

it cannot be said as a matter of law that an executor comes into this category merely because he conserves the estate by marshalling and gathering the assets as a mere conduit for ultimate distribution. And determination of what constitutes "carrying on . . . business" under the Revenue Act does not depend upon the size of the estate or the number of people whose services are required in order properly to conserve it.

The judgment of the Court or Claims is vacated and the cause is remanded to that court for proceedings in accordance with the views herein expressed.

Judgment vacated.

ARKANSAS CORPORATION COMMISSION ET AL. v.
THOMPSON, TRUSTEE.

CERTIORARI TO THE CIRCUIT COURT OF APPEALS FOR THE
EIGHTH CIRCUIT.

No. 715. Argued April 4, 1941.—Decided April 28, 1941.

1. *Assumed*, without deciding, that § 64 (a) of the Bankruptcy Act is applicable in railroad reorganization proceedings under § 77. P. 138.
2. Section 64 (a) (4) of the Bankruptcy Act giving priority to "taxes legally due and owing by the bankrupt to . . . any State," and providing "That, in case any question arises as to the amount or legality of any taxes, such question shall be heard and determined by the [bankruptcy] court," does not empower that court to revise the valuation of a railroad which has been finally fixed, pursuant to the state law, as the basis for a state tax. P. 142.

So *held* where the valuation was by a state commission having broad authority in the regulation of railroads and other public utilities and over valuations for tax purposes, in quasi-judicial proceedings in which the reorganization trustee had been fully heard and from the result of which he took no appeal to the state courts, as permitted by state law. *New Jersey v. Anderson*, 203 U. S. 483, distinguished.

116 F. 2d 179, reversed.

CERTIORARI, 312 U. S. 673, to review the affirmance of an order in a railroad reorganization proceeding which overruled a motion by the present petitioners for the dismissal of a petition filed by Thompson, Trustee. His petition alleged that certain state taxes laid on the railroad were excessive and unlawful and sought to have their validity determined by the bankruptcy court.

Messrs. Joseph M. Hill and Leffel Gentry, Assistant Attorney General of Arkansas, with whom *Messrs. Jack Holt*, Attorney General, and *Henry L. Fitzhugh* were on the brief, for petitioners.

The bankruptcy court exceeded its power. *Palmer v. Massachusetts*, 308 U. S. 79; *Continental National Bank v. Chicago, R. I. & P. Ry. Co.*, 294 U. S. 648; *Isaacs v. Hobbs Tie & Timber Co.*, 282 U. S. 734; *Thompson v. Terminal Shares*, 104 F. 2d 1; *McLaughlin v. St. Louis & S. W. Ry.*, 232 F. 579; *Missouri Pacific R. Co. v. Conway & Vilonia Road Dist.*, 280 F. 401; *Massachusetts v. Palmer*, 101 F. 2d 48. See, also, §§ 77 and 77 (b) of the Bankruptcy Act; the Johnson Act of 1934, 28 U. S. C. § 41; Tax Act of 1937, 28 U. S. C. § 41.

Section 64 (a) of the Bankruptcy Act is inconsistent with and no part of § 77. *Finletter on Bankruptcy Reorganization*, p. 344; § 77, Bankruptcy Act, 11 U. S. C. 205; *In re Brannon*, 62 F. 2d 959; *Thompson v. Louisiana*, 98 F. 2d 108.

Section 64 (a) is not applicable to trustees' taxes. *Hennepin County v. M. W. Savage Factories*, 83 F. 2d 453; *Boteler v. Ingels*, 308 U. S. 57; *Thompson v. Louisiana*, 98 F. 2d 108; *Haggerty v. Michigan*, 286 U. S. 334; *Robertson v. Goree*, 29 F. 2d 595; *MacGregor v. Johnson-Cowdin-Emmerich, Inc.*, 39 F. 2d 574; 11 U. S. C. § 104; Act of June 18, 1934, 48 Stat. 993.

The order of April 11, 1940, was an injunction. *Johnson Act of 1934*, 41 Stat. 774; 28 U. S. C. § 41; *Griesa v.*

Mutual Life Ins. Co., 165 F. 48; *Western Union Telegraph Co. v. United States & Mexican Trust Co.*, 221 F. 545; *Enelow v. New York Life Ins. Co.*, 293 U. S. 379; Jud. Code § 24; 28 U. S. C. § 41.

The trustee had an adequate remedy under Arkansas law for any unconstitutional or arbitrary invasion of rights. *Martineau v. Clear Creek Oil & Gas Co.*, 141 Ark. 596; Pope's Digest, § 1936; *Clear Creek Oil & Gas Co. v. Ft. Smith Co.*, 161 Ark. 12; *Fort Smith Co. v. Clear Creek Oil & Co.*, 267 U. S. 231; *Atlas Life Ins. Co. v. Southern*, 306 U. S. 561; *Terry v. New York*, 104 F. 2d 498; *East Ohio Co. v. Cleveland*, 84 F. 2d 443; *McLaughlin v. St. Louis & S. W. Ry Co.*, 232 F. 579; *Missouri Pacific Ry. Co. v. Conway & Vilonia Road Dist.*, 280 F. 401.

The Trustee's petition does not present a justiciable issue for review in a state or federal court. The petition presents only a question of the relation of recognized evidentiary factors, and these are exclusively questions for the state board. See Public Aids to Transportation, Coordinator's Section of Research, Vol. 2, p. 200; *Railroad Commission v. Rowan & Nichols Oil Co.*, 310 U. S. 573; *Federal Communications Comm'n v. Pottsville Broadcasting Co.*, 309 U. S. 134; *Nashville, C. & St. L. Ry. v. Browning*, 310 U. S. 362; *Rowley v. Chicago & N. W. R. Co.*, 293 U. S. 102; *Central Railway v. Martin*, 115 F. 2d 968; the Johnson Act of 1934, 28 U. S. C. § 41.

Mr. James M. Chaney, with whom Messrs. Thomas T. Railey and Harvey G. Combs were on the brief, for respondent.

The powers of the bankruptcy court were not exceeded. *In re Wood & Henderson*, 210 U. S. 246; *U. S. Fidelity & Guaranty Co. v. Bray*, 225 U. S. 205; *Van Huffel v. Harkelrode*, 294 U. S. 225; *New York v. Irving Trust Co.*, 288 U. S. 329; *New Jersey v. Anderson*, 203 U. S. 483; *Kalb v. Feuerstein*, 308 U. S. 433.

The provision of § 64 of the Bankruptcy Act "that in case any question arises as to the amount or legality of any taxes, such question shall be heard and determined by the Court" is not inconsistent with § 77, and is of governing force in proceedings under § 77. *Michigan v. Michigan Trust Co.*, 296 U. S. 334; *In re Denver & Rio Grande Western R. Co.*, 23 F. Supp. 298; *St. Francis Levee Dist. v. Kurn*, 91 F. 2d 118; *St. Francis Levee District v. Kurn*, 98 F. 2d 394.

The jurisdiction to hear and determine any question as to taxes, under the provisions of § 64 (a) of the Act, extends to taxes accruing during the Trustee's possession of the property. *Henderson County v. Wilkins*, 43 F. 2d 670; *Dickinson v. Riley*, 96 F. 2d 385; *In re Denver & Rio Grande Western R. Co.*, 23 F. Supp. 298; *St. Francis Levee Dist. v. Kurn*, 91 F. 2d 118; *St. Francis Levee Dist. v. Kurn*, 98 F. 2d 394.

The order of April 11, 1940, was not an injunction and was not in violation of Jud. Code § 24. *Ex parte Baldwin*, 291 U. S. 610; *Henderson County v. Wilkins*, 43 F. 2d 670; *St. Francis Levee Dist. v. Kurn*, 91 F. 2d 118; *St. Francis Levee Dist. v. Kurn*, 98 F. 2d 394.

Even though the Arkansas statutes may provide for a judicial review in the state's courts of the assessments made by the Corporation Commission, this does not deprive the bankruptcy court of jurisdiction to hear and determine the amount or legality of any tax involved. *U. S. Fidelity & Guaranty Co. v. Bray*, 225 U. S. 205; *Kalb v. Feuerstein*, 308 U. S. 433.

The issue presented by the Trustee's petition is clearly justiciable. See Constitution of Arkansas, Art. XVI, § 5; Ark. Stats. §§ 2044, 2048; *Dawson v. Kentucky Distilleries*, 255 U. S. 288; *New Jersey v. Anderson*, 203 U. S. 483; *In re Schaefer Co.*, 103 F. 2d 237; *Great Northern Ry. Co. v. Weeks*, 297 U. S. 135; *Chicago & N. W. Ry. v. Eveland*, 13 F. 2d 442; *Bailey v. Megan*, 102 F. 2d 651;

Standard Oil Co. v. Southern Pacific Co., 268 U. S. 146; *Atlanta, B. & C. R. Co. v. United States*, 296 U. S. 33; *Kansas City Southern Ry. Co. v. Road Improvement Dist.*, 256 U. S. 658; *Road Improvement Dist. v. Missouri Pacific R. Co.*, 274 U. S. 188.

Messrs. Jack Holt, Attorney General of Arkansas, *Charles T. Coleman* and *Walter G. Riddick* filed a brief on behalf of the State of Arkansas.

The validity and amount of tax claims must be determined in accordance with the laws of the taxing sovereignty.

The Arkansas Corporation Commission is a quasi-judicial tribunal. Its decisions can not be overturned by the courts for mere mistakes of fact or errors of judgment.

The trustee did not exhaust the administrative remedy provided by the Arkansas statute. The principle that the administrative remedy for relief against an alleged illegal tax must be exhausted before resort may be had to the courts for that purpose, is applicable to trustees in bankruptcy. *In re Gustav Schaefer Co.*, 103 F. 2d 237; *City of Springfield v. Hotel Charles*, 84 F. 2d 589; *In re Perlmutter*, 256 F. 861; *In re 168 Adams Building Corp.*, 105 F. 2d 704; *In re A. V. Manning's Sons*, 16 F. Supp. 632; *In re Schach*, 17 F. Supp. 437.

The bankruptcy court has no power, under § 77, to re-assess the taxes due by the Trustee. Section 77 authorizes the formulation of a railroad reorganization plan, subject to the approval of the Interstate Commerce Commission and of the court, that will be fair and just to the creditors and stockholders, and which will guarantee the continued operation of the railroad. The word "taxes" does not appear in § 77, and there is nothing in the section indicating an intention to confer on bankruptcy courts the extraordinary power to assess or re-assess taxes.

If a tax is valid when measured by the laws of the taxing sovereign the bankruptcy court should allow it. If a tax is invalid when measured by those laws, it is the duty of the bankruptcy court to disallow it. The allowance or disallowance of a tax claim exhausts the entire judicial power of the court.

The assessment of taxes is referable to the legislative power, and it is no part of the judicial function. *Central Kentucky Natural Gas Co. v. Railroad Commission*, 290 U. S. 264. See also: *West Ohio Gas Co. v. Public Utilities Commission*, 294 U. S. 63; *Rowley v. Chicago & N. W. Ry. Co.*, 293 U. S. 102; *Great Northern Ry. Co. v. Weeks*, 297 U. S. 136; *Reagan v. Farmers Loan & Trust Co.*, 154 U. S. 362; *West v. Chesapeake & Potomac Tel. Co.*, 295 U. S. 662; *Central R. Co. v. Martin*, 115 F. 2d 968.

This principle has been held to be applicable to tax claims filed in bankruptcy proceedings. *City of Detroit v. Detroit & Canada Tunnel Co.*, 92 F. 2d 833; *Cross v. Georgia Iron & Coal Co.*, 250 F. 438; *In re Gould Manufacturing Co.*, 11 F. Supp. 644; *In re Schach*, 17 F. Supp. 437; *In re 168 Adams Building Corp.*, 27 F. Supp. 247.

The trustee's petition is a collateral attack on the assessment made by the Commission. The assessment is *prima facie* valid and it must be judged on the record before the Commission. The judicial function is exhausted when there is found to be a rational basis for the conclusions approved by the administrative body.

Messrs. David T. Wilentz, Attorney General of New Jersey, and *Duane E. Minard* filed a brief on behalf of the State of New Jersey, as *amicus curiae*, urging reversal.

MR. JUSTICE BLACK delivered the opinion of the Court.

This case raises questions concerning the right and power of a federal bankruptcy court to revise and re-

determine for state tax purposes the property value of a railroad (Missouri Pacific) in reorganization under § 77 of the Bankruptcy Act, the state (Arkansas) having already determined such value through its own taxing officials and in accordance with the procedure prescribed by valid state legislation.

Over the objections of Arkansas officials, the District Court sitting in bankruptcy held that it did have such power. 33 F. Supp. 728. The Circuit Court of Appeals affirmed. 116 F. 2d 179. In so holding, both courts relied on § 64 (a) of the general bankruptcy act, 11 U. S. C. § 104 (a) (Supp. 1939), as the source of this power. That section, so far as pertinent here, provides "The debts to have priority, in advance of the payment of dividends to creditors, and to be paid in full out of bankrupt estates . . . shall be . . . (4) taxes legally due and owing by the bankrupt to the United States or any State . . . : *Provided*, . . . That, in case any question arises as to the amount or legality of any taxes, such question shall be heard and determined by the [bankruptcy] court . . ."

Petitioners contend that § 64 (a) is in its entirety inconsistent¹ with the aims and purposes of § 77, 11 U.S.C. § 205 (Supp. 1939), and that it therefore has no application here. That question we need not decide. For we are of opinion that the Congressional language giving

¹Section 77 (l) provides: "In proceedings under this section *and consistent with the provisions thereof*, the jurisdiction and powers of the court, . . . and the rights and liabilities of creditors, . . . shall be the same as if a voluntary petition for adjudication had been filed and a decree of adjudication had been entered on the day when the debtor's petition was filed." (Italics supplied.)

Among the federal court decisions cited in briefs supporting the petition as bearing on the issue of inconsistency between §§ 64 (a) and 77, either directly or indirectly, are the following: *Lowden v. Northwestern National Bank & Trust Co.*, 298 U. S. 160, 164;

to the bankruptcy court power to determine the "amount or legality" of taxes does not mean that the court is given power to redetermine and revise the property value finally fixed by a state under the circumstances revealed by the trustee's petition, even though that value is the basis used in computing the amount of taxes "legally due and owing."

An explanation of the power, functions, and action of the Arkansas Corporation Commission is essential to a clear understanding of this case. That Commission is a state agency created pursuant to state constitutional requirements.² It is vested with broad authority in the regulation of railroads, canals, turnpikes, public utilities, motor vehicles, sleeping cars, telephone and telegraph companies, and companies transmitting and distributing gas, oil and electricity.³ Also, in the administration of the state tax laws the Corporation Commission has general and complete supervision and control over the valuation, assessment and equalization of all property. Before entering upon his duties in the assessment of property, each member of the Commission must subscribe to an oath that he will well and truly value and assess all property required to be assessed.⁴ The Commission has full power to summon witnesses and hear evidence, but further, before assessments are finally determined, all persons interested have the right, on written application, to appear and be heard.

In re Chicago, M., St. P. & P. R. Co., 27 F. Supp. 685; *City of Springfield v. Hotel Charles Co.*, 84 F. 2d 589; *In re A. V. Manning's Sons*, 16 F. Supp. 932; *In re New York, O. & W. Ry. Co.*, 25 F. Supp. 709; *Texas Co. v. Blue Way Lines*, 93 F. 2d 593; *Henderson County v. Wilkins*, 43 F. 2d 670. And see Finletter, *The Law of Bankruptcy Reorganization* (1939) pp. 343-344.

² Ark. Dig. Stats. (Pope, 1937) § 1930.

³ *Id.*, §§ 1930-2128.

⁴ *Id.*, § 2042.

The Missouri Pacific has been in reorganization under § 77, with respondent as trustee, since 1933. In 1939, as in the preceding years, the railroad's properties were being operated by the trustee. The Commission, after a hearing in which the trustee participated, fixed the value of the railroad's Arkansas property, and levied an assessment for 1939. The trustee's motion for rehearing was heard, considered, and overruled by the Commission. The trustee concedes here that the hearing granted by the Commission was in "full compliance with all the administrative steps required by the Arkansas statute." Under controlling Arkansas law, it is provided that "Within thirty days after the entry on the record of the said Arkansas Corporation Commission of any order made by it, any party aggrieved may file a written motion with any member of such commission or with the secretary thereof praying for appeal from such order to the circuit court of Pulaski County; and thereupon said appeal shall be automatically deemed as granted as a matter of right without any further order."⁵ Any party aggrieved by the Circuit Court's decision may then obtain as a matter of right an appeal to the Supreme Court of the state.⁶ It is provided by statute that preferential standing on the docket be given to appeals from the Commission to the Circuit Court, and from the Circuit Court to the Supreme Court.

The Commission's final order fixing the value of the railroad's property for tax assessment was entered on December 4, 1939. The trustee did not appeal to the Circuit Court of Pulaski County within thirty days as authorized by Arkansas law, and the assessment of the Corporation Commission thereupon became final. Thus tested by Arkansas taxation legislation, the assessed taxes were, in

⁵ *Id.*, § 2019.

⁶ *Id.*, § 2020.

the language of § 64 (a), "legally due and owing" to the state in the "amount" fixed by the Commission, and were not subject to further judicial review, unless the special circumstance that a taxpayer is in bankruptcy or reorganization places it in a separate tax classification different from that of all other Arkansas taxpayers.

But three months after the expiration of the time allowed by the state for the trustee to appeal from the Commission's order—specifically, on April 11, 1940—the trustee petitioned the bankruptcy court, sitting in Missouri, to determine the "amount or legality" of the Arkansas tax by revising the property value found by the Corporation Commission and upon which the amount was based. The basis of the trustee's petition was that the Commission had made an overassessment, in that after a hearing it had determined the property to be worth far more than its actual value. This argument rested upon a contention that the Commission had overvalued the property by giving "predominant weight . . . to original cost and to cost of reproduction, and wholly inadequate consideration . . . to the market value of the railroad's stocks and bonds and to an enormous reduction in earnings occasioned by general business considerations and to rapid increase of competition from buses, trucks, water and air." The bankruptcy court was asked to find the Commission's tax assessment illegal upon three grounds: (1) The value determined by the Board was greatly in excess of the fair market value of the railroad's property and therefore there was a violation of that section of Arkansas law which provides that the assessment shall be "upon the consideration of what a clear fee simple title thereto would sell for under conditions under which that character of property is usually sold."⁷ (2) The assessment was in violation of § 5 of Article 16 of the Constitution of Arkansas which

⁷ *Id.*, § 2044.

provides that all property shall be taxed according to its value and that no one species of property from which a tax may be collected shall be taxed higher than another species of property of equal value, and that all values shall be ascertained so as to make the same equal and uniform throughout the state. (3) The alleged excessive valuation fixed by the Commission was in violation of the Fourteenth Amendment of the Constitution of the United States.

It is thus obvious that the trustee's petition, which the bankruptcy court refused to dismiss, rested entirely upon the assumption that § 64 (a) (4) gave the bankruptcy court power to hold a completely new hearing in order to set its own value on the property, regardless of the value fixed by the state through its expert and specially constituted quasi-judicial agency.⁸

But we do not so interpret § 64 (a) (4). What § 64 (a) (4) relates to is "taxes legally due and owing by the bankrupt." And what that section further provides is that "in case any question arises as to the amount or legality of any taxes, such question shall be heard and determined by the court; . . ." Nothing in this language indicates that taxpayers in bankruptcy or reorganization are intended to have the extraordinary privilege of two separate trials, one state and one federal, on an identical issue of controverted fact—the value of the property taxed. Manifestly, whether or not taxes are "legally due and owing" to a state depends upon the valid laws of that state. Ad valorem taxes depend upon a determination of value. The governmental function of fixing the value for tax purposes has rarely, if ever,

⁸ Among the lower federal court decisions discussing the power of bankruptcy courts under § 64 (a) (4) are: *In re Gould Mfg. Co.*, 11 F. Supp. 644; *In re 168 Adams Building Corp.*, 27 F. Supp. 247, affirmed, 105 F. 2d 704; *In re Schach*, 17 F. Supp. 437, 439; *In re Lang Body Co.*, 92 F. 2d 338; *Henderson County v. Wilkins*, 43 F. 2d 670.

been a judicial function. The "legality" of the action of Arkansas in entrusting the determination of value to its Corporation Commission is not challenged here, as of course it could not be. If the Commission properly found the value of the property, the "amount" of the taxes is not in question. For it is not asserted that the Commission made an improper arithmetical computation in applying the legal tax rate to the determined property value. It is in this respect, as well as with regard to the dissimilar duties and functions of the state administrative agencies involved, that this case differs from that of *New Jersey v. Anderson*, 203 U. S. 483, upon which the trustee here strongly relies. In that case, as here, the relevant provision of § 64 (a) was relied on as authorizing the bankruptcy court to determine the "amount or legality" of taxes. New Jersey had imposed a franchise tax upon the outstanding—not the authorized—capital stock of corporations, varying in proportion to the number of shares. A state agency, without a hearing, imposed a tax on the \$40,000,000 authorized stock of the company involved, when in fact the company had only \$10,000,000 of such stock outstanding. This Court said: "It may well be doubted whether the board had power to tax any other stock [except that outstanding]. But be that as it may, section 64a specifically provides that in case any question arises as to the amount or legality of taxes, the same shall be heard and determined by the court, with a view to ascertaining the amount really due. We do not think it was the intention of Congress to conclude the bankruptcy courts by the findings of boards of this character, and that the claim should have been upon the basis of the capital stock actually outstanding." But in that case the trustee argued in his brief before this Court that under controlling New Jersey law "the assessors acted ministerially, not judicially," their "determination was merely

computation," and their actions exceeded their statutory authority.⁹

The Arkansas Corporation Commission, however, does not act ministerially. On the contrary, it is a quasi-judicial agency entrusted with wide responsibilities in connection with the general tax system of the state. Upon it the state relies for the hearing and determination of matters essential to the maintenance and fair functioning of a uniform tax system. For reasons deemed suitable to it, the state has elected to confide this duty to the same agency which has power to exercise state-wide regulatory supervision over public utilities, including railroads. The difficulties in fixing railroad valuations are well known, and have been many times adverted to by this Court.¹⁰ The Corporation Commission has been chosen by Arkansas as the ultimate guardian of the rights of the state and its taxpayers, subject only to that judicial review provided for by the state. "The State has confided those rights to its protection and has trusted to its honor and capacity as it confides the protection of other social relations to the courts of law." *Chicago, B. & Q. Ry. Co. v. Babcock*, 204 U. S. 585, 598.

If the trustee had availed himself of his right of appeal to the courts of Arkansas, with an ultimate right of appeal to this Court for final determination of federal questions, it is difficult to believe that it would now be seriously argued that Congress, by § 64 (a) (4), in-

⁹ In advancing this argument counsel called attention to the case of *People's Investment Co. v. State Board of Assessors*, 66 N. J. L. 175; 48 A. 579, in which the Court had said that it was beyond the jurisdiction of the tax agent to levy a tax on any but the outstanding capital stock. Counsel also relied on *Arimex Copper Co. v. State Board of Assessors*, 69 N. J. L. 121; 54 A. 244.

¹⁰ E. g., *Nashville, C. & St. L. Ry. v. Browning*, 310 U. S. 362, 370; *Rowley v. Chicago & N. W. Ry. Co.*, 293 U. S. 102, 109, and cases cited.

tended to impose upon the bankruptcy court the unusual power and delicate duty of trying out afresh the facts found by the state with relation to the value of property. And there is no more reason to assume that Congress intended that the bankruptcy court should fail to give respect to an unappealed determination of value made by the Arkansas Corporation Commission. Bankruptcy and reorganization proceedings today cover a wide area in the business field. But there is nothing in the history of bankruptcy or reorganization legislation to support the theory that Congress intended to set the federal courts up as super-assessment tribunals over state taxing agencies. The express legislative purpose of Arkansas to move towards a more nearly uniform and fairly distributed tax burden through relying on supervision by a single agency could be in large part frustrated by the construction of the Bankruptcy Act for which the trustee here contends. Section 64 (a), thus construed, would tend to obstruct, and not to facilitate, the enforcement of state tax laws.¹¹ Nothing in the language of the Act requires such a construction. And the policy of revising and redetermining state tax valuations contended for by the trustee would be a complete reversal of our historic national policy of federal non-interference with the taxing power of states.

For the reasons given, it is our opinion that the District Court should have dismissed the trustee's petition.

Reversed.

MR. JUSTICE DOUGLAS took no part in the consideration or decision of this case.

¹¹ *Boteler v. Ingels*, 308 U. S. 57, 61; *Healy v. Ratta*, 292 U. S. 263, 270; *Pennsylvania v. Williams*, 294 U. S. 176, 185. Cf. Bankruptcy Act of 1867, § 28 (5), 14 Stat. 531; Act of June 18, 1934, 28 U. S. C. § 124 (a), 48 Stat. 993.