADDIS: May I be permitted to correct a wrong impression? I was asked by Governor Fort did I consider property lying between Provost Street and the west line of Hudson Street extended as being of more value than the land of like area immediately west of Provost Street. My position regarding the comparative value of the land lying east and west of Provost Street is as follows: I apply the same value to the land lying east of Provost Street, or the Erie property to the west line of Hudson Street extended as I do to a like territory lying west of Provost Street wherein I said there was an additional value of 50% more I alluded only to that portion of the land lying east of Hudson Street extended to the exterior line for solid filling wherein it reflected the water front value and I said at least 50%, not giving an absolute opinion as to that being that is water front property. I think that clears my position.

Thomas A. Ryer—Direct.

Correcting testimony at bottom of page 84 and top of 85.

MR. RECORD: Did you cross examine him the other day?

MR. FORT: Yes, I did; I did not finish.

MR. RECORD: The understanding is I generally cross examined him on general principles; now here is a compilation of figures he has made covering some forty or fifty pages; as to that I want time to look it over and make an examination. He is to come back for further cross examination.

THOMAS A. RYER, a witness produced on the part of the complainant being sworn as a witness in all the cases of the Erie Railroad system and the New York, Susquehanna and Western Railroad and being examined by Mr. Corbin, testified as follows:

DIRECT EXAMINATION BY MR. CORBIN:

Q. Where do you live and what is your occupation? A. Jersey City and my occupation is real estate and insurance.

Q. How long have you been in that business? A. About 11 years.

Q. And where? A. In Jersey City.

Q. What experience have you had in buying and selling and appraising and keeping yourself informed as to values? A. I have purchased and sold considerable property during that time, representing the City and Government and individuals in many appraisals.

Q. Have you kept yourself advised as to values of land that has been bought and sold? A. I have.

Thomas A. Ryer—Direct.

Q. You have made special studies and appraisals, I think, for these authorities you have mentioned? A. I have in the last four or five years.

Q. On one occasion or more? A. Many occasions.

10 Q. Have you advised yourself of the values of lands and selling prices of lands east and west of the Hill in the vicinity of the Erie Railroad tracks? A. I have.

Q. Are you familiar with these schedules which Mr. Gaddis exhibited here and which have been offered in evidence as to values east of the hill? A. I assisted in the compilation of them.

Q. And did you inform yourself as to the values in those vicinities and the prices? A. I did.

20 Q. What can you say as to their correctness and truth? A. My testimony would be the same as Mr. Gaddis' on the values as shown in these schedules.

Q. And what is your estimate of the values of the Erie Railroad in these schedules compared with the sales back; do you agree with Mr. Gaddis in this? A. I do.

Q. Have you studied each individual item? A. I have.

30 Q. And does that apply, Mr. Ryer, to the schedules of the property west of Bergen Hill as well as east? A. It does.

Q. Has property advanced or declined in value during the past five or six years in these vicinities of which we are speaking? A. It has remained stationary since about 1907.

Q. Are you familiar also with the maps which Mr. Gaddis exhibited? A. I helped prepare them.

40 Q. And you agree as to values with what he has

Thomas A. Ryer—Direct.

said? A. I do; I presume you mean assessment values and other?

Q. I mean assessment and judgment of actual present value? A. I do.

Q. Did you attempt any valuation of the water front as such? A. I did not; I merely valued the land down to the westerly line of Hudson Street extended. 10

Q. What is the usual custom of valuing water front property? A. By the front foot as I understand it from a certain point out to the exterior line for piers.

Q. You say from a certain point; what point would you say? A. I say from the westerly line of Hudson Street; that's where I made my point.

Q. All east of that you think would be a fair amount of adjacency to throw in with the water front value? A. I do. 20

Q. That you think is commonly valued by the front foot? A. It is.

Q. That should be added substantially, to what your values are? A. For that land, yes.

Q. I see in these schedules you have seemed to value the land out to the exterior line for solid filling; that's somewhat beyond Hudson Street I think? A. It is; that was merely to agree with the State Board figures. 30

Q. Do you think the acreage between the west line of Hudson Street and the line for solid filling should in fact be taken away from the values of the upland and thrown in as adjacency to the water front? A. I do.

Q. And in your opinion is that a sufficient amount of marginal land to value with the water front? A. It is.

Q. Then if you should follow your theory, Mr. 40

Thomas A. Ryer—Cross.

Ryer, and give a front foot value to the water front along the Hudson River and throw in this strip from the solid filling line to Hudson Street, you should deduct from your other figures should you not, your valuation of that strip of land along the shore? A. Whatever the acreage was from the west line of Hudson Street to the exterior line of solid filling should be deducted and thrown in with water front at so much per front foot.

10

MR. RECORD: I don't understand these tables; here is a page on assessed valuation and a page of true valuations.

20

MR. CORBIN: These two witnesses have called their estimate "true value"; by rights it should be Ryer and Gaddis valuations; probably when we come to print the case it will be so printed. It is their estimate of true value. I think the objection is justly taken.

CROSS EXAMINATION BY MR. FORT:

MR. FORT: I think the other day I got Henderson and Hudson Streets mixed up in examining Mr. Gaddis.

30

MR. HANSEL: I think you were correct.

Q. Mr. Ryer, do I understand you then to mean to convey the impression that you believe there is a difference in the value of whatever land may be shore front land from the land that is upland? A. I do with a certain portion of the upland attached to it.

40

Q. Well, then you put a different value on the land lying east of Hudson Street extended from what you do on the land lying west? A. I haven't placed any value east of Hudson Street, Governor.

Thomas A. Ryer—Cross.

Q. That is to say—do you understand that neither Mr. Gaddis nor you have put any value on that land at all? A. We have not.

Q. Well, is that because you agree with the valuation which the State Board put on it? A. No, it is because we haven't appraised it.

Q. Then you might, if you appraised it, be higher than they? A. We might; I cannot say. 10

Q. You say you are familiar with Mr. Gaddis' testimony; you heard it here the other day? A. I did.

Q. And in those compilations which are in evidence,—were they made up by you and him together? A. They were.

Q. Is your judgment reflected in them or his judgment reflected in them? A. Both.

Q. You say that values have stood still in this immediate locality since 1907; practically remained about the same? A. Yes, sir. 20

Q. You include in that this land which has been valued between Provost Street and Hudson Street extended? A. I do.

Q. What increase in the land has there been between 1900 and 1907? A. Possibly 25%.

Q. Does that apply to all the land what you call the upland and the land west of Provost Street? A. The land generally. 30

Q. The land generally? A. Yes; taken throughout Jersey City.

Q. You are speaking of this whole territory of which you have been talking; there has been an increase of 25% between 1900 and 1907? A. Yes, sir.

Q. Without giving any specific value how about the increase of the water front lands along the Hudson since 1907? A. I have made no study of that. 40

Thomas A. Ryer—Cross.

Q. Nowhere? A. No.

Q. You do not want to testify as to water front property? A. No, sir.

Q. Do you consider that land adjacent or adjoining or abutting upon a railway right of way is injured any by the railway right of way? A. I do.

10 Q. To what extent? A. Depends on the different locations.

Q. Does the same injury extend to the right of way itself? A. It does.

Q. Then if the land be depreciated the right of way is also depreciated? A. To a certain extent yes.

Q. For what is it depreciated? A. I don't get that.

20 Q. For what? For what is the land depreciated, that is, for what use is it depreciated? A. For what purpose?

Q. Yes. A. It all depends entirely on the land the main stem went through.

Q. I am speaking of the land itself on which the tracks are. A. I understand.

30 Q. Do you want to be quoted as testifying then that that is also depreciated in the same proportion as the land that lies alongside of it? A. Yes; I mean, by that that if a railroad right of way was put through Gifford Avenue naturally the land next to it would depreciate in value for the two blocks on each side naturally would depreciate the value of the main stem in accordance with that value there.

40 Q. Then you wouldn't say would you, that for valuing railway rights of way, continuous strips for railroad uses that it was fair to take the value of the adjacent property as the value of

Thomas A. Ryer—Cross.

that right of way for railroad uses? A. I haven't done so.

Q. I say, you wouldn't say so? A. I would not, that is immediately next to it.

Q. Well, how far away would you go in order to get the value of the same—A. In this case we have gone about five blocks each way.

Q. Then when you get five blocks away from the railway you consider what? A. That no damage has accrued from the railway ordinarily, in fact, nearer than that; very little damage one block. 10

Q. I want to make it clear as to what you mean by the land in the main stem not increasing in value more than the adjoining land; do you mean that the land having been acquired by a railway for a main stem use has not appreciated any in value? A. I don't know that. 20

Q. What do you mean by that? A. I mean I don't know to what extent it might appreciate any value for the special use to which it is put; the actual land itself, if not used for a railroad is not appreciated in value.

Q. That is to say if you take railway tracks off and remove the railway, it would be the same value as the adjoining land? A. Same value as the adjoining land, exactly. 30

Q. I guess there is no doubt about that. But take this strip of land of the Long Dock Railroad Company which runs through and takes a street right out of the center of the block—

MR. CORBIN: I think not, Governor?

MR. FORT: Doesn't it?

MR. CORBIN: Takes a half a block.

Q. I was wrong about that. Just strike that question out, please. Take the main stem of the 40

Thomas A. Ryer—Cross.

Long Dock Railroad which seems to run through the block adjacent to 11th Street—A. South of 11th Street.

10 Q. And on the South side of the street, how does that affect the block through which it runs in taking part of the land? A. In this case it has had no effect; the railroads own the entire block.

Q. Then your idea is if the railroad buys the entire block it doesn't affect the value of the property? A. It does not.

Q. But if a railroad buys a piece of the block and a citizen continues to own the other half of the block, what does it do? A. It might injure and might not; all depends on the use to which the balance of the block was put.

20 Q. Now, why does ownership control your judgment as to value? A. It is the use.

30 Q. No, no, I am talking about—now here is a block of land,—see if you understand me,—a highway in a city; a railroad comes along; takes alongside of one of the streets a strip of, we will say 50 feet, leaves 50 feet on the other side between that street and the next,—we'll say it leaves 150 feet; do you mean to tell me you don't think taking that strip injures any of the land in that block for any purpose? A. Yes, I think it has depreciated the whole block.

Q. But not if a railroad owns it? A. Yes, I have figured that if a railroad owned it it would depreciate that block.

Q. If another individual owned it, you would still think so? A. All depend on the use to which he put it whether it would be depreciated or not.

40 Q. Then your statement a moment ago that when the railway went there it always depreciated there cannot be correct, is it? A. If under

Thomas A. Ryer—Cross.

other ownerships, yes—no, it doesn't always depreciate the value; it all depends on the use to which the surrounding land has been put; in this case it has depreciated the block on the north and south to some extent because there are dwelling houses there.

Q. Now, then in acquiring this right of way there,—such a strip of land as that,—before I take up the subject I was going to, let me ask you this: what governs your opinion of values in making these values? A. The sale value of property in the immediate neighborhood. 10

Q. Well, do you mean by that the most profitable use to which land can be put? A. No, the use to which it is put.

Q. Well, supposing here is a piece of vacant land lying along the main stem; how would you judge the value of that? A. By the surrounding values. 20

Q. Well, would you fix your judgment of value upon the basis of the most profitable use, say it could be used for factories rather than dwellings? A. No, I should take it on the basis of what surrounding property was selling for; the market value would be my judgment.

Q. Wouldn't it be probable that land was very much more valuable, could be used for factory purposes and switch-ins and things of that kind, right along the railway than it would be a distance back where not available for that purpose? A. True. But my judgment would be what it was selling for on that right of way and for that purpose. 30

Q. You would take that purpose into account? A. Absolutely as reflected in the selling value.

Q. Now as to the question I asked a moment ago, in acquiring this strip of land through a terri- 40

Thomas A. Ryer—Cross.

tory like this, could you acquire it at the same price for railroad purposes,—could you acquire it at the same price you would acquire an acre of this land for dwelling purposes? A. Not if the purpose for which it was to be used was known I could not.

10 Q. You mean by that if the route had been laid in the office of the Secretary of State and the Railroad was going to run there and you started out to buy the land you would have to pay more? A. I would.

Q. How much? A. That would all depend on what the owners held me up for.

20 Q. Would the question, in your judgment, in fixing the value under these circumstances, of the fact that it was to cut through a block have any bearing in your judgment in determining this question of value? A. It would not; I would take my values from the surrounding territory.

Q. You wouldn't care anything about how it cut the property? A. No.

Q. That wouldn't make any difference in the matter of cost in your judgment? A. In cost, yes. For instance if you take half a man's lot you pay more than if you take all of his lot.

30 Q. Why is that? A. Well, because you are taking part of something he has got and you have got to have and he is going to get his best price for it.

Q. Then the fact is, is it not, that the value of the land in a main stem, is largely determined by the way in which it goes through the property? A. I don't think so.

40 Q. Well now, what do you mean, then, by saying that you would have to pay more for a half lot than you would for it all? A. If, for instance, the value of the lot where the main stem

Thomas A. Ryer—Cross.

would go through would be based on the same value of what that portion of a lot in any block that I have taken the comparative area would be, I mean that if, for instance in another area a lot was sold fifty feet deep I would use my Hoffman rule and apply that to get the value of the first 50 feet of that lot.

Q. And you would expect to get that for the same price the other land sold for? A. I would not. 10

Q. How much more? A. It depends entirely on how much I was held up for and how badly I needed it.

Q. That determines the value of land, does it not, the fact that you are taking it for a continuous strip for a specific purpose? A. That determines the cost, not the value, to my mind. 20

Q. What is the difference between cost and value? A. Because my value is based on what land would sell from a willing seller to a willing buyer and not from a man who wants something and another man who don't want to give it up. 20

Q. Mr. Hendrickson suggests just what you have stated is the rule of condemnation in land; you have been on condemnation proceedings very often? A. I have.

Q. Now, just what you have stated is the rule that governs you in condemning land? A. No, all the testimony I have ever given for condemnation has been the market value of land. 30

Q. That is the testimony you have given, the market value of the land. Do you take into account,—do you not take into account at all as to fixing the value of this land, the way in which it passes through other land? A. I do not.

Q. In the case of a farm for instance, where it cuts through the middle of it? A. No. 40

Thomas A. Ryer—Cross.

Q. Makes no difference in arriving at its value, because of the fact that embankments had to be erected, cutting the farm in two pieces? A. Not if I take surrounding values away from that on the part that goes through it; I don't take my value from the land back of the railroad,—I extend it to a section which has not been damaged by the railroad and that value applies on the land of the railroad; I am not valuing it for the use nor what it costs but what it would sell in the market if the railroad was not there.

10 Q. Then your opinion is the value of the land is the bare land; the cost of the land for the purpose for which you are acquiring it might be two, three or four times as much as that? A. Might be.

20 Q. And as a general proposition you would say, wouldn't you, from your experience—you have had experience, I believe in this sort of work? A. I have.

30 Q. That the land alone which costs from two to five times as much as adjoining land would sell for a private dwelling if there were no railroad passing through it? A. I mean the land of the railroad is acquired at a cost considerably more—what percentage I don't know—I mean, sometimes you buy a piece of property for what it is worth; in fact in the Erie case some of the land was purchased for its market value; others twice and three times what it was actually worth in the market.

40 Q. Do you know of any other strip of land outside possibly the Pennsylvania and one or two other main stem systems here where the approach to such a large tract as this Pavonia Avenue tract, the Erie Grain Elevator—where it exists in this city any other place? A. You mean on the Hudson River frontage?

Thomas A. Ryer—Cross.

Q. Yes. A. No.

Q. Now, then this strip of land through this territory to reach this large water front property, is it not more valuable than the adjoining land on either side of it? A. It might be for the use to which you put it.

Q. How much more? A. I don't know that; it appears to me that would be a franchise value 10
I don't think it would be worth any more for a golf links.

Q. Probably not, although that would be a good place for a golf links in Jersey City. Is there any estimate of value that you can put on that land for the purpose for which it is used? A. There is not.

Q. That is to say it is beyond estimation in your judgment; you can't tell anything about it? 20
A. I haven't made a study of how railroad use would increase the value of main stem; I don't know.

Q. It would be difficult to get in there now any other way, would it not? A. I presume so.

Q. Very expensive? A. I imagine. Of course you would have to buy the buildings in addition to the land; naturally, as I say if the people knew there was a main stem coming there it would cost a great deal more; if they didn't know it I would 30
be able to buy it for the value I have placed on it.

Q. As the railroad owns it there today, as a piece of land belonging to the railroad, used as it is by the railroad and to be continued in use by this railroad or purchased by another railroad, for railroad purposes, it is a very valuable strip of land? A. I should imagine so.

Q. Can you reproduce that strip of land? 40

Thomas A. Ryer—Cross.

MR. CORBIN: What do you mean by that?

Q. Could you reproduce it? A. Yes.

Q. Right on the north adjacent to it? A. You mean could I buy a strip of land—

Q. Could you reproduce such a strip of land either there on the north or south? A. Certainly.

10 Q. But at a very heavy expense? A. No question if the use was known.

Q. But whether known or not? A. I think I could get it if it wasn't known, for the figures I have placed on it; in other words I mean I could go in there any block and buy it plus the value of the building for the appraisal I have placed here if for ordinary purposes.

20 Q. You would have to dismantle the buildings and that is a loss? A. Yes, that might bring the cost way up by virtue of removing the buildings, but I could buy the bare land for the value I have placed on it if the use was not known.

BY MR. RECORD:

30 Q. Do I understand that the figures on this exhibit are figures of the value you have placed on the land, or figures you have placed on land and buildings? A. Those figures on the map you have in your hand are assessments in the different blocks, city assessment.

(Referring to Exhibit Long Dock No. 4, Jan. 29, 1912.)

A. Those are merely assessments in the block, city assessments.

Q. Of the whole proposition? A. Of the whole proposition in that block.

40 MR. HARDIN: Land only or land and buildings?

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THE WITNESS: Land only.

MR. FORT: We had that out yesterday was it, or the day before yesterday.

A. That's what the city places on land in these blocks.

MR. FORT: Those were the local assessors figures; there was some question of admitting them in evidence. 10

MR. RECORD: I only wanted to know what they meant.

Q. Do you know of any block of land fronting on the shore front as near the center of business in New York City as this portion shown in green and yellow and brown and red, frontage on the shore front which could be purchased for the assessment that is put upon this tract by the State Board? 20

MR. CORBIN: That's not the State Board; that's the local board.

A. In New York City?

Q. Right in Jersey City. A. I don't know of any tract that could be acquired that size.

Q. Supposing you were given the commission to acquire a tract fronting on shore front no further distance from the center of traffic in New York than that what would you expect to have to pay? A. Back of the westerly line of Hudson street I would expect to pay the figures I have placed on it. 30

Q. Answer my question please. Supposing you were given commission to buy a tract of land, one block the size of the tract shown here in green, fronting on the shore front and no further away from whatever you consider the center of business in New York City, say 23rd Street 40

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or whatever you consider it—supposing you were given that commission, what would you expect to pay for a block of that size? A. I don't know; I have no way of knowing; I wouldn't know what the shore front would cost me.

10 Q. You know of no way to buy land of that size and no one block similarly situated do you? A. You mean I know of no such tract? I do not, unless you go into the Newark Bay—or New York Bay.

Q. Would it not be possible to buy such a tract adjoining Exchange Place on the south? A. Yes.

Q. Would be possible to assemble such a tract would it not? A. It would be provided you could get them to sell.

20 Q. Well if you had power of condemnation you could force them to sell. A. Under condemnation, yes, you could get it.

Q. Supposing you had power of condemnation and you were directed to buy that tract, the tract south of Exchange Place is practically the only tract similarly situated not used for railroad terminal, isn't it? A. Yes.

30 Q. Is it not a fact that to get that tract you would have to pay, even with the power of condemnation, the value of the land plus the buildings at, at least, the assessed value of both? A. You would.

40 Q. And then you would have to acquire the streets in some way, would you not, in order to make the tract a continuous one? And the cost of doing that would be approximately—at least the assessed value of the land and buildings plus an equal cost for the streets if they were vacated? A. It would.

Q. And if you were to try to get a strip of

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land like the main stem to connect with that terminal you would have to buy it upon the same principle would you not? A. You would.

Q. In buying land and buildings, and tearing down the buildings and getting the streets vacated, etc.? A. You would.

Q. In valuing land like you have valued land here today do you consider its adaptability to various uses? A. I do. 10

Q. Why, in valuing this land, do you not consider its adaptability to railroad uses? A. I consider it for what I consider the highest use.

Q. What do you consider the highest use? A. Factories and the development to the west of Grove Street.

Q. You consider that the highest use? A. So far as I know. 20

Q. And that has been your measure of value, factory use? A. Yes, factory and dwelling use.

Q. Do you not, as a matter of fact, know that the warehouse use is a more profitable use than the factory and dwelling house use? A. I do not.

Q. You have no experience about that? A. I have not.

Q. Then if the warehouse use was a more profitable use than a dwelling house or factory use and this property was adaptable to a warehouse use, it would have a larger value than for factory use would it not? A. Provided it was used for warehouse use. 30

Q. I say provided it was adapted for that use and it was a more profitable use. A. I cannot answer that; it might be adapted and not used for it; if it was used and the warehouse use was greater than the factory use I should say more. 40

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Q. Supposing this property was covered with warehouses and you were asked to value the land only; would you value it with reference to a factory and house use? A. I would value it with reference to what the land sold for.

10 Q. Now, just answer my question; supposing you were asked to value this land and it was covered with warehouses would you measure the value of the land by factory and house use? A. I wouldn't measure it by any use; I would measure it by the actual selling in the district.

Q. Well, didn't you say a moment ago that in valuing this land you used as your measure of value its adaptability to house and factory use and that you considered that the highest use? A. Well—

20 Q. Did you not say that? A. I did.

Q. Do you qualify that? A. Do I?—The value I placed upon it was the value of land sold for that purpose which was the only land I could take for comparison of that value.

Q. Yes, but the land that you used as a comparison was land that was adapted to those two uses. A. No, it was used for these uses; it might have been adapted for anything.

30 Q. Yes; it was adapted for farming wasn't it? A. Yes, adapted for anything, but it is the use it is being used for now.

Q. And that you conceive to be the highest use? A. For that territory, yes.

Q. That's the highest use for that territory? A. Yes.

40 Q. Now, isn't it a fact that you value a piece of land always measured by its highest use, most profitable use? A. Measured by the use to which it is put.

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Q. And that is the highest and most profitable use, isn't it? A. Presumably so.

Q. Presumably so. Then if you find a piece of land with a department store upon it than that is presumably the highest use to which it could be put and the most profitable use, isn't it?

A. It is.

Q. As a matter of fact in Jersey City the land occupied by the department stores is the most valuable practically isn't it? A. In Jersey City. 10

Q. Yes. Now, the presumption is therefore in your way of measuring, that that department store land is devoted to its highest use isn't that so? A. May be or may not.

Q. Well, what is your judgment? A. My judgment is in that case on Newark Avenue it is.

Q. Now, supposing you were asked to value a piece of land on Newark Avenue on which a department store stood; would you exclude from your value the fact that it was used as a department store? A. I would. 20

Q. On what would you base its value? A. On what land sold in the immediate neighborhood for; it might be used for a hardware store, next door a candy store; next dry goods next department store on either side of that; may be a jeweler; if that department store was on a certain 25 or 50 feet it would make that more valuable than land on either side of it. 30

Q. You would value it with reference to the business in the neighborhood? A. No, I would value it in reference to what the land was selling for.

Q. Well supposing there were no tracts of land of equal size in the neighborhood that had been sold? A. I would have to base my judgment on 40

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what had been sold and use my judgment on it, that's all.

Q. You would not reason that the department store fitted for a department store use gave it value? A. I would figure that whatever business was there, whether department store or what it was, certainly gave it value.

10 Q. Would you consider that its adaptability to that use would be an element of value, the fact that it could be used for that? A. Not necessarily, because you take the opposite side of the street; it may be just as valuable but may not be used for the same purpose. You have that illustrated on Newark Avenue on one side the lots are worth \$40,000. On the other side \$20,000, because more people travel on the south side than the north there is more business.

20 Q. That means the south side is more adaptable to the retail business than the north? A. Not necessarily, simply happens that the people flow there.

Q. Why? A. I don't know; simply a peculiarity; they did flow on the north side a few years ago; now they have started on the south side; they may switch back, if so, values will switch.

30 Q. Well, where the people go, then, determines the value for retail trade purposes? A. It does to a large extent.

Q. So that the value on the north side might be more than on the south side? A. Yes, sir.

Q. Then if it sold on the north side at \$20,000 that's no measure of value on the south side? A. It is not.

40 Q. Then the values right nearby may or may not be a guide as to value, isn't that so? A. You have got to use judgment, of course.

Q. Well, that follows, doesn't it? A. We us-

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ually take it the same block; we don't go out of the same block for the value of a certain block.

Q. Well, the value across one side of the street may vary materially? A. It may.

Q. And the value in the rear of the block may vary materially from the value on the other side of the block may it not? A. Yes.

Q. As a matter of fact on Newark Avenue the lots that front on Newark Avenue are more valuable than those fronting on Railroad Avenue where they front on both. A. A great deal 10

Q. So that even in the block itself the use to which the land is adapted or can be put determines its value doesn't it? A. The use to which it is put determines the value.

Q. And the rise to which it can be put determines it? A. I don't think so; it is the use to which it is put that determines the value. 20

Q. The use to which it is put; now will you carefully consider that and say whether you propose to stand on that or not as an answer, qualify it or stand on it or what? A. I think so.

Q. You will stand on it? A. I do.

Q. Do you know anything about whether the railroad use—whether the warehouse use is more a valuable use than the railroad use? A. I do not. 30

Q. Do you know anything more as to whether the warehouse use is more valuable than the factory or house use? A. I do not.

Q. Do you know anything about the value of a piece of property for railroad use? A. I do.

Q. I mean do you know what profit they make out of it? A. No, no; I thought you meant railroad use to individuals. 40

Q. I mean you don't know what the value is to the railroad company? A. I do not.

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Q. In considering the value of this terminal front, you have considered it then, as though the railroad company withdrew from it on a fixed day and have measured what you think it would sell for? A. I have.

Q. In case they removed from it? A. I have.

10 Q. In considering that value, have you considered the fact as to whether that railroad or another railroad would be in the market for that large tract of land? A. I have.

Q. You have tried to imagine what they would bid for it? A. I have not.

Q. Then in what respect have you considered that they would be in the market for it? A. I considered there is a chance that there might be a railroad would want it.

20 Q. But if the railroad abandoned it you would consider that that was evidence that it was no longer suitable for their use? A. I should imagine so.

30 Q. That's your point. Now, supposing the Long Dock lease had expired—was to expire say ten years—five years from now and the Erie didn't want to leave but its lease was up and they must get either that tract or another equally as available for its purposes; under those conditions what would you consider to be the value of the property? A. Wouldn't change my idea of the value, no.

Q. What do you think that the Erie would bid for it? A. I don't know; they would try to get it as cheaply as they could probably.

40 Q. Supposing that you were advising the owner of that tract of land and knew that the lease of it to the Erie would expire in five years and the Erie were negotiating for a new lease, what

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would you advise the owners to charge for it?

A. I would advise them to get a price as high as they possibly could; get all they could for it.

Q. Now, they could not get any higher price than the Erie could get, within five years, another equally available site, could they, couldn't hope to? A. That all depends; they might get that plus the cost of the Erie in moving. I am assuming now that the Erie has got to move. The cost of that plus the cost of the Erie in moving, that would measure it. 10

Q. Some other items they might take into consideration rather than upset the system; they certainly would do it if it was within a year or some time—A. Yes.

Q. If it was within a reasonable time, say 5 years, so they could change without interrupting to their traffic it would only be the cost of shifting plus the value of getting a similar tract wouldn't it? A. Yes. 20

Q. Under those conditions wouldn't you advise the owners of that tract if the Erie lease had expired and the Erie was in the market desiring to renew but not forced to renew except by their inability to get another tract equally as available, but not forced by an hour or a day or some immediate necessity, wouldn't you advise them to change and hold out for a price very much in excess of these values that you have given? A. I probably would if they could get it. 30

Q. Well, wouldn't you advise them to hold out for it? A. I would advise them to hold out for it until they found they couldn't get it.

Q. Well, now, what would be your judgment as to their ability to get it? A. Would all depend on how anxious the Erie was and how necessary to them, that particular tract. 40

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Q. That's it exactly. A. You can't tell what they would pay for it.

Q. They certainly wouldn't pay any more than it would cost them to get another equally available tract, I mean, plus the damages of moving? A. Might even do that.

Q. For what reason? A. Don't know.

10 Q. Can't conceive of any? A. I can't conceive of their paying such prices for some of the property they have paid.

Q. They paid it? A. I don't know why; we all know they simply paid it.

Q. For land that you know about? A. Yes, for land that I know about.

20 Q. Those items are in excess of the values that you have given? A. They are in excess of any value I could give.

Q. Doesn't that indicate to your mind that the railroad use is more profitable than dwelling house use? A. Not necessarily; it may indicate that the man who had charge of the purchasing was foolish.

Q. What's that? A. It may indicate that the man who had charge of the purchasing wasn't smart as he should have been.

30 Q. Do you think it could be bought cheaper? A. I don't know; I say it may indicate that; I know he paid an enormous price for it.

MR. CORBIN: You speak now of certain parcels?

THE WITNESS: Yes, some parcels.

RE-DIRECT EXAMINATION BY MR. CORBIN:

40 Q. In speaking of depreciation which the construction of a railroad effects in certain cases you said if a railroad should go through Gifford Ave-

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nue it would injure the property on each side; why did you select Gifford Avenue? A. Because it is the finest residential section in the city.

Q. The best and most expensive houses? A. Yes. There would be more damage than if it went through tenement house sections I mean.

Q. Suppose it went through a district taken up with factories and warehouses, lumber yards; would it do any damage? A. It would appreciate the property in that case. 10

Q. The possibility of getting sidings would appreciate it? A. Would appreciate the surrounding property naturally.

Q. I notice on these maps that have been exhibited that the Long Dock Road seems to run from the river back to the hill parallel to the numbered streets, 9th, 10th, 11th and so on and at right angles to the named streets, Coles, Jersey Ave. Erie &c. A. It does. 20

Q. Do you know what that lay out of streets is and who made it? A. Do I know what?

Q. What lay out it was? A. That was the Coles property.

Q. The 'Coles Farm? A. Yes.

Q. Laid out how long ago? A. I don't know; about 18—20 years ago. 30

Q. And the Long Dock Railroad runs parallel to the numbered streets from one to the other? A. It does.

Q. How long has it been there as far as you know? A. I imagine about 12—15 years.

Q. These blocks are of what size? A. 200 x 400 all of them.

Q. And the main stem as you state, takes the northerly half of one of these blocks? A. It does. 40

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Q. That's what? A. Between 10th and 11th.

Q. Now on the ground how do you find it; is not that line of blocks for the most part all railroad property and occupied by railroad tracks? A. It is.

10 Q. Can you see any main stem on the ground when you are looking at it to distinguish from any other tracks? A. No you cannot see the line.

MR. CORBIN: It is purely an arbitrary thing; in fact I don't think anyone knows where to find it.

Q. Then in that line of blocks in taking all that property for railroad purpose does there appear to be any cutting of lots or severing of lots at all? A. There hasn't been.

20 Q. How many lots are laid out on each block? A. There are 32 lots to each block.

Q. And the railroad, you say owns most of the entire 32? A. Yes.

Q. Are these streets which I have mentioned, for example Henderson and Grove and Erie and Jersey and Coles and Monmouth,—are they actually open and even across the tracts? A. Under the tracks.

30 Q. And those which run alongside, 9th, 10th, 11th and 12th, are they likewise improved and paced? A. They are.

Q. How is the level of the railroad as compared with these different streets? A. There is a depression; the railroad is a little higher and there is a depression.

Q. No grade crossings? A. None at all.

40 Q. So that so far as the property on these maps is colored either green or red or yellow,

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that's all railroad property, then, is it? A. It is, first, second and third class.

Q. Well do you see any place on any of your maps on the east side of the hill where any lot or any block has been cut or severed; is there any place where the railroad owns less than the whole lot or the whole block? A. Only in third class in block 324 and 287.

10

Q. Don't the railroad own all of it? A. No, they don't own those.

Q. But I say is there any place where any lot appears to be severed? A. Oh, no.

Q. So wherever the railroad owns anything it owns the whole lot? A. Yes; I thought you meant the whole block.

Q. And as indicated by the colorings it owns the whole block in many instances? A. Yes.

20

Q. Take the great triangular piece to the east of the hill bounded south by 9th Street east by Monmouth and northwesterly on the hypotenuse of the triangle by the N. J. Junction Railroad. A. That's the coach yard.

Q. Any streets through that except—A. There are not.

Q. There they own all the blocks? A. Yes.

Q. Do you see any place, then of the Long Dock property or the adjacent company's property east of Bergen hill where there is any severance of any lot at all? A. None.

30

Q. How long have you known the Long Dock to be there in its present location? A. I have known it for 10—12 years.

Q. Now, coming to this tract which Mr. Record has suggested to you for a possible alternative terminal. A. South of Exchange Place.

40

Q. South to Exchange Place. To go back from

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the Hudson River, back along Exchange Place and its continuing street, Montgomery Street, you would have to go back at least as far as Henderson to find a similar piece? A. I don't know the measurements; I presume so; you would have to go farther back I believe.

10 Q. Well, now, to do that you would have to acquire the great banking house, the Commercial Trust Company? A. You would.

Q. And the First National Bank of Jersey City? A. You would.

Q. And the Union Trust Company of New Jersey? A. You would.

Q. And the New Jersey Title Guarantee and Trust Co.? A. You would.

20 Q. And the Hudson County National Bank? A. Yes, and the Provident Institution.

Q. And the Government post office; well there is the bulk of the big capital of this city. A. I think so.

Q. And you would have to take the present post office? A. You would.

30 Q. And the new post office, the site the Government is now building on and Colgate's Soap Works occupying some three blocks? A. You would.

Q. In fact, would you not have to take the very center of the office and law and banking business of Jersey City? A. You would.

Q. So far as uses by the people are concerned is there any real, true comparison to be made of those two tracts of land? A. You mean present use?

40 Q. So far as value is concerned. A. The tract Mr. Record has mentioned is much more valuable than the Erie Terminal.

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Q. With the possible exception of the dry goods district which he has mentioned in Newark Avenue, is it not possibly the most valuable parcel in Jersey City? A. It is.

Q. Now, Mr. Record's questions, asking you about the value of the Erie I see were all the time limited to property equally near to the center of business in New York City but he didn't define to you what he meant by the center. 10

MR. RECORD: I said whatever he concluded to be the center.

MR. CORBIN: You did finally come to that.

Q. What would you think to be the center of business in New York City? A. I mean equally near any point,—The Hudson Terminal.

MR. RECORD: I meant what he might consider the center for railroad purposes. 20

Q. It is true, isn't it, that if you go a little farther south—A. I mentioned that.

Q. I say, if you go a little farther than Black Tom there is a large extent—A. I mentioned that you could get that.

MR. FORT: You said Newark Bay.

THE WITNESS: I said Newark and New York Bay. 30

Q. Well, if you go south of the National Storage Company on Black Tom there is a good deal of unoccupied property? A. There is lots of it. The Pennsylvania just acquired a terminal there in the last ten years.

Q. If you go a little farther north, say the Weehawken Coal, there could be a site there? A. I believe there could. 40

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Q. It is not often that a new one is developed.

A. The only one I know of is the Pennsylvania Greenville yard.

Q. How long ago was that opened? A. Within the last ten years.

Q. There are only four or five of them altogether are there Mr. Ryer? A. That's all.

10 Q. And when you speak of its being equally near the center of business in New York, the fact is that the first property developed in Jersey City was that directly opposite old down town New York, isn't it? A. Yes.

Q. Was the Pennsylvania Ferry at the foot of Exchange Place? A. Aharsimus.

20 Q. So the Pennsylvania Railroad and the Central and the Erie and the Lackawanna which practically adjoin each other are the oldest and first developed properties? A. They are.

Q. And are now spreading out north and south? A. They are.

Q. Are not developments made with tunnels and ferries and factories and docks already 6 or 8 miles north on the Hudson River? A. I don't get that.

30 Q. I say, present development, has it not already begun as high as 6 or 8 miles to the north? A. Oh, yes.

Q. And on the south has it not already been begun as far south as Kill Von Kull? A. It has.

Q. And is there not in fact a good deal of it not developed at all? A. Oh, a great deal of it on the New York Bay.

40 Q. Now, in speaking of this difference in values of property that really is neighboring, you encountered that in Pavonia Ave. did you not, a greater value in Pavonia Ave. than streets near it? A. I did.

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Q. What values did you find in valuing Pavonia Ave.? A. \$5,000 a lot.

Q. And what did you find for instance the blocks near to it? A. Twelve,—fifteen hundred per lot.

Q. Is there anything in that vicinity other than what you found on Pavonia Ave. and possibly Grove Street that at all approach these figures, \$5,000? A. No. 10

Q. In your experience of buying and selling is that usual to find some one business street where the prices are very high and find near neighboring properties much lower? A. Very usual.

Q. Take the illustration that Mr. Record gave you of Exchange Place, and I will say Montgomery Street which continues it; you spoke of the lots on that street as being valuable; they are very valuable? A. They are. 20

Q. For instance how much a lot? A. \$40,000 on Newark Avenue.

Q. On Montgomery Street less I suppose? A. \$20,000.

Q. Take something in the same block only 200 feet away fronting on York Street; what do you find there in the way of value? A. \$3,000.

Q. That same thing prevails up on the hill for instance where Newark Avenue goes by the Court House? A. Yes, sir. 30

Q. Prevails down in the Bergen Section? A. It does.

Q. I will ask another question: do these values remain permanently higher in one place and lower in another or does that whim of the people shift? A. It shifts.

Q. You find the high values going lower? A. I do. 40

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Q. Ever find low values coming higher? A. I do.

Q. How do you account for that if you can account for it? A. Why, demand.

Q. Earlier in your testimony I understood you to say special values that a whole right of way of a railroad might be supposed to have to the railroad company you don't undertake to value; I think you said you threw that into franchise? A. I said I considered it franchise.

Q. That of course is a matter of law and theory. Now, not to dwell on special instances, but I will call your attention to one or two; take the land on the east side of Provost Street between the Lackawanna Yard and the Erie Yard or land on the east side of Provost Street south of the Erie yard, if you please; what are lots worth along Provost and along say 9th, 12th and 13th Streets? A. On Provost Street they are worth from \$1500—\$1,800.

Q. How much on 9th? A. On 9th, \$1800.

Q. How much on 12th? And on 13th and 14th? A. \$1500.

RE-CROSS EXAMINATION BY MR. FORT:

Q. I just want to get one or two things clear if I may. I understood you to say, Mr. Ryer, that you didn't care to give us any valuation on the Terminal lands at all; that is on the lands lying next to the river? A. East of Hudson Street extended; I placed no value on them.

Q. And do you consider that terminals if you are willing to give me an opinion used as shipping terminals such as the Bush Terminal are any more valuable than any other terminal lands? A. You mean the Bush Terminal any

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more valuable than railroad terminals, I don't know.

Q. Then you wouldn't care to express an opinion on that? A. No.

BY MR. RECORD:

Q. What is your opinion as to the value of property with reference to its size; is this property more valuable because it is in one block or less valuable? A. More valuable. 10

Q. What percentage? A. I don't know; in this case we allow a plottage value for certain plots up to say two or three blocks.

Q. What do you mean by that? A. I mean for instance you take in certain sections, a plot of three lots might have the same percentage as a whole block somewhere else; all depends entirely on its location and environment. 20

Q. I am talking about this tract; you consider that because this is all in one tract that is an increase, increment of value? A. I included that in my 25% extra.

Q. That's your measure, 25%, I did not know that. A. Oh, yes.

Q. Isn't it a fact that a tract of land is usually worth what it would cost to get a similar tract for? (No answer). 30

Q. Do you know of any exception to that rule? A. Yes, I think it is possible.

Q. That's the rule usually? A. No, it isn't the rule but it would all depend entirely on where the location was.

Q. Well, do you know of any exception to that rule? Do you know of a piece of land in Jersey City that isn't worth what it would cost anybody who desired it to get a similar piece of the same size and equally advantageously situated? A. 40

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Well, in some cases they may have to pay more; in some cases less; I don't know; I cannot give any example of that.

10 Q. I am asking you if you know of a lot of land in Jersey City, that isn't worth in the market today what it would cost any prospective purchaser of it to acquire a lot of equal size equally advantageously situated? A. I don't know of any case.

Q. As far as you know there is no exception to that rule, is there? A. Not that I know.

MR. CORBIN: That is a rule of law if it is any rule at all.

20 Q. You have run across no such exception in your experience? A. I have never had occasion to acquire a similar tract of land to another tract.

Q. Yes, you have had occasion to acquire one lot next to another, haven't you? A. Oh, yes, and I have acquired it for the same as the other many times; sometimes paid more for it, sometimes less.

30 Q. If a man is trying to get a residence in a certain general locality it would be worth to him what it would cost him to get a similar one to some specific house or build it in some general locality? A. As a general rule, yes.

Q. Where do you consider is the central point in New York City for shore front values? A. I don't know.

Q. Don't know anything about that? A. No.

40 Q. Doesn't shore front value decrease as you go down the river beyond the Central Railroad, wouldn't you consider—A. You mean opposite the Central Railroad?

Q. Down, further down. A. It might; I don't know. I don't see why it should decrease.

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Q. But you don't know whether it does or not.
 A. I don't know; I should imagine the Chelsea Docks were the highest point in New York; they are the finest development.

Q. And you would expect to see land values on the Jersey side decrease according to the distance from that point would you? A. I would not.

10

Q. You would not? A. No.

Q. You wouldn't consider that the value would increase as you approached that point? A. No, I consider the values decrease as you go north on the interior property.

Q. Not as you go south? A. No.

Q. Then you would consider a tract of shore front down in Greenville equal to a tract of shore front like this? A. I am not talking about shore front. The shore front is just the reverse; I thought you meant interior land.

20

Q. I am talking about shore front? A. Oh, the value increases as it goes north on the water front.

Q. Up to what point? A. I don't know; that is owing to the contour of the land, depth of piers &c.

Q. To what point? A. I think the highest point in Hoboken.

30

Q. Above that you would expect it to decrease?
 A. I should imagine so.

Q. Where would you commence the decrease on the south side? A. To go down again?

Q. Yes. A. I think there is a gradual decrease all the way down the river.

Q. When you say that you would include some element as a franchise element what do you mean

40

Thomas A. Ryer—Re-Cross.

by that? A. I don't believe I said that, Mr. Record.

Q. Well, you used the word franchise? A. Yes, I simply stated that would be a franchise element.

Q. What did you mean by that? A. Well, if you will get my question I don't remember just
10 what I said.

Q. I mean what element of value of this property do you describe as a franchise element; describe it. A. Why any value over the value that I place on it.

Q. You call franchise? A. I would consider franchise.

Q. What do you mean by franchise? A. The use to which it is put.

20 Q. The use to which it is put? A. Yes.

Q. And its availability for that use? A. Yes.

Q. Is it not a fact that this unusually shaped piece of property may have a value way beyond the value of a single piece adjoining? A. It may have.

Q. Yes. You don't know anything about that? A. I do not.

Q. You just call that franchise? A. Yes.

30 Q. You cannot define it, you don't know what it is. A. That's my idea of franchise, the idea that is accrues to the land by virtue of the fact that they can run the railroad there.

Q. By virtue of the fact that they can run a railroad there; by virtue of the fact that it is adapted for that use? A. Yes.

40 Q. And by virtue of the fact that it has continuity and the size that makes it available for that use? A. Yes.

Q. Would you consider in the shipping district

Thomas A. Ryer—Re-Cross.

that four or five lots or a block of land under one ownership would be more valuable than under detached ownerships? A. I think so.

Q. By this 25%? A. Possibly; it would all depend entirely on the location.

Q. Why should it be more valuable? A. Because under one ownership and it can be used for different purposes; it would be more salable. 10

Q. And being adaptable to purposes to which a detached lot would not be adapted, is that right? A. It is.

Q. You could build a bigger store on it if there was a demand for big stores, if the development was for big stores? A. If that particular development was for big stores, of course it would.

MR. CORBIN: Somebody put it this way, 20 that it gives you a wholesale purchaser as well as a retail.

THE WITNESS: Exactly.

MR. RECORD: In other words, whenever you bring property within range of an additional purchaser if that is a truck farm or a cabbage garden, you measure by that.

MR. CORBIN: Mr. Chairman, I want to 30 put on the record a general offer of these schedules and maps which have been produced by Mr. Ryer and Mr. Gaddis; I think they have all been marked.

Thomas A. Ryer—Direct-Cross.

Testimony, February 8, 1912.

MR. RYER Recalled:

DIRECT EXAMINATION BY MR. CORBIN:

10 Q. Mr. Ryer, have you made a recapitulation of the areas and assessments and the values placed on the properties by Mr. Gaddis and yourself, as testified to here in this case? A. I have.

Q. I show you this paper entitled "Recapitulation of arrears, assessments and valuation by Percy A. Gaddis and Thomas A. Ryer of all land in the main stem and second class properties, &c." Is that it? A. It is.

20 Q. Is that a correct resume of the more elaborate schedules which you introduced and of the testimony— A. It is.

MR. CORBIN: For convenience I offer that.

MR. FORT: Main stem—second class—number of acres—it is done by acres, you see.

MR. CORBIN: It is a mere summary.

CROSS EXAMINATION BY MR. FORT:

30 Q. As I understand this, Mr. Ryer, this is just — A. A summary.

Q.—a summary,—total of the figures which you have given on all the properties,—each one of these particular railways? A. Yes, sir.

Received and marked Gaddis & Ryer Recapitulation, Feb. 8, 1912.

Colloquy.

MR. CORBIN: With respect to the offer of the book,—volume of testimony, Vol. 2, which was before the Supreme Court in previous years, which I notified you in Trenton I might offer in evidence, Mr. Hardin any myself have had a conference as to what parts to put in, and have come to the conclusion we won't put it in at all. I withdraw, therefore, that offer of testimony and when we come to print the case, if we do, I should think it would be as well to cross out any reference to it. With respect to the stipulation of which, on several of our hearings mention has been made by the attorneys of the State and by myself, I received, Mr. Chairman, from you, last Friday, a sketch of what is proposed on behalf of the State, and upon a careful examination of it, I cannot see that it is any stipulation of facts at all, but rather a resume of the decisions which have been made by various Courts at various times, of the true principles on which an assessment of property should be made. It is rather a resume of propositions of law and as a statement of fact in this case would be of no value to me, and I cannot consent to it as a stipulation of facts in this case, and if that is all we can arrive at, it is useless to pursue the matter any farther with a view of getting the facts stipulated.

MR. FORT: I thought all you wanted was a statement by the Board showing the method which the amount of the assessment on the main stem was fixed.

MR. CORBIN: Well, the single fact which I wanted I stated pretty clearly, I think.

Floyd S. Corbin—Direct.

MR. FORT: I thought that was one of the things, at least, you wanted.

MR. CORBIN: I hardly think this will suit any purpose. I will call Mr. Floyd S. Corbin.

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- 10 (QUALIFICATION OF FLOYD S. CORBIN IN N. Y. L. E. & W. D. & IMPROVEMENT CO. CASE, ON JANUARY 17, 1912, IS AS FOLLOWS:)
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FLOYD S. CORBIN, called and sworn on behalf of the Company, testified as follows:

DIRECT EXAMINATION BY MR. CORBIN:

- 20 Q. Where do you live, and what is your occupation? A. I live in New York City and my occupation is real estate broker, making a specialty of waterfront properties in New York Harbor.

Q. How long have you been in that business? A. About 15 years.

Q. Does your business extend to the New Jersey side of the harbor, as well as the New York side? A. Yes, only around the Port of New York.

- 30 Q. Have you bought and sold in New Jersey? A. Yes, many places.

Q. Are you familiar with the properties and values on the west side of the Hudson River in Hudson County? A. I am.

Q. Do you know the property at Hoboken and Weehawken? A. I am very familiar with it.

- 40 Q. How long have you had to do with that property in the way of buying or selling or making studies of the values of it, or valuing it? A.

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Well, on that New Jersey shore there, I have been very familiar with the entire New Jersey shore for about 15 years.

Q. Have you acted as appraiser at time of values? A. I have, many times.

Q. And you have bought and sold also? A. Yes.

Q. Do you keep an account of all the sales that take place, so far as you can ascertain them? A. I endeavor to do that. I perhaps do not get all, but I get the bulk of them. 10

Q. This is your sole business? A. That is my sole business.

Q. Have you bought and sold in other parts of New York Harbor? A. I have bought and sold properties in practically every part of New York Harbor, the Hudson River, East River, Newtown Creek, Staten Island Sound, the Kill Newark Bay, Passaic River and inside properties all around in New Jersey, at Harrison and various other places. 20

Q. Mr. Corbin, are there many other brokers in and around New York who, like yourself, are engaged solely in this branch of the real estate business? A. In my experience I cannot recall any man in New York City who has persistently and consistently, I may say, followed out this specialty—who has made a study of it. 30

Q. Well, of all the sales made in the harbor, so far as you know, what proportion have you had to do with? A. I should think it would be very safe to say that of all the sales made in the harbor of New York in the last ten or twelve years I have perhaps made three-quarters of them.

Floyd S. Corbin—Direct.

FLOYD S. CORBIN, a witness produced on the part of the Railroad Company, having been duly sworn in all the cases relative to the Erie System, testified as follows:

DIRECT EXAMINATION BY MR. CORBIN:

10 MR. CORBIN: Mr. Chairman, this witness was called in the case of the N. Y., L. E. W. Docks & Imp. Co. v. State Board of Assessors, with respect to the Weehawken property, and he gave 23 pages of qualification respecting water front valuations; unless you desire to repeat them, I will ask to—

20 MR. HENDRICKSON: We have agreed that his qualifications in that case may be used in any other.

Q. Mr. Corbin, have you examined the Terminal properties of the Long Dock Company in Jersey City? A. I have.

Q. And made an estimate of their values? A. I have, yes, sir.

Q. Have you any map before you so that you can show us what part and what parcels you have valued?

30 (Witness produces map entitled Erie Railroad Company, Map of lands lying East of the Bergen Tunnel in the City of Jersey City.)

40 Q. In valuing this terminal property, taking it as a whole, into what zones or sections ought it to be divided to give it the greatest value and the best development? A. I have taken Block 17 as assessed by the State; that is the entire water front from the pier head line back to Henderson Street and Northward to 12th Street and bounded

Floyd S. Corbin—Direct.

South by Pavonia Avenue; I have divided that Block 17 into three zones; the first zone is from the pier head line on the East to a line 700 feet West of the solid filling line, that is water front property.

Q. Is that a proper amount of upland to give to that zone in your judgment? A. I think it is.

Q. You have gone then somewhat further West than the line of Hudson Street extended where it is divided by the State? A. Yes, sir. 10

Q. About how far West of that? A. About 350 feet apparently; that is the first zone. The second zone is from a line 700 feet West and crosses to Pavonia Avenue.

Q. 700 feet more you mean? A. Yes, between zones.

Q. And then the third? A. And the third zone is from the last zone back to Provost Street. Of course this is an irregularly shaped parcel. 20

Q. Then take the land under water, that is the land East of the bulkhead line, you have 700 feet of upland to the first zone? A. Yes.

Q. Then the next 700 feet constitutes the second zone? A. Yes, sir.

Q. And the remainder of it up to the hill is the third? A. Yes. 30

Q. Go ahead. A. Now, the reason I did that in the sale of water front properties, of course, it is always assumed that you throw in fast land with riparian rights or can make fast land, and the 700 feet which I have adopted from the solid filling line back, is a fair distance back. Of course in many cases around the harbor the depth of these properties will vary, but I have taken as the highest type of development,—commercial development, on the water front in New York Har- 40

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bor, the Bush Terminal, and the length of their blocks is 700 feet, and I have adopted that here, because I thought it was a fair method of comparison for ocean steamship piers, railroad uses and warehouse purposes.

10 Q. Now, this first zone, which has its frontage on the river and which reaches back to 700 feet in shore beyond the solid filling line; how do you arrive at the value of that? A. Do you want the total value?

Q. How do you value it, what method? A. I value it by the front foot, lineal foot per front foot on the Hudson River.

20 Q. And how much do you value that land at? What is your valuation? A. There are 1037.5 lineal feet on the Hudson River, at \$1,800 per front foot, makes a total of \$1,867,500.

30 Q. What is your valuation of the second line? A. The 2d zone?

Q. And by what method do you value it? A. I value that as a parcel of property having a frontage on Pavonia Avenue which is to be considered as any other street frontage, only one frontage; I value that simply as a solid block of ground or parcel of ground that is adjacent to this water front property; I value that as it stands 16.489 acres at \$43,560 per acre, \$708,261.

Q. That is one dollar a square foot? A. One dollar a square foot.

Q. Now the third zone? A. The third zone directly west of the second zone, is 10.711 acres at \$39,204 per acre, or 90c. per square foot, is \$419,414. That makes a total of 64.772 acres, excluding the area occupied by the main stem shown on the map, makes a total valuation of \$3,185,224.

40 Q. Have you valued the land at the foot of

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Pavonia Avenue and south of Pavonia Avenue?

A. I have.

Q. State the parcels and the valuations. A. In Block 16 Plot B-7,—that is this plot—

Q. Being plot at the foot of the avenue? A. Yes, sir, this plot, the width of that is 130 feet on the river front, the area is 2.09 acres, valued at \$46,173.60 per acre, or \$1.06 per square foot, making a total of \$96,502. 10

Q. Does that include the land under water? A. That is all land under water.

Q. Well, up to the pier head— A. Up to the pier head line from the solid filling to the pier head line.

Q. Now, that is B-7. A. Well this is all part of B-7. The next adjoining plot has a frontage of 140 feet on the Hudson River; all land under water; total area of 2.498 acres at \$46,173.60 per acre, makes a total of \$115,342. 20

Q. Now, this land under water you seem to value it by the square foot, whereas you value the other by the front foot; why is that? A. I value this by the square foot—I want to say in these valuations I have assumed in the valuation of these two properties that the ownership is also in Plot B-6 for the valuation— 30

Q. How is that? You mean in the same parties? A. In the same parties.

Q. What is B-6 to the South of Pavonia Ave. and West of this plot? A. To the south of Pavonia and West of these plots. If it was not in the same ownership I think the value of these two parcels under water would be very nominal. I doubt if it would have hardly any value.

Q. Well, suppose they are all under the same ownership and you took these two small parcels 40

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and add to the land West; has it any substantially different value than you value on the North side? A. Well, I have valued at the same proportionate price per front foot worked out into square feet area.

Q. That is adding the land back; you have to add the land back? A. Yes.

10 Q. Well, what did you value B-6 at to the West of these parcels? A. The total value of plot B-6 exclusive of the two parcels I have just mentioned is \$914,854.

Q. What is the acreage? A. The total acreage there is 16.039.

Q. That runs back to Provost Street, of course? A. Within 100 feet of Provost Street; has a frontage on Pavonia Avenue.

20 Q. Now, here is still a large plot on the river front, Plot 16 B-1 colored yellow; have you valued that? A. I have not.

Q. Suppose this all to be in the same ownership both north and south of Pavonia Ave. B-1, B-6 and B-7, is there any material difference between the valuations north and south of Pavonia Avenue, assuming tracts of equal size? A. I don't think that there is any particular difference in value.

30 Q. So if you were instead of cutting this up to the south, as the assessors have done in assessing, you should lay it out into big blocks, as you have done to the north, your frontage on the Hudson River would be the same? A. It would.

Q. Assuming them all to be in the same ownership and control. A. Same ownership and same size.

40 Q. In making these valuations, are they for the bare land, or have you added anything for the

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buildings and improvements? A. For land values only.

Q. In your judgment do these figures which you have given, express the full values of these properties on January 1, 1910? A. It does; I think it is a full valuation in my opinion of the entire property.

Q. Do you know of any sales on the west side of the Hudson River so high as the figures you have given, at any time? A. I don't know of any sale ever made on the Hudson River that would equal that figure of \$1,800 a front foot. The last sale that was made on the Hudson River was about five years ago, a sale by the Yellow Pine Company of New York, to Albert Dickinson of Chicago; that property sold for \$1,293 a front foot.

Q. That was at Hoboken near 14th Street, was it not? A. Hoboken, between 12th and 13th, and the westerly line of the property was Hudson Street.

Q. Mr. Corbin, in making these valuations of the property south of Pavonia Avenue, you are assuming that they be all owned and controlled by the same owner, do you not? A. I do.

Q. So that all the gain of plottage value comes in? A. Has been estimated in these figures.

Q. At the beginning of your testimony, you spoke of the land fronting on Pavonia Avenue, but didn't explain; what significance has that? A. I took that merely as a boundary of the property; of course, in assuming these valuations I have taken into consideration that the property fronting on Pavonia Avenue, which was a public street and gave access to the property—(interrupted).

Q. These frontages have a greater value than

Floyd S. Corbin—Cross.

the general average, have they not? A. Yes, of course Pavonia Avenue land has a greater *frontage*, but it doesn't extend in my opinion over 100 feet back.

Q. Each side? A. Each side; so that I have taken that into the average calculation.

10 CROSS EXAMINATION BY MR. FORT:

Q. Mr. Corbin, in getting at these valuations, have you made any comparison with the values that have been assessed against the property by the Board? A. Any comparison?

Q. Yes. A. No, sir, only that I know the figures.

Q. Well, now, what is the difference between your figures and the figures assessed on this property taken as a whole, by the Board, if you know? A. Well, I think on Block 17 a total of 64.772 acres, the average assessed value of the land by the Board for the entire plot is \$55,595 per acre.

Q. And you make it what? A. \$49,175.

Q. There is a difference of about \$5,000, practically, between you per acre? A. Yes, sir.

Q. That is on the first plot; have the Board assessed in the same way you have, by plots, just like these? A. I don't know by what method they made their assessment; I simply know the figures.

Q. In making your assessment—your valuation, rather—

MR. CORBIN: He calls them zones.

MR. WILLIAMS: "Plot" has another meaning.

Q. In making your valuations of this property, do we understand you to say that this water

Floyd S. Corbin—Cross.

front is as valuable, with only 700 feet of fast land back of it, as it would be with the whole of this terminal as it lies? A. Well, I have considered that you have got to have a line of demarcation somewhere, for the reflected values from a water front. You couldn't, in my opinion, add any great value to that property, even if you extended it a mile further West.

10

Q. Well, now, I would like to have that question repeated; I want an answer to that definitely.

(Question repeated by stenographer.)

A. Perhaps not; I think if there were just 700 feet of land it would not be worth \$1,800 a foot.

Q. I thought you testified that in making the value of \$1,800 a foot you would put it upon the first zone, as you call it, which was, shall we say the riparian land and 700 feet of fast land—you say that land is worth \$1,800? A. Yes.

20

Q. How much more is it worth taken by the front foot with the terminal? A. I don't think my figures would be changed at all; I have assumed the entire block is under one ownership.

Q. Yes, I understand you to say that, but you have made no figures except in these separate zones? A. No.

30

Q. You have not made a figure as to the valuation of this terminal as it is, running it back to Provost Street? A. Yes, I have valued it at \$3,185,224.

Q. But you make it in the way you do, by zones? A. Yes, you have got to have some basis to compute values.

Q. Now, on what use or character of use have you based your values? A. I have based it on the use to which it is devoted at present, that is a railroad terminal.

40

Floyd S. Corbin—Cross.

10 Q. You said something about the Bush Terminal a little while ago; is the use to which that is put of any greater value than a railroad terminal? A. Well, I think that would be difficult to say, because I don't exactly know the financial result of the operations of the Bush Terminal, but I will say that the Bush Terminal is conceded to be the highest type of development of water front in New York Harbor, or possibly in the whole country.

Q. Then in fixing your values, you have fixed the value here on what you believe to be the most profitable use of the property? A. Well, I think the property now is devoted to its highest use.

Q. You put a value on these two tracts of land lying—I think Block 16; is that right? A. Let's see; that's Block 16 Plot B-7.

20 Q. What is the frontage of that block? A. 270 feet.

Q. 270 feet by the same depth of water front property that is adjoining it? A. A trifle less depth.

30 Q. Do you put the same value on that as you do on the other tract lying to the north of it? A. I have placed the same valuation as on the northerly tract, assuming, as I stated before, that the ownership of these two parcels and Plot B-6 were identical.

Q. That's the plot lying to the west of it? A. The plot lying west. These plots alone would have really no value.

Q. Well, if Pavonia Avenue ran down to these blocks wouldn't they have value as water front property, dock property, being 700 feet in length? A. Without any fast land?

40 Q. Without any fast land behind it, yes. A. I

Floyd S. Corbin—Cross.

don't think so; you couldn't ever make any commercial use of it.

MR. CORBIN: You see we are not allowed to fill that in.

MR. FORT: No, but you are allowed to cover it.

THE WITNESS: Cover it with a pier, but what could you do? You would have no access by land. 10

Q. Doesn't Pavonia Avenue run down to it?
A. Just a public street, you wouldn't be allowed to load or unload anything on the public street.

Q. But you wouldn't have any difficulty in doing the planking and covering of part of them as they have done at Atlantic Highlands, would you?
A. You could for some nominal purpose, not for any real development I know of that would be profitable. 20

MR. HENDRICKSON: You might make an express office.

THE WITNESS: Might do something of that kind.

Q. There is room enough there to have 300 feet or 400 feet of land that would be covered—of water that could be covered and still have room for wharves 400 feet long, isn't there? A. Yes, but a 400-foot pier is not a profitable pier, except for lighters and tugs and barges. That would be costly to maintain there, Governor. 30

Q. Yes; but water front of that character around the Hudson River is getting scarce? A. You see you only have 60 feet of access.

Q. True, you have a street though, plenty of room there to get on, isn't there? A. Yes.

Q. Three or four hundred lineal feet and still 40

Floyd S. Corbin—Cross.

leave 400 feet for ships or boats, or anything else to tie up to.

10 MR. HENDRICKSON: Governor, might I just call his attention to the fact that Adams' Express Company pier occupies just such a tract as that, a little smaller, on the P. R. R. Yard here and their access from a street to that pier has to go through the P. R. R. Station shed.

 MR. WILLIAMS: Yes, but it has leasehold privileges.

 MR. FORT: Unquestionably; but here you wouldn't need any, because you have access by a public street.

20 MR. HENDRICKSON: I cannot understand the witness' line of reasoning in regard to that tract; any city where we have ever investigated and find such a situation, we find the land in front of the bulkhead, which has no fast land behind it, is considered as worth exactly as much per front foot as the fast land behind it, when it has access to water front.

30 MR. HENDRICKSON: You don't think there is any piece of property on the Hudson River that has earned more money for its owners than the Adams' Express Company pier, do you?

 MR. CORBIN: I don't know what they earn there on the Pennsylvania property, but we are simply concerned with this particular piece of property.

40 Q. Now, just one more question is all I think we want to ask. Mr. Corbin, do you know anywhere within a mile or two miles, either north or south of that terminal, that you could dupli-

Floyd S. Corbin—Cross.

cate that terminal on the Hudson River? A. I think I could almost duplicate that terminal within a great deal less than a half mile.

Q. I mean as large as that is, all the way back to Henderson Street? A. Yes, far back as Henderson or Provost Street.

Q. Provost Street, I mean? A. Yes, I think I could very nearly get you a piece of property as large as that. 10

Q. Whereabouts and within what distance? A. Immediately south of this property.

Q. Not occupied now, you mean? A. It is occupied at present, but I think I could buy it for you.

Q. Streets to be vacated? A. The streets are already vacated.

Q. Already there? A. Yes, sir. 20

Q. Is it occupied by any person now? A. It is.

Q. Whereabouts is that? A. Just immediately south of this property.

Q. Who is the occupant? A. Jersey City Stock Yards Company.

Q. Do you know what their frontage is? A. I don't recall now, but it is a very large piece of property, and it would be suitable for a terminal if a railroad wanted to use it. 30

Q. Same character of up land or fast land? A. I think so. Has a great depth and good width all one solid block of ground.

Q. Now, where do you get your information as to the value of that land, if you have any? A. The value?

Q. Yes, the value at which they hold the land; put it that way. A. Well, I had a talk some time ago; it has been a year or two ago, perhaps 40

Floyd S. Corbin—Cross.

a year and a half ago, with the Secretary of the Corporation that owns it.

Q. Have these lands increased any in value within a year or a year and a half? A. I don't—not particularly.

10 Q. Not along the Hudson River? A. I don't think so. There have been no sales anywhere in this section within the last six years, on the water front.

Q. Nobody that has any river front property wants to sell it, is that it? A. I have tried very diligently to find a buyer for river front property on the Hudson River, the last six or seven years; haven't found any.

20 Q. Hard to get at any price. A. I have one piece of property, about 5,000 feet frontage, on the Hudson River, I would like to sell.

Q. Whereabouts? A. Beginning at a point opposite West 79th Street and running north.

Q. That is about how many miles above this property? A. Oh, it is about 4 miles.

MR. HENDRICKSON: That property has no depth of land back of it. Has it? Flat land on a level with the water?

30 THE WITNESS: Yes, indeed; the property has in some places extreme depth from the pier head line back of about twenty-two—twenty-three hundred feet.

MR. HENDRICKSON: That is nothing compared with this piece?

THE WITNESS: This is only 2,381 from Provost Street out to the pier head line; I could give you up there about 250 acres; about five times the size of this terminal.

40 MR. FORT: That's all.

Floyd S. Corbin—Cross.

BY MR. HENDRICKSON :

Q. Mr. Corbin, in dividing up this yard for the purpose of arriving at your calculation, you take a depth of 700 feet back of the bulkhead line; now, when you did that you noticed that the railroad company for its use of that tract didn't divide it up that way, didn't you? A. No, I can understand that a railroad cannot—that tracts 10
have got to be continuous.

Q. The railroad for its use, put the actual bulkhead line 400 feet or more back of the nominal bulkhead line fixed by the Harbor Board? A. Yes.

Q. They ran their bulkhead line way back here, instead of actually at the place fixed by the Harbor Board. Now, don't you think that when you took your zones you were under an obligation to consider that and put such a depth of fast land behind the actual bulkhead line as would make the water front usable? A. That is a difficult 20
question. As I told Governor Fort, you have got to use some line of demarkation, because this—as an illustration the Erie main stem runs from the bulkhead line of the Hudson River out to Chicago; I don't think you could value the land all the way out to Chicago, because it is continuous.

Q. Then you don't agree with me that in fixing the zone depth you ought to give some consideration to the railroad's intelligent use of its tract of land? A. Well, I have given the State really the benefit of the difference between that solid land and the land under water. 30

Q. I don't think you have; I think you have taken an arbitrary division of that yard to arrive at your own valuation and not one founded on the fact as shown by the use of the property itself. 40
A. That was given as the line of solid filling,

Floyd S. Corbin—Cross.

and I have taken it from that line back 700 feet. Even if you should make that difference, the valuation of the total plot,—the difference in the valuation in the total plot would be very slight indeed.

10 Q. Yes, to your mind, but to my mind it shows that the depth of land necessary for the proper use of the water front must be a great deal deeper than you give it.

MR. CORBIN: Now, you don't know the history of that land.

20 MR. HENDRICKSON: No, but I am a tolerably intelligent man (at least I think I am) and when a man comes here and says 700 feet of fast land is all that is necessary for the use of it, I look at the map and find at least 300 feet of that is gone—

MR. CORBIN: The error is in your question. You say the railroad has carried its slip back 300 feet further than the line established by the State Commissioners. The truth is just the other way. The land has been filled; it was all water originally, and the piers were made first; the lines by the State have been made later.

30 Q. Now, Mr. Corbin, this tract, if it lay along the river like the West Shore tract, you would get the same ideas of value on this land back here as you get on the front of it, wouldn't you? A. No, do I understand you to mean that if this area was extended—

40 Q. If this tract lay along the river, like the West Shore tract, would you get the same ideas of value on this land back here as you get on the front of it,—because this back land would then be on the river? A. Oh, yes.

Floyd S. Corbin—Cross.

Q. Now, you illustrated to us the other day that the West Shore tract, which is a little further up the river, but is approximately the same shape except that it lay longitudinally along rather than perpendicular to the river, was worth less than the property down the river because it lacked the depth. A. That was on account of the narrowness of the greater portion of the West Shore terminal there; it didn't have very much depth. Now, as I stated before, if this property was only seven or eight hundred feet in depth here, and this area was distributed along the river front, why naturally it would have a greater value, because the value here is really in the water front. 10

Q. No, you said it would have a less value in answer to Gov. Fort's question, if it didn't have this greater depth behind it. A. I don't think you understood me. 20

Q. That's what I understood you to say, Isn't it true? Doesn't it appeal to you that the value of the West Shore property is less, because of the reason that because of the lack of area in the rear it is impossible for an owner to use to its full value the great extent of water front? A. No, there are two reasons why the West Shore property is not as valuable as this—and that applies to the Weehawken Terminal of the Erie Railroad, —in the first place, it is further up the river; the depth of the water and distance from the channel is much greater. That is one thing. 30

MR. CORBIN: The depth of water of which is greater?

A. The depth of water in the river; the distance from the channel a steamer can navigate. Another thing is you go further up the river, the 40

Floyd S. Corbin—Cross.

cost of maintenance in keeping your piers dredged is very much greater. In the second place, in the instance of the West Shore Terminal they have no access to the West Shore Terminal except down that very steep road from the Palisades.

10 Q. Now, Mr. Corbin, isn't it infinitesimal, the amount of business which the West Shore do down the road that leads down that cliff? A. I cannot say. Referring to that as a piece of property it is a physical disadvantage.

Q. It must appeal to you, as a sensible man, that the business which comes down that road is infinitesimal.

MR. CORBIN: Which road?

20 MR. HENDRICKSON: The street which runs down the cliff to get to this road, the West Shore.

A. The value of a property, Mr. Hendrickson, in my opinion, a great deal of the value of the property lies in its accessibility, both by water and land; that property is very inaccessible by land.

30 Q. It is accessible to every point that the West Shore touches just as much as though the tract were laid down here, isn't it? A. Yes, but the West Shore could undoubtedly develop a greater freight business over there if that hill was not there.

40 Q. Why, of course, and that's what I say to you, that you have got to have enough land behind your water front, if you are going to have a valuable use for your water front. A. It doesn't necessarily mean the West Shore itself would have to own that land; in the case of the Erie Terminal they have access by wagon and trolley

Floyd S. Corbin—Re-Direct.

car back of it, where the West Shore hasn't, and for that reason I put a greater value on the Weehawken Terminal of the Erie than I did on the West Shore.

RE-DIRECT EXAMINATION BY MR. CORBIN:

Q. Mr. Corbin, your value of this property north of Pavonia Avenue, as I understand you, includes all the land, whether it be main stem or second class property? A. Yes, sir, I have included the— 10

Q. Now, what is your valuation worked out in areas of main stem? A. Second class property north of Pavonia Ave.?

Q. Total valuation of the main stem from the bulkhead line west to Henderson Street is \$269,419. 20

Q. And of the second class,—you make no difference between the two, do you? A. No, sir.

Q. Now, your total value of \$3,185,224 for the whole of the land north of Pavonia Avenue, in giving that value, is that your judgment of the value of the whole of it, taken as a whole? A. It is, I think, full.

Q. Counsel suggested that by dividing it into zones you have omitted some part of the value; have you? A. I have not. 30

Q. And being all under one ownership, one time, and all available together? A. I have taken into consideration all those elements of value.

Q. Now, look at the map again, this part of the property north of Pavonia Avenue was originally all under water up to Provost Street, was it not? A. Yes, sir.

Q. And what you see there now as solid land down to the slips is made by filling? A. Yes, sir. 40

Floyd S. Corbin—Re-Direct.

Q. And the slips represent what is unfilled and dredged out? A. That's right.

Q. Now, when the bulkhead line as actually bulkheaded there, a distance of some 300 feet from the legal bulkhead line was made, was there any legal bulkhead line out where you see it now? A. I don't think so.

10 Q. That's been changed repeatedly by the Government, hasn't it? A number of times within the last 15—20 years.

Q. Looking at the actual pier head line to which the Erie has built its piers, how far West of the actual pier head line as it now is, is that line? A. About a hundred—

MR. CORBIN: Oh, now, about 500 some—

A. 370 feet.

20

MR. FORT: 370 feet on the long side.

MR. CORBIN: These 4 piers I refer to.

MR. FORT: It is an average of about 300 feet.

Q. Now, that present pier head line, as shown on the map, is a line which was established within the last few years, is it not? A. 1902.

30 Q. And there have been no changes since that? A. I don't think so.

Q. Now, what is the distance, average distance there in front of these piers, between the pier head line and the bulkhead line as now established? A. About 800—825 feet.

Q. Yes. So the Erie could extend its piers some 300 feet or more there, couldn't it, and still be within the lawful line? A. They could extend their piers about 370 feet on the north end.

40

MR. HENDRICKSON: Don't you think the Erie will do that some day?

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MR. CORBIN: They haven't done it for ten years; it hasn't been worth their whole so far.

Q. Now, 825 feet between the bulkhead line and the pier head line, as now established by law, is longer than the piers which the Erie actually has there, isn't it? A. Yes, longer.

Q. So that it could fill up at the rear down to the bulkhead line and still build piers longer into the water than—A. Than it now has, yes. 10

Q. How long have these piers been built there, if you know? A. That I don't know.

Q. How long have you known them to be there? A. I have known them for the last 15—16 years; I have been going over there about that length of time.

Q. Now, take the piers to the South of Pavonia Avenue, of which there appear to be two or three. 20
A. A ferry slip and a pier.

Q. How far are they from the present established pier head line? A. The ferry slip is probably 600 feet from the present established pier head line.

Q. And this to the south? A. And the pier to the south is about 200 feet.

Q. So the Long Dock Company has really a right to extend all its piers a very material distance into the river, further than it now extends, is that it? A. They have the right. 30

MR. CORBIN: I offer in evidence the map which the witness has produced, to show the zones into which he has divided the property, and ask that it be marked.

Received and marked Exhibit Corbin Long Dock 1, Feb. 8, 1912. 40

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BY MR. RECORD:

Q. Do you know of any piece of property in Jersey City, the size of this Erie Terminal, that you could buy for the amount of money that this is assessed at? A. I don't know the exact price at which I could buy it, but I believe I could buy it for less, and the property is almost as large as
 10 Block 17 of the Erie Terminal.

Q. What I am talking about is the whole Erie Terminal that you have got here on this map colored green—

MR. CORBIN: Suppose you indicate the lands you mean.

Q. I mean all that is colored green, this whole terminal. A. I don't know any property in that immediate vicinity, that is, that is as large as
 20 those two parcels.

Q. Who owns the property next, adjoining on the south? A. I don't know the name of the corporation, but I think the exact title is the Jersey City Stock Yards Company.

MR. FORT: Mr. Record, it seems there has been a misunderstanding between the witness and me, if that is so. Did you understand my question that I asked you, Mr. Corbin, if you could produce that entire terminal that lies there, or did you understand I meant part of it?
 30

THE WITNESS: I understand you mean this. I said the property was not as large as Block 17, but I said it was a very large parcel.

MR. FORT: What I meant was, and I thought you understood me, could you reproduce that entire tract of land or a tract as large as that; I meant the whole thing
 40

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that is colored on that map any kind of color, except white.

THE WITNESS: Not in that immediate vicinity, no.

Q. How near to that vicinity? A. Well, the property adjoining on the South is the largest piece of property that I know of that could be bought in that immediate vicinity. 10

Q. But that isn't as large as this tract? A. No, I said it wasn't as large.

Q. How near is there a tract which could be bought of this size? A. The largest tract I know of for sale on the Hudson River is probably four miles north of this, which is about five times the size of the Erie Terminal.

Q. How far south? A. How far south?

Q. I mean what is the tract next south? A. I think two miles south you could buy a tract about four times as big as this. 20

Q. Yes, but it is two miles away. Now, in answering Governor Fort, you had in mind the Jersey City Stock Yards' property, didn't you? A. I did, yes, sir.

Q. Do you know who owns that? A. No, I don't know the owner. I have always assumed it was the Jersey City Stock Yards Company. 30

Q. Well, do you know whether it is for sale? A. It was for sale about a year or a year and a half ago.

MR. FORT: Get the depth of water, Mr. Record.

MR. RECORD: I am only trying to get now what this witness knows about that.

Q. Did the owners of that property ever give you a price on it? A. No, they never gave me a 40

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price on it, but I know they were considering a removal from Jersey City if they could dispose of the property.

Q. But you do not know what price the owners of that property held it at? A. They gave me an approximate price.

Q. Who gave you an approximate price? A.
10 The Secretary of the Company.

Q. Did he authorize you to bind the bargain on that basis? A. No, because I don't know anybody that would want to buy it.

Q. But he didn't give you any authority to sell? A. He did not. I didn't ask for any authority to sell.

Q. And you don't know of your own knowledge that that is in the market, do you? A. It may
20 or may not be to-day, because I haven't asked him for some time, possibly a year or 16 months—I don't remember the exact date.

Q. He didn't give you the right to sell it. A. No. I never asked him to; he might have, if I asked him.

Q. You didn't get the right to sell it? A. He told me it was for sale.

Q. You didn't get the right to sell it at a price?
30 A. No, because I didn't ask for it.

Q. You don't know what price the corporation that owns that has fixed upon it? A. Well, at that time I was given to believe that between forty and forty-five thousand dollars an acre would buy the entire tract.

Q. But it wasn't offered to you or you were not authorized to make any such sale on that basis were you? A. No, because I tell you I didn't
40 ask for it.

Q. I don't care anything about the reason. I

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want the answer. You were not authorized? A. No, I was not.

RE-DIRECT EXAMINATION BY MR. CORBIN:

Q. Do you know about the values of property for sale just to the north of this Long Dock Terminal? A. I know the most recent sale of property that has been made on the Hudson River near this. 10

Q. Well, what's that? Are you referring now to the Yellow Pine property? A. Yes, sir.

Q. I am not; I am referring to inland properties near this property to the north? A. Yes I have an entire block of property just above here for sale, at the rate of \$1.25 a square foot.

MR. WILLIAMS: Improvements upon it?

THE WITNESS: Improvements upon all four sides of it. 20

MR. WILLIAMS: The price includes the improvements?

THE WITNESS: The price includes the improvements.

MR. WILLIAMS: What are the improvements worth?

THE WITNESS: The improvements on the property itself is merely nominal. It is an iron shed. 30

Q. Do you know any other piece between that and the Lackawanna? A. I have another piece about half a block adjoining the Erie Terminal on the north, and the Lackawanna Terminal, that I can sell with one-story brick warehouse on it. I am anxious to sell it; now trying to, offering it at about \$1.50 a square foot.

Q. Does that include any building upon it? A. 40

Floyd S. Corbin—Re-Direct.

Yes, of about 15,000 square feet, brick building, one story.

Q. The first piece you mention, where you have the entire block, between what streets?

10 MR. RECORD: Mr. Corbin, I don't want to be unreasonable about this; I know in these fights before we have always held down to the point of the sale, and it seems to me nobody can make a sale by saying at such and such a place I think I can get so much.

THE WITNESS: I have the absolute written offer—authority to sell it.

20 MR. RECORD: That should be put in evidence. That's my point; you could put on record a lot of testimony as to that and put us to the necessity of getting the man, putting him on the stand, cross-examining him to see if there is anything exceptional, &c. In our fights, years gone by, we never allowed that to go in that way. It seems to me a sale is a big factor in this controversy; somebody's guess that somebody else will sell at some price is pretty vague.

30 THE WITNESS: This isn't the case, Mr. Record; I have the authorization in writing.

MR. CORBIN: What is it offered at?

A. \$100,000 for the entire block.

Q. Between what streets?

MR. HARDIN: What is the property?

40 MR. CORBIN: I suppose it is the property of the Hudson and Manhattan Railroad Company.

Q. Bounded by what streets? A. Bounded by Henderson, Provost, 13th and 14th Streets.

Floyd S. Corbin—Re-Direct.

Q. What are the boundaries—

MR. RECORD: Point that out to me. Will you.

(Witness indicates on Plat Book of Jersey City).

Q. What are the boundaries of the block on which the other parcels you mention are, on which you have about half a block, you say? A. 10
That property is bounded by Provost, 12th and 13th Streets and Lackawanna Terminal.

Q. That's the one which has the brick building upon it? A. Yes, sir.

Q. That's all.

By MR. RECORD:

Q. Have you got a written authority for this property you speak of? A. I think I have. Mr. 20
Jarvis has been in my office two or three times within the last week about it; he is anxious to dispose of it.

MR. RECORD: It seems to me we ought to have the record straight on this sort of thing; if a witness can testify that somebody wants to sell.

MR. HARDIN: I don't think that is competent evidence, anyhow. 30

MR. RECORD: It seems to me it isn't; at least it has always been held to the contrary in these fights I have been in; no chance to cross examine a man as to the property, and it isn't a sale. For all we know a man may be bankrupt and willing to make a sacrifice to get some money tomorrow. The Courts have uniformly held they are not evidence. 40

MR. CORBIN: I think we have actual

Thomas A. Ryer—Direct.

proof of the sale of that Hudson & Manhattan Block.

Witness withdrawn.

MR. RYER Recalled:

10 Q. Mr. Ryer, have you account of sales of Block 186, bounded by Henderson, Provost, 13th and 14th Streets? A. I have.

Q. How many sales have you got account of?
A. Two sales.

Q. What is the first? A. In January 24, 1892.

Q. What was it sold for? A. \$60,000.

Q. What is the next sale? A. February, 1905.

20 Q. What was it sold for then? A. Sold to the Hudson & Manhattan Tunnel Company for the same price, \$60,000.

Q. Have you got a sale of the Jarvis property?
A. That is the Jarvis property; that is part of it.

MR. RECORD: All I am after,—he says Jarvis is running in his office and trying to sell that ought not to go on the record.

30 Q. How recently has that Jarvis piece been sold that he is now trying to sell? A. Give me the block number.

MR. HARDIN: 154.

THE WITNESS: I know they are very anxious to sell it.

MR. RECORD: That's easy to testify. I don't believe in any such testimony.

Q. See if there is any recent sale of it. A. My record shows they purchased it in 1894.

40 Q. That was building and all? A. Yes, with one 6-story brick warehouse on it.

Thomas A. Ryer—Direct.

Q. What did it sell for then? A. The consideration here is \$22,500.

Q. That is how much land? A. The entire block, all but lot 16.

Q. That included a brick warehouse did it? A. The building, yes.

MR. RECORD: Now, how is that Jarvis property left? 10

MR. CORBIN: He has shown the actual sale.

MR. RECORD: Can we have stricken out of the record all of the stuff about Jarvis wanting to sell, otherwise I want to get Mr. Jarvis down here; there is a good story about that; he does want to sell.

MR. CORBIN: He doesn't want to sell? 20

MR. RECORD: He does want to sell.

MR. CORBIN: I served notice on Mr. Hansel, yesterday, to be here and bring certain documents from Trenton. He telephoned me later, saying he had made an engagement to testify in Virginia to-day; Lynchburg; he said his assistant would be here and perhaps could give me some of the facts I wanted; then I said we might adjourn and get his testimony later. 30

MR. CORBIN: Mr. Hendrickson, I would like to ask you a few questions, if I may.

Charles E. Hendrickson—Direct.

CHARLES E. HENDRICKSON, JR., having been first duly sworn, testified as follows:

EXAMINED BY MR. CORBIN:

10 Q. Mr. Hendrickson, in making up the valuations of the land of the Erie Railroad system, did the members of the Board go upon the land and look at it? A. Not this year.

Q. Did you ever go over it piece by piece to look at it? A. I have been over a very large part of it myself with Dr. Bogardus.

MR. HARDIN: I think this should be delayed, Mr. Corbin, until we have a Board here. (Mr. Record having been called out to the telephone).

20 Q. The main line of the Erie Railroad from Jersey City to Suffern, have you ever been over that line to examine it further than to ride through it on the train?

30 MR. HARDIN: I object to this examination. I don't think it is competent. I am not going to make any extended argument about it. The members of the Board are able to exercise their own judgment about it, but it seems to me very extraordinary to put men who are sitting in a judicial capacity through an examination of this character. If I remember, in 1884, Mr. Corbin, the Board in its return on Writs of Certiorari, certified their principles on which they had proceeded in making its assessment. I am not familiar with the methods pursued at that time, but I do not understand that the assessors were subjected to examination or cross examination as to the principles or figures.

40

(Mr. Record returns to the Chair).

Charles E. Hendrickson—Direct.

Question repeated.

MR. HARDIN: I object to it, on the ground that it was, I thought, very extraordinary that gentlemen who were called upon to act in a judicial capacity should be cross examined about the fact of the performance of their duty. This complaint involves certain suggestions, and if the case goes further, the assessment may be reviewed upon the ground that the amount of the tax is excessive or insufficient, or upon the ground that the principle upon which the assessment is made is erroneous. The principle upon which the assessment is made can be the subject of a return to Writ of Certiorari, and in 1884 the Board did disclose to the Supreme Court, in response to Writ of Certiorari, the methods by which they had made their assessments, and the questions that I suppose are desired to be raised in this case were then presented and argued upon these returns. It seems to me it is not competent to put members of this Board on the witness stand and put them through cross examination as to whether they have visited a particular spot in the State in performance of their duties, or subject them to an examination of that character. I told Mr. Corbin I would not make any extended argument of it. The members of the Board, it seems to me, are not obliged, and it is not appropriate and possibly not legal that they should submit themselves to an examination of this character.

MR. RECORD: Do I understand, Mr. Corbin, that this proceeding goes up on review just as it is?

Charles E. Hendrickson—Direct.

MR. CORBIN: The Supreme Court held, as I understand it, that no testimony practically could be allowed to be taken before the Supreme Court unless it was first taken here, and we took exception to the rulings upon it, and the same record goes up there; I cannot introduce anything new.

10

MR. RECORD: What about this certiorari matter?

20

MR. HARDIN: That is an entirely different matter. The record made here is considered on certiorari so far as the facts are concerned. I suppose these gentlemen are entitled to get any evidence to show that the facts or conclusions arrived at by the Board are incorrect, but these questions are not directed to that; they are directed to the manner in which the Board have performed their duty, whether they have been diligent in it. When it comes to certiorari these facts go up from which the Court may determine whether the assessment is too high or too low, and the railroads are also entitled to have certified the principles. The Board can be compelled upon return of the writ of certiorari to disclose the principle (where a principle was involved) upon which the assessment was made.

30

MR. RECORD: Do you hold that they cannot be compelled in this proceeding to disclose that principle?

MR. HARDIN: Yes, I think so; they are sitting as a court here.

40

MR. RECORD: And that we cannot be put upon the stand in this proceeding to disclose the principle upon which we made the assessment?

Charles E. Hendrickson—Direct.

MR. FORT: That was exactly what happened in 1884. Allan L. McDermott was put on the stand, and refused to give any testimony on the ground that he was acting in a judicial capacity and the Supreme Court sustained him. If Mr. Hendrickson doesn't want to testify he should say no.

MR. RECORD: Mr. Corbin's point seems to be that he has got to get his testimony in now. You agree to that point? 10

MR. HARDIN: So far as testimony is concerned, such testimony as this Board might act on. But the inside minds of the judges who made the assessment of the judicial officers who are exercising discretion or judgment in the making of the assessment cannot enter into it. Now as to that principle that is involved, that can be reviewed on certiorari and if the Board has proceeded on some erroneous principle the development of that principle can undoubtedly be produced upon return of the writ of certiorari. 20

MR. RECORD: But you say we couldn't take up any testimony on certiorari.

MR. HARDIN: My point is you cannot be subjected to examination here as to the principle on which you proceed but you can be, perhaps, in response to writ of certiorari. That isn't a question of whether additional testimony about facts can be taken that is a question of whether you can be forced to certify your judicial reasons. 30

MR. RECORD: Now, Mr. Corbin, tell me what you are trying to get at; I would like you to get the record straight. 40

Charles E. Hendrickson—Direct.

10 MR. CORBIN: I haven't had a chance to say anything yet; I just asked my question and have been very much enlightened by what I have heard. The State Board has been sitting in making up these appraisals as assessors, with the same powers and no others that any assessor has. Yours is a certain class of property while other assessors deal with other classes of property; the same practice that prevails with regard to them prevails with regard to you. To-day you are sitting here as Commissioners of Appeal. You might just as well be a different Board as far as that goes. You are now maturely and calmly looking into what you did. It is a new thought to me that I cannot call an assessor when I am

20 doing it in a Court of Appeals an assessor goes on to justify his assessment,—tell why he did it; and is often overset or sustained on his own testimony. My calling of Mr. Hendrickson this morning really grew out of the fact that several times during this hearing I have been challenged by the Board, "Why don't you put us on the stand?" Mr. Hendrickson has said that at least once from this forum; others have said it,—"I'll be a

30 witness." It is a very funny thing that I cannot call an assessor to prove the facts. Now, as to reviewing the case, we haven't got to that, of course, but it is true that if I should desire to review the action of this Board, I must take the case up to the Supreme Court on the same case that was heard here. It is true that following this Railroad Tax Act there was a new Certiorari Act passed which gives me the

40 power to take testimony on my rule to

Charles E. Hendrickson—Direct.

show cause and that's in my rule, and will be in it when I take it.

MR. HARDIN: When was that passed?

MR. CORBIN: Soon after the Railroad Tax Act, '93 perhaps.

MR. HARDIN: No, the Supreme Court ruled within a year that no testimony could be taken. 10

MR. CORBIN: Assuming that's true, that no testimony can be taken in the Supreme Court, that's practically what the Chief Justice held in 20 Vroom. He said this: we took up several volumes of testimony taken before a Supreme Court Commissioner which the Board of Assessors had never seen at all; he said that was the proper place to present that testimony,—before them, not us and they should pass upon this in the first instance and it is only when they make a wrong decision upon that record that you must come up to the Supreme Court and you must come up with the same record. Take the testimony there, if they decide wrong, the Supreme Court has a right to pass upon the facts; the Court of Appeals cannot; when you come to the Supreme Court that's a last resort on facts. We have a right to review your facts somewhere,—we can only do it by getting the evidence in. I am trying to get in here, for I can get in nowhere else, the facts. Counsel has entirely misconceived what I was driving at—and I cannot give at the outset all I have in my mind—I assume from the first answer Mr. Hendrickson gave me, that the Board has not personally inspected all this property these parcels of 20
30
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Charles E. Hendrickson—Direct.

10 outlying property of second class, with the idea of finding the value. How then have they arrived at it? Why, their obvious answer would be by your returns as to quantities largely although we have corrected those by our surveyors and by our agents who have gone and who have made for us values. At the very outset of this you stated this; in fact you gave us copies of these field books, I will call them for want of a better name, and which are the returns made to you as I understand by your field men or your agents in the field, first main stem, second. a book here of second class property. Of course you were not precluded by that but you took that and in most of the railroads which we represent you made your assessment double what they have returned as the value of the land in the main stem.

20

MR. HENDRICKSON: I don't think I stated what you said then. I think you have misquoted it.

MR. CORBIN: You said you hadn't been over them.

30 MR. HENDRICKSON: I said I had and that Dr. Bogardus had been over them.

MR. RECORD: State that point accurately that return was the assessed value of the adjoining property; that's all they return.

40 MR. CORBIN: But what they assessed will show by the books in your office whatever that may be, and you made a certain multiple of that and applied it to the other. Now what I want is, and what, when I began the Board said I should have the right to raise, but which I find very great

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obstacles to my attempt to raise, is this question of your informing yourselves in that way,—which I am not now questioning at all the propriety of,—and then assessing in that way by the application of a multiple of anything you please. I want to raise before the Supreme Court the question of the validity of that principle and that action. That is a legal question and I certainly, it seems to me, have a right to produce that in the record some way. It was suggested by the Board that by the stipulation we get on the record what we wanted with respect to that, but we haven't been able to get it in that way. 10

MR. RECORD: Now, that raises the old question. Why not put our minds on it? I want you to get your chance, but I don't want this thing handled in such a way that it isn't put before the court the way it should be. Here are four of us,—see if we cannot agree on a statement. 20

MR. FORT: Now I want to make a suggestion here. I have heard Mr. Corbin and I want to see this thing done in the right way; but it cannot be done by taking the testimony of the individual commissioners and comply with the practice required by the Supreme Court. You might have four different returns if you allow that. When they got their Certiorari if they ask for a rule directing the Board to certify the principle on which they made that assessment and if they add any multiple to it as contradistinguished from the value of the land adjoining they can ask that question of you and that return is conclusive upon 30 40

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10 the Board and the Court will accept it. They never take testimony in a superior court of an inferior officer. If a justice of the peace is appealed from or a judge of the Common Pleas and a proceeding in certiorari taken to review his judgment, or if a District Court judge is appealed from or a proceeding in certiorari taken to review his judgment under the statutes, they don't allow you to call the justice of the peace, the Common Pleas judge, the inferior tribunal, but they require them to certify in answer to their question, what they did and how they did it; then you have the certificate of all the tribunals. If you have five judges, or five commissioners of assessment or anything else, whose proceedings are reviewed, you certify in answer to a rule of the Supreme Court how it was done; then you get the combined opinion, in one result of what was done by the Board. Now, that's what you want here.

20

30 Now, I want it done in the way this Board should have it done. Now, Mr. Corbin represented this Board in 1884; he knows perfectly well that the Board refused to testify, the individual men. Mr. McDermott was called on the stand just as he has called Mr. Hendrickson and he refused to testify. Nobody has ever questioned from that day to now, the right of a member of this Board to refuse to testify as to how he reached his result. I think the Commissioners here should do just exactly that. I have heard what Mr. Corbin says; you gentlemen have said "Call us." He is right; you have said it in my presence. That

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would be a very grave mistake if you allow yourselves to be put in that position in the Supreme Court because Dr. Bogardus may testify one thing, Mr. Hendrickson another, Mr. Record another, Mr. Halsey another.

MR. RECORD: You certainly would.

MR. FORT: In that case the only way the Supreme Court is to know what you have done, is for you to certify to a return which you must make. 10

MR. CORBIN: The difference between the Governor and myself is,—if I have a case pending before Judge Swayze and he knows certain facts, I have a right to call him off the bench and put him on the witness stand. I have a right to disclose his knowledge of the facts. 20

MR. FORT: You want to say you can call Justice Swayze to testify as to the principle on which he is deciding his case,—you wouldn't call him to testify the state of his mind, but if Mr. Justice Swayze was trying a homicide case and you knew he saw some of it, you could call him as a witness.

MR. CORBIN: Exactly; I would say, "Mr. Swayze, you saw this shot fired." 30

MR. RECORD: What I am trying to do is to get you in a position where this can be reviewed. Now, I want also to be very careful that we get that so that what we have done is right. Now, Mr. Corbin, as a matter of fact, here are four men and each man has done something different. For instance this property of yours, I think is valued at about one-third or one-fourth or one-fifth of its value. 40

MR. CORBIN: Why not say one-tenth?

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MR. RECORD: I think you will be in court within five years swearing it at ten times the value.

MR. CORBIN: You mean this Erie? That is madness.

10 MR. RECORD: It isn't because that's where you are coming to under the rate business in this country.

MR. CORBIN: When that comes, the terminal won't be in New Jersey any longer.

20 MR. RECORD: I am trying to get at a way to help you out because I want you to have the right to review this. Here's what appeals to me as I get thinking it out. Here is assessment; it don't represent my judgment of what the value is; I think it is worth much more than the assessment; Mr. Halsey perhaps thinks it assessed too much. We differ about that. We finally come together, balancing here and yielding here and finally put an assessment on it.

MR. CORBIN: Suppose that is in fact twice too high, how much am I to review it?

30 MR. RECORD: All you are trying to do now is to get before the Court the question of whether or not property in a certain shape can be valued for this purpose or can be valued by this Board at any higher rate of valuation than that of the adjoining property. Now that's awfully simple. We give you a statement that the property in the main stem is higher,—the value that we have put upon it is higher than the adjoining property values per square foot. That
40 is the fact and that's what you want.

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MR. WILLIAMS: What we got is a long statement with a preamble—

MR. FORT: That hasn't been presented to you at all only to look at.

MR. RECORD: Now, that's the fact. Now we have presented to you our theory of a stipulation. You come back at us with your theory of a stipulation. Let's see if we cannot get together on that in such a way that you can raise your point. 10

MR. CORBIN: The stipulation, it seems to me, is in the form of a certificate by the Board, several pages almost of quotations from decisions by the Courts. It would be like putting me on the stand and asking me whether I practised law properly. I would certify that I observed the rules of evidence strictly. Now, that settles that. I certify it, I have never lost my dignity and become angry in court, never lost my patience. That settles that. That's my principle on which I act, to keep my patience and keep my dignity. That settles that. Now, I go on and state my Christian principles. That settles that. Lord bless us! You have tried to certify what an ideal assessment should be. I hope you have. Hope you have made it. 20 30

MR. RECORD: Supposing you take the last four lines of that stipulation. Would that satisfy you?

MR. CORBIN: I would like to look at it. As I recall that, it is practically this, that comparing values which you have put upon the main stem with the values of parcels in the vicinity not taxable by the Board, in their several forms and shapes, odds and 40

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ends and every way, your valuation on the whole is on the average 75% higher than the valuation of that alongside.

MR. RECORD: Isn't that the fact?

10 MR. CORBIN: I don't think so, but assuming it's the fact, it doesn't touch the question of principle. It leaves the question of value untouched. I want what really happened. I am going to offer this book whether you accept it or not.

MR. FORT: I don't see how it can go in.

20 MR. CORBIN: Whether it is lawful or not, I am not now maintaining, but what has really happened is this. You have sent your agents,—and I am not questioning whether you have good ones,—to the ends of the State. Before me for instance is Bergen County Railroad. They have by going there and seeing the assessors and seeing real estate agents and making inquiries,—your agents have put down here the number of square feet of each of these parcels, number of acres, estimated value per square foot and appraised value thereof. Now, that they have laid before you as your field book and information and as a matter of plain truth, 30 in some of these cases you have simply doubled them and your assessment is double that. Now, I want that fact, that's all. This is the value, made up by the best information you could get, as compared with adjacent values there.

MR. HENDRICKSON: How does that value in there compare with your valuation of it?

40 MR. CORBIN: I think it is high enough. But this is another thing I want to raise in the argument that in doing that you have

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taken the adventitious values, the damaged values by cutting and all that, and all sorts of additional values which are costs necessary to encounter if you are going to buy a railroad line, and you have said that will double it. I say all those things don't go into the value of the land, but if they exist—and for the sake of argument I will concede that they exist—they go into the ultimate value of the property which is franchise value; that's one of the arguments I want to make. 10

MR. RECORD: Can't you make it on my theory?

MR. CORBIN: Your stipulation, as put to me, makes no sort of concession as I see it. You emphasize very greatly the fact that your land is in one kind of strip and the other land is in all sorts of places. 20

MR. HENDRICKSON: There isn't any doubt about the shape of the strip, is there?

MR. CORBIN: No, but you bear upon the fact that the other may be in all sorts of inconvenient strips.

MR. RECORD: That's a fact; now there's where you fall down on your statement of the fact. Our agents come in with some information in a column which says appraised value. We say to them "How did you put your yard stick to that fact?" Our yard stick is the adjoining value." All right. Then we proceed to put our minds on it and we say that the adjoining value is not the sole thing to be considered. Now that fact appears by your proving the fact that the value which is now placed on this 40

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10 main stem strip is in excess by a certain percentage of the immediately adjoining land as shown by sales. Now, just listen to me, now if that is a fact and we have assessed that higher than if your contention is right we have plainly made a mistake. If the adjoining property value is the true measure, once you have got the fact before the Court that we are higher than the adjoining value, you have got all you need to argue.

MR. CORBIN: I am not quite sure of that.

MR. RECORD: I am sure of that.

20 MR. CORBIN: Your stipulation seemed to me framed exactly to fall in with the decision of the Chief Justice in 20 Vroom. He says we all know that in buying a strip through property we have to pay more in cutting the properties. If you had said that as he put it, that by reason of the cutting of properties, and the damage to properties which remain we estimate that this property has cost 75% more than it would have cost to buy an equal acreage in the plottage in which we find it. Then the question is raised to review the correctness

30 of his decision. But you don't say that. However, the question is whether these damaged values should be added to the true values.

MR. RECORD: You have never grasped this point yet; there is something there that is deeper than you think. The cost of reproduction may or may not be a measure of value.

40 MR. CORBIN: That's true.

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MR. RECORD: Now, we start with that proposition; we start with the information from our employees that while property is only worth \$50 adjoining, to reproduce this peculiar strip would cost \$100. Now we start with that proposition. Now with some railroads in this state we say plainly that the cost of reproduction isn't too high; in other railroads we say plainly that the cost of reproduction isn't too high and we bring in other elements of value to arrive at that proposition that you ignore.

MR. CORBIN: I don't know what you mean by that.

MR. RECORD: I mean by that this: I want you to get this where you can have it reviewed. I say all property is not worth what it is valued by assessors; nor can it all be valued on the principle of reproduction value. Now, I took up before the State Board of Taxation this watch factory property out here; it had lain idle five years; they had it assessed at its reproduction value. I said that is ordinarily the sound rule but this property has lain idle for five years, couldn't get a tenant. It is obvious therefore that that property isn't worth what it would cost to reproduce it but if it had been a bustling factory for five years, I couldn't have made that plea for exception. Now, if you have a road jam full from morning till night and has every appearance of prosperity and success, then you haven't set up any reason to my mind why you should escape from the universal rule of the cost of reproduction which is applied to every other tax payer in the country.

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MR. CORBIN: You haven't certified that at all.

MR. RECORD: We haven't certified to anything.

10 MR. RECORD: In our stipulation what we have done is we have considered every possible measure. You have considered what the thing would bring for cabbages; we have considered that too low. We have considered every element; now we have considered also the fact that you are a prosperous railroad and as I have told you, some of these men—George Gould builds his terminal into Pittsburg,—it obviously isn't worth as much as it cost; the Pennsylvania Railroad built its big terminal in New York; it obviously isn't worth what it cost. They haven't worked out. Then our rule doesn't apply but in your four big roads where you have got a successful road in active use, we have gotten as the facts show, something like 75% on an average that we give you the benefit of the fact in our statement that on an average the value there is, as we have found it, more than the adjoining value and you can go into Court and you can argue that the adjoining value is the only yard stick.

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MR. CORBIN: I want to get in why it is worth more.

MR. RECORD: Because it costs more to reproduce it, my answer to it.

MR. CORBIN: If that's all the element—

40 MR. RECORD: That isn't all the element because it costs more to reproduce it and because it is obvious that it is in full efficient use.

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MR. FORT: For a much more valuable use.

MR. RECORD: Yes, and is put to a use which we have no measurement of. You will never get anywhere in the world if this thing is fought out right unless you come in and show the Court that the railroad use is less valuable than the cabbage use. 10

MR. CORBIN: I think the Board ought to give us a fair opportunity and assist us in raising these questions fairly. You say as it comes now, when I go to the Supreme Court you have a right to exercise your judgment about it. I put in all the experts I can find in the state; they all differ, they all say you are too high. We cannot sell the property— 20

MR. RECORD: For what use?

MR. CORBIN: Any use. This is the point as you attempt to refuse us the opportunity to get in evidence and prove your way. We know that you haven't considered all these things in considering the value; you haven't even seen the property. No such duty comes on you perhaps to go there. Here is the point; your judgment is set up as evidence; we put in some more evidence. 30
Therefore you can go on in your judgment year after year piling up value until you can ruin any property. And you have ruined some. Now that's administrative justice but that isn't common law and we have a right to show the things so the Court can pass on them; they have a right to review you in facts and your conclusions of law as well. I want to show just what you did. There ain't any doubt what you 40

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did; when we come to prove it your counsel scarce you off.

MR. RECORD: I am asking you to answer me why my proposition doesn't state what we did? What I say we did is value this property at a higher rate than the adjoining property which is the fact, isn't it?

10 A. It is in some cases.

Q. You claim, don't you, that the selling value of the adjoining property is the actual true measure?

MR. CORBIN: Not necessarily.

MR. RECORD: What is the true measure?

MR. CORBIN: The immediate selling value is a very important element chief element.

20 MR. RECORD: What is your yard stick, if there is any?

MR. CORBIN: There is no yard stick; the element of judgment has to come in it in the end.

MR. RECORD: How would you arrive at the value of main stem through a farm?

30 MR. CORBIN: In the first place I would not value the land—I would value it at the selling value of land adjoining. I would do the same in that second class property. Now, when I come to ascertain the entire value of that railroad and all other values and adventitious values and everything else which go up and down with foreclosures and fortunes and misfortunes, I would get in that last class all the value there was but I wouldn't go on setting up fictitious values.

40 MR. RECORD: See how much we give you your rope and how you have everything you

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want. We say we don't do it the way you think it ought to be done. We say we have taken a 1000 ft. strip of bare land and have valued it at an excess price over the adjoining land.

MR. CORBIN: I think I had better go on with the questions.

MR. FORT: I hope the commissioner will refuse to answer and I will consent that you go and get an application to force him to answer. You have got a lot of records here which never should have been given to you by the Secretary of this Board; they are not records of this Board. Everything Mr. Hansel has done is outside the records of this Board. Now, it was not intended that Mr. Hansel was intended to be in the Board by the act which I signed, nor the supplemental act; he was simply authorized to do this work under your direction. Now his records are in evidence. If they want Mr. Hansel, call him; he will swear exactly what you want; he will go on the stand. Now, I insist that it isn't fair,—you cannot find any authority for a sworn officer who has to exercise judgment, being called as a witness to show how he exercises that judgment. Now, you are a sworn official. Nobody knows that better than counsel on the other side.

(Question Repeated.)

A. I decline to answer the question or to stand for further examination as a member of the Board.

Q. Did you inspect any of the Erie Railroad property for the purpose of making the assessment of the year 1911?

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MR. FORT: I submit that Mr. Hendrickson should leave the stand and refuse to proceed any further. It is just simply a farce and because you gentlemen happen to be laymen, it isn't the thing for a distinguished member of the bar like Mr. Corbin to go on in this manner.

10 (Question repeated.)

MR. HENDRICKSON: I will ask the stenographer to repeat my last answer.

(Answer repeated.)

MR. CORBIN: You mean you won't answer any further questions of any kind?

MR. HARDIN: I object to that.

A. It depends on the subject matter, so far as relevant to this hearing I would say yes; so far as
20 the questions are relevant to this examination I would say yes.

Q. That is you will answer them? A. I will not answer them.

MR. RECORD: You don't mean that? You mean so far as they are relevant?

THE WITNESS: No, I mean that any questions with regard to the matter under
30 investigation here I will not answer.

MR. CORBIN: I will ask you one or two more.

Q. Did your Board authorize Charles Hansel and certain other employees to examine in detail the land of the railroad company and to make an estimate and appraisal for your use of the several parcels of land in main stem or in second class property? A. An Act of the Legislature
40 was passed directing a re-appraisal to be made and Mr. Hansel was appointed by the then Gover-

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nor of the State and so far as the Board of which I am a member was able we facilitated his work; his report under the act was to come in for the benefit and use of our Board as well as other departments of the State Government. We used it wherever we could. Used it in making these appraisements this year, but our assessment is not a copy of that re-valuation.

10

Q. You mean to say that the valuation which he made in 1911 was not made in connection with your Board but under some statute or other law?

MR. FORT: Yes, it is perfectly clear; here is the statute which explains exactly what it is.

MR. CORBIN: Yes, but Mr. Hansel has explained under oath—

MR. FORT: He doesn't bind this board.

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MR. CORBIN: You put him on the stand as your witness.

MR. RECORD: Consider this point a minute. Mr. Hendrickson, nor I nor any other man can testify as to what this Board did; that's a matter of record, what it did; it seems to me you should produce the record. I don't think any man can actually state what we have actually done with Mr. Hansel.

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BY MR. CORBIN:

Q. Didn't Mr. Hansel and his assistants lay before the Board their books of values entitled Railroad and Canal Revaluations Second Class 1911 and a similar book Main Stem? A. I don't remember the labels. I know we have an enormous amount of schedules inventories and appraised values made by him or his assistants.

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Q. Is this book produced by your Secretary at this time one of these books? It is entitled Erie Railroad System Land Second Class? A. I have no doubt of the authenticity of this book.

MR. FORT: I object; that book was not produced by the Secretary of this Board; that book was produced here by Mr. Hansel.

10 A. But I don't believe that book in the shape in which it is bound up here gathered together ever came to our board because the ones we had were separate sheets.

Q. Look at the one before you now, Main Stem Erie Railroad. The same is true of that is it? A. I could hardly recognize it myself. If Mr. Brophy said that was the book I would say yes We have similar sheets.

20 Q. In this book I see that the total valuation of New York and Greenwood Lake under head of appraised value is \$420,679 and the State Board of Assessors valuation on the same property for 1911 is \$841,358. Was not that valuation by the State Board arrived at by doubling the figures furnished by Mr. Hansel? A. I should say to that no.

30 Q. You think it a mere coincidence that the figures are exactly double? A. No, the figures are exactly—

MR. HARDIN: I want it understood I am objecting to this.

A. The process by which the Board arrived at is entirely different from the one you suggest in your question.

MR. RECORD: Why not let's have this thing settled.

40 MR. FORT: If you don't want to go on—

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MR. RECORD: My vote here is to follow advice of counsel.

MR. HARDIN: I want to go on record, that this record shall go to the Court protested against as to any member of the Board testifying and it was on this protest if they do not testify that they refused to testify. I want to take the responsibility for it. 10

Q. In the case of the New Jersey and New York Railroad I find the appraised value stated at \$109,853 and in the assessment of the State Board of Assessors on the same property \$219,706.

MR. HARDIN: I object to this.

Q. Which is exactly double.

MR. HARDIN: I object to this question. 20

Q. Was not that assessed valuation by the State Board of Assessors fixed by doubling the valuation returned by Mr. Hansel?

MR. HARDIN: I object to this question and object to the witness' answering it because the record read from is no record of this board and is a mere paper that is supposed to have been returned and which he suggested to have returned to Mr. Hansel who is not a member of this Board and whose findings, statements or valuations in no way bind this board under any circumstances. 30

MR. RECORD: I think the way we will have this record made up if you lawyers agree, Mr. Corbin asks the question, counsel object and the Board will pass on the objection as to that question and the ruling of the Board is that the question is excluded. 40

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A. I decline to answer it under the direction of counsel.

MR. CORBIN: I don't want to waste time.

MR. RECORD: State your questions each time

10 THE WITNESS: I am not going to stand for any more questions until the matter can be brought before the Court.

Q. Mr. Hendrickson, I had intended to ask you similar questions with regard to each of the Railroads of the Erie System for 1911. Is it your intention to decline to answer each one? A. Yes, sir.

20 Q. I desire to ask the same question with regard to the New York, Susquehanna & Western; do you decline to answer? A. I intend to follow the same course.

Q. Is not the information obtained by the Board in assessing these lands of the Erie Railroad system such as has been obtained by the work of your engineers and assistants and their reports?

MR. HARDIN: That's objected to.

Q. And not by a personal investigation of the values?

30 MR. HARDIN: That's objected to as entirely immaterial and incompetent. The issue here is an appeal from the assessment that has already been made by this Board. The appeal is on the ground that the assessment is excessive. Even if the information came from sources which might not be approved by counsel, unless the information resulted in excessive valuation its source would be entirely immaterial.

40 That question in no way involves values.

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Objection sustained.

A. I decline to answer the question.

Complainant excepts because the ruling and refusal are not lawful.

Q. Have not your values been based upon the returns of the companies and the information furnished by subordinates without any inspection by the Board to ascertain values? 10

MR. HARDIN: Objected to.

Same ruling.

A. I decline to answer.

Complainant excepts because the ruling and refusal are not lawful.

Q. In the matter of the main stem of the different lines of the Erie Railroad system has not the Board in most cases merely doubled the summary of value supplied to you under the head of appraised value by your engineers and assistants? 20

Objected to.

Same ruling.

A. I decline to answer.

Complainant excepts because the ruling and refusal are not lawful. 30

Q. Did you not in every case of the Erie Railroad case either double or by some other figure multiply the appraised value so returned by your employees?

Objected to.

Same ruling.

A. Decline to answer.

Complainant excepts because the ruling and refusal are not lawful. 40

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Q. In the case of the terminals on the Hudson River assessed to the Long Dock Company did you not take the appraised values so returned by your employees and increase them by an arbitrary addition or multiplication of some percentage?

Objected to.

Same ruling.

10

A. I decline to answer.

Complainant excepts because the ruling and refusal are not lawful.

Q. In what way did the Board proceed to inform itself of the values of main stem and second class property?

Objected to.

20

A. I decline to answer.

Complainant excepts because the ruling and refusal are not legal.

MR. CORBIN: Mr. Chairman, I don't know about the practice before the Board. I want to make an exception to all the refusals to answer.

MR. RECORD: Put anything you want on the record.

30

MR. FORT: I think it fair that Mr. Corbin should have a right to take an exception; it is understood there is no objection on it.

MR. CORBIN: With the permission of the Board I will ask the stenographer after every ruling on a question and every refusal to answer to enter these words: Complainant excepts because the ruling and refusal are unlawful.

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ADJOURNED TO TUESDAY, FEBRUARY 13, 1912 at 2 o'clock.

Charles Hansel—Direct.

Testimony, February 13, 1912.

CHARLES HANSEL, called and sworn in all the cases of the Erie system, testified as follows:

DIRECT EXAMINATION BY MR. CORBIN:

Q. Mr. Hansel, you are an engineer? A. Yes, sir.

Q. And have been the expert for the State in the matter of re-valuation of railroad properties, have you, for the last year or two? A. Yes, sir. 10

Q. And also valuing,—making values for the assistant of the State Board of Assessors? A. Yes, sir.

Q. And have you valued the railroads of the Erie system? A. Yes, sir.

Q. Have you valued the structures? A. Yes, sir. 20

Q. And the land? A. And the land.

Q. Made a detailed examination, have you, of these properties? A. Yes, sir.

Q. You have also made a valuation and report, transmitted to the legislature under your appointment as special expert, have you not? A. Yes, sir.

Q. That is not yet in print, is it? A. It is in the hands of the printer. 30

Q. But not yet issued? A. It is not issued, no.

Q. You have handed me a book, bound volume of typewritten sheets, entitled Erie Railroad System Land First Class, Main Stem, 1911. What does this book contain? A. It contains a description of the various items of land, together with the area and value of same.

Q. This is value made up by whom, whose 40

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value? A. Value made up by me and my assistants under my direction.

Q. This column marked Appraised Value, is that your appraised value of the land? A. It is.

Q. And how did you arrive at that, Mr. Hansel, what were your methods of coming at the value? A. Briefly, it was intended to be the value of the land for any reasonable purpose. The determination of the value varied under different conditions; we took into consideration all the elements that we could discover to decide what the normal value of the land would be, regardless of its use for the railroad purpose.

Q. But what elements, for instance, did you take into consideration? A. Well, in the first place, our engineers were instructed to show in their field books the nature of the land on either side of the railroad, describing it as cultivated, swampy, timber or barren land and without any estimate of value upon their part, this description was intended to guide us to some degree in determining the value of the land on either side of the roadbed. Then we had the assessed value of the land on either side. We also had opinions from various individuals, familiar with the—said to be familiar with the going price of land, and it was such an estimate as I would make to express the normal value of the land if I were employed to report upon the cost of construction. The value, however, of the land, would not include the element of forced purchase or abuttal damage, but was only intended to be the normal value of such land for any purpose to which it would reasonably be applied.

Q. And by value you mean selling value, I suppose, merchantable value? A. That term is not definitive in my mind.

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Q. In making up these values did you add something to the value of land for engineer,—railroad engineering? A. Yes—on main stem are you now discussing only?

Q. Yes, main stem. A. I added something to it, yes.

Q. You do? A. I added for engineering and interest 7 per cent. 10

Q. So that this column Appraised Value for each parcel of land, includes 7 per cent. added for engineering? A. The total does; the individual items do not, in order to save effort.

Q. The individual items then show your value of the land? A. Yes, without 7 per cent.

Q. What was the idea of adding 7 per cent. to the value of the land, Mr. Hansel? A. In order to adopt—to apply to everything—had we only added engineering to the items of bridges and buildings it would have been a higher per cent. than we used there; and then there is, of course, some engineering—some supervision necessary, and indeed the survey of the route itself is included in the value of the land. 20

Q. Have you added 7 per cent. also to the cost of the track, the bridges and the construction?

A. Everything but the track, and it was estimated as a constant. Our report shows exactly how we determined the value of the track. 30

Q. But as to all other items which go to make up the railroad, you added 7 per cent. for the item of engineering, did you? A. Except on second class land; we didn't add either interest or engineering to second class land—only the main stem—to cover the survey cost of the line and the engineering that would ordinarily follow the acquisition of parcels of land for the main stem. 40

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Q. So instead of adding all the cost of engineering to the items of construction, you have added it to the land as well? A. The item, as I said, of the cost of the survey; oftentimes it is necessary to survey several different routes; that may cost a great many thousands of dollars and does generally and finally one route is determined upon
 10 but all the cost of all the other surveys that have been of benefit to this particular case have to be charged to that case. According to the Interstate Commerce classification, all sorts of things—legal fees—are apprehended in that—in engineering. I used the term engineering in a broad sense there; I could have itemized it and said administration, legal, and so on, but I did not; I intended the term to be comprehensive of every
 20 administration expense.

Q. In your statement you have also put an estimate of the value per square foot or acre, have you not? A. Yes.

Q. As well as a summary of the total parcels? A. Yes.

Q. And you have treated each taxing district by itself, have you not, as a rule? A. We did, generally, yes, sir, on the land; we were not asked
 30 to do that; but we didn't know but what it might be valuable some time to the State to have it in that shape.

Q. Did you lay these books before the State Board of Assessors when your work was completed? A. I did.

Q. When was that? A. At different times during the year 1911, as I finished a book I forwarded it.

Q. I refer you, in this book which you produce,
 40 first to the Arlington Railroad, Hudson County, Town of Kearny; that road lies entirely in the

Charles Hansel—Direct.

Town of Kearney, does it not? A. I believe so, yes.

Q. I note this item, Hudson County, Town of Kearney. Appraised value, \$2,274. Add engineering and interest 7 per cent., \$160. Total, \$2,434. That, then, is your estimate of the value of the land in the main stem of that company, is it? It is.

10

MR. CORBIN: I was going over this, Mr. Chairman, with two or three of them, to show the method. I should think I could put the book in for all of them, but I thought first I would show what I was really offering.

MR. RECORD: Just put the whole book in; then you can comment on any part of it you want.

20

Q. I will take the second one, Bergen County Railroad, which seems to be in several of the Boroughs and Townships of Bergen County.

MR. HARDIN: Main stem?

MR. RECORD: Yes, main stem.

Q. You have valued the land in each taxing district separately, have you not? A. Yes, sir.

Q. And made a summary or it? A. Yes, sir.

30

Q. Adding to the summary the 7 per cent.? A. Yes, sir.

Q. That makes the total of the land in that railroad line \$47,504? A. Yes, sir.

Q. And to go with the Bergen County Railroad a little further beyond the summary, I find the item under Rutherford Junction to Carlstadt—I see you have 4.160 acres; your estimate there was \$2,500 per acre, was it not? A. Yes, sir.

40

Charles Hansel—Direct.

Q. Making the total valuation for that acreage \$10,400? A. Yes, sir.

Q. And you followed this same method of dealing throughout all these valuations, have you not? A. Yes, sir.

Q. Of the Erie system? A. Yes, sir.

10 Q. And you have for each railroad, first a summary sheet, have you not, to which you have added your 7 per cent. in one single item? A. Yes, sir.

Q. Then you follow it with a more detailed sheet of each taxing district, is it not so? A. Yes, sir.

20 MR. CORBIN: I offer the book in evidence and I don't know as it is necessary to mark the Board's records, but I ask it to be designated by the title Erie R. R. system land first class main stem, 1911.

Q. On the first page of it, to which I now particularly call attention, is this heading, "Recapitulation of land Erie Railroad system, Jan. 1, 1911., containing an enumeration of all the railroads and first class property carried out and tallied at \$3,919,695, signed Charles Hansel, Expert in Charge Railroad and Canal revaluation.

30 MR. CORBIN: For convenience, I ask that the stenographer copy that recapitulation page right into the record.

(Attached at the end of this testimony).

Q. Now, have you a book of the second class of the Erie Railroad system, land second class? A. Yes, sir.

40 Q. This book that you have produced, Mr. Hansel, is labelled July 25, 1911, Erie Railroad system land second class, 1911. In valuing this sec-

Charles Hansel—Direct.

ond class land or the land used for railroad purposes other than main stem, did you follow the same method in arriving at the estimate of value?

A. All except tide water terminals.

Q. And I think you said you omitted the 7 per cent.? A. Yes, I was going to say.

Q. Now, as to tide water terminals, what difference— A. In all second class land other than tide water terminals we endeavored to determine the value of the land,—the normal value of the land for any reasonable purpose, and then in the item of graduation under another book we showed the value of the graduation on the tide water terminals; we were unable to determine the old natural surface of the land, and we incorporated in the value all of the graduation, and there is, therefore, no item of graduation appearing against the tide water terminals. 10 20

Q. You assumed that it was up to fair grade in valuing it, did you? A. Well, I knew that we could not determine the graduation, and we therefore took the property as it was, as if it was the original surface of the land. Then we—

Q. Excuse me; as a matter of fact you found the tide water terminals all fair grade, didn't you, a few feet above the water? A. Yes 30

MR. HARDIN: Is that strictly true? Some of them are covered with planking.

THE WITNESS: Down to the bulkhead line if I understood you correctly, it is filled, with general uniform surface.

Q. And a few feet above tide water? A. Yes.

Q. And whether that is brought to that level by its natural state or by artificial filling, you value it the same in either case, didn't you, valued 40

Charles Hansel—Direct.

it as you found it? A. Valued it as I found it, assuming that the surface we found to-day was the surface given by nature.

Q. Proceed, Mr. Hansel. A. The terminal land was valued by taking that part of the terminal north of Pavonia Avenue and planning on it a system of piers, warehouses and factories, and we
 10 divided up that tract into different areas—into four different parcels, in fact, the total of which was 64.772 acres, at an average of \$49,600 an acre. South of Pavonia Avenue the strip known as the ferry slip, 130 feet wide and extending from the bulkhead up Pavonia Avenue to the pier line some 700 feet, has been taken at the same rate per acre as the land for piers in the main body of the terminal, north of Pavonia Avenue, that is at
 20 \$46,330 per acre. The strip of land immediately south of this slip, which we understood has not heretofore been assessed by the Board, containing 2.498 acres and extending between the bulkhead and the pier, has been taken at the same rate of \$46,330, and the land on Pavonia Avenue, for a distance of 1,200 feet, has a water front valuable wharfage, and this strip of land on Pavonia Avenue, has been estimated as follows: 16 lots at the rate of \$8,200 a lot.

30 Q. That's a lot of 25 x 100 feet? A. Yes. Well, it is a lot extending to the water line of the Basin there from Pavonia Avenue to the water line.

Q. As the water line now is?

THE WITNESS: How much is that, Mr. Focht, do you remember?

MR. FOCHT: What's that?

40 THE WITNESS: That strip between Pavonia Avenue and the Basin, that's over 200 feet, isn't it?

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MR. CORBIN: To the basin as it is now.

MR. FOCHT: One hundred and some feet; you mean from the end of the ferry?

THE WITNESS: Yes.

MR. FOCHT: A little over 100 feet.

A. Well, whatever it was, we took it, assuming that it was sold in lots.

Q. You valued it at \$8,000 for every 25 feet of front? A. Yes, and 32 lots at the rate of \$8,000 per lot, and 36 lots at \$5,000 a lot, these \$5,000 lots having no water frontage. The balance of the area south of the lots on Pavonia Avenue has been taken as acreage. First piece east of Provost, average depth of 160 x 390 feet in width, at \$40,000 an acre. Second piece has been taken at 650 x 390 feet, at \$50,000 an acre. The summary of these various divisions amounts to \$1,162,489. 10
20

Q. That's the part south of Pavonia Avenue?

A. And the total area included is 20.714 acres. The appraised value averages about \$5,000 an acre, which includes all the area to the pier head—

Q. That's south of Pavonia Avenue? A. Yes.

Q. Now, you said that the area north of Pavonia Avenue you divided into 4 parcels. Please describe the four, or show where the lines of division are. A. Well, I can only describe them by acres here. I can describe them by acres. 30

Q. Very well. A. The first parcel being 25 acres of land for piers.

Q. That goes to the pier head line, I suppose, does it not? A. Yes.

Q. And runs back perhaps to the bulkhead line? A. Beyond it, in order to construct a pier that would be feasible to use. 40

Charles Hansel—Direct.

Q. And how much beyond it did you allow? A. It varies, because the bulkhead line and the pier head line are not parallel.

Q. But can you tell me about how much? A. I did so many of these that I cannot quite recall how far it was back.

Q. I won't bother you on that now. Then the
 10 next parcel? A. Do you want the acreage? There
 is 25 acres at a total of \$1,158,250. The second
 was an area of 13.75 for warehouses, \$60,000 an
 acre, total \$825,000. The third parcel was 19
 acres for lots or factory sites, high class factory
 sites, similar to the Bush Terminal, at \$50,000
 an acre, \$950,000. The fourth and last was 7.0222
 of the same character, but at a less value, \$40,000
 an acre, or \$280,880, making a total of 64.772
 20 acres and a total value of \$3,214,130, which was
 taken afterwards at even figures at \$49,600 an
 acre for the whole area.

Q. Mr. Hansel, why did you divide this parcel
 into four parcels, for the purpose of valuation,
 and why did you make these assumptions with
 regard to piers on part and warehouses on part,
 and factories on part? A. I am unable to deter-
 mine the value of any terminal for railroad pur-
 poses. I have felt there is no value that the rail-
 30 roads could properly place, if they intend to con-
 tinue business. I, therefore, couldn't satisfy my
 own mind that anybody knew the value of rail-
 road terminals,—tide water terminals as such.
 I considered that the next highest reasonable use
 for that land would be for piers, warehouses and
 factories, and I therefore assumed that I had that
 tract of land to show a prospective buyer what
 he could afford to pay for it for that use. I con-
 sidered that it wasn't suitable for banks or opera
 40 house or other uses, except some such use as piers
 and warehouses and factory sites.

Charles Hansel—Direct.

Q. And shipping at the front, I suppose? A. Yes.

Q. Well, you say you couldn't value it for railroad purposes, and what it was worth to the railroad; what you mean is a terminal is indispensable to the railroad, isn't that it? A. Why, I considered the first factor in the construction of a railroad—I may say that I was asked by a firm in New York if I could give them an estimate as to the cost of a double-track railroad from New York to Chicago. I told them that I could, perhaps, if I surveyed it, but anything short of that would be folly, but I said if they were contemplating such a project they should have \$100,000 for every mile of road between New York and Chicago, which is practically 1,000 miles, in order to produce terminals as far down as 42d Street in New York City; in addition to that they would have to consider the terminals at every other point on the line and in Chicago, that \$100,000 a mile for terminals would be a necessary factor in the beginning. I freely confess that I don't know how much terminals are worth for railroad use, because there is no value that they themselves can allocate to them except as they do arbitrarily by an arbitrator.

Q. Indispensable to a railroad, aren't they? A. I think so.

Q. Well, the bridge across the Hackensack is just as indispensable to a railroad, isn't it? A. You can say that every foot of railroad is just as valuable as every other foot of railroad, as far as the traveller is concerned..

Q. But the continuity of the line is absolutely indispensable? A. Absolutely.

Q. So when General Sherman blew up one tunnel he destroyed the railroad just as much as if

Charles Hansel—Direct.

he tore up the whole road? A. I don't know, he may have built a shoo fly. That is a term commonly used; that wasn't used in any way of airiness at all; a shoo fly is a term to go around an obstacle, and I guess Sherman could do that as well as anybody.

10 Q. But when you say that you couldn't value it for railroad purposes, why cannot you value it for railroad purposes, as well as for steamship purposes? A. Why, because I have no means of knowing what income could be produced from that.

Q. That is, what part of the income of the Company to allot to that, that's about the size of it.

A. That's it. I would like to know the man who can.

20 Q. There is no expert who can come and tell us that, is there? A. I don't know anybody.

Q. But when you come to the item of indispensability, that's just as applicable to every bridge and every mile of the road, isn't it, as it is to the terminal? A. In the sense of continuity, it is, but terminals aren't as easy to duplicate as different variations in the line of road. I might destroy a bridge and build another one right alongside of it.

30 Q. Well, the use which you have chosen, that is of steamship docks with warehouses behind and high class factories back of that, is a similar use to the Bush Terminal development in Brooklyn, isn't it? A. Yes, there is—there may be a higher use, but I don't know it.

40 Q. Unless the railroad use is higher, you don't know anything higher for that, do you? A. No, I don't say that there is or isn't. I felt that it was a reasonable use. That's what I wanted to impress.

Charles Hansel—Direct.

Q. Well, did you make inquiry as to the selling value of the land adjoining or adjacent? A. No, sir.

Q. You based your value then, upon what you thought the property was reasonably worth if developed in this way that you have described? A. Yes, sir. I treated the subject in every case as if I had a client who had come to me to ask me how much he could afford to pay for that land for such development, and I would say that he couldn't afford to pay any more than that for that development.

10

Q. Now, as to the Erie lands at the Weehawken Terminal there; did you make a similar valuation? A. A similar one, yes.

Q. Did you divide that into parcels for the sake of valuing—I see you have one parcel called Excess from easterly side of main stem New Jersey Junction Railroad, to exterior line for piers, 75.084 acres, at \$22,500 per acre total, \$1,689,390 and then you have another item Excess lying west of main stem, New Jersey Junction Railroad, 10.997 acres, at \$22,500, \$247,433. Grand total, \$1,936,823. You divided that into two parcels, Mr. Hansel, for the purpose of valuation, did you? A. Yes, sir.

20

Q. And did you in that case suppose docks and factories, and warehouses? A. Well, I took that on a different scale, owing to the facts that the possibilities of development were not as favorable as at the other place,—shallower water there,—a longer channel had to be maintained to deep water, the upland was not as favorable, and altogether I considered that it wasn't suitable for the development (the area being smaller, too) of the other tract, but in general—and I may say in all these cases I want to have it understood that I

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Charles Hansel—Direct.

10 did not try to discover what any land had been sold for, for the reason that I had before me all the so-called expert testimony for years on these cases, and they had apparently developed every sale, and I thought it was unwise to go over the same ground, and to my mind these sales did not aid me much; they did not reflect the value of that land; sometimes I thought they showed a higher value than it ought to have, and at other points not so high, and I attempted to keep my mind on the point of the value to a client that I was engaged to advise on the subject. That may not have been the proper attitude, but it was my attitude.

20 MR. CORBIN: I offer in evidence this second book produced, dated July 25, 1911, entitled Erie Railroad System Land, Second Class, and ask that it be designated as an exhibit, and I call attention specially, for convenience, to the first or recapitulation page, entitled Recapitulation of land, Erie R. R. System, Jan. 1, 1911 and I will ask the stenographer with the permission of the Board, to copy that into the record.

(Copy attached to this testimony.)

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Charles Hansel—Direct.

CHARLES HANSEL, called and sworn in the above matter, testified as follows:

DIRECT EXAMINATION BY MR. CORBIN:

Q. Have you a book with the same data of the New York, Susquehanna and Western Railroad, main stem?

(Witness produces same.)

10

MR. HARDIN: Part of the same system?

MR. CORBIN: The New York, Susquehanna & Western is a separate system under its own charter, but the majority of its stock is owned by the Erie.

Q. You have produced a book here entitled New York, Susquehanna & Western Railroad System, land first class main stem, 1911; does this contain similar data to those you have described in the matter of the Erie Railroad? A. It does.

20

Q. And with the same amount of detail? A. It does.

Q. And your estimate of your appraised value is here in like manner? A. It is.

MR. CORBIN: I offer this book in evidence and ask it be designated as an exhibit. And ask with the permission of the Board that the recapitulation sheet at the beginning of the book be copied into the record, entitled Recapitulation of Land, New York, Susquehanna & Western Railroad, Jan. 1, 1911, First class.

30

MR. HARDIN: Main stem?

MR. CORBIN: Yes. You might say Main stem; it doesn't say so here, the total whereof is \$599,001.

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Charles Hansel—Direct.

Q. Have you a similar book for the second class land of the Susquehanna? A. I have.

Witness produces book labelled July 25, 1911. N. Y. Susquehanna & Western Railroad System land, second class, 1911.

10 MR. HANSEL: I want to call your attention to the fact that those dates are only just the date that they were sent to the office. The estimate is all of Jan. 1, 1911.

Q. And does this book, with respect to the second class land of the Susquehanna, go into the details as in the other cases? A. It does.

Q. And the values are made up in the same manner, are they? A. Yes, sir.

20 MR. CORBIN: I offer this book in evidence, entitled as aforesaid, and ask that the recapitulation sheet at the beginning of the book be copied into the record. Recapitulation of land, N. Y. Susquehanna & Western Railroad System, Jan. 1, 1911. Total, \$573,038.

MR. HARDIN: The right to cross examine is reserved in both these cases.

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Harrison Williams—Direct.

HARRISON WILLIAMS, witness called and sworn in all the cases of the Erie System, and in the N. Y. Susquehanna & Western Railroad Co. case, testified as follows:

DIRECT EXAMINATION BY MR. CORBIN:

Q. What is your position in the Erie Railroad and its associated companies? A. General Land Agent and General Tax Agent. 10

Q. And with the New York Susquehanna & Western do you hold a similar position? A. I have the same position with that by separate appointment.

Q. How long have you occupied a position in the land office of the Erie Railroad? A. Nearly 15 years.

Q. And how long have you been their Land & Tax Agent? A. Part of that time I have been Tax Agent, part General Tax Agent and part General Land Agent and Tax Agent. 20

Q. What duties have you had with respect to ascertaining the values of land or the acquiring of land for the railroads under your charge? A. Part of the time I have been with the road I have actually purchased rights of way myself and for many years have had supervision of the purchase of all right of way or any other land acquired by the Company. 30

Q. Has the Company made many purchases during your administration? A. It has; it has constructed several roads.

Q. And have your purchases continued on up to the present time? A. They have; they are now being made.

Q. And for what are these purchases made, whether for new lands or widenings or straighten- 40

Harrison Williams—Direct.

ings or what? A. For all those purposes, for extension of present facilities, for entirely new lines, for the correction of errors in old construction and I should say for almost all railroad purposes.

10 Q. Have you made a special study of this matter of cost of land for railroad purposes? A. I have.

Q. For how long a time? A. During my employment by the Erie Company.

Q. Have you kept yourself informed as to values in New Jersey? A. I have.

20 Q. What has been your experience, Mr. Williams, as to the cost of acquiring lands for railroad purposes as compared with the selling values of the same land or adjacent lands for other purposes? A. It has been very diverse. At times we have been able to get land at materially less than its value to induce us to locate a line; at other times we have bought land and many times at the value of that land in the general market for general purposes; at other times we have been compelled to pay that value and damage to adjoining property of the same owner because of talking the property for railroad purposes.

30 Q. Well, taking your experience as a whole, what is your judgment as to whether you get the land for the fair selling value or whether you have to pay more on the whole? A. We have to pay somewhat more not always but as a whole we have to pay more than perhaps would be the case if the purchase were made by a private individual.

40 Q. How much more? A. In my judgment it will not exceed 20% of the market value. Of course that is determined very largely by the exact conditions, the territory in which the land

Harrison Williams—Direct.

is to be acquired, but it is not the usual thing to meet with general hostility on the part of land sellers. There are occasional owners who seek to put an extraordinary price upon their land and hold up the company because of its necessity but in the majority of cases we are able to arrange an amicable settlement at a fair value based on what property in the neighborhood is selling. 10

Q. Where you take a whole lot or a symmetrical slice off the side of a farm so that there is no material injury to the remainder by reason of the shape of your taking, what is your experience as to damages, whether you have to pay special damages? A. In such case if no portion of the farm is cut off from the remaining portion, there is seldom consequential damages to pay. 20
In cases where a portion is cut off from the remaining portion there are two courses open to us upon amicable settlement, one is to agree upon the consequential damages to the part cut off or the part separated and that depends on whether we can give them a crossing. The other way is to buy not only the right of way we desire, but also the land cut off and then re-sell so much of the land so bought as we do not require for our purposes to any purchaser we may be able to find. 30
We have done a great deal of that sort of thing in the country proper and have usually been able to find purchasers.

Q. Have you found it necessary to make many condemnations to get what you need? A. In proportion to the number of purchases no.

Q. What is your experience with condemnations, whether you have to pay as much or more than the market value? A. We usually have to 40

Harrison Williams—Direct.

pay—condemnations more frequently come in cases where there is a disagreement upon the consequential damage to remaining holdings of the owner. Where that question is not involved it is our experience that we do not have to pay largely in excess, if any in excess of the actual market value of the property.

- 10 Q. Taking your railroad acquisition as a whole in your experience, is the element of consequential damage to the property remaining, a large percentage of the cost of what you have to get? A. It varies so that it is almost impossible to give a direct answer; it depends upon the character of the country. For example we have recently been purchasing for a new road through Ridgewood. The consequential damages have been a comparatively small factor. Again at other places where
- 20 we have constructed, consequential damages have been a considerable factor, in the case of the land. But they are not constant; not every purchase carries consequential damages with it and where they do occur they are never upon exactly the same ratio to the value of the land acquired.

- 30 Q. Take a series of miles, new line you are constructing, in all your experience in it, enough land to get an average on it, does it cut any percentage and if so in your judgment what percentage of the total value of your necessary acquisitions? A. It cuts—I should say that it added in my experience in the State of New Jersey particularly where we have purchased land for railroad purchases, I do not think that altogether with all other hindrances it aggregates over 25% of the market value of the property.

- 40 Q. You have had experience in New York State and Pennsylvania also have you not, in the Erie systems? A. I have.

Harrison Williams—Direct.

Q. Is your experience there similar or otherwise? A. The conditions have been somewhat—in New York the greatest amount of our purchases in late years have been through agricultural communities, whereas in Jersey a great portion has been in very densely populated communities.

Q. You have got some new lines in New York? 10
A. We have built several within the past five or six years.

Q. Well, is the element of damage greater or less in agricultural communities than in towns and villages? A. It is greater in my experience in proportion to the actual value of the land, the actual value of the land being very low.

Q. And why greater? A. Because the value of the area of the land is so low comparatively 20
in agricultural communities that the same amount of consequential damages bears a greater ratio to it than it would in communities where land value is higher. Perhaps that is not very clear. To illustrate, if land is \$50 an acre and the consequential damage happens to be at a given point \$50 or \$100 an acre, in proportion to the land taken, it is, of course, very much higher than if land is worth \$5000 an acre and the consequential damage perhaps has been one or two thousand 30
dollars.

MR. RECORD: I don't follow that; I won't interrupt you.

MR. CORBIN: Take a little more concrete illustration.

MR. RECORD: I don't see the difference in the principle; it seems to me the arithmetic of it would be the same wouldn't it? 40

A. Well, I am not attempting to lay it down

Harrison Williams—Direct.

as a matter of theory but am simply giving it as a practical result, as what my experience over a number of years and purchasing a great deal of right of way has shown me and in calculating in estimates the probable cost of a right of way, I bear that experience always in mind as I find it to be very trustworthy in application to new problems.

10

MR. RECORD: Do I understand you to say then the percentage of this extra cost is greater through a farm community than through a city or a village, is that your point?

20

THE WITNESS: I have said that I have found it greater in purely farming communities in New York State than through such territory as we serve in the State of New Jersey where we purchase land.

Q. You have recently run a line through Orange County in New York, have you not? A. We have.

Q. Cutting farms, I suppose that were not cut before? A. Cutting farms that were not cut before. Have also run a line, new line in Western New York, two new lines in Western New York and a third parallel to an existing line which is practically a new line.

30

Q. Was your experience similar there, that is a greater percentage of damage in farming communities? A. Yes.

Q. Mr. Williams, with the permission of the Board, while it may not be strictly evidence, I would like to have you state to them as a student of this subject your theory of where the damaged value of land which is encountered in obtaining railroad right of way, where that should go in allotting the taxable value of rail-

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Harrison Williams—Direct.

road, under what head, what you think is the just basis of valuing land. A. The matter has been given a great deal of consideration in New York State and I am in agreement with the position taken by the Courts there that consequential damages paid as an incident to the acquisition of right of way are not an element of value in that right of way, they represent the necessary destruction of value in someone else. The payment for such necessary destruction is made possible by the expected earnings of the enterprise as a whole, but when it comes to assessing the amount so paid for damages,—repeating that they do not represent value but rather destruction,—they cannot in my judgment be assessed as part of the value of the land acquired any more than the value of an ox is augmented by the value of another ox it may have killed. At the same time that value is still assessable; it is assessable in the form of personal property in the hand of him to whom it was paid, that is the value is destroyed in the land, but it is replaced in personal property and there should be assessed. There is no loss of assessment value, but the character of the property is changed from real estate to personalty.

BY MR. RECORD:

Q. Hasn't all the money you paid to the man outside of damages gone into personal property also? A. Yes, but he has lost so much land to offset if and that land is still assessable. That personal property—I am seeking to show that the —to distinguish between the money paid for the land itself and for consequential damages. The money paid for the land itself is still assessable.

Q. You don't make any division when you pay him, you pay him in a lump sum don't you when

Harrison Williams—Direct.

you buy? You don't say we hereby give you \$100 for your land and here is another \$25 in a separate pile for damages? A. We usually calculate, when the matter is arrived at amicably, the sum which is to be arrived at by considering the value of the land and the consequential damages separately, if there be any.

10 Q. But you actually hand over, pay him a sum of money? A. Yes.

Q. That either goes into personal property or of whatever he chooses to spend it for? A. It is personal property when it is paid him.

Q. It is personal property irrespective of the element of damages, isn't it? A. Yes, the money is personal property, surely.

BY MR. HENDRICKSON :

20 Q. When you pay those consequential damages in the strip, it stands you in a given cost. Take your Orange County Line, for example and suppose you went right away to sell that—went into the market to sell that for another line; you would charge that other line what it cost you to get that strip wouldn't you? A. We would seek to. I don't think we would get it for that particular land, but it would be only as a whole organization not as that particular piece.

30 I may add that in my judgment if one were obliged to pay consequential damages upon every piece of right of way as it is acquired, we couldn't afford to build railroad lines. It is only by the building of a continuous line that you can afford in certain cases to pay heavy consequential damages with the expectation of getting the value out of the earnings which the whole property will bring back, including the contracts, expert management,

40 all that kind of thing.

Harrison Williams—Direct.

Q. I am only talking about such consequential damages as you actually pay; now certainly the cost is some indicia of the value of that strip of land after you have got it, and the fact that you go in there and acquire such a strip seems to me to show that there is a demand for that kind of a strip in that kind of a locality or you wouldn't go and do it. A. In my judgment I don't think it is an indication of its value at all; I think it is simply a measure of our necessity as for example, a bridge over a stream adds nothing of value to the railroad; on the contrary it is an increased operating expense to keep that bridge up but the stream must be crossed and our necessity to cross it justifies the expenditure which we make for the construction of the bridge. 10

BY MR. RECORD: 20

Q. Then you wouldn't tax the bridge? A. I have heard a great deal of arguing against the policy of taxing a bridge as being a hindrance instead of an advantage.

Q. Well do you put the bridge— A. As for example—

Q. I beg your pardon. A. As for example I classify a bridge in railroad value as all other obstacles which are overcome, methods of overcoming obstacles, I would say, and a road which has had to overcome a vast number of physical obstacles in the country which it traverses is not as an operating proposition (all other conditions being equal) as valuable a property as one which has had to overcome no, or comparatively no physical obstacles in the country which it traverses and therefore has a very much lower upkeep cost. 30

Q. Would you, under your theory of taxation which you are now addressing yourself to, place 40

Harrison Williams—Direct.

a bridge in the same category as these consequential damages? A. No, I would not; I am not announcing any theory of taxation.

Q. Well, you were stating—I understood that Mr. Corbin asked you to give us the benefit of your judgment. A. As to consequential damages.

10 Q. As to where the value should go. Now, under that you liken consequential damages to a bridge. A bridge is not an element of value but is a measure of your necessity; I am asking you to distinguish between the measure of your necessity in the bridge and the measure of your necessity in consequential damages and I am asking you further whether you would exempt them both from taxation. A. I would not exempt the bridge. I would exempt consequential dam-

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MR. CORBIN: That is, the value of the land you are talking about, I take it?

THE WITNESS: Yes.

30 Q. Then what is the force of the illustration of the bridge? A. I referred to the bridge as illustrating that frequently large occasional expenditures were justified to overcome obstacles which could not be constantly and continuously met. In other words you could not continuously build a road made of bridges.

Q. Flagler did it, didn't he, just finished a road made all of bridges down in Florida? A. I don't know; I never have seen it.

Q. It is all bridges according to the papers. A. I haven't seen it, Mr. Record, and I no longer trust to the paper accounts.

BY MR. HENDRICKSON:

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Q. Is it your idea that the standard unit we

Harrison Williams—Direct.

should adopt per mile for taxing a railroad is that of the cost of the cheapest mile of construction? A. No.

Q. Well, that would seem to me to be the result of your argument? A. No.

Counsel for the State offered in evidence the valuations under the original assessments and the reassessments made by the State Board on certain parcels of second-class property of Long Dock Company for the years 1906, 1907, 1908 and 1909, as shown on a schedule thereof, marked Schedule "X". 10

Counsel for the Railroad Company made no objection to the form in which the offer was made, agreeing that the same might be used in lieu of certified copies of the original assessments and of the re-assessments, and objected to the admission thereof as evidence on the ground that such assessments for the previous years were immaterial, irrelevant and incompetent. 20

This objection was overruled by the Board and the evidence received and marked Exhibit Schedule "X", ex parte State.

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EXHIBITS.

**Gaddis and Ryer Exhibit Long Dock
No. 1, Jan. 29, 1912.**

Schedule of 1911 City Assessments against land in lower Jersey City, lying West of Erie Terminal, between Seventh and Twelfth Streets.

SECTION SOUTH OF PAVONIA AVENUE.

	D	179	\$ 72,300		H	320	\$31,700
		180	102,100		I	356	31,800
	E	214	80,600			357	79,000
		215	124,900		J	391	57,550
10	F	249	84,600			392	63,100
		250	115,100		K	417	47,900
	G	282	90,800			418	38,500
		283	26,550			448	37,800
	H	319	83,900			449	32,400

Area 2,115,202 square feet
846 lots
48.558 Acres

Total Assessment \$1,200,600.00 or \$24,770.00 per Acre.

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SECTION NORTH OF PAVONIA AVENUE.

	D	181	\$98,700		G	287	\$41,100
		182	75,200		H	321	32,800
		183				322	65,700
		184	56,200			323	
	E	216	48,100			324	20,150
		217	66,600		I	358	68,000
		218				359	54,000
		219	60,250			360	
	F	251	79,100			361	
		252	68,700		J	393	62,800
		253				394	74,300
		254	30,300		K	419	35,400
30	G	284	5,800			420	34,900
		285	38,900			450	19,050
		286				451	10,500

Area 2,411,150 square feet
964.44 lots
55.352 Acres

Total Assessment \$1,146,550.00 or \$20,704.00 per Acre.

Both of above sections together:—

Area 4,526,352 square feet
1,810.54 lots
103.91 Acres

Total Assessment \$2,347,150.00 or \$22,588.00 per Acre.

40 BB/PAG

Exhibits.

List of property sold in the territory between the centre line of Pavonia Av. to centre line of Twelfth Street:

Block	Property & Description	Area	Consideration	Value of Buildings	
181	Lots 1-2 S. W. Cor. Ninth & Provost Sts—50 x 100—vacant land—sold Nov 1903—Anna V. H. Hervey to Wm. Obegfell	9,650	\$ 3,600	\$	
181	Lots A-B-C—Provost St—vacant land — 50x100—sold Nov 12/1902 Hervey to Obegfell	6,500	3,600		10
181	Lot 30—143 Ninth St—25x100—3 sty. br. dwlg—sold Feby. 7/1906 — Hirschenstein to Silenger	3,250	5,825	4,025	
181	Lots 11-12-13-142-4-6 Pavonia Av—75x100—3-4 sty. br. st. & dwlgs sold Sept 8/1911—Wagner to Cassidy	10,500	24,500	14,000	20
181	Lot 31—141 Ninth St — 25 x 100—4 sty. br. tenement—sold June 25/1906—Schluber to Magid	3,250	6,900	5,100	
182	Lots 22-23—422/4 Henderson St—50x100—2-4 sty. br. st. & dwlg—sold Mch 12/1903 Smith to Swift Co.	6,500	11,250	7,000	30
182	Lot 7-8—175/7 Provost St—50x100—4 sty. br. st. & dwlg. & 4 sty. fr. br. front St & dwlg sold Mch 23/1910—Desmond to A. J. O'Neill	10,400	18,000	7,500	
184	Lots 4 to 14 & 30 to 32—11th., 12th., & Provost Sts—on lots 13-14—1 sty. fr. warehouse				40

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
	—30x100—On lots 6-7-8 3 sty. fr. bldg — 40 x 75— sold 1905 Eastern Granite Roofing Co. to Erie L. & I Co.	51,650	35,500	10,000
10	184 Lot 23-24—S. E. Cor. 12th., & Henderson Sts—50x100—fr. bldg on front of lots office, stable & scales and fr. shed on rear—sold Mch 1906—Rochford to Erie L. & I.	9,650	9,000	3,000
	216 Lot 25—185 Ninth St—25x100 4 sty. double br. flat— sold 1907—John Betz to P. J. Kennedy	3,250	11,000	9,200
20	217 Lots V-W-X—175-7-9 Tenth St 78.62 x100—3-4 sty. br. tenements — sold Mch 1904—Trap-hagen to Lembeck & Betz Brewing Co.	10,205	14,000	10,400
	217 Lot 3—521 Henderson St—25x100 4 sty. br. st. & dwlg—sold Mch 22/1910 — Desmond to A. J. O'Neill	3,250	8,500	5,500
30	217 Lot C—188 Ninth St—13x72.92 3 sty. br. dwlg. sold Nov 1905 Ligibel to Lembeck & Betz	1,339	3,350	2,450
	219 Lots 9-10—vacant land—50x100 sold Apl 1905—Kitchen to Erie Land & Impt. Co.	6,500	5,000	
40	219 Lot 5—547 Henderson St—25x100—4 sty. & extn. br. st. & dwlg—Shaughnessy to Erie Land & Impt. Co.	3,250	8,000	5,500

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
219	Lot 11—vacant land —25x100 Apl sold 1905—Gillings to Erie Land & Impt. Co.	3,250	1,400	
219	Lot 12—vacant land —25x100 sold Apl 1905—Ross to Erie Land & Impt. Co.	3,250	1,600	10
219	Lots C-D—186/8 Eleventh St lot C —22,10x50—lot D — 25.08 x 43.25 — #186—3 sty. br. tenement #188-3 sty. fr. st. & dwlg —sold 1905—Tur- kle to Erie Land & Impt. Co.	3,477	12,000	8,000
219	Lot 19—550 Grove St—25x100 4 sty. br. tenement with 2 stores—sold 1905 —Neil Campbell to Erie Ld. & Impt. Co.	3,250	16,000	12,000
219	Lot G—548 Grove St—25.93x78.01—4 sty. br. tenement sold May 15/1905 —Jacob Pein to Waldstein & Zur- man	2,950	10,000	6,500
219	Lot 31—171 Twelfth St—25x100 3 sty. fr. dwlg— sold Feby 15/06 Kivi- tek to Kaska	3,250	3,900	2,500
219	Lot 13—178 Eleventh St—25x100—4 sty. br. st. & dwlg. with 1 sty. fr. extn. & rear 4 sty. br. tenement— sold May 10/1905 — condemnation sale—Snapper to Penn-Horn Creek R. R. Co.	3,250	10,100	9,100
250	Lot 8—481 Grove St —25x100 Cor. 8th. St—br. bldg with fr. extn. sold Jan 1910—	7,150	17,500	11,900

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
	250 Lot S—138½ Erie St—18.75x75—br. dwlg. with fr. extn. sold July 12/1911—F. P. Benedict to Chas. F. Olwell	1,969	5,500	3,800
10	251 Lots E-F—507 & 507½ Grove St—40x50—2-4 sty. br. Sts. & Dwlg—sold Nov 3/1905—Meeres to Meeres	3,200	9,000	4,000
	251 Lot H—194 Pavonia Av—25x100 4 sty. br. st. & dwlg—Oct 29/10 Madden to Lembeck & Betz	7,700	17,705	16,000
	252 Lot F—517 Grove St—16.61x100 3 sty. & base. br. dwlg—sold Jany 1906—Wild to Zurman	2,167	4,500	2,500
20	252 Lot B—523 Grove St—16.67x100 3 sty. & base. dwlg. sold Aug. 1/1904—Marcy E. Thomas to Pat'k Driscoll	2,167	4,000	2,000
	252 Lot 13—212 Ninth St—25x100 4 sty. br. flat—Callahan to Feeley	3,250	10,500	9,000
	252 Lot 14—214 Ninth St—25x100 4 sty. br. flat—O'Connor to Cosgrove	3,250	10,000	8,500
30	252 Lot D519½ Grove St—16' 8"x100—3 sty. br. dwlg—sold Nov. 24/1903—Coe to Burke	2,184	3,500	1,800
	254 Lots A-B—212/4 Erie St—50x100—2-4 sty. br. sts. & dwlgs—& 1 sty. fr. store	10,400	7,300	5,000
40	254 Lots 29-30-31-32—#201 to 7 Twelfth St—100x100—sold Mch. 21/1900—Curby to Schroeder (vacant land)	13,000	6,000	

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
254	Lot C—210 Erie St 25.38x100 4 sty. br. tenement — sold Jly. 11/04—Wm. D. Kelly, Exr. to Wm. Haley	3,300	4,000	2,800
254	Lots 1-2 S. W. Cor. 12th. & Grove Sts —2-4 sty. br. sts. & flats sold Mch 1903—Hollins to Wallstein	10,400	18,000	12,000
254	Lot 5—551 Grove St—25x100 4 sty. br. st. & dwlg. sold June 1905— O'Brien to Erie Ld. & Impt. Co.	3,250	17,000	13,000
254	Lot 6—549 Grove St—25x100 4 sty. br. st. & dwlg. sold June 1905— Cosgrove to Erie Land & Impt. Co.	3,250	17,000	13,000
254	Lots 7-8—N. W. Cor. 11th. & Groves Sts—va- cant land—50x100 sold June 1905—Cleary to Erie Ld. & Impt. Co.	10,400	7,000	
254	Lots 9 to 12—vacant land — 300x100 — Mch 1900—F. J. Mathews to Save- ty Car Heating Ltg. Co.	13,000	6,000	6,000
285	Lot D—228 Ninth St—16.5x50—3 sty. br. dwlg. sold Ocy 1901 Mathews to Case	1,335	3,000	2,000
285	Lot J—258 Ninth St—16.8x50 3 sty. & base. br. dwlg. sold June 1901— Snelling to Math- ews	4,695	4,500	2,900
287	Lot N—736 Jersey Av— 16.8x60 — 2 sty. & base. br. dwlg. sold—Apr. 5 / 1905 — Mary			

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Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
	Slack to Erie Ld. & Impt. Co.	1,680	3,500	2,600
287	Lot K—734½ Jersey Av—16.8x60—2 sty. & base. br. dwlg. sold Dec 4/1905—O'Neill to Penn Horn Creek R. R.R.	1,680	3,500	2,600
10 287	Lots A-B-C-D-A-B- & C—23x80 lot D—30x80 #199-201-3-5 Erie St—4-4 sty. br. stores & flats—1-2 sty. & base. fr. dwlg & 1-2 sty. fr. stable—sold Apl 5/1905—Cleary to Erie Ld. & Impt. Co.	14,300	33,000	26,500
20 287	Lots G-F—250-2 Eleventh St—40x100—2 sty. br. dwlg. sold Apl 6/1905 Rice to Erie L. & I. Co.	5,200	4,250	2,650
287	Lot H—732 Jersey Av—16.8x60—3 sty. br. st. & dwlg. sold Apl 7/1905—Thornhill to Erie L. & I. Co.	4,666	6,500	3,500
287	Lot J—734 Jersey Av—16' 8"x60—2 sty. & base. br. dwlg. sold Apl 8/1905—J. C. Land Co. to Erie L. & I. Co.	1,666	2,750	1,850
30 287	Lot M—738½ Jersey Av—16' 8"x60—2 sty. & base. br. dwlg—sold Apl 25/1905—McCormick to Erie L. & I. Co.	1,666	4,750	3,850
287	Lot L—734½ Jersey Av—16' 8"x60—2 sty. & base. br. dwl. sold Apl 8/1905—Egan to Erie L. & I. Co.	1,666	3,500	2,600
40 287	Lot T—748 Jersey Av—20x60—4 sty.			

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings	
	br. dwlg. & store —store—sold Jan 9/1905—Martin to Perkins	5,000	7,800	6,500	
287	Lot R—744 Jersey Av—20x60 4 sty. br. tenement— sold Mch 1904— Hughes to Sherry	2,000	4,650	3,650	
321	Lot S—164½ Coles St—12.5x65—2 sty. & base. br. dwlg. sold May 1/1911— RRussell to Gate- ly	1,188	2,800	2,000	10
321	Lot D—40 West Hamilton Pl—12' 6"x75—3 sty. br. dwlg. sold Feby 14/1907 — Adams to Kroll	1,250	4,500	3,000	
321	Lot P—160½ Coles St—12' 6"x75—3 sty. br. dwlg—sold May/04 French to Woods	1,250	3,000	2,100	20
322	Lot X—S. side 10th St. bet. Coles & Erie St—2 vacant lots—25x100 sold Feby 21/1905— Mathews to Cor- rigan	3,250	950		
322	Lot 16—282 Ninth St 25x100 4 sty. br. flat—sold 1907 Gil- den to Byron	3,250	13,000	11,000	50
322	Lot 22—271 Tenth St—25x100 — va- cant lot—sold Sept. 2/1910 See to Feeney	3,250	700		
322	Lot K—288½ Ninth St—15x50 2 sty. br. dwlg. sold May 10/1907 Tappen to Ballan	1,260	3,500	2,500	
322	Lot 27—vacant lot —25x100 June 1905 —Clark to Mulli- gan	3,250	900		40
322	Lot 30—Tenth St—				

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
	25x100—1 sty. fr. bldg. 25x100 for stable—front part is 2 sty. with living apartments on second floor—sold Apl 1904—Waldron to Filbert	3,250	1,800	1,000
10	322 Lot N—178 Coles St—16' 8"x50—2 sty. & base. br. dwlg. June 1905—Trempar to Scott	1,344	2,250	1,550
	322 Lot V2—180 Coles St—51.18x51.12—2 sty. br. stable—sold Dec 1905—Ross to Betz	4,000	3,500	2,000
	322 Lot 3—709 Jersey Av—25x100—5 sty. br. tenement—sold June 1906—Dinkel to Jaeger	3,500	19,000	16,500
20	324 Lot N—735½ Jersey Av—12' 6"x50 3 sty. br. dwlg. sold Apl 6/1905 Healy to Erie L. & I. Co.	1,227	1,800	1,200
	324 Lot 20—210 Coles St—25x100 3 sty. fr. tenement—sold Apl 10/1905—Currie to Erie L. & I. Co.	3,250	8,500	7,000
30	324 Lots 13-14—274-6 Eleventh St—2-4 sty. br. tenement—sold Apl 8/1905—Heitman to Erie L. & I.	6,500	12,000	9,400
	324 Lot 15—278 Eleventh St—25x100 4 sty. br. tenement—sold Apl 10/1905—Loeven to Erie L. & I.	3,250	6,000	4,700
40	324 Lot 16—280 Eleventh St—25x100—4 sty. br. tenement—sold Apl 7/05 Means to Erie Ld. & Impt. Co.	3,250	6,000	4,700

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
324	Lots 21-22—212-14 Coles St—50x100 —2-4 sty. fr. flats —sold Apl 6/1905 —Hall to Erie L. & I. Co.	6,500	11,500	9,500
324	Lot A1—286 Eleventh St—20.83x22.92—4 sty. br. dwlg— sold Apl. 10/1905 — Coleman to Erie L. & I. Co.	1,375	6,000	3,500
324	Lot E—743 $\frac{1}{2}$ Jersey Av — 12.5x50 — 3 sty. br. dwlg. sold Sept. 22/1905— Koster to Sherry	1,227	2,200	1,600
324	Lots L-M—737-737 $\frac{1}{2}$ Jersey Av 25x50— 2-3 sty. br. dwlgs. sold Apl 6/1905— —Coles to Erie L. & I.	2,454	3,100	1,900
324	Lot O—735 Jersey Av—12' 6"x50—3 sty. br. dwlg.—sold Apl 11/05—Jaeger to Erie L. & I. Co.	1,227	3,500	1,600
324	Lot P—733 $\frac{1}{2}$ Jersey Av—12' 6"x50—3 sty. br. st. & dwlg. sold Apl 11/1905 —Gerkins to Erie L. & I.	1,227	5,000	1,600
324	Lot R—733 Jersey Av—12' 6"x50 3 sty br. st. & dwlg. sold Apl 11/1905— Gerkins to Erie L. & I.	1,227	5,000	1,600
324	Lots U-V—262/4 Eleventh St—42x 100—2-3 sty fr. flats—sold Apl 6/ 1905—Muirheid to Erie L. & I.	5,460	6,500	4,300
324	Lots W-C & Z—lot W—22' 6"x53—lot C—22x100—lot Z 30.4x55 No. 282 Eleventh St—3 sty. br. dwlg—lot			

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Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
	C vacant—206 Coles St—3 sty. fr flat—sold Apl 7/1905—Vanderbeek to Erie L. & I.	7,277	12,000	7,500
10	324 Lot E1—281 Twelfth St—54.96x25—3 sty. fr. flat—sold June 1906—Cloonan to Egan	1,375	836.31	336.31
	324 Lot 29—fronting on 12th. St—25x100—Heppenheim to Perry (vacant)	3,250	1,100	
	358 Lot H—165½ Coles St—12.5x50 2 sty. & base. br. dwlg—Sept. 17/1900 Mathews to Dittmann	1,000	2,750	2,000
20	358 Lot M—161½ Coles St—12.5x50—2 sty. & base. br. dwlg—sold Feby 2/1910—King to Shely	1,000	2,800	2,000
	359 Lots 25 to 28—Tenth St—100x100—1 sty. fr. Cor. Iron Bldg—sold May 1907 Ransome to Horton	13,000	10,000	6,000
30	359 Lot W—185 Coles St—Cor. Tenth St—20x100—4 sty. br. St. & Dwlg—sold June 1907 Riehl to Gold	6,500	8,650	6,500
	393 Lots 29-30—335/7/9 Ninth St—50x100—lot 30 vacant—lot 29—2 sty. fr. dwlg. with extn—sold June 9/1909 Bower to Kantrowich	6,500	5,000	2,000
40	394 Lots 17-18-19-20—N. E. Cor. 9th & Brunswick Sts—100x100—Vacant land—sold Sept. 25/1905—Church to Kean & Hughes	16,900	5,125	

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
394	Lot Z—329 Tenth St —3 sty. fr. dwlg— sold Jan 25/1906 Jones to Egan (15x100)	1,950	925	600
419	Lots 9 to 16 Inc. lots A, B, C, D, 21 to 24 Inclusive— 16 lots on Pavonia Av. Division St & Ninth St—Vacant land—sold Jan 1909—Ross to Wolfe	63,100	16,000	10
420	Lots 7-8—N. W. Cor. Brunswick & 9th. Sts—50x100— vacant land—sold Dec. 22 / 1900 Mathews to Hew- itt	10,400	2,000	
420	Lots 13-14—N. side Ninth St 50x100— vacant land—sold Jany 25/1900— Mathews to Man- gus Metal Co.	6,500	2,500	20

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Exhibits.

	420	Lots 15-16-25-26— N.S. 9th. St. 50x200 —vacant land— sold Jany 24/1906 —Ross to Mangus Metal Co. (prop- erty runs through to Tenth St)	13,000	9,000	
10	420	Lots 21 to 24 Inc. Tenth St. Cor. Division St.—100 x100 sold Jany 24/ 1906— Ross to Mangus Metal Co. (vacant)	16,900	11,000	
	396	Greater pt. of block bought by Erie R. R. in 1901	63,050	19,800	
	422	Greater pt. of block bought by Erie R. R. in 1901	102,700	37,000	2,870
	BB/PAG				

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RECAPITULATION.

	Area	North Section. Consideration	Buildings
	124,805	\$143,175	\$ 70,225
	46,135	102,850	67,250
	90,918	141,505	95,600
	46,742	84,500	63,200
	43,081	81,400	61,950
	37,849	68,286	42,136
	320,500	127,000	17,970
30	710,030	\$748,716	\$418,331
	BB/PAG		

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Exhibits.

List of property sold in the territory between the centre line of 7th. St. & the centre line of Pavonia Av. W. of the Erie Terminal:

Block	Property & Description	Area	Consideration	Value of Buildings	
179	Lot C—464 Henderson St 21.33x58—4 sty. br. St. & dwlg. sold Dec. 11/1905—Mekuski to Donaleski	4,517	\$ 7,500	\$ 5,500	10
179	Lot B—156 Seventh St—21x75—4 sty. br. tenement sold Jly 9/1906—Alpert to Perkowski	2,205	6,000	5,000	
179	Lot 30—141 Eighth St—25x100 4 sty. br. tenement—sold 1906 Kaminiski to Lannon	3,250	8,500	6,700	
179	Lot 31—139 Eighth St—25x100 4 sty. br. tenement sold Jany 1908—Bruer to Elfenbein	3,250	9,100	7,300	20
179	Lot A—154 Seventh St—20.67x75—4 sty. br. flat	2,170	6,000	5,000	
180	Lots 9-10—138/40 Eighth St—50x100—Lot 10 has a 4 sty. br. double flat on it, sold Nov 1910 Goldberg to Beach Ld. Co.	6,500	9,200	7,000	
180	Plot B—147/9 Provost St—50x100—3 sty. br. bldg. sold from N. J. Ice Co. to D. E. Cleary	6,500	8,900	5,900	30
180	Lot 27—147 Pavonia Av 25x100—3 sty. br. store & dwlg. sold 1906 Dalton to Fischer	3,500	5,000	1,800	
180	Lot 28—145 Pavonia Av—25x100 3 sty. br. st. & dwlg. sold June 1908—Armstrong to Kostowitz	3,500	7,200	2,500	40

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
	214 Lot 14—Seventh St—25x100 4 sty. br. tenement with 2 sty. br. house in rear sold Sept. /05 Ross to Goldstein	3,250	10,000	8,200
10	214 Lots F-G—463/5 Henderson St 50x66—2-4 sty. br. Sts. & flats sold 1905—Rohde to Waldstein	7,680	18,000	14,000
	214 Lot 4—471 Henderson St—25x100 4 sty. br. St. & 3 sty. br. St. & dwlg & 3 sty. rear fr. bldg—sold Jany 4/06 Duherstadt Exr to Goldman	3,250	11,800	9,800
20	214 Lot 21—474 Grove St—25x100 3 sty. br. st. & dwlg. sold Mch 15/06—Scheider to Britton	3,250	13,000	10,000
	214 Plot U—187 Eighth St. 18x75—3 sty. br. bldg—sold Mch 1911 Meineke to Bacreski	1,890	4,000	2,500
	215 Plot N—174 Eighth St—20x100 3 sty. br. dwlg. sold May /08 Treacy to Shapiro	2,600	2,575	1,500
30	249 Lot X—217 Eighth St—28.16x100—3 sty. & base. br. bldg. sold Sept. 16/04—Josephine T. Weaver to Ella W. Smith	2,340	5,000	3,700
	249 Lot 5—25x100—471 Grove St—4 sty. fr. St. & dwlg—sold June 15/04—Leonard H. Rich to Isaac Sonnenblick	3,250	7,250	3,250
40	249 Lot V—219 Enghth St — 18.16x100 — sold June 30/04—			

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings	
	Wm. F. Laughlin to Annie L. Percy	2,360	4,000	2,600	
249	Lot A — 210½ Seventh St—18.5x100—3 sty. br. dwlg—sold May 1/07—Dellmore to Lippert	1,777	4,100	3,000	
249	Lot 7—467 Grove St—25x100 5 sty. br. st. & flat sold Oct 26/10—Rehill to Albert Losel	3,250	15,000	11,500	10
250	Lot B1—213 Pavo- nia Av—25x100 3 sty. & base. br. dwlg. sold 1906 Purcell to Ham- mond	3,150	5,800	2,300	
250	Lot 8—481 Grove St—25x100 — Cor. of 8th. St—br. bldg with fr. extn. sold Jan 1910	7,150	17,500	11,900	20
250	Lot S—138½ Erie St—18.75x75 — br. dwlg with fr. extn. sold Jly 12/ 1911—F. P. Bene- dict to Chas. F. Olwell	1,969	5,500	3,800	
282	Lot S—244 Seventh St—16.75x 3 sty. & base. br. dwlg. sold 1901—Fors- ter to Lewis	2,178	5,500	4,000	
282	Lot T—246 Seventh St—16.5x100—3 sty. & base. br. dwlg —sold 1901—Fors- ter to Mitchell	2,145	5,500	4,000	30
282	Lot U—248 Seventh St—16.75x100 — 3 sty. & base. br. dwlg—sold 1901— Forster to Ward	2,178	5,500	4,000	
282	Lot A—239 Eighth St—22x100 3 sty. & base. br. dwlg— sold 1902—Post to Horton	2,860	6,750	5,000	40

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
10	282 Lot D-P1-& E-231/3 Eighth St—lot D 22x100—lot P1— 25x100 lot E—20x 100—5 sty. br. dwlg—1 sty. fr. store & #125 Erie St is a 1½ sty. fr. dwlg. sold 1907—Feeney to Stewart	12,610	18,000	13,000
	282 Lot A1—652 Jersey Av—16.67x80 3 sty. & base. br. dwlg. sold Jany 31/05 — Caroline Doremus to Jos. D. Boylan	2,000	5,000	3,600
20	282 Lot Y—648 Jersey Av—16.86x80—3 sty. & base. br. dwlg. sold Mch 28/04—Wm. B. Force to Nellie J. Beggs	5,600	6,000	4,000
	282 Lot 24—257 Eighth St—25x100 5 sty. br. apartment house sold — Spotts to Con- nelly	3,250	22,000	17,000
30	283 Lot J—17 East Hamilton P1—15x 69—4 sty. br. dwlg—sold June 1901—Snelling to F. J. Mathews	5,170	3,500	1,800
	283 Lot G—13 East Hamilton P1—20x 80—3 sty. & base. br. dwlg—sold 1903—Schmidt to Connelly	2,100	13,000	10,500
	283 Lot C—234 Eighth St—18x75 3 sty. & base. br. dwlg. sold 1907—Dris- coll to Muller	5,040	6,800	4,800
40	283 Lot B—236 Eighth St—17.33x75—3 sty. & base. br. dwlg—sold Nov 7/04—Jos. Ander- son to Margaret Saffar	1,820	5,000	3,500

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings	
319	Lot 12—274 Seventh St—25x100 2 sty. br. dwlg. sold June 1905—Jennie Ashenbach to Catherine Brosnan	3,250	2,800	1,300	
319	Lot 26—291 Eighth St—25x100 4 sty. double br. flat—sold Ogle to Kennedy	3,250	11,500	9,000	10
319	Lot V—292 Seventh 25x70 front bldg—3 sty. br. st. & dwlg—rear bldg—2 sty. fr. dwlg. sold Jan 1904—McKeen Execx. to Henry Runde	5,500	9,000	7,000	
319	Lot 28—287 Eighth St—25x100—4 sty. double br. flat sold—Bradley to Cussack	3,250	17,000	14,000	20
319	Lot S—286 Seventh St—18' 9"x100—3 sty. fr. dwlg—sold Jany 6/1906—Yerrington to Cohen	2,437	3,650	2,150	
319	Lot H—657 Jersey Av—20x81.65 3 sty. & base. br. dwlg.	2,433	4,500	2,500	
320	Lot W—vacant lot 25x70—sold Beckman to Craven	2,500	1,800		30
320	Lot J—16 West Hamilton Pl—12.5 x70—3 sty. & base. br. dwlg—sold—Rosenkrans to Garoz	1,250	6,000	4,500	
320	Lot C1—18½ W. Hamilton Pl 12.5x70—2 sty. & base. br. dwlg—sold Dec 12/1905—Rosenkranz to Chase	1,250	5,500	4,000	
320	Lots C-A1-B1-285 Pavonia Av—16.67 x50 & 152/4 Coles				40

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
	St. 25x70—3-2 sty. & base. br. dwlgs. sold 1906—Rosenkranz to Brown	4,000	12,000	9,000
10	320 Z-A & B—150 Coles St—18.79x70 & 287/9 Pavonia Av—63.34x50—3-2 sty. br. dwlgs Rosenkranz to Brown	7,575	12,000	8,000
	320 Lot N—6 West Hamilton Pl—18.67x60—3 sty. & base. br. dwlg. sold Bradley to Donnelly	1,500	6,000	4,000
	356 Lot 15—314 Seventh St—25x100 4 sty. br. st. & dwlgs—sold Sept 3/1903—Reidy to Gloistein	3,250	8,000	6,500
20	357 Lot 14—vacant land 25x100 Apl 8/1902—Mathews to Wells Fargo Co. (8th. Street)	3,250	2,250	
	357 Lot 20—Monmouth St, vacant land 25x100 sold May 10/1906 Blomer to Wells Fargo Co.	3,250	1,800	
30	357 Lot 11—318 Eighth St—25x100 4 sty. fr. st. & dwlg—sold Nov. 18/1911—Decking to Tenant	3,250	6,000	4,000
	391 Lot 12—340 Seventh St—25x100 2 sty. fr. St. & dwlg. sold May 27/1909—Loori to Imbriglio	3,250	6,000	4,300
	392 Lot L—340½ Eighth St—16.8x52—2 sty. & base. fr. dwlg—sold Mch 6/1906—Boyd to Alpert	1,379	2,400	1,600
40	392 Lot K—340 Eighth St—16.8x52.7—			

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
	sold Apl. 23/1906 —Lewis to Gloi- stein	1,379	2,550	1,750
392	Lots 23-24—Pavonia Av. vacant land— 50x100—sold Aug 18/1908 Est. Math- ews to J. C. Land Co.	6,500	3,000	
392	Lot F—495 Mon- mouth St—16.67x 50—br. bldg—sold Mch 18/1911 Al- lainet to Wolcott	1,334	2,000	1,200
418	Lot 32—363 Pavonia Av—25x100 fr. shop sold June 19/1909—Soleman to Scott	3,250	1,525	300
418	Lots 17-18-19-20 N. E. Cor. 8th. St. & Division St—100x 100—2 fr. dwlgs— sold Dec 22/1909 —Mathews to Craven (Including lot 11 Block 448)	20,100	4,250	1,400
282	Lot H—249 Eighth St—27x100 front- ing on Hamilton Park 4 sty. & base. br. dwlg— DeWitt Tappin to M. T. Connelly	3,570	10,000	7,500
417	Lot H—207 Bruns- wick St—12.5x50— 2 sty. & base. fr. dwlg. sold Sept. 27/07 Wm. L. An- drews to Jas. M. Johnson	1,000	1,500	1,000
417	Lot 16—380 Seventh St—25.04x100—3 sty. fr. dwlg— sold June 24/1905 —Henry Litien- kamp to Benj. Serels	3,302	5,800	4,600
417	Lot V—382 Seventh St—25x100 vacant land—sold Jany 25/02 Martin Dowd to Filtoni Florentino	3,250	700	

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Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings
	417 Lot J—205 Brunswick St—25x50 sold Sept. 8/1905—Barbara Tietzen to Jos. Balestiene	2,000	4,075	3,000
10	417 Lot B—213 Brunswick St—12.5x50—2 sty. & base. fr. dwlg—sold Feby 1/1908—W. L. Andrews to Wm. A. Naughan	1,000	1,500	1,000
	417 Lots 7-8—362/4 Seventh St—50x100—3 sty. fr. bldg—sold May 1/1904—D. E. Cleary to Michael Kreps	6,500	5,500	3,600
20	417 Lot P—366½ Seventh St—16.67x100—3 sty. fr. dwlg. sold Oct 18/1905 Christian F. Gembel to Thos. J. Weaver	2,167	3,500	2,200
	417 Lot N—366 Seventh St—16.67x100—3 sty. fr. dwlg—sold Oct 7/1905—Barbara Tietzen to John Michalski	2,167	3,400	2,200
30	417 Lots 25-26—387/9 Eighth St—50x100—vacant land—sold Dec 7/1901—F. J. Mathews to Everett W. Keeney	6,500	1,100	
	417 Lot 28—383 Eighth St—25x100 1 sty fr. bldg & 2 sty. rear fr. stable—sold Jno. S. Menagh to Chas. J. McCormack	3,250	1,200	500
	417 Lot M—360 Seventh St—25x75 3 st. fr. dwlg—sold Nov. 20/02 Spencer M. Rice to Randolph Conger	2,625	2,750	1,800
40	417 Lot T—370 Seventh St—16.67x100—3			

Exhibits.

Block	Property & Description	Area	Consideration	Value of Buildings	
	sty. fr. dwlg— sold Dec 10/1906 —Jacob Hansen to Pietro Salerno	2,167	3,000	2,200	
417	Lots R & S—368 & 368½ Seventh St— 33.34x100—2-3 sty. fr. dwlgs. sold Feby 1907—Kate Markley to Pas- quale Pandolfi	4,334	8,200	6,600	10
417	Lot L—358 Seventh St—25x75 3 sty. fr. St. & Dwlg.—sold May 1901—Jas. Driscoll to Ed- ward Russ	5,775	5,000	3,500	
417	Lot Y—388 Seventh St—25x100 Cor. of Division St—1 Sty. fr. shop— sold May 16/1901 Henry Vogel to Eliz. Vogel	7,150	1,150	300	20

RECAPITULATION.

Area	South Section. Consideration	Buildings	
54,712	\$124,200	\$ 91,200	
51,817	113,475	77,150	
46,850	112,550	82,050	
64,517	75,275	46,050	
39,498	44,025	29,600	20
17,259	14,350	10,400	
<hr/> 274,653	<hr/> \$483,875	<hr/> \$336,450	

Exhibits.

ERIE RAILROAD.

Sales and assessments of property in lower Jersey City, lying west of Erie Terminal, between Seventh and Twelfth Streets.

NORTH SECTION.

	Area	Consideration	Per Acre
Sales	16.30 Acres	\$ 330,385	\$20,268
Assessments	55.352 "	1,146,550	20,704

10

SOUTH SECTION.

Sales	6.30 Acres	147,425	23,400
Assessments	48.558 "	1,200,600	24,770

NORTH AND SOUTH SECTIONS
Together.

Sales	22.60 Acres	477,810	21,141
Assessments	103.91 "	2,347,150	22,588

Sales and assessments of property from Provost Street to Jersey Av. and Sixth to Twelfth Streets.

Sales	10.105 Acres @	\$25,876 Per Acre
Assessments	56.051 " "	24,369 " "

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ERIE RAILROAD.

NORTH SECTION.

	Area	Consideration	Per Acre
	16.30 Acres	\$ 330,385	\$20,268

SOUTH SECTION.

	6.30 Acres	147,425	23,400
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NORTH AND SOUTH SECTIONS
Together

	22.60 Acres	477,810	21,141
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**Gaddis and Ryer Long Dock Exhibit No.
2, Jan. 29, 1912.**

THE LONG DOCK COMPANY vs. NEW JERSEY STATE BOARD OF ASSESSORS.	}	1911 Tax Appeal.
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MAIN STEM.

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Location.	Area.	Assessed Valuation Inc. Multiple.	True Value.
Jersey City.			
From a point 1465' N. of N. Y. S. & W. overhead crossing to a point 150' W. of Tonnelle Ave., 3422x100,	7.856	\$ 62,848	\$ 17,632
From a point 150' W. of Tonnelle Ave. to mouth of tunnel, 766x67 to 100,	1.369	24,642	7,530
Bergen tunnel E. portal of tunnel to 30' limits of Pen- horn Creek R. R., 4194x34 and 100x34 to O,	.066	3,168	198
30' limits to Penhorn Cr. to Brunswick St. 547x0 to 100,	1.244	59,708	12,244
Brunswick to Monmouth St. 430x100	.987	47,376	10,328
Monmouth to Coles St., 400x100,	.918	80,784	20,840
Coles St. to Jersey Ave., 400x100,	.918	80,784	24,560
		<u>\$359,310</u>	<u>\$ 93,332</u>

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SECOND CLASS.

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Jersey City.			
Land outside main stem, Block 323, excess south of M. S.	.413	21,588	12,500
Land outside main stem, Block 360, excess south of M. S.	.413	21,588	10,840
Land outside main stem, Block 395, excess between the northerly line of main stem, P. C. R. R. and the southerly line of main stem, Branch "A," P. C. R. R.	.362	10,426	3,801
Land outside main stem,			10

Exhibits.

	Location.	Area.	Assessed Valuation Inc. Multiple.	True Value.
	Block 395, excess south of M. S., Long Dock Co.,	.470	13,536	10,838
	Land outside main stem, Block 396, Plot C,	.212	6,106	2,544
10	Land outside main stem, Block 421, excess between northerly line, M. S. of P. C. R. R., main line and southerly line M. S., Bch. "A," P. C. R. R.	.090	2,592	900
	Land outside main stem, Block 421 excess south of M. S., L. D. Co., between center line of Brunswick Ave. and center of Divi- sion St.	1.290	37,152	17,980
	Land outside main stem, Block 547, Plot 4-A, be- tween center line of Divi- sion St. and easterly line of N. J. Jct. R. R.	1.090	17,004	5,450
20	Land outside main stem, Block 547, portion of Plot 2-B, excess south of M. S. of P. C. R. R.	.250	3,900	750
	Land outside main stem, Block 547, Plot 2-D, excess north of Main Stem,	.310	4,836	930
	Land outside main stem, Block 691½, excess north and south of main stem,	.312	3,370	1,716
	Land outside main stem, Block 957, excess north of main stem between Block 691½ and concrete fence,	.079	853	435
30	Land outside main stem, Block 956, excess between main stem and concrete fence,	.170	1,142	735
	Land outside main stem, Block 961, Plot 1 (inc. Utica Street).	3.957	28,015	11,971
	Land outside main stem, Block 961, Plot 3,	6.315	45,468	18,945
	Land outside main stem, Block 961, Plot 5-B,	2.180	15,434	7,630
	Land outside main stem, Block 971, Plot 20,	.181	1,217	453
	Land outside main stem, B1, 971, Plot 20-A,	.085	571	213
	Land outside main stem, B1, 971½, Plot 40,	2.960	7,104	7,400
40	Land outside main stem,			

Exhibits.

Location.	Area.	Assessed Valuation Inc. Multiple.	True Value.	
Block 681, portion of r lot 13,	.269	1,421	538	
Land outside main stem, Block 681, portion of Plot 11,	.116	612	232	
Land outside main stem, Block 681, portion of Plot 10-B,	.911	4,810	1,822	
Land outside main stem, Block 1200, Plot 12,	14.180	34,032	21,270	10
Land outside main stem, Block 1200, portion of Plot 13,	12.356	17,792	18,534	
Land outside main stem, Block 1200, portion of Plot 7,	1.091	1,964	1,637	
Land outside main stem, Block 1200, portion of Plot 16 (formerly M. & E. R. R.)	.401	722	602	
Land outside main stem, Block 1200, portions of Plot 18,	2.896	3,475	3,620	
Land outside main stem, Block 1200, Plot 70,	.870	2,088	1,305	20
Land outside main stem, Block 1200, Plot 23,	1.012	971	1,518	
Land outside main stem, Block 1200, Plot 69,	2.500	4,500	3,750	
Land outside main stem, Block 1200, portion of Plot 68,	3.700	6,660	4,625	
Land outside main stem, Plot 59A,	32.180	57,925	32,180	
Land outside main stem, Block 1200, Plot 57-A (excl. of Main Stem P. C. R. R.)	32.195	57,952	32,195	30
Land outside main stem, Block 1200, Plot 56-A,	1.720	3,096	2,150	
Land outside main stem, Block 1200, Plot 54 (por- tion formerly 3rd class)	3.372	4,249	3,372	
Land outside main stem, Block 1200, Plot 53-A (portion formerly 3rd class)	4.617	3,878	4,617	
Land outside main stem, Block 1200, Plot 52-B,	.300	360	300	
Land outside main stem, Block 1200, Plot 52 (for- merly 3rd C)	4.200	5,544	4,200	
Land outside main stem,				40

Exhibits.

	Location.	Area.	Assessed Valuation Inc. Multiple.	True Value.
	Block 1200, Plot 51 (for- merly 3rd C)	2.216	2,926	1,939
	Land outside main stem, Block 1200, Plot 51-B,	.100	132	100
	Land outside main stem, Block 1200, portion of Plot 49,	.015	20	11.25
10	Land outside main stem, Block 1200, portions of Plots 16, 17 and 18 (inter- change yard)	2.040	2,448	2,040.00
	Land outside main stem, Block 1200, Plots 33, 35 and portion of 34,	12.078	11,595	15,098.00
			<u>\$471,074</u>	<u>\$273,686.25</u>

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Exhibit, Gaddis and Ryer Recapitulation, Feb. 8, 1912.

Recapitulation of Arrears, Assessments and Valuation by Percy A. Gaddis and Thos. A. Ryer of all Land in the Main Stems and Second Class properties (except water front) of the various roads comprising the Erie System in Jersey City and Secaucus, N. J.

As per detailed schedules.

	Area in Acres.	Valuation Gaddis & Ryer	Assessment	
Long Dock Company				10
Main Stem	22.375	\$ 292,018	\$1,146,258	
Second class	218.576	2,104,993	4,428,329	
	<hr/> 240.951	<hr/> \$2,397,011	<hr/> \$5,574,587	
Penhorn Creek R. R. Co.				
Main Stem	23.686	\$ 65,037	\$ 252,360	
Penhorn Creek Branch A.				
Main Stem	4.702	\$ 71,754	\$ 272,792	
Docks Connecting R. R. Co.				
Main Stem	3.221	\$ 36,826	\$ 83,746	
Second class	11.010	110,100	171,756	20
	<hr/> 14.231	<hr/> \$ 146,926	<hr/> \$ 255,502	
N. Y. Susquehanna & Western				
Main Stem	14.552	\$ 26,899	\$ 91,476	
Second class	3.120	18,080	25,224	
	<hr/> 17.672	<hr/> \$ 44,979	<hr/> \$ 116,700	
Paterson & Hudson R. R. R.				
Main Stem	19.651	\$ 46,905	\$ 174,038	
Second class	12.274	9,593	24,727	
	<hr/> 31.925	<hr/> \$ 56,498	<hr/> \$ 198,765	30

AGGREGATES.

Main Stems	88.187	\$ 539,439	\$2,020,670
Second class	244.980	2,242,766	4,650,036
	<hr/> 333.167	<hr/> \$2,782,205	<hr/> \$6,670,706
Total			

Schedule of 1st and 2nd Class Erie property, between Exterior line for solid filling and Bergen Tunnel, showing State Board Assessments and true value by Messrs. Percy A. Gaddis & Thomas A. Ryer, January 29/1912.

Block	Property	State Bd. Assessment	Area	Per Acre		True Value	Area	Remarks
16	Plot B6—Long Dock—2nd Class— S. of Pavonia Av.	\$1,098,480	16.039	\$ 68,488	Pav. Av. frontage Interior	\$ 406,400 272,976	4.665 11.374	
						\$ 679,376	16.039	
17	Plot A2—Long Dock—2nd Class— N. of Pavonia Av.	2,695,021	43.872	61,429	Pav. Av. frontage Interior	\$ 365,000 714,294	4.189 39.683	
						\$1,079,294	43.872	
	Long Dock—Main Stem to Exterior line for solid filling from Hender- son Street	525,588	6.257	84,000	Solid fill to C. L. Pro- vost St. To Henderson St.	\$ 94,860 25,330	5.270 .987	
						\$ 120,190	6.257	
150	Plot C-2—Long Dock—2nd Class	21,392	.293	78,369		19,445	.273	
182	Plot C—Long Dock—2nd Class	13,812	.176	78,480	Henderson to Provost	2,500	.176	
183	Plots B & C—Long Dock—2nd Class	87,740	1.118	78,480	" " "	28,000	1.118	
218	Long Dock—Main Stem	99,792	.924	108,000	Grove to Henderson	28,150	.924	
218	Long Dock—2nd Class—S. of M. Stem	40,810	.624	65,400	" " "	22,392	.624	
253	Long Dock—Main Stem	80,784	.918	88,000	Erie to Grove	26,800	.918	
286	Long Dock—Main Stem	80,784	.918	88,000	Jersey Ave. to Erie	23,350	.918	
287	Pen Horn Creek—Branch A—Main Stem	33,368	.383	87,123	" " " "	8,690	.383	
323	Long Dock—Main Stem	80,784	.918	88,000	Cole St. to Jersey Ave.	24,560	.918	
323	Pen Horn Creek—Main Stem	44,000	.505	88,000	" " " "	13,090	.505	
323	Long Dock—2nd Class	21,588	.413	51,272	" " " "	12,500	.413	
324	Pen Horn Creek—Main Stem—Br. A	80,000	.913	88,000		21,900	.913	
360	Long Dock—Main Stem	80,784	.918	88,000		20,840	.918	
360	Long Dock—2nd Class	21,588	.413	51,272		10,840	.413	
360	Pen Horn Creek—Main Stem	44,000	.505	88,000		10,420	.505	

Block	Property	State Bd. Assessment	Area	Per Acre	True Value	Area	Remarks
61	Pen Horn Creek—Br. A—Main Stem	40,000	.918	44,000	18,500	.918	
95	Long Dock—Main Stem	47,367	.987	48,000	10,328	.987	
95	Long Dock—2nd Class	10,426	.362	28,800	3,801	.362	
95	Long Dock—2nd Class	13,536	.470	28,800	10,838	.470	
95A	Pen Horn Creek—Main Stem— Monmouth St. to N. J. J. R. R. Crossing	68,208	1.421	48,000	14,210	1.421	
95A	Pen Horn Creek—Br. A—Main Stem—Monmouth St. to Bergen Tunnel	119,424	2.488	48,000	22,664	2.488	
95A	Docks Connecting—Main Stem—50 ft. limit Br. A 428x100	23,738	.913	26,000	9,130	.913	
95A	Docks Connecting—Main Stem— 13th to 17th Sts. 1040x100	60,003	2.308	26,000	27,696	2.308	
96	Long Dock 2nd Class—Plot C	6,106	.212	28,800	2,544	.212	
21	Long Dock—Main Stem—30 ft. limit of Pen Horn Creek to Bruns- wick St. 547x100	59,708	1.244	48,000	12,440	1.244	
47	Long Dock—Main Stem—Bergen Tunnel—E. portal to 30 ft. limit of Pen Horn Creek	3,168	.066	48,000	198	.066	
21	Long Dock—2nd Class—Between Branch A & Pen Horn Creek	2,592	.09	28,800	900	.09	
21	Long Dock—2nd Class S. of Main Stem	37,152	1.29	28,800	17,980	1.29	
7	Long Dock—2nd Class S. of Main Stem Plot 4A	17,004	1.09	15,600	5,450	1.09	
7	Long Dock—2nd Class—Portion plot 2B	3,900	.25	15,600	750	.25	
7	Long Dock—2nd Class—N. of Main Stem—Plot 2D	4,836	.31	15,600	930	.31	
7	Pen Horn Creek—Main Stem	33,840	.705	48,000	2,115	.705	
9A	Docks Connecting—2nd Class— Coal yard	171,756	11.01	15,600	110,100	11.01	
		<u>\$5,873,084</u>	<u>102.221</u>		<u>\$2,422,911</u>	<u>102.221</u>	

Exhibits.

Long Dock Company Exhibit.

RECAPITULATION OF LAND ERIE RAILROAD SYSTEM. January 1st, 1911.

Description :	Second Class
Arlington Railroad Company	.....
Bergen County Railroad "	\$ 2,385
Bergen & Dundee " "	.....
Caldwell Railway " "	5,400
Docks Connecting Railway Company	143,130
10 Erie Terminals Railroad "	.....
Long Dock Company	4,874,993
Newark & Hudson Railroad " "	7,944
Branch "A"	14,693
New Jersey & New York Railroad Company	20,800
New York & Greenwood Lake Railway Company	91,225
Ringwood Branch	.....
Erie Railroad Company, Lessee (New York, Lake Erie & Western Docks Imp. Company)	2,168,888
Northern Railroad Company of New Jersey	37,594
Erie Railroad Company, Lessee of Paterson & Hudson River Railroad Company	245,449
Paterson, Newark & New York Railroad Company	50,676
Erie Railroad Company, Lessee of Paterson & Ramapo Railroad Company	95,105
20 Pen Horn Creek Railroad	.....
Branch "A"	.....
Roseland Railway Company	5,100
Watchung Railroad Company	28,882
Total	\$7,792,264

O.K.—A. N.

(Signed) CHARLES HANSEL,
Expert in Charge Railroad &
Canal Revaluation.

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Schedule "X," ex Parte State.

Description of Property. City of Jersey City, Hud- son County.	1906		1907		1908		1909	
	Original Assess- ment.	Re-assess- ment By Order of Court.	Original Assess- ment.	Re-assess- ment By Order of Court.	Original Assess- ment.	Re-assess- ment By Order of Court.	Original Assess- ment.	Re-assess- ment By Order of Court.
All the lands, including value of land under water in front thereof, described in first item of original assessment con- taining 43.872 acres	\$2,914,740	\$2,850,616	\$2,914,740	\$2,850,616	\$2,914,740	\$2,850,616	\$2,914,740	\$2,850,616
Land foot of Pavonia Avenue 130 feet along the exterior line for solid filling, from the northerly side of Pavonia Avenue southward, includ- ing the value of land under water	136,500	136,500	136,500	136,500	136,500	136,500	136,500	136,500
Block 182, Lot C, 9,225 square feet	13,838	13,838	13,838	13,838	13,838	13,838	13,838	13,838
Block 183, north and south of Main Stem, 49,350 square feet	74,025	74,025	74,025	74,025	74,025	74,025	74,025	74,025
Block 218, north and south of Main Stem (excepting land occupied by warehouse) 27,200 square feet	34,000	34,000	34,000	34,000	34,000	34,000	34,000	34,000
Block 323, north and south of Main Stem, 40,000 square feet	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000
Block 360, north and south of Main Stem, 40,000 square feet	40,000	40,000	40,000	40,000	40,000	40,000	40,000	40,000
Block 395, north and south of Main Stem, 56,800 square feet	28,400	28,400	28,400	28,400	28,400	28,400	28,400	28,400

Exhibits.

Schedule E.

In re—"The Erie Railroad System."

Assessment of 1911.

OFFICE STATE BOARD OF ASSESSORS,
Trenton, N. J., October 2, 1912.

I hereby certify that the State Board of Assessors has adjusted the original assessments levied for the year 1911 against the various Companies comprising the Erie Railroad System in New Jersey in manner following: 10

LONG DOCK COMPANY.

Main Stem.

Assessed valuation reduced from \$2,336,800 to \$1,923,781.

Franchise.

Assessed valuation reduced from \$230,200 to \$150,000. 20

Reduction in valuation, \$493,219.

Reduction in State tax,	\$9,351 43
Reduction in local tax,	—————
Reduction in total tax,	\$9,351 43

Corrected Tax.

For State uses,	\$39,318 89	
For local uses,	147,573 34	
	<hr/>	
Total Tax,	\$186,892 23	30

Return to Writ by State Comptroller.

TO THE CHIEF JUSTICE AND THE ASSOCIATE JUSTICES OF THE SUPREME COURT OF THE STATE OF NEW JERSEY.

10 I, Edward I. Edwards, Comptroller of the State of New Jersey, do hereby certify and send as within I am commanded in the schedules hereunto annexed, the statement of the valuations, assess-
 20 ments, adjustments and taxes for the year 1911, upon the property of the Long Dock Company, Prosecutor, situate in the taxing district of Jersey City, and described in the writ of certiorari to which this return is made and the final determination of the said State Board of Assessors thereon, as the same remains in my office.

Witness my hand and seal at Trenton, the
 20 seventh day of January, One Thousand nine hundred and Thirteen.

E. I. EDWARDS,
 Comptroller of the State of New Jersey.

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*Return to Writ of Comptroller.***Schedule A.**

(Form R. A. 4).

State of New Jersey,
Department State Board of Assessors.

To the Hon. Edward I. Edwards,
Comptroller of the State of New Jersey.

In pursuance of the provisions of an act entitled "An act to revise and amend an act for the taxation of railroad and canal property, approved April tenth, one thousand eight hundred and eighty-four" (which revision and amendment was approved March 27th, 1888), and the acts amendatory and supplementary thereto, we, the State Board of Assessors, hereby certify and report to you the following statement of assessed valuations of the Long Dock Company pursuant to the provisions of said act, and of the separate valuation of property in each taxing district, as made by us; the amount of tax payable by said company with respect to its property separately valued in each taxing district, and the aggregate assessed valuation and the total tax levied upon said company, for the year 1911.

Assessed valuation of the Long Dock.

Main Stem,	\$2,336,800.00	\$2,567,000.00	
for			30
Franchise,	230,200.00		
Assessed valuation of tangible personal property necessary for and used in State Commerce,		.....
Total assessable for State uses,		2,567,000.00	
Assessed valuation of real estate used for railroad purposes, other than main stem,		7,385,180.00	
Aggregate assessed valuation,		9,952,180.00	
Tax for State uses, at average tax rate of \$1.896 per \$100 valuation,			40

Return to Writ of Comptroller.

Tax for uses of taxing districts on real estate used for railroad purposes, other than main stem, at local rates, 147,573.34
 Total Tax, 196,243.66

O. C. Bagardus, President,
 Charles E. Hendrickson, Jr.,

Geo. E. Halsey,

10 George L. Record,

State Board of Assessors,
 (State Comptroller.)
 { Nov. 22, 1911, }
 { Trenton, N. J. }

Appealed.

(Form R. A. 5).

State of New Jersey,

20 Department State Board of Assessors.

Schedule showing valuation of property of the Long Dock Company, used for Railroad purposes, other than Main Stem, in the taxing Districts of the State of New Jersey, together with the tax thereon for Local uses, for the year 1911.

County	Taxing District.	Value.	Local Tax.
30 Hudson	Jersey City,	\$7,365,680.00	\$147,313.60
	Secaucus		
	Borough,	19,500.00	259.74
		\$7,385,180.00	\$147,573.34

*Return to Writ of Comptroller.***Schedule B.**

WHEREAS, complains in writing have been severally filed by * * * * * Long Dock Company * * * * * alleging that said railroads consider themselves aggrieved by the valuation and assessment made by the State Board of Assessors against said Railroad Companies for the year 1911, as certified and reported to the Comptroller of the Treasury pursuant to the provisions of the Act entitled "An Act to review and amend 'An Act for the taxation of railroad and canal property', approved April tenth, one thousand eight hundred and eighty-four" approved March 27th, 1888, and the several supplements thereto and amendments thereof. 10

AND WHEREAS, complaints have been in like manner filed by other Railroad Companies and hearings have been begun but for lack of time have not been and cannot be concluded, and the review of said valuation and assessment cannot be completed by the first day of February, 1912, when the taxes under said valuation and the assessment are, by the provisions of the act aforesaid and the supplements thereto and amendments thereof, due and payable. 20

AND WHEREAS, the current support of the State Government is in part dependent on the revenue expected from the payment of said taxes, and the said Railroad Companies are willing to pay to the State notwithstanding their aforesaid complaints, a part of the taxes computed by the State Board of Assessors under the valuation and assessment aforesaid, as certified and reported to the Comptroller of the Treasury. 30

IT IS HEREBY STIPULATED between the State (by the Attorney General), and said Railroad Companies (by William H. Corbin, of counsel 40

Return to Writ of Comptroller.

prosecuting said Railroads' complaints), as follows:

10 1. That the time limits prescribed by the Act and the supplements thereto and amendments thereof, in the recital referred to, as to the completion of the valuation and assessment by the State Board of Assessors and the certification of the same, with the tax computed thereon, to the
Comptroller of the Treasury, and the completion
of the review upon said complaints to the said
State Board of Assessors, he and the same hereby
are waived; with like effect to the rights of the
parties as if such time limits did not exist.

20 2. That without prejudice to the further prosecution by said railroad companies, or any of them, of said complaints now pending before the State Board of Assessors, or upon any subsequent
20 review of said valuation and assessment, or contest against the validity or amount of the tax levied thereunder by certiorari under the railroad tax law, or otherwise, on or before the first of February, 1912, said railroad companies will pay on account of the tax for state uses and tax for taxing districts for the year 1911, at the legal rates, to wit: the average rate for state
30 assessment and the local rates for local assessments on account of the taxes of the several railroads respectively, sums of money reckoned upon the values in each case which the railroad company conceded, the same being more fully set forth in the statements hereto appended, being one statement for each above named railroads; thus leaving in controversy for the year 1911 the amount of difference between the amount so conceded and the amount of valuation as shown by the tax bill heretofore rendered by the State
40 Board of Assessors.

Return to Writ of Comptroller.

3. That the said railroad companies shall forthwith severally file with the Comptroller of the Treasury a copy of this stipulation and of said statements, which shall be their several consents that the amounts paid under this stipulation as part of the tax for state uses and the tax for taxing districts under the valuation and assessment for the year 1911, may be at once paid over to the several taxing districts through which the said railroads respectively run in the proportions to which said taxing districts may be thereto entitled, without recourse liability for repayment or condition except that the same shall be credited on the "tax for use of taxing districts" for the several taxing districts through which the said railroad respectively run as the same may be finally fixed for the year 1911; that upon filing a copy hereof and such statements by said Railroad Companies respectfully the State Treasurer may pay over the sums paid to him by said Railroad Companies under this stipulation as part of the "tax for use of taxing districts", to the several taxing districts through which said railroads run in proportion to which said taxing districts may be thereto entitled.

Dated January 27th, 1912.

W. H. CORBIN,

Attorney and Counsel with Appellants.

EDMUND WILSON,

Attorney General.

By JOHN R. HARDIN,
Of Special Counsel.

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Return to Writ of Comptroller.

STATEMENT TO ACCOMPANY VOUCHER MEM.
 No. 13937 COVERING PAYMENT OF TAXES
 LEVIED BY THE STATE OF NEW JER-
 SEY FOR THE YEAR 1911 AGAINST..
 THE LONG DOCK COMPANY.
 FOR STATE USES.

	Class	Valuation	Rate	Tax
10	Main Stem,	\$1,646,250	.01896	\$31,212.90
	No. Sub. Div. IV.	1,000	.01896	18.96
		<hr/>		<hr/>
		\$1,647.250		\$31,231.86

FOR USE OF TAXING DISTRICTS.

	Taxing District	Valuation	Rate	Tax
	#Jersey City	\$4,426,654	.02000	\$88,533.08
	Secaucus Borough	19,500	.01332	259.74
		<hr/>		<hr/>
		\$4,446,154		\$88,792.82
20	#Payment on account.			

H. B.—The Column in above statement entitled “Valuation” contains the value conceded by the Railroad Company. The excess over same shown by State’s Tax Bill is the part of the valuation which is in dispute.

Schedule C.

(Form R. A. 4).

State of New Jersey,
Department State Board of Assessors.

To the Hon. Edward I. Edwards,
Comptroller of the State of New Jersey:

In pursuance of the provisions of an act entitled
"An act to revise and amend an act for the 10
taxation of railroad and canal property, approved
April tenth, one thousand eight hundred and
eighty-four" (which revision and amendment was
approved March 27th, 1888), and the acts amenda-
tory and supplementary thereto, we, the State
Board of Assessors hereby certify and report to you
the following statement of assessed valuations of the
Long Dock Company, pursuant to the provisions
of said act, and of the separate valuation of 20
property in each taxing district, as made by us;
the amount of tax payable by said company with
respect to its property separately valued in each
taxing district, and the aggregate assessed valua-
tion, and the total tax levied upon said company,
for the year 1911.

Assessed valuation of the Long Dock.

Main Stem,	\$1,923,781.00	\$2,073,781.00	
for			30
Franchise,	150,000.00		
Assessed valuation of tangible per- sonal property necessary for and used in State Commerce,		.....
Total assessable for State uses,		2,073,781.00	
Assessed valuation of real estate used for railroad purposes, other than main stem,		7,385,180.00	
Aggregate assessed valuation,		9,458,961.00	40

Return to Writ of Comptroller.

Tax for State uses, at average tax rate of \$1.896 per \$100. valuation,	39,318.89
Tax for uses of taxing districts on real estate used for railroad purposes, other than main stem, at local rates,	147,573.34
Total Tax,	<u>\$186,892.23</u>

10 O. C. Bagardus, President,
Charles E. Hendrickson, Jr.,
Geo. E. Halsey,
George L. Record,

State Board of Assessors.

20 Revised Return. Received
Oct. 2, 1912
Comptrollers
Dept.

(Form R. A. 5).

State of New Jersey,
Department State Board of Assessors.

30 Schedule showing valuation of property of the Long Dock Company, used for Railroad purposes, other than Main Stem, in the taxing districts of the State of New Jersey, together with the tax thereon for Local uses, for the year 1911.

County	Taxing District.	Value.	Local Tax.
Hudson	Jersey City,	\$7,365,680.00	\$147,313.60
	Secaucus Borough,	19,500.00	259.74
		\$7,385,180.00	\$147,573.34

Schedule D.

40 The Long Dock Company paid on account of tax on second-class railroad property, assessment of 1911, as follows:

October 16, 1912, \$489.64

Reasons.

(Filed Jan. 25, 1913, as in time by consent).

New Jersey Supreme Court.

LONG DOCK COMPANY,

Prosecutor,

vs.

CHARLES E. HENDRICKSON, JR.,
 GEORGE E. HALSEY, GEORGE L.
 RECORD and ISAAC BARBER,
 STATE BOARD OF ASSESSORS and
 EDWARD I. EDWARDS, Comptrol-
 ler of the Treasury,

Defendants.

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On Certiorari.
 Assessment and
 Taxation of
 Second Class
 Property for
 the Year 1911.

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The Long Dock Company, the prosecutor above mentioned, by Collins & Corbin, its attorneys, writes down the following reasons for setting aside the valuations, assessments and taxation for the year 1911, brought before this honorable court by the writ of certiorari in this cause.

1. Because of the final determinations, valuations, assessments and adjustments made by the State Board of Assessors for the year 1911 upon the lands and premises described in the return herein, were contrary to the clear weight of the evidence produced before said State Board of Assessors on the complaint of the prosecutor, and are in excess of the true value of said lands and premises.

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2. Because said final determinations, valuations, assessments and adjustments were based upon an erroneous principle of law, in that said

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Reasons.

Board ascribed to said lands a value on account of their connection and use which was far in excess of their true or market value.

10 3. Because said Board of Assessors, upon the hearing of said complaint of the prosecutor, admitted illegal evidence against the objection of the prosecutor, and based its said final determinations, valuations, assessments and adjustments in whole or in part thereon.

20 4. Because there was no legal evidence before said State Board of Assessors which supports the said final determinations, valuations, assessments and adjustments on the lands and premises described in the return herein, or which justified a valuation of said lands and premises in excess of the sum of Two million nine hundred and sixty-two thousand two hundred and twenty-three dollars.

5. Because said final determinations, valuations, assessments and adjustments were not made under a uniform rule and were not made in the same relative proportion as the assessments imposed upon other properties of the same class contributing to the same common burden of taxation.

30 6. Because the principles upon which the said valuations, assessments, adjustments and taxation were made are erroneous and illegal.

40 7. Because the computation of the acreage and the valuation of said lands and premises were made by and upon an erroneous and illegal method, in that the said State Board of Assessors divided the said lands into arbitrary parcels, some of which were wholly under water and had no value except in connection with and as appurtenant to the others, which others had but small value, except by and in connection

Reasons.

with the said lands under water and appurtenant thereto.

8. Because by the method of computation adopted by said State Board of Assessors the lands of the prosecutor under water between the exterior line for solid filling and the exterior line for piers were assessed at more than their true value, the excess of said assessment over the true value of said lands representing an alleged value because of the adjacency of said lands to tide water, while in the value of the adjoining upland throughout its whole extent there was again included the same element of adjacency to tide water, thus constituting a double assessment. 10

9. Because said lands and premises of the prosecutor were not valued and assessed by said State Board of Assessors for said year at their true market value, that is their money exchange value, as shown by the evidence before said State Board of Assessors on complaint of the prosecutor against such valuations and assessments. 20

10. Because the said valuations, assessments, adjustments and taxation are in other respects excessive, unequal, unlawful, illegal and unjust. 30

Dated, January 24th, 1913.

COLLINS & CORBIN,
Attorneys for Prosecutor.

Acknowledgment of Service of Reasons.

Service of a copy of within reasons is hereby acknowledged and consent given that they be filed as in time this 24th day of January, 1913.

EDMUND WILSON,
Attorney General,
By John R. Hardin,
Attorney for Defendants.

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Opinion.

(Filed March 4, 1914.)

New Jersey Supreme Court.

November Term, 1913.

LONG DOCK COMPANY,

*vs.*CHARLES E. HENDRICKSON, JR., et
al., State Board of Assessors.

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Certiorari removing Assessments, etc., on second class Railroad Property for 1911.

Argued November term, 1913. Decided February term 1914.

Gilbert Collins, George S. Hobart and Robert J. Bain, for Prosecutor. 20

Edmund Wilson, Attorney General.

John R. Hardin and John Franklin Fort, for defendants.

The assessment, by the State Board of Assessors upon the Long Dock property in Jersey City, for taxes for the year 1911, is not invalid, since there is no satisfactory proof in the case, that the assessment was made by illegal methods, or upon erroneous principles, or for improper amounts, or is unsupported by evidence, the weight and effect of which the Board was constituted by law to determine. 30

Argued before Justices Garrison, Trenchard and Minturn.

The opinion of the Court was delivered by Minturn, J.

The assessments upon twenty-three parcels of land, in the taxing district of Jersey City, are the subject of consideration upon this writ. 40

Opinion.

Of these parcels twenty-two are located outside of the main stem of the Erie Railroad, and the remaining parcel comprises the terminal station of the Erie Railroad, comprising in that designation the ferry buildings, racks, floats, waiting rooms, train sheds and platforms.

10 The lands involved begin at the exterior line for piers on the Hudson River, and extend substantially backward to the west on either side of the Erie Railroad Main stem to Provost Street; and on the north are bounded by the Delaware, Lackawanna and Western Railroad property, and on the south by that of the Pennsylvania Railroad; east of Bergen Hill, and on either side of the main stem are located other parcels of land, used as an adjunct to the railroad, and west of the Bergen Hill from the point of the railroads
20 exit from its tunnel or cut, other parcels extend westwardly over the meadows to what is known as Penhorn Creek on the Secaucus meadows.

The latter tracts are reclaimed from the meadows, by filling in, and are mainly utilized for the storage of railroad rolling stock.

30 The only physical interruption in the water front terminal tract is the existence of a city street, called Pavonia Avenue, which running longitudinally from west to east, supplies the only available outlet in Jersey City, to the Erie or Pavonia ferry.

The assessment upon the same parcels of land have been the subject of litigation in this Court, and the court of Errors and Appeals during the years 1906, 1907, 1908 and 1909, and the results of that litigation are embodied in *Long Dock Co. v. State Board*, 78 L. 44; *Id. v. Id.*, 82 L. 21; *Id. v. Id.*, 88 Atl., 1103.

40 The prosecutor reduces its objections to the assessment, sub judice, to two general grounds;

Opinion.

first that it was made upon erroneous principles; and secondly that the assessments and taxes levied on the lands referred to are excessive.

We think, under substantially similar conditions, and upon objections not radically different from these offered here, this Court in the cases referred to has practically solved these contentions in favor of the validity of the assessment. Those cases are authority for the proposition that this Court will not in settling the question of fair value oppose its judgment to that of an administrative board, entrusted by law with the duty of fixing the fair value or market value of land for the purposes of assessing the same for taxes, where there is testimony before the board, the weight and value of which it is required to determine, to which the members of the board may add their individual personal knowledge and judgment.

Long Dock Co. v. State Board, 82 L. 21.

The Prosecutor attempts to differentiate the case sub judice, from the previous determination by the insistence that the modus operandi of the Board in using and applying their personal knowledge was not under review in those cases, and that it is attempted to be shown here.

We know of no provisions of the statute which requires the members of the State Board sitting as an appellate board to submit to an examination for the purpose of discovering their personal views and judgment in the controversy.

It was within the power of the prosecutor to compel the board by writ of certiorari to disclose the principles upon which they made their assessment, and the manner in which those principles were applied, but the prosecutor has not deemed it necessary to adopt that procedure.

Opinion.

We are remitted therefore in the determination of the case to the inquiry whether in view of the testimony adduced the assessment complained of is illegal, as made in excess of true or market value.

10 The prosecutor has devoted a portion of its brief to an attempt to show that in assessing the lands the board having ascertained the money or market value of the lands from the testimony of experts applied to it an unknown multiple and thus fixed the assessment.

The answer to this obviously is that if such principle was adopted, the fact could be ascertained by certiorari requiring the board to certify whether such a method was pursued.

20 In the absence of the information that such a return would disclose, we are left to conjecture from the testimony as to the principle upon which the board proceeded, and we must assume in that situation that their *modus operandi* was consistent with legal methods and principles.

30 It is contended that the board for the purpose of fixing their assessment, arbitrarily divided the water front lands into parcels, and assessed each parcel separately without regard to the value of the remaining parcels. While this seems to have been the method adopted by the board, we are not directed to any authority which characterizes it as illegal. *Per contra* the prosecutors' witnesses adopted what has been called the "zone method" which in essence was the same, and thus fixed their valuations of the water front land by arbitrarily selecting a line to the west of the Hudson River, and establishing all land east of it as a water front "zone", upon which it contends the advantages of the water frontage *ex necessitate* must be reflected.

40 The adoption of the different methods may produce different results, but we cannot supersede

Opinion.

the judgment of the board with our judgment upon a practical question of methods of valuation, unless the principle, which has obtained be inherently and legally vicious.

There is apparently upon the face of this record as much reason for dividing the land into plots for the purpose of measuring its value, as there is to draw a line seven hundred feet back from the river front and determine that there the reflected value of the shore front must of necessity stop. 10

A comparison of values of lots upon the line of the intersecting street, Pavonia Avenue, supplied another method to the prosecutor of ascertaining true value, and this is the method usually pursued in such cases. But the attitude of the board, as we view it, was that this so to speak segregated land of the prosecutor, because of its availability as a whole for railroad uses, possesses a value, as an entirety, which cannot possibly be estimated by ascertaining the value of its dismembered parts. 20

With this conception of true value as the criterion, testimony was presented for the purpose of showing the value as a whole, of other water front terminals.

In *State Board of Assessors v. C. R. R.*, 19 Vr., 278, the Court of Errors by Chancellor Runyon speaking of railroad property, said that property "is so circumstanced by the peculiar use to which it is put as to make it on that account a class by itself"; and Mr. Justice Dixon, in the same case says, "The use made of them (railroad properties) forms as just and as common a basis of classification as does their essence." 30

It is this peculiar use which presents the rationale upon which the courts legally justify the segregation of the land of railroad companies from the land of other owners, and erect it as a class 40

Opinion.

for separate and distinctive treatment as a tax paying asset.

C. R. R. v. State Board, 20 Vr., 1;
Cincinnati, B. O. & C. R. R. v. Kentucky, 115 U. S., 321.

10 In the latter case the United States Supreme Court sustained, under the provisions of the Kentucky constitution a system of valuation, for railroad property, entirely different from that imposed upon the remaining property of the State, and Mr. Justice Matthews in dealing with the subject in his opinion says:

20 "The fact that the legislature has chosen to call a railroad for the purposes of taxation real estate, does not identify it with farming lands and town lots in such a sense as imperatively to require the employment of the same machinery and methods for all in the process of valuation, for the purposes of taxation. Calling them by the same name does not obliterate the essential difference between them."

30 And it seems to us that it cannot be successfully argued that this "essential difference" is the element of franchise, which is to be separately valued under our statute. The inquiry need not necessarily be what is the fair market value of the lands for this particular railroad in use, and as used, but what is the value of the lands for a railroad use of a kind similar to that in use?

40 The former inquiry may include franchise and consequently be held illegal; the latter inquiry need not necessarily involve that factor; and hence the value of lands similarly situated and similarly used may present not a conclusive answer to the inquiry, but certainly if we are searching for available comparisons as data to establish

Opinion.

value, we find in it one likely to work out, as nearly as can be an equitable and correct result, rather than a method which splits up an entire plant, and by valuing the disjointed sections seeks an aggregate that may represent value of the whole. Availability of the whole for a railroad use devoid of the element of franchise, would seem to afford the criterion of value. An illustration suggests itself if we take two hostleries upon opposite corners, both within a block of a ferry and railroad entrance from which daily, multitudes of humanity pour forth in almost endless procession. One place is as attractive in appearance as the other, but the vast percentage of people year after year favor the one, and almost ignore the other. The interior attractions for man and beast are no more seductive in the one than in the other. Each property pays a similar license or franchise fee, and the difference in the assessment of the properties for taxation purposes is practically nominal. Here it must be manifest that the market values of the two places are not alike. That the license to do business or the franchise privilege does not constitute the difference in value must be obvious.

There must, therefore, be inherent in the more favored plant an element of value, which political economists denominate as unearned increment, or to designate it more scientifically an exclusive business or monopoly value, arising from the facts of favorable location, business conditions and practically inability to duplicate the situation in the locality.

Under such conditions comparison with plants similarly situated as nearly as may be, seems to us to afford a reasonable standard of valuation, and not an unfair or inequitable method of measuring true value.

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Considerations of this character, probably within the personal knowledge of the Assessors may have combined with the testimony presented to produce this assessment, and we cannot say that the result so produced is reached by an erroneous method or based upon illegal principles in the absence of proof to that effect, which the case does not supply.

The assessment will be affirmed.

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Rule for Judgment.

(Entered, March 6, 1914.)

New Jersey Supreme Court,

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<p style="text-align: center;">LONG DOCK COMPANY,</p> <p style="text-align: right; margin-right: 100px;"><i>Prosecutor,</i></p> <p style="text-align: center;"><i>vs.</i></p> <p style="text-align: center;">CHARLES E. HENDRICKSON, JR., et al.,</p> <p style="text-align: right; margin-right: 100px;"><i>Defendants.</i></p>	}	<p style="text-align: center;">On Certio- rari. Rule for Judgment.</p>
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The Court having inspected the return and proceedings of the State Board of Assessors, returned with the certiorari in this case, the reasons assigned for setting aside the valuations, assessment and taxation for the year 1911, brought before this Court by said writ, and having heard the argument of counsel thereon and considered the same, does hereby ORDER that the valuations, assessment and taxation for the year 1911, as returned into this Court by the said writ of certiorari, be in all things affirmed with costs.

Entered, March 6, 1914.

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On motion of

JOHN W. WESCOTT,
Atty. General.

Notice of Appeal.

(Served April 8, 1914, and Filed April 13, 1914.)

New Jersey Supreme Court.

LONG DOCK COMPANY,

vs.

Prosecutor.

CHARLES E. HENDRICKSON, JR.,
GEORGE E. HALSEY, GEORGE L.
RECORD, and ISAAC BARBER, State
Board of Assessors, and EDWARD
I. EDWARDS, Comptroller of the
Treasury,

Defendants.

Notice of
Appeal. 10
Assessments
and taxes on
second class
property for
year 1911.

To JOHN W. WESCOTT, ESQ., Attorney General. 20
Attorney of Defendants.

TAKE NOTICE that the prosecutor, Long Dock Company, appeals to the New Jersey Court of Errors and Appeals from the whole of the judgment entered in this cause on the following grounds:

1. The Supreme Court affirmed the valuations assessments and taxation brought before that Court by the writ of certiorari in this cause, whereas said Court should have reduced said valuations and assessments, or referred the same back to the State Board of Assessors for reassessment, because they are contrary to the clear weight of the evidence produced before said State Board of Assessors on the complaint of prosecutor and are in 30

Notice of Appeal.

excess of the true value of the lands and premises upon which they are purported to have been made and levied.

10 2. The Supreme Court affirmed the valuations, assessments and taxation brought before that Court by the writ of certiorari in this cause, whereas said Court should have reduced said valuations and assessments, or referred the same back to the State Board of Assessors for reassessment, because same are based upon an erroneous principle of law, in that said Board ascribed to said lands a value on account of their connection and use, which was far in excess of their true or market value.

20 3. The Supreme Court affirmed the valuations, assessments and taxation brought before that Court by the writ of certiorari in this cause, whereas said Court should have reduced said valuations and assessments, or referred the same back to the State Board of Assessors for reassessment, because said State Board of Assessors, upon the hearing of said complaint of the prosecutor admitted illegal evidence, against the objection of the prosecutor, and based its final determinations, valuations, assessments and adjustments in whole or in part thereon.

30 4. The Supreme Court affirmed the valuations, assessments and taxation brought before that Court by the writ of certiorari in this cause, whereas said Court should have reduced said valuations and assessments, or referred the same back to the State Board of Assessors for reassessment, because there was no legal evidence before said State Board of Assessors which supports the said valuations, assessments and taxation on the lands and premises described in the return herein, or
40 which justified a valuation of said lands and premises in excess of the sum of \$2,962,223.

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5. The Supreme Court affirmed the valuations, assessments and taxation brought before that Court by the writ of certiorari in this cause, whereas said Court should have reduced said valuations and assessments or referred the same back to the State Board of Assessors for reassessment, because said valuations, assessments and taxation were not made under a uniform rule, and were not made in the same relative proportion as the assessments imposed upon other properties of the same class and contributing to the same common burden of taxation. 10

6. The Supreme Court affirmed the valuations, assessments and taxation brought before that Court by the writ of certiorari in this cause, whereas said Court should have reduced said valuations and assessments or referred the same back to the State Board of Assessors for reassessment, because the principles upon which said valuations, assessments and taxation were made are erroneous and illegal. 20

7. The Supreme Court affirmed the valuations, assessments and taxation brought before that Court by the writ of certiorari in this cause, whereas said Court should have reduced said valuations and assessments or referred the same back to the State Board of Assessors for reassessment, because the computation of the acreage and the valuation of said lands and premises were made by and upon an erroneous and illegal method in that said State Board of Assessors divided said lands into arbitrary parcels, some of which were wholly under water and had no value except in connection with and as appurtenant to the others, which others had but small value except by and in connection with the said lands under water and appurtenant thereto. 30

8. The Supreme Court affirmed the valuations, 40

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assessments and taxation brought before that Court by the writ of certiorari in this cause whereas said Court should have reduced said valuations and assessments, or referred the same back to the State Board of Assessors for reassessment, because by the method of computation adopted by said State Board of Assessors the lands of the presecutors under water between the exterior line for solid filling and the exterior line for piers, were assessed at more than their true value, the excess of said assessment over the true value of said lands representing an alleged value because of the adjacency of said lands to tide water; while in the value of the adjoining upland, throughout its whole extent, there was again included the same element of adjacency to tide water, thus constituting a double assessment.

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9. The Supreme Court affirmed the valuations, assessments and taxation brought before that Court by the writ of certiorari in this cause, whereas said Court should have reduced said valuations and assessments or referred the same back to the State Board of Assessors for reassessment, because said land and premises of the prosecutor were not valued and assessed by said State Board of Assessors for said year at their true market value, that is, their money exchange value, as shown by the evidence before said State Board of Assessors on complaint of the prosecutor against such valuations and assessments.

10. The judgment of the Supreme Court herein deprives prosecutor of its property without due process of law, contrary to Section 1 of Amendment XIV. to the Constitution of the United States.

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11. The judgment of the Supreme Court herein denies to prosecutor the equal protection of the

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laws, in violation of Section 1 of Amendment XIV to the Constitution of the United States.

12. The statutes and laws under which said valuations, assessments and taxation were made were erroneously construed by the Supreme Court so as to deprive prosecutor of its property without due process of law, contrary to Section 1 of Amendment XIV. to the Constitution of the United States, among other reasons, because they deny prosecutor the right to knowledge of the method by which, and of the manner in which such valuations and assessments were made, and deny to it the right to call witnesses to determine the method by which, and the manner in which the said valuations and assessments were made.

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13. The statutes and laws under which said valuations, assessments and taxation were made were erroneously construed by the Supreme Court so as to deny to prosecutor the equal protection of the laws, in violation of Section 1 of Amendment XIV. to the Constitution of the United States, among other reasons, because they deprive prosecutor of a full, fair and impartial review of said assessments before an appellate body, which is given owners of other property contributing to the same common burden of taxation.

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14. The judgment of the Supreme Court denies prosecutor the equal protection of the laws, in violation of Section 1 of Amendment XIV. to the Constitution of the United States, because it permits a valuation to be placed upon said lands of prosecutor for the purpose of taxation in excess of the value of surrounding lands whereas the value placed by law upon said lands of prosecutor for the purpose of permitting prosecutor to raise revenue, with which to pay its said taxes and for other purposes, is not in excess of the value of surrounding lands.

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15. The Supreme Court affirmed the valuations, assessments and taxation brought before that Court by the writ of certiorari in this cause, whereas said Court should have set aside and cancelled said taxes and reduced said valuations, assessments and taxation or referred the same back to the State Board of Assessors for reassessment, because the said valuations, assessments and taxation are for the reasons above stated and in other respects excessive, unequal, unlawful, unconstitutional, illegal and unjust.

16. The judgment of the Supreme Court for the reasons above stated and for other reasons appearing in the record is erroneous.

Dated April 1, 1914.

COLLINS & CORBIN,
Attorneys of Long Dock Company,
Prosecutor.

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New Jersey Court of Errors and Appeals.

LONG DOCK COMPANY,
Prosecutor-Appellant,

vs.

CHARLES E. HENDRICKSON, JR., et
als., State Board of Assessors,
and EDWARD I. EDWARDS, Comp-
troller of the Treasury,

Defendants-Respondents.

On Appeal 10
from
Supreme
Court.

**BRIEF FOR LONG DOCK COMPANY,
APPELLANT.**

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1.

Statement of the Case.

This appeal is from a judgment of the Supreme Court affirming certain assessments for the year 1911, made by the State Board of Assessors on lands of the Long Dock Company in Jersey City. The assessments in question are upon property separately assessed by the Board under subdivision 2 of section 3 of "An Act to revise and amend 'An Act for the taxation of railroad and canal property,'" approved March 27, 1888 (P. L. 1888, p. 269; Comp. Stat., p. 5260). Section 3 of the Act mentioned is as follows:

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"That it shall be the duty of the board of assessors to meet at Trenton on the first Tuesday of May in the present and each succeeding year, and as often during each year and at such places as their duties may require; they shall proceed to ascertain the true value of all property used for railroad or canal purposes of each railroad and of

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each canal company in this state, including its franchises, and they shall, in such ascertainment, ascertain:

"I. The length and value of the main stem of each railroad, and of the water way of each canal and the length of such main stem and water way in each taxing district;

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"II. The value of the other real estate used for railroad or canal purposes in each taxing district in this state, including the roadbed (other than main stem), water ways, reservoirs, tracks, buildings, water tanks, water works, riparian rights, docks, wharves and piers, and all other real estate, except lands not used for railroad or canal purposes;

"III. The value of all the tangible personal property of each railroad and of each canal company;

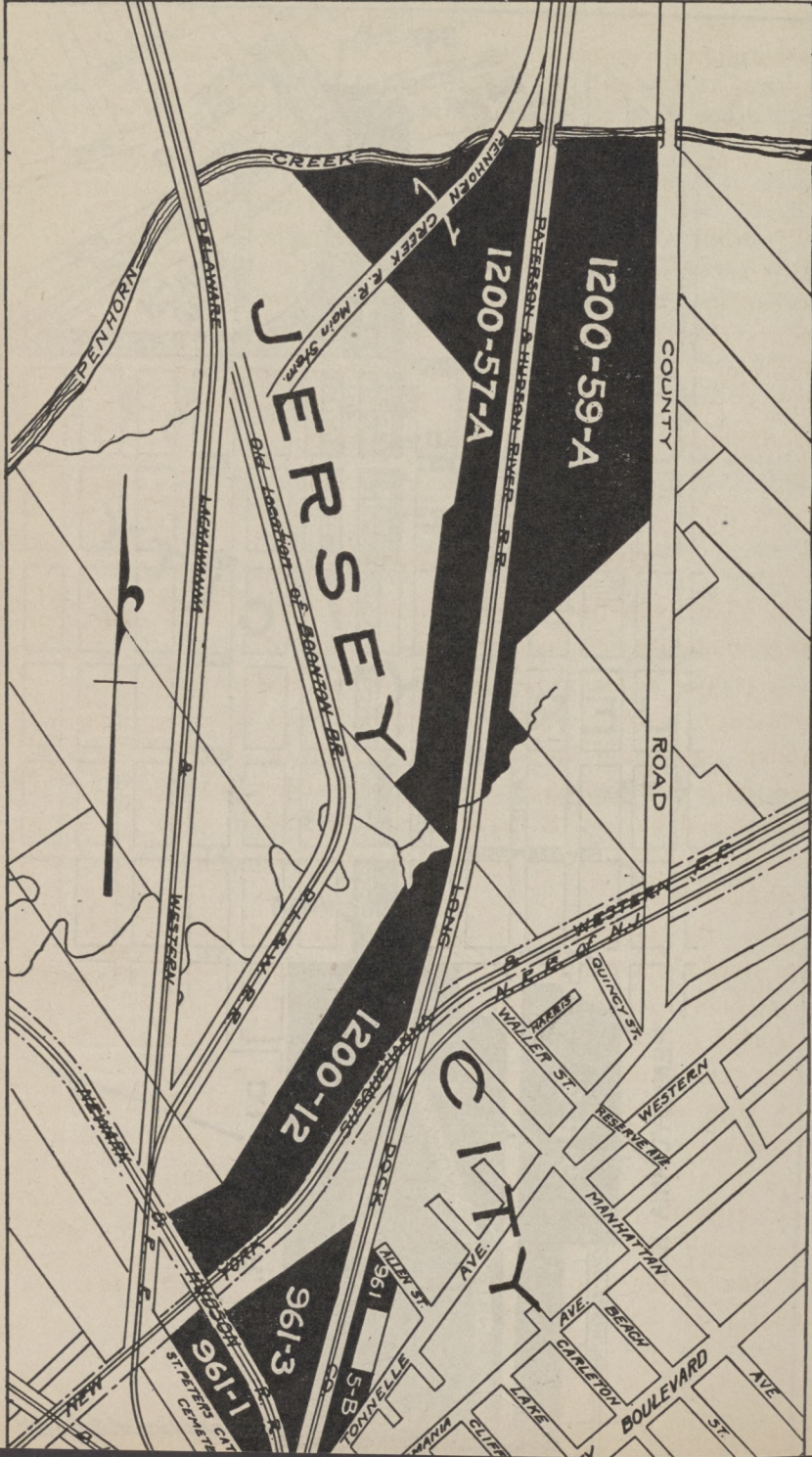
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"IV. The value of the remaining property, including the franchise." (Comp. Stat., p. 5264.)

The property comprised in subdivision 2 of the above section is commonly known as second class railroad property.

A schedule of the assessments appears in the printed case on pages 14 *et seq.* and the location of the lands assessed is shown upon the following diagrams:

LANDS WEST OF BERGEN HILL



The assessments were made by the Board and notice thereof given to the Company (p. 13); the Company filed a written complaint against the assessments pursuant to the provisions of the Act (pp. 13, 20, 21), and thereupon testimony was taken and the assessments were reviewed by the Board (p. 13, testimony, pp. 24, *et seq.*); thereafter the Board certified its final determination upon the assessments, making no change from the original assessments (p. 231); a writ of certiorari was allowed for a review of the assessments (pp. 1-6), and after hearing the matter the Supreme Court affirmed them (opinion, pp. 245-252, 89 Atl., p 1031). It is from such judgment of affirmance that this appeal was taken. 10

2.

Grounds of Appeal.

1. The principles upon which the assessments were made are erroneous because: 20

(a) The lands were divided by the Board into arbitrary parcels, some of which were wholly under water and had no value except in connection with and as appurtenant to the others, which others had but small value except by and in connection with the said lands under water and appurtenant thereto.

(b) By the method of computation adopted by the Board, the lands of the Company under water between the exterior line for solid filling and the exterior line for piers, were assessed at more than their true value, the excess of said assessment over the true value of said lands representing an alleged value because of the adjacency of said lands to tide-water, while in the value of the adjoining upland throughout its whole extent, there was again included the same element of adjacency to tide water, thus constituting a double assessment. 30 40

(c) The Board ascribed to the lands assessed a value on account of their connection and use which was far in excess of their true or market value.

(d) The Board after ascertaining the true value of the lands assessed added thereto an additional sum obtained by the application of an arbitrary multiple to such true value.

10 (e) The Board erroneously deprived the Long Dock Company of the review of said assessments provided by the Act under which they purport to have been made.

2. The assessments and taxes levied thereon are excessive.

3. The statutes and laws under which the valuations, assessments and taxation were made were erroneously construed by the Supreme Court so as to deprive the Company of its property without due process of law in violation of section 20 1 of Amendment XIV to the Constitution of the United States, because under such construction they deny to the company the right to knowledge of the method by which and of the manner in which such valuations and assessments were made and deny to it the right to call witnesses to determine the method by which and the manner in which the said valuations and assessments were made.

30 4. The statutes and laws under which said valuations, assessments and taxation were made were erroneously construed by the Supreme Court so as to deny to the Company the equal protection of the laws, in violation of section 1 of Amendment XIV to the Constitution of the United States, because under such construction they deprive the Company of a full, fair and impartial review of said assessments before an appellate body, which
40 is given owners of other property contributing to the same common burden of taxation.

5. The judgment of the Supreme Court herein deprives the Company of its property without due process of law in violation of section 1 of Amendment XIV to the Constitution of the United States.

6. The judgment of the Supreme Court herein denies the Company the equal protection of the laws in violation of section 1 of Amendment XIV to the Constitution of the United States.

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Brief of the Argument.

1.

The principles upon which the assessments were made are erroneous.

(a) The lands assessed were divided by the Board into arbitrary parcels, some of which were wholly under water and had no value except in connection with and as appurtenant to the others, which others had but small value except by and in connection with the said lands under water and as appurtenant thereto.

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The Board assessed the Company's lands north of Pavonia Avenue as 43.872 acres of upland, "including value of land under water in front thereof," but divided the lands south of Pavonia Avenue at the bulkhead line, assessing the upland as lot B-6, Block 16, and the land under water as lot B-7, Block 16, and "land at foot of Pavonia Avenue."

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The Company has a charter power to use the lands under water (P. L. 1856, p. 64, sec. 7), and there is no difference in this right between the lands north of Pavonia Avenue and those south of that street. This right to use, or interest in, lands under water is an appurtenance to the backlands and any value that it has must be included in that of the backlands.

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The Board recognized this principle in assessing the lands north of Pavonia Avenue but did not apply it in assessing the lands south.

10 The expert produced by the Company on water front values upon review of the assessments by the Board, in order to give these lands a value based on their best use, divided the lands into three zones, the first consisting of the land under water with about 700 feet of backland attached. The Supreme Court says that upon the face of the record there is as much reason for dividing lands into plots for the purpose of measuring its value as there is to draw a line seven hundred feet back from the river front and determine that there the reflected value of the shore front must of necessity stop. The answer is that the land under water alone has no commercial value separate from the upland. It must have backland attached to give it value, as the undisputed testimony shows. There
20 is no evidence whatever that land under water alone can be marketed at any price. If the lands are divided at the bulkhead line the lands under water alone have no such value as was placed upon them, according to the undisputed testimony of Mr. Floyd S. Corbin as hereinafter appears. Both by law and according to value, the upland and value of land under water in front should be included in a single assessment.

30 (b) By the method of computation adopted by the Board the lands of the Company under water between the exterior line for solid filling and the exterior line for piers, were assessed at more than their true value, the excess of said assessment over the true value of said lands representing an alleged value because of the adjacency of said lands to tide water, while in the value of the adjoining upland throughout its whole extent there was again included the same element of adjacency to
40 tide water, thus constituting a double assessment.

Some part of the lands in question undoubtedly have a value because of adjacency to tidewater, but that value is a single one and covers the land under water and so much of the upland as is necessary for a beneficial enjoyment of the waterfront. Mr. Corbin, an expert of standing upon waterfront development and values, places the required amount of upland at 700 feet. Whatever the required depth of upland may be, the tide-water value is not upon the land under water alone or upon the backland alone, but is upon both, for without the right to possession of both the backland and the land under water there can be no tidewater value. Mr. Corbin says that no commercial use can be made of the land under water without the fast-land behind it (bottom of page 124 and top of page 125). Manifestly if the value because of adjacency to tidewater is placed upon the backland, the same element of value cannot be again placed upon the land under water, and if placed upon the latter it cannot be again placed upon the former. Obviously in the present case tidewater value was placed upon the backland and again upon the land under water, for if not, the value of the backland would be much less than the assessment, and the value of the land under water would be merely nominal. The placing of a tidewater value illustrates the necessity of valuing backland and land under water together and not separately, as urged under (a) above. This applies to lands south of Pavonia Avenue.

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(c) The Board ascribed to the lands assessed a value on account of their connection and use which was far in excess of their true or market value.

The Company on review of the assessments before the Board endeavored to get some information as to whether the assessors considered the use of the property under franchise in making the

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assessment, and called one of the assessors as a witness, but he declined to answer questions and refused to give any information upon the subject (pp. 144 to 170). Therefore we must depend upon the record to show the fact. The assessments are plainly in excess of the value of surrounding lands, as shown by actual sales contained in the schedules offered in evidence (pp. 199-219), and the testimony of Mr. Corbin, the only expert heard upon waterfront values, as will appear in that section of this brief devoted to the subject of excessiveness, and something must have been responsible for the overplus. It could not have been general availability for railroad purposes, for that was considered in the value of surrounding lands, as shown by sales, and in Mr. Corbin's testimony. Availability for railroad purposes must have been considered when the purchase price of surrounding lands was fixed, because some of the surrounding lands were sold to and purchased by a railroad, and Mr. Corbin must have considered that element in his values, knowing as he does that a large part of this waterfront is devoted to railroad uses. What can possibly be responsible for the increase of value in the assessments over the value as shown by sales and by the testimony?

The following is a statement by Mr. Record, one of the assessors, made upon the review by the Board:

"Now if you have a road jammed full from morning till night and has every appearance of prosperity and success, then you haven't set up any reason to my mind why you should escape from the universal rule of the cost of reproduction which is applied to every other taxpayer in the country" (p. 159, ll. 34-40).

"We have considered every element; now we have considered also the fact that you are a prosperous railroad, and, as I have told you, some of these men—George Gould builds his

terminal into Pittsburg—it obviously isn't worth as much as it cost; the Pennsylvania Railroad Company built its big terminal in New York; it obviously isn't worth what it cost. They haven't worked out. Then our rule doesn't apply, but in your four big roads where you have got a successful road in active use, we have gotten, as the facts show, something like 75% on an average, and we give you the benefit of the fact in our statement, that on an average the value there is, as we have found it, more than the adjoining value, and you can go into court and you can argue that the adjoining value is the only yardstick" (p. 160, ll. 7-31). 10

Mr. Record was then asked why the land was worth more, and answered, "Because it cost more to reproduce it" (p. 160, ll. 32-35). But he said that the cost of reproduction is not all the element; another element being that it is obvious that the road is in full and efficient use (p. 160, ll. 38-42).

In other words, he says the value of the terminal lands for assessment is their reproduction value, or the value given to them by their use, or both. It is clear that the assessments were based upon either one or both of these elements, and they are unlawful, for they do not represent the *market value* of the lands—reproduction value and the use of the lands under franchise being the basis of the assessment instead of market value as that value has been defined by this court. 20

It may be argued for the Board that it was only in case of main stem that these elements were used, but Mr. Record distinctly referred to terminals in Pittsburg and New York, which include much more than main stem. 30

The fallacy of considering reproduction value as market value was pointed out by Justice Hughes in the Minnesota Rate cases (*Simpson v. Shepard*, 230 U. S., p. 352), wherein he said:

"Moreover, it is manifest that an attempt to estimate what would be the actual cost of ac- 40

quiring the right of way if the railroad were not there, is to indulge in mere speculation. The railroad has long been established; to it have been linked the activities of agriculture, industry and trade; communities have long been dependent upon its service and their growth and development have been conditioned upon the facilities it has provided. The uses of property in the communities which it serves are to a large degree determined by it. The values of property along its line largely depend upon its existence. It is an integral part of the communal life. The assumption of its non-existence, and at the same time that the values that rest upon it remain unchanged, is impossible and cannot be entertained. The conditions of ownership of the property and the amounts which would have to be paid in acquiring the right of way, supposing the railroad to be removed, are wholly beyond reach of any process of rational determination. The cost of reproduction method is of service in ascertaining the present value of the plant, when it is reasonably applied and when the cost of reproducing the property may be ascertained with a proper degree of certainty, but it does not justify the acceptance of results which depend upon mere conjecture." * * *

"Assuming that the company is entitled to a reasonable share in the general prosperity of the community which it serves, and thus to attribute to its property an increase in value, still the increase so allowed, apart from any improvements it may make, cannot properly extend beyond the fair average of the normal market value of land in the vicinity having a similar character, otherwise we enter into a realm of mere conjecture. We therefore hold that it was error to base the estimate of value of the right of way, yards and terminals upon the so-called 'railway value' of the property. The company would certainly have no ground of complaint if it were allowed a value for these lands equal to the fair average market value of similar land in the vicinity without additions by the use of multipliers, or otherwise to cover hypothetical outlays. The allow-

ance made below for conjectural cost of acquisition and consequent damages must be disapproved, and in this view we also think it was error to add to the amount taken as the present value of the lands the further sums calculated on that value which were embraced in the items of engineering, superintendence, legal expenses, contingencies and interest during construction."

The Supreme Court of New Jersey says that railroad property as a class may be assessed and taxed by a system and machinery separate from that used to assess and tax other property, and cites several cases to sustain that proposition. Admitted, but is there any authority for giving second class railroad property a market value in excess of that of surrounding lands? On the contrary, in the Minnesota rate cases the United States Supreme Court indicated that the value of such property is that of surrounding lands. Our Supreme Court draws a distinction between the market value of the lands used under the franchise of the Long Dock Company and the value of the same lands for similar railroad use. Before these lands could be used for railroad purposes by any other company, there would have to be a franchise, and if the use under the franchise of such other company is considered, the element of franchise enters into the market value, which is erroneous. The point is that use under any railroad franchise cannot be considered as an element of value, irrespective of the company holding the franchise, and such would be the case if the value of the lands for a use similar to that now existing is considered. There is no distinction in law between the use under one franchise and the same use under another. Value because of actual use, present or future, under any railroad franchise is the thing to be avoided.

If it be said that what was meant was not value because of actual use for railroad purposes but

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value for that use there is another objection. Value for railroad use, or in other words "railroad value," in excess of that of surrounding lands, cannot be based upon any known standard and is mere conjecture, which was condemned in the Minnesota Rate Cases.

Mr. Hansel, the State's own expert, says (p. 180):

10 "I am unable to determine the value of any terminal for railroad purposes. I have felt there is no value that the railroad could properly place, if they intend to continue business. I, therefore, couldn't satisfy my own mind that anybody knew the value of railroad terminals—tidewater terminals as such * * * I freely confess that I don't know how much terminals are worth for railroad use because there is no value that they themselves can allocate to them except as they do arbitrarily by an arbitrator"

20 Of course terminals are indispensable to railroads, as Mr. Hansel says, but they are indispensable because of actual use under franchise, which is not a legitimate element of value. The Board seeks to give a "railroad value," which the State's expert says cannot be given by anyone.

(d) The Board, after ascertaining the true value of the lands, assessed, added thereto an additional sum obtained by the application of an arbitrary multiple to such true value.

30 The Supreme Court in the present case said that the company attempted to show that in assessing the lands the Board, having ascertained the money or market value of the lands from the testimony of experts, applied to it an unknown multiple and thus fixed the assessment, but that the answer is that obviously if such principle was adopted the fact could be ascertained by certiorari requiring the Board to certify whether such a
40 method was used, and that in the absence of the information that such a return would disclose the

Court was left to conjecture from the testimony as to the principle upon which the Board proceeded, and the Court must assume in that situation that the Board's *modus operandi* was consistent with legal methods and principles (p. 248).

As we read this portion of the opinion, the Court concedes that if the assessments were made by the use of a multiple, they are erroneous, but refuses to set them aside on that ground because the Board did not certify on certiorari whether such a method was used as prosecutor might have compelled it to do, and because in the absence of the information such a certificate might disclose the Court was left to conjecture as to whether or not a multiple was used; and must assume that the Board pursued legal methods in making the assessment. 10

Where is there any provision in the Act under which the assessments were made, limiting the Company to a certificate made by the Board on certiorari to show the principles used, or compelling it to abide by such certificate? We can find none. In *Central R. R. Co. v. State Board of Assessors*, 49 N. J. L., p. 7, the Board certified the mode it pursued in valuing part of the property of the railroad company, but there is nothing in that case to indicate that under the Act a railroad company must depend absolutely upon such a certificate to show the principles used in making the assessment, nor is there anything to indicate that the Board must be compelled to certify the principles applied in making the assessment. If the Board applies legal principles and cares to certify them to justify its assessments, it may do so; but, if it does not, the railroad company cannot suffer because of that fact. 20 30

The Act provides a method for review of assessments before the Board and also provides for a review of the Board's final determination by certiorari and the Court in the case last cited laid 40

down the rule that the assessments are reviewed by the Court upon the record before the Board. In the case now before this Court the company endeavored to show the use of a multiple by calling one of the assessors as a witness, as we submit it could lawfully do under the Act, and asking him what the fact was (p. 170). The assessor declined to answer. The company then proceeded to prove the fact by showing the values placed upon the lands by Mr. Charles Hansel, an expert, employed **10** **by the State under legislative authority to make a valuation of railroad property, whose valuations were before the Board when the assessments were made. Having obtained his values, it was a simple matter of arithmetical calculation to prove the use of a multiple. Mr. Hansel valued Block 17-A 2, being the large water front parcel north of Pavonia Avenue, at \$3,214,130 (p. 180, ll. 9-20). The Board's assessment is \$3,856,956 (p. 17), an**

20 **addition of exactly 20 per cent. to Mr. Hansel's valuation.** Mr. Hansel valued the parcel described as "land at foot of Pavonia Ave." containing 2.09 acres, at \$46,330 per acre (p. 178), making his valuation of that parcel \$96,830, while the Board's assessment of that parcel is \$116,196, *an addition of exactly 20 per cent. to Mr. Hansel's valuation.* Mr. Hansel valued Block 16 B 7, containing 2.498 acres, at \$46,330. per acre (p. 178), making his valuation \$115,732. The Board's assessment is **30** **\$138,878, an addition of exactly 20 per cent. to Mr. Hansel's valuation.** We submit that this is not conjecture, but demonstration. The figures are not disputed. They are established facts.

A certificate by a Board interested in sustaining its assessment not under oath and not subjected to examination may or may not show the exact fact sought to be ascertained according to the skill with which it is prepared; but figures never **40** lie. Here are actual figures showing an increase in the assessment of exactly 20 per cent. over the

valuation by the State's expert, coupled with a legitimate suspicion of the use of a multiple, created by the assessor's refusal to answer a blunt question on the subject, and a presumption against the assessment by the failure of the Board to certify any principle whatever. If the assessors rely upon any principle to sustain the assessments, they must bring forth the principle before the Board upon review, and, we submit, not by certificate after review, although in no case can their failure to do the latter be regarded as a presumption in favor of the assessments. 10

Since the decision of the United States Supreme Court in the Minnesota Rate Cases, part of which is quoted above, these terminal lands can have but one market value, whether for assessment or for making rates, and that value cannot be created by the use of a multiple.

We submit that in the present case the Supreme Court did not find that a multiple was not used; 20 that it clearly appears that a multiple of 20 per cent. was used to create a fictitious value, and that the assessments are erroneous, at least to the extent of the amount added by the multiple.

(e) The Board erroneously deprived the company of the review of the assessments provided by the Act under which they purport to have been made.

Section 12 of the general railroad tax act of 1884 as revised in 1888, is as follows:— (Comp. Stats., p. 5270.) 30

“That the said State board of assessors shall meet on the third Monday of November at the State house, in Trenton, for the purpose of reviewing their assessment, and may adjourn from time to time till they shall have finished the hearing; upon the written complaint of any company or person considering itself or himself aggrieved, and specifying the grievance, or of the attorney-general or of any member of the board, on behalf of the State, 40

that the property of any company is assessed too low, either in the whole or in any taxing district, or that property has been omitted, they shall review the said assessment, and correct the same as shall appear just; the attorney-general shall attend such meetings of said board in person or by deputy; no complaint that any company or person is assessed too low, or that any property has been omitted shall be acted upon until the company or person so assessed shall be notified of such complaint by five days' notice, to be served on such company or person by leaving the same at the office of such company or at the usual place of abode of such person, if a resident of this State; the board shall have the power to issue subpoenas and examine witnesses and call for the production of books and papers, and they shall be entitled to use their personal knowledge and judgment as to the value of the property; they shall certify to the comptroller of the State all corrections which they shall make in any assessment; the proceedings provided for by this section shall be completed before the fifteenth day of January following the making of said assessment, and all complaints must be presented on or before the third Monday of November, or shall be deemed to have been waived."

The company filed its written complaint against the assessments and produced evidence before the Board to substantiate the complaint, but the assessors absolutely failed and refused to permit it to know or prove the action of the assessors in making the assessment and the methods they pursued. Such a one-sided review was not contemplated by the act. The Board sitting in review is an appellate body, before whom the company is given a hearing, and it is entitled to know on that hearing what there is to substantiate the assessments. Its property is being taken wrongfully, as it complains and produces evidence to prove, and if there is anything to rebut such complaint and the evidence taken in support thereof, the

company is entitled to know the facts. It is the assessors' place voluntarily to state upon what facts and principles the assessments were made. In this case they not only failed to do that, but one of them being called as a witness before the Board, declined to answer questions on the subject, presumably for the reason that as a member of the reviewing Board he could not be compelled to testify. The fact that the assessors and the reviewing Board are composed of the same men cannot be used to deprive the company of its substantial right to knowledge of the facts and principles upon which it is taxed. The Supreme Court says that they know of no provision of the statute which requires the members of the State Board sitting as an appellate board to submit to an examination for the purpose of discovering their personal views and judgment in the controversy, and that it was within the power of the company to compel the Board by certiorari to disclose the principles upon which the assessments were made and the manner in which the principles were applied (p. 247). We submit that the act provides for such examination and certainly does not prevent it. Furthermore the members of the Board as an appellate body were not asked to testify, nor could they be asked for their views and judgment as an appellate body, for prior to the conclusion of the review before the Board and their final determination after such review, they could have had no personal views and judgment of any weight unless they had formed an opinion in advance. The assessor who was called as a witness was not asked to testify as a member of an appellate body, *but as an assessor, and the testimony was sought for the purpose of ascertaining the facts upon which the assessments were based.* The supposed facts upon which the assessments were based may have been all wrong, or may have been used in an erroneous manner, and the com-

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pany had a right upon review before the Board to point out the errors and ask that they be corrected. The principles applied by the Board may have been erroneous, and the company was entitled upon review to point out the errors and ask for correction. That is the purpose of the review provided by the act. The assessors cannot make the assessments and then as a reviewing Board say they are right without giving the company any opportunity to examine them, for if they can do so, there has
 10 been no review worthy of the name. The *assessments* were under review, not merely the testimony of the company's witnesses. The Board may use their personal knowledge and judgment, but cannot conceal such knowledge and judgment, or lack of it, and make arbitrary assessments.

The right of a railroad company to call members of the reviewing Board to testify as to the methods by which the assessments were made was discussed in the case of *Louisville & N. R. Co. vs. Bosworth*, 209 Fed., p. 380. The statute of Kentucky provides:
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“It shall be the duty of the Auditor, immediately after fixing such value by said board, to notify the corporation of the fact; and all such corporations shall have thirty days from the time of receiving the notice to go before such board and ask a change of the valuation and may introduce evidence, and the chairman of the board is hereby authorized to summon and swear witnesses, and, after hearing such evidence, the board may change such valuation as it may deem proper and the action of
 30 the board shall be final.”

In the case cited the railroad company claimed that the board failed to inform it as to the method by which it had reached the assessment, and without its knowledge, used a report by it to the Railroad Commission in reaching the conclusion which it came to, and that by reason thereof it had no
 40 opportunity to be heard as to those matters and

hence was denied such hearing as the statute contemplated. At the hearing the company introduced the Auditor, chairman of the Board, as a witness, and asked him a series of questions, answers to which would have elicited the valuation which the Board had fixed on the whole property and the method by which it had arrived at such valuation and the basis on which the part of such valuation was allotted to the State, and he declined to answer each one of these questions on the advice of the Attorney-General.

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The United States District Court for the Eastern District of Kentucky, Frankfort Division, speaking by Judge Cochran said:

“It is clear, therefore, that in advance of the final assessment no notice was given to plaintiff of the method by which it had reached the preliminary assessment and the various steps therein, save in so far as the notice thereof contained such information, and it came short of notifying plaintiff whether or not the whole property had been valued and a part allotted to this State, and, if so, at what it had been valued and the basis on which it had been allotted. The minute in relation to the final assessment contains no statement as to these matters. The sole information as to that assessment which it contains is that in making it the value of the entire property in this State was ascertained and the assessed value of the tangible property therein deducted therefrom, and in the notice thereof it was shown that in making it the value of the entire property in Kentucky was changed from \$81,670,377 in the preliminary assessment to \$74,598,451, thereby changing the assessment of the intangible property in this State from \$52,500,000 in the preliminary assessment to \$45,428,074. So I take it that there is not any dispute in this case that plaintiff did not receive the notice heretofore stated, and in that it did not receive such notice, it claims that it did not have the hearing contemplated by the statute. The sole dispute here is as

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to whether the board was bound to give such notice. The defendants claim that it was not. According to its position it was not bound to give even as much information as was given by the notices of the preliminary and final assessments. It was sufficient for it to give notice of the amount at which the plaintiff's franchise had been assessed without more. The plaintiff, on the other hand, contends that it was entitled to notice of the method by which that assessment had been reached and the different steps in it. On this point I have not the lightest doubt that the plaintiff is right. I am satisfied not only that it was entitled to notice thereof, but that it was the duty of the board to enter on its records the preliminary assessment showing the different steps in the method pursued by it in making it, and that they resulted in such valuation and such changes therein as were made in the final assessment, and that they resulted in the valuation finally fixed, so that an inspection of its records would give full information in regard to such matters. As it is, the board made no record whatever of its preliminary assessment, and in the record of the final assessment, nothing is set forth except this final result of whatever method was adopted. * * *

"A decision that the members of the Board cannot be quizzed after they have completed their work as to the operation of their minds in doing it is not against the position that their records should exhibit in full the various steps in their work. And the reason given why they should not be so quizzed is, in effect, that their records should contain such steps, which was all that the company was entitled to know."

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"It is contended that the board has the right to keep to itself these weighty conclusions which the statute requires it to reach, on the correct determination of which depends the question whether the board has exceeded its jurisdiction or exhausted its full power, which it could keep only as long as its members remembered them, and in view of the extent of

its work, not very long, if for any length of time, and make no entry thereof on its record, or give any notice in regard thereto, and that all that was required was that it should enter of record and give notice of the automatic result of its work. The mere statement of this position is sufficient to condemn it. It is inconceivable that the legislature had any such idea. Had it any such idea, it would never have provided for a preliminary assessment and notice thereof to the company, so that it might appear before it and point out any errors that the board might have fallen into in the operation of a complicated piece of machinery. It would have contented itself with a provision fixing the time and place for making the assessment at which the companies might appear and introduce such evidence and present such arguments as they saw fit without more."

"The Court of Appeals of Kentucky, in the two American Surety Company cases, held that, if the board in making an assessment does not follow the method prescribed by the statute, the assessment is void. If such is the case, then the company to be affected thereby is entitled to know that method, so that, if the method or any step in it is wrong, it can have the preliminary assessment corrected by the board in the final assessment, and, if it cannot succeed in so doing, may appeal to the courts to overthrow it."

The question in the Louisville and N. R. Co. case was chiefly whether the board had followed the statutory method in making the assessment, but the principle applies to any other erroneous methods. We insist that at least two illegal methods were used in making the assessments in the present case, viz., value because of use under franchise and the use of a multiple in creating a fictitious value. The record of the board contains no information on either of these subjects, and the Company was not permitted to know or prove what the fact was. It proved actual values of sur-

rounding property as shown by sales and the testimony of competent experts, and also the values by the State's own expert which were before the board when the assessments were made. This was as far as it could go. The Board should not be allowed to make an arbitrary assessment in the face of this evidence without showing its reasons, and certainly it should not be permitted to conceal what it has actually done.

- 10 So far as the Company's compelling the Board to certify the principles applied by it in making the assessments is concerned, we submit that the Company is not compelled by law to abide by such a certificate, for it is not provided for by the statute, is not under oath nor subjected to cross examination, and is not a part of the record before the Board. If skilfully drawn such a certificate proves nothing. The statute provides for a review before the Board and it is upon such review
- 20 that the Company is entitled to information, and to have errors in principle or valuation corrected. If it secures no relief there, then it comes before the Court on the record before the Board; not bound by undisclosed facts or principles.

- The case of *Royal Manufacturing Co. v. Rahway*, 75 N. J. L., p. 416, is not an authority for a certificate by the State Board of Assessors as to the principles applied by them in making these assessments. It is true, in that case it was stated that
- 30 the State Board should have been called upon to certify the facts submitted to it and the grounds of its determination. But that was a case where the writ was directed to the municipality and the Receiver of Taxes and not to the State Board of Equalization by which the assessment was reviewed. It was also said in that case that before reviewing the judgment of the State Board the Supreme Court should know upon what facts and
- 40 upon what legal principles the Board proceeded; the testimony taken under the rule indicated that

the property was valued as a completed building on May 20, when it was then only in process of construction, but the State Board was afforded no opportunity to be heard as to the facts which guided them, and it would be manifestly improper to reverse their judgment or stay execution on the testimony taken.

The State Board of Assessors after reviewing its assessments render no judgment as does the State Board of Equalization of Taxes, but merely makes a final determination of the assessment, which is certified to the State Comptroller. There is no doubt that if an assessment reviewed by the State Board of Equalization is removed to the Supreme Court, that Court should know the facts and principles which guided the State Board in rendering its judgment, and if the State Board is not made a party to the writ, then those facts and principles are not brought before the Supreme Court. In the present case the State Board of Assessors is a party to the writ of certiorari, the writ being directed to its members and they were required to certify the valuations, assessments and taxes, the statement or statements thereof certified and reported by the Board to the Comptroller of the Treasury for the year 1911, the returns made by the Company to the Board, together with the schedules accompanying the same, the written protest and complaint made by the Company with respect to the valuations, assessments and taxes, the evidence, exhibits and statements taken upon the review before the Board, the final determination of the Board upon such review, all corrections made by the Board in the valuations, assessments and taxes, the certificate made by the Board to the Comptroller upon such review and final determination, all certificates returned and filed with the Board by the assessors of the several taxing districts of the State, together with all other proceedings and matters touching and concerning the

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said valuations, assessments and taxes. If it be claimed that upon review the Board renders a judgment based upon facts and principles, then such judgment and the facts and principles upon which it was based should have been certified by the Board, for the writ requires the Board to certify not only its final determination after review of the assessments, which is required by the act, but also all other proceedings and matters touching and concerning the valuations, assessments and taxes.

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This case differs from that of *Royal Manufacturing Co. v. Rahway, supra*, in that the general railroad tax law does not require any specific judgment as is provided for by statute in the case of the State Board of Equalization (P. L. 1905, p. 128), and also because in the case cited the State Board of Equalization was not a party to the writ and consequently the facts and principles upon which that Board based its judgment were not before the Court. But even in that case the Supreme Court did not affirm the assessment because the facts and principles which guided the State Board of Equalization were not before it, but permitted the judgment and proceedings of the State Board to be brought before the Court.

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The amendment of 1907 to the Certiorari Act expressly provides that either party may use the testimony taken before the Board whose action is being reviewed, so that there can be no doubt in this case the Company is entitled to use that testimony. The Board was commanded by the writ to certify everything concerning the assessments and if it said that the Board as an appellate body renders a formal judgment, then such judgment and the facts and principles on which it was based, should have been returned with the writ, but, as we have said before, the Board renders no judgment of this nature. The real reason for requiring a Board to certify its

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judgment is that because after a judgment has been rendered it is the *judgment* that is reviewed. In a case where no judgment is rendered, as is the case here, and where the assessments themselves are reviewed, then dependence must be placed upon the record made upon review before the Board, and not upon a certificate not provided for by the act, not a judgment and not a part of the record before the Board.

These assessments are finally made upon the determination by the Board after review, and relief from any error of the assessors in making the assessments or of the Board in reviewing them may be had under the general railroad tax act, which groups these errors under two general heads, viz., excessive valuation and erroneous principle (Comp. Stats., p. 5270, Sec. 13). Erroneous principle includes that applied by the Board in the method of review as well as that applied by the assessors in making the assessments.

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II.

The assessments and taxes levied thereon are excessive.

This Court is not asked to pass upon any facts nor to weigh the evidence, for that, of course, it will not do. Our contention is that there is no evidence to support the valuations upon which the assessments are based and we cannot see from the opinion of the Supreme Court that any was found. The schedule of sales of surrounding lands which was offered in evidence is not challenged nor is there any testimony to contradict that of Mr. Floyd S. Corbin, Mr. Gaddis and Mr. Ryer, the only experts produced, aside from Mr. Hansel, the State's expert, whose valuations do not support the assessments. Mr. Hansel was not produced on behalf of the Board but by the Company to prove his valuations, not as evidence of true value,

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but to show the Board's use of a multiple in making the assessments.

The Supreme Court cites the cases of *Long Dock Co. v. State Board of Assessors*, 78 N. J. L., p. 44, 82 N. J. L., p. 21 and 88 Atl., p. 1103, involving assessments for the years 1906-7-8-9 on these same lands, as authority for refusing to substitute its judgment for that of the Board on these assessments.

10 We submit that these cases do not go so far as to hold that if *the record shows* that the assessments are in excess of the true value of the lands, the Supreme Court is justified in refusing to substitute its judgment for that of the Board.

Under the amendment of 1907 to the Act relative to certiorari (P. L., 1907, p. 95), it is the duty of the Supreme Court on a writ removing any tax or assessment to determine disputed questions of fact as well as of law. That amendment provides:

20 "In all cases of writs of certiorari now pending or hereafter brought to remove any tax or assessment, or other order or proceeding touching any local or public improvement, or to review the proceedings of any special statutory tribunal, or to review the suspension, dismissal, retirement or reduction in rank of any person holding an office or position, State, county or municipal, from which he is removable only for cause and after trial, the Court shall determine disputed questions of fact, as well as of law, and inquire into the facts by depositions taken on notice, or in such other manner as is according to the practice of the Court; *provided*, either party may use the testimony taken before the tribunal, board of officer whose action is being reviewed, which testimony shall be considered by the Court the same as if it had been taken by deposition on notice, and either party may take additional testimony. The Court may reverse or affirm, in whole or in part, such tax or assessment, or in other order or proceeding, finding or determination, suspension,

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dismissal, retirement or reduction in rank reviewed."

The United States Supreme Court in the *Railroad Tax Cases*, 92 U. S., p. 575, said that:

"as we do not know on what evidence the Board acted in regard to these railroads, or whether they did not act on knowledge which they possess themselves, and as all valuation of property is more or less matter of opinion, we see no reason why the opinion of this Court, or of the Circuit Court, should be better or should be substituted for that of the Board, whose opinion the law has declared to be the one to govern in the matter." 10

Those cases were decided in 1876, eight years before our general railroad tax Act of 1884 was adopted. The draftsman of the latter Act may have foreseen the dangers under the above decision, incident to placing in the hands of a single board the power of making assessments and finally passing upon them as a board of review and there was inserted in the Act an express provision for review of the assessments by the Supreme Court and that (*italics ours*), 20

"if it shall be made to appear that any assessment is unlawful, excessive or insufficient, the Court *shall* correct the same by whomsoever such writ shall be prosecuted, and reduce or increase it, as may be just, or refer it back to the board of assessors, who shall correct or re-assess the same, in accordance with the instructions of the Court; in any suit or proceeding, *except on such certiorari*, the certificate and report of the state board of assessors shall be conclusive and shall have the force and effect of a judgment of a court of record having competent jurisdiction, and the proceedings whereon such certificate and report are founded, shall not be inquired into." 30
(Comp. Stats., p. 5270, Sec. 13.)

Here is an express provision of the statute under which the assessments were made, negating any finality of the Board's opinion as to value and 40

providing for a review by the Court for the purpose of reducing the assessment or ordering a reassessment if it shall *appear* to be excessive. Under this provision the Company is entitled to relief by the Court if the assessments appear to be excessive and the only way in which the excessiveness can be made to appear is by the record. The record is controlling.

10 In this case the Supreme Court cites an illustration of so-called "unearned increment" and says that comparison with plants similarly situated as nearly as may be seems to afford a reasonable standard of valuation and not an unfair or inequitable method of measuring true value. Then the Court concludes (*italics ours*):

20 "Considerations of this character *probably* within the personal knowledge of the assessors *may* have combined with the testimony presented to produce this assessment, and we cannot say that the result so produced is reached by an erroneous method or based upon illegal principles, in the absence of proof to that effect, which the case does not supply." (pp. 251, 252.)

Speaking of "increment" Justice Hughes in the *Minnesota Rate Case* said (230 U. S., at p 455):

30 "The increase sought for 'railway value' in these cases is an increment over all outlays of the carrier and over the values of similar land in the vicinity. It is an increment which cannot be referred to any known criterion, but must rest on a mere expression of judgment which finds no proper test or standard in the transactions of the business world. It is an increment which in the last analysis must rest on an estimate of the value of the railroad use as compared with other business uses; it involves an appreciation of the returns from rates (when rates themselves are in dispute) and a sweeping generalization embracing substantially all the activities of the community. For an allowance of this
40 character there is no warrant."

We cannot argue what was "probably" within the personal knowledge of the Board when the record does not show what that was and we are limited by the record, as is also the Board and the Court.

The Board produced no evidence by experts or otherwise to dispute the valuations placed upon the lands by the Company's witnesses and it is doubtful if it could have done so. The Company produced Mr. Floyd S. Corbin, an expert of character and standing on water front values, whose undisputed testimony is that in the last ten or twelve years he has made about 75% of all sales of water front lands in New York Harbor (p. 115). Mr. Gaddis and Mr. Ryer are real estate dealers and experts in Jersey City of standing and ability. Mr. Hansel, the State's own expert, was produced, not by the Board, but by the Company, and his valuations of water front lands do not support the assessments. Whom else could the Board have produced?

On behalf of the assessors, the assessments on the same lands for the years 1906-7-8-9 were offered in evidence, against the objection of the Company (p. 229). The assessors must have considered those assessments true value or they would not have been offered by them.

As an example of the Board's fine disregard for figures, Mr. Corbin, the expert produced by prosecutor, placed a value upon the parcel assessed as Plot 17-A2 of \$3,185,224, which was extraordinarily high, as Mr. Corbin valued all of the land back of his first zone comprising water front proper, without regard, apparently, to the value of other surrounding backland. Mr. Hansel, the State's expert, valued the same parcel at \$3,214,130, and it is remarkable that their values are so nearly alike, if they be said to represent divergent interests. The assessment is \$3,856,956. The Board, although it assesses this plot as 43.872

acres (including the value of land under water in front thereof) says that the land under water contains 20.9 acres, making the total area of the parcel 64.772 acres. Distributing the value according to acreage, it is then claimed on behalf of the Board that Mr. Corbin's value is \$49,172 per acre (which is practically that of Mr. Hansel), while the Board's value is \$59,546 per acre, a trifling difference of only \$10,371 per acre. No regard is paid to the fact that this difference of \$10,371 per acre applied to 64.772 acres makes a difference between value and assessment of \$671,732, or *over half a million dollars*, and a difference in actual taxes of upwards of \$14,000. This excess of over half a million dollars in the assessment is "capitalized judgment" based on nothing ascertainable. Such is the effect of unrestrained "judgment" and no one can say where it will end. Next year the Company may face another increase of half a million dollars on "judgment" and so on until its property is confiscated. That is not lawful taxation.

We will discuss the various parcels in order.

BLOCK 17—PLOT A-2.

This is the large tract lying entirely to the north of Pavonia avenue (see diagram in this brief). It has a frontage on the bulkhead line of the Hudson River of 1037.5 feet, extends back from that line to the west approximately 2,100 feet along the northerly line of Pavonia avenue to Provost street (excepting the small areas occupied by Kelso street and near Provost street, not owned by the company), then north along Provost street to the centre line of Twelfth street and along the latter line east to the bulkhead line. The entire parcel contains 43.872 acres and is assessed by the Board together with the value of land under water in front of it at \$3,856,956 (pp. 16-17) or \$87,913.84 an acre. There is absolutely

no evidence which justifies this enormous valuation. Mr. Floyd S. Corbin, the only expert upon water front values was produced by the prosecutor. For the purpose of placing a proper value upon this property he divides it into three zones, the first starting at the pierhead line and running back from the bulkhead line a distance of 700 feet which he says is the required amount of upland to give the most beneficial use of the water front, based upon his experience with the development of water front property (p. 117). Mr. Corbin has long studied and dealt with water front conditions and values, and his values are worth serious consideration. He says the best uses to which this class of property can be put are those of steamship and warehouse and cites the great Bush Terminal in Brooklyn as the highest type of development of this kind of property (p. 124, ll. 1-12). The testimony contains no dispute upon that point and in truth there can be none. Mr. Hansel, the expert employed by the State, admits it (p. 178).

Mr. Corbin says that 700 feet of upland is the necessary amount of upland for proper development of the water front, based upon the Bush Terminal (p. 117, ll. 31-40), which is undoubtedly the greatest terminal of its kind in the harbor, if not in the East, and places a value upon his first zone extending from the pier-head line 700 feet back of the bulk-head line of \$1,800 per front foot (p. 118, ll. 16-20) which is the only way in which such property can be valued. As part of the property is under water and has no value except in connection with the upland which has small value except in connection with the land under water a uniform price per square foot or per acre cannot be placed upon the entire property and as property is usually bought and sold according to some unit, the front foot unit is the only uniform measure that can be applied to this zone.

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Mr. Corbin has been buying and selling this class of property for the last fifteen years and says that he knows of no sale of property on the Hudson River that would equal \$1,800 per foot, the last sale being for \$1,293 per front foot (p. 121, ll. 10-20) so that he has placed upon this plot the highest value that it can possibly have. In giving the property this high value Mr. Corbin considered that the other land back of his first zone was held by the same owner, thus letting in
 10 the alleged element of continuity. His value for this first zone is \$1,867,500 (p. 118, ll. 16-20).

There must be a line beyond which the extreme value because of frontage on tidewater does not apply (Corbin, p. 123, ll. 1-10). It is absurd to say that because a long strip of land extending back from the water-front three or four miles happens to be held by one owner, the land at the rear is as valuable as the tidewater lands. Value
 20 largely represents the profitable use to which lands may be put, and if they can be most advantageously used by dividing them, obviously the highest value is given by division and not by continuity. Place the lands in question upon the market, and what would happen? Perhaps as a whole they are available for railroad purposes, but the testimony shows no market for them for that purpose. As a matter of fact, every large
 30 United States has a tidewater outlet, and no other railroad could use these lands until it had first built a railroad leading to them. Such a possibility is scarcely conceivable. The surrounding country is honeycombed with railroads, the territory being entirely and well served, while, as for through lines, there are enough, and with the present keen competition and legislative restrictions, it is doubtful if another will be built for years to come, if ever. The railroads entering
 40 Jersey City, viz., Central of New Jersey, Lehigh

Valley, Pennsylvania, Erie, Lackawanna and West Shore already have large terminal yards. It is common knowledge that the large train shed of the Pennsylvania Railroad has been used but little for some time past. The testimony is devoid of anything that suggests any particular value in these lands because of availability for railroad purposes generally and from conditions and circumstances we must conclude that they have no such value. If placed upon the market, what then would be the use that would give the highest value? They are too large for manufacturing purposes, and no such purpose would demand a great stretch of water front, for manufacturers do not own a large fleet of deep draft steamships. The lands have no special value for residential or agricultural purposes. What could they best be used for? Why warehouses of course, just as Mr. Corbin says. But the whole plot is too large for warehouse purposes, and Mr. Corbin's assertion that 700 feet are sufficient is worthy of consideration, based as it is upon the dimensions of the largest terminal in the harbor, the Bush, which he says represents the highest type. Back of that 700 feet the land has no particular value for warehouse and steamship purposes and with the water front devoted to such use the remaining back land would have no greater value than other land similarly situated. Mr. Corbin attempted to place a value upon this back land, but he is not familiar with land values in Jersey City, except along the water front, and his testimony except as to water-front lands is not so reliable as that of the other witnesses.

Mr. Gaddis and Mr. Ryer are real estate dealers in Jersey City and have been for years, both having bought and sold a great deal of property (pp. 24, 25, 75, 76). We know of no men better versed in that line. They made a careful investigation and study of the purchases and sales

of lands adjoining those in question, and based their testimony on that study and investigation. In addition they examined the assessments upon adjoining property. Their schedules are exhaustive. These schedules show facts and not principles or judgment and furnish the best basis for valuation.

- 10 Their value of the land back of the 700-foot strip needed to give the most beneficial use of the water front is based upon actual sales of the same kind of land as that in question, and adjoining it in the rear. This takes in the Hamilton Park and Pavonia avenue sections which includes the best and highest priced land in that portion of the city. They found the actual purchases and sales to show a value of \$20,268 per acre, while the assessed value is \$20,704 per acre (pp. 33-34). It is more than coincidence that the value as shown by sales and as shown by assessments is
- 20 almost identical. While the assessed value may have been based on the consideration in the deeds, that of Gaddis and Ryer is based on actual knowledge of the sales as well as the deeds. They give a value of \$5,000 per lot to that portion of the land fronting on Pavonia avenue, considering street frontage as an element of value (p. 35, ll. 9-18), and giving this portion of the land the highest value that can be given to it because of such frontage. The remaining backland they
- 30 value at \$18,000 per acre (p. 35). This gives a total value for the entire parcel of 43.872 acres constituting Block 17-A2 of \$1,079,294 (p. 35, ll. 9-18) which added to Mr. Corbin's value of the water front lands of \$1,867,500 gives a grand total of \$2,946,794. But Gaddis and Ryer include in their total value all land back of the bulkhead line (p. 35, ll. 19-20), while Mr. Corbin includes in his value of the water front lands a parcel
- 40 of back land running 700 feet back of the bulkhead line, so that a double value has been placed

upon this 700 foot strip. The land is 1037.5 feet wide and a 700 foot strip of that width would make 726,250 square feet or (43,560 square feet=1 acre), 16½ acres. The value of this land should be deducted from the valuation by Gaddis and Ryer and allowed to remain in that of Corbin. Gaddis and Ryer value the lands at \$5,000 per lot on Pavonia avenue. The 700 foot strip has a frontage of that width on Pavonia avenue which makes twenty-eight lots and a value of \$140,000. The area comprised in these twenty-eight lots is 70,000 square feet, which deducted from the entire area of 726,250 square feet in the 700 foot strip leaves 656,250 square feet or fifteen acres, which valued at \$18,000 per acre is \$270,000. The total amount therefore to be deducted from the valuation by Gaddis and Ryer is \$410,000, leaving their value \$669,294 for land back of Corbin's 700 foot strip. This value for back land \$669,294, added to Corbin's value of water front land, \$1,867,500 gives a total value of \$2,536,794. The assessment is \$3,856,956—a gross over-valuation of over *one and a quarter million of dollars*. This is staggering. Even if a value of \$20,000 per acre, the full value of adjoining lands of the highest class, was given to the entire 43.872 acres, making \$877,440 and Corbin's value of \$1,867,500 if applied to land under water alone at \$1,800 per front foot, the result would be only \$2,744,940. We suggest this last, not as a correct principle but to show the absurdity of the assessment if every alleged scrap of value was given to the lands.

This parcel for the years 1906-7-8-9 was originally assessed at \$2,914,740. That assessment came before the Supreme Court on certiorari, and a reassessment was ordered, the court finding that such assessment was in excess of the market value of the land. The land was reassessed by the Board at \$2,850,616, and the re-assessment came

before the Supreme Court and this Court, and was sustained.

After such mature deliberation, it is to be presumed that the market value had, so far as the Board was concerned, been ascertained, and the *testimony shows no advance in values in the interval*, but, on the contrary, shows no such advance (p. 76, ll. 33-36) yet there is an increase in assessment of over *one million dollars*. It does seem as if the Board was trying to find out how far it can go in overvaluing railroad property.

The Supreme Court in its opinion in this case says that

"The inquiry need not necessarily be what is the fair market value of the lands for this particular railroad in use, and as used, but what is the value of the lands for a railroad use of a kind similar to that in use?"

"The former inquiry may include franchise and consequently be held illegal; the latter inquiry need not necessarily involve that factor; and hence the value of lands similarly situated and similarly used may present not a conclusive answer to the inquiry, but certainly if we are searching for available comparisons as data to establish value, we find in it one likely to work out, as nearly as can be an equitable and correct result, rather than a method which splits up an entire plant, and by valuing the disjointed sections seeks an aggregate that may represent value of the whole. Availability of the whole for a railroad use devoid of the element of franchise, would seem to afford the criterion of value." (pp. 250, 251.)

The Court reviewed the assessments on the record that was before it, and we submit that record contained no evidence that this tract, as a whole, devoid of the element of franchise, had any such value as was placed upon it by the Board. The experts divided the land into zones, for the purpose of getting a value based upon best use, and no competent diversity of opinion on that subject

appears in the record. Nor is the testimony of these experts as to value disputed.

Which is the *market value*, that stated by Corbin, Ryer and Gaddis of \$2,536,794 founded on fact, experience and knowledge, or that by the Board founded on no figures, experience or knowledge that can be ascertained of \$3,856,956.

This is not a question of fact, for we submit there are no facts before the Court which sustain the assessments.

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BLOCK 16-B6.

Block 16-B6 lies entirely to the south of Pavonia avenue. (See diagram in brief.) It extends from the bulkhead line on the east almost to Provost street. The width on the bulkhead line is about 200 feet and the Pavonia avenue frontage about 2,000 feet. Measured from Pavonia avenue, the westerly half has a depth of about 475 feet and the easterly half about 200 feet. Its area is 16.039 acres. Considered as a separate parcel, this plot has no water front, its easterly boundary being the bulkhead line and the land under water in front being assessed separately as Block 16-B7 and "land at foot of Pavonia avenue." Without the water front, and as it is so assessed, this parcel can be considered in no other way, it has no greater value than adjoining lands. Giving the parcel water front value by considering that the land under water in front is owned by the same party, Corbin values Block 16-B6 at \$914,854. (p. 120, ll. 10-13.) Gaddis and Ryer, taking it as a single parcel as assessed, without the lands \$679,376. (p. 31, ll. 32-40.) Their value is ascertained by giving the portion fronting on the street a value of \$5,000 per lot of 25 x 100 feet, and the remaining back land a value of \$24,000 per acre (p. 32, ll. 12-26) based on the value of adjoining lands. If thrown into the market in a single, separate plot as assessed this parcel would

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have no greater value than that stated by Gaddis and Ryer, but if marketed with the water front as it should be assessed, but is not, it would have the value stated by Corbin. This plot is assessed at \$1,098,480, an over-valuation of over \$180,000 even considering the water front value which cannot be taken into account under the Board's method of assessment. Corbin's figures apply if the parcel is assessed with the reflected value of

10 the lands under water in front which would deprive the latter of any value, that value being entirely included in the back-land. If this parcel Block 16-B6 was properly assessed with the land under water in front of it, being Block 16-B7 and "land at foot of Pavonia avenue," roughly speaking, the result would be as follows: there are 270 lineal feet of water front in all three parcels which at Corbin's high figure of \$1,800 per front foot gives a value of \$486,000 for the water front

20 which includes a 700 foot strip of back land, next there would be 52 lots with street frontage, being the entire frontage of 2,000 feet less the 700 foot strip, which at \$5,000 per lot would be \$260,000. The area in the 700 foot strip would be 700 feet, the depth by 200 feet, the width or 140,000 square feet and the area in the 52 lots (25x100) would be 130,000 square feet. These two areas aggregate 270,000 square feet or 6.198 acres. Deduct these 6.198 acres included in the 700 foot

30 strip and the 52 lots from the entire area of 16.039 acres, and there is left 9.841 acres of interior land, which at \$24,000 per acre, the full value of adjoining lands, would have a value of \$236,184. Therefore, the entire value of Block 16-B6 with the value of land under water would be: 700 foot strip \$486,000, 52 lots of street frontage \$260,000, interior land \$236,184; total, \$982,184. Allow an additional value of \$8,000 for good measure and the total would be \$990,000. This eliminates

40 any separate value in Block 16-B7 and the "land

at foot of Pavonia avenue," but irrespective of the way in which these three parcels are divided for assessment, it is all the value that the three parcels possess.

As assessed, the value of this parcel is only \$679,376 as against an assessment of \$1,098,480. If assessed with Block 16-B7 and "land at foot of Pavonia avenue," the value of all would be not more than \$990,000, but in no case would the market value reach the assessment. The assessment should be reduced to the market value. 10

LAND AT FOOT OF PAVONIA AVENUE.

This parcel is entirely under water and extends from the bulkhead line to the pier-head line. (See diagram.) It is 130 feet in width. It is doubtful whether it has any market value whatever as a separate plot for no one would think of buying land under water without any fast land. Mr. Corbin says that without fast land no commercial use can be made of it (p. 124, ll. 37-40, p. 125, ll. 1-2). No market value for such a parcel was proved. An assessment against it as a separate parcel is impossible, and if it has any value it can be only in connection with the fast land to the west of it. While it may be true a public highway leads to it, that fact is of no importance, for that does not prove any commercial value. It is general market conditions with which we must deal and generally such land is not marketable, at least not so far as the testimony shows. There is no proof that prosecutor could market it as a separate parcel. 20 30

If there is any value in it separate from the fast land, but considering that the back land is under the same ownership, which is a paradox, Corbin puts that value at \$96,502 (p. 119, ll. 5-11). The fact is it is almost impossible to give this plot a value separate from the fast land. What has been 40

said above relative to Block 16-B6 applies to this parcel in that respect. The assessment is \$116,196, but there is no evidence to sustain any such value. If this parcel can be assessed separately from the fast land (but we submit it cannot), its value can be not more than \$96,502, to which figure the assessment should be reduced.

BLOCK 16—B-7.

10 This is land entirely under water in front of Block 16—B-6. It extends from the bulkhead line to the pier-head line and is 140 feet in width on the former line. Separately considered, it has no fast land attached to it. A market value cannot be placed upon this plot, for it has almost no commercial value as a separate parcel hemmed in by other lands. Taken alone it might possibly be used as a lounging place for vessels, but the evidence discloses no market value for that purpose.

20 Its market value lies in its connection with the fast land behind it in Block 16—B-6, and much that has been said relative to that parcel and "land at foot of Pavonia Avenue" applies to it. This plot has no approach, considered as a separate parcel, except by water. In placing a value upon the parcel, the Board must have considered that the back land was in the same ownership which negatives any separate market value. It is just as impossible to give this plot a market value

30 separate from the fast land as it is to find a market for it separate from the fast land. If they must be marketed together to get the best price they must be valued together.

40 Mr. Corbin, considering a single ownership of this parcel and the fast land behind it, gives it a value of \$115,342 (p. 119, ll. 18-22), but this is a value in connection with and as a part of the back land and not as a separate parcel as assessed (p. 119, ll. 23-30). We have explained above how its value should be included in Block 16—B-6. The

assessment, taking the land separately from the fast land, is \$138,878, but there is no evidence to support this value. If the court should determine that this parcel may be assessed separately from the fast land the assessment should be reduced to \$115,342.

BLOCK 182, PLOT C.

This parcel is a small triangular piece of land forming the northeasterly corner of the block (see diagram). It has a frontage of 75 feet on one street line and 70 feet on the other, which, exclusive of the land in the street, makes an area of 2,625 square feet. The schedule of sales produced by Gaddis and Ryer and offered in evidence show a sale on March 23, 1910, of a lot of 10,400 square feet in this block with a building valued at \$7,500 (the value of the building not being disputed) for \$18,000, which makes the land value \$10,500 or \$1.01 per square foot. These schedules also show another sale at about 66 cents per square foot (p. 198). The entire block of 200 by 400 feet is assessed at \$75,200 (see Gaddis and Ryer map) or 94 cents per square foot. Gaddis and Ryer state the value of this parcel as \$2,500 (p. 36, ll. 18-20) or about 96 cents per square foot. If the area of the plot proper alone was considered that value would be correct, but the portion of the streets lying in front of it have been vacated and the company occupies such street area. The area assessed by the Board is .176 acre or 7,667 square feet, which includes the street area. At 96 cents per square foot the value of the entire parcel as assessed is \$7,360.32 and at \$1.01 per square foot, the highest price shown by sale, the value would be \$7,743.67. The assessment is \$13,812 (p. 18) which is excessive. It should be reduced to not more than \$7,743.67.

BLOCK 183—PLOT A.

The main stem of the Company's railroad runs through block 183, but the tracks on either side of the main stem occupy the entire block. The area of the block, exclusive of main stem, is 1.118 acres. Gaddis and Ryer from the sales found the value of land north of Pavonia Avenue, in which territory the land in question lies, to be \$20,258 per acre (p. 34, ll. 1-15), and the assessed value to be \$20,704 per acre (p. 34, ll. 19-25), the two values being substantially the same. On those valuations they place a value of \$28,000 on this parcel in block 183 (schedule, p. 226), which is ample. The sales shown in the schedules in blocks 182 and 184 (pp. 199-200) lying directly to the south and north of 183, although few were for the average rate of 70 cents per square foot or \$30,492 per acre, which rate applied to the 1.118 acres in this plot, would be \$34,090. Block 183 has no greater water front value and is no more available for railroad purposes generally than blocks 182 and 184. It is exactly the same kind of land and similarly situated as blocks 182 and 184. The assessment is \$87,740. This value can be based upon no market value shown by the evidence. The real value is not more than \$28,000 as stated by Gaddis and Ryer, and certainly not more than that shown by actual sales, viz: \$34,090, although the average price of all sales of the same kind of land is a better indication of market value than sales in one or two blocks. The figures stated by Gaddis and Ryer are a fair valuation. This assessment should be reduced from \$87,740 to \$28,000.

BLOCK 218.

This assessment is upon land lying to the south of the main stem and between it and another parcel occupied by a warehouse, the latter fronting on Tenth Street. It has no street frontage except

a very narrow one on Henderson and Grove Streets, being a long narrow strip of land bounded on the north by main stem and on the south by the warehouse plot. Its chief value lies in its connection with the main stem. This use under the franchise cannot be made an element of the assessment. (*Long Dock Co. v. State Board of Assessors*, 78 N. J. L., p. 44.) This parcel has no water front value and no general availability for railroad purposes in the market for it is already devoted to such use. No railroad would have any use for it, except that of the Company by whom it is now owned. Gaddis and Ryer value this parcel, which contains .624 acre, at \$22,392. (Schedule, p. 226.) Block 219 lies directly to the north and block 217 directly to the south of block 218. The character of the land in all three blocks is the same. The schedules show three sales in block 217, and nine in block 219 (pp. 200-201). The average price paid per square foot in block 217 was sixty-seven cents or \$29,185 per acre, and the average price in block 219 was seventy-five cents or \$32,670 per acre. The average price in the two blocks was \$30,928 per acre. Apply this rate to .624 acre in question and we have \$19,299.07 as the value shown by sales alone. This is about the value stated by Gaddis and Ryer. In block 219 by condemnation the price of some of the land was only thirty-one cents per square foot or \$13,503.60 per acre (Snaper, p. 201). No one can say that a railroad ever paid less than the land was worth by condemnation, but on the other hand, it is usually more. In the same block there were other high peak sales for \$1.15 and \$1.20 per foot. This shows that average price of *all* land similarly situated is more nearly the market value than that paid for lands in any single block. It was upon this fair average that Gaddis and Ryer based their values. The value of the parcel in block 218 as stated by Gaddis and Ryer is \$22,-

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392 as against an assessment of \$40,810, or almost double the real value. Another case of over valuation. This assessment should be reduced from \$40,810 to \$22,392.

BLOCK 323.

10 The assessment is upon a strip of land lying to the south of the main stem and along the northerly line of Tenth Street the length of the block. It has an area of .413 acre. This plot has no water front value being separated from tide water by several streets and connected with the tide water lands only by the railroad tracks. This connection is a use under franchise that cannot be made an element of assessment. The land has no particular value because of availability for railroad purposes generally for the reasons above stated. Gaddis and Ryer state the value of this parcel as \$12,500 based on the value of surrounding lands of the same kind (p. 221). The assessment is \$21,588 (p. 18) or almost double the real value. There is no evidence to sustain the assessment. It should be reduced from \$21,588 to \$12,500.

BLOCK 360.

30 The land assessed corresponds to the strip of land in block 323 last above referred to. It is of the same dimensions and area, viz., .413 acre. It has no water front value nor has it any greater value than surrounding lands because of availability for railroad purposes generally, being practically in the same situation in block 360 as is the land assessed in block 323. Streets separate it from tide water. Gaddis and Ryer state the value as \$10,840 (p. 89, ll. 13-16, p. 221), and this value is not contradicted by any competent evidence, or in fact any evidence. This assessment is \$21,588 (p. 18) or slightly less than fifty per cent. 40 in excess of market value. The assessment should be reduced from \$21,588 to \$10,840.

BLOCK 395.

There are two strips of land assessed in this block. One strip is between the main stems of the Long Dock Railroad and the Pen Horn Creek Railroad which parallel each other. This parcel is hemmed in by the two railroads. Its area is .362 acre. It has no water front value and no special market value because of availability. Gaddis and Ryer value it at \$3,801 (p. 39, ll. 18-23; p. 221), and the evidence does not contradict such value. The assessment is \$10,426 (p. 18) almost three times the real value. 10

The other parcel in this block is a strip of land adjoining main stem on the south and lying along the southerly side of the block and the northerly side of Tenth Street. It is a narrow parallelogram with an area of .470 acre. A glance at the maps suffices to show that it has no water front value, nor has it any particular value because of general availability for railroad purposes. It has no greater market value than has the surrounding land. No special value in excess of that of adjacent lands was proved. Gaddis and Ryer state its market value to be \$10,838 (p. 39, ll. 24-26). The assessment is \$13,536 (p. 18). 20

The assessment upon the first parcel should be reduced from \$10,426 to \$3,801.

The assessment upon the second parcel should be reduced from \$13,536 to \$10,838. 30

BLOCK 421.

Two parcels are assessed in this block, the first situated much the same as the lands in block 395 above referred to. The first is between the main stems of the two railroads and the second adjoining the main stem on the south. Both are small wedges of land having no water front value as they are remote from tide water and separated from it by streets. They have no additional mar- 40

ket value because of availability. They are filled meadow land. The first parcel has an area of .090 acre and the second 1.29 acres. Gaddis and Ryer state the value of the first parcel as \$900 and the second parcel, \$17,980 (p. 222). The assessments are \$2,592 and \$37,152 respectively (pp. 18-19) and are grossly excessive. They should be reduced to true market value as shown by the testimony of Gaddis and Ryer.

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BLOCK 547.

This block forms part of the easterly slope of Bergen Hill and is the block where the easterly portal of the old Bergen Tunnel is situated. No tide water value, for it is too remote from the water front. No particular value because of availability generally for railroad purposes from location, at least not above that of surrounding lands. Three parcels in this block are assessed. Gaddis and Ryer say that the value of the land is \$3,000 per acre based on the value of surrounding land of much better character than that in question (p. 42, ll. 20-40).

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The first parcel contains 1.090 acres (p. 19) and Gaddis and Ryer state its value at \$5,450 (p. 222).

The second parcel contains .250 acre and they state the value as \$750 (p. 222).

The third parcel contains .310 acre and they state the value as \$930 (p. 222).

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The assessments are \$17,004, \$3,900 and \$4,836 respectively (p. 19) or over three times real value, and cannot be sustained. They should be reduced to actual value.

BLOCK 961.

This block is on the westerly side of the Bergen hill and on the extreme westerly end of the city. It is on the border of the meadows about a mile north of Newark Avenue and the Pennsylvania

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Railroad. The block adjoins the tracks of the Northern Railroad. It is in a very poor section of the city, shy of even a pretense of development.

Three parcels in this block are assessed. Gaddis and Ryer value the parcels according to the value of surrounding lands.

The first of these, Plot 1, has a value of \$11,971 (p. 222).

The second, Plot 3, has a value of \$18,945 (p. 222).

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The third, Plot 5b, has a value of \$7,630 (p. 222).

They are assessed at \$28,015, \$45,468 and \$15,434 (p. 18) respectively, or more than twice their value.

The assessments should be reduced to actual value.

BLOCK 1200.

This is filled land in the Hackensack meadows. It has no water front value and no particular availability for railroad purposes greater than the surrounding land. (See diagram in this brief, and map.) Three parcels are assessed, Plot 12, containing 14.180 acres; Plot 57-A, containing 32.195 acres, and Plot 59-A, containing 32.180 acres. Gaddis and Ryer value Plot 12 at \$21,270; Plot 57-A at \$32,195, and Plot 59-A at \$32,180. (Schedule, p. 223.) Plot 12 is assessed at \$34,032; Plot 57-A is assessed at \$57,952, and Plot 59-A is assessed at \$57,925 (p. 19), a gross overvaluation which should be reduced.

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III.

The statutes and laws under which the assessments were made were erroneously construed by the Supreme Court so that they violate Section 1 of Amendment XIV. to the Constitution of the United States.

10 The Supreme Court sustained the Court's refusal to divulge the principles upon which, and the manner in which, the assessments were made, and sustained the refusal of one of the assessors to testify upon the subject. This, we submit, is in violation of the section of the federal constitution which prevents the taking of property without due process of law and is an erroneous construction of the general railroad tax law.

20 The act of 1884, as revised and amended in 1888, expressly provides for a review of the assessments before the Board and for the calling of witnesses on such review. This review was provided for the purpose of giving the railroad company an opportunity to question the validity and amount of the assessment before the Board, and not merely to produce its own evidence. If otherwise, the law is unconstitutional, for at some time *before the assessments are finally made*, the company has the constitutional right to question their validity and amount. 30 The railroad company is deprived of its right if it is denied knowledge prior to the final making of the assessments of the principles applied and manner in which the assessments were made.

In Cooley's work on Taxation, it is stated that (*italics ours*):

40 "Where a law imposes a tax or assessment upon property according to its value, notice of every step in the tax proceedings is not necessary; the owner is not deprived of property without due process of law *if he has*

an opportunity to question the validity or the amount of such tax or assessment either before that amount is finally determined or in subsequent proceedings for its collection."
(Third Edition, Vol. I, p. 60.)

Mr. Justice Day, speaking for the United States Supreme Court, in the case of *Central of Georgia Ry. v. Wright*, 207 U. S., p. 127, said:

"Former adjudications in this Court have settled the law to be that the assessment of a tax is action judicial in its nature, requiring for the legal exertion of the power such opportunity to appear and to be heard as the circumstances of the case require. *Davidson v. New Orleans*, 96 U. S., 97; *Weyerhauser v. Minnesota*, 176 U. S., 550; *Hager v. Reclamation District*, 111 U. S., 701."

In that case it was held that the statute of Georgia deprived the company of its property without due process of law, contrary to the provision of the federal constitution, because it did not permit the taxpayer to be heard on the valuation of its property except as to fraud and corruption.

It was held in the case of *Londoner v. City and County of Denver*, 210 U. S., 373, that:

"There are few constitutional restrictions on the power of the States to assess, apportion and collect taxes, and in the enforcement of such restrictions this court has regard to substance and not to form, but where the legislature commits the determination of the tax to a subordinate body, due process of law requires that the taxpayer be afforded a hearing of which he must have notice, and this requirement is not satisfied by the mere right to file objections; and where, as in Colorado, the taxpayer has no right to object to an assessment in court, due process of law, as guaranteed by the Fourteenth Amendment requires that he have the opportunity to support his objections by argument and proof at some time and place."

We do not complain of the act, for that provides for a hearing and review in conformity with the federal constitution, but rather of the fact that the construction placed upon the law by the Court has denied the Company the substance of review and left it with a review *eo nomine*, in violation of its constitutional right.

10 The Supreme Court is not a part of the machinery for *making* the assessment, but exercises only a judicial function of review *upon the record* before the Board. The assessments are made before they reach the Court and any certificate made by the Board upon certiorari is not a part of the record before the Board. Such a certificate has no standing, for it is not, and cannot be examined into or disputed. *After* the Board has exercised its judicial function of *reviewing* the assessment, its members cannot be examined as to the method in which the assessments were made. *C. B. & Q. Ry. Co. vs. Babcock*, 204 U. S., 20 585. Nor can it make a record after the assessments are made.

If the Company is to have any review of the assessments, which includes the action of the *assessors* (not of the Board as an appellate board) such review must be before the Board. The principles applied and methods used are applied and used by the *assessors* and not by the Board of review, and the Board of review has no right to 30 allow these methods and principles to be concealed from examination before the assessments are finally made and then bring them forth by certificate, for if it has, then there has been no review of the principles and methods.

The Company is entitled to a review, upon facts and principle known and applied by the assessors, either before the Board or before the Court, and upon such review it is entitled to examine into the facts and principles for the purpose of pointing out errors and asking for cor- 40

rection. It cannot do this before the Court because of its inability to call the members of the Board as witnesses after they have exercised their judicial function of passing upon the assessments in review. Therefore the review and examination must be before the Board which, in this case, was denied. Without such review the Company's constitutional right has been invaded.

The refusal of the Board to permit the assessments to be reviewed on fact and principle before it, and the affirmance of the assessments without such review, deprives the Company of its property without due process of law. 10

The denial of a fair review of the assessments before the Board also violates that clause of the constitution which secures equal protection of the laws.

Property may be classified for taxation and different machinery employed to assess and tax the various classes, but that does not mean that a substantial right of review can be given one class and denied another. 20

The complaint here is not that in the cases of property locally assessed the tax payer has two appeals, one to the County Board and one to the State Board of Equalization, whereas in the cases of railroad property there is a single appeal to the State Board of Assessors, but that the owners of property locally assessed are given a substantial review before at least one reviewing board with an opportunity to call the assessors and demonstrate the wrongfulness of the assessments and to require the assessors to substantiate the assessments if they can, while in the present case, the company was denied a single substantial review before any board. One appeal may be enough to satisfy the constitutional requirement, provided it is a substantial review with an opportunity to point out errors and ask for correction, which can be had only if the company is furnished with the facts 30 40

and principles upon which the assessments are based.

10 A substantial right of review affecting the ultimate value of the property for assessment cannot be given to one class and denied to another, without depriving the latter of the equal protection of the laws. The machinery for taxation of different classes of property may be different, but the substantial rights of owners of each class to obtain a fair value of property by review must be equal.

This complaint also is not against the act which we claim permits a substantial review, but against judicial construction by which the substance is taken from the review.

20 The Company is also deprived of the equal protection of the laws in having a lower value placed upon its lands by law for the purpose of raising revenue than that which is placed upon the same lands for the purpose of assessment, while every other taxpayer is permitted to get such a return from his property as will be sufficient to pay the taxes.

30 Under the decision of the United States Supreme Court in the Minnesota Rate Cases (*supra*) the value of terminal lands for the purpose of fixing rates is the fair value of surrounding lands, yet in this case the value for assessment is in excess of that of surrounding lands. This practically amounts to confiscation, for the company is permitted by law to get a revenue on one value and compelled to pay taxes on a higher value. There must be harmony between the value for rate making, which produces the revenue from which the taxes are paid, and the value for assessment.

Conclusion.

We submit that these assessments were made upon erroneous principles, that they are in excess of the true value of the lands, as appears from the undisputed testimony, that they are grossly arbitrary in character, and that they should be reduced to the true value of the lands as shown by the testimony.

Dated, May 25, 1914.

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Of Counsel.

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FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME
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NEW JERSEY
Court of Errors and Appeals

LONG DOCK COMPANY,
Prosecutor-Appellant,

v.

CHARLES E. HENDRICKSON, JR., ET
AL., STATE BOARD OF ASSESSORS
AND EDWARD I. EDWARDS, COMP-
TROLLER OF THE TREASURY,
Defendants-Respondents.

} On Appeal.

Brief for Defendants-Respondents.

I.

STATEMENT OF THE CASE.

The appeal in this case is from a judgment of the Supreme Court affirming certain assessments for the year nineteen hundred and eleven made by the State Board of Assessors on lands of the Long Dock Company in Jersey City. These assessments are upon property assessed by the Board under subdivision 2 of section 3 of "An act to revise and amend 'An act for the taxation of railroad and canal property,' approved

March 27th, 1888" (*P. L. 1888, p. 269; Comp. Stat., p. 5260*). The property comprised in the assessments is commonly known as second-class railroad property. The schedule of the assessments appears in the printed case in pages 14, *et seq.* The assessments were made by the Board in accordance with the provisions of the act above mentioned and notice was given to the company (Case, page 13); the company filed a written complaint against the assessments (Case, pages 13, 20, 21), and thereupon testimony was taken, and the assessments were reviewed by the Board (Case, page 13; Testimony, pages 24, *et seq.*). Thereafter the Board certified its final determination upon the assessments (Case, page 231), changing the assessment on franchise and main stem, but making no change in any of the assessments on second-class property. The appellant reviewed the action of the Board concerning some of these last-mentioned assessments by a writ of certiorari (Case, pages 1 to 6). After hearing the matter, the Supreme Court affirmed the assessments (Opinion, pages 245 to 251; *89 Atl. Rep., page 1031*).

2.

APPELLANT'S GROUNDS OF APPEAL.

The grounds of appeal urged by appellant resolve themselves into three general reasons—

First. That the principles upon which the assessments were made were erroneous.

Second. That the assessments and taxes levied thereon are excessive.

Third. That the construction placed upon the act under which the assessments were made by the Supreme Court deprives the appellant of its property without due process of law and deprives the appellant of equal protection of the laws.

BRIEF OF THE ARGUMENT.**1. The Assessments were Based Upon Legal Principles.**

(a) Appellant objects to the methods pursued by the Board in dividing this land into parcels for assessment. The first objection on this ground is to the action of the Board in assessing the company's lands north of Pavonia Avenue as 43.872 acres of upland, "including value of land under water in front thereof," while the lands south of Pavonia Avenue were divided at the bulkhead line, the upland being assessed as lot B-6, block 16, and the land under water as lot B-7, block 16, and "land at foot of Pavonia Avenue."

The case of *Jersey City v. State Board of Assessors*, 73 N. J. Law, page 164, is cited by the appellant. This case lays down the rule that in cases where the company has 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 distinct description. It should not be altogether omitted from the assessment and treated merely as increasing the value of the land back of the line. If, on the other hand, the defendants have only a right in the lands 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."

There is no proof but that the Board followed the rule announced in this case, there being no proof but that the appellant has acquired title to the lands under water which were separately assessed. If, however, these lands were assessed at their true value, the appellant is not harmed by the way in which the lands were divided for assessment. Appellant contends, however,

that the board counted the value of the adjacency to tidewater twice because of this method of assessment. This does not appear by the return or the evidence. It is obvious, as stated by appellant, that the tidewater value actually attaches both to the back land and the land under water. It does not follow, however, that because the Board separately assessed the back land and the land under water that they did not regard this fact. No reason is shown why this value could not be accurately fixed by separate assessments.

The Board have certified that the final result reached is the true and market value of the entire tract, and this opinion of the Board, being on a question of fact, has been sustained by the Supreme Court. The Supreme Court, in its opinion, called attention to the fact that no authority was cited showing this method of assessment to be wrong in principle, and, notwithstanding that, no authority is cited here by appellant. If, however, a mistake had been made in this respect, apparently, the only result of such mistake would be to cause the reference of the assessment back to the State Board of Assessors for amendment of description as was done in the case above cited.

(b) The appellant contends that the Board ascribed to the lands assessed a value on account of their connection and use which was far in excess of their true or market value. This contention seems to present a question of fact as to whether the lands were actually assessed in excess of their true or market value. It may also be said to involve the contention that a wrong principle was applied in the assessment. The appellant argues that because the assessment, as made, appears to be in excess of the value fixed by its witnesses upon surrounding lands (meaning by surrounding lands, building lots in the vicinity), and because the assessors placed a higher value upon the water front than Mr. Corbin did (Mr. Corbin being a witness produced on

behalf of appellant), that, therefore, the Board must necessarily have applied an erroneous principle in reaching these figures. This conclusion is unwarranted.

Appellant relies in part for support to this reason upon certain remarks made by one member of the Board. These remarks may have referred merely to the assessment on main stem, for this, as well as the assessment of second class property, was before the Board at that time. But, regardless of the subject matter to which these remarks referred, they cannot be used as showing the principle applied by the Board to the assessment of these lands. They are the remarks of but one member of the Board and not the deliverance of the Board itself. The only way in which the principle applied by the Board in determining the value of this property could have been placed before the Supreme Court was by the return made to the writ. As pointed out in the opinion of the Supreme Court, the prosecutor has not seen fit to adopt this method. It appears from the return that the Board fixed the true value of the lands, and it nowhere appears that a wrong principle was applied. It will, therefore, be assumed that the Board used correct principles.

It may not be amiss to refer in this connection to a few of the authorities applicable to the valuation of property for taxation—some of them arising under this very law, and all of them suggestive of elements present in the proper determination of the value of the Long Dock Company's lands in controversy, and found in the testimony set forth in the record.

In the case of *Central Railroad Co. v. State Board of Assessors*, 49 N. J. L. 1, the Supreme Court, speaking by Chief Justice Beasley, said that the Board might consider the cost of acquisition and cost of reproduction as important elements in determining market value.

In the case of *State v. Flavell*, 24 N. J. L. 370, it was held that in assessments of taxes upon lands of the society for establishing useful manufactures near their water power, and not exempt from taxation by their

charter, it was correct in estimating their value to take into consideration the increased value of such lands by reason of their proximity to the water power.

In the case of *Trask v. Carragan*, 37 N. J. L. 264, adjacency to tidal waters on a navigable stream, so far as location gives an increased market value to lands, was recognized as an element that may be taken into consideration in valuation for the purpose of taxation, and in the same case the right to dock out in front of the property was recognized as increasing the value.

In *Hurd v. Cook*, 60 N. J. L. 70, the Supreme Court held that, while the income of property is of itself no criterion for the purpose of taxation, yet the productive power of the property might be taken into consideration as an element in the ascertainment of true value where the property is so situated that the income reflects upon the true value.

Again in *New York, Lake Erie and Western R. R. Co. v. Yard*, 43 N. J. L. 632, it was held that in estimating the value of lands lying upon tidewater for the purpose of taxation, adjacency to tidewater is a circumstance which should enter into their taxable valuation, and insofar as the market value of the land is enhanced by reason of its frontage on the water, and of the privileges arising from its location, it should be estimated at such enhanced valuation for the purpose of taxation.

In *New York R. R. v. Hughes*, 46 N. J. L. 67, the privilege of securing riparian rights was regarded as enhancing the valuation of the lands, to the ownership of which the privilege attaches, for the purpose of taxation.

In the case of *State Board of Assessors v. Central R. R. Co.*, 19 Vr. 278, this court, by Justice Runyon, said in speaking of railroad property that such property is so circumstanced "by the peculiar use to which it is put as to make it on that account a class by itself." See also *Central R. R. Co. v. State Board of Assessors*, 46 Vr. 771, 786; *People v. Barker*, 48 N. Y. 70; *State Rail-*

road Tax Cases, 92 U. S. 575; *Kentucky Tax Cases*, 115 U. S. 321.

In the case of *Curry v. Waverly & N. Y. Bay R. R. Co.*, 52 N. J. L. 381, this court held that the situation and surroundings of land sought for railroad purposes might impart to such land special value for such purposes generally, and that this special value should be considered in condemnation proceedings for the acquisition of such lands.

As pointed out in the opinion of the Supreme Court in the case at bar, the assessment of these lands at their market value for railroad purposes does not lead to the inclusion in such assessment of any value attaching to the lands because of their use under a franchise. This distinction was clearly made by the Supreme Court in the case of *Long Dock Company v. State Board of Assessors*, 78 N. J. L. 44, in which it was pointed out by the court that nothing contained in that opinion should be taken as suggesting that the availability of land for railroad purposes generally might not be shown and taken into account in the ascertainment of its market value. In the case of *Long Dock Company v. State Board of Assessors*, 53 Vr. 22, reference is again made to this distinction. The judgments in both of these cases were affirmed by this court on the opinions below.

It may, therefore, be regarded as settled that it is the duty of the Board to consider the value of these premises for railroad purposes generally.

The Supreme Court, in its opinion in the case at bar, stated the rule in the following language:

“The inquiry need not necessarily be what is the fair market value of this land for this particular railroad use and as used, but what is the value of the land for a railroad use of a kind similar to that in use.”

There is no denying the fact that some lands are more available for railroad use or for uses as railroad terminals than others, and that such lands have a peculiar value because of such availability.

The location of the lands in question on the west side of the Hudson River, opposite the City of New York, between the Pennsylvania Terminal on the south and the Delaware, Lackawanna and Western Terminal on the north, as appears from the maps produced in evidence by the witnesses for clarifying their testimony, is such as to give them a peculiar value for railroad purposes, and when this is considered in connection with the size and shape of the tract their unusual adaptability for railroad uses cannot be doubted. The value of small building lots in the vicinity is by no means the measure of the value of these lands.

The weakness of the testimony offered on behalf of the appellant, as will be later pointed out in detail, is that not one of its witnesses considered this element of value. They gave their opinion of the value of the land if cut up into building lots or if sold for factory sites, and Mr. Corbin, the water-front expert, gave his opinion as to the value of the water front if divided into zones and used for piers, storage warehouses and factory sites; not one of them, however, considered the value of these lands for railroad purposes; all of them seemed to ignore the value attaching to the lands because of their large extent, uninterrupted by streets and because of their location, where the reproduction of a tract of like size is now practically impossible; so that if all of their testimony were taken as absolutely true and accurate, it fails to show any error in the assessment made, because it admittedly omits what may be the most important elements of value.

The *Minnesota Rate Cases* (*Simpson v. Shepard*, 230 U. S. 352), cited by appellant, are not in point.

A distinction was suggested in the case of *West Shore Railroad Company v. State Board of Assessors*, 53 Vr. 40, 41, between valuation for the purpose of rate making and valuation for the purpose of taxation. Regardless of this distinction, however, the facts in these cases are substantially different from those in the case at bar. The Railroad Companies, in these cases,

in estimating the value of their tangible property, had schedules prepared showing the alleged market value of the right of way. This so-called market value was determined by calculating what it would cost to reproduce the right of way and was greatly in excess of the market value of surrounding lands. In order to obtain what the railroads designated as the railway value of the right of way, the so-called market value was multiplied by a multiple, usually three, in the case of agricultural lands. To this sum was added a percentage of the total for engineering, superintendence, legal expenses, etc., and another percentage for interest on investment during the period of construction. The value of the terminal properties was determined in much the same way, except that the multiple was not nearly so large, in some cases 5% being added and in one case 25%. To this total was added 4½% for engineering, superintendence and legal expenses, and 5% for contingencies, and 10% for interest during construction.

The Court held that the value of the property on which the railroad was entitled to a fair return could not be determined in this way.

The rule that the market value of railroad premises for railroad purposes generally was an element of value to be considered even in a rate case was recognized in the opinion in these cases. See page 451.

Attention is called to the fact that in the extract from this opinion, cited by attorney for appellant, it is stated that "the fair average market value of similar land in the vicinity, without additions by the use of a multiple, or otherwise, to cover hypothetical outlays," is the measure of value of railroad lands. This is the measure which the Board applied in this case. Any suggestions to the contrary rest entirely upon the speculation of counsel rather than upon anything contained in the record.

If it appeared in this case that the Board had first determined the market value of the lands in question, considering every element of value which they were

obliged to consider, and, in addition, the misleading elements used in that case, and had then multiplied that value by use of a multiplier, the method of valuation in the case at bar would then more nearly have approached the method pursued in the rate cases.

There is no analogy between considering as elements in the value of lands their special use and availability for railroad purposes generally and their special value because of their location and extent, and the method of valuation which was condemned by the Supreme Court of the United States in the rate cases.

(c) Appellant further insists that the Board, after determining the true value of the lands assessed, added thereto an additional sum obtained by the application of an arbitrary multiple to such true value. The logical answer to this contention, as pointed out in the opinion of the Supreme Court in this case, is "that if such principle was adopted the fact could be ascertained by certiorari requiring the board to certify whether such a method was pursued."

The Court correctly held that in the absence of the information that such a return would disclose it must be assumed that the Board adopted legal methods and principles. Counsel for appellant attacks this ruling of the Supreme Court and insists that there is nothing in the act under which the assessments were made which limits the company to a certificate made by the Board on certiorari to show the principles used or compelling it to abide by such certificate. There is no reason why any such provision should be contained in the act. It is the settled practice of the Supreme Court that in the review by certiorari of a finding by a special statutory tribunal, the Court is informed of the action of such tribunal and of the principles applied by return in response to the writ of certiorari. Not even the diligence and learning of the able counsel for appellant have been able to find a single case in which this prac-

tice has been varied. The Supreme Court, in a number of decisions, has held that in a review of the judgments of the State Board of Taxation or the State Board of Equalization of Taxes, the grounds upon which the determination was based in matters of law should be certified by the Board. See *Mayor and Common Council of Newark v. North Jersey St. Railway Co. et al.*, 68 N. J. L. 486. In this case the Court, by Justice Dixon, said, in part:

"The prosecutor further contends that legal rules were violated in the determination of the Board, and in support of this contention refers to what purports to be a shorthand report of testimony taken before the Board at the hearing on this matter. But, for two reasons, this report cannot be considered by us—*first*, because it is in no way authenticated by the Board, being neither sent up as part of the return to the writ, nor certified in response to a rule from the Court; and, *second*, as the Board is a body of some legal permanence, it should be required to certify the grounds of its determination, not the testimony from which those grounds are to be inferred, and only in case of its failure to do so should other evidence thereof be received. This rule is enforced generally respecting the judgments of judicial and *quasi* judicial tribunals, and is necessary to give due effect to their conclusions and to render definite the basis on which they may be reviewed."

See *Clark v. Board of Equalization of Taxes*, 79 N. J. L. 454.

This practice was followed in the case of *Central R. Co. v. State Board of Assessors*, 49 N. J. L. 1, and in the case of *Long Dock Company v. State Board*, 82 N. J. L. 21.

In the case of *Trenton Heat and Power Co. v. State Board of Assessors*, 73 N. J. L. 370, the Supreme Court

held that the State Board of Assessors, in assessing a franchise tax against a corporation is a special statutory tribunal.

There can be no doubt but that the reason for this rule applies to the case at bar. No other practical method of accomplishing this result has been suggested. Certainly the testimony of the individual members of the Board does not disclose the principles adopted by the Board as a body.

The assessment of the Board is distinct from the ideas and opinions held by its individual members, and in no way could the Court ascertain the reasons or principles underlying the Board's action except by a statement which would represent, not the individual views and opinions of the various members of the Board, but the combined action of the Board itself. The Court is reviewing the act of the Board, not of its individual members. There is nothing in this method which hinders a fair review of the Board's action. There is no reason to suggest that the Board will not truly certify the principles applied by it. The members of this Board are sworn to faithfully discharge their duties (*Comp. Stat.*, p. 5263, sec. 446). Appellant has no more reason to believe that they will make a false or misleading return to the writ than that they would testify falsely if examined.

Appellant seeks to establish from Mr. Hansell's testimony the fact that the Board used a multiplier in determining the value of this property. Its argument is that since the Board's assessment, in some instances, was twenty per cent. higher than the figures reached by Mr. Hansell, that, therefore, it is established that the Board took Mr. Hansell's figures and arbitrarily added twenty per cent. to them, but this by no means follows. Mr. Hansell was appointed by Governor Fort to do some work with regard to the valuation of railroad and canal property, under a joint resolution of the Legisla-

ture (*P. L. 1909, p. 546; see, also, P. L. 1910, p. 557*). His assessments of the value of this property were given no official character whatever. The State Board were not obliged to accept any of them if in their judgment they did not show the true value. The fact that the Board's assessment is in some few instances twenty per cent. higher than Mr. Hansell's figures is a mere coincidence of no significance whatever. Somewhat the same argument was made by the Long Dock Company before the Supreme Court and this Court in the case in which the opinion of the Supreme Court is reported in *82 N. J. L., page 21*. In that case assessments for the years 1906, 1907, 1908, 1909 and 1910 were under review.

Assessments for these same years had previously been set aside because, in the opinion of the Court, the Board had applied a wrong principle. The reassessment was substantially the same in amount as the assessment originally set aside. It was contended that since no substantial change had been made in the amount of the valuation, it necessarily followed that the Board had again applied the same wrong principle which had been previously condemned. Justice Garrison, in dealing with this contention in the Supreme Court, said:

"The fact that the present assessment does not greatly vary from the previous one does not involve a violation of any principle of law, or show that the legal principles laid down for the guidance of the Board have been disregarded. All that it shows is that in the judgment of the Board the value of these terminal lands for railroad purposes generally was substantially identical with their value under a special franchise for railroad use. That is a question of fact, and we cannot say that it is not so."

In like manner, it is a question of fact as to whether or not Mr. Hansell's estimates or the Board's valuation represents the true value of the lands in question.

It is submitted, therefore, that there is nothing in the case from which this Court can say that the Board used a multiplier or any other illegal or erroneous method in obtaining these valuations; that, therefore, it will be assumed that the method adopted by the Board was a legal method.

The contention of appellant that it was the duty of the Board, in response to the writ, to certify the principles upon which they relied in making the assessment, although the writ did not call for a certification of such principles, is groundless. The Board certified in the return to the writ everything for which the writ called. In attacking the assessment the prosecutor has the laboring oar and must clearly make out its illegality if it is to succeed. If its attack upon the assessment were based upon the principles applied, it was its duty to call for a certification of such principles.

See *Williams v. Bettie*, 50 N. J. L., at p. 135, in which case the Supreme Court sustained an assessment under this act because there was no evidence on subject of valuation.

See, also, *St. Harmed, pros., v. Manning*, 41 N. J. L. 275; affirmed 42 N. J. L. 163.

St. Dodge, pros., v. Love, 47 N. J. L. 436; affirmed 49 N. J. L. 235.

(d) Appellant further contends that it was deprived of the review of the assessments provided by the act under which such assessments were made. Its contention in this respect appears to be based upon the refusal of a member of the Board to submit to examination as to the knowledge which he had of the value of the property in question and as to the principles applied in fixing the valuation thereof, and upon the fact that, as appellant's counsel conceive, the return does not state the methods and principles adopted by the Board in reaching this assessment. As appears from the previous discussion of this latter ground, appellant could have

compelled the Board to certify these principles and reasons had it so desired. The Board returned, in response to the writ, what the writ called for. It could return nothing else. Anything else which it might have returned would have been a nullity.

The return to the writ in this case shows that on November 20th, 1911, the Long Dock Company filed a written complaint or protest with the State Board of Assessors (Case, page 20); that in response to the demand contained in that complaint, on the twenty-third day of November, the State Board of Assessors served upon the treasurer of the Long Dock Company a copy of the valuation in detail of all of the property of the corporation and of the taxes assessed against the same, and gave notice that they were to meet on December 12th, 1911, at ten o'clock in the forenoon at the State House in Trenton, for the purpose of reviewing their assessment, the day for such review having been extended by the State Board of Assessors from the 20th day of November, 1911 (Case, page 13). The return also recites that the appellant filed its written complaint with the State Board of Assessors, specifying its grievances, and that at the time and place for the hearing it appeared and produced its witnesses, and that at the conclusion of the hearing certain valuations were reduced. The procedure which was taken in this case was undoubtedly a full and complete compliance with section 12 of the act. The company had ample notice of the assessment, had its opportunity to present its reasons why the assessments should be changed, and to support those reasons by testimony.

Apparently the only part of this proceeding to which objection is taken is the refusal of the members of the Board to testify. Such testimony, if given, would have been entirely useless to the prosecutor. The individual opinions and ideas of the members of the Board as witnesses would not show the joint action of the Board.

The propriety of members of a Board of this character giving testimony in a proceeding of this kind, was con-

sidered by the Supreme Court of the United States in the case of *Chicago, B. & Q. Ry. Co. v. Babcock*, 204 U. S. 585. This action was originally commenced in the Circuit Court for the District of Nebraska and was an action to enjoin the collection of taxes assessed against a railroad company upon the ground that such assessments had been induced by political clamor and fear and had been fixed arbitrarily by the Board and included property beyond the jurisdiction of the State. The bills charged that the assessing Board, coerced by political clamor and its fears, arbitrarily determined in advance to add about nineteen million dollars to the assessment of railroad property for the previous year, and then pretended to fix the values of the several roads by calculation. In this case the members of the assessing Board were called as witnesses and testified. Speaking of this method the Supreme Court of the United States said, at page 593:

“When we turn to the evidence, there is equal ground for criticism. The members of the Board were called, including the Governor of the State, and submitted to an elaborate cross-examination with regard to the operation of their minds in valuing and taxing the roads. This was wholly improper. In this respect the case does not differ from that of a jury or an umpire, if we assume that the members of the Board were not entitled to the possibly higher immunities of a judge.

“All the often-repeated reasons for the rule as to jurymen apply with redoubled force to the attempt, by exhibiting on cross-examination the confusion of the members' minds, to attack in another proceeding the judgment of a lay tribunal which is intended, so far as may be, to be final, notwithstanding mistakes of fact or law.” Citing authorities.

The Court further points out that the Board evidently kept a record; that that being so, the record was

the best evidence of its decisions and acts; that if plaintiff wished an express ruling by the Board upon the deductions which they demanded they could have asked for it and could have asked to have the action of the Board or its refusal to act noted in the record.

While the facts in this case differ from the case at bar in that this case was an application for an injunction to restrain the collection of a tax, still the remarks of the learned justice apply with even greater force to the attempt made in the case at bar to examine the members of the Board. In discussing the charge that the methods applied by the Board were arbitrary, the justice used this language:

“But the action does not appear to have been arbitrary except in the sense in which many honest and sensible judgments are so. They express an intuition of experience which outruns analysis and sums up many unnamed and tangled impressions—impressions which may lie beneath consciousness without losing their worth. The Board was created for the purpose of using its judgment and its knowledge.”

Counsel attempts to distinguish between the Board when making an original assessment and the Board when reviewing such assessment. It is submitted that this distinction is founded upon nothing but the necessities of appellant's case. There is no distinction in law or in reason between the Board making the assessment and the Board sitting for the purpose of hearing complaints against that assessment and revising it if in its judgment the complaints justify such revision.

In the case of *Tuckerton R. R. Co. v. State Board of Assessors*, 75 N. J. L. 158, at page 160, the Supreme Court, by Mr. Justice Pitney, uses the following language with regard to the State Board in reviewing its assessments under the Act for the Taxation of Railroad and Canal Property.

“The State Board of Assessors is required to review its own assessment upon the complaint

of any company or person aggrieved, or of the Attorney-General, or any member of the Board on behalf of the State. But this is a mere revision and not an appellate review. The only appeal provided for by that act from the action of the State Board of Assessors is the review by this court on certiorari under section 13."

As has been above suggested the method of procedure employed in this case involves no hardship or injury to the railroad company. It is given an opportunity to present its case as fully as it desires before the Board; it is given an opportunity to review the findings of the Board before the Supreme Court; to that court at least it can require the Board to certify the principles which they have applied and the methods which they have employed in making the assessment. That court also passes upon the question as to whether or not the return of the Board is overcome by the testimony offered by the company.

The case of *Louisville & N. R. Co. v. Bosworth*, 209 *Fed. Rep.* 380, cited by appellant, is readily distinguishable. This case was an action commenced in the United States District Court for the eastern district of Kentucky to restrain certain officers of the State of Kentucky from enforcing an assessment of a franchise tax levied against the plaintiff railroad company. Two of the grounds upon which the application was based were that the Board had not followed the statute in making the assessment, and that they had not given to the plaintiff the notice required by the statute. The assessment in this case was an assessment upon the franchise of the plaintiff. The lines of this railroad company were located in seven States. The statute provided that the assessment of franchise should be made by ascertaining the value of all of the capital stock of the company, by deducting from this the value of the tangible property of the company located in the State of Kentucky, and that the proportion which the length of

track in Kentucky bore to the entire length of track should be considered in determining the proportion of capital stock, less tangible property in Kentucky, which should represent the value of the franchise.

The Court held that since the statute provided that the assessment should be made in a definite way, the Board had no jurisdiction to make it in any other way; that the record of the assessment should show the sum which the Board fixed as the value of the entire capital stock of the company, the sum which the Board deducted for tangible property in Kentucky, the proportion which the length of line in Kentucky bore to the entire length of line, and the other factors which the statute, as construed by the Court, required the Board to notice in making the assessment.

The Court held further that the observance of these rules was jurisdictional and that in order to show that the Board had not fixed an assessment upon property over which they had no jurisdiction these facts should be shown. The record of the Board failed to disclose the finding of the Board as to the proportion which the tracks in Kentucky bore to the entire length of track, and failed to show what other factors the Board had considered in determining the proportion of the capital stock of the company which represented the value of its franchise in Kentucky. The excerpt from the opinion quoted in appellant's brief refers to these defects in the record of the Board and to the failure of the Board to supply the railroad company upon request with notice of their findings of these facts.

The decision of the Court was, therefore, not that the Board should have disclosed the mental processes by which it valued the property which was plainly within the State of Kentucky, but that it should have disclosed to the railroad company the fact that it took the steps which the statute required it to take; that it assessed the property which the statute required it to assess and no other; that it did not assess property not

located in the State. That this was the Court's understanding of the matter appears from the extract from the opinion on page 461 (near the bottom of the page). In this extract the Court refers to the fact that at the argument for the motion for the preliminary injunction in this case, the Court made a request that the defendants furnish him with an explanation as to the method pursued by the Board in making the assessment and the various steps in it.

Speaking of this request the Court said:

"In making the request I was not prying into the mental process by which the members of the Board had come to any conclusion. I called merely for the conclusions which the statute required it to reach and which, as I have held, should have been entered upon its record, and of which plaintiff should have been informed."

It will be readily seen that in the light of the facts in this case the principle announced has no application to the case at bar. The same situation would have been presented in this case had the Board notified the company that it had assessed its property at a given figure without indicating either the location or the character of the property.

The opinion in the above-mentioned case is very voluminous, covering more than eighty pages. That the above statement as to the facts and the questions decided is correct, however, will be seen by reference to page 415, in which a section of the statute is quoted, page 436, bottom of page 437, page 441, page 442, page 445 and page 461 (near the bottom).

Appellant's contention, that if the Board applied the wrong principle it is deprived by the ruling of the Supreme Court of an opportunity to secure an adjudication upon this question, is without merit. As was pointed out in the opinion of the Supreme Court, and as has been above suggested, appellant could have readily compelled the Board to certify to the Supreme

Court the principles which they applied, and, upon the certification of such principles, both the Supreme Court and this Court could have passed upon their legality.

Appellant seeks to distinguish the case of *Royal Manufacturing Company v. Rahway*, 75 N. J. L. 416, upon the ground that the Supreme Court in this case was reviewing the finding of the Board of Equalization of Taxes in a case in which the Board was not a party and had not certified its record, and upon the further ground that the functions of the Board of Equalization of Taxes, in hearing tax appeals, differ from the functions of the State Board of Assessors. The same rule was applied in the case of *Clark v. Board of Equalization*, 79 N. J. L. 454, in which case the Board of Equalization was a party and its record was before the Court.

It is submitted that, regardless of the difference between these two Boards, both of them are special statutory tribunals of a permanent character, and that with regard to the manner in which the reviewing Court is apprised of the principles governing their action there is no distinction.

2. The Assessments and Taxes Levied Thereunder Are Not Excessive.

Appellant contends that the assessments under review in this case are excessive; that this appears from the evidence and that there is no evidence to support the assessments. It admits that this Court will not pass upon a disputed question of fact in a tax matter. This principle is well established. *Coal Company v. Junction*, 68 A. 806; *Pine Company v. Assessors*, 72 N. J. Law 182; *Moran v. Jersey City*, 58 N. J. Law 653. Its contention, however, is that this Court will pass upon the question as to whether or not there is any evidence which sustains the finding of fact made by the Supreme Court.

Before proceeding to a further discussion of this question, attention of the Court should be called to the

provision of the statute under which the hearing before the Board of Assessors in this case was had. The latter part of this provision states that they (the Board) shall be entitled to use their personal knowledge and judgment as to the value of the property. This fact has been repeatedly referred to both by this Court and by the Supreme Court. Chief Justice Beasley, in *Central Railroad Company v. State Board of Assessors*, 49 N. J. Law 1, 9, said:

"We do not consider that we have the right to alter or annul any of the proceedings of this body of officers, except for palpable error, for it is not to be overlooked that the statute in question expressly declares that these assessors 'shall be entitled to use their personal knowledge and judgment as to the value of the property,' a capacity with which this court is not endowed by the Legislature."

Mr. Justice Swayze, in *West Shore Railroad Co. v. State Board of Assessors*, 82 N. J. Law 37, 40, said:

"The statute authorizes the Board of Assessors to use their personal knowledge and judgment, and as we have said in *Central Railroad v. State Board of Assessors* already cited, we ought not to set aside their judgment unless for palpable error."

The case last mentioned was affirmed by the Court of Errors on the opinion below in *West Shore R. R. Co. v. Hendrickson*, 85 Atlantic Reporter 826.

In *Long Dock Company v. State Board of Assessors*, 82 N. J. Law 21, a case involving these very lands, Mr. Justice Garrison said:

"The valuation on which the present assessments were made is supported by the return of the State board to which the Legislature has given express authority 'to use their personal knowledge and judgment as to the value of property.' It is also supported by some of the

testimony taken under these writs while opposed by other testimony so taken. We are unable to say that the latter testimony so preponderates as to overcome the judgment of the board and the testimony that supports it as to make it our clear duty to substitute our judgment for that of the State board upon a question of value. If it were a question of law, our opinion might be of more worth than that of an administrative board, but upon a question of value the presumption is rather the other way.

“The values placed on these terminal lands by the State board will not be disturbed.”

This last-mentioned case was affirmed by this Court, on the opinion below, in *87 Atlantic Reporter, Mch. T., 1913; 84 N. J. L. 762.*

It seems unnecessary to argue that a Board clothed by the Legislature with power to use their personal knowledge and judgment is not bound by the evidence presented before them on a review in the way that a jury is bound; that it was the intention of the Legislature that this Board, in fixing valuations, should be governed not only by the evidence presented on behalf of the owner of property, but by their own knowledge and judgment as well, and it nowhere appears that it was the intention of the Legislature that this knowledge and judgment should be reduced to print and inserted in the record, at all events not unless specially called for by the writ. It follows, therefore, that the return of the Board, in which they certify that by the use of their knowledge and judgment, as required by the statute, they have ascertained the value of appellant's property for the purpose of taxation and have fixed it at the sums named in the assessments, is in itself *prima facie* proof of its true character, and that if there were nothing at all in the evidence which in any way operated to sustain the assessment, the decision of the Supreme Court, that the knowledge and judgment

of the State Board, as expressed in the assessment annexed to the return was not overcome by the testimony offered in behalf of the appellant would, nevertheless, be a decision of a question of fact not reviewable by this Court. The essential thing which the Supreme Court determined is that the weight of the assessment, which represents the knowledge and judgment of the Board, was not overcome by the testimony.

It is submitted, therefore, that upon this question the judgment of the Supreme Court is final; that there can be no review in this Court of that matter. This appears to have been the position taken by the Supreme Court in the case of *Long Dock Company v. State Board of Assessors*, reported in *82 N. J. Law, page 21, supra*, affirmed in this Court on the opinion below, in which Mr. Justice Garrison, writing the opinion of the Supreme Court, states, as has been above quoted (italics ours):

“The valuation on which the present assessments were made is supported by the return of the State Board to which the Legislature has given express authority ‘to use their personal knowledge and judgment as to the value of the property.’”

It is true that in that case Justice Garrison also stated that some of the evidence supported the assessment. It is immaterial, however, so far as this Court is concerned, whether the evidence supports the assessment, because, as stated by Justice Garrison, the assessment is supported by the return, and the question as to whether or not the return is overcome by the evidence is a disputed question of fact with which this Court will not deal. Any other construction of this law would be unreasonable; certainly, the judgment and knowledge of four men, whose chief duty it is to assess railroad property, and who, every year, assess all of the railroad property in the State, furnishes some support to an assessment made by them.

It is submitted, however, that even the evidence produced in this matter on behalf of the appellant furnishes

considerable support for the assessment, and that, at all events, it utterly fails to show that the assessment is excessive.

The appellant produced two witnesses, Messrs. Gaddis and Ryer, who testified that they were real estate dealers of the city of Jersey City, and were familiar with the values of land adjoining the property of the Erie Railroad Company, except water-front property. Mr. Corbin testified that he was familiar with the value of water-front property in Jersey City and Newark, and Mr. Hansel testified to being familiar with the values of this land. Messrs. Gaddis and Ryer formed estimates of the value of this land by basing it upon what it would be worth in their judgment if divided into building lots for residential purposes and factories. Messrs. Gaddis and Ryer prepared schedules which appear on pages 226 and 227 in the State of the Case, showing the assessed valuation of the different plots of land in question, the acreage and their estimate of value. This estimate is given by them under the term "true value." By this term nothing more is meant than an expression of the judgment of these men who arrogate unto themselves, by this expression, absolute accuracy in the matter of real estate valuation. It was intended it should be eliminated in print. (See statement, Record, page 78, line 15, of Mr. William H. Corbin, who was representing the Long Dock Company before the State Board.) Not one of these gentlemen considered any peculiar value which this tract of land might have for railroad purposes generally.

Mr. Gaddis, Record, page 48, line 34, to page 49, line 11, testified that he could not testify as to value for railroad purposes.

Mr. Ryer, page 87, testified that he could place no value upon the land for railroad purposes. He admitted that the land might be more valuable for railroad purposes than for other purposes. Mr. Ryer also testified, page 110, that any value in excess of the

value which he placed on the property would include its franchise value, but, when asked what he meant by franchise value, admitted in response to counsel's question that he would include in franchise value the *availability* of the land for the use to which it was placed under franchise, which shows that there was considerable confusion in his mind on this matter. He admitted, however, that this particular tract of land might have a value very much in excess of a single piece adjoining it. Record, page 110, lines 20 to 40.

Mr. Hansel, pages 180 to 182, frankly admitted that he did not consider in his valuation the availability of this land for the purpose of a railroad terminal (Case, pp. 180, 181); while Mr. Corbin, in his valuations, entirely ignored the peculiar adaptability of this land for that purpose. Each of the witnesses admitted that it would be practically impossible to reproduce a tract of land of the size, shape and location of the terminal tract, except at such enormous expense as to be prohibitive. The nearest tract which Mr. Corbin could mention (Case, page 137, lines 10 to 20) was a tract four miles north of this, which, of course, would not be nearly as available for the purpose of a railroad terminal, or a tract two miles south, to which the same remark applies.

Mr. Ryer (Case, pages 89-90) knew of no tract similarly situated and of that size.

Mr. Gaddis testified to the same effect (Case, page 52).

Mr. Ryer also stated (Case, page 107, line 28, to page 108) that land would be worth what it would cost to obtain land similarly situated and circumstanced. Testimony of Mr. Ryer as to the difference in value of lots on different sides of same street in the same section (Case, page 94, lines 10 to 20), together with the testimony of Mr. Hansel (Case, page 184, top of page), to the effect that in his opinion sales of adjoining lands are of little worth in determining the value of property of this kind, give a fair indication of the importance which should be attached to this testimony.

Portions of this testimony will be considered in some detail. Mr. Corbin for the water front has three zones. (Case, pages 116 to 118, Exhibit "Corbin, Long Dock 1, February 8, 1912.") The first he himself calls water-front property with a fringe of land seven hundred (700) feet west of the exterior line for solid filling; the second is a solid block of ground adjacent to water-front property, with a frontage on Pavonia Avenue, and the third, or inside zone, is of smaller area; the outside zone he values by front footage on the Hudson River at \$1,867,500; the central zone by the acre, \$708,261; the inside zone by the acre or square foot, \$419,914, making a total for the parcel, secondly mentioned in the writ of certiorari, of \$3,185,224. This parcel described as Block 17, Plot A-2, consists of an acreage of 43.872 acres inside the line of exterior solid filling, but in the valuation is included land outside that line of 20.9 acres, making a total acreage of 64.772 acres. Spreading Mr. Corbin's figures by the acre over the entire area of 64.772, his valuation is at the rate of \$49,175 per acre as against the Board's appraisal per acre for the same parcel of \$55,595 (Record, page 122, lines 18 to 25). The acreage in Mr. Corbin's outside zone is 37.572 acres, which makes his valuation for that zone at the rate of \$49,462 per acre. The middle zone of 16.489 acres he values at the rate of \$43,560 per acre. (Case, p. 118.) The inside zone of 10.711 acres he values at \$39,204 per acre. (Case, p. 118.) Right here it should be noted that there is a substantial difference of opinion between Mr. Corbin and Messrs. Gaddis and Ryer as to the value of the land west of the exterior line for solid filling, Mr. Corbin's figures being something over \$40,000 per acre for this land, while Messrs. Gaddis and Ryer's estimate is \$24,600 per acre, including the Pavonia Avenue frontage. (Case, p. 35, also Gaddis and Ryer's Exhibit, Case, p. 226.) This represents a difference in the value of these lands between Mr. Corbin's estimate and the estimate of Messrs.

Gaddis and Ryer of about sixty per cent. An increase in Mr. Corbin's estimate of sixty per cent. would make a figure far in excess of the Board's assessment.

Counsel for the appellant seeks to lay aside Mr. Corbin's estimates of the value of all the land, except the water front, and to base his calculation of the value of this land upon Mr. Corbin's estimate of the land designated by him as the water-front zone combined with the estimate of Gaddis and Ryer as to the value of the remaining land. These figures can only be reached by disregarding a large part of Mr. Corbin's testimony, while, as above pointed out, a comparison of Mr. Corbin's values with the values fixed by Messrs. Gaddis and Ryer for the same land shows a much wider difference than the difference between Mr. Corbin and the Board. This certainly shows that one or the other of these expert witnesses was seriously mistaken. One explanation of this difference is that Mr. Corbin divided the land, in reaching his figures, into larger areas than Messrs. Gaddis and Ryer did. The Board assessed the whole plot as a plot considering its natural advantages and without regard to the divisions made by Messrs. Gaddis and Ryer or by Mr. Corbin. It is not unreasonable to believe that if the method of assessment suggested by Mr. Corbin resulted in valuing the lands at sixty per cent. higher than Messrs. Gaddis and Ryer's estimates, the method followed by the Board of valuing the land as it lay would produce a result somewhat higher than Mr. Corbin's.

Mr. Corbin's figures on the next parcel objected to, Block 16, Plot B-6, being the first parcel mentioned in the writ of certiorari on a like zone analysis is \$914,584, as against the assessment of the Board of \$1,0988,480. Gaddis and Ryer valued the same land at \$679,376. Case, page 31, Exhibit, page 226.) The difference between the appraisals of Gaddis and Ryer and of Corbin is the sum of \$235,208. Mr. Corbin's valuation is more than 38 per cent. higher than that of Gaddis and Ryer of the same land.

The appellant argues that if the land is to be considered as assessed by the Board, the Gaddis and Ryer valuation should be adopted, but that if it is to be considered with the reflected value of the lands under water in front, then Mr. Corbin's figures should be adopted. He argues further, however, that this latter method of valuing this property would rob the lands in front of any value. Apparently, this is not the view taken by Mr. Corbin, who, on page 120, line 10, testified as follows:

"Q. Well, what did you value B-6 at to the west of these parcels? A. The total value of plot B-6 *exclusive* of the two parcels I have just mentioned is \$914,854." (Italics ours.)

As appears from page 119 of the Record, the two parcels referred to in the question, and to which Mr. Corbin referred in his answer, were the two parcels of land under water in front of plot B-6, designated as B-7, and as "land at the foot of Pavonia Avenue." The plot B-7, Mr. Corbin valued at \$115,342; the parcel designated as "land at the foot of Pavonia Avenue," he valued at \$96,502. This comparison of figures not only shows the unreliability of appellant's witnesses when their figures are compared, but shows that appellant's contention as to the impropriety of assessing these plots separately is not sustained by the testimony of Mr. Corbin. As has been above mentioned, Mr. Corbin (Record, pages 136-137) knew of no tract available of like size within four miles to the north and two miles to the south.

It will also be noted that Mr. Corbin puts his highest average rate of approximately \$50,000 per acre on the outside or water-front zone, getting down for the inside zone, the one most inland, to \$39,204 per acre; yet, under examination by prosecutor's own counsel (Record, page 139), referring to ~~the Yellow Pine~~ Property near the Erie Terminal to the north and *inland*, he stated that he had an entire block for sale at \$1.25 per square foot, or \$54,650 per acre.

He also mentions, on the same page, another tract adjoining the Erie Terminal on the north which he was offering at \$1.50 a square foot, or \$65,340 per acre. Mr. Gaddis also testified of a sale made by the Vanderbeeks to the Pennsylvania Railroad Company of a tract of land for \$170,000, which was at the rate of \$83,000 per acre. This was inland property with no water front, but was located near a public dock. (Case, pp. 66, 67.) Instances of this character reflect more accurately real values of inland properties in this neighborhood than the arbitrary zone distribution of values theoretically imposed on this extensive terminal property. It is evident from the testimony of Gaddis and Ryer and from the testimony of Mr. Corbin that they all regard the water-front as more valuable than the inland. Yet, even Mr. Corbin offers a figure for the water-front less than the actual selling prices of inland property immediately adjoining the terminal. If these adjoining and nearby inland prices be applied to this terminal, water-front and all, the acreage figure would be greater than the average valuation per acre applied by the State Board. While discussing Mr. Corbin's testimony, notice should be taken of his *expertness* as a witness. He said on direct examination (page 118, top) that he adopted the water-front zone extending to a depth of seven hundred (700) feet inside the exterior line of solid filling as a fair method of comparison for ocean steamship piers, railroad uses and warehouse purposes. The zones in the rear were valued as land adjacent to the water-front. On cross-examination, he was asked (foot of page 122):

"In making your valuations of this property, do we understand you to say that this water-front is as valuable, with only 700 feet of fast land back of it, as it would be with the whole of this terminal as it lies? A. Well, I have considered that you have got to have a line of demarcation somewhere, for the reflected values from a water-front. You couldn't, in my

opinion, add any great value to that property, even if you extended it a mile further west.

“(Question repeated by stenographer.)

“A. Perhaps not; I think if there were just 700 feet of land, it would not be worth \$1,800 a foot. * * *

“Q. How much more is it worth taken by the front foot with the terminal? A. I don't think my figures would be changed at all; I have assumed the entire block is under one ownership.”

While he stated, in an attempt to justify the zone theory, that he had to have some basis to compute values, that his figures were based on a use for a railroad terminal, which he thought was the highest use to which the property could be put, he justified the extent of his water-front zone by comparison with the Bush Terminal, which is a warehouse use, and, to quote his own words, “the highest type of development of water-front on New York Harbor, or possibly in the whole country.”

Of course, the availability of the property for a railroad terminal is greatly increased by its great depth, free from street intersections and its situation on the Hudson River at a point where an equal area is now incapable of duplication at any price, but Mr. Corbin could not be brought to acknowledge what was obvious to everyone else, although he had testified, a few days before (see Record, page 131) that the West Shore Terminal farther up the river was less valuable than otherwise, because it lacked depth. The difficulty with the zone theory, as developed by Mr. Corbin, is that the property, as a matter of fact, has no zones, is all accessible to the water-front and available to use as water-front in one complete parcel. Its value cannot be measured by supposed limitations of the real proximity of all of it to New York Harbor, or by imaginary building lots on Pavonia Avenue, or by the elimination of its extent as an entirety.

Mr. Hansel's testimony, which was also produced by the appellant, fixes a value of \$49,600 per acre on Block 17, Plot A-2, counting the acreage as 64.772 acres. (Case, page 178.) The tract of 2.498 acres, being the fourth tract described in the writ of certiorari, was appraised by him at \$46,330 per acre, or \$115,732. The first tract described in the writ of certiorari is valued by Mr. Hansel at \$1,162,489, and the total of his figures on the tract secondly described is \$3,214,130. The tract of 2.09 acres thirdly mentioned in the writ of certiorari he values at \$46,330 an acre, or \$96,829.70.

Attention should be called to the difference between Mr. Hansel's valuation of lots fronting on Pavonia Avenue, contained in Block 16, Plot B-6, and the estimate of Gaddis and Ryer. Mr. Hansel (Case, page 178) values the easterly sixteen of these lots at the rate of \$8,200 a lot. Gaddis and Ryer valued them at \$5,000 a lot. (Case, page 32.) Mr. Hansel values the next thirty-two of these lots at \$8,000 a lot (Case, page 179); these lots were valued by Gaddis & Ryer at \$5,000 a lot (Case, page 32). Mr. Hansel gives as a reason for this valuation the fact that these lots reach to the Erie Basin; in order to make these supposititious lots reach the Erie Basin the land must be divided so as to make each lot a little more than one hundred feet in depth. Gaddis and Ryer assumed that each lot would be 100 feet only in depth. The absurdity of the Gaddis and Ryer valuation is shown by the fact that they divided these premises into lots one hundred feet deep, and failed entirely to consider the advantage of dividing it so as to have the lots reach the Basin just a little farther back. This is just another illustration of the misleading character of the valuation made by appellant's witnesses. Mr. Hansel's figures are in substantial accord with those given by Mr. Corbin. He also resorted to a modification of the zone method by planning on the terminal tracts an estimate of piers, warehouses and factories, and dividing up into different areas to meet the supposititious conditions which were

supposed to represent, in the judgment of the appraiser, the highest use to which the property could be put. Mr. Hansel was asked why he divided the parcel thus for the purpose of valuation on the assumption with regard to piers, warehouses and factories adopted by him, he replied (Record, page 180, line 28) :

“I am unable to determine the value of any terminal for railroad purposes. I have felt there is no value that the railroads could properly place, if they intend to continue business. I, therefore, couldn't satisfy my own mind that anybody knew the value of railroad terminals, tidewater terminals as such. I considered that the next highest reasonable use for that land would be for piers, warehouses and factories, and I therefore assumed that I had that tract of land to show a prospective buyer what he could afford to pay for it for that use. I considered that it wasn't suitable for banks or opera houses or other uses, except some such use as piers and warehouses and factory sites.”

Again, on page 181, line 23 :

“I freely confess that I don't know how much terminals are worth for railroad use, because there is no value that they themselves can allocate to them except as they do arbitrarily by an arbitrator.”

Further, on page 182, line 8 :

“Q. But when you say that you couldn't value it for railroad purposes, why cannot you value it for railroad purposes, as well as for steamship purposes? A. Why, because I have no means of knowing what income could be produced from that. Q. That is, what part of the income of the company to allot to that, that's about the size of it? A. That's it. I would like to know the man who can. Q. There is no expert who can come and tell us that, is there? A. I don't know anybody. Q. But when you come to the item of indispen-

sability, that's just as applicable to every bridge and every mile of the road, isn't it, as it is to the terminal? *A.* In the sense of continuity, it is, but terminals aren't as easy to duplicate as different variations in the line of road. I might destroy a bridge and build another one right alongside of it." * * *

"*Q.* You based your value then upon what you thought the property was reasonably worth if developed in this way that you have described? *A.* Yes, sir. I treated the subject in every case as if I had a client who had come to me to ask me how much he could afford to pay for that land for such development, and I would say that he couldn't afford to pay any more than that for that development."

Messrs. Corbin and Hansel in their method of appraising these terminal properties both refer to the Bush Terminal as indicative of highest use, but neither one was able to say that such use was the highest use to which the property could be put. Both readily admitted the impossibility of duplication of the large tract known as the terminal tract. Its superior location and peculiar availability for general railroad use are apparent. As has been above suggested all of the testimony even if accepted as an absolute verity, fails entirely to show that the valuations placed upon these lands by the Board are excessive. It is apparent that each of these witnesses divided the land for purpose of appraisalment in such a manner as to lose sight of the value possessed by the lands because of their large extent without streets or divisions and it is admitted that each witness failed to consider the market value of the lands for railroad purposes. Their conclusions are unimportant, because their premises are false. They did not make the valuation of the lands which the Board of Assessors are required by law to make, and therefore it may be said that there is no evidence in the case from which it may

be inferred that the valuations of the Board are excessive.

3. The Statutes and Laws Under Which These Assessments Were Made as Construed by the Supreme Court Do Not Violate Section 1 of the Fourteenth Amendment of the United States Constitution.

Appellant further contends that the judgment of the Supreme Court in sustaining the refusal of one of the assessors to testify during the review of the assessment is in violation of the Fourteenth Amendment to the Federal Constitution, in that it deprives the appellant of its property without due process of law and deprives it of the equal protection of the laws. Its argument in this respect is that, unless it is apprised of the principles applied by the Board in making the valuation and of the facts upon which the assessment was made, it has not had the hearing contemplated by the statute or required by the Fourteenth Amendment in order to constitute due process of law. Its contention is that it must be apprised of these principles at some time before the assessment is finally made, and it seems to assume that the assessments are finally made when the Board of Assessors have completed their work.

The extract from *Cooley on Taxation*, cited by appellant, in nowise sustains its argument. It will be noted that Mr. Cooley states in this extract that the property owner shall have an opportunity to question the validity or amount of such tax or assessment, either before that amount is finally determined *or in subsequent proceedings for its collection*. This certainly is not authority for appellant's argument that it is deprived of its property without due process of law, merely because it is not apprised of the principles applied by the Board of Assessors while the matter is still before them in view of the fact that the law provides for a review, both as to the amount and legality by the Supreme Court, also a method by which in the review in that Court it can ascertain these principles.

Appellant cites the case of *Central of Georgia Ry. v. Wright*, 207 U. S. 127. The question determined in that case, as appears from the following, which is an extract from the opinion of Justice Day, was as follows (italics ours) :

“In view of this statute, as thus construed, the question made is whether due process of law is afforded where a taxpayer, without fraudulent intent and upon reasonable grounds withholds property from tax returns with an honest belief that it is not taxable, and the assessing officer proceeds to assess the omitted property without opportunity to the taxpayer to be heard upon the validity of the tax or the amount of the assessment, *either in the tax proceedings or afterward, upon a suit to collect taxes or by independent suit to enjoin their collection.*”

This case cites the case of *Security Trust and Safety Vault Company v. City of Lexington*, 203 U. S. 323, with approval, and, applying the principle in this case, restrained the collection of the tax.

The case of *Londoner v. City and County of Denver*, 210 U. S. 373, is also cited by appellant. In that case the validity of an assessment for paving was before the Supreme Court. The statute under which the assessment was made provided that the Board of Public Works should prepare a statement showing the whole cost of the improvements and apportioning the same upon each lot or tract to be assessed for the same and should file this apportionment in the office of the City Clerk; that notice should be given by advertisement to the owners to be affected thereby, and of the fact that any complaints or objections that might be made in writing and filed with the City Clerk within thirty days after the first publication of the notice would be heard and determined by the City Council before the passage of any ordinance assessing the cost of said improvements. It further provided that the City Council, sitting as a Board of Equalization, should hear and deter-

mine all such complaints and objections, and might recommend to the Board of Public Works any modification and changes in the apportionment, and that thereafter the City Council should, by ordinance, assess the cost of such improvements against the real estate benefited thereby.

The Court held that the statute required that the landowners should be given an opportunity to be heard upon the validity and amount of the assessment.

What actually occurred in this case, however, was that the apportionment was advertised and notice was given in the advertisement that complaints in writing might be filed within thirty days, that, if filed, those complaints and objections would be heard before any assessment was made. The notice, however, did not fix the time for the hearing, and there were no stated sittings of the Council acting as a Board of Equalization. The plaintiffs filed a complaint within the time limited, specifying in detail their objections to the assessment. They were, however, afforded no opportunity to be heard by the City Council, sitting as a Board of Equalization or otherwise; the City Council met as a Board of Equalization in a specially called session, not at the regular meeting, and without any hearing affirmed the apportionments of the Board of Public Works, and subsequently, without any hearing, passed the ordinance of assessment. Under the law of Colorado the landowner had no right to object in the courts to the assessments. The Court held that this did not constitute due process of law.

On this subject it said in part, by Mr. Justice Moody (*italics ours*):

“If it is enough that under such circumstances an opportunity is given to submit in writing all objections to and complaints of the tax to the board, then there was a hearing afforded in the case at bar. But we think that something more than that, even in proceedings for taxation, is

required by due process of law. Many requirements essential in strictly judicial proceedings may be dispensed with in proceedings of this nature. But even here a hearing in its very essence demands that he who is entitled to it shall have the right to *support his allegations by argument, however brief; and, if need be, by proof, however informal.*"

Citing *Pittsburg, &c., Ry. Co. v. Backus*, 154 U. S. 421, 426; *Fallbrook Irrigation District v. Bradley*, 164 U. S. 112, 171, *et seq.*

The case of *Security & Safety Vault Company v. City of Lexington*, 203 U. S. 323, which, as above stated, was followed in the case of *Central of Georgia Ry. Company v. Wright* (*supra*), cited by appellant, was an application for an appeal to the Supreme Court from the judgment of the Court of Kentucky in an action brought in that court to restrain the collection of a tax. In the case cited the assessment of tax was made at such a time and in such a manner as to afford no notice whatever of the assessment to the owner of the assessed property. The United States Supreme Court, while finding that the statute under which the assessment was made did not require any notice of any kind or character to be given, sustained the assessment as due process of law upon the ground that the courts of the State, in an action brought by the property owner to enjoin the collection of the tax, afforded to the taxpayer full opportunity to be heard upon the question of the validity and amount of the tax, and, after such opportunity, rendered the judgment providing for the enforcement of the tax as reduced by the Court.

On this subject the Court said:

"The plaintiff has, therefore, been heard, and on the hearing has succeeded in reducing the assessment. What more ought to be given? Whether the opportunity to be heard, which has been afforded to the plaintiff, has been pursuant

to the provisions of some statute, as in *McMillen v. Anderson*, 95 U. S. 37, and *Hagar v. Reclamation District*, 111 U. S. 701, or by the holding of the Court that the plaintiff has such right in the trial of a suit to enjoin the collection of the tax, is not material. The State Court, in this case, has held the taxpayer entitled to a hearing, and has granted and enforced such right, and upon the trial has reduced the tax."

It is submitted, therefore, that the contention of the appellant is not supported either by principle or authority. Although not expressly stated, the implication to be drawn from the opinion of the Court in the case of *Londoner v. City and County of Denver* (*supra*), cited by appellant, is that the property owner has had a hearing when he has had an opportunity to present his views by argument and to support them by evidence. This opportunity the appellant had before the State Board of Assessors—in addition, it had the further opportunity of reviewing the assessment in the Supreme Court, where it could compel the Board to fully disclose the principles upon which the assessment was based, and where the Court could pass upon the question as to whether or not the evidence taken before the Board was of such a conclusive character as to overcome the judgment and knowledge of the Board, as expressed in its assessment. There can be no doubt but that this constitutes due process of law.

With regard to appellant's contention that the statute in question, as construed by the Supreme Court in this case, deprives it of the equal protection of the laws on the ground that the owners of railroad property have, under this decision, no substantial review of the assessment of taxes, while the owners of other property have such a review, it may be said that, as above suggested, the opinion of the Supreme Court has no such effect. If it had, however, it would not be in violation of the constitutional provisions suggested by appellant. See

Kentucky Railroad Tax Cases, 115 U. S. 321, at page 337; *Pittsburg, &c., Railway Company v. Backus*, 154 U. S. 421; *Winona & St. Peter Land Company v. Minnesota*, 159 U. S. 526.

In the case (*Kentucky Railroad Tax Cases*) above cited, Mr. Justice Matthews said on this subject:

“The rule of equality, in respect to the subject, only requires the same means and methods to be applied impartially to all the constituents of each class, so that the law shall operate equally and uniformly upon all persons in similar circumstances.”

And again, referring to the criticism that different modes of valuation and different procedure on appeal exist as between railroad property and ordinary real estate, he said, at page 338:

“We have already decided that the mode of valuing railroad property for taxation under this statute is due process of law. This being so, the provision securing the equal protection of the law does not require in any case an appeal, although it may be allowed in respect to other persons differently situated.”

It is submitted that *there is no error in the judgment of the Supreme Court, and that it should be affirmed.*

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