

appropriation to the use or purpose of that part of the realty with which it is connected; and, three, the intention of the party making the annexation to make the article a permanent accession to the freehold. The third factor, the intention to make the article a permanent accession to the freehold is generally regarded as the most important factor when determining whether an article is a fixture. The other two factors, annexation...

PRESIDENT MOUL: Time.

SENATOR HALL: ...and appropriation to the use of the realty have value primarily as evidence of such intention."

PRESIDENT MOUL: Thank you, Senator Hall. Senator Haberman.

SENATOR HABERMAN: Madam President, and members of the body, it was stated here that there was no way, as I understood it, the statement was that there is no way that railroad tracks would ever be personal property. Well, I disagree with that for this reason. The amendment hammered out in an agreement with the railroads would give the state tax commissioner the power to negotiate settlements with the railroads, if they claim they are being taxed unfairly. Now I'd have somebody stand up on the floor and tell me that the railroads aren't going to say to the tax commissioner, we are being taxed unfairly. Tell me that. Because I am not going to believe it if you tell me, because they are going to save millions of dollars, and I don't dislike the railroads. I respect them for being so smart. That is what it says. That is what the agreement was. And the Governor goes on to say it doesn't mandate the tax commissioner to do anything. Well, of course, they couldn't mandate the tax commissioner to do that, but you stand up and tell me that if the railroads make a deal, they are not going to save some money or they are going to sue. Now you can believe, if you want to, that it will not...it will stay as real property, but I will tell you, folks, it is going to be personal property and they are going to save millions of dollars. Now this issue was not addressed or contested in the original litigation of the federal district court in Nebraska when the railroads went to court. This issue was never brought up, so, therefore, it is wide open, anything can happen, anything can be done, and the tax commissioner can rule that they are being taxed unfairly. And, believe me, folks, he will rule that because they are mighty powerful people, and they are going to win in the end, and we