

RAILROAD TAXATION IN SUPREME COURT--Part IV.

Following is the cross-examination of Mr. Edward Rosewater, which was conducted by Mr. Baldwin:

Q—You speak of these terminal facilities in general terms. I wish you would tell the court what additional terminal facilities the Union Pacific has now that it did not have five years ago, or three years ago, or four years ago? A—It has a very large amount of trackage. It has rebuilt, resurfaced, regraded and raised a large part of its depot ground at Omaha, hundreds of acres of it, and changed materially the facilities of both passenger and freight business, separated the freight from the passenger tracks. In the former depot—we used to call it the cowshed—the freight and everything passed through under that shed. Now they have entirely separated and fenced in the new property; they have graded it and improved it and spent hundreds of thousands of dollars in construction and in buildings, and further, if I recollect, there was a so-called Union Depot company, a corporation that owned these facilities before.

Q—Now, will you please excuse my interruption, but I would like to have you definitely state how much more trackage, for instance, and what additional terminal facilities the Union Pacific has now, outside of the new passenger depot, over five, four, three or two years ago? A—They have filled in and spent—I don't know how much, as I am not an engineer.

Q—What are you speaking of, grading? A—Yes, sir. They have regraded and raised the entire ground, or a very large portion of it, and laid entirely new track, and resurfaced it with Wyoming granite, and I think they have a double track now toward the bridge, where I think they had only a single one, and there is a great deal more trackage there now all around in connection with the Union Pacific facilities than what there formerly was.

Q—Wasn't the raising or filling and grading for the convenience and safety of the people of Omaha? A—Oh, yes.

Q—Didn't the Union Pacific, together with the Burlington, for the purpose of convenience and safety, in raising these grades build a viaduct and subways at Twenty-fourth street and Sixteenth street and the boulevard, at an expense of hundreds of thousands of dollars? A—Build the viaduct for the benefit of the city? They are for the protection of the railroad a great deal more to prevent them having damage suits than they are for the benefit of the city.

Q—Then you think it was simply a commercial matter with the railroad and not, so far as the city is concerned, for the benefit of the city? A—They were absolutely for the benefit of the railroad.

Q—Assuming, then, it is for a commercial and venal purpose, I will ask you this question: It is a fact, is it not, that the railroads—the Burlington and the Union Pacific—in raising the tracks and grading the buildings, subways and viaducts, which are used by the traveling public of Omaha, expended hundreds of thousands of dollars in the last two or three years, didn't they? A—They have.

Q—Did they build a fine new viaduct at Sixteenth street? A—They were compelled, of course.

Q—Answer the question. A—They paid for building it. I think the city built it, and they contributed towards it.

Q—What is the railroad built it and paid for it, didn't they? A—The railroad paid for it.

Q—The city didn't pay anything for it? A—I think the city paid part, or for part of the approaches at any rate.

Q—Well, Mr. Rosewater, is that your knowledge and familiarity of the subject matter in controversy? Do you say the city built any part or paid for any part of the construction of that viaduct? A—I have not been to the trouble of going into the city treasury's reports to find out exactly how much they paid or whether they paid it all; I know the city expended some money. I am speaking of the viaduct and the approaches thereto, because you can't build a viaduct and leave it in the air, and there was considerable money spent on the approaches; I don't know whether the city paid for that, but I think it did.

Q—Now you spoke of the terminal facilities of the Union Pacific and its lands north of its depot. I wish you would tell the court if you know how much additional property the Union Pacific has got or purchased or obtained in any way, shape, manner or form where its depot grounds are north of its headquarters? A—They made a treaty or deal with the city of Omaha this spring, before the assessment was made, or last winter, by which they acquired title to a very large amount of property in the city of Omaha, I considered it worth a million dollars at least.

Q—Now will you please answer my question? You say they got it by treaty, as you phrase it? A—Yes, sir, in addition to what they had.

Q—Now what lots had it acquired, what other property, what other lands or other lots? A—I can't tell; they are constantly enlarging their facilities and increasing their area.

Q—Do you know of any other; if you do I wish you would tell the court? A—I told you they got over a million dollars worth. I can't tell you just how many lots now.

Q—Isn't it a fact that all of the lots or streets and alleys that they got by this treaty as you so demagogically phrase it, were streets and alleys contained in the shop grounds on the river bottoms and in every case that the company had owned them prior thereto for years, owned the property on both sides of the streets and both sides of the alley, and if that is not so will you tell one single lot that wasn't so? A—The company have grabbed or got control of a good deal of property there, but they didn't own it.

Q—Your honor, I insist that the witness shall answer the question. A—They had taken possession, I will put it in a little milder form, they had taken possession and have gotten possession of a great deal of land that belonged to the city of Omaha and held it, and finally by treaty stipulation, ceding part of the property that they

had claimed that is worth about as little as possible, off by the river, they made a good bargain by that treaty. I got possession of about \$1,000,000 worth of property and absolute title to land that they didn't have before.

Q—Now after this dissertation, I would like to have you answer my question if you will. Tell me where the property is? You say they grabbed it or took possession of it prior to this treaty. State where the property is? A—This best way to find it out is right here in this lot of papers, you have it all described there minutely, and there is no need of my describing it when you have it by metes and bounds and description of lots right there in that package.

Q—You have made this statement here under oath that they have gotten new property. Now I am trying to get you to specify the property because we deny it. Now if you will point out the lots I will be much obliged to you. A—I am familiar with the general contour of the grounds there, I have no familiarity with the numbers of the lots and places in which lots were exchanged for other lots, but we know very well that the treaty covered, I think, several hundred lots, and that they got a title to that property that the company didn't have before, and never had any right to, and that they didn't have a clear title until the settlement was made.

Q—Now you say it had no right. The company, on the other hand, insisted it had, didn't it? A—Well, evidently the company had some doubts about its right, otherwise it wouldn't have made the treaty.

Q—Will you please answer my question? The company insisted it had, didn't it? A—Oh, yes; they always insist when they take anything that it is theirs.

Q—And it had possession under this color of title for many years, didn't it, to say the least? A—Yes, sir.

Q—For over thirty years? A—I never kept a description of the lots in my mind.

Q—Answer the question. It had possession of it for over thirty years, didn't it? A—Well, yes; I suppose it had—I don't know how long—I don't believe they had it for thirty years.

Q—Did they have it for any particular length of time, say twenty years? A—I think they kept increasing the ground here and there by grant or grab, or I don't know how, but it was taken and retained and they fought with other railroads that wanted to take some of it, and finally they fenced it in, but they didn't have a clear title until the settlement was made.

Q—Now you speak of this treaty. In exchange for this did the Union Pacific construct a new shop? A—No, sir; they didn't in exchange for this, but they would be absurd.

Q—Now let us not argue this. I will ask you this question: Didn't the Union Pacific, or is it not now in process of constructing new shops? A—Yes, sir.

Q—Wasn't it a part of this treaty that they should expend at least \$1,000,000 this year in new shops? A—I don't remember the amount.

Q—Didn't you know then, when you are speaking of the treaty, that it is very near \$1,000,000? A—I would like to explain.

Q—Answer the question. A—I don't know the amount. I know there was an agreement that the company should maintain its shops—the existing shops—the terminal facilities, and improve them.

Q—Now that is not answering my question. A—I don't know how much the amount was.

Q—Are there not building new shops there? A—They are.

Q—Is there not one going up there 450 feet long, 250 feet wide and 60 feet high? A—I have read about it; I haven't seen it.

Q—Do you swear to this court you have not seen in the course of construction there the building I have just described? A—I will swear I have not seen one brick of the whole thing.

Q—And that has been going on all spring and summer? A—Yes, sir.

Q—And you can't see it now. It is 450 feet long, 250 feet wide and 60 feet high? A—I is not visible from my house.

Q—You haven't been down to see it? A—No, sir, I have not.

Q—And that is only one of the buildings in process of construction? A—I don't know; I haven't seen any of them.

Q—You know that it was proposed by the treaty that it build a new shop and buildings at an expenditure of two or three millions and it is now at them and this building is in course of construction? A—I don't know anything about two or three millions. I understand it was to be somewhere in the neighborhood of a million. I don't know.

Q—Now don't you know all of these Union Pacific shops and this machinery in the new building, the headquarters, the terminal lines and the lots you spoke of are assessed locally? A—I don't even know that. I only know they are supposed to be assessed locally.

Q—If you don't know that, that is all I have to say you. A—I mean I have no knowledge of it.

Q—West of the Eleventh street viaduct the Burlington has but one track to South Omaha, has it not? A—But it has a lot of spurs you know. It has one track so far as I know, running out, but it has spurs leading to the different establishments.

Q—Where are those spurs? A—In South Omaha.

Q—I am inquiring concerning Omaha and South Omaha. A—They are along the west side of the Burlington and they connect with some of those lumber yards, coal yards and different concerns in the neighborhood.

Q—Do you know whether they do or not? A—I can't see how they could do business without it. I can't testify strictly because I haven't made an especial examination of that, but I feel sure they have spurs running into all of those yards at all of those places.

Q—But you do know that all the terminals, all the tracks, all the depot grounds, the successful operation of the property? A—Yes, sir.

Q—And necessary to its use? A—Yes, sir. Witness excused.

Mr. How—If the court please, there is an item of testimony, viz, the letter written by Mr. Harrington to the State Board of Equalization, which was transmitted to the governor, and which the testimony shows was read by the governor to the board, which we desire to offer in evidence, but owing to the absence of the governor we are unable to get the original. We haven't a copy here in court; I have at home myself, and we desire to offer the letter with leave to supply a copy thereof, the purpose being to show that Mr. Harrington argued fully and explicitly the question of the valuation of certain of these railroad properties for the information of the board, marked "Exhibit B."

Mr. Prout—You say you have the letter here, or a copy of it?

Mr. How—No. I think perhaps we can get a copy in the city from the newspapers, or we might be able to find it published in the World-Herald, and I think there is a file of that paper kept in the library, and possibly we can find the letter in there.

Mr. Prout—Waiving objections to a copy of the letter being offered, we object to it as incompetent, irrelevant and immaterial.

Overruled.

The relators rest.

William Stuefer was then recalled by the defense for further cross-examination by Mr. White: Q—In assessing the railroad property in the law to perform the main line and branch lines, how did you happen to assess the main line at one figure and the branch lines at a different figure? A—Well, we took the biennial report of the former auditor and kind of went according to the former board's assessments.

Q—Now that is really the truth about it, isn't it, you fellows simply followed along through the old beaten path? A—The same as all the auditors did in the state of Nebraska—well, I don't want to say that, I think I assessed this property according to the best of my judgment.

Q—Now do you know what the earnings per mile of the Union Pacific were in 1897? A—Well, by referring to the auditor's report, you see.

Q—Well, did you ever know it? Do you know whether they were decreased or increased? A—What is that?

Q—Do you know whether their earnings have decreased or increased? A—Well, now I will not say that, I think they decreased, but I am not so sure about it.

Q—How does it happen you have assessed this road at a lower rate now in the face of these earnings than it was in the assessment of that, I mean, the receivers and was a bankrupt concern? A—Well, let us see. When did it get out of the receivers' hands?

Q—I am going back to the time when it was in the hands of the receivers. You haven't assessed it for a dollar more now with its immense earning capacity than when it was in the hands of a receiver and was a bankrupt concern? A—Well, I don't know as we did.

Q—Well, as a matter of fact you know that you didn't, don't you? A—I will not say that.

Q—Do you mean to say that with all the interests of the state that were involved in the assessment of the Union Pacific railroad that you don't know whether you assessed it for more or less than when it was a bankrupt road? A—I couldn't answer that question, and I wouldn't.

Witness excused.

Mr. White—it is admitted that the Fremont, Elkhorn & Missouri Valley Railroad company has no terminals in the city of Omaha. By permission of counsel I wish to put in the evidence the aggregate amount of taxes paid by the Elkhorn road for the years 1891 to 1901, inclusive:

1891	.....\$194,557.02	1897	.....\$151,701.57
1892	.....208,890.70	1898	.....152,719.15
1893	.....184,715.71	1899	.....152,825.27
1894	.....190,105.30	1900	.....152,029.78
1895	.....182,402.96	1901	.....151,232.54
1896	.....182,402.96		
Total	.....\$1,888,510.25		

Mr. Baldwin—With the permission of the attorney general, the respondents desire to offer in evidence the annual reports of the auditor of the State of Nebraska for the years 1890, 1891, 1892, 1893, 1894, 1895, 1896, 1897, 1898, 1899, 1900 and 1901. The respondents offer in evidence the grand assessments for the years 1890 to 1901, inclusive, marked Exhibit "B-1." There was a statement which was filed or prepared by the representative of the Elkhorn showing the assessment of lands and sales in certain counties in this state and it was referred to by Mr. Weston in his testimony and he says it has disappeared from his desk. We will try to find that if we can and we would like to make an offer of it now in evidence. It is a compiled statement of a certain number of counties in the state.

Mr. Harrington—I object as incompetent, irrelevant and immaterial. Overruled.

Mr. Baldwin—I offer in evidence the amount of taxes paid by the Union Pacific railroad company for the years 1899, 1900 and 1901, marked Exhibit "B-2."

Mr. Harrington—I object as incompetent and immaterial. Overruled.

Mr. Baldwin—The respondents offer in evidence the census bulletins of the United States for the state of Nebraska for agricultural and mineral products for the advance bulletins issued by the department.

Mr. Howe—I would like to ask counsel for what purpose he offers that testimony? Mr. Baldwin—Under the suggestion of the respondents, the respondents offer in evidence the census bulletins of the United States for the state of Nebraska for agricultural and mineral products for the advance bulletins issued by the department.

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ter of the introduction of evidence we do think that the line should be drawn somewhere.

Chief Justice Sullivan—Couldn't it be disposed of this way? Personally, I think the evidence is not admissible, but without stopping to consult in regard to it we will receive it subject to your objection.

Mr. White—I offer in evidence exhibit "B-3," being a schedule showing the sales of property in different counties and the selling price and also the assessed valuation of the property.

Mr. Baldwin—The offer I made with reference to the taxes paid by the Union Pacific and the testimony of Mr. Scribner I find an error as to the years, the years are for 1898 and 1899, and I offer in evidence the taxes paid by the Union Pacific in the state of Nebraska for the years 1898 and 1899, which is \$209,701.58 and \$227,983.87 respectively.

Mr. Kelly—The respondents now offer to show the total taxes paid to the state of Nebraska by the Chicago, Burlington & Quincy Railroad company and its proprietary lines for the year 1900 and 1901, under this tax assessment for all purposes.

Mr. Baldwin—Mr. Scribner advises me that that tax paid does not include the tax paid to the state on our lands outside, that is on our land grant lands.

Respondents rest.

Rebuttal—Mr. Simeral offered the reports of the State Board of Equalization for the states of Kansas, Indiana and Missouri for the purpose of rebutting the testimony contained in the report offered by Mr. Baldwin in regard to Illinois. (To Be Continued.)

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BIDS FOR SUPPLIES AT MEADE
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STURGIS, S. D., July 12.—(Special.)—There was quite a crowd of interested bidders at the quartermaster's office, Fort Meade, this week to witness the opening of bids for grain and forage. It is a somewhat pleasant fact to contemplate that the estimates made and on which bids were called for were larger than those of Dakota, and only in the Department of the United States. As the estimates called for by the War department are based upon the contemplated occupancy of the post for the ensuing year, this call for forage and grain is most suggestive. Such a requisition would seem to indicate that the War department intends to fill the post up this summer, and with the \$100,000 appropriated by congress for new buildings and improvements matters assume a very satisfactory aspect.

SCANDINAVIAN EDITORS MEET
Association is Composed of Editors in All of the Northwestern States.

STOUX FALLS, S. D., July 12.—(Special Telegram.)—At the annual meeting in this city of the Norwegian-Danish Press Association of the Northwest, which includes the Danish and Norwegian editors of Wisconsin, Minnesota, Illinois, Nebraska, North and South Dakota, the following officers were elected for the ensuing year: President, Charles Brandt, editor Nord-vesten, St. Paul; vice presidents, S. S. Sorenson, editor Tidende, Minneapolis, and J. F. Straas, editor Fremad, Stoux Falls; secretary, M. S. Rasmussen, editor Ugenbladet, Minneapolis; treasurer, L. Stavenheim, editor Nye Nordmanden, Minneapolis.

The next annual meeting of the association, it was decided, will be held either in St. Paul or Minneapolis upon a date to be fixed later.

Railroad Surveyors Busy.
SARATOGA, Wyo., July 12.—(Special.)—A corps of Union Pacific surveyors that has been ranging lines from Walcott south, arrived here a few days ago and is running surveys on into the mountains. The engineers will say nothing about their work, but it is presumed that the railroad company is selecting the best route and will be in readiness to push a road into the Grand Encampment country as soon as the business from that section will justify or as soon as a move is made by a competitor to enter the section.

Girl Dies from Exposure.
HANNA, Wyo., July 12.—(Special.)—A sad death occurred near here last week. The little daughter of David Griffith had been visiting at a ranch fifteen miles from here and started home without saying a word to any one. It was some time before they were missed. A searching party found the elder girl dead in the sage brush. She had lost her way and laid out all night, dying from exposure and hunger.

Old Man Dies of Injuries.
SARATOGA, Wyo., July 12.—(Special.)—Grant Smith, the old man who was rightfully injured by a vicious horse a week ago, died from the effects of his injuries. Deceased was an old resident of the Snake river country.

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This is what Mr. W. E. Landers, a prominent farmer near Indianapolis, Ind., says of Chamberlain's Colic, Cholera and Diarrhoea Remedy. Read his testimonial: "It gives me great pleasure to tell you how much Chamberlain's Colic, Cholera and Diarrhoea Remedy has done for me. I have used it for nine years and I think it is the best medicine on earth. It has saved my life several times. I would not think of being without a bottle of it in the house."

Young Woman Suddenly Remembers.
TERRELL, Tex., July 12.—The young woman, Miss Ada Barker, who was found by the sheriff of El Paso county a week ago in a supposedly delirious condition, has now recovered the memory she remembers having left her home in New York during the latter part of May for the Galveston arrival. After reaching Galveston Miss Barker's mind is a blank until within the hour she recovered the memory she was well supplied with money on leaving New York and still retains a portion of it. She has written relatives in New York apprising them of her whereabouts and condition. Physicians pronounce her case one of double consciousness, or recurrent dementia.

Hahn Gets Rehearing.
MANSFIELD, O., July 12.—Another hearing will be given William M. Hahn, former state insurance commissioner, who was removed from office by the state board of circuit court, this week. Following the circuit court decision the case will be taken to the Ohio supreme court for a final ruling on the priority of Governor Nash's warrant for extradition to New York over the local warrant on which the defendant is under arrest. While he has been at his suburban home near the city since his release from the county jail Mr. Hahn has been under the surveillance of the sheriff.

Grand Army Will Reinstated Ware.
FORT SCOTT, Kan., July 12.—Eugene F. Ware, commissioner of pensions, who years ago was a member of William H. Lytle post, Grand Army of the Republic, of this city and who allowed his membership to lapse, will be reinstated at the next meeting of the post at his request.

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