

sum of intangible values, in excess, of course, of such portions thereof as have found a place in the rate-base.

The Franchise Value and the Rate-base. — While recognizing that earnings may be so high that a franchise has value the Wisconsin Railroad Commission places itself squarely on record against the inclusion of such value in the value which is made the basis for fixing rates. The Commission in the *Antigo Water Co.* case (Wis. R. C. R., Vol. 3, p. 727) says in substance that though earnings may be high enough to yield a surplus that may be made the basis for determining a franchise value, properly subject to taxation, this fact by no means implies that these earnings or any value based thereon should also be the basis for rate-fixing. Taxation, according to the Commission, is based on the ability to pay. Rates should be based on the cost of service (measured by expenses) including a fair return on the investment. The Commission apparently recognizes, what the author endeavors to make clear, that "taxation value" and therefore "market value" really depends on the earnings and therefore, too, upon the rates.

In the case of the *City of Appleton vs. Appleton Waterworks Co.* the Commission again says (Wis. R. C. R., Vol. 5, p. 282) that in estimating capital upon which return is to be made the franchise has no value, because franchise value is produced by the rates charged. It is proper, however, to tax the company on its franchise value which would be paid for if the business were sold.

The Commission in the case of the *State Journal Printing Co. vs. Madison Gas and Electric Co.* (Wis. R. C. R., Vol. 4, p. 586) declares franchises to be monopolistic in their nature. They belong to the community. Their value has been created by the growth of population and by economic and social developments rather than by individual effort. Belonging to the public, the right of control and of the disposal thereof also rests in the community. Under these conditions according to the Commission, there appear to be no good grounds upon which the value of exclusive privileges of this kind should become private property.