



1917

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Railway Real Estate Association

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Recommended Citation

Nelson, James Poyntz (1917) "Federal Valuation of Carriers Under Act of March 1, 1913," *Kentucky Law Journal*: Vol. 5 : Iss. 4 , Article 2.

Available at: <https://uknowledge.uky.edu/klj/vol5/iss4/2>

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Kentucky Law Journal

VOL. V

LEXINGTON, KY., MARCH, 1917

NO. 4

FEDERAL VALUATION OF CARRIERS UNDER ACT OF MARCH 1, 1913.

By James Poyntz Nelson, Member Valuation Committee, The Chesapeake & Ohio Ry Co., Member Eastern Land Committee of The Presidents' Conference Committee, President Railway Real Estate Association.

By an Act of Congress, approved March 1st, 1913, the Interstate Commerce Commission was directed to

“Investigate, ascertain and report the value of all the property owned or used by every common carrier subject to the provisions of this act.”

The “Federal Valuation Act” is an amendment to “An Act to regulate commerce,” and is “Sec. 19a” of the amended act.

The term “common carriers” includes railways, telegraph and telephone lines, express companies and, generally, all corporations that, as carriers of things or messages, are engaged in interstate business. This definition of a “common carrier subject to the act” does not attempt to meet the various questions that have arisen as to the exact definition of the term. But, speaking broadly, it can be said that inclusion under the term omits legally only a small part of those who are engaged in transportation, or in the transmission of things carried by rail, or of messages transmitted by electricity. The ascertainment of the “value” of this vast property presents a stupendous task, one that seems to grow in extent and meaning as the work progresses.

While the "valuation" applies to other properties than those of the steam carriers, yet this paper will treat more especially of steam railways, inasmuch as the author is charged with a part of this work as it relates to the Chesapeake and Ohio Railway system, a system measured by over 2,100 miles of line, and over 4,000 miles of all tracks, a system that has as its terminal of main line, Ft. Monroe, and the great port of Newport News on Hampton Roads, at the confluence of James river and the Elizabeth river on the East, and Chicago on the West. Besides these, its own terminal, this system enjoys through a line owned by itself, and under its own control, but separately managed, large terminal facilities at Toledo, Ohio. The "valuation" of this system alone raises questions not easy to solve. But this system is only one of the many under "valuation," and the mileage of all of these systems is over 250,000 miles of main line. As of June 30th, 1915, the reports to the Interstate Commerce Commission show that the miles of tracks operated, including main line, yard tracks and sidings, were 391,142, this being subject to slight modification because of incomplete reports.

As of the same date, the total capital securities of these carriers amounted to \$19,719,893,944.00.

The capital stock was \$8,635,319,368.00.

The funded debt was \$11,084,574,576.00.

The capital securities outstanding in the hands of the public in the United States were \$16,327,502,560.00.

The returns of 1,285 railway companies to the Interstate Commerce Commission for June 30th, 1915, with an aggregate operated mileage of 257,211 miles, show that the total number of stockholders was 636,122. It is estimated that over 10 per cent. of these securities are held by insurance companies, with their thirty-four millions of outstanding policies, and by savings banks, with their ten million seven hundred thousand of depositors.

The amount of stock paying dividends was \$5,219,826,562.00, and the amount of dividends paid was \$328,477,938.00, being an average rate on dividend-paying stock of 6.29 per cent., and an average rate on all stock of 3.80 per cent.

During the year ending June 30th, 1915, the operating revenues

of the railroads amounted to \$2,956,193,202.00, being nearly \$100,000,000.00 less than that of 1914.

The expenses of operation amounted to \$2,088,682,956.00, and the net operating revenue to \$867,510,246.00. The operating expenses were 70.7 per cent of the operating revenues.

The number of employes was 1,409,342, and their aggregate compensation was \$1,164,844,430.00. The number of employes was 400,000 less than in 1913, and about 300,000 less than in 1914, while the aggregate amount of compensation for 1915 was about \$200,000,000.00 less than in each of the years 1913 and 1914.

In 1915, these companies paid in taxes \$139,398,167.00, being \$544.00 per mile of line.

Does not imagination itself fail to grasp the vastness of this transportation plant, the "value" of whose constitutional parts must be ascertained and reported by the Interstate Commerce Commission? Do not the figures hereinbefore set forth show that it is not the interests of the railways alone that are at stake in this work, but also, and in a very vital manner, the interests of the many people whose property is derived through the railways, and whose property will be fixed in "value" by the "value" of the railways as ascertained and reported by the Interstate Commerce Commission? Hence this work of "federal valuation" should challenge the earnest consideration of not only the buffeted railways, but also of every person interested in the welfare of our country

The passage of the "valuation act" was no sudden, or unconsidered action. The original "act to regulate commerce" became effective in 1887. In 1888, and from time to time down to 1912, the Interstate Commerce Commission repeatedly urged that Congress provide for the valuation of all railroad property in the country

The Railway Securities Commission, appointed by President Taft, advocated a valuation, so that, wherever a railroad acquired new property in return for the issue of its securities, or by expending the proceeds thereof, the Interstate Commerce Commission could be reliably informed in order to be enabled to ascertain, as accurately as possible, the "value" of the property acquired.

December 5th, 1912, the House of Representatives passed a bill, (H. R. 22593), calling for a "physical valuation of the property of

carriers," which bill was amended, and then went to the Senate and, on February 11th, 1913, a committee of that body began the consideration of the House bill. The Senate Committee on Interstate Commerce had extended consideration of this bill, and before the committee appeared prominent representatives of the railways, and well known economists. These hearings soon developed the thought that any "valuation" must cover more than the mere "physical property" of the carriers, and, in order to be complete, must include all of the property, and all other elements of "value" that had been claimed by the carriers who had been parties before the courts in rate cases. Therefore the act as passed and approved contains the words "other values and elements of value," words that have already become the center of a great legal battle.

The act contains about 2,000 words, each one of which is a word in common use. But no 2,000 simple words have ever been subject to such diverse opinions as these words. The key-note word of the act, "value," has met with no definition that is acceptable to all who are engaged in this work. The well known definitions found in textbooks on political economy have been found incomplete, and misleading. To the word "value" some are applying limiting adjectives, and some deny that there is any "value" that is absolute, and applicable in all cases. Some allege that before "value" can be ascertained the use to which "value" is to be applied must be known.

The act itself is singularly silent in its definition of "value." The act speaks of "tentative valuations," which become "final valuations" under certain proceedings.

The act says -

"All final valuations by the commission and the classification thereof shall be published and shall be prima facie evidence of the value of the property in all proceedings for the enforcement of the act approved February fourth, eighteen hundred and eighty-seven, commonly known as the act to regulate commerce, and the various acts amendatory thereof, and in all judicial proceedings brought to enjoin, set aside, annul, or suspend, in whole or in part, any order of the Interstate Commerce Commission."

The strict reading of those words would seem to fix and limit

the use to which the "final valuations" could be put. But the various recommendations of the commission leading up to the act itself indicate a "valuation" to be essential.

(a) To obtain a trustworthy estimate of the relation existing between the present worth of railroad property and its cost to its proprietors,

(b) In determining whether or not rates as fixed by the Government are confiscatory,

(c) In connection with railway taxation,

(d) In the ascertainment of a proper depreciation reserve,

(e) In testing the accuracy of the balance sheets of the carriers,

(f) In the organization of railway statistics in general,

(g) In determining whether or not the railroads are under or over capitalized."

The old adage runs "A calf may get you into a law suit, but it takes a cow to get you out." No law-enacting body can stop its enactments in their headlong course. Even those great forefathers of our Constitution could not determine what paths the Constitution should travel. Little did the author of paragraph 3, section VII, article 1, of the Constitution know that out of that short paragraph would spring so vast a power as our Interstate Commerce Commission, and so stupendous an undertaking as this work of "federal valuation." And so the uses to which these "final valuations" will be put are as yet hidden from our sight.

An interesting and important legal question can here be fitly mentioned, a question that is causing our best legal minds much thought. Assuming that these "final valuations" are seriously and hurtfully objectionable, and that their authoritative promulgation work a tort to any of the parties in interest, can these "final valuations" be challenged at the bar of some judicial tribunal before they become "prima facie evidence" under the act? Prior to that time are they more or less than a mere report to Congress, there to lie inert in a legal sense, until made vital, as provided by the act? Should a "final valuation" work a wrong to a carrier, are the doors of our courts shut to the injured carrier prior to some action wherein the "valuation" becomes "prima facie evidence" under

the act? This phase of the matter is submitted to the learned readers of this journal. It is no moot question.

The ascertainment of "value" is a legal procedure. No legislative enactment can fix, or declare, "value." A leading case in point is "Monongahela Navigation Co. vs. United States, 148 U. S., 312." This case is luminous in declaring that even Congress has not "the right to determine what shall be the measure of compensation" in a condemnation procedure. "This is a judicial and not a legislative question." The Supreme Court threw around the property of The Monongahela Navigation Company, sought to be taken by the United States at a price limited by an act of Congress, the protection of the Constitution. Therefore the carriers through their organization, guided by its learned committee of counsel, have declared as a fundamental right that

"Present value of land used for transportation purposes, must be determined upon the same principles which govern in case of condemnation of private property for public use."

It is important to know the organization, both of the Government and of the carriers, that is handling this work.

Soon after the passage of the "valuation act," the Interstate Commerce Commission organized the "division of valuation," and appointed as "Director of Valuation," Judge Charles A. Prouty, then a member of the commission. For administration purposes, the country was divided into five "districts," on lines more or less arbitrary, and now elastic. These "districts" are known as the Eastern, Southern, Central, Western and Pacific, with headquarters respectively at Washington, D. C., Chattanooga, Tenn., Chicago, Ill., Kansas City, Mo., and San Francisco, Cal. To each district was assigned an engineer, who has direct charge of all the inventory work in his district, except that of land. Now each district has a large body of men composing the field parties on track and roadway, structures, bridges, telegraph and telephone lines, and on signal apparatus.

In addition to the district engineers, engineers are assigned to various duties at Washington, and each district has engineers assigned to certain duties.

A "land section" was organized for each district, with a

“valuation attorney” for the district, who directs the “valuation” of the right of way and other lands of the carriers. At Washington is a “supervisor of land appraisals,” and each district has “field land appraisers,” who, by study of sales data and opinions, report to their “valuation attorney” their opinion of market “value” of lands “adjacent and similar” to the right of way of the carriers. But this method of ascertaining the “value” of the right of way is disputed by carriers, as to which there is an important legal controversy

There is an “accounting section,” whose province is the study of the financial history of the carriers, as called for by the act.

In addition to the “sections” already described, the “division of valuation” has counsel, and an “advisory board,” thus going to make up an organization that now includes a large number of men at Washington, at the district headquarters, and in the field.

“Lo! What a fire a little matter kindleth,” and all because of that simple sentence in the Constitution!

The act calls for the “co-operation” of the carriers in this work and commands the carriers to give to the Interstate Commerce Commission information as called for.

To meet this mandate, and to secure that “co-operation” that seemed to the carriers necessary for their protection, and for the proper doing of the work, a number of the presidents, and other executives, of a large majority of the leading railways, met at the suggestion of both Mr. Frank Trumbull, chairman of the Board of the Chesapeake & Ohio Railway System, and chairman of the “Railway Executives’ Advisory Committee,” and of Mr. Walker D. Hines, chairman of the Executive Committee of the Santa Fe System, and, as a result of this meeting, and of conferences with the Interstate Commerce Commission, the railways perfected an organization *pari passu* with that of the “division of valuation.”

A body, known as “The Presidents’ Conference Committee,” was formed, composed of eighteen railway presidents, representatives of the three “groups” into which the country was divided by this railway organization. To meet the Government organization, the “Presidents’ Conference Committee” appointed a “general secretary,” with headquarters in Philadelphia, who now has a large number of men handling this work for the carriers generally, who

is a means of direct communication on matters of the most vital importance between the carriers and the Government.

The "Presidents' Conference Committee" appointed for each "group" an "engineering committee," an "engineer" for each "group," "equipment officers," a "land committee," and a committee on "preparation of financial histories and accounts."

For the legal guidance of this organization, each "group" selected "counsel," all of whom act as a "committee of counsel," advisory to all of the carriers. The counsel for the eastern group are Mr. Geo. Stuart Patterson, general solicitor of the Pennsylvania railroad, and assistant counsel, Mr. Sanford Robinson, well known as counsel for large financial interests in New York.

For the western group, the chief counsel is Mr. Pierce Butler, of St. Paul, Minn., who appeared before the Supreme Court in the great "Minnesota rate cases." (184 Federal Reports, 765, and 230 U. S., 3821). The assistant counsel is Mr. Leslie Craven.

The counsel for the southern group is Judge W. G. Brantley, who represented the Eleventh Georgia District in the House of Representatives for a number of terms, and left the 62nd Congress to accept his present position. He is known as an authority on constitutional law, and is a gifted speaker.

Thus it can be seen that the carriers are strongly supported by counsel of distinguished ability.

The eastern and western groups have "land attorneys," who devote their time to the intricate questions relating to rights of way.

Each carrier has its own valuation organization, working in co-operation with, and, in fact, under the guidance of the central organization.

A representative of one of the State Public Utility organizations has said that never before were the public utilities of our country so ably organized.

Naturally, this description of the two organizations, that of the Government and that of the carriers, suggests a vast expenditure. The preliminary estimates of the probable cost of this work to the Government are now amusing, in view of those absurdly low estimates. They started with a few paltry millions. Today no one

can foretell the ultimate cost. The most careful forecast, and merely a forecast, does not stop short of \$50,000,000.00 each to Government and carriers. The estimate a mile to each carrier ranges from \$100.00 to several hundred. A conservative estimate of the average cost a mile to all of the carriers being \$200.00, and the total mileage being 250,000 miles, the total cost would be \$50,000,000.00. But this is a mere guess. Some carriers already have expended more than \$200.00 a mile, and the end is not yet, others range from \$75.00 a mile upwards. And why is this enormous expenditure necessary?

Let us start with the carriers.

So soon as the "engineering board" of the division of valuation began active work, the "Interstate Commerce Commission" issued May 12th, 1914, a historic order, known as the "map order," or "Order No. 1." This order directed the carriers to prepare on a standard form, 24 by 56 inches, maps of their lines, made to prescribed scale, and in accordance with minute directions as to the data to be placed on the maps. A preliminary draft of this order was submitted to the "engineering committee" of "the Presidents' Conference Committee," and was the subject of conferences between the engineers of the Government and those of the carriers. Serious objections were raised by the carriers, but the order as promulgated retains the most drastic portions of the preliminary draft. The records of but few of the carriers met the exactions of the order. Violent protests were entered by some of the carriers, but little by little the Government side has proceeded in its enforcement of the order, and today the map work is going on as required by the order.

A compliance with the order has required of even leading carriers, a complete re-survey of their lines, and a making of entirely new maps for every mile of their lines. Old maps once thought to be abundantly complete were found inadequate, and in some notable instances were refused by the Government. Wry faces were made, but we are taking our medicine, since to each mandate of the Government is attached a severe penalty.

I speak now of my own railway

We have in the field three corps of engineers re-surveying our 2,160 miles of main line, and our total track mileage of above 4,000

miles, just as though we had no maps. These field records show with as much accuracy as is possible the location of each piece of physical property owned by our company. Each track is measured, each frog and switch is noted. Each building is also measured, so that it appears on the maps in its proper geographical position. Each parcel of right of way is examined in the field to see that it conforms with the records in the office. Then all of this data is placed on proper maps, of which tracings in standard size are made, and of each tracing a "reproduction," by the "gelatine," or some other process, must be filed in Washington, the accuracy of the work being certified to under affidavit by the duly authorized officer of the company. Generally, each tracing contains one or two miles of line. Separate maps must be made for so-called "terminals," on a large scale, and in congested parts of the line separate maps must show tracks and land.

Each tracing must bear a "land schedule" that shows by what muniment of title the carrier owns its right of way, and must show further, the grantor, date of instrument, place and date of recordation, with any other statement necessary to characterize properly the title. The schedule must also give the record as to alienations of land by the carrier.

The preparation of the land-data is a large task in itself. A complete land record is a "*rara avis*," even in the real estate offices of our best ordered railways. These land records hark back to the days when railway organizations were young, and often these records were cared for loosely, if cared for at all.

"Gentlemanly agreements" took the place of exact conveyance. Our own railway land records date from 1836, but, because we are the successor in title to the old James River & Kanawha Co., that built and operated the canal on James river, and to its predecessor, our oldest land record is dated 1785, an "inquisition" or condemnation proceeding. The original document is in our valuation records, possibly the oldest muniment of title possessed by any railway, coming to it directly, or from an antecedent carrier.

The details of the land work are manifold. The records in each of the 78 counties through which the Chesapeake and Ohio goes, have been examined thoroughly, and many valuable records have

been found, not found in the archives of our company. Of each record not in our archives, attested copies are procured, so that finally we shall have in our possession so far as we can obtain it a complete record as to the land holdings of our company. For each parcel of right of way, or of other land, the data relating thereto is assembled on certain forms, and these forms are bound together in proper geographical order. We reckon that we shall have over 15,000 of these forms.

Carbon copies of these forms are given to our field engineers, who seek to allocate each form to a parcel of land as it is described on the form. The final information is used in showing each parcel on the proper map of our line.

This brief reference to the land work suggests, but does not express fully, the extent of that work. But the work has resulted in finding much that is indeed a treasure-trove.

Up to the present time the Interstate Commerce Commission has served on the carriers subject to "valuation" twenty orders, directing the work. These orders relate not only to land, but also equipment, telegraph and telephone lines, the accounting records, the corporate history of each carrier, inventory of material, buildings, bridges, and schedules showing important purchases made and net prices paid by steam railroads for material of a large number of enumerated classes, and also rates of compensation for labor.

To comply with the order as to schedules of purchases, and rates of pay, required the filing of over 700 schedules, and the examination of over 300,000 records, including vouchers and other papers. This classic order is "No. 14."

"Order No. 16" requires schedules showing all "aids, gifts, grants and donations" made to the carrier.

"Order No. 2," slightly modified by "No. 10," requires schedules of "abandoned property," with a detailed history of the original cost, date of abandonment, disposition, and present status of all property once used, but now not used.

Naturally to comply with these orders entails a vast labor and cost on the carriers. But in addition to the orders, are numerous and onerous demands of the division of valuation for what is called:

“pre-inventory data,” which is almost a complete inventory, or list, of the property of the carriers.

For example, this “pre-inventory data” as to bridges must give the date of the erection of each bridge, the name of the builder, capacity, the governing specifications, the net weight, etc. And so as to other property, such as buildings, tanks, scales, etc., data in great detail is called for.

Is it surprising that this work is so costly? The details of this work have been mentioned in order to show the magnitude of the undertaking.

Under date of March 4th, 1915, Director Prouty issued a program for a conference between the division of valuation, the organization of the carriers and the representatives of the State commissions, to be held in Washington, March 22nd, 1915. The directors submitted a number of questions, replies to which he requested from both the carriers and the States. Later these questions were modified, and the conference was set for May 27th, 1915. These questions were considered by the several committees of the presidents conference committee, and, after several meetings of these committees, answers were framed, submitted to the presidents' conference committee, and, as approved, became the formal replies of the carriers.

The replies were submitted, each one involving fundamental principles in the work. Thus began what is really the crux of the whole matter. These answers, and those of the representatives of the States, became the subject of a three-days' conference at Washington. In addition to the formal answers, oral statements in extenso were made by selected members of the committees of the carriers, to which replies were made by representatives of the States. The divergent views on the part of the carriers and of the States became manifest. The space of this paper does not permit a full treatment of this conference. But the printed report of the proceedings is now a part of the literature of “valuation.”

As a consequence of this conference, it was agreed that each side should file a “brief” in support of its answers, these to be considered at a subsequent conference. On September 1st, 1915, the committee of counsel of the carriers filed its “brief,” a volume of

544 pages. The index of legal citations covers six pages, and is, in fact, an index to the ruling decisions on this subject. This "brief" is now a text-book and a classic.

For two days, beginning September 1st, 1916, a conference was held, this time by the Interstate Commerce Commission, at which the carriers' "brief" was presented with oral arguments in support by the carriers' committee of counsel, and a statement as to "cost of right of way," by Mr. Thos. W. Hulme, then general secretary of the presidents' conference committee, and real estate agent of the Pennsylvania railroad. (Since that time Mr. Hulme was elected vice-chairman of the committee, and Mr. Howard C. Phillips, a distinguished engineer, was elected general secretary). Although the representatives of the States were present, they filed no "brief," but contented themselves with taking part in the running colloques, and with a statement by Judge A. E. Helm, of Kansas, who asked that the States be permitted to file "briefs" in reply to the "brief" presented by the carriers. Accordingly "briefs" were submitted later by representatives of the Public Service Commissions of the States of California, Oregon, Minnesota and Kansas, and by the valuation committee of the National Association of Railway Commissioners. These "briefs" developed the radically antagonistic position taken by their authors to the principles propounded by the carriers. They showed that this work would involve a legal battle of supreme importance and of vast extent. The questions at issue proved to be not merely those relating to railways and other carriers, but also to the financial structure of our country. To these "briefs" the carriers' committee of counsel filed a "reply brief," traversing the positions of the other side.

These "briefs" were the subject of a three-days' conference, beginning January 26th, 1916, at which extended oral arguments were presented, making still wider the chasm separating the two sides.

The part taken by Director Prouty, and other representatives of the division of valuation, was rather to develop the views of the two sides than to align with either side.

The result of all of these conferences was a closing statement by the chairman of the Interstate Commerce Commission to the

effect that "while the discussion of many subjects presented at this stage of the work must, of necessity, be taken as more or less academic," the matters presented would be constantly before the commission. Thus the conference closed with no opinion expressed by the commission, as to vital questions under consideration, which meant a postponement of the great day of battle.

At each of these conferences representatives of railways from all over the country were present, so much so that Judge Helm, of Kansas, protested earnestly to the commission against the assemblage, and called on the commission to protect the public from this powerful railway organization.

The "briefs" and the printed reports of these proceedings are today a necessary part of the legal furniture of a well equipped student of the law

This outline of the chronology of the work of "federal valuation" is given to show the earnestness and seriousness of those engaged in the work, and, further, to show that the work is challenging the thought and study of counsel of the highest ability and best legal attainments. We laymen have our big share in the work, but we look to our great counsel for the securing to the carriers and their property the same protection that the constitution gives to all other persons and property

The "academic" phase of "valuation" spoken of by the chairman of the Interstate Commerce Commission no longer exists. Charged by the mandate of the act to "ascertain and report the value" of this almost inconceivably vast property, a property that is the very bone and sinew, the life blood, too, of our commercial and social system, the commission is now called on to face the tremendous issue raised by the work of "federal valuation" (the adjectives used may seem extravagant, but they are used advisedly by one whose daily work is interwoven with these issues.)

On January 29th, 1917, began before the commission a hearing under the act of transcendent importance. It is the beginning of a great battle, whose end may be at the bar of the Supreme Court of the United States.

As required by the act, so-called "tentative valuations" have been served on certain railways. As provided under the act, pro-

tests against these so-called "tentative valuations" have been filed with the Interstate Commerce Commission, and the hearings of January 29, 1917, will be specifically in re-protests filed by the Atlanta, Birmingham & Atlantic R. R. Co., and by the Texas Midland R. R. Co. It has been arranged to make these initial hearings test cases as to "valuation," and as to the fundamental principles. These so-called "tentative valuations" have been served, as under the act, not only on the carriers in question, but also on the Governors of the States traversed by the carriers. Thus the hearings will engage not only the carriers, but also the States affected.

The "protests" filed bristle with objections to the procedure of the division of valuation. From the inventories of property "owned or used" has been excluded property of large value. The prices applied in order to ascertain "the cost of reproduction new" have been too low. "The cost of reproduction new less depreciation" has ignored the true economic law of applying "depreciation" to a large composite property, of whose component parts all can never be new, even though maintained so as to render with the highest efficiency the service due to the public by the carrier.

In the "valuation" of rights of way methods have been applied that ignore what the carriers claim to be just and legally approved methods, and so deprive the carrier of its property without due process of law

The leading representatives of the carriers believe, and have declared at formal conferences with the division of valuation, that, if the procedure now followed by the Government representatives be accepted as sound by the Interstate Commerce Commission, and if the so-called "tentative valuations" stand as "final valuations," they will work a destructive wrong to the carriers, in that the result will be an unwarranted, illegal assault on the credit of the carriers, and, further, that the result will be to threaten the entire financial structure of our country

No attempt is made here to analyze these so-called "tentative valuations," and the protests *in re*. To do so would demand a review of such detail as to occupy more space than can be granted here.

Recurring now to the "brief" filed by the carriers' "committee

of counsel," it is well to give the nine subjects presented by the "brief," to-wit

I. The reasons for the enactment of the Valuation Act of March 1, 1913. (p. p. 7-32.)

II. Cost of reproduction new (p. p 33-122.)

III. The determination of unit prices. (p. p. 123-142.)

IV. Appreciation and depreciation. (p. p. 143-270.)

V. Land. (p. p. 271-396.)

VI. The meaning of the phrase "owned or used for the purpose of a common carrier." (p. p. 397-420.)

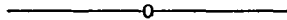
VII. The act requires a valuation of all the property owned or used by each carrier, including therein property the cost of which was charged to expenses or surplus. (p. p. 421-478.)

VIII. The other values and elements of value. (p. p. 479-532.)

IX. The form of the valuation report. (Note What details should be reported to Congress?) (p. p. 533-544.)

The nine subjects covered the questions to which answers from the carriers were called for by Director Prouty

What has been written here is no more than an introduction to this subject. Already the authoritative utterances comprise a large bibliography, and a growing one. And it must be that the subject is one that will demand treatment in the lecture rooms of our law schools, and by the best thought of most learned counsel.



THE RISE OF THE LEX MERCATORIA AND ITS ABSORPTION BY THE COMMON LAW OF ENGLAND.

By President Henry S. Barker.

It is not the purpose of this article to give a minute exposition of the law merchant, but rather to sketch how it arose during the latter period of the middle ages, developed into a world system and was then absorbed into the common law. The main purpose is to show the facility with which the common law adopted a totally foreign system that had originated and developed by its side but was not of it; how the amalgamation was so complete that the legal