

their finding has such support in the evidence that it should not be disturbed.

Upon applying the settled rules before stated to the case presented, we are of opinion that the appellant has not shown that the tax imposed under the sanction of the state statutes is either palpably arbitrary or unreasonably discriminatory. It was imposed for what obviously is a public purpose. It was a general tax and admissibly was spread over all the taxable property in the district according to the value thereof as fixed by the assessment for state and county taxes. The appellant was afforded ample opportunity by the state law to be heard on that assessment and to have it corrected if erroneous or unfair, and is not challenging it now. The chief complaint made here is that the imposition of the tax on an ad valorem basis was "inherently invalid" under the due process and equal protection clauses. That complaint is not tenable, as is shown in several cases before cited. And, as the tax was general and ad valorem, its validity, as was held in *St. Louis & Southwestern Ry. Co. v. Nattin, supra*, "does not depend upon the receipt of any special benefit by the taxpayer."

Judgment affirmed.

RAILROAD COMMISSION OF WISCONSIN *ET AL.* *v.*
MAXCY, RECEIVER, *ET AL.*

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF WISCONSIN.

No. 464. Argued November 24, 1930.—Decided January 5, 1931.

Decree of the District Court enjoining enforcement of an order of a state commission fixing rates of a water company, affirmed, in the absence of any adequate reason in the record for disapproving findings that the commission's estimates of the company's property and expenses were too low and that its order would cause confiscation. Affirmed.

APPEAL from a decree enjoining enforcement of an order denying an increase of water rates.

Mr. Suel O. Arnold, with whom *Mr. John W. Reynolds*, Attorney General of Wisconsin, was on the brief, for appellants.

Mr. Robert M. Rieser, with whom *Messrs. H. L. Butler, H. H. Thomas, B. H. Stebbins*, and *R. M. Stroud* were on the brief, for appellees.

MR. JUSTICE McREYNOLDS delivered the opinion of the Court.

Maxcy, Receiver of the Washburn Water Works Company, by an original bill filed in the United States District Court, Western District of Wisconsin, January 2, 1929, sought to prevent enforcement of an order by the Wisconsin Railroad Commission dated December 4, 1928, which denied application of that Company for permission to make a general increase in water rates.

After answer the cause was heard, by stipulation, on the pleadings and affidavits. Without opinion or findings the court entered a decree April 5, 1929, enjoining enforcement of the challenged order, as prayed by the bill. Upon appeal here that decree was set aside and the cause remanded with directions to make findings of fact and conclusions of law and enter a decree thereon. *Railroad Commission v. Maxcy*, 281 U. S. 82.

Obeying our mandate the court below made proper findings, and entered a final decree July 5, 1930. The present appeal followed.

The Railroad Commission appraised the property of the Water Works Company for rate making purposes at \$75,000.00. It estimated the probable future annual operating income as \$17,720.00, operating expenses \$12,868.32, net annual return \$4,852.82. And it said this

would yield something less than 7% on the approved valuation of the property devoted to public use.

Having again heard the cause upon pleadings and affidavits the court held that the valuation placed upon the property by the Railroad Commission was too low and contrary to the evidence; also that the Commission's estimate of operating expenses was too low and contrary to the evidence; and further that the Commission's order if enforced would cause confiscation. Accordingly, it entered a final decree restraining the defendants from taking any steps to enforce the order.

After examining the findings and conclusions and the record upon which they are based, we can find no adequate reason for disapproving the result reached by the court below. Its decree will be affirmed.

The facts are peculiar; the applicable principles of law have been stated in former opinions here. To enter upon a detailed discussion of them at this time would serve no useful purpose.

Affirmed.

O'GORMAN AND YOUNG, INCORPORATED, v.
HARTFORD FIRE INSURANCE COMPANY.

SAME v. PHOENIX ASSURANCE COMPANY,
LIMITED.

APPEALS FROM THE COURT OF ERRORS AND APPEALS OF NEW
JERSEY.

Nos. 12 and 13. Argued April 30, 1930. Reargued October 30,
1930.—Decided January 5, 1931.

1. The business of insurance is so far affected with a public interest that the State may regulate the rates, and likewise the relations of those engaged in the business. P. 257.