

Docket fees to be taxed on each hearing and rehearing in chief, and solicitor's fees to be taxed for each deposition in the case in which it was taken, only.

WITTERS, Receiver, etc., v. SOWLES, Ex'r, etc., and others.

(Circuit Court, D. Vermont. August 7, 1886.)

EVIDENCE—MATERIALITY.

Order filed compelling the witness, wife of the executor, trustee, etc., to make a disclosure as to the assets of the estate, the evidence contemplated being material, within the scope of the bill.

In Equity.

Chester W. Witters, for orator.

H. C. Adams, for defendant.

WHEELER, J. The orator has called the defendant Margaret B. Sowles as a witness, who is made fully competent by statute, notwithstanding that her husband is a party. Rev. St. § 858; Rev. Laws Vt. § 1005; *Witters v. Sowles*, ante, 121. As such witness she has been called upon to testify as to the assets of the estate which have come from her husband, as executor of the will of Hiram Bellows, to her hands, either as residuary legatee, or as trustee for her daughter Susan Bellows Sowles, or as general or specific legatee in her own right. She has declined upon the ground that such disclosure of the assets is not material to any issue in the case, for the purposes of a decree. The scope of the bill is, however, broad enough to reach any of the assets of the estate, wherever they are. Thirty shares of the stock of the bank stand in the name of the executor on the books of the bank. The assets of the estate, wherever they may be, are apparently liable for the assessment on these shares, amounting to \$3,000. The bill is drawn in the aspect that the other 400 shares belonging to the testator in his life-time really belong to the executor, yet so that he is the shareholder in fact. Whether this is so or not, is yet an open question. If it turns out to be so, then the assets may be followed for the assessment on those shares, which amounts to \$40,000 more. The orator is entitled to take testimony as to the situation of the assets, in view of the contingency that they may be wanted for that. Therefore this testimony which ~~he~~ seeks is material, and she has no right to refuse to answer on the ground that it is immaterial. He has a right to full disclosure as to the assets, and to have them produced, in case they are within reach, for identification, and for the purpose of showing how and by whom they are held.

It is ordered, therefore, that the witness make full answer as to the assets, and produce them, as far as practicable, for identification.

CHICAGO, ST. P., M. & O. RY. CO. v. DAKOTA Co. and others.

(Circuit Court, D. Nebraska. August 9, 1886.)

RAILROAD COMPANIES—CONSOLIDATION OF ROADS—PURCHASE OF DOMESTIC BY FOREIGN CORPORATION—CIRCUIT COURT—JURISDICTION.

A foreign corporation, purchasing from a domestic corporation of Nebraska, its line of road, does not become thereby a new or a domestic corporation, and is not disabled from suit in the United States circuit court against a citizen of Nebraska.

On Demurrer to Bill.

Barnes & Bros. and J. D. Howe, for complainant.

Joy, Wright & Hudson, for defendant.

BREWER, J. The single question presented is whether complainant is a domestic corporation, and therefore disabled from suit in this court against a citizen of Nebraska. The facts, as alleged, are that complainant was created under the laws of the state of Wisconsin; that on June 1, 1881, it filed in the office of the secretary of state of Nebraska a duly-certified copy of its articles of incorporation. On the same day it became the owner, by purchase from a Nebraska corporation, of a line of railroad within the state. The act authorizing such a purchase, and defining the rights, powers, and duties of the purchaser, is as follows:

"Section 1. Every railroad company organized under the laws of this state, whose railroads constructed, or to be constructed, within this state, shall be so situated with reference to any railroad constructed, or to be constructed, through any adjoining state or territory, by any railroad company organized or existing under the laws of the United States, or any state or territory, that the same may be so connected at the boundary line of this state, or at any point within this state, by bridge, ferry, or otherwise, as to practically form a continuous line of railway over which cars may pass, is hereby authorized to purchase such connecting railway, or to sell the same to the railroad company constructing, owning, or operating the said railroad through said adjoining state or territory as aforesaid, to said point of connection; and any such foreign company purchasing under the provisions hereof any such connecting railroad within this state may manage the same by its board of directors and officers, and may operate the same, and may issue thereon its stock and bonds to the same extent, and in the same manner, as authorized by the laws of this state; and the said company shall file for record in the office of the secretary of state of this state a true copy of its articles of incorporation, and the said company shall thereafter possess, exercise, and enjoy within this state, as to the control, management, and operation of the said road, and as to the location, construction, and operation of any extension of its said railroad, or any connecting railroad or feeders within this state, all the rights, powers, privileges, and immunities, including the powers of eminent domain possessed by other railroad corporations of this state, and shall be liable to all the restrictions imposed by the general laws of this state upon the railroad corporations of this state. The purchaser of any such railroad shall be subject to any and all laws, incumbrance, or indebtedness existing against the railroad company from which such road may be so purchased: provided, however, that nothing herein contained shall be construed as authorizing the pur-