

# RAILROAD TAXATION IN COURT

## Full Stenographic Report of Hearing in Mandamus Case by Nebraska Supreme Court--Part II.

After the supreme court had announced its intention of hearing the evidence, the proceedings were as follows:  
Mr. Harrington--The returns now offer in evidence the return to the alternative writ filed in this court May 26, 1902, known as the original answer.  
Mr. Prout--That a part of the files of this court, and of course it does not need to be introduced.  
Chief Justice Sullivan--Of course it is superseded by the other.  
Mr. Harrington--Yes, your honor. Same was received in evidence. The Charles Weston, being first duly sworn, testified as follows, examined by Mr. Simeral:

Q--State your name, please, and your official position. A--Charles Weston, auditor of public accounts of the state of Nebraska.  
Q--You have been auditor for how long? A--Since the 3d of January, 1901.  
Q--I will ask you if you have the official files provided for by sections 29 and 40 of the Nebraska revenue law, made by the railroads and electric companies, and sleeping car companies that are operating in this state? A--I have; yes, sir.

Mr. Weston also identified assessment returns of the St. Joseph & Grand Island (marked exhibit 2); exhibit 3, of the Kansas City & Omaha Railroad company for 1902; exhibit 4, the return made by the Chicago, St. Paul, Minneapolis & Omaha Railway company for 1902; exhibit 5, for the Chicago, Rock Island & Pacific Railroad company for 1902; exhibit 6, for the Missouri, Pacific Railroad company for 1902; exhibit 7, for the Union Pacific Railroad company for 1902; exhibit 8, for the Omaha & Republican Valley branch of the Union Pacific Railway company for 1902; exhibit 9, for the Chicago & North Western Railway company for 1902; exhibit 10, for the Wyoming Valley & Republican Valley Railroad company, the Republican Valley Railroad company, the Oxford & Kansas Railroad company, the Omaha & Northwestern Railroad company, the Omaha & North Platte Railroad company, the Nebraska Railway company, the Lincoln & Northwestern Railroad company, the Lincoln & Black Hills Railroad company, the Grand Island, Wyoming & Central Railroad company, the Chicago, Kansas & Nebraska Railroad company, the Atchison & Nebraska Railroad company and the Burlington & Missouri River Railroad company, for 1902; exhibit 11, for the Fremont, Elkhorn & Missouri Valley Railroad company, for 1902; exhibit 12, for the Postal Telegraph company, exhibit 13, for the Western Union Telegraph company, exhibit 14, for the Pullman company, exhibit 15, for the Kearney & Black Hills branch of the Union Pacific Railroad company; exhibit 16, showing the schedule of property belonging to the Union Pacific Railroad company; exhibit 17, showing the schedule of property, earnings and operating expenses of the Union Pacific Railroad company, filed May 5, 1902; exhibit 18, showing mileage, capital stock, earnings and operating expenses of the Kansas City & Omaha Railroad company, filed June 19, 1902; exhibit 19, filed January 31, 1902, for the St. Joseph & Grand Island Railroad company; exhibit 20, filed January 15, 1902, being the report of the board of directors of the Fremont, Elkhorn & Missouri Valley Railroad company and the report of the board of directors of the Chicago & North Western Railroad company, and also that of the St. Joseph & Grand Island Railroad company; exhibit 21, showing a statement of the Pacific Railroad company in Nebraska; exhibit 22, filed by the Missouri Pacific Railroad company, dated June 2, 1902; exhibit 23, for the Chicago, Rock Island & Pacific Railroad company, filed March 5, 1902; exhibit 24, for the Chicago, St. Paul, Minneapolis & Omaha railroad, filed May 27, 1902; exhibit 25, for St. Joseph & Grand Island Railroad company, filed March 11, 1902; exhibit 26, a letter to the board filed during the setting of the board; exhibit 27, for the St. Joseph & Grand Island Railroad company and also the Kansas City & Omaha Railroad company, filed February 9, 1902; exhibit 28, for the Fremont, Elkhorn & Missouri Valley Railroad company, filed January 31, 1902; exhibit 29, the forty-seventh annual report of the board of directors of the Chicago, Burlington & Quincy Railroad company and the letters filed to it, filed May 23, 1902; exhibit 30, a document addressed to the board of Equalization of the state of Nebraska and signed and sworn to by Edward Rosewater, filed May 14, 1902, being a protest made by Mr. Rosewater two days before the assessment requesting the board to assess the property and franchise of the various roads; exhibit 31, 32 and 33, documents filed by Mr. Rosewater at the same time.

Mr. How--Did you not receive a letter addressed to the board from Mr. Harrington, the relator, with relation to the assessing of railroad property for this year prior to the setting of the board? A--I believe the governor received such a letter and read it to the board.  
Mr. Simeral--Q--Mr. Weston, the assessment was made the 15th of May? A--That was the date of the final adjournment of the board; yes, sir.  
Q--Had you made your assessment prior to that time or at that time? A--We made it at that time.

Q--Now, handing you a book, being a report, I will ask you to state what this book is. A--It is a record of the assessment of the various railroads in the state, showing the distribution to the different counties in the state through which each railroad runs.  
Q--Now, state what is the total amount of the railroad assessment for the year 1902. A--\$2,589,592.70.  
Q--I will ask you to state how many

miles of railroad there were in the state reported to you? A--\$5,793.32 miles.  
Q--Do you know how many miles of sidetrack there were? A--I do not remember now, no, sir.  
(Book marked exhibit 34.)  
Mr. Simeral--The relator offers in evidence all of exhibits 1 to 34, inclusive. No objection. Received in evidence.  
Q--Have you the assessment for 1901? A--Yes, sir; I found it.  
Q--On what page is that? A--Page 108.  
Q--I will ask you to state what the number of miles of railroad assessed for that year was.  
Mr. Prout--The respondents object to that as irrelevant, incompetent and immaterial.  
Chief Justice Sullivan--Without finally deciding that question, we will read the evidence, on the theory that fraud is an issue.  
A--\$5,793.32 miles.  
Q--And state the valuation or assessed valuation of 1901? A--\$26,425,732.30.  
Q--I will ask you to state if this book is one of the official records of your office? A--It is.  
Q--And it shows the assessment for how many years back? A--Since and including 1895.  
Q--Since and including 1900? A--Yes, sir.  
Q--Have you the books showing the same tax prior to that in your office? A--Yes, sir.  
Q--And have you got them here? A--I have them in my office.  
Q--Will you produce those? A--Yes, sir, I have the book here showing the assessment for 1874.  
Mr. Harrington--We will make an offer here formally; it will be a matter about which there is no dispute, of the assessments of 1874, 1882, 1890, 1892 and 1900.  
Mr. Prout--We object to that as incompetent, irrelevant and immaterial. (Overruled. Received in evidence.)  
Q--Handing you exhibit 35, I will ask you to state if that document was on file in your office showing the ratio of assessment of property in the various counties of the state for the year 1902? A--It is a partial compilation made from reports, I will say from county clerks, I received from county clerks, of the various counties, in regard to the results of the assessors' meetings, held on the third Tuesday in March.  
Q--And when did you receive these letters? A--I will write the county clerks soon after the meetings of the assessors and received these letters in reply.  
Q--And this is a compilation made from those letters? A--A partial compilation of those letters.  
Q--And was made for the purpose of what? A--As a basis? A--As a matter of information.  
Q--As a matter of information in assessing railroad properties and others? A--Yes, sir.  
Q--Did you make an estimate of the ratio of the assessment of this year over the last? A--You mean the aggregate assessment?  
Q--Yes, sir. A--No, sir, I did not.  
Q--Who was it made in your office?  
Q--Kathy, that is objected to as incompetent, irrelevant and immaterial, and it has not been shown there is any increase.  
Chief Justice Sullivan--Technically, I think the objection is good.  
Q--Now, I will ask you to state, Mr. Weston, if you had Poor's Manual in your possession in the office of the board, at the time that these assessments were made? A--It was sent for by the governor during the sitting of the board and was consulted by him once.  
Q--You had it there? A--We had it there, but I never consulted it myself.  
Mr. Simeral--The relator offers in evidence Poor's Manual for 1901, it being the fourth annual report.  
Mr. Prout--To which the respondents object as incompetent, irrelevant and immaterial.  
Chief Justice Sullivan--I think it may be received.  
Q--Now, I will ask you to state, Mr. Weston, if these letters which I handed you bound in letter index No. 15, are the ones that were written to you by the various county clerks throughout the state and of which this exhibit 35 is a compilation? A--Yes, sir.  
Mr. Simeral--The relator offers in evidence exhibit 36, being the bound volume containing letters referred to in the last question, together with the letters. (No objection. Received in evidence.)  
Q--Mr. Weston, were there any other documents besides these that you have brought into court filed with you or used by you in reference to the assessment of railroad property this year? A--There were some compilation of figures furnished by the different railroad companies--by the tax commissioner of the different railroad companies.  
Q--And have you those in your possession? A--I believe they are in my desk; yes, sir.  
Q--Will you be kind enough to bring them in? A--Yes, sir.  
Q--Now, was anything more that you had before you as a Board of Equalization this year, documents or anything of that kind, that have not been produced here? A--Why, we consulted the property schedule for one or two years prior to the return for the year 1902.  
Q--Property schedules of what? A--Of the railroads, similar to those that are introduced.  
Q--Mr. Weston, in making your estimate of the valuation of other property the railroads did you take into consideration the city assessment for Omaha, St. Joseph and Lincoln? A--You mean the separate assessments that was made for city purposes? No, sir; we did not.  
Q--Did you have any returns showing that? A--No, sir; we did not.  
Q--Do you know what is the percentage of assessment in Omaha? A--I do not.  
Q--Do you know what it is in Lincoln? A--I do not.  
Q--These papers that you have testified to and that have been offered in evidence as exhibits, do they bear filing marks of your office, the most of them? A--Most of them do, yes, sir.  
Q--And were received at the time they were filed? A--Yes, sir.  
Cross-examination by Mr. Baldwin:  
Q--Mr. Weston, what was the standard of valuation which you used in valuing the property of railroads for assessment purposes? A--Do you mean the ratio?  
Q--The ratio.  
Mr. Simeral--We object to that as improper cross-examination.  
Chief Justice Sullivan--Objection sustained.  
Q--Mr. Weston, did you fix any standard of valuation or ratio for assessment purposes?  
Mr. Simeral--Objected to as incompetent and not proper cross-examination.  
Chief Justice Sullivan--Overruled.  
A--Approximately, we did.  
Q--What was it?  
Mr. Simeral--Objected to as improper cross-examination.  
Chief Justice Sullivan--Objection overruled.

By consulting the returns that we received from the counties and also the grand assessment rolls of previous years.  
Q--What were the returns you particularly refer to? A--The returns that were sent to me from county clerks as the probable action of the assessors in the different counties and also from a comparison of those returns, with the action of assessors in previous years in assessing different species of property throughout the state.  
Q--What was the result of this investigation and the information which you had received from these comparisons?  
Mr. Simeral--We object to that as incompetent and improper cross-examination.  
Chief Justice Sullivan--Objection sustained.  
Q--In the formation of your judgment, Mr. Weston, as a member of the board, did you take into consideration that these railroads that you assessed were actively engaged in the business of operating railroads?  
Mr. How--That is objected to as incompetent and not proper cross-examination.  
Chief Justice Sullivan--Objection overruled.  
Q--Did you consult and consider the records of not only this year, but prior years, with reference to the returns made of the earnings of the different railroads?  
Mr. Simeral--That is objected to as incompetent and not proper cross-examination.  
Chief Justice Sullivan--Objection overruled.  
A--We did.  
Q--Were there any different persons appearing before the board at the time you were considering the question of assessments, making arguments or statements?  
Mr. Simeral--That is objected to as not proper cross-examination.  
Chief Justice Sullivan--Objection overruled.  
A--There were.  
Q--Did Mr. Rosewater appear before the board? A--He did.  
Q--Mr. Weston, I will ask you to examine that paper, which is marked exhibit 35. Have you examined it? A--I have.  
Q--Do you recall these statements that are contained therein as made before the board? A--Yes, sir, that is my recollection of the conversation at that time when myself and Mr. Rosewater and between Mr. Rosewater and the governor.  
Q--Mr. Weston, have you received these statements that were filed? A--Those that Mr. Simeral spoke of?  
Q--Yes, sir. A--Yes, sir.  
Q--Did you have any objection to this exhibit 35, but generally object that it is not proper cross-examination and incompetent.  
Chief Justice Sullivan--It may be received.  
Q--Mr. Weston, your attention was called to exhibit No. 40, offered by the relator, which was a statement of Mr. Scribner, the tax commissioner of the state of Nebraska, I do not now recall whether you said that was filed or not. Was it filed? A--It does not contain the filing mark of the office, but it was left with me and has been on my desk.  
Q--Was it before the assessment was made? Did you have it before you made the assessment? A--Yes, sir, before the assessment was made a copy of this was handed, I think, to every member of the board.  
Q--For the purpose of refreshing your memory, Mr. Weston, I would ask you if it is not a fact that at the time of that hearing Mr. Scribner, from this paper marked exhibit 40, read in full that part of this paper which contained the evidence of the Union Pacific Railroad company, his evidence being given in what was called the penalty suit of cost of reproduction of the Union Pacific railroad at about that time, 1901?  
A--It is my recollection in full. A--Yes, sir.  
Q--From this statement to the board? A--Yes, sir.  
Q--Also at the time of that hearing, when Mr. Scribner was present, did he read to you the statement of the Union Pacific Railroad company, and the Oregon Short Line and Oregon Railway and Navigation company? For the purpose of refreshing your memory, I would like to ask you to examine this exhibit 14. A--I cannot state positively in regard to that, but my recollection is that he did.  
Q--Refreshing your recollection again--Mr. Harrington--You may offer it, Mr. Baldwin.  
Mr. Baldwin--Then I offer it as a part of the cross-examination.  
Mr. Harrington--We will agree that the annual report of the Union Pacific can be offered in full.  
Mr. Baldwin--I don't know as we have any objection to that. We will offer in evidence exhibit No. 41. (No objection. Received in evidence.)  
Mr. White--Mr. Weston, in valuing the property of the different railroads you considered the schedules, did you, that were left with the board for consideration by the representatives of the different roads?  
Q--I don't understand exactly what you mean by a schedule.  
Q--The schedules required by section 29. A--Oh, yes, sir, we did.  
Q--And you had before you testimony and information given orally by representatives of the different roads? A--Yes, sir.  
Q--Mr. Grandon, the representative of the Elkhorn, and also Mr. Bidwell, its general manager, appeared before you, did they not? A--Yes, sir.  
Q--And you received information from them concerning the value of the Elkhorn line, did you not? A--Orally, yes, sir.  
Q--What was the information with respect to the cost of reproduction of that road?  
Mr. Simeral--That is objected to as incompetent and not proper cross-examination.  
Chief Justice Sullivan--Overruled.  
A--It was stated by Mr. Bidwell to be nineteen thousand and some hundreds of dollars; I can't give it exactly.  
Q--That was with reference to the whole road? A--Yes, sir; per mile.  
Q--And its rolling stock and roadbed?  
A--Rolling stock and roadbed, yes, sir.  
Q--Now, were there any representations in regard to the fact that physically it terminated at certain points in Wyoming and South Dakota?  
Mr. Simeral--Objected to as incompetent and not proper cross-examination.  
Chief Justice Sullivan--Overruled.  
Q--Was there a statement further that it did not participate in transcontinental traffic? A--I think that was included in Mr. Bidwell's statement.  
Q--Did you have any testimony before you, or any information before you, relative to the earnings of the Elkhorn company for different years prior to and including 1901? A--We consulted the returns that were for the year 1901 and also the earnings of the company as contained in the annual reports or the biennial reports of the auditor. I think we consulted Mr. Cornell's last biennial report; I think that was the only one, and different reports that the railroads made subsequently.  
Q--Was the information before you that for at least three years, 1896, 1898 and 1897, that the Elkhorn road had been operated at a loss? A--No, sir, I don't remember that.  
Q--Was not there some years in which there were deficits? Was that considered by you? A--We did not look far enough back to find that, I do not think; that is my recollection.  
Q--Was that called to your attention at all; that it was operated at a loss? A--I think the fact was mentioned by Mr. Bidwell with reference to some prior years.  
Q--Yes, sir, that is what I meant. A--Yes, sir, but that is all.  
Q--Did you not have a document before you which was prepared by Mr. Whitney, showing the sales of real property in different counties, and showing what the property had been assessed for? A--Yes, sir, I did.  
Q--That document among the documents that have been offered in evidence here? A--No, sir, it is not.  
Q--Do you know where that is? A--I do not.  
Q--But you had such a document? A--I had such a document; it disappeared from my desk and I don't know where it is.  
Q--You do not know where it is? A--No, sir.  
Q--Well, it was from that document, with other documents and the other evidence which you arrived finally at the conclusion as to what the assessment of the various railroads in the state of Nebraska should be for the purposes of taxation?  
A--Yes, sir, together with a general knowledge of the situation in the state.  
Q--General knowledge of what assessments had been and were? A--Yes, sir.  
Q--Direct examination, Mr. Harrington--Calling your attention to the statement purporting to be dated in April, and made on behalf of the Burlington company, Mr. Weston, as a matter of fact was that ever placed in your hands until after the assessments were made? A--Yes, sir; my recollection is that we had that prior to the meeting of the board.  
Q--Was that prepared after Mr. Rosewater made his argument, some days? A--No, sir, I think not.  
Q--Now, sir, you say you took into consideration the stock and bond of the Union Pacific, do you? A--No, sir, I did not say that.  
Q--What did you say with reference to stocks and bonds? A--I don't think the records show that I made any statement as to stocks and bonds.  
Q--Did you not, did you not, ascertain the value of the Union Pacific per mile?  
A--So far as the tangible property is concerned, we attempted to do that.  
Q--Only the tangible property? A--That was my understanding at that time, but I have no specific objection to that. Mr. Berry gave in the penalty case in the federal court as to the cost of reproducing the Union Pacific railroad? A--I don't think, as a matter of fact, that we paid very much attention to that estimate.  
Q--Mr. Berry, did you not attempt to value in any respect with reference to the Union Pacific railroad was the tangible property of the corporation? A--That was our view of the matter, yes, sir.  
Q--You did not assess or did not attempt to assess or value the franchise or intangible property of the corporation? A--No, sir.  
Q--You never took into consideration its contract with the Rock Island or Milwaukee for the use of the Union Pacific bridge? A--I knew nothing about that.  
Q--Mr. Berry, did you not show that those contracts existed? A--I overlooked it.  
Q--Did you take into consideration the fact that it was owner of stock in the Union Pacific Land company to the amount of \$10,000,000? A--No, sir, we did not.  
Q--Did you take into consideration the fact that a depot was built in Omaha several years ago by the Burlington, but how much it cost I am unable to say and have no knowledge of the fact at the present time.  
Q--To what corporation did you figure that depot belonged? A--My recollection is that it belongs to the Omaha & Southwestern; I think that is the name of the corporation.  
Q--Did you add to the value of the road for the depot and the cost of the road? That was included in the assessment of the valuation of the Omaha & Southwestern.  
Q--Don't you know for that depot and terminals alone that it would require you to Omaha more of a valuation than you did for the whole road? A--No, sir.  
Q--How long is that Omaha & Southwestern railroad? A--Well, I can't state now. The record there shows.  
Q--Only fifty miles? A--I don't know.  
Q--How long is that county is it? A--The records there show. A--No, sir.  
Q--You don't remember? A--No, sir, I don't remember. The records show.  
Q--Did you estimate or did you know that the terminals of the Omaha & Southwestern would make \$30,000 a mile for the Omaha & Southwestern? A--No, sir.  
Q--How about the Union Pacific terminals? What did you allow for those? A--They were estimated in the aggregate value of the road, but what it was now I can't state.  
Q--Now find out for us what you estimated the value of the Union Pacific terminals of Omaha to be? A--I cannot do it now because I haven't the figures.  
Q--Well, the whole matter is here, isn't it? A--No, sir; the whole matter is not there.  
Q--Well, what other information have you? A--All the information we had is what is there, I suppose.  
Q--Did you know what you were told us at what you valued the Union Pacific terminals at Omaha? A--I can't do that now.  
Q--Cannot you find out from this information here? A--No, sir; not from this information.  
Q--Where is the information from which you can find out? A--When we were making an estimate of the value of this property we used a great many figures and memoranda that are not now preserved. The records that are simply a statement of the amount of the property, but what valuation we put upon each item of property included in that statement I cannot say now.  
Q--Did you make any estimate, generally speaking, of the terminals in Omaha? A--I will say in regard to that matter that we did not estimate the matter out closely; that we were largely guided in making that assessment by the assessments of previous years.  
Q--You didn't take into consideration the fact that those terminals today, owing to the increased population of the state, had greatly increased in value? A--No, sir, we didn't look at it in that way.  
Q--Did you know that the terminals in Omaha are worth today more than \$10,000,000? A--I didn't know it.  
Q--And you didn't try to get that information before exercising your duties as a member of this board? A--I didn't know it at the time; no, sir.  
Q--How do you distribute the terminals,

of the Burlington railroad at Omaha? A--The value was added, of course, to the aggregate of value and divided by the number of miles in the road and certified to the counties according to the number of miles in each county.  
Q--Now, if you added the Omaha terminals to the Omaha & Southwestern, which is only fifty miles long, and made a valuation of \$6,000 a mile, how do you explain if you took all the terminals in that you assessed that part of the road from Plattsmouth to Kearney at \$10,530 a mile without any terminals of that character? A--There is vast amount of business done over that stretch of road--over the main line of the Burlington.  
Q--More than there is into Omaha? A--I do not pretend to say that.  
Q--The equipment all belongs to the Burlington, doesn't it? A--Yes, sir.  
Q--Now, if you look back over prior years, didn't you find that the Omaha & Southwestern was assessed at more than \$6,000 a mile before they ever built that depot or made those extensive improvements down there? A--I have no recollection of it now.  
Q--You didn't find it worth \$6,500 a mile in 1897? A--No, I didn't find it. I didn't look at it to see what it was assessed at in 1897.  
Q--Do you know when that depot was built? A--No, I can't say positively. A number of years ago, though.  
Q--How long ago do you think? A--Well, my estimate is it is five or six years ago.  
Q--In 1897 or 1898? A--Somewhere along there, I suppose.  
Q--Did you know what you paid per mile the Chicago, Burlington & Quincy is bonded? A--I cannot.  
Q--Can you tell us how much per mile it is stocked? A--I cannot.  
Q--Can you tell us what its stock is worth? A--I cannot.  
Q--Can you tell us what its bonds are worth--its 3 1/2 per cent bonds? A--No, sir, I cannot.  
Q--Do you know what its 7 per cent bonds are worth? A--No, sir.  
Q--Did you know to learn as to whether the Chicago, Burlington & Quincy stock had all been sold and disposed of in the market and at a fixed value? A--No, sir; I did not.  
Q--You don't know now what the value of that stock is, do you? A--I do not know, no, sir.  
Q--You did not know when you made the assessment of these different defunct corporations, known as the Burlington now, that was operating a considerable amount of railroad; I did not figure it up to know just how much it was.  
Q--Did you assess any property in Nebraska against the Chicago, Burlington & Quincy railroad? A--No, sir, we did not; that was not our idea at that time.  
Q--You did not assess any amount or any property up to the Chicago, Burlington & Quincy railroad at all? A--Any property? Q--Yes, sir. A--To the Chicago, Burlington & Quincy.  
Q--To what? A--No, sir, I think not.  
Q--You simply took these defunct corporations that have not done any business in the state for years and assessed it in their names? A--We made the assessments under the names that the returns were made to us.  
Q--Now, as a matter of fact, you know that all of this system was being operated by the Chicago, Burlington & Quincy railroad, didn't you? A--I knew that, yes, sir.  
Q--Did you, at the time you made this assessment, have any statement from the Chicago, Burlington & Quincy railroad as to the amount of its stock and bonds? A--I think that statement was filed with us before the time the board adjourned.  
Q--Wasn't it filed after the board adjourned and after this suit was filed here? A--I can't say positively.  
Q--Now the statement of the Chicago, Burlington & Quincy railroad was filed on the 23d of May, wasn't it? A--I apparently was from that mark, yes, sir. I don't remember positively when it was filed. I know it wasn't filed at the time the other reports were filed and I asked Mr. Pollard, the tax commissioner of the Burlington Railroad company, specially for it.  
Q--Did you know that during the past two or three years all the stock had been bought by the Burlington in Omaha that cost several hundred thousand dollars? Mr. Kelly--Objected as assumed the cost of the building. (Overruled.)  
Q--I have had general knowledge of the fact that a depot was built in Omaha several years ago by the Burlington, but how much it cost I am unable to say and have no knowledge of the fact at the present time.  
Q--To what corporation did you figure that depot belonged? A--My recollection is that it belongs to the Omaha & Southwestern; I think that is the name of the corporation.  
Q--Did you add to the value of the road for the depot and the cost of the road? That was included in the assessment of the valuation of the Omaha & Southwestern.  
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Q--More than there is into Omaha? A--I do not pretend to say that.  
Q--The equipment all belongs to the Burlington, doesn't it? A--Yes, sir.  
Q--Now, if you look back over prior years, didn't you find that the Omaha & Southwestern was assessed at more than \$6,000 a mile before they ever built that depot or made those extensive improvements down there? A--I have no recollection of it now.  
Q--You didn't find it worth \$6,500 a mile in 1897? A--No, I didn't find it. I didn't look at it to see what it was assessed at in 1897.  
Q--Do you know when that depot was built? A--No, I can't say positively. A number of years ago, though.  
Q--How long ago do you think? A--Well, my estimate is it is five or six years ago.  
Q--In 1897 or 1898? A--Somewhere along there, I suppose.  
Q--Did you know what you paid per mile the Chicago, Burlington & Quincy is bonded? A--I cannot.  
Q--Can you tell us how much per mile it is stocked? A--I cannot.  
Q--Can you tell us what its stock is worth? A--I cannot.  
Q--Can you tell us what its bonds are worth--its 3 1/2 per cent bonds? A--No, sir, I cannot.  
Q--Do you know what its 7 per cent bonds are worth? A--No, sir.  
Q--Did you know to learn as to whether the Chicago, Burlington & Quincy stock had all been sold and disposed of in the market and at a fixed value? A--No, sir; I did not.  
Q--You don't know now what the value of that stock is, do you? A--I do not know, no, sir.  
Q--You did not know when you made the assessment of these different defunct corporations, known as the Burlington now, that was operating a considerable amount of railroad; I did not figure it up to know just how much it was.  
Q--Did you assess any property in Nebraska against the Chicago, Burlington & Quincy railroad? A--No, sir, we did not; that was not our idea at that time.  
Q--You did not assess any amount or any property up to the Chicago, Burlington & Quincy railroad at all? A--Any property? Q--Yes, sir. A--To the Chicago, Burlington & Quincy.  
Q--To what? A--No, sir, I think not.  
Q--You simply took these defunct corporations that have not done any business in the state for years and assessed it in their names? A--We made the assessments under the names that the returns were made to us.  
Q--Now, as a matter of fact, you know that all of this system was being operated by the Chicago, Burlington & Quincy railroad, didn't you? A--I knew that, yes, sir.  
Q--Did you, at the time you made this assessment, have any statement from the Chicago, Burlington & Quincy railroad as to the amount of its stock and bonds? A--I think that statement was filed with us before the time the board adjourned.  
Q--Wasn't it filed after the board adjourned and after this suit was filed here? A--I can't say positively.  
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Q--Did you know that during the past two or three years all the stock had been bought by the Burlington in Omaha that cost several hundred thousand dollars? Mr. Kelly--Objected as assumed the cost of the building. (Overruled.)  
Q--I have had general knowledge of the fact that a depot was built in Omaha several years ago by the Burlington, but how much it cost I am unable to say and have no knowledge of the fact at the present time.  
Q--To what corporation did you figure that depot belonged? A--My recollection is that it belongs to the Omaha & Southwestern; I think that is the name of the corporation.  
Q--Did you add to the value of the road for the depot and the cost of the road? That was included in the assessment of the valuation of the Omaha & Southwestern.  
Q--Don't you know for that depot and terminals alone that it would require you to Omaha more of a valuation than you did for the whole road? A--No, sir.  
Q--How long is that Omaha & Southwestern railroad? A--Well, I can't state now. The record there shows.  
Q--Only fifty miles? A--I don't know.  
Q--How long is that county is it? A--The records there show. A--No, sir.  
Q--You don't remember? A--No, sir, I don't remember. The records show.  
Q--Did you estimate or did you know that the terminals of the Omaha & Southwestern would make \$30,000 a mile for the Omaha & Southwestern? A--No, sir.  
Q--How about the Union Pacific terminals? What did you allow for those? A--They were estimated in the aggregate value of the road, but what it was now I can't state.  
Q--Now find out for us what you estimated the value of the Union Pacific terminals of Omaha to be? A--I cannot do it now because I haven't the figures.  
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Q--Did you make any estimate, generally speaking, of the terminals in Omaha? A--I will say in regard to that matter that we did not estimate the matter out closely; that we were largely guided in making that assessment by the assessments of previous years.  
Q--You didn't take into consideration the fact that those terminals today, owing to the increased population of the state, had greatly increased in value? A--No, sir, we didn't look at it in that way.  
Q--Did you know that the terminals in Omaha are worth today more than \$10,000,000? A--I didn't know it.  
Q--And you didn't try to get that information before exercising your duties as a member of this board? A--I didn't know it at the time; no, sir.  
Q--How do you distribute the terminals,

of the Burlington railroad at Omaha? A--The value was added, of course, to the aggregate of value and divided by the number of miles in the road and certified to the counties according to the number of miles in each county.  
Q--Now, if you added the Omaha terminals to the Omaha & Southwestern, which is only fifty miles long, and made a valuation of \$6,000 a mile, how do you explain if you took all the terminals in that you assessed that part of the road from Plattsmouth to Kearney at \$10,530 a mile without any terminals of that character? A--There is vast amount of business done over that stretch of road--over the main line of the Burlington.  
Q--More than there is into Omaha? A--I do not pretend to say that.  
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