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Writ of Certiorari.

WRIT OF CERTIORARI.

Allowed June 18, 1921; returnable July 7, 1921.

NEW JERSEY, ss.

The State of New Jersey to the State Board of Taxes and Assessment and the Mayor and Aldermen of Jersey City, a municipal corporation of the State of New Jersey. 10
GREETING:

We being willing for certain reasons, to be certified of certain assessments of taxes made by the said The Mayor and Aldermen of Jersey City, for the year 1920, on property of The Pennsylvania Railroad Company, Lessee, a corporation, situated in Jersey City, County of Hudson and State of New Jersey, and described for the purpose of taxation as follows:

Block 15, Lots C-5 and C-6 and Stock Yards; 24.178 20
acres.

Block 11, Lot A, Morgan street.

Block 76, Lot H-4, Washington, Greene, First and Bay streets.

Block 602, Lot 1, Newark avenue.

Block 601, Lot 1, Newark avenue.

Do COMMAND YOU that the said assessments of taxes, including the valuations upon which the same are based; all proceedings on appeal therefrom to said State Board of Taxes and Assessment; the final determination and judgment of said Board thereon; and all matters and proceedings touching and concerning the said assessments of taxes; to our Supreme Court at Trenton, on the seventh day of July, 1921, you certify and send, together with this writ, that therein may be done what of right and according to the laws and constitution of this State ought to be done. 30

WITNESS, WILLIAM S. GUMMERE, Esquire, Chief Justice of our said Supreme Court at Trenton, this 20th day of 40

Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

June, in the year of our Lord one thousand nine hundred and twenty-one.

ENOCH L. JOHNSON,
Clerk.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys.

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Allocatur:

I allow this writ. Let it be sealed.

Dated June 18, 1921.

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

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Order Extending Return Day of Writ.

ORDER EXTENDING RETURN DAY OF WRIT.

Filed August 1, 1921.

New Jersey Supreme Court

THE PENNSYLVANIA RAILROAD COMPANY,
Lessee,

Prosecutor,

vs.

THE STATE BOARD OF TAXES AND AS-
SESSMENT and THE MAYOR AND
ALDERMEN OF JERSEY CITY, a municipi-
pal corporation,

Defendants.

On Certiorari.

*Order
Extending
Return Day
of Writ.*

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Upon good cause shown,

It is ordered that the return day of the writ of cer-
tiorari in the above-stated cause be and the same is hereby
extended to and including July twenty-ninth, nineteen
twenty-one.

FRANK S. KATZENBACH, JR.,

J. S. C.

30

Dated July 29th, 1921.

Entered August 1, 1921, on motion of

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Prosecutor.

A true copy.

ENOCH L. JOHNSON,
Clerk.

40

Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

**RETURN OF STATE BOARD OF TAXES AND
ASSESSMENT.**

Filed July 29, 1921.

NEW JERSEY SUPREME COURT.

10

THE PENNSYLVANIA RAILROAD COMPANY,
Lessee,

Prosecutor,

vs.

THE STATE BOARD OF TAXES AND AS-
SESSMENT and THE MAYOR AND
ALDERMEN OF JERSEY CITY, a municipi-
pal corporation,

Defendants.

On Certiorari.

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30 The State Board of Taxes and Assessment doth here-
with send to the Supreme Court of the State of New
Jersey the petitions, judgments, memorandum and pro-
ceedings in the matter of the three appeals of The Penn-
sylvania Railroad Company, Lessee, from the assess-
ment of property located in the City of Jersey City,
County of Hudson, as within it is commanded, as by the
transcript under the seal of said Board hereto annexed
more fully appears.

STATE BOARD OF TAXES AND ASSESSMENT,

By FRANK D. SCHROTH,
Secretary.

*Petition of Appeal to State Board.***PETITION OF APPEAL.**

In the matter of the application of THE PENNSYLVANIA RAILROAD COMPANY, Lessee, for reduction of Tax Assess- ment for the year 1920 upon prop- erty in the City of Jersey City, County of Hudson, New Jersey.	}	<i>Petition.</i>
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To the State Board of Taxes and Assessment:

Your petitioner, The Pennsylvania Railroad Company, a corporation of the State of Pennsylvania, lessee of the works and property of the United New Jersey Railroad and Canal Company, respectfully shows that it is the lessee of certain property situate in the taxing district of the City of Jersey City, County of Hudson, consisting of a parcel of land, known as Block 601, Lot 1, Newark, Charlotte and Duffield avenues;

20

That said property has been assessed for the purpose of taxation for the year 1920 at a valuation of thirty-six thousand dollars (\$36,000), at which assessment your petitioner is aggrieved, because the said property is assessed in excess of its true value and also in excess of assessments levied against properties of like character and those similarly situate in the same locality.

30

Your petitioner, therefore, has not paid in full the taxes so levied for the year 1920 and prays that your Honorable Board will reduce the said assessment to the true value of the property, to wit: the sum of twenty-six thousand dollars (\$26,000);

Your petitioner further shows that on June 3rd, 1920, it filed with the Hudson County Board of Taxation a petition of appeal praying for the reduction of the assessment hereinbefore mentioned, but the said Board affirmed the said assessment without prejudice;

40

Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

All of which is respectfully submitted this 14th day of September, 1920.

PENNSYLVANIA RAILROAD COMPANY, Lessee,

By JNO. P. GAUFF,
Real Estate Agent.

10

STATE OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. }ss.

JNO. P. GAUFF, for the above-named petitioner, being duly sworn on his oath according to law, says that he has read the foregoing petition and knows the contents thereof and that the facts set forth and contained therein are true and correct.

JNO. P. GAUFF.

20

Sworn to and subscribed before me
this 14th day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
for New Jersey in Pennsylvania.*

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Petition of Appeal to State Board.

STATE OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. } ss.

EDWARD M. CILLEY, being duly sworn on his oath according to law, says that he served a copy of the foregoing petition and affidavit on John Milton, Counsel of the City of Jersey City, personally the 21st day of September, 1920.

10

EDWARD M. CILLEY.

Sworn to and subscribed before me
this 21st day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
for New York in Pennsylvania.*

STATE OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. } ss.

20

EDWARD M. CILLEY, being duly sworn on his oath according to law, says that he served a copy of the foregoing petition and affidavit on Joseph P. McLean, Secretary of the Hudson County Board of Taxation, personally the 21st day of September, 1920.

EDWARD M. CILLEY.

Sworn to and subscribed before me
this 21st day of September, 1920.

30

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
for New Jersey in Pennsylvania.*

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Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

JUDGMENT.

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

- | | | |
|----|--|--------------------|
| 10 | In the matter of appeal of PENNSYLVANIA RAILROAD Co., Lessee, from the assessment of property in the taxing district of Jersey City in the County of Hudson for the year 1920. | } <i>Judgment.</i> |
|----|--|--------------------|

- 20 An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by Pennsylvania Railroad Company, Lessee, in which it is alleged that an injustice has been done the said complainant by the assessment of its property for taxation for the year 1920, located at Jersey City in the County of Hudson, consisting of Lot 1 in Block 601 (Fowler's Official Assessment Map of Jersey City), Newark, Charlotte and Duffield avenues, and that said property is assessed higher than the true value thereof;

- 30 After hearing evidence produced on the part of said complainant, and the said respondent and the argument of Albert C. Wall for the complainant and Edward P. Stout for the respondent, and after considering the same, it is, on this nineteenth day of April, nineteen hundred and twenty-one, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1918, that the assessment of \$36,000 made by the taxing district of Jersey City on said property, and affirmed by the Hudson County Board of Taxation, be and the

Judgment of State Board.

same is hereby affirmed; and that complainant's appeal from the judgment of said County Board, be and the same is hereby dismissed.

.....,
President.

M. R. MARGERUM,
 JAMES BAKER,
 ISAAC BARBER,

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State Board of Taxes and Assessment.

Attest:

FRANK D. SCHROTH,
Secretary.

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Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

DOCKET.

10	PENNSYLVANIA RAILROAD COMPANY, Lessee, Petitioner, vs. CITY OF JERSEY CITY, County of Hudson. Respondent.	Petr's Atty. Albert C. Wall. Respd't's Atty. Assessment of 1920. Property: Blk 601, Lot 1, at Newark, Charlotte & Duf- field Avenues. Amount, \$36,000. Judgment, Assessment Affirmed.

1920.

- Sept. 24. Petition filed.
- Oct. 5. Hearing fixed for December 1 at Jersey City
and notice sent.
- 20 Dec. 1. Adjourned without date, on request of counsel
for petitioner.

1921.

- Jan. 25. Hearing fixed for March 9 and 10 at Jersey
City and notice sent.
- March 9. Case partly heard and continued to following
day. Petition amended to ask for amounts
as fixed by State Board for 1919.
- “ 10. Hearing of testimony concluded.
- April 12. Argument of counsel for respondent heard.
- 30 “ 19. Judgment dismissing petition entered.
- “ 26. Dissenting memorandum filed by President
Jess.

*Petition of Appeal to State Board.***PETITION OF APPEAL.**

In the matter of the application of THE PENNSYLVANIA RAILROAD COM- PANY, Lessee, for reduction of Tax Assessment for the year 1920 of property situate in Jersey City, County of Hudson, New Jersey.	}	<i>Petition.</i> 	10
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To the State Board of Taxes and Assessment:

Your petitioner, the Pennsylvania Railroad Company, a corporation of the State of Pennsylvania, lessee of the works and property of the United New Jersey Railroad and Canal Company, respectfully shows that it is the lessee of certain property situate in the taxing district of the City of Jersey City, County of Hudson, known as: 20

Block 11, Lot A.

Block 76, Lot H-4.

Block 602, Lot 1.

The said-properties have been assessed for the purpose of taxation for the year 1920 as follows:

Block	Lot	Street	Assess- ment	
11	A	Morgan Street	\$97,500	
76	H-4	Washington, Greene, First & Bay Sts.	23,000	30
602	1	Newark Ave.	44,000	

Your petitioner is aggrieved at the said assessments, because the said properties are assessed in excess of their true value and also in excess of assessments levied against properties of like character and those similarly situate in the same locality, and in excess of the valuation fixed by the State Board of Taxes and Assessment in 1919.

Your petitioner, therefore, has not paid in full the taxes so levied for the year 1920 and prays that your 40

Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

Honorable Board will reduce the said assessments to the true value of the property, to wit:

	Block	Lot	Street	Assess- ment
	11	A	Morgan Street	\$85,000
	76	H-4	Washington, Greene,	
10			First & Bay Sts.	19,700
	602	1	Newark Ave.	28,000

Your petitioner further shows that on June 3rd, 1920, it filed with the Hudson County Board of Taxation a petition of appeal praying for the reduction of the assessments hereinbefore mentioned, but the said Board affirmed the said assessment without prejudice;

All of which is respectfully submitted this 14th day of September, 1920.

20 PENNSYLVANIA RAILROAD COMPANY, Lessee,

By JNO. P. GAUFF,
Real Estate Agent.

NOTE: At hearing on March 9/21 petition amended to ask for same amounts as fixed by State Board for 1919.

Petition of Appeal to State Board.

STATE OF PENNSYLVANIA, }
 COUNTY OF PHILADELPHIA. }ss.

JNO. P. GAUFF, for the above-named petitioner, being duly sworn on his oath according to law, says that he has read the foregoing petition and knows the contents thereof and that the facts set forth and contained therein are true and correct.

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JNO. P. GAUFF.

Sworn to and subscribed before me
 this 14th day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
 for New Jersey in Pennsylvania.*

STATE OF PENNSYLVANIA, }
 COUNTY OF PHILADELPHIA. }ss.

20

EDWARD M. CILLEY, being duly sworn on his oath according to law, says that he served a copy of the foregoing petition and affidavit on John Milton, Counsel of the City of Jersey City, personally the 21st day of September, 1920.

EDWARD M. CILLEY.

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Sworn to and subscribed before me
 this 21st day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
 for New Jersey in Pennsylvania.*

40

Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

STATE OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. } ss.

EDWARD M. CILLEY, being duly sworn on his oath according to law, says that he served a copy of the foregoing petition and affidavit on Joseph P. McLean, Secretary of the Hudson County Board of Taxation, personally
10 the 21st day of September, 1920.

EDWARD M. CILLEY.

Sworn to and subscribed before me
this 21st day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
for New Jersey in Pennsylvania.*

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*Judgment of State Board.***JUDGMENT.****STATE OF NEW JERSEY.****STATE BOARD OF TAXES AND ASSESSMENT.**

In the matter of appeal of PENNSYLVANIA RAILROAD Co., Lessee, from the assessment of property in the taxing district of Jersey City, in the County of Hudson, for the year 1920.

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Judgment.

An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board by Pennsylvania Railroad Company, Lessee, in which it is alleged that an injustice has been done the said complainant by the assessment of its property for taxation for the year 1920, located at Jersey City, in the County of Hudson, consisting of Lot A in Block 11, Morgan street; Lot H-4 in Block 76, Washington, Greene, First and Bay streets; Lot 1 in Block 602, Newark avenue; on the Official Assessment Map of Jersey City and that said property is assessed higher than the true value thereof;

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After hearing evidence produced on the part of said complainant, and the said respondent, and the argument of Albert C. Wall for the complainant, and Edward P. Stout for the respondent, and after considering the same, it is, on this nineteenth day of April, nineteen hundred and twenty-one, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1918, that the assessment of \$97,500 on said Lot A Block 11; of \$23,000 on said Lot H-4 Block 76; and of \$44,000

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Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

on said Lot 1 Block 602, made by the taxing district of Jersey City, and affirmed by the Hudson County Board of Taxation, be and the same is hereby affirmed; and that complainant's appeal from the judgment of said County Board, be and the same is hereby dismissed.

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.....,
President.

M. R. MARGERUM,
JAMES BAKER,
ISAAC BARBER,

State Board of Taxes and Assessment.

Attest:

FRANK D. SCHROTH,
Secretary.

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Docket.

DOCKET.

PENNSYLVANIA RAILROAD COMPANY, Lessee, Petitioner,	<i>Petr's Atty., Albert C. Wall.</i> <i>Respdt's Atty.</i> <i>Assessment of 1920.</i> <i>Property: Blk 11, Lot A,</i> <i>Morgan St., assessed</i> <i>\$97,500</i> <i>Blk 76, Lot H-4, Washing-</i> <i>ton, Green, First & Bay</i> <i>Sts., assessed \$19,700.</i> <i>Blk 602, Lot 1, assessed</i> <i>\$44,000.</i> <i>Amount, \$161,200.</i> <i>Judgment, Assessment</i> <i>Affirmed.</i>	10
<i>vs.</i>		
CITY OF JERSEY CITY, County of Hudson, Respondent.		

20

1920.

- Sept. 24. Petition filed.
 Oct. 5. Hearing fixed for December 1 at Jersey City
 and notice sent.
 Dec. 1. Adjourned without date, on request of counsel
 for petitioner.

1921.

- Jan. 25. Hearing fixed for March 9 and 10 at Jersey
 City and notice sent.
 March 9. Case partly heard and continued to following
 day. Petition amended to ask for amounts
 as fixed by State Board for 1919.
 " 10. Hearing of testimony concluded.
 April 12. Argument of counsel for respondent heard.
 " 19. Judgment dismissing petition entered.
 " 26. Dissenting memorandum filed by President
 Jess.

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Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

PETITION OF APPEAL.

10 In the matter of the application of THE
PENNSYLVANIA RAILROAD COMPANY,
Lessee, for reduction of tax assess-
ment for the year 1920 of property
situate in Jersey City, County of
Hudson, New Jersey. } *Petition.*

To the State Board of Taxes and Assessment:

20 Your petitioner, The Pennsylvania Railroad Company,
a corporation of the State of Pennsylvania, lessee of the
works and property of the United New Jersey Railroad
and Canal Company, respectfully shows that it is the
lessee of certain property situate in the taxing district of
the City of Jersey City, County of Hudson, consisting of
a plot of land and buildings, and known as Block 15,
Lots C-5 and C-6, Hudson River, Stock Yards plot con-
taining 24.178 acres;

30 That said property has been assessed for the purpose
of taxation for the year 1920 at a valuation of land \$2,-
130,050, buildings \$365,850, total \$2,495,900 (two million
four hundred ninety-five thousand nine hundred dollars),
at which assessment your petitioner is aggrieved, because
the same property is assessed in excess of its true value
and also in excess of assessments levied against properties
of like character and those similarly situate in the same
locality, and in excess of the valuation fixed by the State
Board of Taxes and Assessment in 1919 of \$62,700 per
acre.

40 Your petitioner, therefore, has not paid in full the
taxes so levied for the year 1920 and prays that your
Honorable Board will reduce the said assessment to the
true value of the property, to wit: Land \$1,540,138, build-

Petition of Appeal to State Board.

ings \$365,850, total \$1,905,988 (one million nine hundred five thousand nine hundred eighty-eight dollars).

Your petitioner further shows that on June 3rd, 1920, it filed with the Hudson County Board of Taxation a petition of appeal praying for the reduction of the assessment hereinbefore mentioned, but the said Board affirmed the said assessment without prejudice;

10

All of which is respectfully submitted this 14th day of September, 1920.

PENNSYLVANIA RAILROAD COMPANY, Lessee,

By JNO. P. GAUFF,
Real Estate Agent.

NOTE: At hearing on March 9/21, petition was amended to ask for same valuations as fixed by State Board for 1919.

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STATE OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. } ss.

JNO. P. GAUFF, for the above-named petitioner, being duly sworn on his oath according to law, says that he has read the foregoing petition and knows the contents thereof and that the facts set forth and contained therein are true and correct.

JNO. P. GAUFF. 30

Sworn to and subscribed before me
this 14th day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
for New Jersey in Pennsylvania.*

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Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

STATE OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. } ss.

10 EDWARD M. CILLEY, being duly sworn on his oath according to law, says that he served a copy of the foregoing petition and affidavit on John Milton, Counsel of the City of Jersey City, personally the 21st day of September, 1920.

EDWARD M. CILLEY.

Sworn to and subscribed before me
this 21st day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
for New Jersey in Pennsylvania.*

20

STATE OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. } ss.

EDWARD M. CILLEY, being duly sworn on his oath according to law, says that he served a copy of the foregoing petition and affidavit on Joseph P. McLean, Secretary of the Hudson County Board of Taxation, personally the 21st day of September, 1920.

EDWARD M. CILLEY.

30

Sworn to and subscribed before me
this 21st day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
for New Jersey in Pennsylvania.*

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Judgment of State Board.

JUDGMENT.

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

In the matter of appeal of PENNSYLVANIA RAILROAD Co., Lessee, from the assessment of property in the taxing district of Jersey City, in the County of Hudson, for the year 1920.

Judgment.

10

An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by Pennsylvania Railroad Company, Lessee, in which it is alleged that an injustice has been done the said complainant by the assessment of its property for taxation for the year 1920, located at Jersey City, in the County of Hudson, consisting of Lots C-5 and C-6 in Block 15 (on Fowler's Official Assessment Map of Jersey City), Hudson River, Stock Yards plot, 24.178 acres, and that said property is assessed higher than the true value thereof;

20

After hearing evidence produced on the part of said complainant, and the said respondent, and the argument of Albert C. Wall for the complainant, and Edward P. Stout for the respondent, and after considering the same, it is, on this nineteenth day of April, nineteen hundred and twenty-one, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1918, that the assessment of \$2,495,900 (\$2,130,050 on the land and \$365,850 on the improvements), made by the taxing district of Jersey City, and affirmed by the Hudson

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Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

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

.....,
President.

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

Attest:

FRANK D. SCHROTH,
Secretary.

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Docket.

DOCKET.

PENNSYLVANIA RAILROAD COMPANY, Lessee, Petitioner, vs. CITY OF JERSEY CITY, County of Hudson, Respondent. 	Petr's Atty. Albert C. Wall. Respd't's Atty. Assessment of 1920. Property: Land & bldgs., Blk 15, Lots C-5 & C-6, Hudson River, known as Stock Yards Plot, containing 24,178 acres. Amount, \$2,495,900. L., \$2,130,050. B., \$365,850. Judgment, Assessment Affirmed.
--	---

1920.

- Sept. 24. Petition filed.
Oct. 5. Hearing fixed for December 1 at Jersey City
and notice sent.
Dec. 1. Adjourned without date, on request of counsel
for petitioner.

20

1921.

- Jan. 25. Hearing fixed for March 9 and 10 at Jersey
City and notice sent.
March 9. Case partly heard and continued to following
day. Petition amended to ask for amounts
as fixed by State Board for 1919.
" 10. Hearing of testimony concluded.
April 12. Argument of counsel for respondent heard.
" 19. Judgment dismissing petition entered.
" 26. Dissenting memorandum filed by President
Jess.

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Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

MINUTES.

STATE HOUSE, TRENTON, NEW JERSEY,

Tuesday, October 5, 1920.

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

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

* * * * *

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

* * * * *

Wednesday, December 1, City Hall, Jersey City, 14 railroad cases.

* * * * *

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CITY HALL, JERSEY CITY, NEW JERSEY,

Wednesday, December 1, 1920.

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

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

The following calendar of appeals was called:

* * * * *

30 10-13. Pennsylvania Railroad Company, Lessee, vs. Jersey City.

* * * * *

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

Minutes of State Board.

Lessee. Mr. Edward P. Stout was present on behalf of the city. At the request of Mr. Bain and Mr. Wall the entire calendar was adjourned to a date to be fixed for the reason that their time was so taken up with the preparation of the railroad appeals from first and second-class assessments that it will be impossible to present the third-class appeals at this time.

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* * * * *

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

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

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

* * * * *

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

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* * * * *

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

* * * * *

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

30

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

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

The following calendar of appeals was called:

* * * * *

40

Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

10-13. Pennsylvania Railroad Company, Lessee, vs. Jersey City.

10 These cases were partly heard, Mr. Albert C. Wall appearing for the petitioner, and Mr. Edward P. Stout for the City of Jersey City. Mr. Wall stated that he desired to amend the petitions and ask that the assessments be reduced to the Board's figures for the year 1919. The testimony of Thomas P. Graham and Frederick Dunham was heard for the city, and further hearing was continued to the following day at Jersey City.

* * * * *

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

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

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

The following calendar of appeals was called:

* * * * *

10-13. Pennsylvania Railroad Company, Lessee, vs. Jersey City.

30 Hearing in these cases was concluded, Mr. Albert C. Wall appearing for the petitioners, and Mr. Edward P. Stout for the City of Jersey City. The Board heard the testimony of Floyd S. Corbin, Thomas A. Ryer and Ralph D. Van Duzer for the petitioners.

* * * * *

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

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

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

* * * * *

Minutes of State Board.

The Board then heard the argument of counsel on all pending railroad appeals from the assessment of third-class property in Jersey City. Mr. Bain was heard on behalf of the Lehigh Valley Railroad System, the Central Railroad System, and the Long Dock Company, and Mr. Stout for the City of Jersey City. Counsel for the Pennsylvania Railroad System was not present.

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* * * * *

STATE HOUSE, TRENTON, NEW JERSEY,
Tuesday, April 19, 1921.

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

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

* * * * *

The following motion was offered by Mr. Baker:

That the Board proceed to the consideration of these appeals: 20

* * * * *

10-13. Pennsylvania Railroad Company, Lessee, vs. Jersey City.

* * * * *

The vote on this motion follows:

Aye: Baker, Barber, Margerum.

No: Jess, Mutchler.

As Corrected 30
4/26/21. F. D. S.

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

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

* * * * *

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Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

PENNSYLVANIA RAILROAD COMPANY, LESSEE:

Block 601, Lot 1:

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

This motion was carried by the following vote:

Aye: Baker, Barber, Margerum.

10 No: Jess, Mutchler.

Block 15, Lots C-5 and C-6:

Motion by Colonel Margerum, seconded by Mr. Baker, that the appeal on these items be dismissed:

This motion was carried by the following vote:

Aye: Baker, Barber, Margerum.

No: Jess, Mutchler.

Block 11, Lot A:

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

This motion was carried by the following vote:

Aye: Baker, Barber, Margerum.

No: Jess, Mutchler.

Block, 76, Lot H-4:

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

This motion was carried by the following vote:

Aye: Baker, Barber, Margerum.

30 No: Jess, Mutchler.

Block 602, Lot 1:

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

This motion was carried by the following vote:

Aye: Baker, Barber, Margerum.

No: Jess, Mutchler.

Block 510, Lot 21, and Block 515, Lots 5 and 1:

40 Motion by Colonel Margerum, that this appeal be granted, the City having consented thereto.

Minutes of State Board.

This motion was seconded by Mr. Baker, and was carried by the following vote:

Aye: Baker, Barber, Jess, Margerum, Mutchler.

* * * * *

A description of the property involved in all of the foregoing railroad appeals, with the assessment by the City, the reduction asked by the companies, and the action of the Board, here follows: 10

* * * * *

P. R. R. Co., Lessee.

Block	Lot	Location		Assessed	Wanted Reduced To	State Board Action
601	1	Newark, Charlotte and Duffield Aves.	Land	36,000	26,000	36,000
15	C-5	Hudson River Stock Yards	Land	\$2,130,050	1,540,138	2,130,050
	C-6		Impts	365,850	365,850	365,850
				2,495,900	1,905,988	2,495,900
11	A	Morgan Street	Land	97,500	85,000	97,500
76	H-4	Washington, Greene, First and Bay Sts.	Land	23,000	19,700	23,000
602	1	Newark Avenue	Land	44,000	28,000	44,000
510	21		Land	14,000	11,200	11,200
515	5		Land	3,500	2,500	2,500
			Impts.	500	500	500
				4,000	3,000	3,000
515	1		Land	4,150	4,150	4,150
			Impts.	6,850	5,650	5,650
				11,000	9,800	9,800

* * * * *

STATE HOUSE, TRENTON, NEW JERSEY, 30
Tuesday, April 26, 1921.

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

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

Consent was asked by Senator Mutchler to change the record of his vote as it appeared in the minutes of the meeting of Tuesday, April nineteenth, in several instances. He asked that on the motion offered by Mr. Baker to pro- 40

Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

ceed with the consideration of the railroad appeals, his vote be changed from "Aye" to "No"; that on the motion by Colonel Margerum to dismiss the appeal of the Central Railroad Company of New Jersey on Block 1497, Lot 1, his vote be changed from "Aye" to "No." This request as unanimously granted.

10 The minutes of the meeting on Tuesday, April nineteenth, were approved as above corrected.

President Jess filed with the Board his dissenting memorandum in the matter of the appeals of the Central Railroad Company of New Jersey, the Communipaw Central Land Company, Lehigh Valley Railroad Company of New Jersey, Lehigh Valley Harbor Terminal Railway Company, Morris Canal and Banking Company, United Real Estate Company, National Storage Company, Associates of the Jersey Company, New York Bay Railroad Company, Pennsylvania Railroad Company, Lessee, and the
20 Long Dock Company, from the assessment of property in Jersey City. This memorandum follows:

"I wish to file this memorandum amplifying my reasons for protesting against final consideration of these appeals at the meeting of the Board on Tuesday, April nineteenth. It is not pertinent to this question whether the majority were right or wrong in sustaining the assessments. My objection was to proceeding to a judgment without a reasonable opportunity to review and digest the evidence.
30 Five days were consumed in the taking of this evidence. The hearings were not concluded until Tuesday, the twelfth of April. The stenographic record covers over eight hundred typewritten pages. It was impossible to analyze and weigh this large volume of testimony within a single week. There was not sufficient time even for the Chief Engineer of the Board to prepare abstracts of the evidence in the form which has, in the past, facilitated a careful and intelligent consideration of appeals like these which involved fifty or more separate parcels of property, with assess-
40 ments ranging from \$1,200 to \$4,575,000, and aggregating

Minutes of State Board.

nearly \$30,000,000. No reason for undue haste or a departure from the usual deliberative procedure was urged. Indeed, no reason could be advanced which would, in my opinion, outweigh the fundamental requirement that a full consideration of the proofs should precede the judgment of the Board."

* * * * *

10

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

I, FRANK D. SCHROTH, Secretary of the State Board of Taxes and Assessment, DO HEREBY CERTIFY, that the foregoing are true copies of the petitions, judgments, memorandum and proceedings in the matter of the three appeals of The Pennsylvania Railroad Company, Lessee, from the assessment of property in the City of Jersey City, County of Hudson, for the year 1920, as the same are taken from and compared with the originals filed in the office of the State Board of Taxes and Assessment, on the twenty-fourth day of September and other dates, A. D. 1920 and 1921, and now remaining on file and of record therein.

20

(SEAL)

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

30

FRANK D. SCHROTH,
Secretary.

40

Case of Pennsylvania Railroad Co., Lessee, Prosecutor.

REASONS

Filed July 16, 1921.

NEW JERSEY SUPREME COURT.

10 THE PENNSYLVANIA RAILROAD COMPANY,
Lessee,

Prosecutor,

vs.

THE STATE BOARD OF TAXES AND AS-
SESSMENT and THE MAYOR AND
ALDERMEN OF JERSEY CITY, a municip-
al corporation,

Defendants.

On Certiorari.

Reasons.

20

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

1. Because The State Board of Taxes and Assessment determined said valuations and assessments arbitrarily and regardless of the evidence before said Board on the appeal of prosecutor.
- 30 2. Because said assessed valuations as determined by The State Board of Taxes and Assessment are excessive and erroneous.
3. Because said assessments were determined by and upon an erroneous principle in that said assessed valuations were based upon a supposed general increase in the value of water front property on the Hudson River and New York Bay in Jersey City.
4. Because the judgment of The State Board of Taxes and Assessment on said valuations and assessments is not

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Reasons.

supported by any evidence before said Board on the appeal of prosecutor.

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

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

7. Because said assessments are excessive.

8. Because said assessments deprive prosecutor of its property without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States for the reason that they were determined without a real and substantial hearing of prosecutor thereon.

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

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Prosecutor.

Case of New York Bay Railroad Company, Prosecutor.

WRIT OF CERTIORARI.

Allowed June 18, 1921; returnable July 7, 1921.

NEW JERSEY, ss.

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

We being willing for certain reasons, to be certified of certain assessments of taxes made by said The Mayor and Aldermen of Jersey City, for the year 1920, on property of The New York Bay Railroad Company, a corporation, situated in Jersey City, County of Hudson and State of New Jersey, and described for the purpose of taxation as follows:

20 Block 1507, Lot 2-L; 100.98 acres of land.

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

30 WITNESS, WILLIAM S. GUMMERE, Esquire, Chief Justice of our said Supreme Court at Trenton, this 20th day of June, in the year of our Lord one thousand nine hundred and twenty-one.

ENOCH L. JOHNSON,
Clerk.

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys.

Writ of Certiorari.

Allocatur:

I allow this writ. Let it be sealed.

Dated June 18, 1921.

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

10

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30

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Case of New York Bay Railroad Company, Prosecutor.

ORDER EXTENDING RETURN DAY OF WRIT.

Filed August 1, 1921.

NEW JERSEY SUPREME COURT.

10	THE NEW YORK BAY RAILROAD COM- PANY,	<i>Prosecutor,</i>	<i>On Certiorari.</i>	
	<i>vs.</i>			
	THE STATE BOARD OF TAXES AND AS- SESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, a municipi- pal corporation,	<i>Defendants.</i>		<i>Order Extending Return Day of Writ.</i>
20				

Upon good cause shown,

It is ordered that the return day of the writ of cer-
tiorari in the above-stated cause be and the same is hereby
extended to and including July twenty-ninth, nineteen
twenty-one.

FRANK S. KATZENBACH, JR.,
J. S. C.

30 Dated July 29th, 1921.

Entered August 1, 1921, on motion of

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Prosecutor.

A true copy.

ENOCH L. JOHNSON,
Clerk.

Return of State Board.

**RETURN OF STATE BOARD OF TAXES AND
ASSESSMENT.**

Filed July 29, 1921.

NEW JERSEY SUPREME COURT.

THE NEW YORK BAY RAILROAD COM-
PANY,

Prosecutor,

vs.

THE STATE BOARD OF TAXES AND AS-
SESSMENT and THE MAYOR AND
ALDERMEN OF JERSEY CITY, a munici-
pal corporation,

Defendants.

10

On Certiorari.

20

The State Board of Taxes and Assessment doth here-
with send to the Supreme Court of the State of New
Jersey the petition, judgment, memorandum and pro-
ceedings in the matter of the appeal of The New York
Bay Railroad Company, from the assessment of property
located in the City of Jersey City, County of Hudson, as
within it is commanded, as by the transcript under the
seal of said Board hereto annexed more fully appears.

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STATE BOARD OF TAXES AND ASSESSMENT,

By FRANK D. SCHROTH,
Secretary.

40

Case of New York Bay Railroad Company, Prosecutor.

PETITION OF APPEAL.

10	In the matter of the application of THE NEW YORK BAY RAILROAD COMPANY for a reduction of the tax assessment for the year 1920 of property situate in the City of Jersey City, County of Hudson, New Jersey.	} <i>Petition.</i>
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To the State Board of Taxes and Assessment:

20 Your petitioner, The New York Bay Railroad Company, a corporation of the State of New Jersey, respectfully shows that it is the owner of certain property situate in the taxing district of the City of Jersey City, County of Hudson, consisting of one hundred acres and ninety-eight hundredths of an acre of land, and known as Block 1507, Lot 2-L;

30 That said property has been assessed for the purpose of taxation for the year 1920 at a valuation of two million nineteen thousand six hundred dollars (\$2,019,600), at which assessment your petitioner is aggrieved, because the rate per acre placed upon the property by the Jersey City authorities is in excess of its true value and also in excess of assessments levied against property of like character and similarly situate in the same locality, and because the assessment is in excess of the valuation to which said property was reduced by the Board in 1919 of \$11,200 per acre.

40 Your petitioner, therefore, has not paid in full the taxes so levied for the year 1920 and prays that your Honorable Board will reduce the said assessment to the true value of the property, to wit: the sum of one million one hundred thirty thousand nine hundred seventy-six dollars (\$1,130,976);

Petition of Appeal to State Board.

Your petitioner further shows that on June 3rd, 1920, it filed with the Hudson County Board of Taxation a petition of appeal praying for the reduction of the assessment hereinbefore mentioned, but the said Board affirmed the said assessment without prejudice;

All of which is respectfully submitted this 14th day of September, 1920.

10

THE NEW YORK BAY RAILROAD COMPANY,

By JNO. P. GAUFF,
Real Estate Agent.

NOTE: At hearing on March 9/21 petition amended to ask for amounts fixed by State Board for 1919.

STATE OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. } ss.

20

JNO. P. GAUFF, for the above-named petitioner, being duly sworn on his oath according to law, says that he has read the foregoing petition and knows the contents thereof and that the facts set forth and contained therein are true and correct.

JNO. P. GAUFF.

Sworn to and subscribed before me
this 14th day of September, 1920.

30

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
for New Jersey in Pennsylvania.*

40

Case of New York Bay Railroad Company, Prosecutor.

STATE OF PENNSYLVANIA, }
 COUNTY OF PHILADELPHIA. } ss.

10 EDWARD M. CILLEY, being duly sworn on his oath according to law, says that he served a copy of the foregoing petition and affidavit on John Milton, Counsel of the City of Jersey City, personally the 21st day of September, 1920.

EDWARD M. CILLEY.

Sworn to and subscribed before me
 this 21st day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
 for New Jersey in Pennsylvania.*

20

STATE OF PENNSYLVANIA, }
 COUNTY OF PHILADELPHIA. } ss.

EDWARD M. CILLEY, being duly sworn on his oath according to law, says that he served a copy of the foregoing petition and affidavit on Joseph P. McLean, Secretary of the Hudson County Board of Taxation, personally the 21st day of September, 1920.

EDWARD M. CILLEY.

30

Sworn to and subscribed before me
 this 21st day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
 for New Jersey in Pennsylvania.*

40

*Judgment of State Board.***JUDGMENT.**

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

In the matter of appeal of THE NEW YORK BAY RAILROAD Co., from the assessment of property in the taxing district of Jersey City in the County of Hudson, for the year 1920.

Judgment.

10

An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by The New York Bay Railroad Co., in which it is alleged that an injustice has been done the said complainant by the assessment of its property for taxation for the year 1920, located at Jersey City, in the County of Hudson, consisting of Lot 2-L, in Block 1507 (on the Official Assessment Map of Jersey City), and that said property is assessed higher than the true value thereof;

20

After hearing evidence produced on the part of said complainant, and the said respondent, and the argument of Albert C. Wall for the complainant, and Edward P. Stout for the respondent, and after considering the same, it is, on this nineteen day of April, nineteen hundred and twenty-one, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1918, that the assessment of \$2,019,600 made by the taxing district of Jersey City on said property, and affirmed by the Hudson County Board of Taxation, be and the same is hereby affirmed; and that said appeal of complaint from

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Case of New York Bay Railroad Company, Prosecutor.

the judgment of said County Board be and the same is hereby dismissed.

.....,
President.

M. R. MARGERUM,
JAMES BAKER,
ISAAC BARBER,

State Board of Taxes and Assessment.

10

Attest:

FRANK D. SCHROTH,
Secretary.

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Docket.

DOCKET.

NEW YORK BAY RAILROAD COMPANY,	<i>Petr's Atty.</i>	<i>Respd't's Atty.</i>	
<i>Petitioner,</i>	<i>Assessment of 1920.</i>		
<i>vs.</i>	<i>Property: Blk 1507, Lot</i>		10
	<i>2-L, comprising 100.98</i>		
	<i>Acres.</i>		
CITY OF JERSEY CITY,	<i>Amount, \$2,019,600.</i>		
County of Hudson,	<i>Judgment, Assessment.</i>		
<i>Respondent.</i>	<i>Affirmed.</i>		

1920.

- Sept. 24. Petition filed.
 Oct. 5. Hearing fixed for December 1 at Jersey City
 and notice sent.
 Dec. 1. Adjourned without date, on request of counsel 20
 for petitioner.

1921.

- Jan. 25. Hearing fixed for March 9 and 10 at Jersey
 City and notice sent.
 March 9. Case partly heard and continued to following
 day. Petition amended to ask for same
 amounts fixed by State Board for 1919.
 " 10. Hearing of testimony concluded.
 April 12. Argument of counsel for respondent heard. 30
 " 19. Judgment dismissing petition entered.
 " 26. Dissenting memorandum filed by President
 Jess.

*Case of New York Bay Railroad Company, Prosecutor.***MINUTES.**

STATE HOUSE, TRENTON, NEW JERSEY,

Tuesday, October 5, 1920.

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

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

* * * * *

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

* * * * *

Wednesday, December 1, City Hall, Jersey City, 14 railroad cases.

* * * * *

20 CITY HALL, JERSEY CITY, NEW JERSEY,
Wednesday, December 1, 1920.

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

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

The following calendar of appeals was called:

* * * * *

30 9. New York Bay Railroad Company vs. Jersey City.

* * * * *

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

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Minutes of State Board.

Lessee. Mr. Edward P. Stout was present on behalf of the city. At the request of Mr. Bain and Mr. Wall the entire calendar was adjourned to a date to be fixed for the reason that their time was so taken up with the preparation of the railroad appeals from first and second-class assessments that it will be impossible to present the third-class appeals at this time.

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* * * * *

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

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

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

* * * * *

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

20

* * * * *

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

* * * * *

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

30

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

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

The following calendar of appeals was called:

* * * * *

9. New York Bay Railroad Company, vs. Jersey City.

* * * * *

40

Case of New York Bay Railroad Company, Prosecutor.

These cases were partly heard, Mr. Albert C. Wall appearing for the petitioner, and Mr. Edward P. Stout for the City of Jersey City. Mr. Wall stated that he desired to amend the petitions and ask that the assessments be reduced to the Board's figures for the year 1919. The testimony of Thomas P. Graham and Frederick Dunham
 10 was heard for the city, and further hearing was continued to the following day at Jersey City.

* * * * *

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

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

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

20 The following calendar of appeals was called:

* * * * *

9. New York Bay Railroad Company vs. Jersey City.

* * * * *

Hearing in these cases was concluded, Mr. Albert C. Wall appearing for the petitioners, and Mr. Edward P. Stout for the City of Jersey City. The Board heard the testimony of Floyd S. Corbin, Thomas A. Ryer and Ralph D. Van Duzer for the petitioners.

* * * * *

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

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

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

* * * * *

40 The Board then heard the argument of counsel on all pending railroad appeals from the assessment of third-

Minutes of State Board.

class property in Jersey City. Mr. Bain was heard on behalf of the Lehigh Valley Railroad System, the Central Railroad System, and the Long Dock Company, and Mr. Stout for the City of Jersey City. Counsel for the Pennsylvania Railroad System was not present.

* * * * *

STATE HOUSE, TRENTON, NEW JERSEY,
Tuesday, April 19, 1921.

10

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

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

* * * * *

The following motion was offered by Mr. Baker:

That the Board proceed to the consideration of these appeals:

* * * * *

20

9. New York Bay Railroad Company vs. Jersey City.

* * * * *

The vote on this motion follows:

Aye: Baker, Barber, Margerum.

No: Jess, Mutchler.

As Corrected

4/26/21. F. D. S.

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

30

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

* * * * *

40

Case of New York Bay Railroad Company, Prosecutor.

NEW YORK BAY RAILROAD COMPANY:

Block 1507, Lot 2-L:

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

This motion was carried by the following vote:

10

Aye: Baker, Barber, Margerum.

No: Jess, Mutchler.

* * * * *

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

* * * * *

Block Lot	Location	Assessed	Wanted Reduced To	State Board Action
New York Bay Railroad.				
1507 2-L		Land 2,019,600	1,130,976	2,019,600
	* * * * *	* *		

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STATE HOUSE, TRENTON, NEW JERSEY,
Tuesday, April 26, 1921.

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

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

30

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

40

Minutes of State Board.

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

President Jess filed with the Board his dissenting memorandum in the matter of the appeals of the Central Railroad Company of New Jersey, the Communipaw Central Land Company, Lehigh Valley Railroad Company of New Jersey, Lehigh Valley Harbor Terminal Railway Company, Morris Canal and Banking Company, United Real Estate Company, National Storage Company, Associates of the Jersey Company, New York Bay Railroad Company, Pennsylvania Railroad Company, Lessee, and the Long Dock Company, from the assessment of property in Jersey City. This memorandum follows:

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

* * * * *

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Case of New York Bay Railroad Company, Prosecutor.

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

10 I, FRANK D. SCHROTH, Secretary of the State Board of Taxes and Assessment, DO HEREBY CERTIFY, that the foregoing are true copies of the petition, judgment, memorandum and proceedings in the matter of the appeal of the New York Bay Railroad Company, from the assessment of property in the City of Jersey City, County of Hudson, for the year 1920, as the same are taken from and compared with the originals filed in the office of the State Board of Taxes and Assessment, on the twenty-fourth day of September and other dates, A. D. 1920 and 1921, and now remaining on file and of record therein.

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

(SEAL)

FRANK D. SCHROTH,
Secretary.

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Reasons.

REASONS

Filed July 16, 1921.

NEW JERSEY SUPREME COURT.

NEW YORK BAY RAILROAD COMPANY,
Prosecutor,

vs.

THE STATE BOARD OF TAXES AND AS-
SESSMENT and THE MAYOR AND
ALDERMEN OF JERSEY CITY, a municipi-
pal corporation,
Defendants.

10

On Certiorari.

Reasons.

The prosecutor presents the following reasons for set-
ting aside the valuations and assessments brought before
this Honorable Court by the writ of certiorari in the above-
entitled cause:

20

1. Because The State Board of Taxes and Assessment
determined said valuations and assessments arbitrarily
and regardless of the evidence before said Board on the
appeal of prosecutor.

2. Because said assessed valuations as determined by
The State Board of Taxes and Assessment are excessive
and erroneous.

30

3. Because said assessments were determined by and
upon an erroneous principle in that said assessed valua-
tions were based upon a supposed general increase in the
value of water front property on the Hudson River and
New York Bay in Jersey City.

4. Because the judgment of The State Board of Taxes
and Assessment on said valuations and assessments is not
supported by any evidence before said Board on the ap-
peal of prosecutor.

40

Reasons.

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

6. Because The State Board of Taxes and Assessment on its hearing of prosecutor's appeal from said valuations and assessments erroneously permitted certain testimony to be given against objection of prosecutor.

7. Because said assessments are excessive.

8. Because said assessments deprive prosecutor of its property without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States for the reason that they were determined without a real and substantial hearing of prosecutor thereon.

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

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys of Prosecutor.

Writ of Certiorari.

WRIT OF CERTIORARI.

Allowed June 18, 1921; returnable July 7, 1921.

NEW JERSEY, ss.

The State of New Jersey to the State Board of Taxes and Assessment and the Mayor and Aldermen of Jersey City, a municipal corporation of the State of New Jersey. GREETING: 10

We being willing for certain reasons, to be certified of certain assessments of taxes made by said The Mayor and Aldermen of Jersey City, for the year 1920, on property of The Associates of the Jersey Company, a corporation, situated in Jersey City, County of Hudson and State of New Jersey, and described for the purpose of taxation as follows:

Block 4 and 5, Lots A and D; Pier B; North half of Morris Street Pier. 20

Block 8, Lot A-1.

Do COMMAND YOU that the said assessments of taxes, including the valuations upon which the same are based; all proceedings on appeal therefrom to said State Board of Taxes and Assessment; the final determination and judgment of said Board thereon; and all matters and proceedings touching and concerning the said assessments of taxes; to our Supreme Court at Trenton, on the seventh day of July, 1921, you certify and send, together with this writ, that therein may be done what of right and according to the laws and constitution of this State ought to be done. 30

WITNESS, WILLIAM S. GUMMERE, Esquire, Chief Justice of our said Supreme Court at Trenton, this 20th day of

Case of Associates of The Jersey Company, Prosecutor.

June, in the year of our Lord one thousand nine hundred and twenty-one.

ENOCH L. JOHNSON,
Clerk.

10 WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys.

Allocatur:

I allow this writ. Let it be sealed.

Dated June 18, 1921.

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

20

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Order Extending Return Day of Writ.

ORDER EXTENDING RETURN DAY OF WRIT.

Filed August 1, 1921.

NEW JERSEY SUPREME COURT.

THE ASSOCIATES OF THE JERSEY COM-
PANY,

Prosecutor,

vs.

THE STATE BOARD OF TAXES AND AS-
SESSMENT and THE MAYOR AND
ALDERMEN OF JERSEY CITY, a municip-
al corporation,

Defendants.

On Certiorari.

*Order
Extending
Return Day
of Writ.*

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20

Upon good cause shown,

It is ordered that the return day of the writ of cer-
tiorari in the above-stated cause be and the same is hereby
extended to and including July twenty-ninth, nineteen
twenty-one.

FRANK S. KATZENBACH, JR.,
J. S. C.

Dated July 29th, 1921.

30

Entered August 1, 1921, on motion of

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys for Prosecutor.

A true copy.

ENOCH L. JOHNSON,
Clerk.

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Case of Associates of The Jersey Company, Prosecutor.

**RETURN OF STATE BOARD OF TAXES AND
ASSESSMENT.**

Filed July 29, 1921.

NEW JERSEY SUPREME COURT.

10

THE ASSOCIATES OF THE JERSEY COM-
PANY,

Prosecutor,

vs.

THE STATE BOARD OF TAXES AND AS-
SESSMENT and THE MAYOR AND
ALDERMEN OF JERSEY CITY, a municipi-
pal corporation,

20

Defendants.

On Certiorari.

30 The State Board of Taxes and Assessment doth here-
with send to the Supreme Court of the State of New
Jersey the petition, judgment, memorandum and pro-
ceedings in the matter of the appeal of The Asso-
ciates of the Jersey Company, from the assess-
ment of property located in the City of Jersey City,
County of Hudson, as within it is commanded, as by the
transcript under the seal of said Board hereto annexed
more fully appears.

STATE BOARD OF TAXES AND ASSESSMENT,

By FRANK D. SCHROTH,
Secretary.

*Petition of Appeal to State Board.***PETITION OF APPEAL.**

In the matter of the application of
 THE ASSOCIATES OF THE JERSEY COM-
 PANY for reduction of tax assess-
 ment for the year 1920 of proper-
 ties in the City of Jersey City,
 County of Hudson, New Jersey: } *Petition.*

10

To the State Board of Taxes and Assessment:

Your petitioner, The Associates of The Jersey Com-
 pany, a corporation of the State of New Jersey, respect-
 fully shows that it is the owner of certain properties situ-
 ate in the taxing district of the City of Jersey City,
 known as:

Blocks 4 and 5, Lots "A" and "D."

20

Elock 8, Lot A-1.

The said properties have been assessed for the pur-
 pose of taxation for the year 1920 as follows:

Block	Lot	Street	Land	Buildings	Total
4 & 5	"A" & "D"	Pier B	\$899,250	\$140,000	\$1,039,250
8	A-1	North Half Morris St. Pier	349,950	49,000	394,950

Your petitioner is aggrieved at the said assessments,
 because the said properties are assessed in excess of
 their true value and also in excess of assessments levied
 against properties of like character and those similarly
 situate in the same locality, and in excess of the valuation
 fixed by the State Board of Taxes and Assessment in 1919.

30

Your petitioner, therefore, has not paid in full the taxes
 so levied for the year 1920 and prays that your Honorable
 Board will reduce the said assessments to the true value
 of the property, to wit:

Block	Lot	Street	Land	Buildings	Total
4 & 5	"A" & "D"		\$766,260	\$140,000	\$ 906,260
8	A-1		282,590	49,000	331,590

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Case of Associates of The Jersey Company, Prosecutor.

Your petitioner further shows that on June 3rd, 1920, it filed with the Hudson County Board of Taxation a petition of appeal praying for the reduction of the assessment hereinbefore mentioned, but the said Board affirmed the said assessment without prejudice;

10 All of which is respectfully submitted this 14th day of September, 1920.

THE ASSOCIATES OF THE JERSEY COMPANY,

By JNO. P. GAUFF,
Real Estate Agent.

NOTE: At hearing March 9/21 petition amended to ask for same valuation fixed by State Board for 1919.

STATE OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. }ss.

20

JNO. P. GAUFF, for the above-named petitioner, being duly sworn on his oath according to law, says that he has read the foregoing petition and knows the contents thereof and that the facts set forth and contained therein are true and correct.

JNO. P. GAUFF.

30 Sworn to and subscribed before me
this 14th day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
for New Jersey in Pennsylvania.*

Petition of Appeal to State Board.

STATE OF PENNSYLVANIA, }
 COUNTY OF PHILADELPHIA. } ss.

EDWARD M. CILLEY, being duly sworn on his oath according to law, says that he served a copy of the foregoing petition and affidavit on John Milton, Counsel of the City of Jersey City, personally the 21st day of September, 1920.

10

EDWARD M. CILLEY.

Sworn to and subscribed before me
 this 21st day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
 for New Jersey in Pennsylvania.*

STATE OF PENNSYLVANIA, }
 COUNTY OF PHILADELPHIA. } ss.

20.

EDWARD M. CILLEY, being duly sworn on his oath according to law, says that he served a copy of the foregoing petition and affidavit on Joseph P. McLean, Secretary of the Hudson County Board of Taxation, personally the 21st day of September, 1920.

EDWARD M. CILLEY.

30

Sworn to and subscribed before me
 this 21st day of September, 1920.

(SEAL) JESSE C. READ,
*A Foreign Commissioner of Deeds
 for New Jersey in Pennsylvania.*

40

*Case of Associates of The Jersey Company, Prosecutor.***JUDGMENT.**

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

10 In the matter of appeal of THE ASSO-
 CIATES OF THE JERSEY COMPANY from
 the assessment of property in the
 taxing district of Jersey City, in the
 County of Hudson, for the year 1920. } *Judgment.*

20 An appeal in writing having been filed with the State
 Board of Taxes and Assessment, duly verified according
 to the rules of practice prescribed by said Board, by The
 Associates of The Jersey Company, in which it is alleged
 that an injustice has been done the said complainant by
 the assessment of its property for taxation for the year
 1920, located at Jersey City, in the County of Hudson,
 consisting of Lots "A" and "D" in Blocks 4 and 5, as
 shown and designated on the Official Assessment Map of
 Jersey City (Pier B, north half of Morris Street Pier); and
 Lot A-1 in Block 8 on said map, and that said property
 is assessed higher than the true value thereof;

30 After hearing evidence produced on the part of said
 complainant, and the said respondent, and the argument
 of Albert C. Wall for the complainant, and Edward P.
 Stout for the respondent and after considering the same,
 it is, on this nineteenth day of April, nineteen hundred and
 twenty-one, at a session of the State Board of Taxes and
 Assessment, ORDERED, ADJUDGED and DECREED, under and by
 virtue of Chapter 67 of the Laws of 1905, Chapter 244 of
 the Laws of 1915 and Chapter 236 of the Laws of 1918,
 that the assessment of \$1,039,250 (\$899,250 on the land
 and \$140,000 on the improvements) on said Lots "A"

Judgment of State Board.

and "D," in Blocks 4 and 5; and \$394,950 (\$345,950 on the land and \$49,000 on the improvements) on said Lot A-1 in Block 8, as made by the taxing district of Jersey City and affirmed by the Hudson County Board of Taxation, be and the same is hereby affirmed; and that complainant's appeal from the judgment of said County Board, in respect to the land, be and the same is hereby dismissed. 10

.....,
President.

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

Attest:

FRANK D. SCHROTH, 20
Secretary.

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*Case of Associates of The Jersey Company, Prosecutor.***DOCKET.**

		<i>Petr's Atty. Albert C. Wall.</i>
		<i>Respdt's Atty.</i>
	ASSOCIATES OF THE JERSEY COMPANY,	<i>Assessment of 1920.</i>
10	<i>Petitioner,</i>	<i>Property: Blks 4 & 5, Lots</i>
	<i>vs.</i>	<i>A & D, Pier B (north half</i>
		<i>of Morris St. Pier), and</i>
		<i>Blk 8, Lot A-1.</i>
	CITY OF JERSEY CITY,	<i>Amount, \$1,434,200.</i>
	County of Hudson,	<i>L., \$1,245,200.</i>
	<i>Respondent.</i>	<i>B., \$189,000.</i>
		<i>Judgment, Assessments</i>
		<i>Affirmed.</i>

1920.

- 20 Sept. 24. Petition filed.
 Oct. 5. Hearing fixed for December 1 at Jersey City
 and notice sent.
 Dec. 1. Adjourned without date, on request of counsel
 for petitioner.

1921.

- Jan. 25. Hearing fixed for March 9 and 10 at Jersey
 City and notice sent.
 March 9. Case partly heard and continued to following
 day. Petition amended to ask only for
 30 reductions to amounts as fixed by State
 Board for 1919.
 " 10. Hearing of testimony concluded.
 April 12. Argument of counsel for respondent heard.
 " 19. Judgment dismissing petition entered.
 " 26. Dissenting memorandum filed by President
 Jess.

*Minutes of State Board.***MINUTES.**

STATE HOUSE, TRENTON, NEW JERSEY,
Tuesday, October 5, 1920.

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

Present: President Jess, Mr. Mutchler, Colonel Mar-
gerum, Mr. Baker and Dr. Barber.

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* * * * *

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

* * * * *

Wednesday, December 1, City Hall, Jersey City, 14
railroad cases.

* * * * *

CITY HALL, JERSEY CITY, NEW JERSEY,
Wednesday, December 1, 1920.

20

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

Present: President Jess, Mr. Mutchler, Colonel Mar-
gerum, Mr. Baker and Dr. Barber.

The following calendar of appeals was called:

* * * * *

8. The Associates of the Jersey Company vs. Jersey
City.

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* * * * *

Mr. Robert J. Bain was present to represent the Central Railroad Company of New Jersey, Communipaw Central Land Company, Lehigh Valley Railroad Company of New Jersey, Lehigh Valley Harbor Terminal Railway Company, Morris Canal & Banking Company, United Real Estate Company, National Storage Company and Long Dock Company, and Mr. Albert C. Wall to represent The Associates of the Jersey Company, New York Bay Rail-

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Case of Associates of The Jersey Company, Prosecutor.

road Company, and the Pennsylvania Railroad Company, Lessee. Mr. Edward P. Stout was present on behalf of the city. At the request of Mr. Bain and Mr. Wall the entire calendar was adjourned to a date to be fixed for the reason that their time was so taken up with the preparation of the railroad appeals from first and second-class assessments that it would be impossible to present the third-class appeals at this time.

* * * * *

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

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

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

* * * * *

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

* * * * *

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

* * * * *

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

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

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

The following calendar of appeals was called:

* * * * *

8. The Associates of the Jersey Company vs. Jersey City.

Minutes of State Board.

These cases were partly heard, Mr. Albert C. Wall appearing for the petitioner, and Mr. Edward P. Stout for the City of Jersey City. Mr. Wall stated that he desired to amend the petitions and ask that the assessments be reduced to the Board's figures for the year 1919. The testimony of Thomas P. Graham and Frederick Dunham was heard for the city, and further hearing was continued to the following day at Jersey City. 10

* * * * *

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

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

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

The following calendar of appeals was called: 20

* * * * *

8. The Associates of the Jersey Company vs. Jersey City.

Hearing in these cases was concluded, Mr. Albert C. Wall appearing for the petitioners, and Mr. Edward P. Stout for the City of Jersey City. The Board heard the testimony of Floyd S. Corbin, Thomas A. Ryer and Ralph D. Van Duzer for the petitioners.

* * * * *

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

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

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

* * * * *

The Board then heard the argument of counsel on all pending railroad appeals from the assessment of third- 40

Case of Associates of The Jersey Company, Prosecutor.

class property in Jersey City. Mr. Bain was heard on behalf of the Lehigh Valley Railroad System, the Central Railroad System, and the Long Dock Company, and Mr. Stout for the City of Jersey City. Counsel for the Pennsylvania Railroad System was not present.

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STATE HOUSE, TRENTON, NEW JERSEY,
Tuesday, April 19, 1921.

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

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

* * * * *

The following motion was offered by Mr. Baker:

That the Board proceed to the consideration of these appeals:

* * * * *

20

8. The Associates of the Jersey Company vs. Jersey City.

* * * * *

The vote on this motion follows:

Aye: Baker, Barber, Margerum.

No: Jess, Mutchler.

As Corrected

4/26/21. F. D. S.

30

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

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

* * * * *

Minutes of State Board.

ASSOCIATES OF THE JERSEY COMPANY:

Blocks 4 and 5, Lots A and D, Pier B:

Motion by Mr. Baker, seconded by Colonel Margerum, that the appeal on these items be dismissed.

This motion was carried by the following vote:

Aye: Baker, Barber, Margerum.

No: Jess, Mutchler.

10

Block 8, Lot A-1:

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

This motion was carried by the following vote:

Aye: Baker, Barber, Margerum.

No: Jess, Mutchler.

* * * * *

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

20

* * * * *

Block Lot	Location	Assessed	Wanted Reduced To	State Board Action
P. R. R. SYSTEM—Associates of the Jersey Company, Assessment 1920				
4 & 5	A & D Pier B, and north half of Morris St. Pier	Land \$ 899,250 Impts. 140,000	\$ 766,260 140,000	\$ 899,250 140,000
		1,039,250	906,260	1,039,250
8	A-1	Land 345,950 Impts. 49,000	282,590 49,000	345,950 49,000
		394,950	331,590	394,950
		* * * * *		

30

STATE HOUSE, TRENTON, NEW JERSEY,

Tuesday, April 26, 1921.

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

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

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Case of Associates of The Jersey Company, Prosecutor.

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

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

President Jess filed with the Board his dissenting memorandum in the matter of the appeals of the Central Railroad Company of New Jersey, the Communipaw Central Land Company, Lehigh Valley Railroad Company of New
 20 Jersey, Lehigh Valley Harbor Terminal Railway Company, Morris Canal and Banking Company, United Real Estate Company, National Storage Company, Associates of the Jersey Company, New York Bay Railroad Company, Pennsylvania Railroad Company, Lessee, and the Long Dock Company, from the assessment of property in Jersey City. This memorandum follows:

"I wish to file this memorandum amplifying my reasons for protesting against final consideration of these appeals at the meeting of the Board on Tuesday, April nineteenth.
 30 It is not pertinent to this question whether the majority were right or wrong in sustaining the assessments. My objection was to proceeding to a judgment without a reasonable opportunity to review and digest the evidence. Five days were consumed in the taking of this evidence. The hearings were not concluded until Tuesday, the twelfth of April. The stenographic record covers over eight hundred typewritten pages. It was impossible to analyze and weigh this large volume of testimony within a single week. There was not sufficient time even for the Chief Engineer
 40 of the Board to prepare abstracts of the evidence in the

Minutes of State Board.

form which has, in the past, facilitated a careful and intelligent consideration of appeals like these which involved fifty or more separate parcels of property, with assessments ranging from \$1,200 to \$4,575,000, and aggregating nearly \$30,000,000. No reason for undue haste or a departure from the usual deliberative procedure was urged. Indeed, no reason could be advanced which would, in my opinion, outweigh the fundamental requirement that a full consideration of the proofs should precede the judgment of the Board.” 10

* * * * *

STATE OF NEW JERSEY.

STATE BOARD OF TAXES AND ASSESSMENT.

I, FRANK D. SCHROTH, Secretary of the State Board of Taxes and Assessment, DO HEREBY CERTIFY, that the foregoing are true copies of the petition, judgment, memorandum and proceedings in the matter of the appeal of The Associates of the Jersey Company, from the assessment of property in the City of Jersey City, County of Hudson, for the year 1920, as the same are taken from and compared with the originals filed in the office of the State Board of Taxes and Assessment, on the twenty-fourth day of September and other dates, A. D. 1920 and 1921, and now remaining on file and of record therein. 20

30

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

FRANK D. SCHROTH,
Secretary.

Case of Associates of The Jersey Company, Prosecutor.

REASONS

Filed July 16, 1921.

NEW JERSEY SUPREME COURT.

10	THE ASSOCIATES OF THE JERSEY COMPANY,	<i>Prosecutor,</i>	<i>On Certiorari.</i> <i>Reasons.</i>
	<i>vs.</i>		
20	THE STATE BOARD OF TAXES AND ASSESSMENT and THE MAYOR AND ALDERMEN OF JERSEY CITY, a municipal corporation,	<i>Defendants.</i>	

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

1. Because The State Board of Taxes and Assessment determined said valuations and assessments arbitrarily and regardless of the evidence before said Board on the appeal of prosecutor.
2. Because said assessed valuations as determined by The State Board of Taxes and Assessment are excessive and erroneous.
3. Because said assessments were determined by and upon an erroneous principle in that said assessed valuations were based upon a supposed general increase in the value of water front property on the Hudson River and New York Bay in Jersey City.
4. Because the judgment of The State Board of Taxes and Assessment on said valuations and assessments is not

Reasons.

supported by any evidence before said Board on the appeal of prosecutor.

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

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

7. Because said assessments are excessive.

8. Because said assessments deprive prosecutor of its property without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States for the reason that they were determined without a real and substantial hearing of prosecutor thereon.

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

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys of Prosecutor.

Proceedings Before State Board.

STATE BOARD OF TAXES AND ASSESSMENT.

10	THE ASSOCIATES OF THE JERSEY COMPANY, NEW YORK BAY RAILROAD COMPANY, PENNSYLVANIA RAILROAD COMPANY, lessee,	<i>Petitioners,</i>	<i>Testimony.</i>
	<i>vs.</i>		
	JERSEY CITY,	<i>Respondent.</i>	

COURT HOUSE, JERSEY CITY, N. J.,
Wednesday, March 9, 1921.

Present:

- 20 Mr. Jess, President.
Mr. Margerum,
Mr. Mutchler,
Dr. Barber,
Mr. Baker.

Appearances:

- Albert C. Wall, Esq., for the Appellants.
30 Edward P. Stout, Esq., for the Respondent.

8. The Associates of the Jersey Company vs. Jersey City (1805). Assessment of 1920 on the following property:

Proceedings Before State Board.

Block	Lot	Street		Assessed	Wants Reduced To	State Board Action 1919
4 & 5	"A" & "D"	Pier B, North half of Morris St. pier	Land	\$ 899,250	766,260	766,260
			Imp.	140,000	140,000	140,000
8	A.-1		Land	\$1,039,250	\$906,260	\$906,260
			Imp.	345,950	282,590	282,590
				49,000	49,000	49,000
				394,950	331,590	331,590

10

Petitioner appealed to Co. Bd., but assessments were affirmed "without prejudice."

9. New York Bay Railroad Co. vs. Jersey City (1806).

Assessment of 1920 on 100.98 acres of land, known as Block 1507, Lot 2-L, assessed, \$2,019,600; wants reduced to \$1,130,976.

Petitioner appealed to Co. Bd. and assessment was "affirmed without prejudice." 20

NOTE. This property was before the Board from the 1919 assessment of \$2,019,600, which was reduced to \$1,130,976.

10. Pennsylvania Railroad Co., lessee, vs. Same (1807).

Assessment of 1920 on a parcel of land, known as Block 601, Lot 1, Newark, Charlotte and Duffield Avenues, assessed, \$36,000; wants reduced to \$26,000. 30

Appeal to Co. Bd. dismissed without prejudice.

NOTE. This property was before the Board from the 1919 assessment of \$26,000. The petition was withdrawn.

Proceedings Before State Board.

11. Pennsylvania Railroad Co., lessee, vs. Jersey City (1809).

Assessment of 1920 on a plot of land and buildings, known as Block 15, Lots C-5 and C-6, Hudson River, Stock Yards Plot, containing 24,178 acres, assessed:

	Assessed:	Wants reduced to:
10 Land	\$2,130,050	\$1,540,138
Imp.	365,850	365,850
	\$2,495,900	\$1,905,988

Appeal to Co. Bd. dismissed without prejudice.

NOTE. This property was before the Board from the same assessment as above for the year 1919, which was reduced by this Board to the figures as requested by petitioner for this year.

20 12. Same vs. Same (1808).

Assessment of 1920 on the following property:

Block	Lot	Street	Assessed	Wants Reduced To	State Board Action 1919
11	A	Morgan Street	\$97,500	\$85,000	\$85,000
76	H-4	Washington, Green, First & Bay Sts.	23,000	19,700	19,700
602	1	Newark Ave.	44,000	28,000	28,000

Appeal to Co. Bd. dismissed without prejudice.

13. Same vs. Same (1810).

30 Assessment of 1920 on the following property:

Block	Lot		Assessed	Wants Reduced to	State Board Action 1919
510	21	Land	\$14,000	\$11,200	
515	5	Land	3,500	2,500	
		Imp.	500	500	
			4,000	3,000	
515	1	Land	4,150	2,200	\$ 4,150
		Imp.	6,850*	5,650	5,650
			11,000	7,850	\$ 9,800

* Petitioner states that this assessment includes house No. 65 Henry street, which was torn down in December, 1917. Appeal to Co. Bd. dismissed without prejudice.

Proceedings Before State Board.

Mr. Wall. Now, if the Board please, in this matter the preliminary question is always whether the evidence as to change of condition will warrant a departure from the previous assessments of the Board. What is the Board's pleasure about how that question shall be determined? Shouldn't the City first introduce evidence of changed conditions sufficient to challenge the finding of the Board as already recorded in 1919? 10

The President. Yes, that would be true where the company is asking to have the assessments reduced to the amount fixed by the Board last year.

Mr. Wall. That is our position. We are not asking to have the assessments placed below what the Board placed it last year.

The President. Does that apply to all your cases?

Mr. Wall. I think that does.

The President. No, that does not. 20

Mr. Wall. It does not?

The President. No, sir.

Mr. Wall. Will you let me see that?

The President. Perhaps I am wrong about that.

Mr. Wall. Whether the assessments which we asked the Board to fix are the same as the judgments that the Board rendered last year?

Mr. Smiley. They are.

Mr. Wall. In other words, we do not ask for any lower valuations than the Board found last year. 30

Mr. Smiley. We do not.

The President. That appears to be the situation.

Mr. Wall. Yes, sir. Here is a summary.

The President. The Board took no action on No. 13. Evidently that was not before the Board in 1919.

Mr. Wall. You fixed that at \$11,200 last year.

The President. Our calendar does not show that. I don't know why. We usually have it here for our information. However, that is a small item anyway. 40

Proceedings Before State Board.

Mr. Wall. Then what would be the Board's ruling on the order of procedure?

The President. Follow the usual rule that where the assessment has been fixed by the Board a preceding year and the appellant asks to have an assessment reduced to that amount the burden is on the city or the taxing district.

Mr. Stout. May I be heard? It seems to me to be an anomalous rule.

The President. Nevertheless it is the rule.

Mr. Stout. Just bear with me for a moment, if you please. If the taxing district was the appellant here and was asking for an increase over the State Board's findings of last year, then I would see the applicability of your ruling.

The President. That is what you are doing.

20 *Mr. Stout.* No. We are not the appellant here. The railroads are the appellant and it would seem to me that before the Board should inquire into the matter the appellant should show you there has been no change. They are the appellant and the burden rests upon them and not upon us to show there has been. I think outside of the Pennsylvania, the Central and the Lehigh Valley, they ask that the assessments be reduced in some instances fifty percent over your findings of last year, and it must also be within the knowledge of this Board that you have increased the valuations on second class railroad property in Jersey City approximately eight million dollars over last year.

30 Now, there is a great similarity between second class railroad property, especially lands, and third class property. So there must be some change which must be within the knowledge of this Board of the value of this class of property over your assessments of last year, but I still insist that the Pennsylvania Railroad Company be the appellant here. They must show, or it must show
40 that there has been no change.

Proceedings Before State Board.

Mr. Wall. One very important point that Mr. Stout leaves out is the fact that the city despite the judgment of the Board promptly put the assessment up without regard to the Board's finding. For him to come and say simply because they have not filed an appeal this is in the light of their fixing this assessment on us from which we must appeal in order to get back to the Board's findings, it seems to me is leaving out the very important point.

10

The fact is we are asking to have this property put back at what the Board put it, and the presumption of law is, of course, that things remain the same as they were until the evidence is introduced to show some change has occurred. It seems to me it makes the judgment of the Board farcical if any such condition as this were to prevail. The unbroken decision of the Board for years, as I understand it, has been when you allege a change that you must prove a change.

20

The President. The rule followed by the Board is, as I have stated it, that where after a full hearing and investigation a judgment is reached by the Board that judgment must be respected by the assessing authorities in the next succeeding assessment, and that if it is not followed the burden is upon the taxing district to show either by evidence, new evidence or evidence of change of condition, that the value fixed by the Board is incorrect, in the interest of orderly procedure and to the end that the judgment of the Board after full hearing may be respected. That has been the practice and rule of the Board.

30

Mr. Stout. Then the result of that is that the city becomes the appellant in these cases?

The President. Not necessarily, no, sir.

Mr. Stout. We say there has been a change and we can very easily demonstrate it.

40

Proceedings Before State Board.

The President. That is all right. That is what should be done. The appellant comes in here showing the assessments reached by the Board, the valuation reached by the Board, and they can rest on that.

Mr. Stout. Then that makes us the appellant.

10 *The President.* No, not necessarily the appellant. In other words all that the appellant need do is to show the judgment of the Board. It is necessary to do that formally. We have that before us.

In answer, Mr. Stout, to your second suggestion, namely, that where in the case of the Central they are asking to have reductions below the amount fixed by the Board, of course in those cases we follow the ordinary procedure.

20 *Mr. Stout.* Then in respect to the Pennsylvania, does the Pennsylvania now move to have the assessment reduced to the Board's finding last year and rest, so that the city may proceed with its cases.

The President. I should think that would be a proper motion.

30 *Mr. Wall.* We have filed appeals in which we have set up that very fact. We have already done that formally in our petition. We come now and say the burden is on you to prove a change, and I don't know that we have to rest except on the issue, as far as that goes, if that is called resting.

Mr. Stout. In other words, is your *prima facie* case in?

Mr. Wall. Whatever inferences flow from the fact we say we want it put back where the Board put it, they flow.

The President. Can't you do that formally now?

Mr. Wall. I think we have done it already.

The President. By your petition?

40 *Mr. Wall.* Yes. I will do whatever the Board wants me to do.

Thomas P. Graham, direct as to qualifications.

The President. Only for the purpose of the record you ought to show—

Mr. Wall. We have filed the judgment of the Board on the last appeal before the Board affecting this identical property, and move the Board to fix the assessments for this year under appeal at the same amounts at which the Board fixed them for the previous appeal affecting the same property. 10

The President. That applies to all the Pennsylvania cases, do I understand that?

Mr. Wall. The Associates, the New York Bay and the Pennsylvania Railroad.

The President. Except the case No. 13, which can be taken up.

Mr. Wall. If that case does not come under the general statement, assuming that that case does come under the general statement. 20

Mr. Stout. The taxing district Jersey City is ready to offer evidence to show that there has been a material increase in the value of the lands of the Pennsylvania Railroad Company and associated companies here under appeal, and it now moves its case.

The President. You may proceed, Mr. Stout.

THOMAS P. GRAHAM, a witness being produced on behalf of the respondent, being duly sworn, testified as follows: 30

Direct examination by Mr. Stout.

Mr. Stout. Do you admit Mr. Graham's qualifications, Mr. Wall?

Mr. Wall. The qualifications of what, what is he produced as, a waterfront expert?

Mr. Stout. Yes.

Mr. Wall. I think you had better qualify him. 40

Thomas P. Graham, direct as to qualifications.

Q Mr. Graham, where do you reside? A Paterson, New Jersey.

Q How long have you lived there? A Twenty odd years.

Q What is your business? A Real estate—

Q Or profession. A Real estate broker and specializing in commercial water fronts all around New York Harbor.

Q How long have you been in that class of business? A Twenty years.

Q Have you appeared and testified before this Board as an expert on the value of Jersey City water front property? A I have.

Q State to the Board your experience dealing with water shore front property in Jersey City. A In Jersey City my experience has been making an appraisal for Burns Brothers for the old North American Coal Pier belonging to the Central Railroad of New Jersey and testifying as to its value before the Interstate Commerce Commission, and besides my appraising property for Jersey City in my previous testimony, and I think on the Jersey City water front. That is the only experience I have had.

Q Have you recently had any negotiations with the Pennsylvania Railroad Company or the associated companies? A Yes, I made a bid for piers B and C for Pearce Brothers Steamship Company, a formal bid.

Q Did you put an appraisal upon the land for the purpose of making a bid?

Mr. Wall. I object to that. That is not a qualification because a man makes a bid or an appraisal.

The President. For whom?

Mr. Stout. For someone who made a bid to the Pennsylvania, put an appraisal upon the property.

Mr. Wall. If it were consummated in a sale and the price was the sale price or something like that,

Thomas P. Graham, direct as to qualifications.

that might be different, but just because a man blows into an office of a company and makes a thing that he calls a bid—

The President. If he was employed for the purpose of making a bid it would be some evidence that he was regarded as an expert, wouldn't it?

Mr. Wall. I shouldn't think so, because then 10
that would delegate to his employers the question of whether he was an expert, whereas the issue here is whether this Board thinks he was an expert from experience with actual sales and study of the condition.

The President. The question is allowed.

A No, I made no appraisal of this property in order to make the bid. The Pennsylvania Railroad Company issued a circular offering this property.

Mr. Wall. I object. 20

The President. All right. The objection is sustained. He said he didn't.

Q You placed no value on the property?

Mr. Wall. I object to that.

A Not to make the bid, no.

Q Did you at that time place any value on the property for the intending purchaser or— 30

Mr. Wall. I object to that.

The President. The objection is sustained.

Q For the purpose of a lease, did you place any value on the property? A I told the purchaser what the pier was worth, the rental value.

Mr. Wall. I object to this.

Q You are familiar with the Packard sale? A That is not in Jersey City, it is in Bayonne. 40

Thomas P. Graham, direct as to qualifications.

Q I know that. Are you familiar with sales of property on the water front of Jersey City comparable with that property?

10 *Mr. Wall.* I object to that. There is not any property that is not comparable with other property. You can compare one thing with another, but how near and similar they are is a different question entirely.

The President. We will allow the question.

Q (Question repeated). A I know the sales that were made on the water front in Jersey City, yes.

The President. That does not answer it.

The Witness. Comparable to this property.

The President. Is that your answer?

20 *The Witness.* Yes.

Q Have you made a study of value of water front property in Jersey City? A I have.

Q What has that study consisted of? A Examination of all sales and leases.

Q Over what period? A For a number of years. There have been comparatively few sales on Jersey City water front.

30 Q How do you arrive at the value of this class of property? A By comparing it with property of similar potentialities in Jersey City and all around New York Harbor.

Q And have you made an appraisalment for the purpose of testifying on behalf of the city in respect to the property of the Pennsylvania Railroad Company? A I have.

Mr. Stout. I submit this witness is qualified.

40 *Mr. Wall.* I would like to ask him a few questions.

Thomas P. Graham, cross as to qualifications.

Cross examination by Mr. Wall.

Q You have valued all these properties that you have dealt with in this appraisal on the basis of their potentiality, is that correct? A Yes.

Q And the standard of value which you have in mind for property on the Jersey City water front is a standard based on the potentialities of the property in question? 10

A Use, demand, potentialities, so-called.

Q What do you conceive to be the standard of valuations of water front property by such a Board as this?

A I don't quite understand that question.

Q For example, if you value a property for a new corporation, if you were given the work of valuing the property for a corporation to be formed, you would take reproductive cost, would you not? A No, I would take what I would consider the fair market value of property.

Q You would take that? A Yes.

Q You would tell them that is what they would have to pay? A Yes. 20

Q Now then, what do you conceive to be the standard of valuation in such a proceeding as this? A Fair market value.

Q Fair market value? A Yes.

Q Can you give a further definition of that? A What a willing buyer would be willing to pay to a willing seller. They take into consideration the use of the property, the rental values and everything that goes with it to make it. 30

Q You didn't quite mean that when you said you value it on the basis of potentialities? A I would call that a potentiality.

Q That is one factor? A I think potentiality has a much wider meaning than that. It means the possibilities of improvements, its adaptability and many things. That is a potential value of any property.

Q Is it a factor in market value or is it itself greater than market value as an important factor? A It is the 40

Thomas P. Graham, cross as to qualifications.

things that entered into the mind of the willing seller and the willing buyer which makes a market value, that is the element.

Q I am trying to get from you whether potentiality is a standard of more importance in your mind in valuation than this so-called market value or whether it is a mere factor in market value? A It is a factor.

10 Q When you say you have made a study of the Jersey City water front what do you mean by that? A I mean the Jersey City water front is a part of New York Harbor. It is adaptable for all uses that water front can be put to. There is always a question, constant negotiations for water front of all character, including the Jersey City water front. Necessarily we have to keep posted on conditions.

Q You didn't mean that you made any special study of sales out of Jersey City? A Because there are practically no sales of recent dates with the exception of one or two that you could use.

Q You didn't make a study of any such sales? A I know the sales were made and I study these sales.

Q How did you study these sales? What do you mean by that? A Examined the sales and saw the property and examined its location, its adaptability, accessibility and the many things that go into it, and compared it with other property.

30 Q You examined physically this property? A Yes, and on the maps.

Q Did you ever take part in any sale of any such property as this? A In Jersey City?

Q Yes. A No, because there has only been practically one sale. I did take part in one in Hoboken.

Q What other sales of any kind of water front property have you personally taken part in or personally known about? A Many.

Q In Jersey? A In Jersey, yes. I sold property in Bayonne, I sold property at Kill von Kull, on the 40 Jersey shore and the Staten Island shore.

Thomas P. Graham, cross as to qualifications.

Q What properties were those? A The Packard sale, the Delano sale.

Q Were you the broker? A Yes, one of the brokers.

Q You know the sale prices in those cases? A Yes, knew the sale prices.

Q Those properties were similar properties to the properties here under appeal? A They are water front properties. They were not pier properties. 10

Q Tell me whether they were similar or dissimilar to the properties here under appeal? A Which properties do you refer to?

Q The ones you were telling us about? A You said the Pennsylvania Railroad property, you referred to the pier property.

Q You don't know then which properties are here under appeal? A Yes.

The President. There are—you see all these appeals have been heard together as far as he knows, and there is a great number of them. 20

Mr. Wall. I am only directing his attention to the Pennsylvania.

The Witness. I generally know what the Pennsylvania property is.

Mr. Wall. He testified he made a special study for this.

The Witness. Of water front. 30

Mr. Wall. Of this water front in order to come here and give this testimony.

The President. Will you kindly repeat that question?

Q (Question repeated as follows): "Those properties were similar properties to the properties here under appeal?" A Excepting they were water front properties.

Q The only similarity is that the river flows by them and they are on the shore? A The river flows by one and the New York Bay on the other. 40

Thomas P. Graham, cross as to qualifications.

Q They don't even have a river flowing by them as evidence of similarity. One is a bay property and the other is a river property, and they are the only points of similarity? A They are water front property.

Q Water front property is anything on the water, isn't it? A Yes, but I wouldn't compare property way up
10 on the Hackensack River.

Q Are there any other sales of which you have intimate knowledge made in Jersey? A I have intimate knowledge of many sales, but I was not the broker.

Mr. Stout. The Ocean Steamship?

The Witness. The Ocean Steamship Company sale at Hoboken, Twelfth Street—I participated in that sale.

Q Did you participate in such a way that you know the price? A Yes, sir.
20

Q At Hoboken? A Yes, sir. It was on a river, too, on the Hudson River, it was a pier property similar to this.

Mr. Wall. Don't tell him any more.

The Witness. You were confining me to Jersey City.

Mr. Wall. No, I was not.

Q Was it so similar that the question of value there
30 was a helpful guide to the value here of these properties under appeal? A It gave some information, it was not controlling.

Q Do you regard them as not only comparable but fairly comparable property? A I regard them as having many potentialities in common.

Q Can't you answer my question a little more accurately? A I don't think so.

Q That is as near as you can come to it? A Yes.

Q You can't say whether the properties are fairly
40 comparable or not? A This had a great deal more up-

Thomas P. Graham, cross as to qualifications.

land than your property back of it except one piece, which is the stockyard piece, but your property down below is practically a bulkhead property with land under water and a street back of it, improved by piers and slip.

Q You are speaking of the Greenville property? A I am now speaking of the property on the Hudson River. These sales in Bayonne are comparable to your Greenville property. I didn't have that in mind. I was looking at the Hudson River.

Q Which of the properties here under appeal is the Ocean Steamship sale fairly comparable to? A To the properties piers A and B.

Q That is all? A Yes, and somewhat in connection with the other live stockyards.

Q When was the Packard sale made? A 1915 or 1916. It has been testified here so many times.

Q When was the Delano sale? A One of them was made in 1920. I can tell you in a minute. I have that all here. Which Delano do you mean? Delano was made in 1918.

Q 1918? A Yes.

Q When you testified before the Interstate Commerce Commission on this North American Coal pier property did you testify there to a standard of value based on the market value as you defined it here today? A Yes.

Q Sure about that? A That was my opinion, yes.

Q That was what it was based on? A Yes, sir; as I remember it. That was in 1914.

Q That you testified? A Yes.

Mr. Wall. I submit that this witness has shown absolutely no qualification to testify as to the issue that is now before the Board. The issue that is before the Board is governed by the question of change since the Board's finding, and the Board will notice there is no testimony that upholds his ability to testify as to change in that.

Thomas P. Graham, direct.

Mr. Stout. I submit, may it please the Board, that if Mr. Graham was not qualified as an expert to testify to the value of this class of property when I completed my direct examination, Mr. Wall has certainly qualified him.

The President. He will be admitted.

10 *Mr. Stout.* And it is also a significant fact that Mr. Graham appeared before this Board in 1917 and was accepted by this Board. The Pennsylvania Railroad Company used him as an expert in New York.

Mr. Wall. He is trying to convince your Honors you are wrong. I understand the testimony is admitted.

The President. It is. Proceed, Mr. Stout.

20 *Continuation of direct examination.*

By Mr. Stout.

Q Mr. Graham, has there been an increase in value of the shore front property of the Pennsylvania Railroad Company and its associated companies here under appeal as of October 1, 1919, over October 1, 1918? A In my opinion there was.

Q A material increase? A Well, there was some increase, yes, material increase.

30 Q What in your opinion was the fair market value of the New York Bay Railroad Company property known as Plot 2-L, in Block 1507? A \$20,000 an acre.

Q Of Plot C-5 in Block 15 of the Pennsylvania Railroad Company? A \$2.50 a square foot.

Q Plot C-6, in Block 15, of the Pennsylvania Railroad Company? A \$2.50 a square foot.

The President. I don't wish to interrupt you, but I suppose you will have the witness show what the value of this property was on October 1, 1918?

40 *Mr. Stout.* Yes.

Thomas P. Graham, direct.

The President. In other words, his testimony or any testimony ought to be directed especially to the question of the increase rather than the value, although I suppose that is another way of arriving at it. Under the rule I don't think we would care to have an expert produced here and testify as to what the value of this property was at the time which we fixed the assessment. The only question is what the increase was. 10

Mr. Stout. Isn't that sufficiently answered by the witness testifying that there was a material increase in the value of the property as of October 1, 1919, over October 1, 1918, and then it is up to counsel for the other side to prove the reasons for the change in value as determined by this.

The President. I think that is a pretty broad interpretation of the rule. It simply admits the production of expert testimony as to the value of the property as to a certain date. To be helpful to the Board we must know what the increase was between those two dates. 20

Mr. Stout. I will see whether I can assist the Board on that.

Q Mr. Graham, take property known as A and D in block four and five of the associates of the Jersey Company known as Piers B and C. 30

The President. Allow me to interrupt a moment. Have you our calendar before you?

Mr. Stout. Yes.

The President. In asking those questions will you indicate the numbers so that we can readily turn to them here, if you can do that.

Q (Question repeated), and state what the value of those two plots was as of October 1, 1919? A \$2.50 a 40

Thomas P. Graham, cross.

square foot, that is the land exclusive of the improvements.

Q What was the value as of October 1, 1919, Plot A-1 in Block No. 8 of the associates of the Jersey Company?

A Same price, \$2.50 a square foot.

10 *Mr. Stout.* That is also on your calendar, under eight.

Q Mr. Graham, are these values which you have testified to the true market value of these properties as of October 1, 1919? A In my opinion, yes.

Q And would the price be obtainable if there was a willing purchaser and a willing seller? A In my opinion, yes.

20 Q What in your opinion was the increase in valuation of these properties as of October 1, 1919, over October 1, 1918? A I valued these properties in 1917, \$2.00 a square foot. I value them in 1919 at \$2.50 a square foot and I think the increase is just divided between the two years. I would put \$2.25 a square foot on that at that time in 1918, increase it 25c a square foot.

Mr. Stout. Take the witness.

Continuation of cross examination.

By Mr. Wall.

30 Q What do you base that increase on? Were there any sales that occurred in that period that you have in mind? A No; on demand for water front property in that period.

Q That is all you have to base it on, is it? A Yes, sir.

Q What demand are you talking about, a demand on the New York shore? A A demand all around New York Harbor.

40 Q You cannot allocate that demand especially to Jersey City, can you? A I can allocate it all over the harbor where there were pier properties in use.

Thomas P. Graham, cross.

Q You testified that in your judgment there was a horizontal advance of 25c per square foot on 1919 over 1918, using October 1st as the date in each year? A That is my opinion, yes.

Q When did you first form that opinion? A On this particular instance?

Q You know what you testified to. When did you first form that opinion? A I have had an opinion of the increased value of water front property all around New York Harbor.

Q I ask for that opinion, when did you first form that opinion? A When I made my appraisal.

Q Have you got any figures in your appraisal that show it? A As I stated, I appraised this property in 1917 at \$2.00 a square foot. I appraised it as of the 1st of October, 1919, at \$2.50 a square foot.

Q And today you split the difference? A Today I split the difference.

Q When did you first split the difference? A Right now.

Q Since you have been on the witness stand? A Yes, sir.

Q As a sort of inspiration? A I was not asked that question before. Had I been asked the question before I would have done it. Mr. Stout asked me to appraise this property October 1, 1919, and I did.

Q You have had a good deal of experience in water front, according to the ruling of the Board, haven't you? A I have had a great deal of experience in water front, yes.

Q Aren't you the last man on the face of the earth to believe in a horizontal advance of any one figure all over such a water front as New York, New York Harbor? A No, I am not.

Q You believe in horizontal advances? A I believe in increased values all around the water front. I believe it has been demonstrated by the demand and the supply.

Thomas P. Graham, cross.

Q And you testify here that in your judgment there was an advance of 25c a square foot in how great an area? A At this particular point I am speaking of now I know there is a good deal greater advance in other sections of the water front.

Q Isn't every case different? A Yes.

10 Q Isn't that your experience? A No cases are exactly alike.

Q It is impossible to talk about horizontal advances up and down a thing like the New York water front, isn't it? A You can talk about a general trend all around the harbor.

Q I am asking about a horizontal advance? A That was your expression, not mine. I said nothing about a horizontal advance.

Q You said 25c? A Yes.

20 Q Tell us to what area that 25c applies? A To this particular property.

Q To only this particular property? A Yes. I know the lease of that property. It is a lease for \$125,000 a year to Harris the stevedore. I can get a great deal more money for it, and the railorad came to that conclusion when they asked for bids and leased the property for a substantial increase which capitalized would show a much larger square foot area.

30 *Mr. Stout.* What was the increase?

Mr. Wall. I am talking to the witness.

Q Did that influence you in fixing this 25c? A It confirmed my opinion, it was an increase in value.

Q It did not influence you? A I knew the facts. It all influenced me.

Q Why can't you say whether or not it did. It might have one way or the other? A I had knowledge of it, of course.

40 Q The answer is yes, it did increase? A I had knowledge of it, of course.

Thomas P. Graham, cross.

Q Now, then, how did your assessment for 1918, October 1, 1918, compare with this Board's assessment? A I don't know.

Q For that same period? A I don't know, Mr. Wall. This is my opinion. I don't know what the Board's assessment was that they fixed the assessed value at.

Q You don't? A I absolutely do not.

Q So you don't know whether you are testifying or not to a value that has already been overthrown by the judgment of the Board? A No, I do not.

Q It was not within the power of mortal man to find out in the time you were given? A I didn't think it was at all necessary. I was asked for the fair market value, in my opinion.

Q In percentages that 25c a square foot would amount to eight percent, is that right? A Well, eight percent on \$2.00 would be sixteen cents, it would be \$2.16. I divided it, 25c eight percent, \$2.25, no, it would not, twelve and one half percent, that would be it.

Q Well, we have the figures in. This is all under water, isn't it, this property that you speak of as the piers? A Most of it.

Q In Block 4 and 5, all of it is, isn't it? A Practically all of it.

Q And this New York Bay, do you know what the Board valued that property at per acre? A No, I do not.

Q You put it at how much per acre? A \$20,000 an acre.

Q \$20,000 or \$30,000? A \$20,000.

Q You didn't know this Board had valued it at, I think it was, \$11,200, wasn't that it? A No, I did not.

Mr. Stout. I think it is immaterial what value the Board put on this property. This man is testifying as to his opinion of the value of this property.

Thomas P. Graham, cross.

Mr. Wall. It is highly material, it seems to me, to find out what this testimony is. As the president pointed out they tried to get the value in as a novelty, whereas what we are dealing with is change.

10 *Mr. Stout.* If the Railroad Company appraisers fixed their opinion by the Board's finding, that is all right, but we do it another way, we let the witness determine for himself the value of the property, and I say it is immaterial whether he knew or didn't know the State Board's findings of last year.

20 *Mr. Wall.* There are three things we must do, first find out the value that the Board had. We have to keep that in mind, and then we have to have the changes over that value for October 1, 1919, and then if an expert is produced we have to take his starting point with reference to the Board's valuation, not his own, because he should have been higher or lower. We are looking for a margin between.

The President. I think it is material, Mr. Stout, in that view of it, because the question is whether there has been an increase in the value, and the value for our purpose is the judgment fixed by this Board.

30 *Mr. Stout.* But the witness has testified there was a 25 percent increase in 1919 over 1918.

The President. Yes.

Mr. Stout. So it makes no difference whether he takes your valuation or his own valuation for 1918, there is a 25 percent increase.

The President. Twenty-five per cent. from what?

40 *Mr. Stout.* Twenty-five cents a square foot more in 1919 than in 1918. Add twenty-five cents to your valuation, or you may add it to his valuation.

Thomas P. Graham, cross.

Mr. Wall. I will bring it out by a question.

Mr. Stout. I say it is immaterial.

Q Assuming that the valuation placed by this Board on the Greenville property for 1918, was at the rate of \$11,200 per acre what in your judgment would be the value for October 1, 1919? A At that particular point there was a finished property. I appraised that property in 1917 at \$20,000 an acre and don't give any additional value to it afterward.

10

Q You don't? A No.

Q You don't think there has been? A Just at that particular point no, with the conditions that existed. Every piece of property is different, as you say.

Q Going back to the other properties you testified to way from Greenville up to the piers again, does the same thing hold true there? A No.

Q What did you testify those properties were worth in 1917? A \$2 a square foot.

20

Q \$2 a square foot? A Yes.

Q Assuming that the valuation placed by the Board as of October 1, 1918 was on Block 4 and 5, Pier B \$766,260 for the land— A What does that measure in the square foot?

Q Mr. Ryer tells me that would be \$1.70 a square foot on the State Board's valuation in the 1919 taxes.

Mr. Stout. I object to the question. It is immaterial and it is very easy for the Board to determine upon the witness' testimony by adding twenty-five cents, \$1.70 if that be the correct amount. You don't need an expert to do that.

30

Mr. Wall. The question is not finished as it is there. Strike that out, I think.

Q Assuming that the Board's valuation as of October 1, 1918, on the land in Block 4 and 5, Lot A and D, Pier B was \$766,260, which figures at the rate of \$1.70 a square

40

Thomas P. Graham, cross.

foot, what in your judgment would be the advance to be placed as of October 1, 1919? A The proportionate increase as shown by the difference between \$2.00 and \$2.50 between 1917 and 1918.

Mr. Stout. Adding twenty-five per cent?

The Witness. Yes.

10

The President. You would add more than twenty-five?

The Witness. No, as a ratio of increase I would add twenty-five per cent.

The President. You would assume—

The Witness. Assume?

The President. Assuming that judgment was the proper value, you would add what?

20

The Witness. Twenty-five per cent, twelve and one-half per cent for that year.

Q You would add twelve and one-half per cent for 1919 over 1918, is that correct? A I divided my increase between 1917 and 1919 equally. That amounted to twenty-five per cent for two years.

Q I understand you can give that answer if you make that division, but do you as an expert say that there was twelve and one-half per cent increase in 1919 over 1918? A In my opinion there was.

30

Q That opinion is also one of those opinions you reached only after you came to the stand, isn't it? A I was not asked the question. If I had been asked by anybody else I would have reached the same conclusion, same premise.

Q You can always beat the question. A I am trying to answer your questions. They are rather involved.

Q Which one do you consider involved.

The President. Never mind, he has answered them all now.

40

Thomas P. Graham, cross.

Q What do you base that increase on and how do you arrive at that exact percentage?

Mr. Stout. I object. The witness has already answered it. He says it is on increased demand.

The President. Well, the objection is overruled.

A On increase in demand, increasing supply, increasing rental of the property. Of course that percentage is arbitrary, absolutely. That is my opinion from all the facts I have. 10

Q You would have taken, in order to arrive at that, you would have taken the average between 1917, as you testified to it, and the figure that you now give for 1919, wouldn't you, that is what you mean by arbitrary? A Yes.

Q You don't mean any special thing happened between 1918 and 1919 which to the mind of any man familiar with water front property would indicate there had been an exact percentage of advance which you could apply to this particular property? A Not as an exact mathematical proposition. 20

Q You are not able to point to any single thing which would indicate the advance and your feeling that there was an advance in water front property due to supply and demand? A To everybody it is obvious, the increased American Marine demanding berthing and pier propositions and the harbor supply absolutely inadequate to demand. The low percentage of increase is extremely moderate under the conditions. After that period there was a tremendous increase. 30

Q I am asking just as to that change? A It was absolutely apparent there was at least that much.

Q The demand, whatever the demand was, then for shipping was an abnormal demand, was it not? A I would not call it abnormal, no.

Q You would call it normal? A Normal under its conditions, yes. 40

Thomas P. Graham, cross.

Q You would call a demand— A It is going to be normal, it is going to continue.

Q I am asking you about that period. In other words you rest more on the mathematical average than on any other single factor, don't you? A No, I am not a statistician.

10 Q You are not a statistician? A No, I think some experts are, but I cannot be called a statistician.

Q You speak of the demand of the American Merchant Marine. Isn't that a demand that was based on tremendously abnormal conditions, such as virtual temporary retirement of the Germans from the Marine? A We still have the ships and they are going to be used, and they still have places to load and unload and berth. You are talking about the absence of the German ships. They are still absent and will remain absent, I think.

20 Q Are the conditions now existing which you referred to similar to the conditions that existed between 1918 and 1919? A At present there is a temporary slump in shipping, it is merely temporary.

Q And there was a temporary hump in shipping? A Yes, but I can lease every pier in New York Harbor today that I can get. I have demand for piers that I cannot supply with all the shipping slump evidenced by a recent lease I guess you know all about.

30 Q When it was up you say it was normal and when it is down it is temporary and abnormal. A Oh, no, I don't. The conditions there, there has been an increased demand and increased number of ships looking for wharfage, but that is going to continue.

Q No living man can put his finger on the situation existing as between October 1, 1918 and October 1, 1919, and say with reference to this particular property you have testified to that there was an advance in the price, can he? A There is no living man who knew anything about harbor conditions can say there was not a demand

Thomas P. Graham, re-direct.

if he knew his business as between 1918 and 1919, because the demand was there.

Q But what does he mean to say? A You cannot absolutely say. It is merely opinion what it was. There was an increase, no question about it.

Q Is that true all you have testified with reference to these piers, true, as to pier— A True as to that property, yes. 10

Q As to pier in Block 2, is that two or eight. A You mean the small pier.

Q Pier C and also as to the stockyard property? A Yes.

Mr. Wall. That is all.

I submit he has not shown any advance in property. He said his valuation as to Greenville was \$20,000 before 1918 and that he had not given any advance as to Greenville, so Greenville is out of it as far as he is concerned, that drops that. 20

Now, as to these others, this method of going on the stand when confronted with his testimony in 1917 and the Board's finding to just split the thing in two and say that is the advance, seems too superficial and trivial a method of getting at values to be testimony of any weight on the subject of there being a real advance.

Re-direct examination by Mr. Stout. 30

Q Tell the Board about this lease, which you say Mr. Wall knows all about. That might show that conditions are not so abnormal as he would try to make it appear. What is the increase there.

Mr. Wall. What is the date of the lease. We are dealing with a definite period.

Mr. Stout. You injected the question of abnormal conditions. I am going to show you are getting 40

Thomas P. Graham, re-direct.

more today for the lease of this property than you did in 1918.

Mr. Wall. If it is dealing with conditions today I object to it. It is one thing to talk about abnormalities—

10 *The Witness.* This particular property I am speaking of is your property.

Mr. Wall. I submit the valuation of a thing today is not of any importance.

The President. In order to determine that we will have to know the date of the lease referred to.

20 *Mr. Stout.* The lease was subsequent to the assessing date, but Mr. Wall has injected the question of conditions being abnormal. I want to show that the Pennsylvania Railroad Company for one of these piers is getting a big increase, showing the demand for this class of property, and that we are not in abnormal conditions, we are only in normal condition.

Mr. Wall. We are not trying the issue of whether we are in normal conditions today.

Mr. Stout. As you like it.

The President. Is there any question pending?

Q (Question repeated).

30 *Mr. Wall.* I object to that as being outside the period of the assessment.

The President. The question is allowed.

Mr. Wall. What is the date, let us have the date.

The Witness. The date was—

Mr. Wall. Is it made yet.

The Witness. The tenants are in possession, I presume it is made.

Mr. Wall. Do you know anything more about it than that?

Thomas P. Graham, re-cross.

Mr. Stout. I object to Mr. Wall's going into this. Let the witness answer the question.

Mr. Wall. Can't I cross-examine him?

The President. As to what?

The Witness. I have not said anything yet.

Mr. Stout. I say to the Board the witness should answer the question and let Mr. Wall cross-examine then. 10

The President. We will hear Mr. Graham's testimony about this lease and then decide whether the evidence is material or not.

A I made two formal bids to the Pennsylvania Railroad Company when they asked for tenders. One was \$165,000 a year under the conditions for one year, a six months' notice and one was for \$185,000 a year. \$165,000 a year was rejected as being too low and \$185,000 was thrown out because it was irregular. It was over a longer period. My information is that it was rented for more than \$165,000. 20

Q What was the rental value as shown by the lease for the previous time? A \$125,000 and under the same conditions, the tenants to do the dredging, and I was informed by the dredgers who did the dredging for the present owners—

Mr. Wall. I object to this. 30

The President. The objection is sustained.

Re-cross examination by Mr. Wall.

Q When was this? A In October last year, 1920.

Q October, 1920? A Yes.

Q Your offer was for both piers or one? A For the pier and a half.

Q Does that encompass both? A Yes, subject to the right to use the outer end and some other restrictions for one year. 40

Thomas P. Graham, re-cross.

Q Did anybody else get the pier? A Yes, the United States Steel Products Company got it.

Q You don't know what they bid? A Not actually, I know generally.

Q You have either got to know or not? A I will tell you what I was told.

10 Q I am not asking you that. You understand when you are asked whether you know a thing, it means you know it of your own knowledge and not by hearsay. Do you understand that? A Yes, I have not seen the lease.

Q That is the way you have been testifying here, on that basis? A Do I have to answer that question?

Q I have a right to find out? A No.

Q It is not? A No.

Q You have been testifying on the basis— A Of knowledge, I have knowledge. I offered \$165,000. The Pennsylvania Railroad told me my bid was too low.

20 Q Which did you mean, Mr. Graham, that you are testifying from knowledge or— A From knowledge.

Q From your own knowledge? A From my absolute knowledge. I made the bid under my own name for Pearce Brothers Steamship Company. You will find the record. One was at \$185,000, and one was at \$165,000. The \$185,000 bid was rejected because it was irregular.

Q You don't base any of your notions of increase on the action of the Pennsylvania in so dealing with your bids at the time? A No, because they rejected a bid, no. I know somebody bid more than I did for it.

30 Q Do you base your values and your testimony as to increase in any way on the fact of your making that bid for that amount and the bid being rejected? A No, it merely goes on to confirm my previous opinion.

Q It has nothing to do with your opinion as to the increase? A No, it simply confirms my opinion.

Q What would that figure out a square foot, that bid you made for both piers? A The bid I made would figure something about \$2.50 a square foot.

Thomas P. Graham, re-cross.

Q What would it figure? A I have it analyzed at \$180,000, which I was informed was the real consideration in the lease, and it figures out \$3.08 a square foot. Scale that down and you will get—

Q Do you know from the study which you have given this thing how much your bid for those piers figured per square foot? A You asked me if that had any connection. 10

Q Forgive me for what I did, but answer the question. A I said it merely confirmed it in my opinion; I think there is no question about it confirming my value.

The President. The question is, do you know?

Q (Question repeated.) A I have not made that calculation.

Q You don't know? A I have not made the calculation. 20

Q Do you know? A If I have not made the calculation—I am certain it will confirm it.

Q Tell us how much it is a square foot? A I said I have not made the calculation.

Q Then you don't know? A I can't answer it any other way.

Q How long would it take you to make the calculation? A It would take me some time.

The President. He does not have to make the calculation. Why should he. 30

Mr. Wall. He does not know how much he has offered per square foot.

The Witness. Will you admit \$180,000 is the real consideration in that lease, and then I will make the calculation.

Q I don't know anything about it, I don't know whether it is or not, I was not there. A I only told you what I know about it. I offered \$165,000 and did not get it. 40

Thomas P. Graham, re-cross.

10

Mr. Wall. I ask that the testimony as to this negotiation, or whatever it was, where he made a bid, be stricken out as being too remote, as there was no help in ascertaining true value, not being consummated by a sale, and it not being possible to say anything definitely from that negotiation. It might have had entirely different reasons for refusing to have anything to do with such a bid as that. It might be they did not like or trust his principal. That is an absolutely unsafe standard of value to go on where doing such an important thing as taking up the question of a horizontal advance to water front property over and above what the Board takes after a careful consideration of the whole thing. I ask it be stricken out.

20

Mr. Stout. If Mr. Wall thinks the value that was put in by Mr. Graham as to the rental value of this property is too high, let him produce the lease. I think that will manifest Mr. Graham was too low.

Mr. Wall. No lease was made. Mr. Graham's testimony is his negotiation did not end up with a lease.

Mr. Stout. He said a lease was made.

30

Mr. Wall. He said he presumed some lease was made. That is another lease now. That is not the one he testified to.

40

Mr. Stout. I think you have a lease for it. If you think Mr. Graham's testimony is too high, produce the lease. His testimony was only offered on the question of whether conditions were abnormal as to whether the demand prevailing in 1918 was an unusual demand, and we offered this witness to show that the Pennsylvania Railroad Company can get more for their piers in 1920 than they could in 1919, and I say on that question it is admissible and should stand. If Mr. Wall wants to inject into

Thomas P. Graham, re-cross.

it abnormal conditions, he must go the whole way, not only the distance he wants to go.

Mr. Wall. I don't think there is very much in that argument, may it please the Board. If there is any idea I have opened the door by asking about shipping conditions generally, that is another thing. I wanted to direct the witness' attention to the fact that shipping conditions were abnormal, that there was an abnormal demand at the time the Board is interested in, that is between 1918 and 1919, and the way I sought to direct his attention to that was to indicate that there had been a very violent change from those conditions, speaking generally, and therefore it was fair to suppose, as we were down low, which the Board would take judicial notice of anyway, that we were then up high. 10

That is a very different thing from the question of going into values now as ascertaining what values were then. As I see it, I did not open any door, I did not intend to. I was just talking generally about the general comparison, I maintain we ought not to go into any sale a day after the taxing date. That is what we maintain all along. It does not seem as though that foreclosed the testing of a witness' judgment as to normality or abnormality by showing an entirely different condition in a large sense now obtained. This thing is not a sale we are talking about now. 20 30

Mr. Stout. It was not produced for that purpose.

The President. This, of course, cannot be accepted as evidence of value and I don't understand it is put in for that purpose. It was brought out by the examination in which the witness testified there had been an increase, and when he was asked for reasons or the grounds on which he based that, he cited this lease as one of the grounds, and said he had made an offer which was rejected. I don't 40

Thomas P. Graham, re-cross.

think there is any question that that is not any evidence which the Board can consider as value, but it is part of his testimony as to the reasons on which he based his opinion there had been an increase. I don't know whether I make myself clear.

10 *Mr. Wall.* If it is not admissible as to value, can it be admissible as to anything else? If it is not testifying as to value, that is the only issue here, value.

20 *The President.* This would be the effect, I don't know whether I am right on it or not, this would be the effect on my own mind. This witness has testified there has been an increase. If that is merely an opinion with nothing in the case or nothing in his testimony to support it, it has little value. Now he says here is this lease. Exaggerate that a moment. Suppose he had shown a lease had been made for \$200,000. To my mind I would say the witness evidently had some basis for his belief, there has been an increase, but in figuring if I reached the point of computing what that increase was, I would not consider the \$165,000 as evidence. I would not feel that properly was before us.

30 *Mr. Wall.* We are dealing with a single issue, value at different periods, and he states something to show value which is something the law says does not show value, therefore it would seem as though it ought to go out.

The President. Why do you say the law says it does not show value, because it is too remote?

40 *Mr. Wall.* That is too remote in time and too uncertain in essence. I don't think anybody can bring in a decision—at least I have never seen one that says if I go into a man's office and make him a bid and he turns the bid down that is evidence of value.

Frederick Dunham, direct.

The President. I think they have held it is not evidence.

Mr. Wall. Yes, sir; exactly. If it is not evidence it ought to go out. That is my only point. The only issue we are dealing with is value. It is too remote in time to stay in. If it were good, if it were a real lease, but not being a lease, not being consummated, being mere talk and not amounting to anything, it ought to go out on that ground too. 10

The President. The motion to strike it out is denied.

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

Direct examination by Mr. Stout. 20

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

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

Mr. Stout. Do you admit him or don't you? 30

Mr. Wall. If it is put up to me, I will have to examine him, but seriously I don't see why that cannot be done. In these railroad appeals, his qualifications have been gone into. It takes a long time and the Board has overruled me in the past and I presume will admit him in the future on his qualifications. I would like, in case there is any necessity of taking this case up, to have the records so the facts as to Mr. Dunham's qualifications show, so that we could get a finding on that. Isn't it a perfectly possible thing? 40

Frederick Dunham, direct.

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

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

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

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

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

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

The President. It does.

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

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

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

The President. And the cross examination?

Mr. Stout. Yes, the cross examination.

The President. All right, that will be done.

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

Mr. Stout. Yes.

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

40 *Mr. Stout.* No, I don't.

Frederick Dunham, direct.

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

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

AFTER RECESS.

FREDERICK DUNHAM resumes the stand.

Direct examination by Mr. Stout.

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

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

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

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

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

Q Is that property comparable with any of the properties of the Pennsylvania Railroad Company here under appeal? A That property is comparable in a way with the rear part of the New York Bay yard of the Pennsy-

Frederick Dunham, direct.

vania and not as good property in my judgment being separated from the water front by the Morris Canal.

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

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

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

Mr. Stout. Just to show the increase.

Mr. Wall. I object to that.

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

Mr. Wall. Assessed by this Board.

Mr. Stout. Fixed by this Board on appeal.

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

Mr. Stout. Prior to the 1919 sale.

The President. All right, the question is allowed.

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

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

Mr. Stout. The amount fixed by this Board.

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

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

Q But did you say it is comparable with property here under appeal? A It is almost adjoining, separated by the Morris Canal. It is back land, it is comparable with

Frederick Dunham, direct.

the round house plot of the New York Bay yard. It practically adjoins it.

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

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

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

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

The Witness. The year 1919.

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

The Witness. Yes, just prior to the sale.

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

The President. All right.

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

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

Frederick Dunham, direct.

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

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

Mr. Wall. By whom?

10 *The Witness.* By the city.

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Baker. That is the Point Breeze Ferry Company, isn't it?
40

Frederick Dunham, direct.

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

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

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

Mr. Baker. Directly east.

10

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

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

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

20

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

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

30

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

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

40

Frederick Dunham, direct.

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

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

Mr. Wall. This is not water front property.

10

Mr. Stout. No, on the back land.

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

Mr. Stout. He testified on that last year.

20

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

Mr. Wall. Very good, sir.

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

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

30

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

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

The Witness. That is No. 10.

Mr. Wall. What is the block?

Mr. Baker. Block 601, Lot No. 1.

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

40

Mr. Wall. What is the Lot and Block?

Frederick Dunham, direct.

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

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

The Witness. Yes. Here it is on the list (indicating.) 10

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

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

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

Number 10 Block 601, Lot 1, located on Newark avenue, between Charlotte and Duffield avenue, I value that property at \$12,000 per acre. 20

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

Q What sale is that? A There is a sale here of the Woodstock Company to Charles F. Hofferbarth, November 12, 1919, on James avenue. The price paid \$25,000 for 31,400 square feet, eight tenths of an acre. There was on this property a building assessed at \$7,000. That would show a land value much in excess of \$12,000 per acre. 30

Q And that land is comparable with Lot 1 in Block 601? A It is about the same class of property, but if anything not as good, because the other property has a direct frontage on Newark avenue.

Q That is the Pennsylvania property? A Yes.

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

Q What is 13, you mean on the calendar? 40

Frederick Dunham, direct.

The President. There is 13 marked here.

Mr. Stout. On the calendar?

The President. Yes.

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

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

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

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

Mr. Stout. Yes.

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

Mr. Wall. The City consents to it.

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

Mr. Stout. Yes, that is right.

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

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

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

Mr. Stout. Take the witness.

Frederick Dunham, cross.

Cross examination by Mr. Wall.

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

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

Q Isn't it rather difficult for you to say just what the increase in value was between October 1, 1918 and October 1, 1919? A No, I don't think it is very difficult. 10

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

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

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

Q Well, for how long a period do you take any subsequent sales, subsequent to what, to 1918? A Yes, I take a series of sales from 1916 to 1920. 20

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

Q Well, now, can you separate the sales that have been considered by the Board and those which have not? A I can give you some sales in 1920 if the Board wants to consider those sales. I must consider them because I know of them and that is the only way you can show a steady increase. 30

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

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

Q What I am trying to get at is to separate the sales which you have taken into consideration and which were 40

Frederick Dunham, cross.

not before the Board. Those sales you say run down as far as 1920? A Yes, the sales were consummated in 1920, but that necessarily was not the price of 1920. It may have been the value fixed as of 1919.

Q It may have been, but do you happen to know about that yourself? A Well, in some of the cases I know
10 where the deeds were recorded in 1919, where prices were actually fixed in 1916, deeds recorded in 1920. Prices were fixed in 1919.

Q How do you know when the prices were fixed? A By the contracts.

Q You have seen the contracts, have you? A In many instances, yes.

Q You cannot specify which, I suppose? A Well, I have seen, for instance, the contracts for Curry, contracts for Cunard—

20 Q The Curry sale, that is considered by this Board in the 1919 appeal? A I think so.

Q We can leave that out because they have already passed on it.

Mr. Stout. That was only considered by this Board in respect to the appeal of the Point Breeze Ferry Company.

Mr. Wall. No, I am assuming that the Curry sale was testified to in these railroad appeals.

30

Mr. Stout. No.

Mr. Wall. And considered in the 1919 appeals, isn't that correct?

The Witness. I believe that the contract was produced before this Board. The contract was of 1918, I think. The Board did—

Mr. Wall. Whenever it was the Curry sale was considered by this Board. As I understand it, the Board is not interested in the things it has already considered.

Frederick Dunham, cross.

Mr. Stout. Only he didn't have it on the appeal in respect to third class railroad property. I think it was on the Point Breeze.

Mr. Wall. He is talking about a different thing. He is talking about whether there was an appeal by the Curry interest.

Mr. Stout. No, I am not. I am saying this, that the evidence that was produced to this Board in respect to some other appeal but not the appeal of the Pennsylvania Railroad Company, that evidence would be evidential in these cases because we have never had before the Board in respect to third class property the Curry sale. 10

Mr. Wall. Mr. Bain calls my attention to the fact that Mr. Curry was subpoenaed.

Mr. Stout. Yes, but that was in reference to the Point Breeze appeal. 20

The President. I don't recall, I may be wrong about that, but I don't recall that testimony was brought out in these railroad appeals. We had the case of the Point Breeze appeal, and I think it was in that case.

Mr. Stout. I had Mr. Curry subpoenaed and produce his contract and Mr. Ryer also testified at the same time and we had a witness, a real estate man from Bayonne testified and that was in the Point Breeze appeal. 30

Mr. Wall. Well our difficulty is what the examination of Mr. Curry shows. Nobody knows it.

Q Don't you recollect, Mr. Dunham, whether there was any talk about the Curry sale at the time Mr. Curry testified? A When Mr. Curry testified, yes.

Mr. Stout. I want to say to this Board as a matter of fact that Mr. Curry was only produced in the Point Breeze appeal. 40

Frederick Dunham, cross.

Mr. Wall. That is just the very point I made. It does not make any difference what appeals he was produced in if in these railroad tax appeals this Board considered that sale in arriving at its judgment.

10 *The President.* He says we have not. That is the point, as I understand it, that that was before us in the appeal of the Point Breeze Ferry Company and considered in that case, but technically it is not before us in any of these railroad appeals.

Mr. Stout. You don't suppose the Board goes looking all over for evidence. It bases its judgment on the evidence in the case before it.

Q Mr. Dunham, didn't you in your testimony in the 1919 railroad appeals testify to this very Curry sale? A I may have.

20 Q Don't you think you did? A It would have been natural for me to do so, knowing of it.

Q You knew of it at that time? A I did, yes.

Q Isn't it your custom to have a memorandum made of all the sales that have occurred and then testify to them all? A Yes.

30 Q Didn't you testify that Mr. Curry had been to you about that matter and that you got your figures from Mr. Curry? A I testified in the second class, I testified in the third class and I testified on the Point Breeze appeals and I have testified every year, as you know. Now, I can't recall now as to all these things I have testified in the various cases. I have testified before this Board as to the Curry sale. That I know.

Mr. Wall. Isn't it this way, if the Curry sale was testified to and considered by the Board in the railroad tax appeals that that is out of this present inquiry because it has been considered?

40 *The President.* Yes, if that has been before us and has been used. In other words, if it has been

Frederick Dunham, cross.

before us in the railroad cases involving this particular property, of course, that is now new evidence, that is already in.

Mr. Stout. I thought the ruling of the Board was that the Board would not permit a witness to testify to a sale or transaction which the witness had testified to at a previous hearing in another appeal, but that the Board would consider that evidence together with other evidence in fixing that valuation for the succeeding year. In other words, haven't you in the past had the evidence in respect to sales testified in previous appeals introduced and received in evidence to be considered in your later appeals? Isn't your judgment made up of the evidence you had before you last year, plus what is produced this year? 10

The President. Yes, that is right. 20

Mr. Stout. So then, if it has been testified to by the witness last year he does not testify to it this year under your ruling, but you consider it just the same because it is already in evidence.

The President. That is right, yes; I thought there was no difference between us on that, yes.

Mr. Stout. But I know that we only had Mr. Curry in the Point Breeze. Mr. Dunham may have testified in the third class, but I don't think he did. He may but the evidence and the introduction of the contract and the examination of Mr. Curry and Mr. Ryer was in the Point Breeze appeal. 30

Q Well, now, what other sales, Mr. Dunham? A There was the sale to the Cunard Terminals Company, Weehawken.

Q That was what date? A That was in 1920, that is the actual date of the deed in 1920. 40

Frederick Dunham, cross.

Q What was the actual date of the deed? It was August 26, wasn't it? A I have a certified copy of it here.

Q August 26, 1920, isn't that right? A August 26, 1920.

Q Yes, and do you know personally about that sale?

10 A I saw the contract.

Q That is not what I asked you. You saw the contract. A Yes.

Q When did you see the contract? A Some time previous to that, just how long I don't recall, but some time previous to that. The contract was filled out with the exception of the price per front foot and they sent the contract over to me and I was to determine the amount of frontage upon which they paid.

Q They being who? A The lawyers for the Cunard people.

20 Q You were to figure the front feet for them? A Yes.

Q And that was your relation in the matter? A My relation to the matter was there was a dispute as to about two feet in there.

Q Did you make a survey? A Yes.

Q You didn't have anything to do with the negotiation for the price or fixing of the price? A No, the price had been fixed.

Q Your connection with it was as surveyor? A Yes.

30 Q What other sales? A There is the sale at Constable Hook.

Q When was that? A The last sale that is Fenallie & Despeaux to the Standard Oil Company of New Jersey. That was December 4, 1919.

Q Didn't you testify to that in the 1919 appeals? A I think I did.

Q Then that is out.

Mr. Stout. You didn't testify to the Cunard, did you?

40

Mr. Wall. Yes, he surveyed the front feet.

Frederick Dunham, cross.

The Witness. I don't recall testifying to the Cunard in the 1919 cases. That has taken place since then.

Then there are some contracts for sales in Bayonne which were made last year, 1920.

Q Considered by this Board? A No, they have not been considered by the Board. 10

Q Did you testify to them last year? A No.

Q Did they influence you in any way in forming your opinion as to whether there was an increase between 1918 and 1919? A As to whether there was a permanent increase, yes.

Q Did the Cunard sale have any influence on you in that respect? A Yes.

Q It didn't have the kind of influence that would have changed your present testimony if it had never occurred; suppose it hadn't taken place, your testimony would be just the same, wouldn't it? A As to the increase? 20

Q Yes. A I am not so sure it would. If those sales had shown a decrease it would have altered my judgment.

Q As long as they showed an increase you could either put it in or keep it out as far as your opinion now as to the increase in value of 1919 over 1918 is concerned? A No. I would not say that.

Q Then it was an essential factor in your making up assessments as to the increase, is that right? A Yes, the sales of 1920, following the year 1919 have a very important bearing. 30

Q You would say the Cunard sale was an essential factor in your arriving at your conclusion as to the increase of 1919 over 1918? A One of the factors, yes; a very important factor.

Q You would not say it was an essential factor? A Taken in connection with the others. There were sales at North Bergen, sales of the Twombly property. 40

Frederick Dunham, cross.

Q That was considered by the Board, wasn't it? A No.

Q Is that one of the later sales? A Yes, later sales. Sales of the Woodcliff property.

Q The Twombly sale was March 26, 1920, wasn't it? A 1920.

10

Mr. Stout. That was the deed.

Q And the Woodcliff sale was December 30, 1919? A There were some sales prior to that. There was a contract which the Board, as I recall it, had produced in the Hoboken cases, a contract for the sale of the Woodcliff property.

Q Did you testify to that before the Board on the 1919 appeals? A No, Mr. Walker, who was the agent of the Woodcliff testified before this Board in the Hoboken cases
20 on the two million dollar contract. That afterwards resulted in the sale of the Woodcliff property to the Edgewater Company, and then from the Edgewater Company there were sales to the Lord Construction Company and then there were later sales from them to the Realty Company.

Q Those were all in March, 1920, weren't they? A The deeds, yes, the deeds were recorded in 1920, but practically all of these transactions except that the contract
30 of the Woodcliff property was made some years previous to that. The sale of the Woodcliff was the result of the closing of the option of the contract made some years previous.

Q Weren't all the contracts except the Woodcliff property made in the year 1920, all those sales you have been testifying to? A No, negotiations there for the best part of a year.

Q Which one of those sales were you intimately concerned with? A I was not intimately concerned with
40 any of them.

Frederick Dunham, cross.

Q Well, how did you get access to these contracts? A Well, the contract of the Woodcliff, that was subpoenaed and I heard the sworn testimony of Mr. —

Q Meeks? A Mr. Walker, and also of Mr. Rodermond, who was the vice-president of the company that was purchasing that, that had the contract.

Q And that was the only one of these contracts of which you yourself knew? A Yes, that one, and the Shamburg transaction. My information on that is directly from Mr. Shamburg himself. 10

Q When did you get that? A Oh, shortly after the deed was recorded I saw Mr. Shamburg in order to verify the consideration.

Q That was late in the spring of 1920, wasn't it? A Yes.

Q And you didn't learn of that until late in the spring of 1920, did you? A Of the sale? 20

Q Yes. A Oh, I knew negotiations were going on because I had two or three talks with Mr. Shamburg on it.

Q How long were they going on? Be careful, I was in the case myself. A That may be. I don't know who was in the case, only I know Mr. Shamburg and I had two or three conversations on it.

Q You talked to Mr. Shamburg and that is all you know about it? A What I know about the first part of it was that Mr. Shamburg came to me in order to get the map of his property. 30

Q That didn't have anything to do with price, did it? A That didn't have anything to do with price but he informed me at that time he was negotiating.

Q Hasn't Mr. Shamburg been in a chronic state of negotiation for the last ten years about that property? A No, I don't know that he has. I know I put one or two propositions up to him.

Q Now, you have not considered in dealing with the question of advance in price of 1919 over 1918 anything that this Board did with reference to the appeals which 40

Frederick Dunham, cross.

were decided in the railroad cases by the Board for the year 1919, have you? A You mean have I considered the Board's judgment?

Q Yes. A Well, I have considered the Board's judgment, of course.

Q How does it enter into your conclusion? A Well, it does not enter into my conclusions, because I—

Q Stop there. It doesn't make any difference whether you— A I have considered the Board's judgment.

Q You have respectfully considered it and discarded it? A Exactly.

Q Don't you think we ought to delete the word "respectfully"? A No.

Q Assuming that the Board's judgment in the 1919 appeals was right, then your conclusions as to this advance in price of 1919 over 1918 would be erroneous, isn't that right? A If the Board is right I am all wrong.

Q Yes, exactly. Mr. Dunham, you are a believer in the steady advance in price of this property from the earliest business activities down to date, aren't you? A I believe in just what the record shows, and no more.

Q Why don't you answer my question? A That is what I say, I believe just what the record shows and no more. I don't draw on my imagination.

Q You don't draw on your imagination? A I don't draw on my imagination.

Q You can say a thing like that? A I stick to the facts and to the record absolutely.

Q Do you believe in the doctrine of steady advance or not? A I believe that so far as this class of property is concerned or any class of property, that if there is no normal advance of five per cent. a year you are stuck, you are losing.

Q I am not asking you that. I am trying to get from you an answer yes or no to the simple proposition whether you are a believer in the theory that there has been a steady advance which can be assigned in percentages in

Frederick Dunham, cross.

the value of this property since it first was taken over for business use down to and including the present day?

A I believe in what the records show, no more.

Q I want to bring to your respectful consideration the word "yes" and also the word "no," and suggest that you use one or the other of them. A You might ask me if I beat my wife. I have got to answer yes or no.

10

Q That is a question with an assumption in it. I am not making any assumption. I am asking you if you believe in a theory or not, buck up and say yes or no. A I am not theorizing at all on this thing. I believe in just what the record shows and the record shows there is an increase.

Q Then you believe in the increase? A I believe in what the record shows, yes.

Q The answer is yes? A The answer is yes so far as that is concerned, with that qualification.

20

Q In what definite percentage would you assign that advance from year to year? A The records show from 1880 to 1910 a minimum average increase of four per cent. a year, that is a minimum. The record shows from 1916 to 1920 an increase of 100 per cent. over the four years. Of all the analyses I have made of water front sales, and I have taken, I think, every sale that is available from 1880 up to the present time, the minimum is four per cent. The maximum extended over the whole period of years is about fifteen per cent.

30

Q Well, then, you don't mean there is any percentage which you would assign as a steady annual percentage, you change your percentage, is that right? A Well, real estate values—

Q Tell us, Mr. Dunham— A —don't work that way; for instance, they may increase overnight apparently, so far as the record shows.

Q I am asking what you believe. A It don't make any difference what I believe in, I am telling you what the records show.

40

Frederick Dunham, cross.

Q What you think is the fact? A I am not telling you what I think, I am telling what I think is the fact, yes, so far as the record shows that there has never been a sale or a re-sale of water front property on the New York Bay or on the Hudson River that shows a recession in price, that every sale indicates an advanced price over
10 the previous sale.

Q Well, I know, but now tell us in answer to the question whether you think it is a steady advance of five per cent. a year or any other per cent., or whether it is an unsteady advance, that sometimes it is five and sometimes it is fifteen, or what, tell us which it is. A Oh, yes; it is not a steady per cent., I don't mean to say there is an average normal increase of five per cent year after year. That does not happen because there are periods of depression and inflation, and all that sort of thing, but when
20 you average them for a long series of years you get an average percentage. I say the absolute minimum taking the worst cases, the absolute minimum is four per cent. a year.

Q That is not the way you valued this property, is it?
A No.

Q You value it by actual sales, don't you? A Yes, sir.

Q Now, with this Block 602, Lot 1, you said the assessment was \$12,000 per acre, which assessment was that, the State Board's assessment? A That was the city's
30 assessment.

Q Do you know what the State Board's assessment was? A No, I don't; I don't recall just now. I could tell you in a minute. About \$8,000 an acre.

Q Did any of these sales show a higher advance, annual advance than fifteen per cent.? A There were very few sales down in that locality. \$12,000 an acre is the average assessed value for all that class of property, and that is the value upon which the Public Service are paying
40 taxes without protest.

Frederick Dunham, cross.

Mr. Wall. I ask that that be stricken out.

The President. Yes, it was not responsive to anything Mr. Wall asked.

Q Now, Mr. Dunham, what do you say was the advance in the water front property here under appeal from 1918 to 1919, using October 1st in each year? A Referring to the Hudson River and New York Bay? 10

Q Yes. A There was a one hundred per cent. increase from 1916 to 1920.

Mr. Wall. Won't the Board strike that out.

The President. He has not answered it. Let him complete his answer.

A (Answer continued.) If you average that over the four years you would get an average of twenty-five per cent. a year. In other words—

Q That is the only way you can get at it, is it? A 20 That is on this particular class of property, yes, where you have no adjoining sales you have to take that by analogy.

Q Is the only way you can get at the idea of an advance of 1919 over 1918 on the water front property here under appeal by that method which you have just described? A You take—

Q Tell us whether or not that is, if it is not— A For instance, if you have a sale— 30

Mr. Wall. I think the witness ought to answer the question.

The President. Yes, just repeat the question.

Q (Question repeated as follows): Is the only way you can get at the idea of an advance of 1919 over 1918 on the water front property under appeal by that method which you have just described? A In some properties, yes; it depends on where the property is located. You might have one particular piece of property where there 40

Frederick Dunham, cross.

are sales from year to year, you may have another particular piece of property upon which there are no sales for four or five years, but you have not to be influenced by what is happening all around you.

10 In the case of the stockyard property or in the case of the Erie Elevator property or in the case of the Piers B and C we know what is happening all around those properties. We have sales of adjoining property in the immediate neighborhood which show fair average yearly increase. An analysis of those sales shows what is taking place generally in that immediate vicinity.

Q Take Greenville, what was the advance in value of 1919 over 1918? A Now, you take the Greenville water front, which is comparable with the Bayonne water front.

20 Q Can you tell me any water front that is not comparable with any other water front? A Oh, yes; I don't consider water front on the Hackensack River comparable with water front on the Hudson River, neither do I consider water front on the Newark Bay comparable with water front on the New York Bay.

Q Is it not possible to compare them? A No, not as to value.

Q You mean fairly comparable? A No.

Q What is the reason you cannot compare the East River with the North? A No more than you can compare Broadway with some other street.

30 Q You can do it, can't you? A There is a particular value attached to the location which you cannot carry for a couple of miles and make a comparison.

Q You mean you can't make a good comparison, a fair comparison? A Not a fair comparison, no, because they are not competing properties. I consider properties on the Hudson River and the New York Bay competing properties.

40 Q Well, now, what is the increase for the period named as to the properties of the Pennsylvania located at Greenville, which is 1507 Lot 2-L, 100 acres, what was the

Frederick Dunham, cross.

increase from 1918 to 1919? A Well, you have no sale in 1919.

Q Tell us the increase? A If you permit me to go to 1920.

Q Tell us the increase and give reasons afterwards. A I will give you the increase from 1918 to 1920.

Q I did not ask you that. Give me the increase for that one year? A I can by interpolation between 1918 and 1920. 10

Q Give it to us in money, however you get at it, give it to us in money. A All right. 1918, the nearest sale to 1918 is 1916.

Q Give it to us in money, give your reasons afterward. A You can't in the absence of particular sales.

Q It is either one dollar or some other sum. A I will tell you what it was from 1918 to 1920.

Q It seems to me we are entitled to an answer. A If you are going to insist on a particular year where there was no sale, I can't tell you. 20

Q The answer is you can't tell, isn't it? A I can't tell for the one, the particular year taken by itself.

Q For the year I asked you you cannot tell can you? A Not for that particular locality.

Q And for that year? A No, not for that particular locality.

Q I am not asking about any other locality just now. Take the stockyards, is the same true of the stockyards? A No. 30

Q What was the increase of 1919 over 1918 with reference to the stockyards? A The stockyards is a different class of property.

Q Tell us the increase? A The increase as evidenced by the general increase—

Q No. A —is twenty-five per cent.

Q Well, do you think that was the increase? A Yes.

Q Is that your testimony? A Yes.

Q For that period? A Yes. 40

Frederick Dunham, cross.

Q And you have nothing to base that on except these sales that occurred after that date and the sales that were testified to before this Board on the 1919 appeals, do you? A Sales occurring before and sales occurring after.

10 Q You don't know whether they are testified to or not? A I don't recall.

Q You don't know what the State Board's valuation was in 1919, do you? A I don't recall it now.

Q The State Board's valuation was \$1,540,138. Now, what was your valuation in 1918, October 1, 1918? A \$2.00 as I recall it.

Mr. Stout. Is that what is worked out as \$1.70?

Mr. Wall. I think it is.

The Witness. I think the State Board was \$1.46.

20 *Mr. Wall.* Mr. Ryer says we did not work that out.

Q Anyway, you were \$2.00 a square foot at that time, your valuation? A That is my recollection, \$2.00 and I increased it to \$2.50.

Q The \$2.50 is the increase for that single year or down to 1920? A It was the increase for that year.

Q It was? A Yes.

Q Well, then are you sure about that? A Yes.

30 Q It increased fifty cents a square foot in your judgment from 1918 to 1919? A Yes.

Q And you based that on general considerations? A General increase.

Q Not specific sales? A General increase from sales.

Q What? A General average sales.

Q Do you know the size of these properties up the river that you considered in arriving at your valuations, these sales like the Cunard, do you know the size of the plot sold? A Yes, I surveyed them all.

40 Q You did? A Yes.

Frederick Dunham, cross.

Q You mean you surveyed the Cunard? A Every one of them.

Q You surveyed them all? A Every one of them.

Q Then you do know. How did they compare in size, how does the Cunard compare in size with, for instance, these Piers B and C? A Piers B and C?

Q Yes. A The Cunard is about twelve—feet deep, 10
from twelve to thirteen hundred feet deep from the pierhead line back to the railroad. Piers B and C about six hundred feet, and you get, if you include with that the land behind it, which is owned by the same company, you get about a thousand feet, a thousand or eleven hundred feet from Hudson street to the pierhead line.

A That is not under appeal, is it? A The back land is not under appeal.

Q You are talking about the Pennsylvania? A Yes, I am talking about the holding company. 20

Q It is separated by a street, isn't it? A There is a street along the bulkhead part of the way.

Q Do you consider the Cunard properties similar properties to these here? A It is the same class of property.

Q Tell us whether or not you do consider them similar or not? A Similar inasmuch as they are the same class of property suitable for the same uses.

Q Are they similar or not? A They are not similarly located.

Q Are they similar properties? A Yes, in a way 30
they are similar properties.

Q Do you consider them similar or not is what I am trying to get at? A It depends entirely on what you mean by similar.

Q I am asking you what you mean by similar, you have a right to use it in any sense you want. A Very, well, the Cunard property—

Q Is it similar or not? A I am trying to get at this distinction of similar. In the first place, the Cunard property was an unimproved piece of property. It was 40

Frederick Dunham, cross.

an abandoned coal yard of the Delaware & Hudson Canal Company.

Q Then it was not similar in respect of being improved or unimproved? A It was not similar—

Q Did you say unimproved and the other was improved? A That was unimproved and the other was improved. That is where they were dissimilar. They were dissimilar as to location.

Q Naturally, we can all agree to that, not being superimposed upon one another. A They are about three miles apart, we will say. In other words, the Cunard property is about three miles further up the Hudson River than Piers B and C.

Q Then they are not similarly situated, are they? A They are not similarly situated.

Q They are not in the vicinity of one another, are they? A They are not similar inasmuch as—

Q Are they in the vicinity of one another? A It depends on what you call vicinity.

Q You have the right to use the word, what do you say? A They are both on the Hudson River, they both front on the same river and they are both suitable for the same class of use.

Q If they are three miles apart will you say they are in the vicinity of one another or not? A No, I should say not, they are not in the same vicinity.

Q That is all. A You can stretch the word vicinity, of course, to embrace a whole lot of territory.

Q Now, then, what allowance have you made for these dissimilarities of location and condition when you compared the values of these properties, one with another? A Why, I think—

Q In the first place have you made any allowance for that? A Yes.

Q Can you specify them? A Yes, I think I can. The Cunard property, comparing Piers B and C property with the Cunard property, I think that the Piers B and C

Frederick Dunham, cross.

property put on the square foot basis is worth at least seventy-five per cent. more than the Cunard.

Q And for what dissimilarity do you allocate that seventy-five per cent.? A Location.

Q Now, then, how much do you put for condition? A Well, the condition would be about the difference between an improved and an unimproved, that is the difference of the cost of improvement. When you first take into consideration the difference in the value, due to location, then the only other difference would be the difference between improving it to the same use or the same class of improvements as Piers B and C, which does not amount to so very much in dollars and cents. It might amount to twenty-five or thirty cents a square foot, which depends upon the class of—

Q Are you able to put that in the percentage, you put the seventy-five per cent. for location? A No, you can't do that, because some properties even devoted to the same uses cost fifty to one hundred per cent. more to improve than the same kind of property in another location.

Q Then you are unable to testify as to the amount which should be allocated to this dissimilarity of condition? A I know the condition in both places and I should say that it would probably be somewhere between ten and fifteen thousand dollars per acre.

Q What would that amount to in percentages? A Well, percentage on which?

Q You said it was seventy-five per cent. more in value by reason of location, what would be the extra cost by reason of condition, the extra value by reason of condition? A That is pretty hard to put in percentages.

Q You didn't have any difficulty with the other? A No, I give you say about ten to fifteen thousand dollars per acre would be added to the Cunard sale in order to make the physical condition about the same as Piers

Frederick Dunham, re-direct.

B and C, and then you have got another increased value there due to location.

Q You have already dealt with that. A I think I have.

Q Would you consider this seventy-five per cent. a scientific summary of what should be allocated to that quality of location, or is that just a kind of guess? A That is my judgment, that is my judgment.

Q That is no guess? A Well, you can call it a guess if you like, but that is a judgment based on experience and a study of the whole situation.

Mr. Wall. That is all.

Re-direct examination by Mr. Stout.

Q Mr. Dunham, what was the price paid per square foot for the Cunard property?

20 *Mr. Wall.* I object to that as being too remote, 1920.

Mr. Stout. The sale was consummated in 1920, but I understand it was made in 1919.

The President. Objection overruled.

Mr. Wall. I don't understand he testified it was made in 1919, the Cunard, I don't think he knew about that.

30 *The Witness.* I know of the Cunard.

Mr. Wall. When did you first see the contract?

The Witness. I think it was in the spring of 1920, two or three months prior to the—

Mr. Wall. That is after the date.

Q When was the deed made? A The deed was made in August, 1920.

Q Do you know whether that contract was made in 1919, was it dated in 1919? A I don't recall the date of the contract. I first saw the contract in the spring, early
40 spring of 1920. I don't recall the date of the contract

Frederick Dunham, re-direct.

now, in fact, I don't know whether it was dated when it came to me or not, I am not sure as to that.

Q Do you know whether negotiations had been pending for some time? A Yes, I know that.

Mr. Wall. Was the contract consummated when it came to you or were they getting ready to make a bid and getting your help on the front feet? 10

The Witness. The contract, as I recall it now, was not yet executed when it came to me. The price per front foot was fixed, but they had to get the total number of feet along the front before they could get the total amount to be paid. The price was \$2,000 a front foot, and the frontage was 1,102 feet, and if you look at the consideration you will find it is 1,102 feet multiplied by \$2,000, that was the true consideration.

Q How much is that a square foot? 20

Mr. Wall. I submit that sale ought not to be considered.

The President. On the ground it is too remote?

Mr. Wall. Too remote.

Mr. Stout. Mr. Wall has examined Mr. Dunham pretty well at length with respect to it.

Mr. Wall. You didn't bring out the price.

Mr. Stout. I know that. 30

The President. We have taken sales as remote as that, Mr. Wall. The question is allowed.

Q What was the price per square foot? A The price per square foot figured on the first deed which went to the New Jersey State pierhead line, that was \$1.64. They afterwards made application to the Board of Commerce and Navigation for the extension of the grant out to the United States Government pierhead line, and that added some area for that they paid \$50 per front foot. If you 40

Frederick Dunham, re-direct.

allow the area to extend out all the way to what we call the revocable permit pierhead line, you get about \$1.46. If you extend the area out to the permanent pierhead line you get something over \$1.50, so that it is about \$1.50 a square foot.

10 *The President.* What is it per acre; have you figured that out?

The Witness. It is about \$64,000 per acre.

The President. That is figured on the full area out to the revocable permit pierhead line.

The Witness. The full area out, as I recall it.

Mr. Wall. The full area what?

The Witness. Wait a minute, I will verify it.

Mr. Wall. Of course, the truth is it is all revocable; this is an arbitrary distinction.

20 *The Witness.* That is not so, you are absolutely wrong on that.

30 *Mr. Wall.* The United States Supreme Court has decided no State can make a grant that is not subservient to the needs of the nation for defense, and I went down to Washington and argued before the Secretary of War on this thing. He decided it just as I am about to say, and we looked it up very carefully before we went down and found it didn't make any difference how solemn the grant was from the State if the Federal Government said the piers had to be cut off at the shore line, they would have to be cut off and the owners couldn't get a dollar compensation from the government. That is the state of the law on the thing, and to make a distinction here, there is a line out in the river that is revocable with the supposition there is some irrevocable line is a misleading distinction.

40 *The President.* As far as this Board is concerned, it does not make that distinction, it con-

Frederick Dunham, re-direct.

siders the full area in determining the price per per acre it would consider the area the company is purchasing and is using.

Mr. Wall. There the value resides in the use, of course.

The President. That is the position of Jersey City, I understand, with reference to their properties. 10

Mr. Stout. Yes.

The Witness. There is no use here yet, of course. This pierhead line is in the same situation as the pierhead line on the other side of the river in front of the Chelsea piers which the government has just ordered set back. There was a revocable pierhead line out there.

Mr. Wall. My point is it is all revocable. 20

The Witness. No, not in the same sense this is, clearly; so that it is a small matter anyhow.

The President. What does it figure?

Mr. Wall. I don't think it is a small matter.

The Witness. If you figure to the revocable permit pierhead line, it is \$1.46 a square foot and about \$64,000 an acre, and if you figure to the State pierhead line it is \$1.54 a square foot, or \$67,000 an acre. If you figure the amount which the purchaser before that got the right of extension, it was \$1.66 per square foot, or at the rate of \$72,450 an acre. That is what they actually got first, under the first purchase. 30

Q How did that property compare with Piers B and C of the Associates? A I said by reason of the location the Piers B and C property on a square foot basis is worth about seventy-five per cent. more than this property. 40

Frederick Dunham, re-direct.

Q Would you add anything else on outside of location?

A The Piers B and C property is an improved piece of property in use and been in use for a number of years and is under lease. Of course, the value of that improvement and use has got to be added to the Cunard. In other words, you could get a better comparison with the Cunard after the Cunard had developed it.

10 Q In your opinion, if the Cunard property is worth \$1.50 a square foot, what was the value of Piers B and C as of October 1, 1919? A Well—

Q Per square foot? A On that basis it would be \$2.62½.

Q Is this property of the Cunard at a greater distance from Piers B and C than the property in Bayonne you have been testifying to? A Oh, yes; a greater distance.

Q Yes. A Oh, you mean with regard to the Pennsylvania Greenville Yard?

20 Q Yes. A I don't think there is a great deal of difference, as I recollect it. I would have to look at the map. I think there is about three miles between them. I don't believe there is a great deal of difference as to the distance.

Q Don't you consider the Bayonne property that you have testified in respect to in the vicinity for the purpose of making a comparison as to the Greenville property of the Pennsylvania? A Well, there is a distinction between the Hudson River properties and New York Bay properties, they are in the vicinity, true.

Q If the property is not in the vicinity, why do you consider it? A Well, because there is a relative value in all water front properties which you have got to take into consideration. As I stated before, they are competing properties whether they be on the Kill von Kull, Constable Hook, New York Bay or the Hudson River.

Q Do you think they can be competing in the sense that you use the word without being in the same vicinity?

40 A Oh, yes.

Frederick Dunham, re-direct.

Q You would not say that shore front property in Philadelphia was competing with property in Jersey City? A No; but it is competing with other properties in that vicinity.

Q Would you take into consideration property that was not in the same vicinity? A I might for certain uses. For instance, for an industrial use, for an industrial use the Hudson River properties competed for industrial use, up to a certain point. When they became too high in value to be used for that purpose, that forced industry to another location. The properties after awhile became of too great value for certain use when they cease to compete for that class of business, but all property on the Hudson River and the New York Bay have been competing in so far as the railroads are concerned.

Q Then don't you consider them in the same vicinity for the purpose of fixing valuations? A In a measure, yes, because you have got to take it all into consideration, there is no use trying to get away from it. There is a certain stretch of shore front there from Constable Hook to Fort Lee on the New York Bay and the Hudson River, and when you attempt to value any of this property, you have got to take into consideration the relationship one to the other and its relative value.

Mr. Baker. Would you say the Cunard property which I think is in Weehawken bears a relativity to the Pennsylvania property which is in Jersey City?

The Witness. No, I should say it did not. It is an entirely different use, it is a different location and it is a different class of property in the sense the Cunard property on the Hudson River is located immediately on the channel of the Hudson River, whereas the Pennsylvania property in Greenville is located a mile or more from the main ship channel of the bay. In that respect they are not similar properties.

Frederick Dunham, re-direct.

Q Then how does the sale of the Cunard property influence you in determining the value of Piers B and C in Jersey City? A Well, they are both properties faced upon the channel of the Hudson River, and it is just like lots fronting upon the same street and all practically in the same use, same class of business conducted there. There is a relative value there that you cannot neglect.

10 Q To your mind does an increase in the selling price of the property located anywhere along the Jersey City shore front evidence an increase in value of all other property along the short front? A Yes, it reflects in everything else, because here is what happens. Every sale of property on the Hudson River takes that much property out of the market and you have decreased your supply. Now, what has happened in the year 1920 is that every available foot of property on the Hudson River has been taken out of the market, there is nothing left.

20 Q Mr. Dunham, would you also say that it would be necessary to have a sale of this class of property within the taxing year to determine whether there had been an increase in the value of similar property? A No, it must not necessarily occur that year. You take sales that occurred the year or two years before or after. It gives you a fair indication of the trend of values.

30 Q So that if the subsequent sales show an increase over the previous sales, that shows a general rise from time to time? A Yes, providing there are other sales which bear that out. You can't take any single sale by itself and arrive at any such conclusion at that. You have got to take a series of sales in different localities of the same class of property.

Q For example, if a piece of property sold for \$50,000 per acre in 1918 and there was not any sale in 1919 but there was a sale of the same property in 1920 for \$100,000, you would say part of that should be reflected in the value for 1919? A Yes.

40

Frederick Dunham (By President Jess).

Mr. Stout. That is all.

By the President.

Q I wanted to ask you, you think if the Cunard property, knowing conditions as you do, had been sold in 1918 there would have been any difference in the price according to market conditions as of that time? A I can't say as to that positively. 10

Q You don't know whether it would have been lower or higher, in your judgment? A It would not have been, I don't think it would have been any higher.

Q How do you regard the Cunard sale, do you think that was a fair price? A I think it was absolutely a fair price, because the property was in the market and had been in the market for years.

Q Then you regard that price as establishing a standard for property of that character at that time? A At that time? 20

Q Yes. A In that vicinity.

Q Then in your judgment \$64,000 an acre was a fair price for similar property as of the time of that sale? A In that vicinity?

Q Yes, in that vicinity, of course. A Yes.

Q Do you think if Piers B and C had been in the market at that time they would have competed with this Delaware & Hudson property? A No.

Q Why not? A Because Piers B and C were an improved property, the other was not. 30

Q Suppose it had not been improved? A Suppose Piers B and C had not been improved?

Q Yes, and nothing but the land? A I think there would have been ten customers for that to one for the other piece.

Q I am limiting it now to the Cunard purchase, whether if the Cunard people had been in the market for the land just as they were and ultimately bought this land and this land had been in the market unimproved, 40

Frederick Dunham (By President Jess).

would it have, in your judgment, competed with the land they purchased, would it have been considered for the purpose for which it was bought? A You mean would the Cunard people have considered the purchase of that property?

Q Yes. A I don't think so.

10 Q Why not? A It was not a large enough property for them.

Q Was there very much difference in area? A It hadn't the area the other piece had. Not only that but the purchaser of the Cunard property, you have got to tie up with the lease of the New York Central's property adjoining it, they would not have gotten any such thing as that down below.

20 *Mr. Baker.* The Cunard property was absolutely bare, no improvements on it?

The Witness. There was an old tumbledown bulkhead and wreckage left there by the Delaware & Hudson; it is a liability instead of an asset; it has got to be torn out altogether.

Mr. Baker. It served as a sort of morgue for old boats.

The Witness. Yes, it was filled with wrecks.

30 The Cunard sale would never have taken place had they not been able to tie up with the New York Central lease of the adjoining piece which was much larger in area than the Delaware & Hudson. Even the Delaware & Hudson property was too small for their uses. They have about 3,600 feet of front of which 1,100 feet was by purchase; the remaining being by lease from the New York Central.

40 Q All those conditions, of course, contributed, didn't they, in your judgment, to this price that was paid; hadn't this property been on the market for a long time? A Yes.

Frederick Dunham (By President Jess).

Q Hadn't it been offered at a much lower price, if you know about that? A I believe it had at one time, and they had been offered a higher price for the Cunard piece too, that I know.

Q Isn't that sale of this Cunard property or the property to the Cunard people, one of the best criteria of value, of the market value of this kind of property that we have had here in a considerable time? A I think it is, yes. 10

Q Then if that sale is used as a basis of what water front property is worth in Jersey City you ought to be able to get at, approximately, a fair idea of the market value. A Yes, if you take into consideration location.

Q Location? A If you add to the other properties the increase due them because of the location.

Q Yes, I am assuming if you do that. A And surroundings. Take the Delaware & Hudson sale, you must take into consideration that that is a piece of restricted property in the sense that they go back the limit of 1,200 feet to the railroad track and you have behind that the Palisades, and they are forever restricted, particularly to the use, without further extension and in the sense that that property really is not comparable with the piece of property that extends back half a mile and has unlimited fill for extension, but it is fairly comparable, you might say, with the front part or back to the same extent with other properties, plus the increased value of the improvements on the other properties, plus the value of access to the other properties. The Delaware & Hudson, the only access you had to it was through a little lane over the Erie tracks, over a grade crossing. It is a quarter of a mile to the nearest trolley line, it is fairly adjacent to the West Shore ferry, but it is a mile or more, a mile and a half nearly away from the Hoboken tube station trolley terminal, and in a sense it has not anywhere near the location value of any of the Hoboken or Jersey City water front property. There are trolley lines running down to the West Shore ferry. 20 30 40

Frederick Dunham (By President Jess).

Mr. Baker. Approaches are always an element of value, are they?

The Witness. Oh, yes, and the adjacency to the built-up streets and sections of the city.

10 Q Mr. Dunham, you have stated in a general way now the different factors and elements which must be considered in your judgment in arriving at the value of other water front property if this is to be used as a sort of a basis, sales price? A Yes.

Q Well, now, you have this market price to begin with, don't you? A Yes.

Q Of that property? A Yes.

Q In other words, that would fix the value of the same kind of property immediately adjoining, we will say, where all the conditions were the same? A Yes.

20 Q And the Board, in your judgment, or the city assessors would be warranted in assuming that property of the same character immediately adjacent where all the conditions were absolutely the same, in assessing that at the same value or at the market price as established by the sales? A Yes.

Q Then, of course, as you proceed along the water front you meet different conditions, don't you? A Yes.

30 Q The conditions of access, physical conditions and all that sort of thing which you say ought to be taken into consideration in determining how much sales value reflects upon the value of this property or fixes its values? A Yes.

Q Isn't it a question largely of the judgment of experts and the judgment of assessors as to what value shall be given to those differences? A Yes.

Q My question may be involved, but I mean doesn't it all come down to that? A I understand exactly what you are getting at. You can go so far until you run up against another sale that causes you to change your view.

40 Q If you have no other sale you say I consider the access here so far superior that this is hardly comparable

Frederick Dunham (By President Jess).

with that property that has been sold, that is true, isn't it? A That is true.

Q But, generally speaking, it is largely a matter of judgment, isn't it, and of expert opinion? A Yes, but it is providing you have the proper foundation and the proper records and data upon which to base a judgment.

Q Let me ask you this, Mr. Dunham, and I think I am through with it. If you had some definite and scientific and mathematically accurate method of determining what value those various other elements outside of sales contribute to the value of this water front property, the ideal method would be to take this sale, wouldn't it, that you know about that established the value, and add to it or subtract from it these various other elements of value? A Yes. 10

Q And then the only difficulty now would be in applying that rule that experts and assessors will differ as to what those elements amount to? A Yes, you can carry that to a certain point until you run up against some other sale which gives you a different influence. 20

Q For illustration, Mr. Dunham, the assessments on the Piers B and C I think amount to—I have not figured it out, but I know it is over \$70,000 an acre. A Yes.

Q The sale price of the Cunard property two years ago— A Now, you are going astray again. You have a sale nearer than that which you cannot disregard. 30

Q Which is that? A That is the sale to the International Elevating Company, which is an adjoining property.

Q You compare the sale of the International Elevating Company, do you compare that tract of land with these thirty acres of land? A It is more nearly comparable with B and C than the other piece.

Q In what respect? A Because it is a similar property devoted to similar uses and it has a more ready market than the bigger piece. 40

Frederick Dunham (By President Jess).

Q What is the assessment on the International Elevator property, if you know, Mr. Dunham? A It is around \$70,000 an acre.

Q It is not that much, is it? A I think it is, yes.

Q What did that sell for? A That sold for \$70,000 an acre in 1916.

10 Q I want to be fair about that. I think our investigations showed it was assessed under the selling price of the property. A The property sold for \$300,000, that is what it sold for, without a State grant. There is another element in there which you have to add to the International Elevating property in order to make it even comparable with Piers B and C. You have got to add to that again another value which would give it the full State right, the same as Piers B and C have. For instance, Mr. Wall knows, he made an application to the Board of Commerce and Navigation for the extension of
20 one of those piers, and they asked the Board to fix the price for the extension of the Morris Street Pier out to the pierhead line, some two hundred and odd feet, and the State Board of Commerce and Navigation said, "Yes, we will give you such consent, but the price will be \$2,000 a front foot." That is more than they paid for the property.

Q Well, then, if this International Elevator property sold at, you say, \$70,000— A Yes; \$70,000 an acre,
30 about \$300,000 and there were four and a fraction acres.

Q And Piers B and C are assessed at \$80,000, I don't know just what it is, \$70,000 plus per acre, what is your comment on that as to the selling price of this property, the International Elevator, and the assessment on the Piers B and C? A I will tell you what it is, Piers B and C, what the International Elevating Company bought was eight lots behind the bulkhead together with whatever rights the American Coal Company had in the waters in the Hudson River in front there. In other words, all
40 they got a fee for was eight building lots behind the bulk-

Frederick Dunham (By President Jess).

head, and in front of that all they got was the rights which the Associates of the Jersey Company had to use and maintain half of two old piers there. They cannot drive another stick.

Mr. Wall. I think I ought to protest.

The Witness. You can protest.

10

Mr. Wall. Against all this wild talk about what they got. In the suit that was decided by the Court of Errors a number of years ago, it said that the Associates own to the center of the river. Now, he is testifying as to legal conclusions. If he is as far off on his expert testimony as he is on his statements of legal conclusions, he is in mid-ocean. There is not a word of truth in what he says there. He says they applied for an extension. They did not apply for an extension. What they applied for was a right to have a certain paper which the Act of 1864 provided that you could get from the State if you paid \$50 a foot. I don't want to take up the time of the Board.

20

Mr. Stout. I think I ought to object to Mr. Wall arguing the case before it is closed.

Mr. Wall. I am not arguing the case. He appealed to me about my knowing something.

The President. Who did?

30

Mr. Wall. Mr. Dunham, and a man that accuses me of knowing anything takes an awful chance. I will content myself with saying he is all wrong.

The Witness. Mr. Wall, I am not wrong. The application was made and you know the price was fixed and you refused to take it up, not you, but your tenants.

Mr. Wall. The application was made, as I say, for \$50 a foot, and the Board came back and said, "You can have the thing for \$2,000 a foot." He

40

Frederick Dunham, re-cross.

is right up to there, but we never applied in the way he says, we never applied with any idea of paying \$2,000 a foot. He does not understand the law of it. It is the fourth section of the Act of 1856.

10 *The Witness.* The only thing I understand is that the State said if you want it you pay \$2,000 a front foot for it. That is the part I understand perfectly.

The President. Were you through, Mr. Stout, when I broke in?

Mr. Stout. I think so.

Re-cross examination by Mr. Wall.

Q What is the depth of water in front of the Cunard piece? A Thirty feet, low water.

20 Q At low water? A Yes.

Q What is the depth of the water in front of Piers B and C? A Twenty-five to thirty, at least twenty-five. That is what it was dredged for.

Q Are you sure about your figures? A It was dredged for twenty-five.

Q What is the depth? A I sounded it out in front of your Morris Street Pier, and we had twenty-eight feet of water there at low water.

30 Q Do you know what it is on Pier B or not? A I can't tell; I have not sounded there. It was dredged for twenty-five foot channel for the government.

Q Where is that ledge of rock you have testified to before? A The ledge of rock was in the gap. I have not testified to the ledge of rock.

Q You don't know of any ledge of rock near Pier B? A Yes, I do.

Q Tell us about it? A I don't know about Pier B, I know of Morris Street.

40 Q Isn't there a ledge of rock near Pier B? A I don't know; I have not sounded there.

Floyd S. Corbin, direct, as to qualifications.

Q You don't really know the depth of water in front of Pier B? A No; I have not sounded there.

Mr. Wall. That is all.

Mr. Stout. That is all. We rest content.

The President. You are through?

Mr. Stout. Yes.

10

The President. All right.

Mr. Wall. What is the Board's decision as to whether there has been any real testimony as to advance in value?

The President. I think you will have to decide that. You will have to determine whether you think there has been any evidence put in you want to meet.

Mr. Wall. I mean we are still on the issue of whether there is a change or not.

20

The President. Yes, oh, yes; that is right.

An adjournment was here taken until Thursday March 10th, at 10:30 A. M.

Thursday, March 10, 1921.

FLOYD S. CORBIN, a witness produced on behalf of the petitioner, being first duly sworn, testified as follows: 30

Direct examination by Mr. Wall.

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

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

40

Floyd S. Corbin, cross, as to qualifications.

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

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

Q And that experience covers all the shores of New York Harbor, including the Jersey shore? A That experience covers all the navigable streams in and around New York Harbor, including the Jersey shore. I bought and sold and leased properties and owned properties myself, various places, in every navigable stream around the harbor or near the harbor.

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

20 Q What are the outstanding—

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

Mr. Wall. I have.

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

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

30 *Cross examination by Mr. Stout.*

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

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

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

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

Floyd S. Corbin, cross, as to qualifications.

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

The President. The expert's qualifications would not depend entirely, Mr. Stout, upon his having participated in the sale of this property. 10

Mr. Stout. Very true, but—

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

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

Mr. Stout. He has knowledge of them. The direct examination of his qualifications of this witness is not in respect to sales and leases. I don't recollect his testimony shows anything else. 20

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

Continuation of direct examination.

Q Did you make one hundred per cent. of the sales of Jersey City water front since 1915? A I think so. 30

Mr. Stout. Since 1915?

Mr. Wall. 1915.

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

Cross examination by Mr. Stout.

Q Have you forgotten the sale of Leary to the Lehigh Valley? A That is on the Communipaw Bay. 40

Floyd S. Corbin, direct.

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

Q I didn't ask you about that. I asked you about sales—
10

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

Continuation of direct examination.

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

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

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

Q And the State Board of Assessors? A I have.
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Floyd S. Corbin, direct.

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

Q What are the outstanding features, to your mind as a water front expert, of the Cunard sale which has been testified to here? A The sale of the property by the Delaware & Hudson to the Cunard Company in 1920 of a property on the Hudson River having a frontage of about 1,102 feet on the pierhead line and an approximate depth of about 1,400 feet from the pierhead line westerly shows it was a very large piece of property capable of being improved with long piers for the very largest ocean-going steamers in existence. In addition to that it was adjoining on the south a property owned by the West Shore Railroad, having a frontage of 2,478 feet, which the Cunard Company also leased for a long term of years, and a combined frontage of those properties was approximately 3,600 feet, both properties being capable of the development for the same class of piers and warehouses with railroad connections, as well as ferry and trolley connections, and so forth, right at hand. This piece of property, the like of it did not exist in New York Harbor at all and could not possibly have been duplicated, with the depth of water, the frontage, the area and all the other physical characteristics.

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

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

Floyd S. Corbin, direct.

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

Q Is the stockyards property an improved property?

A Only partially improved.

Q Is it improved in the sense of being property which could be easily placed in condition for steamship use?

10 A I don't think so.

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

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

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

Q Something was said yesterday by some of the witnesses for the city that one reason that the water front property constantly increased in value was that the
40 market was being narrowed all the time. What do you

Floyd S. Corbin, direct.

understand that to mean? A Well, I don't subscribe to the theory that water front properties are having a constant advance in value. I think it depends entirely upon the property itself, its size, its location and its adaptability for certain purposes. I studied the situation for twenty-two years, and while I have seen marked advances in the values of water front properties, they have been for particular reasons. For instance, I have properties today I am trying to sell for \$325,000 that I could not have bought for \$400,000 three years ago.

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

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

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

Floyd S. Corbin, direct.

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

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

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

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

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

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

Mr. Wall. I was overruled.

40 *Mr. Stout.* All right.

Floyd S. Corbin, direct.

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

Q Do you think the income tax, excess profits tax, has exerted any abnormal influence on companies who made such ventures as the Cunard made with reference to this particular sale? 10

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

Mr. Wall. He said the condition is abnormal. It is a fact, and I presume the Board will take judicial notice of it anyhow, that the very provisions of the income tax laws make companies that have made a lot of money anxious to tie it up in construction and in land purchase, so that there is not an income coming from it and so that in the future when presumably the tax situation will be somewhat alleviated by cutting down the taxes, then they will get the increment of value coming from the investment. We know that is the case. 20

Here is a situation when the shipping interests made money during the war and they gathered these great bundles of money—that all enters into the factors of abnormality.

The President. I can't see any objection to the witness saying that he considers the conditions abnormal and that this is one of the conditions. Of course, there is no evidence, could not be from this witness, I assume, that that particular factor had anything to do with this purchase. He is describing abnormal conditions, and he says that that is one of them. I think that is admissible. 30

Mr. Wall. There is not any evidence in this proceeding the Cunard owns a ship and we know they do. 40

Floyd S. Corbin, direct.

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

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

10 *Mr. Stout.* It seems to me it is a very violent assumption for this witness to testify that it was due to possible income tax that other prospective purchasers were kept away from this purchase.

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

Mr. Stout. That kept others away.

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

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

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

Mr. Baker. All right.

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

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

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

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

40 Q (Question repeated.) A Well, in the first place I know of one or two particular sales where concerns have made large sums of money and invested them in extensions of their plants because they did not want

Floyd S. Corbin, direct.

the income from the money itself at that time, and they felt the cost of material and labor might continue for a number of years, and that was a good way of investing the money where it would produce no immediate return but yet be absolutely safe in the future.

Q Well, Mr. Corbin, returning to the Cunard sale, does it, in your judgment, furnish a safe guide in the valuation of water front property to take a sale way up in the northern part of the county as that is and then seek to apply that figure, that acreage figure to everything down as far as these piers in Jersey City; is that a safe method, in your judgment, of ascertaining market value? A I don't think so because the properties are so dissimilar in size and in adaptability and, as I stated before, these two properties we referred to could not possibly be developed in New York Harbor. The location is very different. 10

Q If there were some percentage of increase that could be applied, increase in value year after year, why then all the difficulties of valuation would disappear, wouldn't they? A Absolutely. 20

Q There would be no necessity for this Board exercising any appellate powers, it could all be done by a clerical force? A Yes. I want to say as illustrating how very difficult it would be and how impossible it would be to take the sales of a particular piece of property and use it as a basis. You could take the sales of some water front properties recently on the Hudson River; I made one myself on a property exactly similar and adjoining, and yet where the property was sold for about twenty per cent. less than the property either immediately to the north or to the south. You have got to take into consideration the peculiar conditions in many instances of the buyer and the seller. The property I sold was owned by people who were enormously wealthy but had absolutely no use for the property and never expected to use it. Their plans had changed since they purchased 30 40

Floyd S. Corbin, cross.

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

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

20 A Exactly.

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

Cross examination by Mr. Stout.

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

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

Q Are they going to erect freight or passenger piers?

A I am not sure about that, but I rather think they are going to have both freight and passenger there.

Q You don't know, then? A No, I don't think the question of freight or passenger was used. They simply

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Floyd S. Corbin, cross.

told me they were going to erect large piers and large warehouses and they had made a special arrangement with the New York Central and the West Shore Railroad for the delivering and handling of freight.

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

Q You do know that the Piers B and C of the Pennsylvania Railroad here under appeal are devoted to the handling of freight? A Yes. 10

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

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

Q How do you know the water front of this property has a depth of forty feet? A Government charts. 20

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

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

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

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

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

The President. It seems to me if it became very material as to what the depth was there, we ought 40

Floyd S. Corbin, cross.

to have the best evidence, but it has been the practice of the Board to take the testimony of experts as to the various depths of the Jersey City water front, Mr. Stout. We have taken the testimony of Mr. Dunham. Mr. Dunham testified yesterday to the depth as thirty-five feet.

10 *Mr. Stout.* Mr. Dunham had made measurements.

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

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

Mr. Stout. Where are they?

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

30 *The President.* The motion to strike out is denied.

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

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

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Floyd S. Corbin, cross.

Q How many feet did the Cunard people purchase?

A They purchased about 1,102 feet frontage from the Delaware & Hudson Company and they have obtained by lease about 2,478 feet from the West Shore Railroad.

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

Q So the amount they purchased was comparatively small? A But the purchase was dependent upon the lease also from the West Shore Railroad. 10

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

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

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

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

Q And generally there is a greater market and demand for smaller tracts than there is for the larger tracts? A Yes, but that does not apply to properties of this particular character like the Cunard purchase. 30

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

Floyd S. Corbin, cross.

now for whom I am trying to find a property suitable, they won't take a piece of property I have because it is too small in size, it has only 429 feet frontage.

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

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

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

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

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

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

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

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

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

Q Don't you know there was competitive bidding for that pier? A I had nothing to do with the bidding.
40

Floyd S. Corbin, cross.

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

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

Q Have you made any inquiries about whether there was? A No. 10

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

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

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

Q Are they idle? A Practically.

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

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

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

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

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

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

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

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

Floyd S. Corbin, cross.

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

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

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

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

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

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

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

Q Do you know, Mr. Corbin, that in October, 1919, the City of New York acquired property in Staten Island
30 for the purpose of building piers to meet this demand?

A I do, because I am engaged in several of those cases now.

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

Q There was not? A No.

Q Would you say that the property of the Pennsylvania Railroad Company, known as Piers B and C, Plot
40

Floyd S. Corbin, cross.

A and D, in Block 4 and 5, was more valuable on October 1, 1919, than it was on October 1, 1916? A No; I don't think there is very much difference in the values within that period.

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

Mr. Wall. I object to that. That is all covered by the findings of the Board. 10

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

The President. That is allowed.

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

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

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

Q 670,000 dollars? A Yes, that is the land value. 20

The President. What time was that?

Mr. Stout. October 1, 1919.

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

Q Yes?

The President. What did you give it?

The Witness. \$670,000. 30

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

The President. Is that for both years?

Mr. Stout. Yes, that is for both.

Q The Board's assessment is \$766,260 and that is what the Pennsylvania asked to have it fixed at, but you are almost \$100,000 less than the Pennsylvania. A I don't know what the Pennsylvania has. 40

Floyd S. Corbin, cross.

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

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

10 A I presume it is correct. You have the statement there.

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

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

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

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

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

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

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

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

Q Here is your answer, "Either \$225,000—

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

Mr. Stout. Let me finish it.

Floyd S. Corbin, cross.

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

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

10

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

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

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

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

20

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

30

Q They were not a willing buyer? A No.

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

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

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Floyd S. Corbin, cross.

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

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

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

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

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

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

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

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

40

Floyd S. Corbin, cross.

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

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

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

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

Q There is somewhat of a cloud there at least.

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

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

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

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

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

Floyd S. Corbin, cross.

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

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

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

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

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

20 *The President.* Mr. Corbin, to straighten it out in my own mind, the question was whether within the past ten years you knew of any sale of water front property here in Jersey City which, in your opinion, represented the fair market value of the property?

A No, I do not.

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

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

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

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

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

40 Q There has been a number of sales in the Jersey

Floyd S. Corbin, cross.

side since the latter part of 1919? A Yes, since about November or December, 1919, and August, 1920, there have been several sales.

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

Q At the rate of \$15,000 an acre? A I think so. 10

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

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

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

Q You say conditions, study what conditions? A Take into consideration when the sale was made and by whom purchased, and so forth, as to whether it is a fair market value. As I stated before, you cannot take any one sale— 20

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

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

Q Yes. A Up to 1920?

Q Yes. A 1921?

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

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

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

Q Names the ones that—

Mr. Wall. Let him answer the question. 40

Floyd S. Corbin, cross.

Q I am going to let him do it now, which ones show the change? A I think where a large number of properties have been taken out of the market since 1920, the early part of 1920, necessarily that diminishes the supply of available properties, particularly if they have gone into the hands of purchasers who finally improve them. 10 They don't always go into the hands of purchasers who improve them and take them out of the market, they do sometimes come back on the market. It is just a mere guess as to what difference that would make in the value of other water front properties. No set rule you can apply to it.

Q Do you think there has been a change or an increase in the value of the New York Bay property on the Pennsylvania since 1916? A Well, I think possibly you might say there has been some change since the early 20 part of 1920.

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

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

Q Don't you think it is just as foolish, Mr. Corbin, 30 to say when there have not been any sales that the value of these properties has stood still because you have not had sales? A I think it would be just a matter of opinion.

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

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

Q If you did so testify, was it true? A I presume 40 it must have been my opinion at the time I testified.

Floyd S. Corbin, cross.

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

Q Would you say a portion of the rear would be more valuable than the front? A No, I would not. 10

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

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

Mr. Wall. May I read this? I don't think Mr. Stout's question was quite fair. He insinuated the witness had testified this was worth \$8,500 an acre. 20

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

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

Mr. Stout. I will read it.

Mr. Wall. All right, read it. 30

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

Mr. Stout. Yes, page 38.

Q Now, I direct your attention to appeal #5 on the Board list, the New York Bay Railroad Company assessment of 1916 on the Greenville property, and ask you whether there has been any change in the value of that property since this Board fixed the value for the year 1915 at \$8,500 per acre? 40

Floyd S. Corbin, cross.

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

The President. Go ahead.

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

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

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

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

The President. He didn't place any value.

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

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

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

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

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

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

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

40 Q Yes. A That is 1.98 acres.

Floyd S. Corbin, cross.

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

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

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

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

10

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

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

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

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

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

20

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

30

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

Q Yes. A I do.

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

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

40

Floyd S. Corbin, cross.

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

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

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

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

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

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

Q When was the property previously sold? A During the panic of 1907, thirteen years before.

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

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

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

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

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

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

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

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

Q Doesn't that evidence to your mind that this class of property does increase in value as the years go along? A Some of it does increase in value, it doesn't all increase in value. I have instances where it has not increased in value. That could not apply as a general proposition.

40 Q Yet you don't know of any property in Jersey City since 1910 that has sold for less than the previous sale

Floyd S. Corbin, re-direct.

of the property? A I don't know of any property in Jersey City since 1910 that it has been possible to buy or anybody that was anxious to sell which was of any use.

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

Q You are speaking of Jersey City? A I am not speaking of the Communipaw flats. Of course, those sales were made. 10

Re-direct examination by Mr. Wall.

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

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

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

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

Q Do you know whether your filled land estimate was higher than the Board's \$8,500? A I don't recall that. I knew something about the cost of filling ground there some years ago for the reason I filled a good part of the Greenville Terminal, or acted as the agent of the firm who did, so I got the contract for them and handled it through the Pennsylvania Railroad. I represented them here in New York Harbor. 30

Q Counsel directed your attention to the Leary sale at \$7,500 an acre. Do you know what the Blair property right next door sold for? A Yes; I think I have the price of that right here. You speak of what is known as the Blair-Livermore property?

Q Yes. A That sold for \$1,540.25 per acre. 40

Floyd S. Corbin, re-direct.

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

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

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

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

The President. That, of course, creates a condition, according to your theory which could pos-
40

Floyd S. Corbin, re-cross.

sibly have no effect upon these valuations made two years prior to that time? A Absolutely not. All those properties were in the market to anybody who would purchase them.

The President. How would you, Mr. Corbin, attempt to arrive at the fair market value of these properties here involved in this appeal if you were required to do so? A Why I should simply take into consideration first the character of the properties themselves and then make comparisons by taking into account all the sales of properties of a similar character and those adapted to a similar use for several years past. You cannot do it for one year, of course, because the sales of these properties are infrequent. There happens, sometimes, as I say, where one sale of the property is at a price very much in excess of its fair value for particular reasons, and in other cases where it is less. That is very largely due to either the financial condition or other conditions that affect the buyer and the seller or either one. 10 20

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

The Witness. Well, of course, the value of all property is what might be termed a potential value. The intrinsic value, if you may use such an expression as to one of these water front properties is nothing. For instance, land under water, as it is in Communipaw Bay, is worth nothing. People only buy it and pay for it because they feel they can put it to a profitable use, therefore it has potential value. 30 40

Re-cross examination by Mr. Stout.

Q Mr. Corbin, wouldn't you consider the sale between Leary and the Lehigh Valley the case of a willing seller 40

Floyd S. Corbin, re-direct.

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

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

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

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

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

Re-direct examination by Mr. Wall.

Q But do you characterize a sale where a man is anxious to sell, keenly desirous of selling, as a forced sale?

30 A No, I do not consider it a forced sale, because I know in my own case I sold some years ago a very large water front property. I was extremely desirous of selling it, and did sell it, but I was not forced to sell it. I could have carried it.

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

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

Floyd S. Corbin, re-cross.

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

Mr. Wall. That is all. 10

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

The Witness. No, I don't think so. I have purchased property myself; for instance, a few years ago I had a man who wanted to sell me a piece of property and practically forced it upon me by continually reducing the price because he wanted some money, and I bought the property and bought it really under compulsion, you might say, and much to my profit later on, several years later I sold it for a very handsome profit. That was in a sense a man very desirous of selling. 20

Re-cross examination by Mr. Stout.

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

Q Don't you know it was heavily encumbered by taxes, taxes had not been paid for twenty-five or thirty years? A I know there was a dispute about taxes, just what the dispute was or what the legal situation was I didn't go into that. 30

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

Q Don't you know the taxes were tied up in the courts and had been for years, and that the city's hands were 40

Thomas A. Ryer, direct—cross, as to qualifications.

tied to sell the property? A No, I don't know anything about the city's hands being tied.

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

AFTER RECESS.

10

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

Direct examination by Mr. Wall.

Q Mr. Ryer, you are a real estate agent? A I am.

Q With what experience? A Twenty years past.

Q Whereabouts? A Mostly in Hudson County, New Jersey.

Q Are you engaged as a real estate agent in Jersey City? A I am.

20

Q At the present time? A Yes.

Q Have you acted as an expert appraiser of property in Jersey City? A I have, since 1906.

Mr. Wall. I don't know whether you want anything further of Mr. Ryer or not, do you.

Mr. Stout. Let me ask him a few questions.

Cross examination by Mr. Stout.

30

Q You don't consider yourself qualified to testify as to the value of water front property, do you? A I do.

Q Have you bought and sold water front property in Jersey City? A I have not.

Q Have you made any lease of water front property in Jersey City? A I have not.

Mr. Stout. I submit, if it please the Board, that Mr. Ryer has not qualified to testify as to the value of the shore front property. He may have some knowledge of the value of back-land properties that he deals in.

40

Thomas A. Ryer, direct.

The President. Is he offered as an expert on water front property?

Mr. Wall. Yes, sir, on both. I will ask him further questions.

The President. If you will, please.

Continuation of direct examination by Mr. Wall.

Q Mr. Ryer, have you acquainted yourself by study with the value of water front properties in Jersey City and Hudson County? A I have, and keep records of sales of such property.

Q And have you appeared frequently before this Board as an expert on water front property? A I have.

Q And been admitted as an expert frequently? A I have.

Q Have you given special study to the subject of the values of water front property? A I have.

Q And as a part of your office equipment do you keep a record of all sales? A I do.

Q And study the sales? A I do.

Mr. Wall. I submit he is qualified.

The President. Mr. Ryer is admitted; he has been admitted heretofore as an expert on water front property.

Q Mr. Ryer is there in your judgment any difference in the values of the pier property that has been testified to here in Block 4 and 5 and the stockyards property and the Greenville terminal property as between the dates of October 1, 1918, and October 1, 1919? A I don't think so.

Q What is your value as of October 1, 1919, for Block 602, Lot 1?

Mr. Stout. Which one is that on the calendar?

Mr. Wall. That is Newark avenue. \$44,000 is your assessment and \$28,000 is the Board's assessment for 1919.

Thomas A. Ryer, cross.

The President. No. 12.

A \$25,750.00.

Q And for Block 76, Lot H-4, Washington, Green, and so forth streets? A \$16,400.00.

Q And for Block 11, Lot A, Morgan street? A \$73,800.00.

10 Q For Block 601, Lot 1 Newark avenue? A \$20,000.

Mr. Wall. That is all, I believe, isn't it?

Mr. Stout. Yes.

Q And in giving these values, Mr. Ryer, what do those values, in your judgment represent? A Market value of the properties on October 1 1919.

Cross examination by Mr. Stout.

20 Q These properties that you have testified in respect to value are not shore front property? A Some of them are and some of them are not.

Q Which ones are shore front? A Four and five, Block 4 and 5, A and D, Block 8, Plot A-1.

Q You didn't testify, did you, as to the value of Piers B and C? A Other than that there was no change.

Q I mean the ones you gave the values of? A The only water front property—the last one I gave the value on is Block 602, Plot 1, on the Hackensack River, Newark avenue.

30 Q You have not testified to the value of any of the shore front property on the Hudson River or New York Bay? A I don't think Mr. Wall asked me for that; I don't think he did.

Q You know the properties, you know the location? A I do, but I don't think he asked me those values today.

40 Q And you recall, do you not, that in 1916 and in respect to the 1916 valuation and in respect to the 1918 valuation you didn't testify as to the value of shore front property on the Hudson River and New York Bay? A I did testify at that time to those values.

Thomas A. Ryer, cross.

Q Which year? A 1917 and 1918, or 1917 on the 1916 taxes.

Q Have you refreshed your recollection? A I have.

Q The record here shows that you only testified as to the properties— A The record may show that.

Q —which you testified to today? A The record may show that, but I testified as to the water front properties at that time; I remember clearly. 10

Q You think then if the record doesn't show it that the record is incorrect? A I think you will find the record there shows it, although I don't know. If the record doesn't show it then it is incorrect.

Q Did you testify in 1920 in respect to the value of the New York Bay Railroad property respecting its value as of October 1, 1917, and October 1, 1918, those two years being heard together? A I may have done so, I don't remember. 20

Q Do you know if you did so testify what valuation you placed upon the New York Bay Railroad property? A My impression is that the only property in New York Bay I testified to at that time was Plot 2-L, which is the unimproved part of the Greenville terminal.

Q I am speaking now of Lot 2-L in Block 1507. A That is the unimproved part of the Greenville terminal, that is not completed, the improvements are not completed on that parcel as yet.

Q You think you did testify to it? A I think I did. 30

Q What value did you put on it? A I am under the impression I put \$6,000 an acre at that time and \$12,000 on the improved, if I testified on that, I am not sure about testifying on the improved; I am quite sure I testified on the unimproved at \$6,000 an acre. That is my recollection only.

Q You didn't then place a value upon the whole tract per acre? A I don't think so.

Q Did you testify in respect to the appeals from the 1917 and 1918 valuations in respect to Lots C-5 and C-6 40

Thomas A. Ryer, cross.

in Block 15, the stockyard property? A I have testified in relation to the stockyards property but whether I testified that particular year or not I can't say without the record, but I have testified as to the valuation of Plot C-5 and C-6.

10 Q You didn't testify in respect to Lot 2-L in Block 1507 and Lot C-5 and C-6 in Block 15 in 1917 in respect to the 1916 valuation? A I think I did but I couldn't swear without the record.

Q If the record shows you didn't will you say you testified? A I would have to then look up my notes and make sure. I am quite sure in 1917 I did testify on the 1916 taxes for C-5 and C-6 and 2-L, but the subsequent years I am not positive about.

20 *Mr. Stout.* I would like to have a note made in the record for the Board to refer to it, for the record shows he did not so testify.

Q What was your valuation of Lot C-5 and Lot C-6 in Block 15 as of October 1, 1918? A \$1,215,800.

Q That is the same valuation that was placed upon this property by Mr. Corbin? A We made the valuations together at that time.

Q And you both agreed upon the exact figures? A We did.

30 Q That was not a compromise figure? A It depends entirely on what you mean by compromise.

Q Did either one of you have a higher value than the other when you arrived at this figure? A I couldn't say that; that was our ultimate conclusion.

Q You both reached the same conclusion after talking with each other? A We did.

40 Q What valuation did you place or would you place upon Piers B and C of the Pennsylvania Railroad and the Associates of the Jersey Company as of October 1, 1918? A They come under two separate parcels. Pier B is known as Lot A and D, Block 4 and 5, \$670,000 on

Thomas A. Ryer, cross.

that; on Pier C, Block 8, Plot A-1, placed a valuation of \$240,000 on that.

Q And your opinion would not be changed by the fact that this Board fixed a valuation for 1918 of \$766,000 for the one plot and \$282,000 for the other? A That does not change my opinion.

Q And even though the Railroad Company is only asking to have the assessment reduced to the State Board's finding of last year? A That does not change my opinion. 10

Q In your opinion there has been no change in the value of any of the properties of the Pennsylvania Railroad Company here under appeal between October 1 or May 20th rather, 1916, and October 1, 1919? A There has not been.

Q Didn't you testify last year that there had been an increase in demand and an increase in value of some of the properties similar or comparable with the Pennsylvania property? A I did not. 20

Q Sure of that? A Positive.

Q Don't you remember using these words, that— A That is you are embodying two questions in one, increased demand I did testify; increased value I did not testify to that. I did say there was an increased demand for pier space and improved property, and I say so now.

Q Didn't you say in your own words that that stiffened things up a little? A I may have. 30

Q What did you mean by stiffened things up a little? A I meant—

Mr. Wall. I think Mr. Stout ought to read it to him.

Mr. Stout. I haven't it here. He admits he used the words.

The Witness. I admit it because you say it is there. I don't know what it is; I haven't read my testimony over in that case. 40

Thomas A. Ryer, cross.

Q What would you mean by that?

Mr. Wall. If he did say it?

Mr. Stout. Yes, if he did say it.

A I don't know what I might have had in mind at that time; I may have meant there was a greater demand at
10 that time for certain classes of property, in fact, I think there was at that time a great demand for pier space, and so testified.

Q You don't think an increased demand would indicate a greater selling value? A Not necessarily.

Q Would you say that the Pennsylvania Piers B and C showed a greater value or selling value if there was an increase in rental of 30 to 40 per cent. in 1920 over 1919? A There is not anything to show any such increase.

20 Q I am assuming that? A Not necessarily.

Q It would not? A Providing, in the first instance, the lease, the original lease was at a proper figure, yes; it might have been at a low figure and the second figure at a proper figure. If the first figure didn't show a proper return on a capitalization I would say no.

Q If the lower figure was upon the lower value and the higher figure on the higher value then wouldn't it show anything? A Well, provided the lower figure on
30 the lower value is a proper capitalization, yes; for instance, if you take Pier B at \$75,000 a year it was not a proper return on my value of the property, consequently if they made a new lease they ought to make it for a considerable advance.

Q You think that it is probable that the Pennsylvania Railroad Company would ask for a low rental at one time and a high rental at another and the value of the property stand still? A Quite possible.

Q You think they do that kind of business? A
40 Quite possible.

Thomas A. Ryer, cross.

Q There have been a number of sales during the past year of water front property along the Jersey City shore? A Not that I know of.

Q Don't know of any? A Not a solitary sale of water front property on the Jersey City shore in the last year.

Q In Hudson County? A Yes, there has been in Hudson County, but not Jersey City. 10

Q The ones in Hudson County that you know of, have they shown an increase or decrease? A A great increase.

Q Great increase? A Yes.

Q If they have shown a great increase why don't you think that is reflected upon the whole water front? A I didn't say it was not. The value I have been asked on is of October 1, 1919, and these sales were all made in 1920. 20

Q You think that property jumps in value over night? A It might.

Q Is that so? A Oh, yes.

Q You think— A I can show you some property that jumped in seconds.

Q Let us take an illustration. The Lehigh Valley Railroad property purchased from Leary was testified to before the State Board as having a value of \$600,000 or thereabouts in 1915— A Having a value? 30

Q Yes. A You mean it sold for that?

Q No, it was the opinion of experts testifying before the State Board. A Experts have all kinds of opinion on that property.

Q Of a value of \$600,000? A That may be true.

Q In 1916 it sold for \$2,000,000 plus the taxes. Do you think in one year's time that property jumped five times in value? A I don't think it did.

Q Don't you think there is a steady increase in the value of this class of property, but you cannot get at that increase until you have a sale which will evidence 40

Thomas A. Ryer, cross.

the amount of the increase? A I don't think you could get at it then some times.

Q How do you get at it? A By taking all of the sales you can get, not one particular sale such as the Curry sale or the Morris and Cummings or any of the sales made to the Lehigh Valley Railroad and fix your
 10 values on that one sale, you have to take all the sales generally and diagnose the entire situation before you can arrive at a value. You take the four purchases made by the Lehigh Valley Railroad, they were all at different prices per acre. Just to say which one of those was the proper price, it is a matter of judgment, in my opinion.

Q Do you recall a sale of water front property along the Hudson shore, Hudson County shore, that the selling price did to your mind indicate the true market value?
 A Yes.

20 Q Which one? A The Ocean Steamship Company at Hoboken.

Q When was that? A 1916.

Q And you say the value of that property is the same today as when it was purchased? A Today, no.

Q Greater or less? A Greater.

Q Was that the property that was taken in condemnation proceedings? A It was not; the property so taken in condemnation proceedings or rather by arbitra-
 30 tion by the Government was the property directly to the north of that, the American Warehouse and Trading property. The Ocean Steamship was sold to the Delaware and they later purchased the Pennsylvania Railroad piece to the south of it.

Q To your mind would the sale of a piece of property, back land of the Pennsylvania Railroad Company, known as the New York Bay property for \$15,000 an acre indicate an increase in value of that property? A No, not knowing they sold it to the Lehigh Valley Railroad Company, and it is for \$3,000 an acre more than I valued
 40 the land at.

Thomas A. Ryer, re-direct.

Q You say the Lehigh Valley paid three times your valuation? A No, \$3,000 an acre more, about 20 per cent. more.

Q You don't average up your sales but you take the sales and study them and then use your own determination as to value? A Absolutely is the only way I know to arrive at my judgment of the value of property. 10

Q So your values today of these properties are the same as the values you testified to as to 1916? A I didn't say so, Mr. Stout.

Q I ask you whether or not they are? A They are not. I made no valuation as of today.

Q I mean— A If you mean as of October 1, 1919, I will answer yes.

Q The same valuation? A Same valuation.

Q It is your opinion there was no increase? A Absolutely.

Q In value from 1916 to 1919? A That is my opinion. 20

Q Although the State Board on the testimony here last year increased the value of these properties several hundred thousand dollars? A I still think there was no increase at that time.

Mr. Stout. That is all.

Re-direct examination by Mr. Wall.

Q You mentioned this lease. I produce here the original lease. Does that lease describe the property which you referred to as the one that had been rented for \$75,000? A It does, the property known as Pier B. 30

Q And that is the one you referred to as being an inadequate return on the valuation that you gave? A It is.

Mr. Wall. I have a copy of the lease here.

Mr. Stout. I won't ask you to produce the original. 40

Thomas A. Ryer, re-cross.

Mr. Wall. I will offer that copy in evidence.

Paper received in evidence and marked Exhibit P. 1.

Mr. Stout. You called the witness' attention to some lease and put it in evidence. I would like to examine him as to it.

10 *The President.* All right.

Mr. Stout. Shall we put the other one in evidence?

Mr. Wall. That was the original. I put the copy in evidence.

Mr. Stout. This is the copy of it (indicating)?

Mr. Wall. That is the copy. You can use the original if you wish.

Re-cross examination by Mr. Stout.

20 Q Mr. Ryer, this lease shows a rental of \$75,000? A
It does, per year.

Q And you say that that was an inadequate renting?

A I think it was, rental.

Q Inadequate rental. Tell us how you arrive at that.

A I have not arrived at any accurate figures of it. It represents 132 feet of the bulkhead south of the pier and 133 feet north of the pier and a covered pier. It is merely my judgment that \$75,000 a year was an
30 inadequate rental. I haven't gone into any figures on it. Take the valuation of the pier structure plus the valuation of the land and I don't think \$75,000 a year would be adequate, and yet I have not the exact figures on the construction of the pier. It is merely my opinion.

Q Could you tell us what would be a fair rental? A I couldn't without getting the valuation on the pier structures and add that to my valuation of the land to arrive at it.

Q Don't you think that is pretty indefinite, Mr. Ryer?

40 A It is.

Ralph D. Van Duzer, direct.

Q To say in the one case it is inadequate? A It is the best I can give you. I will admit it is very indefinite but it is the best I can give you. It is merely my opinion, which I admit.

Q Do you know that for the year 1919 the rental was increased to \$125,000? A For Pier B?

Q Yes. A I don't think so. I think there was a lease made on Piers B and C in conjunction, but not on Pier B alone. Pier C was occupied during that year by the Pennsylvania Railroad Company and was not leased. 10

Q Do you think that was an inadequate rent or rental? A I don't know, I don't know what it was, \$125,000, absolutely an inadequate rental for the two piers, in my judgment, if they were rented for that figure.

Q Yet you cannot tell us what would be an adequate figure? A Not without figuring that out. I can make that up for you if you wish me to. 20

Q You could determine the inadequate rental without figuring but the adequate you have to figure? A No, I can't, I can simply say in my judgment I think it is inadequate; that is all I have done.

RALPH D. VANDUZER, a witness produced on behalf of the petitioners, being first duly sworn, testified as follows:

Direct examination by Mr. Wall. 30

Q You are employed by the Lehigh Valley Railroad? A I am.

Q In what capacity? A General land and tax agent.

Q Are you familiar with the sale made by the Pennsylvania Railroad Company to the Lehigh Valley? A New York Bay?

Q Now York Bay Railroad Company to the Lehigh Valley? A I am. 40

Discussion.

Q Do you have to do with the negotiations? A I negotiated the purchase of the property.

Q What was the consideration per acre? A The consideration, the property was divided into two parts, upland and land under water; there were 26.633 acres of upland and the price per acre was \$15,000. There was
10 2.13 acres of land under water and the price per acre was \$5,000.

Q And what time was this sale made? A The negotiations were during the latter part of the year of 1920 and the deed was dated December 28, 1920.

Q 1919 or 1920? A 1920.

Q Do you know when the deed was recorded? A The deed was dated December 24, 1920, and it was recorded on December 29, 1920.

Q And the negotiations extended over how long a period? A A period of three or four months.
20

Q Whom did you close it up with, representing the New York Bay? A Mr. Hulme, real estate agent.

Q Of the Pennsylvania Railroad and the New York Bay? A The negotiations were carried on with Mr. Hulme and the details of closing were assigned to Mr. Gauff, the local man.

Mr. Stout. No questions.

Mr. Wall. I wish to offer the judgments of the Board
30 for 1919 in respect of these same properties that are here under appeal. That completes our case.

Mr. Stout. May it please the Board, I think that not only the judgments should be received in evidence, those are before the Board anyhow, but the testimony in respect to the 1917-1918 cases, upon which the Board arrived at its judgment, because it must be before the Board in order to determine the true value in connection with the testimony offered in the present appeal.

Mr. Wall. Everything that went before the judgment
40 is merged into the judgment.

Discussion.

Mr. Stout. How can the other members of the Board consider it?

Mr. Wall. Well, the other members of the Board will consider that it was the judgment of the Board, and otherwise you would be always doing work all over again. I think I cannot have my offer enlarged by any such means as that.

10

Mr. Stout. All right, you may make your offer.

The President. The offer of Mr. Wall is the judgments of the Board on the 1919 and 1918 assessments and those judgments will be received and made a part of the record.

Mr. Stout. May it please the Board I offer in evidence the testimony taken in respect to the 1917 and 1918 appeals. My understanding of the rule of the Board is that where witnesses have testified in previous years in respect to sales as to the value of the property the Board will not hear them again but will not foreclose their evidence from the record. In order to determine whether there has been an increase in value in 1919 over 1918 we are going to take the testimony of the witnesses in order that you may have before you what they testified to before and not your valuation, because how can you tell what witnesses evidenced an increase in valuation between those years unless you have the witnesses' opinion as to the valuation for the previous year?

20

30

Mr. Wall. I submit that that argument is not quite sound. Here is a witness, for instance, that testifies to a certain value and that value may or may not coincide with the Board's judgment, but the witness comes here and testifies that in the period that is now under consideration there has been in his judgment no change. It seems an absurd thing for the Board to throw aside its own solemn judgment. The Board having done its work says, we found it on that date to be worth so

40

Discussion.

much, we are not going back of that, we are not going to revise that judgment.

The sole issue is has there been any change, and this witness says there has, and some say there has not been any change, so it does not seem to me the testimony that leads up to the Board's judgment is material.

- 10 I suppose, as a matter of practice, if the Board were concerned about the testimony of a witness it would not consider itself foreclosed from looking into this testimony of a previous year, but it is no proper part of this case. There is no more reason why you should put in two years back of your last judgment than that you should put in 1910. It seems to me immaterial and incompetent.

- 20 *The President.* I think the difficulty is—there is a great deal in Mr. Wall's suggestion that if we are relying on the judgment it does not especially concern us what the testimony was from which the judgment was reached, but the particular difficulty is that the Board would not feel it is foreclosed from an examination of the record upon which that judgment was based, and I think it would be much better to have it understood that the Board might have recourse to that record if it felt it was necessary in reaching its judgment.

- I don't quite get the point, Mr. Stout, of the testimony of 1917. It seems to me anything—

- 30 *Mr. Stout.* The 1917 and 1918 cases were tried together.

The President. That is your idea?

- Mr. Stout.* Yes; they were tried together. Take, for example, Mr. Dunham, we will say, testified to a certain piece of property the value of which as for those years was \$15,000 an acre. Now he testifies this year it was \$18,000 an acre. If you don't have his testimony of last year as to \$15,000 an acre where are you going to get your starting point that there has been an increase

Discussion.

in his opinion over his valuations for the previous year. For that reason I say it ought to go in. If you just cut out everything else and start with your judgment and his valuation you have not before you the testimony of the expert as to the increase, you only have him testifying to a higher value than your judgment.

The President. Yes, except Mr. Dunham also testified as to percentages of increase and we could apply his percentages of increase to our value and we would arrive at what would be a correct judgment. 10

Mr. Stout. That is very true, he did in some instances, but it seems to me the stronger and better evidence is to get the percentage of increase between his valuations for 1918 and his valuations for 1919. You have the basis then upon which he predicates his percentage.

The President. I would like to discuss that question with the members of the Board, and therefore will reserve ruling upon it at this time. 20

Mr. Wall. We rest.

Mr. Stout. So do we.

The President. In reference to this lease that has been offered in evidence, I don't recall that there is any evidence of the lease at the higher rental except the testimony of witnesses that they understood there was a higher rental paid. There is certainly no lease—

Mr. Stout. I think the other side in all fairness ought to produce it. 30

The President. I only want to call attention to it.

Mr. Wall. We don't offer it.

Mr. Stout. Well, it is within their custody. I can't bring it from them if they don't want to, but I think in all fairness to the Board to give the Board all the light you ought to pull up the shade.

Mr. Wall. If the Board orders it we will produce it.

Discussion.

The President. May these cases be considered closed on behalf of the City and Mr. Wall, of your clients, without any further argument or memoranda?

Mr. Wall. Just as the Board pleases. If the Board would like a memorandum, of course we will prepare one.

10 *The President.* I don't know. You are not going to put in any brief, are you, Mr. Stout?

Mr. Stout. No, unless Mr. Wall does.

Mr. Wall. Very well, I engage not to put in a brief.

Mr. Stout. But I did want to make a brief oral argument at the close of all these cases.

The President. Oh, yes.

Mr. Stout. It pertains to all of them, but I don't want to take them up piecemeal.

20 *The President.* That is something you probably won't want to miss, Mr. Wall.

Mr. Wall. Will Mr. Stout let me know when the moment of the eclipse is to come so that I can be there with smoke glasses?

Mr. Stout. It will be at the close of these cases.

Mr. Wall. Won't you let me know?

Mr. Stout. Yes.

Judgments of State Board for years 1918-1919.

"STATE OF NEW JERSEY.

"STATE BOARD OF TAXES AND ASSESSMENT.

"In the Matter of Appeal of THE ASSOCIATES OF THE JERSEY COMPANY, from the Assessment of Property in City of Jersey City, County of Hudson, for the years 1918-1919.

Judgment.

10

"An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by The Associates of the Jersey Company, in which it is alleged that an injustice has been done the said complainant by the assessment of real property for taxation for the years 1918-1919, located at Jersey City in the County of Hudson, consisting of properties hereinafter set forth, and that said property is assessed higher than the true value thereof;

20

"After hearing evidence produced on the part of said complaint, and the said respondent, and the argument of Albert C. Wall, of counsel for the complainant, and Edward P. Stout for the Taxing District of Jersey City, and after considering the same, it is on this 20th day of April, nineteen hundred and twenty, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905 Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1918, that the assessments levied for the years 1918 and 1919 be fixed as follows for each of said years:

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Judgments of State Board for years 1918-1919.

	Block	Lot		Assessed:	State Bd. action
	4	"E"	Land	\$30,000	\$30,000
			Bldgs.	1,500	1,500
				\$31,500	31,500
10	4	"F"	Land	37,500	37,500
			Bldgs.	6,000	6,000
				43,500	43,500
	5	"A"	Land	66,300	66,300
			Bldgs.	15,000	15,000
				81,300	81,300
20	5	"B"	Land	52,500	52,500
			Bldgs.	4,000	4,000
				56,500	56,500
	4 & 5	"A" & "D"			
	Pier B North half	Land		889,250	776,260
	Morris St. Pier	Bldgs.		140,000	140,000
30				1,039,250	906,260
	6	11	Land	7,500	7,500
			Bldgs.	3,000	3,000
				10,500	10,500
	6	12	Land	22,500	22,500
			Bldgs.	9,000	9,000
				31,500	31,500
40					

Judgments of State Board for years 1918-1919.

6	Grand St.	13	Land	45,000	45,000	
			Bldgs.	22,000	22,000	
				67,000	67,000	
8		A-1	Land	345,950	282,590	10
			Bldgs.	49,000	49,000	
				394,950	331,590	

(Signed)

FRANK B. JESS, *President*,
 FREDERICK A. GENTIEU,
 HARRY W. MUTCHLER,
 A. D. HERRICK,
 M. R. MARGERUM,

State Board of Taxes and Assessment.

20

Attest:

FRANK D. SCHROTH,
Secretary."

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Judgments of State Board for years 1918-1919.

"STATE OF NEW JERSEY.

"STATE BOARD OF TAXES AND ASSESSMENT.

10	"In the Matter of Appeal of THE NEW YORK BAY RAILROAD COM- PANY, from the Assessment of Property in City of Jersey City, County of Hudson, for the years 1918-1919.	} <i>Judgment.</i>
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20 "An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by The New York Bay Railroad Company in which it is alleged that an injustice has been done the said complainant by the assessment of real property for taxation for the years 1918-1919, located at Jersey City, in the County of Hudson, consisting of Block 1507, Lot 2-L, 100.98 acres, and that said property is assessed higher than the true value thereof;

30 "After hearing evidence produced on the part of said complaint and the said respondent, and the argument of Albert C. Wall, of counsel for the complainant and Edward P. Stout, for the Taxing District of Jersey City, and after considering the same, it is on this 20th day of April, nineteen hundred and twenty, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1919 that the assessment of \$2,019,600 levied for each of the years 1918 and

Judgments of State Board for years 1918-1919.

1919 on above described property, be reduced to \$1,-
130,976 for each of said years.

(Signed)

FRANK B. JESS, *President*,
FREDERICK A. GENTIEU,
HARRY W. MUTCHLER,
A. D. HERRICK,
M. R. MARGERUM,
State Board of Taxes and Assessment.

10

Attest:

FRANK D. SCHROTH,
Secretary.

“STATE OF NEW JERSEY.

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“STATE BOARD OF TAXES AND ASSESSMENT.

“In the Matter of Appeal of THE
PENNSYLVANIA RAILROAD COMPANY,
Lessee, from the Assessment of
Property in City of Jersey City,
County of Hudson, for the years
1918-1919.

Judgment.

30

“An appeal in writing having been filed with the State
Board of Taxes and Assessment, duly verified according
to the rules of practice prescribed by said Board, by the
Pennsylvania Railroad Company, Lessee, in which it is
alleged that an injustice has been done the said com-
plainant by the assessment of real property for taxation
for the years 1918-1919, located at Jersey City in the
County of Hudson, consisting of Block 15, Lots C-5 and
C-6, Hudson River, Stockyards Plot, and that said prop-

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Judgments of State Board for years 1918-1919.

erty is assessed higher than the true value thereof;

“After hearing evidence produced on the part of said complaint, and the said respondent, and the argument of Albert C. Wall, of counsel for the complainant, and Edward P. Stout for the Taxing District of Jersey City and after considering the same, it is on this 20th day of April nineteen hundred and twenty, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1918, that the assessment of \$2,495,900 being \$2,130,050 on land and \$365,850 on improvements, be reduced to \$1,905,988, being \$1,540,138 on land and \$365,850 on improvements, for each of said years.

(Signed)

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FRANK B. JESS, *President*,
FREDERICK A. GENTIEU,
HARRY W. MUTCHLER,
A. D. HERRICK,
M. R. MARGERUM,

State Board of Taxes and Assessment.

Attest:

30

FRANK D. SCHROTH,
Secretary.”

Judgments of State Board for years 1918-1919.

"STATE OF NEW JERSEY.

"STATE BOARD OF TAXES AND ASSESSMENT.

"In the Matter of Appeal of THE
PENNSYLVANIA RAILROAD COMPANY,
Lessee, from the Assessment of
Property in City of Jersey City,
County of Hudson, for the years
1918-1919.

Judgment.

10

"An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by the Pennsylvania Railroad Company, Lessee, in which it is alleged that an injustice has been done the said complainant by the assessment of real property for taxation for the years 1918-1919, located at Jersey City, in the County of Hudson, consisting of Block 11, Lot A, Morgan street, and that said property is assessed higher than the true value thereof;

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"After hearing evidence produced on the part of said complaint, and the said respondent, and the argument of Albert C. Wall, of Counse for the complainant, and Edward P. Stout for the Taxing District of Jersey City City, and after considering the same, it is on this 20th day of April, nineteen hundred and twenty, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1918, that the assessment of \$97,500 levied by the Taxing District of

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Judgments of State Board for years 1918-1919.

Jersey City be reduced to \$85,000 for each of said years 1918 and 1919.

(Signed)

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FRANK B. JESS, *President*,
 FREDERICK A. GENTIEU,
 HARRY W. MUTCHLER,
 A. D. HERRICK,
 M. R. MARGERUM,
State Board of Taxes and Assessment.

Attest:

FRANK D. SCHROTH,
Secretary."

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"STATE OF NEW JERSEY.

"STATE BOARD OF TAXES AND ASSESSMENT.

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"In the Matter of Appeal of THE PENNSYLVANIA RAILROAD COMPANY, Lessee, from the Assessment of Property in City of Jersey City, County of Hudson, for the years 1918-1919.	}	<i>Judgment.</i>
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"An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by The Pennsylvania Railroad Company, Lessee, in which it is alleged that an injustice has been done the said complainant by the assessment of real property for taxation for the years 1918-1919, located at Jersey City, in the County of Hudson, consisting of Block 76, Lot H-4, Washington and Greene streets, between First and Bay

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Judgments of State Board for years 1918-1919.

streets, and that said property is assessed higher than the true value thereof;

"After hearing evidence produced on the part of said complaint, and the said respondent, and the argument of Albert C. Wall, of counsel for the complainant, and Edward P. Stout for the Taxing District of Jersey City, and after considering the same, it is on this 20th day of April, nineteen hundred and twenty, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915 and Chapter 236 of the Laws of 1918, that the assessment of \$23,000 levied by the Taxing District of Jersey City be reduced to \$19,700 for each of the said years 1918 and 1919.

(Signed)

FRANK B. JESS, *President*,
FREDERICK A. GENTIEU,
HARRY W. MUTCHLER,
A. D. HERRICK,
M. R. MARGERUM,

State Board of Taxes and Assessment.

Attest:

FRANK D. SCHROTH,
Secretary."

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Judgments of State Board for years 1918-1919.

"STATE OF NEW JERSEY

"STATE BOARD OF TAXES AND ASSESSMENT.

10	"In the Matter of Appeal of THE PENNSYLVANIA RAILROAD COMPANY, Lessee, from the Assessment of Property in City of Jersey City, County of Hudson, for the years 1918-1919.	} <i>Judgment.</i>
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20 "An appeal in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by The Pennsylvania Railroad Company, Lessee, in which it is alleged that an injustice has been done the said complainant by the assessment of real property for taxation for the years 1918-1919, located at Jersey City in the County of Hudson, consisting of Block 602, Lot 1, Newark avenue, and that said property is assessed higher than the true value thereof;

30 "After hearing evidence produced on the part of said complaint, and the said respondent, and the argument of Albert C. Wall, of counsel for the complainant, and Edward P. Stout, for the Taxing District of Jersey and after considering the same, it is on this 20th day of April, nineteen hundred and twenty, at a session of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915, and Chapter 236 of the Laws of 1918, that the assessment of \$40,500 levied by the Taxing District of

Judgments of State Board for years 1918-1919.

Jersey City be reduced to \$28,000 for each of said years 1918 and 1919.

(Signed)

FRANK B. JESS, *President*,
 FREDERICK A. GENTIEU,
 HARRY W. MUTCHLER,
 A. D. HERRICK,
 M. R. MARGERUM,
State Board of Taxes and Assessment.

10

Attest:

FRANK D. SCHROTH,
Secretary."

"STATE OF NEW JERSEY.

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"STATE BOARD OF TAXES AND ASSESSMENT.

"In the Matter of Appeal of THE PENNSYLVANIA RAILROAD COMPANY, Lessee, from the Assessment of Property in City of Jersey City, County of Hudson, for the years 1918-1919.	}	<i>Judgment.</i>
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"Appeals in writing having been filed with the State Board of Taxes and Assessment, duly verified according to the rules of practice prescribed by said Board, by The Pennsylvania Railroad Company, Lessee, in which it is alleged that an injustice has been done the said complainant by the assessment of real property for taxation for the years 1918-1919, located at Jersey City in the County of Hudson, consisting of Block 515, Lot 1; Henry street, 3 houses and lots, and that said property is assessed higher than the true value thereof;

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Judgments of State Board for years 1918-1919.

“After hearing evidence produced on the part of said complaint, and the said respondent, and the argument of Albert C. Wall, of counsel for the complainant, and Edward P. Stout for the Taxing District of Jersey City and after considering the same, it is on this eighteenth day of May, nineteen hundred and twenty, at a session
 10 of the State Board of Taxes and Assessment, ORDERED, ADJUDGED and DECREED, under and by virtue of Chapter 67 of the Laws of 1905, Chapter 244 of the Laws of 1915, and Chapter 236 of the Laws of 1918, that the assessment of \$11,000 being \$4,150 on land and \$6,850 on improvements, levied for each of the years 1918 and 1919 on above described property, be reduced to \$9,800, being \$4,150 on land and \$5,650 on improvements.

(Signed)

20 FRANK B. JESS, *President*,
 HARRY W. MUTCHLER,
 M. R. MARGERUM,
State Board of Taxes and Assessment.

Attest:

FRANK D. SCHROTH,
Secretary.”

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Certificates of Stenographer and Secretary.

I, ALTA R. GULLIVER, the stenographer designated by the State Board of Taxes and Assessment to report stenographically the evidence given before said Board upon the hearing of certain appeals by

The Associates of the Jersey Company,
New York Bay Railroad Company, and
Pennsylvania Railroad Company, Lessee,

from assessments of taxes made by the Mayor and Aldermen of Jersey City for the year 1920, do hereby certify that the foregoing is a true and correct transcript of the evidence given before said Board upon the hearing of said appeals on Wednesday and Thursday, March 9 and 10, 1921.

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

ALTA R. GULLIVER. (SEAL)

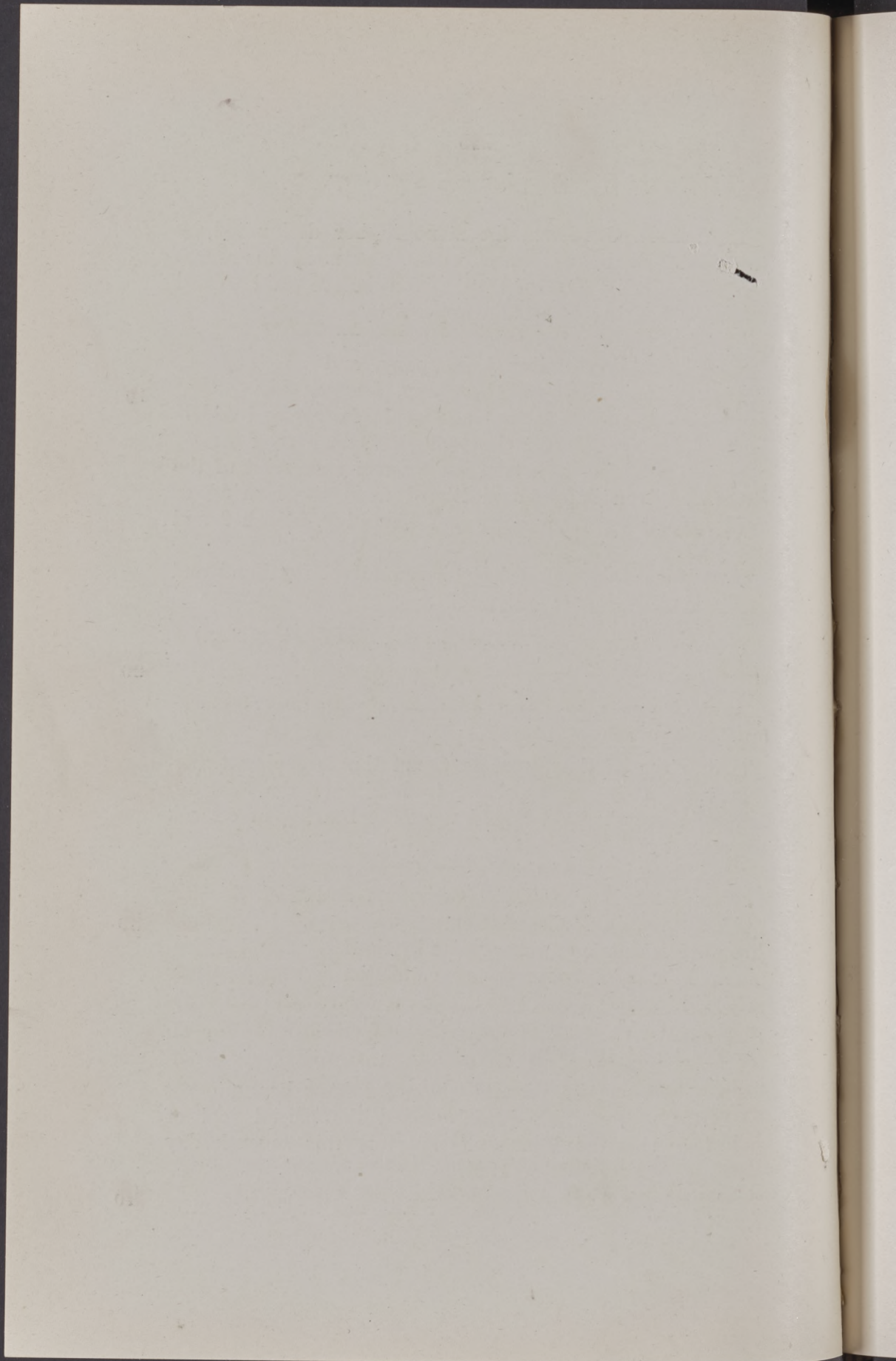
I, FRANK D. SCHROTH, Secretary of the State Board of Taxes and Assessment, do hereby certify and send to the Justices of the Supreme Court the foregoing transcript, as a true and correct transcript of the evidence given before the said Board upon the hearing of certain appeals by

The Associates of the Jersey Company,
New York Bay Railroad Company, and
Pennsylvania Railroad Company, Lessee,

from assessments of taxes made by the Mayor and Aldermen of Jersey City for the year 1920 on certain property of said corporations, said evidence having been submitted at the hearings on Wednesday and Thursday, March 9 and 10, 1921.

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

FRANK D. SCHROTH.



Opinion of Supreme Court.

OPINION OF SUPREME COURT.

Filed February 21, 1922.

NEW JERSEY SUPREME COURT.

LEHIGH VALLEY RAILROAD Co.,

Prosecutor,

vs.

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

Defendants.

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

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

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

John Milton and Edward P. Stout, for defendants.

Per Curiam:

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

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

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Opinion of Supreme Court.

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

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

Opinion of Supreme Court.

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

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Opinion of Supreme Court.

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

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

The assessments in each of the cases will be affirmed.

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Rule Affirming Judgment.

RULE AFFIRMING JUDGMENT.

NEW JERSEY SUPREME COURT.

THE PENNSYLVANIA RAILROAD COMPANY,
Lessee,

Prosecutor,

vs.

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

Defendants.

On Certiorari.

*Rule Affirming
Judgment.*

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

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Entered March 10, 1922.

On motion of

EDWARD P. STOUT,
Attorney for Defendants.

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A true copy,

ENOCH L. JOHNSON,
Clerk.

Note: Rules identical with the above, except as to the prosecutor, were entered in the cases of Associates of the Jersey Company, prosecutor, and The New York Bay Railroad Company, prosecutor.

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*Notice and Ground of Appeal.***NOTICE OF APPEAL.**

Served March 22, 1922.

Filed March 25, 1922.

NEW JERSEY SUPREME COURT.

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 THE PENNSYLVANIA RAILROAD COMPANY,
 Lessee,
*Prosecutor-Appellant,**vs.*
 THE STATE BOARD OF TAXES AND
 ASSESSMENT and THE MAYOR AND
 ALDERMEN OF JERSEY CITY,
Defendants-Respondents.

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*On Certiorari.**Notice of
Appeal.*

To Thomas F. McCran, Esq., attorney-general, attorney of The State Board of Taxes and Assessment, defendant; and Thomas F. Brogan, Esq., attorney of The Mayor and Aldermen of Jersey City, defendant:

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

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

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Notice and Ground of Appeal.

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

WALL, HAIGHT, CAREY & HARTPENCE,
Attorneys of Prosecutor-Appellant.

Note: Notices of appeal identical with the above except as to the appellant, were served and filed with the above in the cases of Associates of the Jersey Company, appellant, and The New York Bay Railroad Company, appellant. 10

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New Jersey Court of Errors and Appeals

THE PENNSYLVANIA RAILROAD
COMPANY, Lessee,

Prosecutor-Appellant,

THE NEW YORK BAY RAILROAD
COMPANY,

Prosecutor-Appellant,

THE ASSOCIATES OF THE JERSEY
COMPANY,

Prosecutor-Appellant,

vs.

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

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On Appeal
from
Supreme
Court.
(3 Cases)

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BRIEF FOR THE PENNSYLVANIA RAIL- ROAD COMPANY AND THE ABOVE NAMED APPELLANTS.

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Statement of the Cases.

These appeals are from judgments of the Supreme Court affirming assessments of taxes levied by the Mayor and Aldermen of Jersey City for the year 1920 on certain property of the respective appellants, Prosecutors-Below, as the same were determined by the State Board of Taxes and Assessment. The property involved 40

is of the same general character as that affected by the appeals in Cases 56, 57, 58, 59, 60, 61 and 62, at this, the June Term, 1922 of this Court.

As the Points relied upon are the same as those set forth in the brief of Mr. Robert J. Bain, counsel in those cases, in order to avoid prolixity, his points and the arguments advanced to support them, are incorporated by reference in this brief. Those points are—

10 (A) The State Board of Taxes and Assessment determined said valuations and assessments arbitrarily and regardless of the evidence before said Board on the Appeals.

(B) Said assessments were determined by and upon an erroneous principle in that said assessed valuation were based upon a supposed general increase in the value of waterfront property on the Hudson River and New York Bay in Jersey City.

20 (C) The judgment of the State Board of Taxes and Assessment on said valuations and assessments is not supported by any evidence before said Board on the Appeals.

Conclusion.

We respectfully submit that for one or more of the above reasons the Supreme Court should
30 have set aside the valuations and assessments in question and ordered the assessed values of the several parcels for the year 1920 reduced to those determined by the State Board of Taxes and Assessment for the year 1919, there being no lawful evidence of any change in the values between the assessing dates for the two years.

The remainder of this brief is the brief used by the appellants in the Supreme Court.

40 These three cases involve taxes for 1920 on various lands of the prosecutors in Jersey City

assessed as of October 1st, 1919, under the General Tax Act, Revision of 1918, i. e., the act under which individuals are taxed.

As the differences between the cases are solely as to the title of the lands involved, the three cases may be considered as if the property were all owned by the Pennsylvania Railroad instead of by the particular prosecutors who are named above.

The property involved is:

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ASSESSMENTS OF 1920

Associates of the Jersey Company:

Block	Lot	Location		Ciay Assessed	Wanted Reduced To	State Board Action	
4 & 5	A & D	Pier B, and north half of Morris St. Pier	Land	\$ 899,250	\$ 766,260	\$ 899,250	
			Impts.	140,000	140,000	140,000	
				1,039,250	906,260	1,039,250	
8	A-1		Land	345,950	282,590	345,950	
			Impts.	49,000	49,000	49,000	
				394,950	331,590	394,950	20
		* * * * *		* * *	*		

New York Bay Railroad:

Block	Lot	Location		Ciay Assessed	Wanted Reduced To	State Board Action	
1507	2-L		Land	\$2,019,600	\$1,130,976	\$2,019,600	
		* * * * *		* * *	*		

P. R. R. Co., Lessee.

Block	Lot	Location		Ciay Assessed	Wanted Reduced To	State Board Action	
601	1	Newark, Charlotte and Duffield Aves.	Land	36,000	26,000	36,000	
15	C-5	Hudson River Stock Yds.	Land	\$2,130,050	1,540,138	2,130,050	
	C-6		Impts.	365,850	365,850	365,850	30
				2,495,900	1,905,988	2,495,900	
11	A	Morgan Street	Land	97,500	85,000	97,500	
76	H-4	Washington, Green, First and Bay Sts.	Land	23,000	19,700	23,000	
602	1	Newark Avenue	Land	44,000	28,000	44,000	

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Assessments for the years 1918 and 1919 were fixed by the State Board on appeal. (Case, Pages 203-214).

These assessments were at the identical amounts at which the City assessed for 1920. The City's assessments for 1918, 1919 and 1920 are identical.

The State Board on the appeals for 1918 and 1919 reduced the City's assessments to the
10 amounts set forth in the column "Wanted Reduced To."

In the present appeals the prosecutors asked the State Board to fix the valuations for the taxes of 1920 at the same sums as the Board had itself fixed the valuations for taxes of 1919, viz. at the sums set forth in pp. 73, 74, 203-214 of Case.

In each case the State Board fixed the valuations at the sums asked for by Jersey City, said
20 sums representing a very large advance in valuations for the period between October 1st, 1918, and October 1st, 1919, \$1,706,686.

Hearings were concluded on April 12th. On April 19th, over the protest of President Jess, the Board considered finally the appeals. His protest amplified at the meeting of a week later is as follows:

"I wish to file this memorandum amplifying
30 ing my reasons for protesting against final consideration of these appeals at the meeting of the Board on Tuesday, April nineteenth. It is not pertinent to this question whether the majority were right or wrong in sustaining the assessments. My objection was to proceeding to a judgment without a reasonable opportunity to review and digest the evidence. Five days were consumed in the taking of this evidence. The hearings were not concluded until Tuesday, the twelfth of April. The stenographic record
40 covers over eight hundred typewritten pages.

It was impossible to analyze and weigh this large volume of testimony within a single week. There was not sufficient time even for the Chief Engineer of the Board to prepare abstracts of the evidence in the form which has, in the past, facilitated a careful and intelligent consideration of appeals like these which involved fifty or more separate parcels of property, with assessments ranging from \$1,200 to \$4,575,000, and aggregating 10 nearly \$30,000,000. No reason for undue haste or a departure from the usual deliberative procedure was urged. Indeed, no reason could be advanced which would in my opinion, outweigh the fundamental requirement that a full consideration of the proofs should precede the judgment of the Board."

As the prosecutors have asked only that the assessments be reduced to the amounts fixed by the judgment of the Board for 1919, the Board, following its usual procedure, called upon Jersey City to establish a change in value between October 1st, 1918, and October 1st, 1919. 20

Evidence as to alleged change in values between October, 1918, and October 1, 1919, and evidence as to Cunard sale.

Dunham, witness for the City, says there was an increase of from 10 to 25% between October 1, 1918, and October 1, 1919. (Page 109, l. 19). He bases this, however, on sales consummated in 1920, viz: after the date for assessment—October 1, 1919. 30

Q. Well, now, can you separate the sales that have been considered by the Board and those which have not? A. I can give you some sales in 1920 if the Board wants to consider those sales. 40

I must consider them because I know of them and that is the only way you can show a steady increase. (Case 117, l. 30).

Q. Now, Mr. Dunham, what do you say was the advance in the water front property here under appeal from 1918 to 1919, using October 1st in each year? A. Referring to the Hudson River and New York Bay?

Q. Yes. A. There was a one hundred per cent. increase from 1916 to 1920.

Mr. Wall: Won't the Board strike that out?

The President: He has not answered it. Let him complete his answer.

A. (Answer continued.) If you average that over the four years you would get an average of twenty-five per cent. a year. In other words—

Q. That is the only way you can get at it, is it?
20 A. That is on this particular class of property, yes, where you have no adjoining sales you have to take that by analogy.

Q. Is the only way you can get at the idea of an advance of 1919 over 1918 on the water front property here under appeal by that method which you have just described? A. You take—

Q. Tell us whether or not that is, if it is not—
A. For instance, if you have a sale—

30 Mr. Wall: I think the witness ought to answer the question.

The President: Yes, just repeat the question.

Q. (Question repeated as follows): Is the only way you can get at the idea of an advance of 1919 over 1918 on the water front property under appeal by that method which you have just described? A. In some properties, yes; it depends
40 on where the property is located. (Case p. 129).

He cannot reach his conclusions as to the period under inquiry—October 1, 1918, to October 1, 1919,—without being influenced by subsequent sales in 1920. He says that besides being influenced by the Cunard sale, he was influenced by some other sales made in 1920. He says these 1920 sales were an essential factor in his theory of increase. (Page 123, l. 31).

Q. Assuming that the Board's judgment in the 1919 appeals was right, then your conclusions as to this advance in price of 1919 over 1918 would be erroneous, isn't that right? A. If the Board is right I am all wrong. (p. 126, l. 19).

Q. Do you believe in the doctrine of steady advance or not? A. I believe that so far as this class of property is concerned or any class of property, that if there is no normal advance of five per cent. a year you are stuck, you are losing. (126, l. 36).

The date of the Cunard sale was August 26th, 1920, nearly eleven months after the assessment date for 1920. (Page 122, l. 8).

Virtually all Dunham's testimony hangs on the Cunard sale and the arbitrary addition of 75% which he made thereto.

Q. What was the price per square foot? A. The price per square foot figured on the first deed which went to the New Jersey State pierhead line, that was \$1.64. They afterwards made application to the Board of Commerce and Navigation for the extension of the grant out to the United States Government pierhead line, and that added some area for that they paid \$50 per front foot. If you allow the area to extend out all the way to what we call the revocable permit pierhead line, you get about \$1.46. If you extend the area out to the permanent pierhead you get something over \$1.50, so that it is about \$1.50 a square foot.

The President: What is it per acre; have you figured that out?

The Witness: It is about \$64,000 per acre.

The President: That is figured on the full area out to the revocable permit pierhead line?

The Witness: The full area out, as I recall it. (Bot. of p. 137 and top of 138).

10 Mr. Baker: Would you say the Cunard property which I think is in Weehawken bears a relative to the Pennsylvania property which is in Jersey City?

The Witness: No, I should say it did not. It is an entirely different use, it is a different location and it is a different class of property in the sense the Cunard property on the Hudson River is located immediately on the channel of the Hudson River, whereas the Pennsylvania property in
20 Greenville is located a mile or more from the main ship channel of the bay. In that respect they are not similar properties.

Q. Then how does the sale of the Cunard property influence you in determining the value of Piers B and C in Jersey City? A. Well, they are both properties faced upon the channel of the Hudson River, and it is just like lots fronting upon the same street and all practically in the same use, same class of business conducted there.
30 There is a relative value there that you cannot neglect.

Q. To your mind does an increase in the selling price of the property located anywhere along the Jersey City shore front evidence an increase in value of all other property along the shore front? A. Yes, it reflects in everything else, because here is what happens. Every sale of property on the Hudson River takes that much property out of the markeet and you have decreased your supply.

Now, what has happened in the year 1920 is that every available foot of property on the Hudson River has been taken out of the market, there is nothing left. (Bot. of p. 141 and top of 142).

Floyd S. Corbin, witness for the Railroad Company, testified:

Q. Mr. Corbin, what is your business? A. I am a real estate broker, making a specialty of the sale and lease of commercial water front property, docks, warehouses, factories and factory sites in and adjacent to New York Harbor. 10

Q. You have specialized in that class of properties for what length of time? A. For about twenty-two years. (p. 151.)

Q. Are you able to state what portion of the sales in the last ten, fifteen years, you have had to do with as broker? A. I cannot within the last five or six years, but prior to that time I think it is safe to say that I was interested in perhaps one-half of the sales that were made up to that period. 20

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

Q. And that experience covers all the shores of New York Harbor, including the Jersey shore? A. That experience covers all the navigable streams in and around New York Harbor, including the Jersey shore. I bought and sold and leased properties and owned properties myself, various places, in every navigable stream around the harbor or near the harbor. 30

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

Mr. Stout: Since 1915?

Mr. Wall: 1915.

Q. Was the sale you testified to as being made 40

at the foot of Morris street the only sale that has been made on the Jersey City water front since 1915? A. I think it is. (P. 153, l. 30).

Q. But, Mr. Corbin, have you by study, as well as by actual participation in sales of water front property familiarized yourself with the question of the value of water front property in New York Harbor and vicinity? A. I have. (P. 154, l. 22).

10 Q. What are the outstanding features, to your mind as a water front expert, of the Cunard sale which has been testified to here? A. The sale of the property by the Delaware & Hudson to the Cunard Company in 1920 of a property on the Hudson River having a frontage of about 1,102 feet on the pierhead line and an approximate depth of about 1,400 feet from the pierhead line westerly shows it was a very large piece of property capable of being improved with long piers for the very largest ocean-going steamers in existence. In addition to that it was adjoining on the south a property owned by the West Shore Railroad, having a frontage of 2,478 feet, which the Cunard Company also leased for a long term of years, and a combined frontage of those properties was approximately 3,600 feet, both properties being capable of the development for the same class of piers and warehouses with railroad connections, as well as ferry and trolley connections, and so forth, right at hand. This piece of
20 property, the like of it did not exist in New York Harbor at all and could not possibly have been duplicated, with the depth of water, the frontage, the area and all the other physical characteristics.

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

Q. What have you to say as to whether that property is fairly comparable with the water
40 front property in Jersey City, having reference

particularly to the stockyards and the Piers B and C? A. It is not fairly comparable at all, either in the frontage or the class of development which could be made there. The only piece of property that would be compared with it in depth would be the stockyards property of the Pennsylvania Railroad. (P. 155.)

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

Q. Is the stockyard property an improved property? A. Only partially improved. 10

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

Q. Well, how about the relative depth of water at the stockyards, and also in front of Piers B and C? A. The depth of water is very much less than in front of the Cunard properties I have just referred to, formerly known as the D. & H. 20 and the West Shore Railroad properties.

Q. Does the element of size having a great, unbroken tract, in your judgment, have any effect on the value of the tract such as the Cunard tract, is there an additional value in having a great aggregation of unbroken ownership? A. Absolutely in a property of this size and one that is as well suited for a high-class development as the Cunard properties, it would make a vast difference in the value of the property either per front foot or per square foot. As a matter of fact I have just had one sale of property turned down because it was so small that the parties contemplating it could not make a development of this kind to advantage, whereas if the property had been twice or three times the size, I could have sold it. 30

Q. In your judgment, is the price at which the Cunard property was sold normal or abnormal?

A. I think the price was normal at the time, because no such property, as I say, could have been purchased last year in New York Harbor, and 40

on account of its immense size, it permitted of a very extensive development a very high-class development, warehouses and piers.

Q. Something was said yesterday by some of the witnesses for the city that one reason that the water front property constantly increased in value was that the market was being narrowed all the time. What do you understand that to mean? A. Well, I don't subscribe to the theory
 10 that water front properties are having a constant advance in value. I think it depends entirely upon the property itself, its size, its location and its adaptability for certain purposes. I studied the situation for twenty-two years, and while I have seen market advances in the values of water front properties, they have been for particular reasons. For instance, I have prop-
 20 erties today I am trying to sell for \$325,000 that could not have been bought for \$400,000 three years ago.

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

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

tainties of the labor situation, as well as the high cost of money.

Q. So your idea is that there was for a time an abnormal increase, but only in the improved properties? A. Absolutely, abnormal at a time when a great many concerns who were in the export and shipping business had contracts for the sale and delivery of materials and had to have a place to handle them, and if they could get some places they could go upon quickly it was not a question of price, they simply took what they could get and paid the price. (P. 157.) 10

Q. Has there been any recession from those prices since? A. Why, yes, there has been, in my opinion, there has been quite a difference, because there is very little demand today for water front property around New York Harbor on account of the condition of shipping, for one thing, and on account of general conditions all over the world for another. 20

Q. Well, what were the contributing causes to those abnormal prices you have referred to? A. Well, at that time we had reached the peak of shipping here in New York Harbor, primarily due to the war and it was a period where a great many individuals and corporations in that line, exporting and shipping, had made very large sums of money and they expected apparently the business to continue, and they were anxious and willing to invest some of that money in dock property. The situation since that time has changed considerably, as is evidenced by the large number of idle steamers, not only in New York Harbor but in various other places. I believe it is said the United States Shipping Board has several hundred steamers today idle at Hampton Roads. (P. 158.) 30

Q. Well, Mr. Corbin, returning to the Cunard sale, does it, in your judgment, furnish a safe guide in the valuation of water front property 40

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

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

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

and a willing seller or the one very desirous and willing to buy and the other very desirous and willing to sell. I have myself sold properties immediately adjoining where there was a difference of fifty per cent. in the price of properties exactly alike, in the same neighborhood, which was due to those conditions.

Q. You mean when you try to get the hypothetical sale, the theoretical sales that the law calls for that you translate the word "willing" to mean desirous of selling? A. Exactly. 10

Q. In other words, it is not to be a listless attitude that can be translated into a sale if a lot of money is offered, but there is no particular keenness to bring the sale about? A. Positively. (P. 162.)

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

Q. You don't consider the Shamburg and the Woodcliff? A. No, the Woodcliff property at that time was under option. The Shamburg property was for sale, and I tried to interest them in that, but it was too small for them; they wanted more than 1,629 feet. They got about 3,600 feet in their two purchases and lease. (P. 164 bottom.) 20

Q. How many feet did the Cunard people purchase? A. They purchased about 1,102 feet frontage from the Delaware & Hudson Company and they have obtained by lease about 2,478 feet from the West Shore Railroad. 30

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

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

Q. How long a lease? A. For a long term of years, I don't know the exact number, and it was also dependent upon a special arrangement they 40

had with the West Shore Railroad for the handling of their freight in and out of those piers.

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

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

10 the same size piece of property.

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

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

20 Q. Take the Jersey shore front property, wouldn't that be a fact? A. No, I don't say that there necessarily must be a limit, but the Jersey City property, I speak of Jersey City north of the Morris Canal basin up to Hoboken; for instance the water front property today is too expensive for ordinary industrial purposes, and I am told by shipping people that in order to operate to the very greatest advantage, they have a good sized property, and the very fact that I
30 have some people now for whom I am trying to find a property suitable they won't take a piece of property I have because it is too small in size, it has only 429 feet frontage.

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

Q. Yes. A. I think you would, I think you would have difficulty in disposing of anything at
40 the present time. (P. 166.)

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

Q. There was not? A. No. (P. 168 Bot.)

Q. Would you say that the property of the Pennsylvania Railroad Company, known as Piers B and C, Plot A and D, in Block 4 and 5, was more 10
valuable on October 1, 1919, than it was on October 1, 1916? A. No; I don't think there is very much difference in the values within that period. (P. 169 top.)

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

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

Q. 670,000 dollars? A. Yes, that is the land value. (P. 169, l. 20.) 20

Q. You mean in your opinion— A. Due to certain conditions, and later on you find you have paid more than a fair market value for it as many people do in buying properties. The sale of one piece of property does not establish a unit of value and particularly this class of property. These people had to buy this property in order to conserve their business. (P. 172, l. 1-10.)

Q. I am going to let him do it now, which ones show the change? A. I think where a large number 30
of properties have been taken out of the market since 1920, the early part of 1920, necessarily that diminishes the supply of available properties, particularly if they have gone into the hands of purchasers who finally improve them. They don't always go into the hands of purchasers who improve them and take them out of the market, they do sometimes come back on the market. It is just a mere guess as to what difference that 40

would make in the value of other water front properties. No set rule you can apply to it.

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

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

Q. How much difference? A. No living man can tell, and any man who would attempt to say he could is foolish, that is all. (176, l. 1-28.)

Q. Counsel directed your attention to the Leary sale at \$7,500 an acre. Do you know what the Blair property right next door sold for? A. Yes; I think I have the price of that right here. You speak of what is known as the Blair-Livermore property?

Q. Yes. A. That sold for \$1,540.25 per acre. (p. 181, l. 35-40).

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

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

Q. What does it indicate to your mind as to the safety of following one or two sales as criteria of value? A. I think it is absolutely impossible to value these properties by any single sale or number of sales unless you take a large number of them and make a comparison of the uses to

which the properties can be put and then if they are fairly comparable and you know the conditions of the sale and the time they were made and all, you can draw your conclusions. (182, l. 1-21.)

The President: How would you, Mr. Corbin, attempt to arrive at the fair market value of these properties here involved in this appeal if you were required to do so? A. Why, I should simply take into consideration first the character of the properties themselves and then make comparisons by taking into account all the sales of properties of a similar character and those adapted to a similar use for several years past. You cannot do it for one year, of course, because the sales of these properties are infrequent. There happens, sometimes, as I say, where one sale of the property is at a price very much in excess of its fair value for particular reasons, and in other cases where it is less. That is very largely due to either the financial condition or other conditions that affect the buyer and the seller or either one. 10 20

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

The Witness. Well, of course, the value of all property is what might be termed a potential value. The intrinsic value, if you may use such an expression as to one of these water front properties is nothing. For instance, land under water, as it is in Communipaw Bay, is worth nothing. People only buy it and pay for it because they feel they can put it to a profitable use, therefore it has potential value. (183 1.8-38). 30

Q. But do you characterize a sale where a man is anxious to sell, keenly desirous of selling, as a forced sale? A. No, I do not consider it a forced sale, because I know in my own case I sold some years ago a very large water front property. I was extremely desirous of selling it, and did sell 40

it, but I was not forced to sell it. I could have carried it.

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

A. It is.

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

10 THOMAS A. RYER, witness called by the Railroad Company, testified:

Q. Mr. Ryer, you are a real estate agent? A. I am.

Q. With what experience? A. Twenty years past.

Q. Whereabouts? A. Mostly in Hudson County, New Jersey.

Q. Are you engaged as a real estate agent in 20 Jersey City? A. I am.

Q. At the present time? A. Yes.

Q. Have you acted as an expert appraiser of property in Jersey City? A. I have, since 1906. (186 1. 13-24).

Q. Mr. Ryer, have you acquainted yourself by study with the value of water front properties in Jersey City and Hudson County? A. I have, and keep records of sales of such property.

Q. And have you appeared frequently before 30 this Board as an expert on water front property? A. I have.

Q. And been admitted as an expert frequently? A. I have.

Q. Have you given special study to the subject of the values of water front property? A. I have.

Q. And as a part of your office equipment do you keep a record of all sales? A. I do.

Q. And study the sales? A. I do. (187 1. 11-23).

40 Q. In your opinion there has been no change in

the value of any of the properties of the Pennsylvania Railroad Company here under appeal between October 1 or May 20th rather, 1916, and October 1, 1919? A There has not been. (191 1.13-18).

Q. Don't you think there is a steady increase in the value of this class of property, but you cannot get that increase until you have a sale which will evidence the amount of the increase?

A. I don't think you could get at it then some times. 10

Q. How do you get at it? A. By taking all of the sales you can get, not one particular sale such as the Curry sale or the Morris and Cummings or any of the sales made to the Lehigh Valley Railroad and fix your values on that one sale, you have to take all the sales generally and diagnose the entire situation before you can arrive at a value. You take the four purchases made by the Lehigh Valley Railroad, they were all at different prices per acre. Just to say which one of those was the proper price, it is a matter of judgment, in my opinion. 20

Q. Do you recall a sale of water front property along the Hudson shore. Hudson County shore, that the selling price did to your mind indicate the true market value? A. Yes.

Q. Which one? A. The Ocean Steamship Company at Hoboken. 30

Q. When was that? A. 1916.

Q. And you say the value of that property is the same today as when it was purchased? A. Today, no.

Q. Greater or less? A. Greater. (Bot. of 193 & top of 194).

Evidence as to values of properties involved
in this proceeding as of October 1, 1919, for the
taxes of 1920.

Block 4 & 5	Lot "A" & "D"	Street Pier B, North half of Morris St. pier,		Assessed	Wants Reduced To	State Board Action 1919
10			Land	\$ 899,250	766,260	766,260
			Impts.	140,000	140,000	140,000
				\$1,039,250	\$906,260	\$906,260
8	A-1		Land	345,950	282,590	282,590
			Impts.	49,000	49,000	49,000
				394,950	331,590	331,590

Thomas P. Graham, a witness called by the City
valued the above plots as of October 1, 1919, at
\$2.50 per square foot. (Page 89, l. 40; Page 90,
ll. 1-5). He reaches a value of \$2.25 for 1918 by
splitting the difference between a valuation of \$2.
which he made in 1917, and his valuation for
1919 (Page 90, l. 20). He first split the differ-
ence on the witness stand "right now" he says.
(Page 91, l. 20 et seq.). He says he bases the in-
crease not on sales but solely on the demand for
water front property all over New York Harbor.
(P. 90, ll. 30-40).

Q. What do you base that increase on and how
do you arrive at that exact percentage? A. On
increase in demand, increasing supply, increas-
ing rental of the property. Of course that per-
centage is arbitrary, absolutely. That is my
opinion from all the facts I have.

Q. You would have taken, in order to arrive
at that, you would have taken the average be-
tween 1917, as you testified to it, and the figure
that you now give for 1919, wouldn't you, that is
what you mean by arbitrary? A. Yes.

Q. You don't mean any special thing hap-
pened between 1918 and 1919 which to the mind
of any man familiar with water front property

would indicate there had been an exact percentage of advance which you could apply to this particular property? A. Not as an exact mathematical proposition.

Q. You are not able to point to any single thing which would indicate the advance and your feeling that there was an advance in water front property due to supply and demand? A. To everybody it is obvious, the increased American Marine demanding berthing and pier propositions and the harbor supply absolutely inadequate to demand. The low percentage of increase is extremely moderate under the conditions. After that period there was a tremendous increase. 10

Q. I am asking just as to that change? A. It was absolutely apparent there was at least that much.

Q. The demand, whatever the demand was, then for shipping was an abnormal demand, was it not? A. I would not call it abnormal, no. 20

Q. You would call it normal? A. Normal under its conditions, yes.

Q. You would call a demand— A. It is going to be normal, it is going to continue.

Q. I am asking you about that period. In other words you rest more on the mathematical average than on any other single factor, don't you? A. No, I am not a statistician.

Q. You are not a statistician? A. No, I think some experts are, but I cannot be called a statistician. 30

Q. You speak of the demand of the American Merchant Marine. Isn't that a demand that was based on tremendously abnormal conditions, such as virtual temporary retirement of the Germans from the Marine? A. We still have the ships and they are going to be used, and they still have places to load and unload and berth. You are talking about the absence of the German ships. 40

They are still absent and will remain absent, I think.

Q. Are the conditions now existing which you referred to similar to the conditions that existed between 1918 and 1919? A. At present there is a temporary slump in shipping, it is merely temporary.

Q. And there was a temporary slump in shipping? A. Yes, but I can lease every pier in New York Harbor today that I can get. I have demand for piers that I cannot supply with all the shipping slump evidenced by a recent lease I guess you know all about.

Q. When it was up you say it was normal and when it is down it is temporary and abnormal. A. Oh, no, I don't. The conditions there, there has been an increased demand and increased number of ships looking for wharfage, but that is going to continue. (Case pp. 97, 98).

20 Dunham for the City says value as of October 1, 1919 was \$2,50 per square foot. (Case, p. 113, 1. 23). He arrives at this valuation by adding 75% to the square foot price of the Cunard sale.

Q. How did that property compare with Piers B and C of the Associates? A. I said by reason of the location the Piers B and C property on a square foot basis is worth about seventy-five per cent. more than this property.

30 Q. Would you add anything else on outside of location? A. The Piers B and C property is an improved piece of property in use and been in use for a number of years and is under lease. Of course, the value of that improvement and use has got to be added to the Cunard. In other words you could get a better comparison with the Cunard after the Cunard had developed it.

Q. In your opinion, if the Cunard property is worth \$1.50 a square foot, what was the value of Piers B and C as of October 1, 1919? A. Well—

Q. Per square foot? A. On that basis it would be \$2.62½. (Bot. of 139 & top of 140).

He admits that he does not know the depth of water in front of Piers B and C. (Page 150, l. 30). The depth of water in front of the Cunard property is 30 feet at low water. (Page 150, l. 18).

Q. What valuation did you place or would you place upon Piers B and C of the Pennsylvania Railroad and the Associates of the Jersey Company as of October 1, 1918? A. They come under 10 two separate parcels. Pier B is known as Lot A and D, Block 4 and 5, \$670,000 on (190 l. 35) that; on Pier C, Block 8, Plot A-1, placed a valuation of \$240,000 on that. (191 l. 1.).

New York Bay Railroad Co. vs. Jersey City.

Assessment of 1920 on 100.98 acres of land, known as Block 1507, Lot 2-L, assessed, \$2,019,-600; wants reduced to 1,113,976.

Petitioner appealed to Co. Bd. and assessment was "affirmed with prejudice". 20

NOTE. This property was before the Board from the 1919 assessmet of \$2,019,600, which was reduced to \$1,130,976.

City's witness, Graham says:

Q. Assumig that the valuation placed by this Board on the Greenville property for 1918, was at the rate of \$11,200 per acre what in your judgment would be the value for October 1, 1919? A. 30 At that particular point there was a finished property. I appraised that property in 1917 at \$20,000 an acre and don't give any additional value to it afterward.

Q You don't? A. No.

Q. You don't think there has been? A. Just at that particular point no, with the conditions that existed. Every piece of property is different, as you say. (Case p. 95 ll. 3-16).

It should be borne in mind that the City's own 40

assessments indicated no change, for as shown by the judgments on the 1918, 1919 and 1920 appeals, the City's assessment for the three years were identical and the Board overthrew its own judgments of the previous years for no apparent reason unless it be something in the testimony of Dunham and Graham.

Q. Tell us the increase? A. If you permit me to go to 1920.

10 Q. Tell us the increase and give reasons afterwards. A. I will give you the increase from 1918 to 1920.

Q. I did not ask you that. Give me the increase for that one year? A. I can by interpolation between 1918 and 1920.

Q. Give it to us in money, however you get at it, give it to us in money. A. All right. 1918, the nearest sale to 1918 is 1916.

20 Q. Give it to us in money, give your reasons afterward. A. You can't in the absence of particular sales.

Q. It is either one dollar or some other sum. A. I will tell you what it was from 1918 to 1920.

Q. It seems to me we are entitled to an answer. A. If you are going to insist on a particular year where there was no sale, I can't tell you.

Q. The answer is you can't tell, isn't it? A. I can't tell for the one, the particular year taken by itself.

30 Q. For the year I asked you you cannot tell can you? A. Not for that particular locality.

Q. And for that year? A. No, not for that particular locality. (Dunham, cross Case 131 l. 1-27).

Railroad Co's witness, Ryer.

40 Q. Mr. Ryer is there in your judgment any difference in the values of the pier property that has been testified to here in Block 4 and 5 and the stockyards property and the Greenville terminal property as between the dates of October 1, 1918, and October 1, 1919? A. I don't think so. (187 l. 29-35).

*Pennsylvania Railroad Co., lessee vs.
Same.*

Assessment of 1920 on a parcel of land, known as Block 601, Lot 1, Newark, Charlotte and Duffield Avenues, assessed, \$36,000; wants reduced to \$26,000.

Appeal to Co. Bd. dismissed without prejudice.

NOTE. This property was before the Board from the 1919 assessment of \$26,000. The petition was withdrawn. 10

Dunham, City's witness, says the value of this property on October 1, 1919, was \$12,000. per acre. (Page 115, l. 22). He mentions several sales set forth on Page 115, line 25, as support for this.

Railroad Company's witness Ryer testifies:

Q. What is your value as of October 1, 1919, for Block 602, Lot 1? (p. 187 l. 35). A. \$25,750.00. (p. 188 l. 2). 20

Pennsylvania Railroad Co., lessee vs. Jersey City.

Assessment of 1920 on a plot of land and buildings, known as Block 15, Lots C-5 and C-6, Hudson River, Stock Yards Plot, containing 24,173 acres. assessed:

	Assessed:	Wants reduced to:	
Land	\$2,130,050	\$1,540,138	
20 Imp.	365,850	365,850	30
	\$2,495,900	\$1,905,988	

Appeal to Co. Bd. dismissed without prejudice.

NOTE. This property was before the Board from the same assessment as above for the year 1919, which was reduced by this Board to the figures as requested by petitioner for this year.

City's witness Graham valued this property at

\$2.50 per square foot. (Page 88, ll. 34-35). City's witness Dunham says value as of October 1, 1919, was \$2.50 per square foot.

"Q. The \$2.50 is the increase for that single year or down to 1920? A. It was the increase for that year.

"Q. It increased 50c. a square foot in your judgment from 1918 to 1920? A. Yes.

10

"Q. And you base that on general considerations? A. General increase.

"Q. Not specific sales? A. General increase from sales.

"Q. What? A. General average sales." (Page 132, ll. 23-35).

Q. What was the increase of 1919 over 1918 with reference to the stockyards? A. The stockyards is a different class of property.

20

Q. Tell us the increase? A. The increase as evidenced by the general increase—

Q. No. A. —is twenty-five per cent.

Q. Well, do you think that was the increase? A. Yes.

Q. Is that your testimony? A. Yes. (Case p. 131 ll. 30-40).

Q. What was your valuation of Lot C-5 and Lot C-6 in Block 15 as of October 1, 1918? A. \$1,215,-800. (P. 190 l. 21).

30

Q. Mr. Ryer, is there in your judgment any difference in the values of the pier property that has been testified to here in Block 4 and 5 and the stockyards property and the Greenville terminal property as between the dates of October 1, 1918, and October 1, 1919? A. I don't think so. (Page 187, ll. 29-35).

Assessment of 1920 on the following property:

Block Lot	Street	Assessed	Wants Reduced To	State Board Action 1919
11 A	Morgan Street	\$97,500	\$85,000	\$85,000
76 H-4	Washington, Green, First & Bay Sts.	23,000	19,700	19,700
602 1	Newark Ave.	44,000	28,000	28,000

40

Dunham, City's witness says Block 11, Lot A, was worth \$5. a square foot as of October 1, 1919. (Page 115, l. 5).

Block 76, Lot H-4, \$4. per square foot.

Block 602, Lot 1, at \$15,000 per acre.

Railroad Company's witness Ryer says:

Q. And for Block 76, Lot H-4 Washington, Green, and so forth streets? A. \$16,400.00.

Q. And for Block 11, Lot A, Morgan street? A. \$73,800.00. 10

"Q. For Block 601, Lot 1, Newark Avenue?

"A. \$20,000. (Page 188, ll. 3-10).

POINT I.

There was no full consideration of the proofs by the Board.

This is conclusively shown by the dissenting memorandum filed by President Jess in each case. (Pages 30-49-68). 20

The criticism of his colleagues involved in this memorandum is levelled at the undue haste and lack of consideration given to these appeals.

The judgments recite that the Board, after considering the evidence, &c., ordered, &c. It is plain that no such consideration was given or indeed in the nature of the case could be given. In the circumstances such a lack of consideration is not only contrary to the law establishing the Board, but also to the Fourteenth Amendment of the Federal Constitution. (8th Reason.) 30

POINT II.

The assessments were determined upon an erroneous principle, viz: That there was a general increase in value of water front property on the Hudson River, New York Bay, and Jersey City.

10 This appears in the evidence quoted. The testimony of the City's witnesses Dunham and Graham, rests on arbitrary averages. It does not rest on sales. Dunham declares unconditionally that the theory that an increase in the selling price of property located anywhere along the Jersey City shore evidences an increase in all other property along the shore front. (Page 142, 1. 15).

20 The theory of the courts has always been that sales and sales alone are criteria of value, and a careful reading of the testimony of Dunham and Graham does not disclose any reason for overthrowing the established method.

POINT III.

The judgments of the Board were against the clear weight of the evidence.

30 In considering the weight of the evidence an influential circumstance from the practical standpoint is the wide difference between the attitude of the Railroad and the attitude of the City toward valuations.

The Court will take judicial notice of the fact that the Railroad is confronted by the re-valuation of railroads being carried on by the Interstate Commerce Commission. This re-valuation
40 is to be the yardstick by which the earnings of

the railroads will be measured. Perhaps also it will be the yardstick by which the price to be paid for the railroad properties will be measured if the Government takes over the railroads.

Confronted then by this situation, the Railroad Company's desire in respect of these values is to get them as nearly right as it is possible to do, for they are either factors in ascertaining earnings or factors in ascertaining capital values. Was there ever a greater incentive placed upon the management of the railroads to arrive at true value? 10

The City on the other hand is confronted by no such restraints. The more it can put on the railroads, the less its citizens have to bear.

The theory of change rests solely on Dunham and Graham, for the City's assessments themselves for 1918-1919-1920 are identical, and as already pointed out, the City's witness Dunham takes the Cunard sale of August 26th, 1920, and marks up the whole water front. His conception of value is a sort of tidal level 75% above the Cunard sale. If anyone wants to know the values for any particular level or antecedent years, he reaches it by average. He says the Cunard sale was for \$1.50 per square foot and in cases like Piers B and C, he adds 75% (Bottom of Page 139.) 20

The City's witness Graham basis his idea of increase on an increased American Merchant Marine and the absence of German ships from ocean trade, with the additional premise that this absence will continue. All the abnormal prices of the war he slides over by saying that there is no abnormality because what is called abnormality will continue. In other words, abnormality is really normality. (Page 98.) 30

These confident opinions are baser on revelations not made to him as an expert in shipping or 40

the economic consequences of the world war for he qualified in no such capacities. They are made to him as a real estate agent testifying to arbitrary averages. (Page 97, ll. 1-12).

10 Corbin, witness for the Railroad, shows conclusively that the Cunard sale, because of size and the other conditions enumerated, is too dissimilar for fair comparison with the properties here involved, and both the Railroad Company's witnesses say that there was no increase in value whatever between October 1, 1918, and October 1, 1919.

20 By paragraph 13, Section 401 of the Tax Act of 1918, Page 859, the assessor is called upon to determine the "full and fair value of each parcel of real property situate in the taxing district at such price as in his judgment such parcel would sell for at a fair and bona fide sale by private contract on the first day of October next preceding the date on which the assessor shall complete his assessments." Selling price, i.e., market value is the criterion.

Turnley v. Elizabeth, 76 N. J. Law 42.

30 In the case of *Long Dock Company v. State Board of Assessors*, 86 N. J. Law 594, the Court of Errors decided that where all the evidence is for a valuation very much lower than that fixed by the Board, and the Board has added 20% to the valuation on which expert witnesses were in substantial accord, there was presented a case of palpable error which required the court to set aside the assessment.

40 In the present case the situation is even more startling. The City's witnesses proceed on the theory that single sales long after the taxing date should be used as a unit for increase all along the water front. They then add 75% to this value: but their method of adding the 75% is not accomplished through evidence that is material as to selling price or market value.

POINT IV.

The testimony as to sales after October 1, 1919, was too remote and should not have been admitted.

It is clear that the method of the City is to add 75% to the sales price of the Cunard plot, which was not sold until August 26th, 1920, whereas the taxation date was October 1, 1919. A pretense was made by Dunham that the price had been agreed upon before August, 1920, but a reading of his testimony shows that there was absolutely no basis for such an insinuation and that the contract which he said he saw was handed to him with the price in blank and solely for the purpose of his making a survey. 10

POINT V.

20

The assessments were excessive.

The increase alone aggregates over \$1,700,000.

POINT VI.

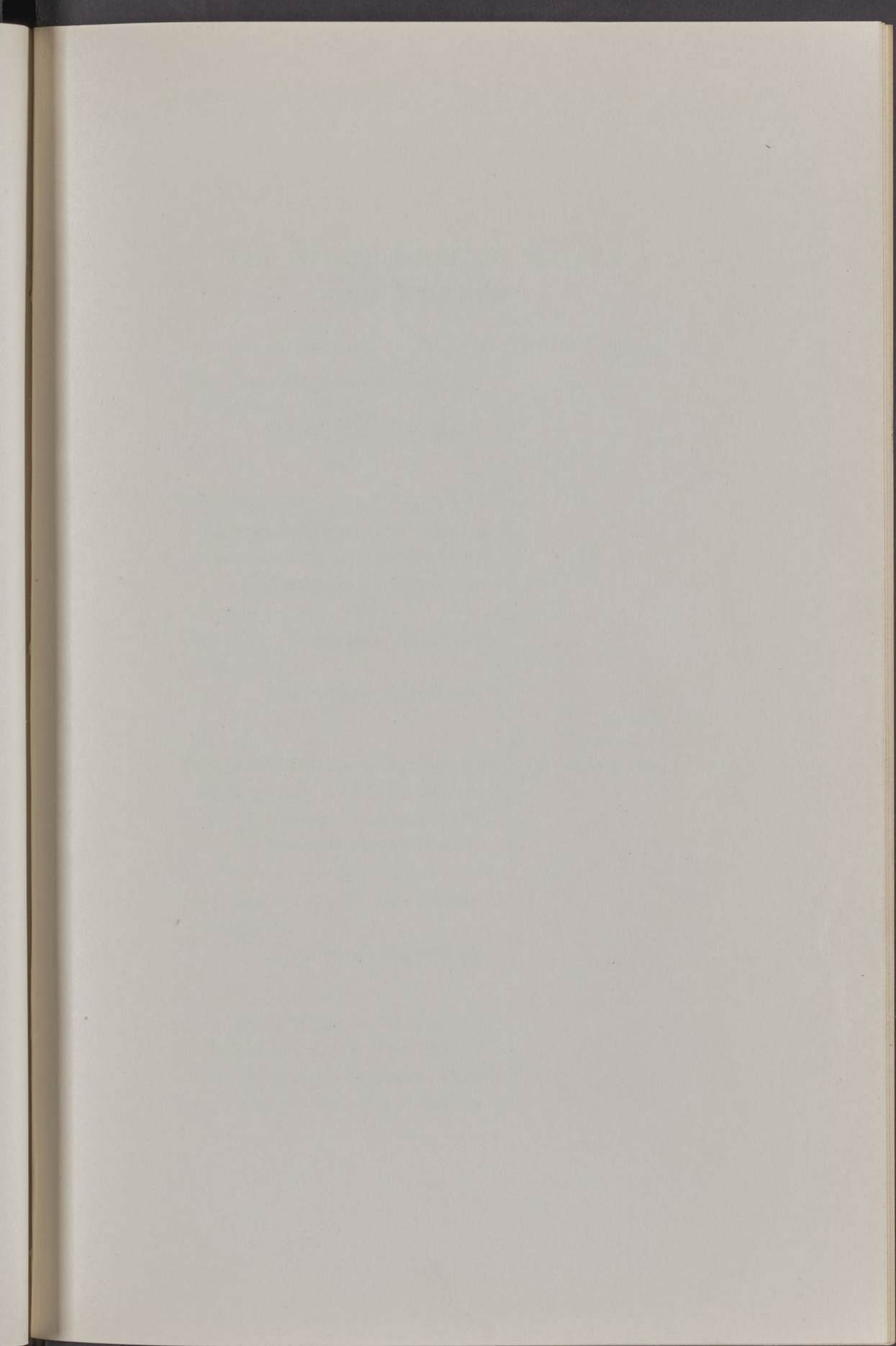
The assessments for 1920 should be reduced to the figures fixed by the State Board for 1919. 30

If the City is entitled to any increase by reason of the Cunard sale and the 1920 sales to which Dunham referred, the City will receive full benefit of that increase when the taxes of 1921 are fixed as of October 1, 1920.

Respectfully submitted,

ALBERT C. WALL,
of Counse with Appellants. 40

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New Jersey Court of Errors and Appeals

THE PENNSYLVANIA RAILROAD
COMPANY, Lessee,
Prosecutor-Appellant,

VS.

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

THE NEW YORK BAY RAILROAD
COMPANY,
Prosecutor-Appellant,

VS.

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

THE ASSOCIATES OF THE JERSEY
COMPANY,
Prosecutor-Appellant,

VS.

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

On Appeal from
Supreme Court
(Pennsylvania Cases.)

LEHIGH VALLEY RAILROAD COM-
PANY OF NEW JERSEY,

Prosecutor-Appellant,

vs.

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

Defendants-Respondents.

MORRIS CANAL AND BANKING
COMPANY AND LEHIGH VALLEY
RAILROAD COMPANY, Lessee,

Prosecutors-Appellants,

vs.

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

Defendants-Respondents.

LEHIGH VALLEY HARBOR TERMI-
NAL RAILWAY COMPANY,

Prosecutor-Appellant,

vs.

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

Defendants-Respondents.

UNITED REAL ESTATE COMPANY,
Prosecutor-Appellant,

vs.

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

Defendants-Respondents.

NATIONAL STORAGE COMPANY,
Prosecutor-Appellant,

vs.

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

Defendants-Respondents.

On Appeal from
Supreme Court
(Lehigh Valley Cases.)

THE CENTRAL RAILROAD COMPANY
OF NEW JERSEY,
Prosecutor-Appellant,

VS.

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

On Appeal from
Supreme Court
(Central Cases.)

COMMUNIPAW CENTRAL LAND
COMPANY,
Prosecutor-Appellant,

VS.

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

LONG DOCK COMPANY,
Prosecutor-Appellant,

VS.

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

On Appeal from
Supreme Court
(Long Dock Case.)

BRIEF FOR RESPONDENTS.

The instant appeals bring up for review the several judgments of the Supreme Court affirming the assessments of taxes for the year 1920, as fixed and determined by the judgments of the State Board of Taxes and Assessment, of the respective lands of the Appellants situate in the Taxing District of Jersey City.

The cases, eleven in all, were argued together before the Supreme Court for the reason that the testimony in each case is so interwoven with the other that it seemed necessary and desirable to argue them together. Respondents, therefore, respectfully ask leave to present this Brief for all of the cases, referring to the first three cases above mentioned as the Pennsylvania Cases, the next five as the Lehigh Valley Cases, the following two as the Central Cases, and the last one as the Long Dock Case.

Statement of the Cases

Practically all of the lands involved in these cases front either on the shore of the Hudson River or New York Bay and are what is known as Third Class Railroad Property. They were locally assessed as of October 1st, 1919, by the City of Jersey City. Appeals therefrom were taken by Appellants to the Hudson County Board of Taxation, which confirmed the City's assessments. Appellants then appealed to the State Board of Taxes and Assessment, which, with a few exceptions, affirmed the judgments of the County Board. Appellants then sought review by certiorari in the Supreme Court and that Court, after

hearing argument of counsel and considering the reasons filed for reversal, affirmed the assessments in each case as fixed and determined by the judgments of the State Board.

Appellants on the hearing before the State Board rested their cases on the judgments of that Board in respect to the valuations of these lands for the year 1919 and moved that the valuations for the year 1920 be fixed at the same amounts. Jersey City objected to this procedure contending that the Appellants should present proof of their valuations as of October 1st, 1919. The State Board, however, ruled that since Jersey City had assessed these lands for 1920 in excess of the Board's valuations for 1919 that the burden of proof was on Jersey City to establish the valuations for 1920, even though the Railroad Companies were the Appellants.

This ruling of the State Board was manifestly erroneous, as appears by the opinion of the Court below which is as follows:

“The Board had fixed the value for 1919 after hearing testimony, and was of opinion that such value was right at the time it was established, and suggested that the additional evidence be limited to the increased value since that date. But the testimony took a wider range and the witnesses for the City testified to its market value in October, 1919, which was disputed by expert witnesses called for Prosecutors. *The question tried and determined was the market value of the property October 1, 1919, which was the proper basis, neither Prosecutors nor Defendants could be held to the value fixed in October, 1918, for if*

it was too high the Prosecutors were not bound by it, and if too low, the Board was bound to fix its true value in 1919, without regard to what it did in 1918, for property must be fixed at its true value. It was perhaps right to consider its value as fixed in 1918 and hear proof as to any increase during the next year as an aid in reaching its value, but the former action was not a conclusive element in fixing true value in 1919." (Our italics.) (Lehigh Valley Cases, p. 230.)

"It is not the advance in value from one year to another that fixed taxable value, but its present true value is the question for determination." (Lehigh Valley Cases, p. 232.)

Jersey City, in compliance with the State Board's ruling, produced experts who testified that there was a material increase in the market value of these lands between October 1st 1918 and October 1st 1919, as manifest by sales and leases of substantially similar or comparable properties; that there was an increased demand between those dates for this class of property; and that the true value of the lands under consideration as of October 1st 1919, the assessing date, based upon actual sales and leases of comparable properties, equalled or exceeded the City's assessments.

The Appellants then called witnesses who testified that these lands were no more valuable on October 1st 1919, than they were on the previous assessing date, in fact, there had been no change in the value thereof since 1916. Their valuations were, in many instances, only half of the amounts of the State Board's Judgments for the year 1919.

They testified to the same valuations they had given the Board for several years last past, although the Board, on appeals of the Appellants for those years, had determined the value of these lands to be several millions of dollars in excess of the railroad witnesses' valuations. They also testified that there had not been a sale of shore-front property in Jersey City in the past ten years, which evidenced the market value of the property at the time of the sale. They relied solely upon their judgment of value rather than upon the selling price of the property. They depreciated every sale of property to railroad companies for railroad purposes, because in their opinion such companies pay more than true value to acquire it, thereby disregarding the rule laid down by Chief Justice Beasley in *Central R. R. Co. vs. State Board of Assessors*, 49 N. J. L. 1 at Page 5, that there is no reason to suppose that land acquired by a railroad company for railroad purposes, if sold in the market for that purpose would not bring a sum equal to the cost of its acquisition.

Obviously, the State Board and also the Supreme Court placed no reliance upon the untrustworthy and baseless testimony of Appellants' witnesses, and affirmed the City's assessments of the lands in question upon the evidence as to valuations given by the City's experts, and the selling prices by private sales of comparable properties testified to by them.

BRIEF OF THE ARGUMENT.

Point I.

The State Board of Taxes and Assessment had ample time in which to consider the evidence and reach its determination as to the value of these lands.

Appellants contend that the State Board determined the valuations arbitrarily and regardless of the evidence before it.

The Pennsylvania Cases were heard March 9th 1921; the Lehigh Valley Cases on March 10th 1921; the Central Cases, April 6th and 7th 1921; and the Long Dock Case, April 12th 1921.

The decision of the State Board in respect to all of the cases was rendered on April 19th 1921; therefore, instead of that Board only having a week in which to consider the testimony—as stated in dissenting Memo. of its President—it had more than a month to consider the Pennsylvania and Lehigh Valley Cases, about two weeks to consider the Central Cases, and a week for the Long Dock Case which comprises only 21 pages of testimony.

These appeals presented no novel questions to the Board. Each member was familiar with the location, physical characteristics and potentialities of the lands involved. They had heard testimony year after year in respect to the market values thereof. As stated in the Brief for Appellants (Lehigh Valley et al):

“Year after year, the City assessed such property, appeals were taken by the railroad companies to the State Board, much testimony as to value was produced and the value was determined by the Board. The testimony on the appeals was transcribed and preserved by the State Board.

There can be no doubt that it included every fact of consequence from the early development of water front to the present time, as well as the conclusions therefrom of all of the witnesses who testified in these cases."

It is significant that one of the members of the Board, who voted with the majority on April 19th 1921 to consider these appeals, thereafter, on April 26th 1921—when the President of the Board filed his dissenting Memo.—requested to change his vote. He evidently must have thought that he was sufficiently conversant with the testimony to take action on these appeals, when he voted with the majority. The members of the Board had had sufficient time in which to analyze the evidence, if they so desired, and there seems to be no apparent reason why the Chief Engineer of the Board should have abstracted the testimony. In fact, there was no evidence offered by the Appellants which would aid and assist the Board in arriving at the market value of these lands as of Oct. 1st 1919. Their witnesses testified to valuations several millions of dollars less than the State Board's judgments for the previous year, which Judgments Appellants contended should be the valuations for 1920.

Furthermore, Appellants' witnesses testified that the lands were of the same value for 1920 as they were in 1916, and the Board, having rejected these valuations in former years, it would have been useless for the Board to again consider this valueless testimony. To have considered it, would have been an absurd attempt to find an excuse to reduce its own judgments which had been accepted by Appellants. Therefore, it was only necessary for the Board to consider the evidence of the

City's experts, which was not very voluminous, (177 pages of the respective States of Cases). Their testimony consisted of sales of property similar to that under review; increase in rentals, and the great demand for this class of property within the taxing year; and the opinion of these experts as to the value of the lands in question, founded upon these facts.

Surely it did not require days of deliberation by the Board to reach a conclusion as to the value of these lands. It is submitted that the Board, sitting as a jury to determine the market value of these lands based upon the evidence, had ample time to properly consider the testimony, and that it should have reached its conclusions while the evidence, the source of knowledge of the experts and the creditability of their testimony, and the reasons given by them for their valuations, were fresh in the mind of each member of the Board. Therefore, there is no merit in the dissenting Memo. of the President. It is to be noted that he only objected to the "undue haste" in considering the testimony and not to the valuations fixed by the majority.

Counsel for Appellants concedes (Brief for Lehigh Valley et al):

"If the determination of three members of the State Board was merely a prompt decision based upon the evidence, as the Supreme Court apparently believed it to be, no fault could be found with it on that ground."

The Court below, on this point said (Lehigh Valley Cases, p. 231):

"The Board was familiar with the property, having repeatedly considered the very question passed on, and the evidence

offered by the prosecutors was principally confined to one witness, and that of defendants to two, and if the testimony offered justified the conclusion, a prompt determination can hardly be said to be illegal. A prompt decision, if the result is justified by the proof, cannot be a ground of illegality, for if it was, verdicts by juries might often be set aside, for it would be an extreme case where it takes a jury seven days to settle facts. The criterion is, does the evidence support the findings?"

Since the only evidence to be considered was that given by the City's experts, and the Supreme Court finding that this evidence was sufficient to support the judgments of the majority of the State Board, this finding of fact is conclusive.

Point II.

The State Board's Judgments were based upon the market value of Appellants' lands.

The next contention of Appellants is that the valuations were erroneously based upon a supposed general increase in value of water-front property.

Evidence was offered on behalf of Jersey City to show that there had been, between October 1st 1918 and October 1st 1919, a general increase in the value of water-front property on the Hudson River and New York Bay in Jersey City; but it is unwarranted to assume, as Appellants do, that the State Board's findings were based solely upon a general increase in value of Appellants' lands. The City's experts testified specifically to the market value of each tract of land under con-

sideration, as of October 1st 1919, basing their valuations upon sales or leases of the same or substantially similar properties.

It is a disregard of the facts to state, as Appellants' counsel does, that the City's experts admitted there were no sales of substantially similar properties to those under review. Their testimony is replete with reference to sales or leases of comparable properties. The presumption is, that the State Board followed the law and predicated its Judgments upon the specific evidence as to the true market value of each tract.

The testimony, as to general increase, was not offered to overthrow the established theory of our Courts that the true value of property for taxation, under the constitutional mandate, is that amount of money it would sell for at a fair private sale. It was presented to the Board to show the general market situation as to shore-front property in Jersey City, and that the decreasing supply and increasing demand enhanced the selling price—merely an example of the effect of supply and demand on the market—which had been taken into consideration by the City's experts in arriving at the true value of each tract of Appellants' lands. It must be borne in mind that practically all the shore-front properties in Jersey City have been taken out of the market and are now owned by railroad companies which seldom sell or rent them. Consequently, the experts must resort to hypothetical sales which require a consideration and study of general market conditions, the decreasing supply and increasing demand, the available uses of the properties within reasonable contemplation, and what they would sell for if on the market, and any other factor or element which goes to make up the amount of money that a willing seller—who is not required to sell a given

piece of property—would accept from a willing purchaser—who is not required to buy it.

It is submitted that the City's experts properly considered the general increase in value of shore-front ^{property} in Jersey City in arriving at the selling valuations of Appellants' lands, and that the State Board's judgments were based on the market value thereof.

Point III.

The valuations for 1920 of the respective Appellants' lands, as determined by the State Board and affirmed by the Supreme Court, are supported and sustained by the evidence in every instance.

Appellants further contend that the assessments are not supported by any evidence before the State Board.

An analysis of the testimony, which is shown by the following summary, demonstrates that the State Board's judgments are supported and sustained by the evidence in each case.

PENNSYLVANIA CASES:

(1) Lands of *The Associates of the Jersey Company*:

(a)											
Block	Lot	Location						Area			
4 & 5	A & D	Pier B and the North Half of Morris St. Pier						449,630 Sq. Ft.			
Assessed Valuation		\$899,250 or \$2.00 a Sq. Ft. (Penn. Case p. 67)									
Appellant Wanted											
Reduced to		766,260	"	1.72	"	"	"	"	"	"	"
State Board's Judg.		899,250	"	2.00	"	"	"	"	"	"	"
Val. by City's Experts:											
Graham and Dunham		1,124,075	"	2.50	"	"	"	"	pp. 89, 90		
Val. by Appellant's Witnesses:											
Corbin and Ryer		670,000	"	1.50	"	"	"	"	113, 116 pp. 169, 190		

These lands are more valuable but are comparable with the adjoining property of the International Elevator Company which was purchased by it in 1916 for \$300,000 or at the rate of \$70,000 an acre, without a State Grant (Penn. Case, pp. 147, 148). Corbin testified, in Eighth Avenue (New York) case, that the purchaser was offered \$50,000 more for the property than it paid, and admitted this fact in the instant case (Penn. Case, p. 170), which would be at the rate of about \$1.80 a sq. ft. Corbin also testified in the Eighth Avenue Case, *supra*, according to the transcript of the record, that the purchaser could have obtained \$100,000 more than it paid (but repudiated this statement when confronted with it on cross-examination before the State Board, Penn. Case, p. 171), which would be at the rate of \$2.10 a sq. ft. Graham testified (Penn. Case, pp. 101, 102, 103) that the rent of these lands was increased in October, 1920, over October, 1919, from \$125,000 to \$180,000 per annum. He offered \$165,000 rent for these lands, which was based on a valuation of \$2.50 a sq. ft., and was told by the Pennsylvania Railroad Company that his offer was too low. The rental of \$180,000 per year would be at the rate of \$3.08 a sq. ft. Corbin also testified to this increase in rental (Penn. Case, p. 166).

In *Heard v. Cook*, 60 N. J. L. 70, Mr. Justice Depew said:

“A yearly rental of the premises may also be taken into consideration as an element in the ascertainment of true value, where the property is so situate that the yearly rental reflects upon true value.”

Dunham testified (Penn. Case, pp. 139, 140) that the Cunard property was purchased by it

in 1920 for \$72,450 an acre, or \$1.66 a sq. ft., and that the lands under consideration were 75 per cent. more valuable than the Cunard property at the time of the purchase, and on that basis were worth \$2.62½ a sq. ft. Corbin testified that the price paid for the Cunard property was normal. (Penn. Case, p. 156.) Dunham also testified (Penn. Case, p. 127) that the record of sales of water-front property from 1916 to 1920 showed an increase of 100 per cent.

Obviously the State Board's valuation of \$2.00 a sq. ft. for the lands in question was established by the sales of substantially similar properties and the lease of these lands.

(b)

Block	Lot	Location	Area
8	A-1	Pier C	159,900 Sq. Ft.
Assessed Valuation		\$345,950 or \$2.16 a Sq. Ft. (Penn. Case p. 67)	
Appellant Wanted			
Reduced to		282,590 " 1.79 " " " " " " "	
State Board's Judg.		345,950 " 2.16 " " " " " " "	
Val. by City's Experts:			
Graham and Dunham		399,750 " 2.50 " " " " " " "	pp. 90, 113
Val. by Appellant's Witness:			
Ryer		240,000 " 1.50 " " " " " " "	pp. 190, 191

These lands adjoin Pier B, Supra, and are devoted to the same use. Pier B is entirely under water, while part of Pier C is upland. The land under water is assessed at \$2 and the upland at \$3, making an average of \$2.16 a Sq. Ft. The sales and lease referred to and argument made above apply here.

(2) Lands of *The Pennsylvania Railroad Company, Lessee*:

(a)

Block	Lot	Location	Area
601	1	Newark, Charlotte and Duffield Sts.	3 Acres
Assessed Valuation		\$36,000 or \$12,000 an A. (Penn. Case p. 29)	
Appellant Wanted			
Reduced to		26,000 " 8,666 " " " " " "	
State Board's Judg.		36,000 " 12,000 " " " " " "	
Val. by City's Expert:			
Dunham		36,000 " 12,000 " " " " " "	p. 115
Val. by Appellant's Witness:			
Ryer		20,000 " 6,666 " " " " " "	p. 188

These lands are more valuable but are comparable with the adjacent lands on James Ave. sold Nov. 12th 1919 by Woodstock Co. to Hofferberth, which Dunham testified was in excess of \$12,000 an Acre (Penn. Case, p. 115).

(b)

Block 15	Lot C-5 C-6	Location Hudson River, Stock Yards	Area 1,065,046 Sq. Ft.
Assessed Valuation		\$2,130,050 or \$2.00 a Sq. Ft. (Penn. Case p. 29)	
Appellant Wanted			
Reduced to	1,540,138	" 1.50 " " " " " "	" "
State Board's Judg.	2,130,050	" 2.00 " " " " " "	" "
Val. by City's Experts:			
Graham and Dunham	2,662,615	" 2.50 " " " " " "	pp. 88, 90,
Val. by Appellant's Witness:			113, 114, 116
Ryer	1,215,800	" 1.15 " " " " " "	p. 190

These lands are adjacent to and comparable with Pier B, Supra; and the sales referred to and argument made there, apply here.

(c)

Block 11	Lot A	Location Morgan Street	Area 32,500 Sq. Ft.
Assessed Valuation		\$97,500 or \$3.00 a Sq. Ft. (Penn. Case p. 29)	
Appellant Wanted			
Reduced to	85,000	" 2.60 " " " " " "	" "
State Board's Judgment	97,500	" 3.00 " " " " " "	" "
Val. by City's Expert:			
Dunham	172,500	" 5.00 " " " " " "	p. 115
Val. by Appellant's Witness:			
Ryer	73,800	" 2.27 " " " " " "	p. 188

These lands are adjacent to and comparable with lands sold by Royal Baking Powder Co. to Butler Bros. at \$4.40 a Sq. Ft., and by Treslow & Fuller to Butler Bros. at \$5 a Sq. Ft. (L. D. Case p. 34).

(d)

Block	Lot	Location	Area
76	H-4	Washington Street	10,945 Sq. Ft.
Assessed valuation		\$23,000 or \$2.10 a Sq. Ft. (Penn. Case p. 29)	
Appellant Wanted			
Reduced to		19,700 " 1.80 " " " " " "	
State Board's Judg.		23,000 " 2.10 " " " " " "	
Val. by City's Expert:			
Dunham		43,780 " 4.00 " " " " " 115	
Val. by Appellant's Witness:			
Ryer		16,400 " 1.50 " " " " " 188	

These lands are adjacent to Block 11 Lot A, Morgan St. (c) Supra, and the sales referred to there, apply here.

(e)

Block	Lot	Location	Area
602	1	Newark Avenue	3.7 Acres
Assessed Valuation		\$44,000 about \$12,000 an A. (Penn. Case p. 29)	
Appellant Wanted			
Reduced to		28,000 " 7,600 " " " " " "	
State Board's Judg.		44,000 " 12,000 " " " " " "	
Val. by City's Expert:			
Dunham		44,400 " 12,000 " " " " p. 115	
Val. by Appellant's Witness:			
Ryer		25,750 " 7,000 " " " " p. 188	

These lands are comparable with lands purchased by Hofferberth (a) Supra, and that sale applies here.

It is to be noted that the Judgments of the State Board, in respect to the other lands of the Penn. R. R. Co., Lessee, are the same as the conceded values of Appellant.

(3) Lands of The New York Bay Railroad Company.

Block	Lot	Location	Area
1507	2-L	New York Bay	100.98 Acres
Assessed Valuation		\$2,019,600 or \$20,000 an A. (Penn. Case p. 48)	
Appellant Wanted			
Reduced to		1,130,976 " 11,200 " " " " " "	
State Board's Judg.		2,019,600 " 20,000 " " " " " "	
Val. by City's Experts:			
Graham		2,019,600 " 20,000 " " " " p. 88	
Dunham		2,524,500 " 25,000 " " " " p. 113	
Val. by Appellant's Witness:			
Corbin		1,009,800 " 10,000 " " " " p. 179	

Part of the back upland of this tract was sold by N. Y. Bay R. R. to L. V. R. R. in 1920 for \$15,000 an Acre (Penn. Case p. 198). Dunham testified (L. V. Case p. 191) for the City, and Ryer (Cent. Case p. 104) for Appellant, that the back lands were less valuable than the front. Also, Curry property, immediately back of lands in question, comparable but less valuable, sold for \$15,000 an Acre in 1919 (L. V. Case p. 192; and Penn. Case pp. 109, 110). Manifestly, if back lands of N. Y. Bay R. R. (which are less valuable than front) had a valuation of \$15,000 an Acre, then the average valuation of these tracts is at least \$20,000 an Acre and supports State Board's Judgment.

LEHIGH VALLEY CASES:

(1) Lands of *The Lehigh Valley R. R. Co. of New Jersey.*

(a)									
Block	Lot	Location						Area	
60	38-B	Fronting on Washington St.						41,600 Sq. Ft.	
Assessed Valuation		\$62,400 or \$1.50 a Sq. Ft. (L. V. Case p. 17)							
Appellant Wanted									
Reduced to		45,100	"	1.08	"	"	"	"	"
State Board's Judg.		62,400	"	1.50	"	"	"	"	"
Val. by City's Experts:									
Graham		83,200	"	2.00	"	"	"	"	p. 209
Dunham—In Excess of City's Assess.							"	"	p. 168
Val. by Appellant's Witness:									
Ryer		31,200	"	.75	"	"	"	"	p. 145

An improved piece of property, more favorably located than the Cunard property, Supra, which sold for \$1.66 a Sq Ft. These lands may also be compared with the International Elevator Co. property, Supra.

(b)

Block	Lot	Location				Area			
2145	40-B	Jersey Avenue				206,000 Sq. Ft.			
Assessed Valuation		\$103,000	or	50c a Sq. Ft.	(L. V. Case p. 17)				
Appellant Wanted									
Reduced to		32,800	"	16c	"	"	"	"	"
State Board's Judgment		103,000	"	50c	"	"	"	"	"
Val. by City's Expert:									
Dunham—In excess of City's Assess.						"	"	p.	168
Val. by Appellant's Witness:									
Ryer		16,000	"	8c	"	"	"	p.	145

NOTE—Appellant desired the valuation of these lands to be reduced to an amount less than a third of the assessment, and Ryer even testified to a value less than half that amount.

Obviously, it was necessary for the State Board to exclude Ryer's Testimony, and affirm the City's assessment, which was supported by Dunham's Testimony.

(c)

Block	Lot	Location				Area			
2145	41-A	Hudson River and New York Bay				8 Acres			
Assessed Valuation		\$120,000 or \$15,000 an A. (L. V. Case p. 17)							
Appellant Wanted									
Reduced to		105,600	"	13,200	"	"	"	"	"
State Board's Judg.		120,000	"	15,000	"	"	"	"	"
Val. by City's Expert:									
Dunham—In excess of City's Assess.						"	"	p.	168
Val. by Appellant's Witness:									
Ryer		40,000	"	5,000	"	"	"	p.	145

NOTE—In this instance, Ryer testified to a valuation of these lands less than 40% of what the Appellant wanted it reduced to.

Dunham testified to a valuation in excess of City's assessment, and the State Board affirmed it.

(2) Lands of *The Lehigh Valley Harbor Terminal Railway Company*:

(a)

Block	Lot	Location			Area		
1500	1-A	New York Bay			2.65 Acres		
Assessed Valuation		\$14,600 or \$5,500 an A. (L. V. Case pp. 34, 42, 46)					
Appellant Wanted							
Reduced to		14,600	"	5,500	"	"	" " " "
State Board's Judg.		14,600	"	5,500	"	"	" " " "
Val. by City's Expert:							
Dunham—In excess of City's Assess.					"	"	p. 168
Val. by Appellant's Witness:							
Ryer		10,600	"	4,000	"	"	p. 145

NOTE—Ryer's valuation of these lands, \$4,000 less than City's assessment, which Appellant accepted.

Since Appellant conceded City's valuation, the State Board affirmed the assessment.

(b)

Block	Lot	Location						Area			
1500	3-A	New York Bay						10.66 Acres			
Assessed Valuation		\$58,630	or	\$5,500	an	A.	(L. V. Case pp.	34,	42,	46)	
Appellant Wanted											
Reduced to		58,630	"	"	"	"	"	"	"	"	"
State Board's Judg.		58,630	"	"	"	"	"	"	"	"	"
Val. by City's Expert:											
Dunham.		In excess of City's Assess.					"	"	p. 168		
Val. by Appellant's Witness:											
Ryer		42,640	or	\$4,000	an	A.	"	"	p. 145		

NOTE: Ryer's valuation of these lands is \$15,000 less than the City's Assessment, which Appellant accepted.

Since Appellant conceded City's assessment, State Board affirmed it.

(c)

Block	Lot	Location				Area			
1500	4	New York Bay				187.98 Acres			
Assessed Valuation		\$1,503,840	or	\$8,000	an A. (L. V. Case pp. 34, 42, 46)				
Appellant Wanted									
Reduced to		1,033,890	"	5,500	"	"	"	"	"
State Board's Judg.		1,221,870	"	6,500	"	"	"	"	"
Val. by City's Experts:									
Dunham		2,819,700	"	15,000	"	"	"	pp. 192, 207	
Graham		1,879,800	"	10,000	"	"	"	pp. 210, 211	
Val. by Appellant's Witnesses:									
Corbin and Ryer		516,945	"	2,750	"	"	"	pp. 132, 145	

These lands, part of the Railroad Terminal of the Lehigh Valley, are known as the Blair Tract, and were purchased by the Lehigh Valley in 1916 at \$3,500 plus \$1,500 Taxes, making \$5,000 an Acre. The testimony shows that the seller was *required to sell* (Penn. Case p. 184). Adjoining identical lands, known as the Leary Tract, sold to the Lehigh Valley in 1916 at a *bona fide sale* for \$7,500 and \$1,500 Taxes, making \$9,000 an Acre, or an average valuation for the two Tracts, *in 1916*, of \$7,000 an Acre. Yet both of Appellant's witnesses testified to a valuation in 1920 of only \$2,750 an Acre, or just one-half the amount conceded by Appellant.

Comparable also, with lands of New York Bay R. R. Co. sold to Lehigh Valley in 1920 at \$15,000 an Acre, to be used for a part of its terminal.

Obviously, State Board's Judgment of \$6,500—less than the average value of the lands in 1916, which are a great deal more valuable to-day (L. V. Case, p. 191)—must be sustained.

(d)

Block	Lot	Location		Area	
1507	3-A	New York Bay		6.32 Acres	
Assessed Valuation		\$40,000 or	\$6,500 an A.	(L. V. Case pp. 34, 42, 46)	
Appellant Wanted					
Reduced to		34,760 "	5,500 " "	" " " " " "	
State Board's Judg.		40,000 "	6,500 " "	" " " " " "	
Val. by City's Experts:					
Dunham		94,800 "	15,000 " "	" " pp. 202, 207	
Graham		63,200 "	10,000 " "	" " pp. 210, 211	
Val. by Appellant's Witnesses:					
Corbin and Ryer		17,380 "	2,750 " "	" " p. 132	
				" " p. 145	

These lands also adjoin Lot 4 Block 1500 (c), and are part of the Railroad Terminal of the Lehigh Valley and the sales referred to and argument made there, apply here.

NOTE: Corbin and Ryer testify to a valuation just one-half of the amount conceded by Appellant.

(e)

Block	Lot	Location	Area
1507	4-A	New York Bay	2.5 Acres
Assessed Valuation		\$25,000 or \$10,000 an A.	(L. V. Case pp. 34, 42, 46)
Appellant Wanted			
Reduced to	14,652	" 5,500	" " " " " "
State Board's Judg.	25,000	" 10,000	" " " " " "
Val. by City's Expert:			
Graham	25,000	" 10,000	" " pp. 210, 211
Val. by Appellant's Witness:			
Ryer	13,320	" 5,330	" " p. 145

These lands also adjoin Lot 4 Block 1500 (c),
Supra, and are part of the Railroad Terminal of
the Lehigh Valley and the sales referred to and
argument made there, apply here.

(f)

Block	Lot	Location	Area
1507	4-B 7-B	New York Bay	276.46 Acres
Assessed Valuation		\$2,764,600 or \$10,000 an A.	(L. V. Case pp. 34, 42, 46)
Appellant Wanted			
Reduced to	1,525,040	" 5,500	" " " " " "
State Board's Judg.	1,802,320	" 6,500	" " " " " "
Val. by City's Experts:			
Graham	2,764,600	" 10,000	" " pp. 211, 218
Dunham	4,146,900	" 15,000	" " pp. 202, 207
Val. by Appellant's Witnesses:			
Corbin and Ryer	762,520	" 2,750	" " p. 132 p. 145

This is the Leary Tract mentioned above, and
is part of the Railroad Terminal of the Lehigh
Valley, and the sales referred to and argument
made in respect to Block 1500 Lot 4, Supra, apply
here.

NOTE: Appellant's witnesses testify to a valuation just
one-half of the amount conceded to by it.

(g)

Block	Lot	Location	Area
1507	6	New York Bay	1.03 Acres
Assessed Valuation		\$11,225 or \$11,000 an A.	(L. V. Case pp. 34, 42, 46)
Appellant Wanted			
Reduced to	6,798	" 6,600	" " " " " "
State Board's Judg.	11,225	" 11,000	" " " " " "
Val. by City's Experts:			
Dunham	15,450	" 15,000	" " pp. 202, 207
Graham	10,300	" 10,000	" " pp. 211, 218
Val. by Appellant's Witnesses:			
Corbin and Ryer	6,180	" 6,000	" " pp. 132, 145

These lands are in the same Block as the Leary Tract, but more valuable, and are part of the Railroad Terminal of the Lehigh Valley, and the sales referred to and argument made in respect thereto, apply here.

(h)

Block	Lot	Location				Area			
1507	7-A	New York Bay				10.66 Acres			
Assessed Valuation		\$106,600 or \$10,000 an A. (L. V. Case pp. 34, 42, 46)							
Appellant Wanted									
Reduced to		66,792	"	6,250	"	"	"	"	"
State Board's Judg.		66,792	"	6,250	"	"	"	"	"
Val. by City's Experts:									
Dunham		159,900	"	15,000	"	"	"	pp. 207, 208	
Graham		106,600	"	10,000	"	"	"	pp. 211, 218	
Val. Appellant's Witnesses:									
Corbin and Ryer		60,720	"	5,700	"	"	"	pp. 132, 145	

These lands are also in the same Block as the Leary Tract and are part of the Railroad Terminal of the Lehigh Valley, and the sales referred to and argument made in respect thereto, apply here.

(3) Lands of *The Morris Canal & Banking Company*:

(a)

Block 2	Lot C	Location Hudson Street				Area 6.95 Acres or 302,742 Sq. Ft.			
Assessed Valuation		\$576,000 or \$1.90 a Sq. Ft. (L. V. Case pp. 64, 68)							
Appellant Wanted									
Reduced to		461,970	"	1.50	"	"	"	"	"
State Board's Judg.		576,000	"	1.90	"	"	"	"	"
Val. by City's Expert:									
Dunham		In excess of City's Assess.				"	"	p. 168	
Val. by Appellant's Witnesses:									
Corbin and Ryer		\$420,000 or \$1.39 a Sq. Ft.				"	"	pp. 132, 146	

These lands are improved and adjacent to lands of the International Elevator Co. and may be devoted to similar use; and that sale, *Supra*, is used as criterion of value here.

(b)

Block	Lot	Location	Area
33	L	Hudson Street	25,100 Sq. Ft.
Assessed Valuation		\$50,200 or \$2.00 a Sq. Ft.	(L. V. Case pp. 64, 68)
Appellant Wanted			
Reduced to	38,298	" 1.60 " "	" " " "
State Board's Judg.	50,200	" 2.00 " "	" " " "
Val. by City's Expert:			
Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness:			
Ryer		\$25,100 or \$1.60 a Sq. Ft.	" " p. 146

These lands are also improved and adjacent to lands of the International Elevator Co. and may be devoted to similar use; and that sale, *Supra*, is used as a criterion of value here.

(c)

Block	Lot	Location	Area
60	37	Hudson River	11.376 Acres or 495,539 Sq. Ft.
Assessed Valuation		\$947,050 or \$1.90 a Sq. Ft.	(L. V. Case pp. 64, 68)
Appellant Wanted			
Reduced to	707,625	" 1.40 " "	" " " "
State Board's Judg.	947,050	" 1.90 " "	" " " "
Val. by City's Expert:			
Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness:			
Ryer		\$490,050 or \$1.00 a Sq. Ft.	" " p. 146

These lands, too, are improved and adjacent to the lands of International Elevator Co. and may be devoted to similar use; and that sale, *Supra*, is used as a criterion of value here.

(4) Lands of *The United Real Estate Company*:

(a)

Block	Lot	Location	Area
60	22	Morris Canal	209,100 Sq. Ft.
Assessed Valuation		\$104,550	(L. V. Case pp. 85, 90)
Appellant Wanted			
Reduced to	63,360		" " " "
State Board's Judg.	104,550		" " " "
Val. by City's Expert:			
Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness:			
Ryer		28,800	" " p. 146

NOTE: Ryer testified to a valuation of these lands *less than one-half* of the amount conceded by Appellant.

(b)

Block	Lot	Location	Area
60	24	Morris Canal	320,000 Sq. Ft.
Assessed Valuation		\$160,000	(L. V. Case pp. 85, 90)
Appellant Wanted			
Reduced to		97,152	" " " " "
State Board's Judg.		160,000	" " " " "
Val. by City's Expert:			
Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness:			
Ryer		58,900	" " p. 146

NOTE: Ryer testified to a valuation of these lands, of about half of the amount conceded by Appellant.

(c)

Block	Lot	Location	Area
60	30	Warren Street	7,740 Sq. Ft.
Assessed Valuation		\$14,000	(L. V. Case pp. 85, 90)
Appellant Wanted			
Reduced to		11,548	" " " " "
State Board's Judg.		14,000	" " " " "
Val. by City's Expert:			
Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness:			
Ryer		\$7,000	" " p. 146

NOTE: Ryer testified to a valuation of these lands of about \$4,500 less than that conceded by Appellant.

(d)

Block	Lot	Location	Area
1493	1	Caven Point Road	15 Acres
Assessed Valuation		\$150,000	(L. V. Case pp. 85, 90)
Appellant Wanted			
Reduced to		150,000	" " " " "
State Board's Judg.		150,000	" " " " "
Val. by City's Expert:			
Dunham		In excess of City's Assess.	" " p. 168
Val. by Appellant's Witness:			
Ryer		\$90,000	" " p. 146

These lands are comparable with Block 1507,
Lot 4-A, Supra.

NOTE: Appellant concedes City's assessment of \$10,000 an Acre although Ryer testified to a valuation of \$6,000 an Acre.

(5) Lands of *The National Storage Company*:

(a)

Block	Lot	Location	Area
1497	3-C	New York Bay	35,000 Sq. Ft.
Assessed Valuation		\$20,300 or \$25,000 per A.	(L. V. Case pp. 108, 112)
Appellant Wanted			
Reduced to	11,382	" 14,000 " " " " " " "	"
State Board's Judg.	20,300	" 25,000 " " " " " " "	"
Val. by City's Expert:			
Dunham. In excess of City's Assess.			" " p. 168
Val. by Appellant's Witness:			
Ryer		\$9,420 or \$12,000 per A.	" " p. 146

These lands are adjacent to and comparable with Block 2154 Lot 22-J Communipaw Avenue, of the Central R. R. Co. of N. J., *Infra*, and the sales referred to and argument made there, apply here.

(b)

Block	Lot	Location	Area
1497	3-D	New York Bay	35,000 Sq. Ft.
(Same as for Lot 3-C in Block 1497, above.)			

These lands are also adjacent to and comparable with Block 2154 Lot 22-J Communipaw Ave., of the Central R. R. Co. of N. J., *Infra*, and the sales referred to and argument made there, apply here.

(c)

Block	Lot	Location	Area
1497	3-E	New York Bay	44,240 Sq. Ft.
Assessed Valuation		\$25,700 or \$25,000 per A.	(L. V. Case pp. 108, 112)
Appellant Wanted			
Reduced to	14,645	" 14,000 " " " " " " "	"
State Board's Judg.	25,700	" 25,000 " " " " " " "	"
Val. by City's Expert:			
Dunham. In excess of City's Assess.			" " p. 168
Val. by Appellant's Witness:			
Ryer		\$12,120 or \$12,000 per A.	" " p. 146

These lands are also adjacent to and comparable with Block 2154 Lot 22-J Communipaw Avenue, of the Central R. R. of N. J., *Infra*, and the sales referred to and argument made there, apply here.

(d)

Block	Lot	Location				Area			
1497	3-F	New York Bay				680,000 S. Ft.			
Assessed Valuation		\$394,400 or \$25,000 per A.				(L. V. Case pp. 108, 112)			
Appellant Wanted									
Reduced to		226,780	"	14,000	"	"	"	"	"
State Board's Judg.		394,400	"	25,000	"	"	"	"	"
Val. by City's Expert:									
Dunham. In excess of City's Assess.						"	"	p. 168	
Val. by Appellant's Witness:									
Ryer		\$93,840 or \$6,000 per A.				" " p. 146			

NOTE: Ryer's valuation is \$130,000 less than the valuation conceded by Appellant.

These lands, too, are adjacent to and comparable with Block 2154 Lot 22-J, Communipaw Ave., of the Central R. R. Co. of N. J., Infra, and the sales referred to and argument made there, apply here.

CENTRAL CASES:

(1) Lands of *The Central Railroad Company of New Jersey*:

The description, location and area of the lands, assessed valuations, amount Appellant wanted them reduced to, and the Judgments of State Board, are found on Pages 19, 24, 25 and 26 of State of Case for Central R. R. et al. Only the value of the 5 largest tracts will be specifically argued.

(a)

Block	Lot	Location				Area			
1497	1	New York Bay				312.58 Acres			
Assessed Valuation		\$1,875,480 or \$6,000 an A. (Cent. Case pp. 19, 25)							
Appellant Wanted									
Reduced to		1,719,190	"	5,000	"	"	"	"	"
State Board's Judg.		1,875,480	"	6,000	"	"	"	"	"
Val. by City's Experts:									
Dunham		3,125,800	"	10,000	"	"	"	p. 113	
Graham		2,813,220	"	9,000	"	"	"	p. 146	
Val. by Appellant's Witnesses:									
deSelding and Ryer		859,595	"	2,750	"	"	"	p. 90	
						"	"	p. 95	

These lands are adjacent to and comparable with the Leary Tract and the Blair Tract sold to the Lehigh Valley in 1916 at an average of \$7,000 an Acre, above referred to, and those sales and the argument made in respect thereto apply here.

(b)

Block	Lot	Location	Area
2145	48-F	Hudson River and New York Bay	20.95 Acres
Assessed Valuation		\$1,047,500 or \$50,000 an A.	(Cent. Case pp. 19, 25)
Appellant Wanted			
Reduced to		523,750 " 25,000 " " " " "	
State Board's Judg.		1,047,500 " 50,000 " " " " "	
Val. by City's Experts:			
Dunham and Graham		1,047,500 " 50,000 " " " " "	pp. 114, 146
Val. by Appellant's Witnesses:			
Corbin, deSelding and Ryer		360,000 " 17,183 " " " " "	pp. 52, 89, 95

These lands are comparable with the Terminal Yard of the Central and other properties used for similar purposes, like the Coal Pier of the Penn. and the Harsimus Yard (Cent. Case p. 115). They are also comparable with the International Elevator Co. lands, *Supra*, but not as valuable as to location, etc.

This property is used for a coal pier in connection with the Central R. R. Yard—more favorably located than the adjacent property to the South; easier of access; has practically a Hudson River frontage; whereas, the others have a New York Bay frontage (Cent. Case, pp. 120, 121, 122).

(c)

Block	Lot	Location	Area
2154	22-J	Communipaw Avenue (South Side)	120 Acres
Assessed Valuation		\$2,400,000 or \$20,000 an A.	(Cent. Case pp. 19, 26)
State Board's Judg.		2,400,000 " 20,000 " " " " "	
Val. by City's Experts:			
Dunham		3,000,000 " 25,000 " " " " "	115
Graham		2,160,000 " 18,000 " " " " "	146
Val. by Appellant's Witnesses:			
Corbin and Ryer and deSelding		497,040 " 4,000 " " " " "	pp. 25, 95, 88

Although more valuable, these lands are comparable with Block 1507 Lot 2-L of the N. Y. Bay R. R., Supra, and the sales there referred to and argument made, apply here.

Dunham's testimony as to these lands is, that

"It is comparable with the New York Bay R. R. Co.'s property, although it is better property on account of its near approach to the main channel of the Bay. It is more accessible than the New York Bay Co.'s property." (Cent. Case, p. 115.)

Valuation of New York Bay Co.'s property is \$20,000 an Acre, as evidenced by sales.

(d)

Block	Lot	Location	Area
2154	22-J	Communipaw Ave. (Center Side)	183 Acres
Assessed Valuation		\$4,575,000 or \$25,000 an A.	(Cent. Case p. 19)
State Board's Judg.		4,575,000 " 25,000 " "	" " " "
Val. by City's Experts:			
Dunham		5,490,000 " 30,000 " "	" " " 115
Graham		3,926,000 " 22,000 " "	" " " 146
Val. by Appellant's Witnesses:			
Corbin, deSelding and			
Ryer		1,924,200 " 10,000 " "	" " pp. 52, 76, 95

Upon these lands is erected a new million and a half dollar coal pier. The lands are more valuable but are comparable with New York Bay R. R. Co. property, Block 1507 Lot 2-L, Supra (Cent. Case, pp. 115, 136), and with lands formerly of the Central R. R. Co. at Port Johnson, on the Kill von Kull, Bayonne, used for a similar purpose, which it abandoned and sold for \$35,000 an Acre and moved to this property (Cent. Case, pp. 136, 138). Dunham arrived at the value of this Tract:

"By taking a value of \$20,000 an Acre for the land and adding to that, \$10,000 as the value of the bulkhead, the value of the channel. I then compared that with other

properties that are similar, that would be similar where this property is, bare land without any improvement." (Cent. Case, p. 115.)

He further testified that these lands were comparable with, but better than, property of the New York Bay R. R. Co., his reason being because:

"It has access to the main channel of the New York Bay. It could be approached by vessels of thirty-foot draught from the main channel of the Bay. It is much nearer the Battery. Its location gives it the higher value than the properties of the New York Bay Railroad Company. For instance, the New York Bay Railroad Company is approached by a channel, having a depth of eighteen feet at mean low water from the main channel of the Bay. That channel is about a mile or a mile and a half further down the Bay than the approach to the Central Railroad Company's channel. In other words, the Central Railroad Company's channel comes out between the two islands and gives it ready access for vessels and floats coming down into the Hudson River for the East River. It is more accessible in every way than the New York Bay Railroad property." (Cent. Case, pp. 115, 116.)

He based his valuation of Lot 22-J on sales of comparable properties. He testified that:

"I made it by comparison with the sales and comparing it with other properties. For instance, you take 22-J, upon which is erected a new million-dollar and a half coal pier. Now, the business of that pier

was formerly done in Port Johnson on the Kill von Kull in Bayonne on the old coal piers down there. Those piers were abandoned and they are now to be put in a location which is far superior to the location they had on the Kill von Kull. Nevertheless, the properties on the Kill von Kull at Port Johnson, the Central Railroad Company sold for \$35,000 an Acre, unimproved." (Cent. Case, p. 136.)

Obviously, Dunham was very familiar with the locations of these lands, their area, the uses to which they were applied, and the extent and condition of the improvements, and a knowledge of the market or selling price of comparable lands in the neighborhood. These are the essential qualifications of an expert witness as to the market value of lands, and Dunham demonstrated here, as he did in respect to every tract of land upon which he placed a valuation, that he possessed these qualifications.

(e)

Block 2154	Lot 22-J	Location Communipaw Avenue (North Side)	Area 102 Acres
Assessed Valuation	\$3,060,000	or \$30,000 an A.	(Cent. Case, p. 19)
State Board's Judg.	3,060,000	" 30,000 " "	" " " "
Val. by City's Experts:			
Dunham	3,570,000	" 35,000 " "	" " " 115
Graham	2,806,000	" 27,500 " "	" " " 146
Val. by Appellant's Witnesses:			
Corbin, deSelding and Ryer	1,465,800	" 14,000 " "	" " pp. 52, 69, 95

These lands are the most valuable of Lot 22-J. They adjoin the main Terminal Yard of the Central R. R. Co. of N. J., and are more valuable than the Port Johnson property, *Supra*, which sold for \$35,000 an Acre (Cent. Case, p. 138).

As to this Tract (North Side of Lot 22-J), Dunham testified that he took into consideration the sale of property in Bayonne at \$35,000 an Acre, in determining its value. He said:

“Yes, I considered that sale. I considered it in this way, that if the property of the Central R. R. Co. at Port Johnson, Bayonne, located on the Kill von Kull, was worth \$35,000 per Acre and they abandoned that property and moved their whole coal business up into Block 22-J, which is far more desirably located for that business, it eliminates about four miles of towing.”
(Cent. Case, p. 138.)

Appellant made no denial of this sale, and offered no evidence in respect thereto. Therefore, the testimony of the City's expert, Dunham, stands unimpeached in the record, and establishes the valuation of Lot 22-J in Block 2154 (South, Center and North Sides), based upon the sale of the Port Johnson property and the sales of other properties to which he referred, among them the sale of the Andrus property in Bayonne at \$25,000 an Acre, without any improvements (Lehigh Valley Case, pp. 177, 178).

It is to be noted, in respect to the valuation of the other lands of the Central Railroad Company of New Jersey under review, that Dunham, the City's expert, testified that in his judgment the assessed valuation was below the true market value of the properties as of Oct. 1st, 1919 (Cent. Case, p. 113).

(2) Lands of *The Communipaw Central Land Company*:

Block	Lot	Location	Area
60	21-A	East of Jersey Avenue South of Morris Canal	4.76 Acres
Assessed Valuation		\$102,500 or \$21,500 an A.	(Cent. Case, p. 41)
Appellant Wanted			
Reduced to		58,489 " 12,000 " " " " " " "	
State Board's Judg.		102,500 " 21,500 " " " " " " "	
Val. by City's Expert:			
Dunham		118,000 " 25,000 " " " " " pp. 117, 118	
Val. by Appellant's Witness:			
Ryer		53,172 " 11,000 " " " " " pp. 109, 110	

These lands are comparable with the back-lands of the Central Railroad Company, Lot 22-J in Block 2154, *Supra*.

LONG DOCK CASE:

Block	Lot	Location	Area
16	B-1	Foot of Pavonia Avenue	448,600 Sq. Ft.
Assessed Valuation		\$897,200 or \$2.00 a Sq. Ft.	(L. D. Case, p. 16)
Appellant Wanted			
Reduced to		665,982 " 1.48 " " " " " " "	
State Board's Judgment		897,200 " 2.00 " " " " " " "	
Val. by City's Experts:			
Dunham and Graham		1,121,600 " 2.50 " " " " " " pp. 35, 41	
Val. by Appellant's Witness:			
Ryer		526,000 " 1.18 " " " " " " p. 24	

These lands are substantially similar to Piers B and C of the Associates of the Jersey Co., *Supra*; the Stock Yards of the Penn. R. R. Co., Lessee, *Supra*; and the property purchased by the International Elevator Co., *Supra*. All of these lands have the same potentialities and were assessed by the City at \$2 a sq. ft., which the State Board affirmed.

Dunham testified that the Long Dock property was comparable with, but more valuable than, the International Elevator Co. property (L. D. Case, p. 31), and that the sale of the American Coal Co. to the International Elevator Co. was a fair sale;

"that is, it indicated the market value of the property, the condition in which it was." (L. D. Case, p. 32.) Graham made the same comparisons (L. D. Case, p. 41.)

From the foregoing, it appears that the valuations of these lands, as determined by the State Board, have in every instance been supported and sustained by evidence.

Appended hereto is a Map showing the location and area of each tract of water-front property, and the sales thereof referred to under this Point. It also contains other data taken from the testimony.

The object in submitting this Map is to show the exact location and proximity to each other of the respective properties of the Appellants, and to exhibit the comparisons made by the City's experts.

Point IV.

The opinions of the City's experts as to the market value on the assessing date, of the lands of the respective Appellants were based on sales of comparable or substantially similar properties.

The reliability and value of an expert witness's opinion depends upon the extent of his experience and study, his sources of knowledge, and the facts and reasons on which he bases his conclusions.

Jersey City's expert, Dunham, testified (Penn. Case, pp. 127, 128) that he had analyzed every available sale made since 1880 of water-front property on the New York Bay or on the Hudson River; that the sales or re-sales of this class of

property had never shown a recession in price but an advance over previous sales; and that the record of sales from 1916 to 1920 showed an increase of 100%. He also testified (Penn. Case, p. 116) that he used the standard of sales in determining valuation of lands for the purpose of taxation.

The City's other expert, Graham, testified (Penn. Case, pp. 80-88) that he was a real estate broker specializing in commercial water-front properties all around New York Harbor; that he had been in that business for 20 years; that he had appraised and sold this class of property and had made a study of all sales and leases; that he had qualified as an expert on the value of Jersey City water-front properties before the State Board and before the Interstate Commerce Commission; and that he used the standard of fair market value, based upon sales, in arriving at the taxable valuation of property.

These experts used the sales mentioned under Point III hereof as a basis for determining the valuation of Appellants' lands in the respective localities. For example, they used the sale of American Coal Company to International Elevator Co. as a criterion of valuation in arriving at the market value as of Oct. 1st, 1919, of Piers B and C of the Associates of the Jersey Company, the Stock Yards of the Penn. R. R. Co., Lessee, and the lands of the Long Dock Company, and other similar properties. Although the International Elevator Co. property, having no State grant, was not as valuable as the lands with which it was compared, it was a foundation sale upon which these experts erected their valuations of substantially similar properties, taking also into consideration, the Cunard purchase.

They used the sale of the Curry property to the Tide Water Oil Co., and the sale of New York Bay R. R. Co. to the Lehigh Valley Harbor Terminal Railway Co., in determining the market value of the New York Bay R. R. Co. lands. These sales were of back-lands at \$15,000 an Acre, and not nearly as valuable as the average valuation of the lands with which they were compared, but they were most helpful, one being a sale of the back-land of the New York Bay R. R. Co. property, here under consideration.

They used the sales of the Leary and Blair Tracts to the Lehigh Valley Harbor Terminal Railway Co. in arriving at the market value of these tracts. These sales were in 1916 and showed an average valuation of \$7,000 an Acre then, which is more than the State Board's judgment here under review.

They used the Curry sale, the New York Bay R. R. Co. sale, and the sale of the Central R. R. property at Port Johnson on the Kill von Kull, Bayonne, in establishing the market value on the assessing date, of Lot 22-J in Block 2154 of the Central R. R. Co. of N. J.; and so on, in respect to each tract of land of the respective Appellants, a sale of substantially similar property may be gleaned from the testimony produced on behalf of Jersey City to support the State Board's judgment.

On this point the Court below said (Lehigh Valley Cases, p. 231):

“The City produced two expert witnesses who supported the valuations fixed by the local assessors which the State Board sustained and which is the matter under review. The Prosecutors urged that the testimony is not to be credited because not

based on sales of property of similar character. We can understand the difficulty of fixing values of property of this description, for little of it is sold owing to the fact that it is located in the harbor of New York, and is held by railroad and steamship corporations which seldom part with such property once acquired, because of lack of quantity of such land, and its urgent necessity to such corporations, but there was proof of some sales in the vicinity, perhaps in a better location, but its relative value in the market to the purchasers of that class is some criterion of the value of like property, not, perhaps, quite as advantageously located, and we cannot say that the reason given by experts is based on any false premise insufficient to support their opinions. It cannot properly be said that because no property of this character has been sold in the neighborhood that it has no taxable value, and how, in the absence of actual sales, can it be better demonstrated than by the testimony of persons who are well acquainted with its location, and the use to which it can be put, and who are familiar with all property of like character fronting on the Hudson River and Bays connected therewith and adjacent to the largest maritime city in the country*****."

In *Benham vs. Dunbar*, 103 Mass. 365, the issue was the value of a lot of low land and flats on an island in Boston harbor. Evidence was admitted by the trial court of the price of lands sold at different times, from eight years to one year before,

on islands and headlands in the harbor, from half a mile to six miles distant.

On review of the admissibility of this evidence, the highest court of Massachusetts said (pp. 368, 369):

“Much must be left to the discretion of the judge who presides at the trial, in determining whether the lands, sales of which were admitted in evidence, were so similar in situation, and adaptation to profitable occupation, and the sales of them so recent, as to make such sales evidence proper to be submitted to the jury.

“It certainly does not appear from the facts stated in these exceptions, that the lands upon other islands and head lands in Boston harbor were at such distances, or devoted to such dissimilar uses, or that the sales testified of were so remote in point of time, that the evidence became irrelevant or immaterial to the issue. It may be that there were no sales more recent to be shown. The rule must vary with the circumstances of each case. If the value of a town lot was in question, it is plain that the evidence should be confined to sales of comparatively recent date and of land in the near vicinity. If it was wild land, in a thinly settled part of the country, a more liberal rule would be applicable. Without some further evidence, we cannot suppose that the changes in the title to real estate in the islands and headlands of the harbor are so frequent, or the difference in situation and value so great, as to render the evidence here objected to inadmissible.”

Further answering the contention of Appellants that the valuations of their lands were based upon a false premise by the State Board because the City's experts used the selling prices of properties which were dissimilar in location and condition to the lands involved in these appeals to arrive at their value, the case of *Long Dock Company vs. State Board of Assessors*, 89 N. J. L. 108 is cited by Respondents. In that case the Prosecutor contended that the valuation of its lands had been based illegally in whole or part by the State Board on the value of other land not similarly situated and on the selling prices of lands in the neighborhood not similar as to conditions. Mr. Justice Parker, speaking for the Court, said (p. 112):

"We fail to see why, for purposes of comparison, all the land in lower Jersey City and Hoboken should not be considered. It is impossible to secure identical conditions. What is looked for is substantially similar conditions. There is at least enough similarity along this water front to justify a comparison of values."

On affirmance by this Court (90 N. J. 701, 702, 703), it was said:

"Legal questions were first dealt with in the opinion of Mr. Justice Parker in the Court below, so as to lay a foundation for the consideration of the facts, and those questions were, in our opinion, rightfully decided. As there was evidence to support the finding of facts made by the Supreme Court, that finding is not reviewable in this Court."

In contradistinction with the decisive and convincing opinions of the City's experts, the Appellants' witnesses did not use a single sale, a fact or reason to support their opinions. They disregarded the International Elevator Co. sale, the Cunard sale, the Curry sale, the New York Bay R. R. Co. sale, the Leary sale, the Blair sale, the Central R. R. sale, and the other sales set forth under Point III, hereof, and testified that there had not been a sale of shore-front property in Jersey City in the past 10 years which, in their judgment, evidenced its market value, although all of the above sales were made in the past 5 years. They testified to the same valuations in 1921 that they used in 1917; in fact, they made up their figures then and have not changed them (L. V. Case, p. 149). These figures are millions of dollars less than the State Board's judgments for 1919, and yet Counsel for Appellants (Penn. Case) argues that Railroad Companies no longer attempt to get the valuations of their properties as low as possible for the purpose of taxation, but now insist that their properties shall be assessed at their full value, because they fear that the Government may take their properties away from them on the valuations testified to by their experts in Tax Cases. These Appellants, as well as their Counsel, know that real estate experts for Railroad Companies, have one valuation for their properties when appearing before Taxing Boards (which is ridiculously low, as evidenced by their testimony in these cases), and another valuation when appearing before the Interstate Commerce Commission or other rate-fixing bodies. There is no probability of Government ownership of Railroads for many years to come. Obviously, this Court will not consider seriously this contention of Appellants or their Counsel. The question to

be decided on these appeals is what was the true value of Appellants' lands on October 1st, 1919, based on sales of comparable or substantially similar properties and the opinion of the experts as to value as shown by the testimony and not the motives or incentives of the parties litigant as to their respective valuations.

The Court below said (Lehigh Valley Cases, p. 231):

“The experts were qualified and the opinions they gave are based on facts with which the Board had to deal. We think the facts found by the Board are supported by evidence.”

Conclusion

Respondents in conclusion contend that there are no legal questions involved and that these appeals are without merit:

(1) *Because the evidential facts as to the value of Appellants' lands have been passed upon by the Hudson County Board of Taxation, the State Board of Taxes and Assessment and the New Jersey Supreme Court, each sustaining the City's Assessment;*

(2) *Because Appellants contend for the valuations of the State Board for the year 1919, in respect to these lands, without offering any evidence to show that the assessed valuations for the year 1920 should be reduced to those amounts;*

(3) *Because Appellants' witnesses testified to valuations of these lands, millions of dollars less than the State Board's judgments for the year 1919 (which judgments Appellants contend should be the valuations for 1920), using neither sales, facts nor reasons to support their valua-*

tions which were, in many instances, only half the amount of the State Board's judgments for the year 1919;

(4) *Because the judgments of the State Board fixing its values of these lands for 1919 are of no probative force or effect in determining the valuations for 1920;*

(5) *Because the Assessments of these lands for 1920 are supported and sustained by the opinions of the City's experts, which are based on sales, facts and reasons;*

(6) *Because the Assessments of these lands for 1920 are supported and sustained by the sales, alone, of comparable or substantially similar properties.*

(7) *Because the finding of facts made by the Supreme Court is conclusive.*

It is, therefore, respectfully submitted that the respective judgments of the Court below be affirmed.

EDWARD P. STOUT,
Counsel for Respondents.



