

50TH CONGRESS, }
1st Session. }

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SENATE.

{ Ex. Doc. 51,
Part 2. }

TESTIMONY

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TAKEN BY

THE UNITED STATES PACIFIC RAILWAY COMMISSION,

APPOINTED

UNDER THE ACT OF CONGRESS APPROVED MARCH 3, 1887,
ENTITLED "AN ACT AUTHORIZING AN INVESTIGATION
OF THE BOOKS, ACCOUNTS, AND METHODS OF
RAILROADS WHICH HAVE RECEIVED AID
FROM THE UNITED STATES, AND
FOR OTHER PURPOSES."

ROBERT E. PATTISON, OF PENNSYLVANIA, *Chairman*,
E. ELLERY ANDERSON, OF NEW YORK,
DAVID T. LITTLER, OF ILLINOIS,
Commissioners.

VOLUME I.

REPORTED BY

CHARLES P. YOUNG, of New York,
SECRETARY AND STENOGRAPHER TO THE COMMISSION.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1887.

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TESTIMONY

TAKEN BY

THE UNITED STATES PACIFIC RAILWAY COMMISSION,

AS TO

*THE WORKING AND FINANCIAL MANAGEMENT OF THE RAILROADS
THAT HAVE RECEIVED AID FROM THE GOVERNMENT IN BONDS.*

NEW YORK, April 27, 1887.

The Commission met at 10 a. m.

Present: Commissioner Pattison (chairman), and Commissioner Anderson.

The secretary was directed, for convenience of reference, to prefix to the report of the testimony a copy of the act of Congress constituting the Commission, and defining its powers and duties.

The act is as follows:

AN ACT authorizing an investigation of the books, accounts, and methods of railroads which have received aid from the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States, be, and he is hereby, authorized to appoint three commissioners, whose compensation shall be seven hundred and fifty dollars per month to each, and the necessary traveling expenses and board bills, for which proper vouchers shall be returned, to be approved by the Secretary of the Interior; and said commission may appoint a stenographer, if necessary, and fix his compensation; and the persons appointed on the said commission shall have power to examine all books, papers, and methods of the companies hereinafter named, employ experts if necessary; and they shall at all times be under the immediate direction and control of the President of the United States, and may at any time be removed by him in his discretion. The term of office of said commissioners shall not extend beyond the beginning of the next session of the Senate.

If the Senate shall be convened after the fourth day of March, eighteen hundred and eighty-seven and before the first of December in said year and the duties of said commissioners shall not then be completed, the President shall by and with the advice and consent of the Senate appoint three commissioners who shall perform and complete the duties prescribed in this act within the time therein specified.

Sec. 2. That the duty of said commission shall be to examine into the working and financial management of all of the railroads that have received aid from the Government in bonds; to ascertain whether they have observed all the obligations imposed upon them by the laws of the United States under which they received such aid, or which have been since passed in reference thereto, and complied with all other obligations to the United States; and whether their books and accounts are or have been so kept as to show the net earnings of the aided roads, and what said books and accounts actually show in regard thereto, and what have been in fact said net earnings; or whether there has been a diversion of earnings of aided roads to less productive branches, through constructive mileage allowances, or average mileage allowances between aided and non-aided roads or parts of roads, or otherwise, and also whether such system of constructive mileage allowances is fair and usual, and in practical operation has resulted adversely or otherwise to the aided roads and the interest of the United States; or whether there has been a diversion of earnings of aided roads to wrongful or improper purposes, and, if so, to what extent; whether there is a discrimination of rates in favor of unaided against aided roads; whether any, and, if so, how much, money is due and owing to the United States on account of mistaken or erroneous accounts, reports, or settlements made by said roads; whether any traffic or business which could or should be done on the aided lines of said companies has been diverted to the lines of any other company or to non-aided lines, and what amounts have been deducted from the gross earnings of any of said aided railroad companies, by their general freight and passenger agents or auditors, by way of rebate, percentage of business done, constructive mileage, monthly or other payments on any pooling or rate arrangement, contract, or agreement; and also to inquire into, ascertain, and report as to the kind, character, and amount of the assets of said companies, and what assets of each company are now subject to the lien of the Government, and the value thereof; and also whether any dividends have been unlawfully declared by the directors or paid to the stockholders of said companies, and, if so, to what extent, and whether the amount thereof may not be recovered from the directors unlawfully declaring the same or persons who have unlawfully received the same; whether the proceeds of any trust funds or lands loaned, advanced, or granted have been diverted from their lawful use, whether any new stock or bonds have been issued or any guarantees or pledges made contrary to or without authority of law; whether any of the directors, officers, or employees of said companies respectively have been or are now directly or indirectly interested, and to what amount or extent, in any other railroad, steamship, telegraph, express, mining, construction, or other business company or corporation, and with which any agreements, undertakings, or leases have been made or entered into; what amounts of money or credit have been or are now loaned by any of said companies to any person or corporation; what amounts of money or credit have been or are now borrowed by any of said companies, giving names of lenders and the purposes for which said sums have been or are now required; what amounts of money or other valuable consideration, such as stocks, bonds, passes, and so forth, have been expended or paid out by said companies, whether for lawful or unlawful purposes, but for which sufficient and detailed vouchers have not been given or filed with the records of said companies; and, further, to enquire and report whether said companies, or either of them, or their officers or agents, have paid any money or other valuable consideration, or done any other act or thing, for the purpose of influencing

legislation, and to investigate and report all the facts relating to an alleged consolidation of the Union Pacific Railroad Company, the Kansas Pacific Railway Company, and the Denver Pacific Railway and Telegraph Company into an alleged corporation known as the Union Pacific Railway Company. Said investigation shall include the alleged sale of the stock of the Kansas Pacific Railroad Company to the Union Pacific Railroad Company, and all the circumstances and particulars pertaining to said alleged sale, and whether any of the Pacific railroad corporations which obtained bonds from the United States to aid in the construction of their railroads have expended any of their moneys or other assets in the construction, or to aid in the construction, of other railroads, or invested of their moneys or other assets in the stocks or bonds of any manufacturing, mining, and commercial companies or corporations, or of other railroad corporations; and if any such expenditures or investments have been made, the extent and character thereof made by each of said corporations shall be inquired into, and also the present interest of any of said corporations in the railroads auxiliary to their respective railroads.

And said commission shall also ascertain and report the names of all the stockholders in each of said companies, from its organization to the date of the investigation herein provided for, as they appear on the books of said companies at the date of its annual meeting in each year; the amount of stock held by each; what consideration, if any, was paid by each stockholder to said company for his stock, and when and in what property such payment was made; the date when each stockholder so appearing on the books became such; and whether stock is now held or has heretofore been held in the name of any person in trust or for the benefit of any other, and the names of all such persons; the total amount of the stock in each company, and the dates and amount of any increase of such stock, and the reason for such increase; and the amount of the annual salaries or compensation that are now or at any prior time have been paid to any officer or employee of said company, when such salary or compensation amounts to five thousand dollars or more per annum, and the names of the persons now receiving or who have heretofore received such salaries or compensation, and all bonuses or donations which may have been given or paid to any such person; and all payments made under the head of legal expenses, to whom made, and the amount paid to each, and for what specific services such payments were made.

Said commission shall also inquire into and report upon the relations of said railroads to the interests of the communities through which they pass; to all questions concerning the payment of taxes, especially upon lands granted by Congress, and the delay of said companies in taking out patents for such lands; the rates of fare and freight charged, discriminations, differentials, pools, and other devices, and the facilities and accommodations furnished to the patrons of such roads; and their report shall embrace a consideration of the interests and rights of said communities as affected by whatever plan of settlement or payment of the existing debt may be proposed.

Said commissioners shall also consider and report whether the interests of the United States require any extension of the time for performance of the obligations to the United States of said companies, or any of them, and the facts and circumstances upon which said opinion is based, including the security held by the United States for the performance of such obligations, and the value thereof, and the value of the property of such companies, and either of them, not included in such security, and what further security it is expedient that said companies

shall be required to give; and if, in their opinion, such extension shall be required by the interests of the United States, they shall submit a scheme for such extension, which shall secure to the United States full payment of all debts due them from said companies, with a reasonable rate of interest, in such time as the commissioners shall propose, having due regard to the financial ability of said companies and the proper conduct of their business in such manner as shall afford efficient service to the public.

And the said commission shall report in full in regard to all such matters aforesaid, and in regard to any other matters which may be ascertained or come to their knowledge in regard to said companies respectively, on or before December first, eighteen hundred and eighty-seven, to the President of the United States, who shall forward said report to Congress, with such recommendations or comments as he may see fit to make in the premises.

The commissioners shall also ascertain the average cost per annum of Government transportation in the region now traversed by the Pacific railroads between the year 1850 and the completion of said roads, and also the average cost per annum since such completion, and what additional facilities have been furnished to the Government and the people by said roads; also to enquire what discount the Pacific Railroad and its several branches were forced to make, in disposing of the bonds guaranteed by the Government, to obtain the gold coin which was the currency of the country through which the greater part of said roads pass; also to ascertain the comparative cost of construction of said roads as compared with what they would have cost with the prices of labor and commodities prevailing five years preceding or five years subsequent to the completion of said roads; also to inquire whether or not the Pacific Railroad was completed in less time than was allowed by law, and, if so, how much less time, and if the United States was benefitted thereby; also to inquire if either of the Pacific railroad companies have been embarrassed and their earning capacity impaired by antagonistic local or State legislation; also to inquire if the United States, since the Union and Central Pacific Railroad Companies accepted the terms proposed by Congress for the construction of the Pacific Railroad, has granted aid in lands for building competing parallel railroads to said Pacific railroads, and, if so, how many such roads, and to what extent such competing lines have impaired the earning capacity of the Pacific railroads; also to inquire if the United States have contracts with branch roads controlled by either of said Pacific roads for carrying United States mails, and, if so, what service has been performed by them, and what money, if any, has been paid for such service, and what remains due and unpaid, and if the United States by failing to pay for such mail services has embarrassed said railroad companies, or either of them, in paying their indebtedness to the United States; also to inquire if the several Pacific railroad companies have complied with the provisions of "An act to alter and amend the act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes,' approved July first, eighteen hundred and sixty-two, and also to alter and amend the act of Congress approved July second, eighteen hundred and sixty-four, in amendment of said first-named act," commonly known as the Thurman act, and, if not, in what particulars they have failed to comply; also to enquire what sums the Pacific railroads and their branches can severally pay annually on account of their indebtedness to the United States without *imposing such burdens upon the people, and particularly upon the local-*

ities through which the roads pass, as to retard the development of the country.

That the commissioners hereby created, or either of them, shall have power to require the attendance and testimony of witnesses and the production of all books, papers, contracts, agreements, and documents relating to the matter under investigation, and to administer oaths; and to that end may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section. Any of the circuit or district courts of the United States within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena issued to any person, issue an order requiring any such person to appear before said commissioners, or either of them, as the case may be, and produce books and papers if so ordered, and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

The claim that any such testimony or evidence may tend to criminate the person giving such evidence, shall not excuse such witness from testifying; but such evidence or testimony shall not be used against such person on the trial of any criminal proceeding.

SEC. 3. That the sum of one hundred thousand dollars, or so much thereof as may be necessary, is hereby appropriated, out of any money in the Treasury of the United States not otherwise appropriated, for the purposes of this investigation.

SEC. 4. That whenever, in the opinion of the President, it shall be deemed necessary to the protection of the interests and the preservation of the security of the United States in respect of its lien, mortgage, or other interest in any of the property of any or all of the several companies upon which a lien, mortgage, or other incumbrance paramount to the right, title, or interest of the United States for the same property, or any part of the same, may exist and be then lawfully liable to be enforced, the Secretary of the Treasury shall, under the direction of the President, redeem or otherwise clear off such paramount lien, mortgage, or other incumbrance by paying the sums lawfully due in respect thereof out of the Treasury; and the United States shall thereupon become and be subrogated to all rights and securities theretofore pertaining to the debt, mortgage, lien, or other incumbrance in respect of which such payment shall have been made. It shall be the duty of the Attorney-General, under the direction of the President, to take all such steps and proceedings, in the courts and otherwise, as shall be needful to redeem such lien, mortgage, or other incumbrance, and to protect and defend the rights and interests of the United States in respect of the matters in this section mentioned, and to take steps to foreclose any mortgages or liens of the United States on any such railroad property.

SEC. 5. That the sinking-funds which are or may be held in the Treasury for the security of the indebtedness of either or all of said railroad companies may, in addition to the investments now authorized by law, be invested in any bonds of the United States heretofore issued for the benefit of either or all of said companies, or in any of the first-mortgage bonds of either of said companies which have been issued under the authority of any law of the United States and secured by mortgages of their roads and franchises, which by any law of the United States have been made prior and paramount to the mortgage, lien, or other security of the United States in respect of its advances to either of said companies as provided by law.

Approved, March 3, 1887.

The Commission proceeded with the taking of testimony.

COLLIS P. HUNTINGTON, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. You are, I believe, the vice-president of the Central Pacific Railroad?—Answer. I am.

Q. How long has that been your position?—A. Since the organization of the company in 1861; I think, possibly, it was 1862 before we fully organized.

Q. What has been the sphere of your own connection with the company?—A. I have attended more particularly to the financial matters of the company here, and the furnishing of material for the building of the road.

Q. Where is its main office?—A. San Francisco.

Q. Where do the meetings of the directors take place?—A. San Francisco.

Q. What officers reside in New York?—A. No other than myself, I believe; the vice president.

Q. What book-keepers have you here in New York?—A. We never have kept a full set of books here; we have transferred our accounts every month to California, and they have distributed the accounts there. For a number of years my accounts were quite meager here. I used to keep them on memoranda and send them to California, and they used to distribute the matter there.

Q. That is to say you kept memoranda of the disbursements or financial items made by you here, and referred them to the accountants at San Francisco?—A. Yes, sir.

Q. Does your company not send general reports of its financial proceedings to New York for entry here?—A. No; unless I call for it; not as a regular thing.

Q. Is there nothing reported here except the printed annual reports?—A. No.

Q. Is there no stock ledger kept here?—A. We have a transfer ledger here; transfer book.

Q. What are the names of the principal book-keepers or persons who keep your accounts in San Francisco?—A. E. H. Miller is secretary, and has supervision of the books. He has had ever since the organization of the company.

Q. Do you mean of all the books of the company or of only those that refer to the finances?—A. You can say all the books of the company.

Q. Who keeps the record of the resolutions of the directors?—A. Mr. Miller, as secretary.

Q. He keeps the book of minutes?—A. Yes, sir.

Q. Who keeps the record of the action of the executive committee?—A. It is all done there. I think the secretary would be the proper man; he is in all our meetings there; he is one of the fixtures; he is always about the office.

Q. That is Mr. Miller?—A. Yes, sir; E. H. Miller, jr.

Q. There is a record of the minutes of the executive committee's action?—A. Oh, yes, sir; I am there very few days in the year, and sometimes for three or four years I am not there.

Q. Who compose the executive committee at present?—A. I could not say. We have not had an executive committee all the time from the organization of the company. I think last year Mr. Charles F. Crocker, Timothy Hopkins, and S. T. Gage.

Q. All of San Francisco?—A. All of San Francisco.

HISTORY OF CENTRAL PACIFIC.

Q. To give us some general information in regard to the history of this enterprise, not calling for exact figures at first, will you start with your first connection with it and describe the road as it commenced and as it grew, as far as your memory serves you? We have all the reports here from 1872 down, if that will assist you?—A. The company was organized, I think, in 1861.

Q. Under a California charter?—A. Under a California charter. After its organization I came to Washington to get some aid from the Government, which was obtained. That is, what we supposed would be some aid. It has not turned out to be of any particular benefit to the company, I think. It was our intention to get some aid. Before we got any aid we commenced work, almost immediately after the passage of the act of 1862. We commenced work and we built the road, I think, to Cisco without any aid, 92 miles.

Q. Ninety-two miles from where?—A. Sacramento. I bought all the material here. We commenced under small contractors. I think we let the road to nine different contractors between Sacramento and Newcastle, 31 miles; but they got very much demoralized, labor was difficult to obtain, and the first contractors picked up all the labor they could get, when the labor started to go up the line to the man that had employed them on the upper section. It was a little pleasanter working down the valley. The sub-contractors thus interfered with each other. Afterwards we let a contract to Charles Crocker & Co., and we went on under that arrangement some time. They were doing the best they could, but I think I wrote to them they had better organize a company, and they organized the Contract and Finance Company, and the road was built by that organization. The object was to get other parties here in. I will say that I had a talk before we did this with a great many, and they would not take the responsibility of going in as individuals—as an association of individuals or partners. They would not take the responsibility. I told them that I thought if they would organize a company I could get people here to take an interest with us, where their responsibility was limited beforehand.

Q. Was the Crocker contract made before or after the passage of the act of 1862?—A. It was made after.

Q. Before the passage of the act of 1862 were the funds of the company provided by subscriptions to the stock or the issue of bonds?—A. The first were subscriptions to the stock.

Q. That is to say, a cash subscription; or payment to the contractors with stock?—A. At first it was cash.

Q. How long after the act of 1862 was the Crocker contract made?—A. My impression is it was a year or more. I was here all the time, and my impression is it was something about a year or a little more than a year after the act, 1864.

Q. Have you a copy of the Crocker contract?—A. I have not; I do not know that I ever saw it.

Q. Do you know to what portion of the road it applied?—A. It was all in California. Whether or not it embraced all in California I do not remember; but it did not come east of California.

Q. Under the Crocker contract the construction continued?—A. Yes, sir.

Q. Can you tell us, by date, about the rate of progress that was made?—A. I think the work was in the Sierra Nevada Mountains, in

the State of California—I think we did no work east of California—until 1867.

Q. Please describe the line that was constructed within the State of California prior to 1867.—A. It was a very difficult line, to speak of the physical obstructions to be overcome. Probably it was the worst line that was ever built. We rise 7,042 feet in 105 miles, and all but 135 feet of that was overcome in 84 miles, with a maximum grade of 105 feet. I believe there was a little short piece we do not count; that was 116.

Q. Of a grade?—A. Yes, sir.

Q. Please describe between what points the construction occurred.—A. It was in California. It was to an imaginary boundary line; there is no town or anything.

Q. It is the present line of the road from San Francisco to the California boundary?—A. From Sacramento; yes, sir. We had to overcome a great many difficulties when we started. Iron was \$62, and before we got across the mountains iron was sold for \$150 a ton. Locomotives went from \$8,000 to as high as \$32,500. We paid 2½ per cent. insurance in the time of peace, and in the time of rebellion we paid 17 per cent., insuring the goods around Cape Horn. Many things went up more than 200, and I guess many things 300, per cent. advance from the time we commenced the road before we got it completed.

Q. Were the prices, as fixed by the original Crocker contract, changed at all?—A. I think not. That was for grading, and it was paid in gold all the time, so that however prices fluctuated here, we sold our paper here for gold, and there was where the expense came in.

Q. Please describe the prosecution of this enterprise after 1867?—A. That was built, I think, all in the State of Nevada and Territory of Utah. I was not over the line whilst it was building. I went over in the winter of 1867 and 1868.

Q. During what years was the construction prosecuted in Nevada and Utah?—A. The rails connected at Promontory Point on the 10th of May, 1869; and it was during the years 1867 and 1868. It was all done, I think, in 1867 and 1868 and a part of 1869, ending with May 10.

Q. Who constructed that portion of the road?—A. That was under the Contract and Finance Company.

THE CONTRACT AND FINANCE COMPANY.

Q. Please describe that organization, and state how it originated.—A. I wrote to our people, after we found it very difficult to get money or to get people in with us. What I suggested to be done was to get some of these strong men in New York associated with us, as I said before. They did not like to come in under an unlimited partnership; but Mr. William K. Garrison said if we would organize a company, by which they would know the extent of their liability, he thought he would get his father in for one; that is, Commodore Garrison. I had a talk with William E. Dodge, whom I knew very well, and Moses Taylor; but more particularly Mr. Dodge. After the organization I spent a good deal of time with a dozen men, perhaps, in New York, endeavoring to get them to come in with us, but I did not get any of them in. D. O. Mills I talked with a great many times, but he said the risk he thought was too great. Mr. Garrison almost said he would but not quite. But he finally said the risk was too great. William tried to get him in, but he said he did not like it; it was too large an undertaking, and the times were too uncertain. So by endorsing paper

individually, which we did pretty largely here, we managed to get through.

Q. My question is as to who constituted the Finance Company, and what the arrangement with them was?—A. The stock of that company was nearly all held by Governor Stanford, Mr. Hopkins, Mr. Crocker, and myself. There were some few small stockholders, but I could not say who. Mr. Hopkins asked me what we would do, and I wrote back that he could "take as little as he could and as much as he must," and not any more.

Q. What was the name of that company?—A. Contract and Finance Company.

Q. What was the subject of their contract? I want to know between what points.—A. It was Camp 24, if I remember right. I am not certain that I ever saw the contract. Mr. Hopkins, of the firm of Huntington & Hopkins, hardware and metal merchants, attended to these things.

Q. It was the road, substantially, after leaving the State of California?—A. O, yes, sir. Camp 24, I think, is on the State line. It was a contractor's camp, you know; and it was from that to the point of junction.

Q. About five miles west of Ogden, was it not?—A. We graded down to Ogden very near, and the Union Pacific people graded out to Humboldt, Wells—I should say 170 miles—in sight of each other. Mr. Durant was going to the Pacific Ocean, I believe—he started for there, at any rate—and I told him to tell our people I thought we should strain every nerve get into Salt Lake Valley to secure a portion of that business. It has not turned out as valuable as we thought it would be, but it then had nearly all the trade between the Wahsatch Valley and the 100th meridian, this side of Cheyenne a short distance. But, finally, I made arrangements with Sam Hooper and Ames, among them, that they might build the road to Promontory Point, 54 miles west of Ogden. I would agree that they should build the road to that point, and then we would buy that piece of road, and in that way come into the Salt Lake Valley, or to divide that business a little, or we would come in alongside of them, and they could take their choice. They sold the road.

Q. Have you a copy of the contract between the Central Pacific Company and the Finance Company?—A. No, I have not. I think it is an even chance that I never saw it.

Q. Can you state substantially what its terms were?—A. It was a contract to take the bonds and stock, I should say, of the company and build the road. A certain amount of stock, but not the whole stock. The capital stock was \$100,000,000. It was to take a certain amount of stock and bonds to build the road.

Q. Do you remember the rate per mile, computing the bonds and stock at par?—A. No; I can tell you pretty nearly; I do not think it was over \$100,000 per mile. I think something about that.

Q. Do you remember the relative proportion of bonds and stock?—A. The Government bonds and the company's bonds—about \$64,000 was what the bonds were.

Q. Sixty-four thousand dollars in bonds and the balance in stock?—A. That was just it.

Q. And the balance in stock?—A. Yes, sir.

Q. About \$36,000 in stock per mile?—A. Yes, sir. I have got it in my mind it was about \$100,000 in all.

Q. The junction was effected by 1869?—A. The 10th of May, 1869, if my memory serves me right.

Q. And from that period the road has been continuously operated?—A. Yes, sir. We might have been detained some little time after it was first opened. It had to be shedded over about 40 miles. We had to build sheds to operate it in the winter.

Q. When was it that your company acquired its terminal facilities at San Francisco; what you call "Mission Bay," I think?—A. I could not say when that was. I should think that was 1867 or 1868, or along about that time, but I have no data or anything that I can connect it with. I was not there at the time.

THE WESTERN PACIFIC.

Q. In that connection please describe the route of what was known as the Western Pacific.—A. When we were in Washington, and were trying to get through the bill to give us aid, a certain party said that we must cut off our part at Sacramento, and they must have the part between San Francisco and Sacramento, or else we must begin work at San Francisco. Beginning work at San Francisco would be very much like building a road from here up to the Adirondacks, instead of commencing at Albany, because they had a good river navigation up to Sacramento, and we wanted something to pay better than competing with the river. We consented. We commenced at Sacramento, and we assigned that part of the road, as we agreed to, to Charles McLoughlin and a man by the name of Houston, as I remember, and Judge Dane, and a number of them, and they located the road. We had nothing to do with them at that time.

Q. The Western Pacific?—A. Yes, sir; they located that from San Francisco, 50 miles south, to San José, and then 22 miles north, pretty nearly to Niles, and then up through the Alameda Cañons to Livermore Valley, and over the Livermore Mountains around to Sacramento, 170 or 180 miles. They finally failed or got embarrassed—I will not say they failed, but they did not see their way clear to complete the road, and they came to us and said if we would take and finish the road to San Francisco we could have it, and they would keep the land grant.

Q. You to finish the Western Pacific?—A. Yes, sir.

Q. What is the total length of the Western Pacific?—A. They expected to put in the whole of that road via San José, but they did not get it in. They built from San José to Sacramento, and it is 120 miles, as I remember it. It may be a fraction over or under, but I think that is it substantially.

Q. What is the substantial direction to Sacramento from San Francisco?—A. I should say it was about a little north of east.

Q. As operated since you took the Western Pacific, it is simply a continuation of the Central Pacific from Sacramento to San Francisco?—A. Yes, sir.

Q. When was it that the consolidation took place?—A. I think the last consolidation was in 1870. It might have been 1869. There were two or three consolidations; I think two—no, I do not know that there was but one. I was thinking of the increase of the capital stock. We increased that two or three times as the work progressed. We did not know exactly where we were going when we started, but as the work progressed and we found it of more importance we increased the capital stock.

Q. Have you a copy of the articles of consolidation, showing the terms?—A. I do not think I have here, but it is easily obtained. I can

send for it, if I have not got it here. I could send to California and get it.

Q. We would like to see the articles of consolidation, so as to understand them exactly. What other construction besides the construction that you have described has been undertaken by the Central Pacific?

A. The Central Pacific built from Lathrop to Goshen, 146 miles and a fraction, south.

THE LATHROP BRANCH.

Q. In what State is that?—A. That is in California.

Q. Which is the point that is on the Central Pacific road?—A. Lathrop.

Q. How far is that from San Francisco?—A. By the direct line, the nearest line?

Q. By railroad?—A. There are two lines of road that run from San José to Lathrop. It is about 80 miles by the shortest.

Q. And this branch runs south from Lathrop to Goshen?—A. Yes, sir.

Q. About 110 miles?—A. One hundred and forty-six and a fraction, I think.

Q. When was that road built?—A. That must have been built somewhere between 1869 and 1870, I should think.

Q. By what contract was that road built?—A. I do not know. I think it was built by the Contract and Finance Company, though.

Q. The same company that built the main line?—A. Yes, sir.

Q. Have you ever seen the construction contract?—A. No; I do not believe I ever have.

Q. Were you personally interested in it?—A. If the Contract and Finance Company were, I was.

Q. As a stockholder?—A. Yes, sir.

Q. Do you remember how that contract was made? By whose vote?—A. No; I do not. I do not think I have been there on the letting of any of the contracts.

Q. Do you know whether that would appear in the books of minutes of the proceedings of the directors?—A. Very likely. Oh, yes, sir; it must have. It is regular business and it must appear.

Q. Was it the practice of the company to make such contracts by resolution of the board or by act of the president of the company?—A. I should think that would be ratified by the board, at least.

Q. Do you know what the contract price for the construction of the Lathrop branch was?—A. No; I do not.

Q. The gauge is the same as that of the main line?—A. Yes, sir; 4.84.

Q. Please tell us what sort of country it runs through, and what places this branch connects with.—A. It runs nearly south from Lathrop, and it did not connect with anything at the time. There was nothing up there; no town.

Q. Does it follow the bed of the river?—A. It follows the valley. It goes up the San Joaquin Valley. There are a great many streams to cross. You can get the names off the map better than I can give them to you, but there are quite a number of streams. Every little distance, I noticed, there was a long bridge.

Q. What was the object to be attained by the construction of that road?—A. To develop the country. We thought it would be a good wheat country, but they could not draw the wheat very far by teams. There have been quite a number of towns built up since—Merced and

Modesto. There are towns every few miles. I have not been up the valley more than three or four times myself, just passing through rapidly.

Q. This is a branch owned by the Central Pacific?—A. Yes, sir; it is a part of the Central Pacific.

Q. It is no separate organization?—A. No.

Q. Do you remember when that construction was completed?—A. No; I could not say just at the moment. That is one of the things that is easily ascertained. I can write to my people and get the date.

OTHER BRANCHES.

Q. What other roads has the Central Pacific constructed?—A. From Niles into the city of Oakland, 24 or 25 miles. They built that.

Q. Niles is the point on the Central Pacific?—A. Yes, sir; is the point where the Western Pacific diverges. One goes to San José south, and the other runs direct to San Francisco. Seventy-two miles, as I remember, around by the way of San José to San Francisco; and probably 28 miles the other way. I think the road is 24 to Oakland, and there it connects with another road, and then there is a ferry of 3 or 4 miles.

Q. When was this branch constructed?—A. That is about the same. Somewhere about 1868 or 1869.

Q. And also constructed by the Contract and Finance Company?—A. I am not positive, but I should think so. In all these matters we always have found it more convenient to build by a contract company. We have built most of our roads in that way. They are the companies, of course.

Q. What other branches or transportation companies does the Central Pacific own?—A. They own from Roseville to the State line.

STEAMERS.

Q. Is there not something about the ferries and waterways and ferry-boats that you own, or that you acquired before you started to build the California road?—A. No. We bought those steamers with the California Pacific. I did that trading myself. I bought the California Pacific, and with it I bought what was called the California Navigation Company's steamers, I believe.

Q. When was that?—A. That was early in the seventies.

Q. How many steamers were purchased?—A. I do not remember now how many. There must have been ten or a dozen, probably.

Q. Between what points were they used?—A. Between San Francisco and Sacramento, and San Francisco and Stockton.

Q. Where is Stockton?—A. That is on the San Joaquin. You go up through one end of the Bay of San Francisco, and then through San Pablo; and then you turn, as you go up north or northeast, and go to the right, up to the San Joaquin. It is a little slough that runs through that country.

Q. These were mainly river boats?—A. Yes, sir. Nothing that runs outside.

Q. You say there were about ten?—A. I should think so.

Q. From whom did the company purchase these boats?—A. We bought them with the California Pacific. We bought that road and they owned these steamers. They had bought them with the California Steam Navigation Company, I think it was called.

Q. The California Pacific was a railroad organization, was it not?—
A. Yes, sir.

Q. Between what points?—A. Between Sacramento and Vallejo.

Q. Is that corporation still in existence?—A. Yes, sir; it is.

Q. You purchased the interest in the corporation?—A. We purchased the stock.

Q. Along in 1870?—A. Yes, sir.

Q. And in that way acquired title to the steamers?—A. Yes, sir.

Q. And subsequently the steamers were sold to the Central Pacific?—

A. I think so. We used some of them; running between San Francisco and Oakland.

Q. How was that contract made between yourself and the Central Pacific Company for the transfer?—A. I do not know. I did not have anything to do with that. That was done after I left California.

Q. The Central Pacific acquired the title to your steamers?—A. I know; but that was after I left. I bought the steamers with the California Pacific.

Q. And then you sold them?—A. Then I left. I was there only about thirty days, and when I left they wanted some boats, as I remember, for Oakland Ferry, and they made a transfer.

Q. The terms to be paid must have been assented to by you before that went into effect?—A. No; not necessarily. I did the trading part of it. I did not buy it for myself.

Q. You mean you bought the California Navigation Company for the Central Pacific?—A. No; Mr. Crocker was interested, and Mr. Stanford, and Mr. Hopkins, and several had a lesser interest; but we four owned a large majority of it.

By the CHAIRMAN:

Q. Was it a company purchase?—A. No.

Q. Individual purchase?—A. Individual; yes, sir.

By Commissioner ANDERSON:

Q. Then these individuals who owned the stock, and through the stock these steamers, must have assented to the terms of the transfer to the Central Pacific before it could go into effect?—A. We bought the stock of the California Pacific. I was not a director of the California Pacific, and it was not necessary that it should come before me.

THE CALIFORNIA PACIFIC.

Q. Who were the directors of the California Pacific?—A. Major Hammond, I think, was one.

Q. Please give his full name.—A. H. P., I think, are his initials. We always called him "Major" Hammond. I could give you the names of the directors, but that is one of the things I could have to-morrow, I suppose, or the next day.

Q. Do you remember the price paid for those steamers?—A. We paid—

Q. No; paid by the Central Pacific Company?—A. No; I do not.

Q. Does it not figure in their reports at something like \$800,000?—A. Well, it is possible. I do not remember, myself.

By the CHAIRMAN:

Q. Did you sell to the Central Pacific Company?—A. No.

Q. Who did sell?—A. I purchased the stock of the California Pacific for others and myself. They owned those steamers.

Q. As individuals?—A. The stock, as individuals.

By Commissioner ANDERSON:

Q. The board of direction of the California Pacific undoubtedly contracted with the Central Pacific?—A. Yes, sir.

Q. But I want to get how the contract was made.—A. I could not tell you, but that is easily ascertained.

Q. Were not the directors in the California Pacific all interested more or less in the Central Pacific?—A. No; I do not think they were. Major Hammond, I know, was not. That is, I know I do not think he was. I never saw his name on the list.

Q. Where is the place of business of the California Pacific to-day?—A. San Francisco.

Q. Are their books there?—A. Yes, sir.

Q. As far as your recollection serves you, you do not know how this transfer of the steamers came about, from the California Pacific to the Central Pacific?—A. No; I do not. I probably did know at the time, but if I did it has passed from me.

Q. You do not remember the price paid?—A. No; I do not.

Q. Do you remember whether that transaction had any effect on the market value of the stock of the California Pacific which you were then owning?—A. No; I do not think it did, because it never had much of any market value.

Q. Did it have any effect on the bonds?—A. No; I do not think that it would on the bonds. The bonds rested on the road, not on the steamers. I do not see why it should, but I do not remember. We bought the stock of the California Pacific because they were running it to sell out to us. They bothered us terribly, and they cut rates, and they had the short line. It was nearly 82 miles to San Francisco that way, and the nearest way by way of Niles was 138 miles over the Western Pacific, and we were almost compelled to buy it. We did not buy it because we wanted it, but simply to protect ourselves and our interests. We were large share-holders in the Central Pacific, and it was as much for that as anything.

Q. So I understand; but I am only inquiring in regard to the transfer of the boats to the Central Pacific.—A. That was something done after I left California; at least, I was not there. It may have been a year or two later. I do not remember. I was not there at the time the transfer was made.

Q. Were you not consulted, as vice-president, as to the propriety of acquiring that property?—A. Very likely I was, but not necessarily. I used to do pretty important things here without consulting my people and took the responsibility, and I used to tell them to do what they thought proper without consulting me, and take the responsibility.

Q. How long after acquiring those steamers did the Central Pacific keep operating them?—A. I think they are operating them to-day.

Q. They have operated them ever since?—A. Yes, sir.

Q. Are you at all familiar with the details of the result of that operation and the earnings derived from them?—A. Somewhat. The profits are very small. It is not in a direct profit. We never expected it to be. But it is in keeping things even, and not running everything at a loss. We bought off, at an early day, some steamers that were put on. The Shin du Wan they put on to sell to us. They asked \$75,000, I know, and they ran for almost nothing. It was a boat worth about \$18,000 or \$20,000. They finally got into trouble, and I think we finally bought it for \$18,000 or \$20,000. They wanted to make it worth our while to buy them off.

Q. What is the next item of construction that the Central Pacific undertook?—A. I do not remember any. The California and Oregon road was built by the California and Oregon Company.

Q. Started by them?—A. Yes, sir; was built to Tehama, I think, and then it was consolidated with the Central Pacific, and they have been building it ever since. I think now they have got it to the State line.

THE CALIFORNIA AND OREGON.

Q. What is the ultimate destination of that road?—A. From San Francisco to Portland, Oregon. It is built to the State line. But I understood the question to be as to the Central Pacific's construction. Another corporation in Oregon took up the construction; the Central Pacific completed the road. It was started as the California and Oregon road and built, I think, to Tehama, and it has been built since to the State line by the Central Pacific. Since that time we have acquired control of the Oregon and California.

Q. The Central Pacific has acquired that?—A. No.

A. Who has acquired control of the Oregon? Do you mean some individuals?—A. Yes, sir; to run in that interest; to improve these properties.

Q. What was the Oregon and California corporation?—A. That was an Oregon corporation.

Q. To construct a road from where?—A. From Oregon to the south line of the State, to connect with the California and Oregon. Ours was called California and Oregon, and theirs the Oregon and California, and they both got a land grant at the same time.

Q. A State land grant?—A. No; from the Federal Government.

Q. A United States land grant?—A. Yes, sir.

Q. Have those two roads united?—A. They have not.

Q. What is the gap?—A. It is about forty miles between the State line and Ashland.

Q. The unconstructed portion is in Oregon?—A. Yes, sir.

Q. So that the California and Oregon is completed to the State line?—A. To the State line.

Q. When was this construction commenced by the California and Oregon company?—A. I think in 1867 or 1868; I may be wrong, but I think the act passed granting the land grant to them in 1866, and I should think within two years after they commenced and did some work and then they got into difficulties and could not get along—Mr. Ellis and some others—and it fell into our hands.

Q. When had they completed it to Tehama?—A. I should think that was in 1872 or 1873 or 1874.

Q. Then there was a consolidation, as I understand it, between the Central Pacific and the California and Oregon?—A. Yes, sir.

Q. When was that consolidation effected?—A. I think about 1870.

Q. Before they got to Tehama?—A. I am right about the consolidation, but I may be wrong about how far the road was built under the California and Oregon. I am right about the consolidation, however, I am quite sure. So they must have had less road, or else they completed it before; but my impression is that the California and Oregon did not build up as far as Tehama.

Q. Have not those articles of consolidation?—A. They are the same. It was all done at the same time, I think: the San Joaquin road from Lodi to Gustine and the California and Oregon; the same consolidation; it took it both.

Q. There were three corporations to it then?—A. Yes, sir; I think more.

Q. That is the same paper I called for?—A. Yes, sir; I think the road from Oakland to Niles also.

Q. After the consolidation was perfected did your company immediately continue the construction?—A. No; I think not.

Q. How long a period elapsed?—A. If it was to Tehama, we stopped there some time. If it was at Tehama before the consolidation, it rested for some time; and if it was before that, we probably went along as far as Tehama very soon after the consolidation.

Q. When did you resume construction?—A. We built the road to Redding, and then it rested some time. We were going right along, but after we had passed Redding there was no particular object in building this road unless the Oregon and California was built. While it is a very important through line, it would not be an important line to run to the State boundary and have no connection. Then Ben. Holliday got into difficulties and stopped construction on the Oregon end, and then we stopped.

Q. Ben. Holliday was constructing the Oregon?—A. Oregon and California. He and his friends. They failed, I guess, pretty badly. And then Villard got the road and commenced work, and we commenced work again and built from Redding up to Delta. We commenced work in the cañons there. We worked along there very rapidly until there was a lack of capital again on Villard's part. Then we stopped until things took shape. About a year ago, in negotiating for the Oregon and California, I thought we had got it where it was pretty safe, and the negotiation would be perfected, and we commenced work again. That is why these hitches have been in the California and Oregon.

Q. So that the total construction of the California and Oregon represents a period of about sixteen or eighteen years, all told?—A. I should think so.

Q. After the consolidation, by whom was this road constructed; under what contracts? I mean the California and Oregon, after the consolidation.—A. I do not know. The Pacific Improvement Company built, I think, from Redding to the State line. I am not positive.

Q. How many miles is that?—A. I think it is 140 miles.

Q. What is the point on the Central Pacific at which the junction is made with the California and Oregon?—A. Roseville.

Q. What is the length from Roseville to the State line?—A. I think it is about 300 miles.

Q. What is the length from Roseville to Tehama?—A. I have not got that distance, but it must be about 130; it does not vary more than 2 or 3 miles from that.

Q. Who constructed the road from Tehama to Redding?—A. That I do not know.

Q. Who is the president of the Pacific Construction Company?—A. The Pacific Improvement is the name. Mr. Doty, I believe, is now.

Q. Do you know whether Mr. Crocker or yourself or the other gentlemen whom you have named as being in the Finance Company were stockholders in the Pacific Improvement?—A. I think they are.

Q. Have you ever seen the contract between the Central Pacific Company and the Pacific Improvement Company for the construction of that road between Redding and the State line?—A. Yes, sir; I have seen that.

Q. Have you a copy of that?—A. No; I have not. I saw it in San Francisco when I was there last fall.

Q. Do you remember the rate per mile?—A. Yes; I think I do. I think they took it in securities at about \$125,000 a mile face value. I know I had some dispute with my people about it, and I thought it was not enough. They thought it was. I had been over the line and it was such a terrible road to build that I did not believe they would get as much money out of the securities as they would have to pay out to build the road.

Q. Can you state what the securities were?—A. I think it was 80,000 shares of the Central Pacific and \$2,100,000 of the Central Pacific bonds—\$2,100,000 Central Pacific first mortgage bonds—that is, the bonds on that piece of road they were building.

Mr. TWEED. The bonds secured on the California and Oregon Company.

Q. What are they called?—A. I think the Central Pacific was the consolidation. The first was California and Oregon, but these were called Central Pacific after the consolidation.

Q. Are all the bonds guaranteed by the Central Pacific?—A. They were not guaranteed; they were simply a bond of the Central Pacific. That is no special guarantee.

Q. Has the work under the Pacific Improvement Company contract been completed?—A. I hardly think that it has been fully completed, but the road is built to the State line. There is always a great deal of ballasting after the rails are on, and it generally takes a couple of thousand dollars a mile to clean up and ballast.

Q. Have all the stocks and bonds that were payable under that contract been issued, do you know?—A. I presume they have.

Q. Have you completed the general statement of all construction which has been effected by the Central Pacific from the commencement of the enterprise to date?—A. I do not think of anything else.

By the CHAIRMAN:

Q. How does the Central Pacific get into San Francisco?—A. The way it is operated now it is over the California Pacific and the Northern.

Q. The Central Pacific itself has no entrance into San Francisco as a corporation?—A. Yes, sir.

Q. Belonging to it?—A. Yes. We run down on the old Western Pacific to Niles, and then there is a short line from there to Oakland, and from that to San Francisco.

Q. Who is the short line operated by?—A. The Central Pacific. It is consolidated with it. It is a part of it, as much as any other part.

AFTERNOON SESSION.

COLLIS P. HUNTINGTON, being further examined, testified as follows:

By Commissioner ANDERSON:

Question. Do you recollect about how much of the stock of the Central Pacific had been issued for construction before the passage of the act of 1862?—Answer. My impression is that there had not been any stock issued. I think there had been subscriptions; but the stock was only issued, as I remember, after it was all paid for. It was called for in installments, and there was no stock issued until after the act of 1862; that is my recollection.

CONSTRUCTION ARRANGEMENTS.

Q. Do you remember about how much the subscriptions amounted to that were made before that act?—A. No; I do not.

Q. I mean the cash payments made on the subscriptions.—A. No; the sum was not large; I think, perhaps, less than \$100,000. The law required us to pay 10 per cent. down when we subscribed, which was done, and required there should be \$1,000 a mile, I think, to be subscribed in stock before we could organize. I think that was it; but that is in the statutes. And we built the road I know by lending money; that is, our first subscriptions were not a great deal. I think only 150 shares we subscribed, if my recollection serves me right, which was necessary to perfect the organization to the State line, as I remember.

Q. Your recollection is that the contractors for that work were paid from the result of the proceeds of loans made by the company?—A. Well, yes, sir; made by the company; that is, they were paid by the company. The loans, of course, were made by individuals.

Q. They were not paid out of moneys that were paid by subscribers to the stock?—A. Not to the full extent; I am quite sure that must have been so.

Q. Please describe the manner in which payments were made to the contractors after the act of 1862, when the Crocker contract was made.—A. I think the small contractors were paid in money; that is my recollection, although I was not there all the time; not more than thirty days in the year; perhaps not as much as that.

Q. I mean the payments made under the Crocker contract.—A. I was not there, and I do not know how they were paid, but I am quite sure that they were paid in stock and bonds.

THE GOVERNMENT SUBSIDY PER MILE.

Q. That, if I remember right, was \$64,000, in bonds—A. It was more than that across the mountains. The act gives \$16,000 a mile between tide-water and the base of the Sierra Nevada Mountains, and \$48,000 a mile for 150 miles across the mountains, and then \$32,000 a mile in the great valley between the Rocky and the Sierras. I am quite correct in that; I know I am correct. The same amount of first mortgage bonds were issued as the Government's.

Q. Do I understand you correctly that the Crocker contract called for a similar advance in payments when you reached the more difficult portions of the road?—A. Yes, sir; that must have been so, of necessity.

HOW AND WHERE DISPOSED OF.

Q. Were those bonds delivered by the company to the representative of the Crocker contract?—A. I am not so certain of that. I sold the Government bonds here, I guess, perhaps all of them, myself, and bought gold largely for them, and I think, as far as they were concerned, they must have been paid—the Crocker contract—in money; at least I sent over memoranda of what I had done, and they distributed the accounts there. I never look inside of a ledger if I can help it, and I most always can. Mr. Hopkins was a most excellent man for those things; he was a good book-keeper and lawyer.

Q. To whom were the Government bonds first delivered by the Government?—A. They were all delivered to me, I think.

Q. To you personally?—A. To me personally.

Q. At Washington?—A. At Washington.

Q. And brought by you to New York?—A. Brought by me to New York and sold.

Q. Sold to the public here?—A. Yes, sir.

Q. Whose books contain the accounts of the sales?—A. I have not got them, but I think that can be easily ascertained.

Q. Probably they are at San Francisco?—A. Yes, sir; Fisk & Hatch might have them; they sold a good many of them; they were not known on the start, and when we first got them the people did not know what they were; they would not take them for banking security.

Q. The Government bonds?—A. The Treasury Department would not take the currency's; there was a good deal of log rolling before holders could get the Government's taken as collateral to bank issues; we sold a lot at 89, I am quite sure, and bought gold at a very high premium; I paid as high as 2.20 for some gold, I remember.

Q. Do you remember whether the Crocker contract called for the bonds or for money?—A. I do not; my impression at first was that they took the securities; but on that line, when I come to think of it, I sold all the bonds here; I do not think any of them went to California.

Q. May you not have sold them on account of the contractors?—A. I sent the account to Mr. Hopkins, and he distributed those matters in the way they were destined to go; some here and some there.

Q. Do you know what the history of the company's bonds were?—A. Those bonds I sold here?

Q. They were sent on from San Francisco to you here?—A. They were sent from San Francisco, and I guess I sold them all here. I am sorry to say we have not got any of them.

Q. Were those sales for account of the Central Pacific Company or for account of the contractors?—A. My impression is that they were sold for the company. I sold the bonds and rendered an account every month of what I had done; sent it to Mr. Hopkins. He settled with the company—with the contractors, as the case might be.

Q. Is Mr. Hopkins in New York occasionally?—A. No; Mr. Hopkins has been dead for some years. He died in 1879.

Q. What office did he hold?—A. He was treasurer of the Central Pacific Railroad Company.

Q. Did Mr. Miller have charge of his books?—A. I think Mr. Miller would know all about it. He and Mr. Miller were very intimate. They were old partners. The firm was Hopkins & Miller, grocery dealers, before he joined me.

HOW THE STOCK WAS ISSUED.

Q. Was that stock issued to the contractors under the contract, or was it issued to the subscribers and the money delivered to the contractors?—A. At first to subscribers who had paid money, but I think later it was delivered directly to the contractors.

Q. Under the Crocker contract?—A. I think so. That will be all better known in San Francisco; but I think that was delivered to Mr. Crocker, and I think it was delivered later to the Contract and Finance Company.

Q. Apart from the stock that was deliverable to the contractors under the various construction contracts, can you tell me whether any of the stock of the company has been subscribed for and taken by the public directly from the company?—A. On the first organization there was quite a good deal; I do not know; probably 100 subscribers; I think not more. Hardly as many as that, I think.

Q. Prior to the act of 1862?—A. Yes, sir.

Q. Representing how much stock?—A. I think it would be all inside of a million dollars.

Q. Then all the other issues since the Crocker contract have been issued under construction contracts, I understand?—A. I think so. The fact of it is, there was no market for the stock for years. Everybody was afraid to touch it.

Q. What is the earliest printed report of the Central Pacific?—A. I could not say. I do not think there was any printed report in the early years of the construction.

Q. Just look at the report for 1872 and see if that is the earliest you remember.—A. I have had very little to do with these. They are made up in the office at San Francisco. This is 1873.

Q. It is a report of 1872, I think; is it not?—A. There was no printed report for a number of years. This may be the first one. I should have said it was a little earlier than that.

Q. You say these are made up at San Francisco?—A. Yes, sir.

Q. As to the methods of keeping the accounts and making the statements, was that done under your advice?—A. No; not at all. I do not think I was ever consulted about it at all.

Q. Still, you became perfectly familiar with the methods of making the statements contained in them, I suppose?—A. I generally look them over, but I do not examine those reports very much. I have a man examine them. If there is anything he thinks I would want to have explained to me, he explains it. I read over very little of the reports. Mr. Miller and Mr. Stanford and Mr. Hopkins, and many others there that have been with me since the organization of the company, have each one his part to do. I have been the outside man always. I am in all my mercantile business. I never go into the office if I can help it, and I generally can. I do the outside trading and attend to the general outside business.

Q. Were you consulted, for instance, as to the mode of keeping a profit and loss or income account, with reference to determining questions that might arise as to what was proper to credit to that account and what was proper to charge to that account?—A. No; I do not think they would ask me anything about it. If they did, I should tell them to keep their books in their own way. I have always been like the Dutchman that did not keep books, who said he knew how much he owed and how much he had to pay it with. That is about all the book-keeping I have ever done.

EARNINGS OF CENTRAL PACIFIC.

Q. Do you know whether there is any printed account of the earnings of the Central Pacific Railway prior to the statements in the report of 1872?—A. I think so. I think there is no trouble getting it every year from the commencement of its operation. You can get exactly what the road has earned and what it has cost to earn it.

Q. I call attention to page 45 of the report of 1872, which contains a statement of the net earnings, after deducting operating expenses, from 1864 to 1872, amounting in all to \$17,000,000.—A. I have no doubt this is correct; but I do not know anything about it from any knowledge of my own. But I am satisfied it was correct.

Q. My question is, whether there is any printed statement containing an account of the matters to which those earnings were applied?—A. My impression is that in the early years there would be no printed accounts; I think you can find them all in the office of the company,

but I do not think there would be any printed accounts; perhaps there are; I have no doubt but what those figures can all be verified in the office.

Q. The profit and loss account contained in the report for 1872 starts with a balance of \$4,000,000, and shows the result of transactions during that year, leaving you with a balance of profit of \$7,433,000.—A. I have no doubt that is correct.

Q. That I understand to be a statement that the actual profit made from the transactions stated in that income account indicates that the profits of the company for that year, confining yourself to these items, was the difference between the first balance and the second balance—between the \$4,000,000 and the \$7,300,000?—A. Yes, sir; I presume that is so.

Q. Have you any personal knowledge of the nature of the items charged against the earnings, and which appear in this income account?—A. No; I have never had anything to do with their book-keeping over there; the expenses here, what we paid for material and miscellaneous expenses, have gone into the memoranda for the different months, and then have all gone out and been distributed.

MISCELLANEOUS AND LEGAL EXPENSES.

Q. The account I refer to contains a charge for general and miscellaneous expenses \$233,272; in what book would the details of those expenses appear?—A. I do not know.

Q. That Mr. Miller could tell us?—A. Yes, sir; that would be in his department. And I have no doubt that he can explain it.

Q. The same statement for this year, 1872, contains an item, "legal expenses, \$63,678.16." Have you any knowledge of that item?—A. No; I have not. Governor Stanford has attended to these matters in California, and I have attended to them here. They were always too much, I thought.

Q. Do you know what the general character of the legal expenses during the year 1872 was?—A. No; but then we have a multitude of legal counsel. We have to have, for the whole length of the road. If we kill a cow, the cow represents a certain sum and the legal expenses something more.

Q. They do not charge \$62,000 for cows in California, I suppose?—A. No; but there are a great many of them.

WHO THE COUNSEL WERE.

Q. Will you please tell us the names of your principal counsel in 1872?—A. S. W. Sanderson, I think, was with us then.

Q. Of San Francisco?—A. Yes, sir; and Mr. Robinson.

Q. Please give the full name?—A. I do not know that I can give Mr. Robinsons' name.

Q. Of San Francisco?—A. Yes, sir; S. W. Sanderson; and Harvey Brown, I think, was with us then. And I guess S. M. Wilson and Hall Macalister have been our general counsel for a long time. Mr. Storrs was counsel here, and then I had from time to time others.

Q. Which Mr. Storrs?—A. James A. Storrs.

Q. Was there counsel in Washington?—A. Yes, sir; we always had counsel there.

Q. In 1862 who was counsel in Washington?—A. Our principal man there was Richard Franchot; and then we had others there, Henry

Beard, I think, at that time, and Mr. Bliss, I think his name was. We always had quite a number in Washington.

Q. Who audited the legal expenses?—A. I think Governor Stanford on the other coast, and I used to pay them here.

Q. You paid them on whose audit—your own?—A. On my own.

Q. Do you know where the vouchers for those items are to be found?—A. No; they would be in San Francisco, I suppose, if anywhere. There would not be vouchers for all, I do not suppose. Franchot always had a great many expenses in Washington, and when he wanted some money I always used to give it to him. He was a very honorable man, whom I had always known since I was a boy, and he had my entire confidence, and there were a thousand things there to attend to. That is, there were many; I do not say exactly a thousand.

Q. Without vouchers, you mean?—A. Yes, sir. Well, I did not ask him for vouchers.

By the CHAIRMAN:

Q. Why not?—A. Well, there are so many things that have to be paid; it is a dollar here and five dollars there, and it is almost impossible to get vouchers. A little printing, and advertising, and messenger boys, and copying bills, hack hire, hotel bills, and a great many things; and I knew he would not pay out any money unless it was proper.

By Commissioner ANDERSON:

Q. Is there any one else to whom you were in the habit of paying money without vouchers?—A. Oh, yes, sir; we have miscellaneous accounts. We always do have. I believe all offices have a miscellaneous account, as they call it.

Q. I am referring now to legal expenses?—A. I suppose most all the offices would have accounts of that kind; I have always had.

RICHARD FRANCHOT AS COUNSEL IN WASHINGTON.

Q. I ask whether there was any other person than Mr. Franchot whom you remember as having been in the habit of receiving money from you personally for legal expenses without vouchers?—A. I do not think there is; not as long as he lived; Mr. Sherrell succeeded Mr. Franchot.

Q. How long did Mr. Franchot remain your counsel?—A. Until he died.

Q. In what year was that?—A. I think it was in 1878, but I may be wrong; I should think it was in 1878, however.

Q. Have you any idea of the amount of annual payments made to him which are not represented by vouchers?—A. No; I do not remember at this time; it was very considerable.

FRANCHOT'S SALARY.

Q. And that occurred every year, or only occasionally?—A. Yes, sir; about every year; General Franchot received \$20,000 for his own services.

Q. Do you mean at one specific occasion?—A. No; we gave him for his own salary \$20,000 a year.

Q. Was that payable monthly or payable whenever he wanted it?—A. Well, as he wanted it along; generally there was a little balance coming to him at the end of the year, which was paid.

Q. In addition to this \$20,000 a year, did he also receive money from you for these items which you say are not susceptible of being verified by the vouchers?—A. Oh, yes, sir; when he said he wanted money for these small expenses here, or he wanted a little money, I used to give it to him.

LEGAL EXPENSES PAID WITHOUT VOUCHERS.

Q. And he may have received from you \$30,000 or \$40,000 a year without voucher, then?—A. I should think very likely; in our large operations I should think so, in the important matters there in all the Departments and in Congress. We had to get men to explain a thousand things. A man who has not had the experience could hardly imagine the number of people that you have to explain the matters to.

Q. Was he a practicing lawyer?—A. No, he was not; I do not know whether he was educated as a lawyer or not; I am inclined to think he was, though. I have known General Franchot ever since 1840.

Q. Do you think the payments to him were included in that item of legal expenses or miscellaneous expenses?—A. I think I generally had the item "Paid General Franchot for legal expenses" or "Miscellaneous expenses"; something like that; I think that was it in my memoranda that went out; I do not know just how they would distribute it, but they would have to follow that about as I had it, as they would not know any more than was on the memoranda.

MR. SHERRELL THE SUCCESSOR OF FRANCHOT.

Q. What are the names of the gentlemen who succeeded him?—A. Mr. Sherrell.

Q. Is he still your counsel?—A. He died here about two or three months ago.

Q. Did he remain your counsel up to the time of his death?—A. Yes, sir.

Q. On substantially the same terms as General Franchot?—A. Yes, sir; he was living in Washington and was with General Franchot in the last years of his life. Mr. Franchot's health failed and when Mr. Franchot died he took his place.

Q. Has the same method been pursued, in regard to payments without vouchers, with Mr. Sherrell?—A. Yes, sir; I very rarely go to Washington myself.

Q. Is his salary the same, \$20,000 a year?—A. No; he had \$10,000.

Q. Ten thousand a year?—A. Yes, sir.

Q. Can you approximate the amounts paid to him annually without vouchers?—A. No, I can not; but it was considerable.

Q. Probably as large as was paid to General Franchot?—A. I should think so. The last few years not so large, I should say. But along about the time Mr. Franchot left us and Mr. Sherrell took hold I think it was about the same. Our matters have been of less importance there for the last few years.

Q. Referring to the past five years, which is more within the scope of your positive recollection, is there any other person to whom you have been in the habit of paying moneys without vouchers for miscellaneous services? I mean of any amount. I do not refer to small transactions.—A. We always keep a little miscellaneous account in the office here, but they are not important. My matters here have been mostly for material and rails and locomotives, and a thousand and one things that come into the building and operating of a railroad.

Q. All payments that you make for material and matters needed for the railroad you undoubtedly pay on vouchers?—A. Oh, yes, sir.

Q. When you pay you receive a voucher?—A. Yes, sir.

Q. And you transmit that voucher to the proper officer in San Francisco, and there it is distributed to the account to which it belongs?—A. Yes, sir.

Q. You speak of miscellaneous payments. Confining your recollection to the last five years, is there any other person besides Mr. Sherrell who has received money without vouchers?—A. No; I do not think of any at this time. He has attended to all these miscellaneous matters. I have generally handed him any money as he has requested it.

THEORY OF THE GENERAL BALANCE SHEET.

Q. Will you please look at the general balance sheet in the report of 1872, and explain the theory on which it was made up.—A. I do not know much about the theory of these accounts. I am not a book-keeper.

By the CHAIRMAN:

Q. Give us the practical side of it.

The WITNESS. This is the 1872 construction account?

Commissioner ANDERSON. No; the general balance sheet (if I gave you the right one).

A. Yes. Well, that is the construction account, from the commencement of the building for a permanent way. I suppose that is correct. I do not know anything about the figures, except as I see them here. *There is the equipment. That is another account. The real estate and shops and machinery.*

By Commissioner ANDERSON:

Q. I will not trouble you to read it. Let me put my question a little differently. Is it not the purpose of this account to state on the credit side all obligations of the company and all of the sources from which it derived any money, the capital, the bonds, or the earnings, and to state on the other side, in a proper method of distribution, all the purposes to which the funds so derived were applied? Is not that the general object?—A. I should think so.

Q. Then when the sources of revenue are increased by an increase of bonds or by an increase of the profit and loss account, cannot the object into which such increase of proceeds is expended be found by tracing the alterations in the balances on the other side of the account?—A. I should say so; but as I say, I do not have anything to do, and never have, with the distributing these accounts, or being responsible for the book-keeping of the concern.

Q. If you will look at the account of 1872 you will find that the profit and loss account is treated as being a credit account for about \$7,000,000, and in the year 1885 the same account is treated as being a credit account for \$24,000,000. Is not that true?—A. Yes. Well, I am not familiar enough with these matters, I believe, to give you any light. Book-keeping is a good deal like Greek to me, and I never learn either.

Q. Is it not the logical conclusion from that statement that the accounts represented to be, or called profit and loss, had earned the difference between \$7,000,000 and \$24,000,000?—A. Well, I should say so.

Q. In seeking to know what that money has gone into, or where it is, because we understand that it is not cash on hand, we must look to the other side of the account and see which of those accounts have been increased; is not that correct?—A. I should think so.

INCREASE IN CONSTRUCTION ACCOUNT.

Q. I call your attention again on the other side of the account, to the increase in the item, for instance, of construction account between 1872 and 1885; what do you find that increase to be?—A. 1885 construction account is \$139,000,000 here, and it is \$130,000,000 in the 1872.

Q. To what construction does that refer?—A. I do not know.

Q. Between 1872 and 1885?—A. I could not say. Those are all very plain, and they must be in the office in San Francisco.

Q. As a matter of history in regard to the road, what actual construction occurred between 1872 and 1885 which would represent an expenditure of \$8,000,000?—A. Well, I should think we spent a great deal of money at Oakland Point. We spent millions of dollars there.

Q. A million?—A. Millions of dollars there. And we spent considerable in San Francisco, in filling Mission Bay. That was in deep water when we got it. Then on the Oregon road. Something must have been expended there. And large amounts for rolling stock.

Q. Would rolling stock come into the construction account?—A. It would properly belong to construction account.

Q. Would it not belong to equipment account?—A. Yes, sir; perhaps it would. Some roads, I guess, keep it one way and some the other; but it certainly would be right in equipment.

Commissioner ANDERSON. There is an equipment item here; but I am now confining you to construction.

The WITNESS. Rolling stock would go into the equipment, then.

Q. The expenditure was, then, in the building at Oakland and Mission Bay?—A. Yes, sir; I think we put new steel rails on the whole road. It is all steel now. I think that would absorb more than half of it.

Q. Probably new bridges?—A. Yes, sir; we have put in a good many iron bridges where the wooden ones have failed. I do not think that is an unreasonable item.

Commissioner ANDERSON. I want to get the theory. I am not criticizing you at all.

The WITNESS. Yes, sir; I want to state all I know about it. If the road is not all steel, it is nearly so.

Q. How nearly?—A. My impression is there is not over 100 miles of iron rails on the road. At first I thought there was not any, but I think there is, out at Humboldt Plains. The road is very straight there, and I think there is some.

Q. Do you know the weight of the steel rails?—A. We call it 62 pounds. It is 61.80. We are using some 64, but we are using no rail less than 60, and I have got an order now for 76-pound steel rails to send forward.

IMPROVEMENTS AT OAKLAND POINT.

Q. What is this expenditure at Oakland Point that you refer to?—A. We filled out there. We have a pier there that is about 11,000 feet long. It runs out to deep water. The piles were decaying away, and we are filling it in. It is an immense filling there of a mile, running right out into the bay. Oakland lies across the bay to San Francisco. We run around the bay from San José to Niles, and Oakland is opposite San Francisco.

Q. Is Oakland included in the aided part of the Central Pacific?—A. No, sir; there was no aid, except from San José to Niles and then to Sacramento, and from thence to Ogden.

Q. So that you would understand it that the Government mortgage does not apply to Oakland?—A. No, sir.

Q. Or to any improvements made there?—A. No, sir.

Q. Or to the Mission Bay property either?—A. No, sir.

THE CALIFORNIA AND OREGON EXTENSION.

Q. The next item of this account of 1885 is the construction of the California and Oregon extension. That, as I understand it, represents the entire cost up to that date of that extension, and that is not included in your ordinary construction account?—A. This is only a portion of the cost of the California and Oregon.

Q. Does it not represent all the cost up to that time?—A. I do not think it does; I am quite sure it does not.

Q. What is the item as given there?—A. Say \$3,000,000—\$2,972,000.

Q. In what other item of that balance-sheet would the balance of that cost of construction be found?—A. It would not be, unless it is in the large construction account.

Q. The general construction account?—A. Yes; it would be in that; I know there is more than that; very much more. Was that in 1883—the California and Oregon Company?

The CHAIRMAN. \$2,105,829.77, as appears in the account of 1882.

The WITNESS. That is, I think, from Ahama or Redding up.

Q. Your impression is that the entry of this item, as a separate item in the general ledger balance-sheet, commences when you began the construction from Redding north?—A. Yes, sir; that is my impression.

Q. And that the cost of the construction south of Redding is included in the general construction of the company?—A. Yes, sir; I am quite sure that is so.

Commissioner ANDERSON. Please compare the equipment in 1872 with the equipment in 1885.

The WITNESS. This is 1884. The equipment is, say, \$8,250,000.

Q. I think that is 1885 you have, is it not?—A. This is 1884; here is 1885; the equipment here is \$8,250,000.

Q. And in 1872?—A. Equipment, five million and a half, or a little over.

Q. Can you tell us in general terms what that difference represents?—A. I suppose it is right. I thought it was considerably more than that. Our equipment has changed its character almost entirely since 1872. I think our largest engines were 16 by 24 cylinders; a good many 15 by 22; 18 by 24 now is about the smallest engine we use, and we have them 24 by 36. I think one of these machines will weigh four times as much as, and will give more than four times the power of, the 15 by 22. Our people ordered fifty at one time of 15 by 22. I did not buy them because I thought they were too light.

BOOK-KEEPING TREATMENT OF DETERIORATED STOCK.

Q. Is it your practice to sell the old stock, or to keep it for what it may be worth?—A. I do not know that we have ever sold any. I do not recollect that we have. I think we have sold some of the smaller engines to the light branch roads—other roads. I think we have.

Q. Do you know whether the practice, in keeping these equipment accounts, is to leave all these old machines in at cost, or is any allowance made for their deterioration?—A. There ought to be an allowance for deterioration.

Q. Do you know, as a matter of fact?—A. I do not know. But I know we have sold some. We sold some to the Southern Pacific of those small machines; that is, on that part of the Southern Pacific running out from San Francisco. Of course, we had credit in the equipment account for them.

Q. When sold you credited the exact amount you received to the equipment account?—A. Yes, sir.

Q. What do you do in regard to the decreased amount that you have on hand? Do you charge the difference between the cost price of the machines and the realized price?—A. When we buy one it is charged to the equipment account; and then whatever we sold an old one for, that amount is credited to the account. I know Sam Wilson, the master mechanic of the Southern Pacific, said our people cheated him on seven or eight. That was talk amongst the operators and different superintendents. Mr. Wilson had nine small engines sold to him, and he said our folks charged him about twice what they ought to.

Q. Would not the result of that method be this: That if you bought five millions of equipment, and, in the course of a year, sold it for two and a half millions, that account would apparently owe your road two and a half millions and have no property on hand at all?—A. That would be the result, of course. They would be credited with their services, and what they bring would have to balance the item.

Q. In other words, to get a true statement of the value, you should make allowance for the deterioration of the property on hand?—A. There is no doubt of that.

Q. In regard to the construction of your road at \$131,000,000; is not that the exact cost taken from the contracts, without ever making any allowance for deterioration or depreciation of value?—A. I should think likely that was so, taking it from one year to another.

INCREASED VALUE OF "SHOPS."

Q. The next item is shops. Please compare the statement of 1885 with the statement of 1872.—A. In 1872, the item for shops appears to be \$813,000, and machinery in shops \$466,000. There are odd cents and dollars there. The item of shops in 1885 is \$1,229,000, and tools in shops \$1,164,000.

Q. So that 1885, as compared with 1872, increased how much in those two items?—A. A little more than double. It was \$2,400,000 against, say, \$1,300,000. About double.

Q. Have you any knowledge of what that increase represents?—A. Our shops in 1872 were ordinary railroad repair shops. Now we have shops where we make locomotives. We are putting up this year 36 very large locomotives. We have rolling mills and roll our own iron. We cast 100 wheels every day except Sundays. We make fish-plates and track-fasteners and spikes. In fact, we have now a large machine shop and rolling mills. I had supposed the difference would be very much larger than it is. Then we had simply repair shops, and bought all our locomotives and cars here. We have put up 10 cars a day there in our shops. They are a different thing now from our old shops.

Q. Where are these shops situated?—A. At Sacramento.

Q. Are they within the aided portion of the road?—A. Yes, sir.

Q. So that the Government lien, as you understand it, applies to them?—A. Yes, sir; I suppose we have the most perfect railroad shops in the United States. That is, the most extensive shops of any in the United States.

REAL ESTATE.

Q. The next item is real estate. Will you compare that item in 1885 with the same item in 1872?—A. Real estate in 1872 was \$968,000. Real estate in 1885 was \$1,516,000.

Q. What does that increase represent?—A. We are always buying, always after real estate. I hardly know where it is, all of it. But we are buying in Oakland, and we bought in Sacramento, I am quite sure. Oh, yes, sir; we bought very largely in Sacramento since then.

Q. For railroad purposes?—A. For railroad purposes; machine and repair shops at other places all along. We are enlarging all the time, and there is a piece of real estate to be bought here and there for rights of way and other uses. That item is not as large as I supposed it was.

Q. As to that item, how much of it is subjected to the lien of the United States?—A. That I could not say.

DOES THE GOVERNMENT LIEN COVER "EQUIPMENT"?

Q. I omitted to ask you that question in regard to the equipment of \$8,000,000. Is that all equipment belonging to the Central Pacific Railroad?—A. All belongs to the Central Pacific Railroad Company. Yes, sir; it is put in there as belonging to it.

Q. Do you make any distinction of title to the equipment as between the aided part of the road and the unaided part?—A. I am not learned in the law, but I should suppose, as a layman, that each mile would be entitled to its proportion of the rolling stock, and so the aided part, whatever that was to the whole, would be entitled to that percentage of the rolling stock.

"STEAMER DIVISION PROPERTY."

Q. The next item is "steamer division property." Will you compare that in 1885 with 1872?—A. Steamer division, \$830,000 in 1872, and \$651,000 in 1885.

Q. Does that refer to the steamers that you have before alluded to as having been sold to the company?—A. Yes, sir; I suppose that would be included.

Q. What is the reason the amount in 1885 is less than the amount in 1872?—A. I suppose they are worn out. Unless we built some it would have been very much less.

Q. Worn out, or have you sold some?—A. We built some steamers, or else that must have been very much less. That is thirteen years, and with those steamers, light steamers, thirteen years is about their life.

Q. Do you understand that to belong to the aided road or not?—A. I do not know.

Q. I do not ask it as a question of law, but merely to get your understanding?—A. I do not think I ever thought of it. We always expected to pay the Government what we owed, and we never just figured how we were coming out.

SINKING FUNDS.

Q. I know it; but we are instructed to examine into the value of its *assets*. The next item in this general balance-sheet for 1885 refers to a *number of sinking funds*. Will you please explain what they are and

how they arose?—A. I could not explain that. I think they are railroad bonds.

Q. What are the sinking funds for? No. 1 does not appear in the account at all. Do you know why?—A. No, I do not. There was a sinking fund on all the bonds. The laws of California, I think, require a sinking fund.

Q. Do you know whether there is a list of bonds that have been bought, redeemed, and paid for?—A. No, I do not think there is. Oh, yes, sir; I can answer that. The land grant bonds have been redeemed. I suppose some \$6,000,000 of them have been retired, and the State aid bonds have been redeemed and paid for.

Q. Through the operation of the sinking funds?—A. Yes, sir; I suppose so; and the convertible bonds—a million and a half of convertible bonds—also have been redeemed.

Q. Sinking fund No. 1 was for the convertible bonds. These have all been paid off?—A. Yes, sir; paid off and canceled.

Q. Do you remember what the amount of the issue was?—A. A million and a half.

Q. Sinking fund No. 2 for the redemption of the California State bonds?—A. State aid, they call them; those are paid off.

Q. Have you a list of them?

The CHAIRMAN. There is a very small balance here in 1885.

A. I do not think they were all paid. I think I extended, or the company did, \$400,000 of them. That is my recollection now. I think there was \$1,100,000 of them paid. I arranged to extend them; that is, I did the negotiating to extend \$500,000, and there were not so many extended. The company paid off, I think, all but \$400,000.

Q. Sinking fund No. 3, for the redemption of the first mortgage bonds of the company, series A, B, C, and D. Do you know anything about the management of that sinking fund?—A. The company has it. It would net all the requirements.

Q. Who has charge of it?—A. The company.

Q. What officer of the company?—A. The president, I suppose. We, the board of directors—I think it is a matter that is handled by the board of directors. Of course the president of it is at the head.

HOW DISPOSED OF.

Q. Do you know how the sinking fund matter is arranged; whether it is simply a book entry, or whether any officer has charge of the matter, so as to receive the actual moneys required for that sinking fund provision from the earnings of the company?—A. My recollection is that W. V. Huntington and Timothy Hopkins have control of it. When I was in California, some two or three years ago—it comes to me now—they were appointed a committee to examine every certain time—every six months, I think it was—those securities and see that they were in place.

Q. Do you know into what securities the funds belonging to these different sinking funds are invested?—A. No, I do not. I think some of them are in the Southern Pacific; perhaps most of them.

Q. Have you ever examined these securities, to see whether these funds are all actually on hand?—A. No, I have not.

Q. Can you not state more definitely who would be responsible for the production of these securities to make the sinking fund good?—A. I could not state it any differently from what I have, that it is the board of directors, the president being at the head.

Q. Do you know where the bonds are that belong to the sinking fund?—A. I suppose they are in the vaults of the company, or at least in some safe deposit. They are put away. There is no question about that.

Q. They should be in some safe deposit company in California?—A. Either that or in the vaults of the company. Our vaults are very secure, where we keep our own treasures.

Q. Do you know whether any actual verification of these sinking funds has been made by the officers of the company within the past two years?—A. I did not see it done. As well as I could know it without seeing it done, I know they have, because they have reported to me when I have been over there that they had examined them. That is, Mr. W. V. Huntington. I inquired of him about them, and he said they were examined.

Q. Is he a relative of yours?—A. A nephew.

Q. Is he in San Francisco?—A. Yes, sir.

Q. Does he come to New York occasionally?—A. Not often.

Q. Do you know whether any portion of these sinking funds is represented by loans, either to the company itself or to the Construction Company?—A. No. I should think very likely that the Pacific Improvement Company had some of the money.

THE PACIFIC IMPROVEMENT COMPANY.

Q. That the Pacific Improvement Company had what?—A. Had some of the sinking-fund money. I suggested to our people, when I was there, that they take some of it (and they had some funds), and let the Pacific Improvement Company have it, and put up collaterals; that that would make it look better. It would not be any better than though the company had their paper for it. I did not see it done, but I think that is the way a portion of the sinking fund is arranged.

Q. Do you know what amount of the sinking fund is invested that way?—A. I do not.

Q. Is it not quite a large sum of money, several millions of dollars?—A. I do not know how much it is. My recollection is that at that time it was in the neighborhood of \$3,000,000.

Q. Do you know what security the Central Pacific holds for the money so advanced?—A. No, I do not. There was an explanation of it at the time which satisfied me, but it is out of my mind.

By the CHAIRMAN:

Q. Who composed the Pacific Improvement Company?—A. That is an old company. I could not tell you all the stockholders.

By Commissioner ANDERSON:

Q. Tell us some of the principal stockholders?—A. The four men, I think, have a majority of the stock. That is, Mr. Hopkins, Mr. Stanford, Mr. Crocker, and myself.

Q. Which of these bonds for which these sinking funds are held, are prior in lien to the lien of the United States?—A. There is the Western Pacific, from San José to Sacramento, and then the series A B C, and down to J, I guess, on the line between Sacramento and Ogden.

Q. And the moneys in all the other sinking funds, except those you have enumerated, are for the payment of bonds junior to the United States lien?—A. There is no sinking fund on that, except what is in the United States Treasury. The San Joaquin has a sinking fund, but *that is small, and it is outside of the road aided by the Government.*

Q. Your answer is that most of these sinking funds, other than those which I have enumerated, apply to bonds which belong to portions of the road outside of that portion which is aided by the Government?—**A.** I do not understand your question. All the bonds have a sinking fund, but those upon the Western Pacific and those that are called the Central Pacific, but in series A, B, C, and so on to J, are on the main line; those and the Western Pacific.

Q. And they are prior to the Government lien?—**A.** Prior to the Government lien.

Q. And the other sinking funds?—**A.** Are on roads that are not aided by the Government and on which the Government has no lien.

UNITED STATES TRANSPORTATION AND SINKING FUND.

Q. After these sinking funds the next item I find is United States transportation and sinking fund, amounting to \$9,251,000?—**A.** Nine million two hundred and fifty-one thousand dollars.

Q. Have you a copy of the account making that balance up?—**A.** No, I have not. The Government owes us about \$2,500,000, I believe, outside of that.

Q. Have you ever seen that account, stating that the amount of the Government sinking fund is \$9,000,000?—**A.** No, I do not think I have. It may have passed before me in the office.

Q. The meaning of that entry, as I understand it, is that the total amount of credits due you for transportation from the Government and credited to your sinking fund at the date of that account, amounts to the sum named, \$9,251,000?—**A.** That is as I understand it. That is an offset against what we owe the Government.

Q. Do you know whether that entry agrees with the Government account up to the same date?—**A.** I do not. The Government owes us \$2,500,000, which they have not paid us. I suppose they will some time.

CASH DUE FROM UNITED STATES.

Q. The next item in this account is as follows: "Due from the United States in cash above all requirements of law, \$744,000."—**A.** I have no doubt that this was right at the time.

Q. What is the meaning of that?—**A.** It is due for business done over non-aided roads, as I understand it, and perhaps something else. We went to the Secretary of the Treasury to get the money, and he said it was a large item, and we had better get a legal decision of the courts, and we went to the Court of Claims. We sued the Government, and the Court of Claims decided unanimously that they pay us the money.

Q. That is on the non-aided portion of the road?—**A.** Yes, sir; and whatever the item was. There were some other items. They went up to the Supreme Court then, and they decided it; but I believe some man somewhere stated he doubted the constitutionality of the court's decision, and we have not got the money yet.

"STOCKS AND BONDS."

Q. The next item I find here is "Stocks and bonds." Will you give the amount of that, and tell us what that means? I presume it is stock and bonds owned by your road.—**A.** I do not know. I suppose they have so many bonds that they have bought, probably, and there are bills receivable to a certain amount, and accounts.

Q. Do you understand that that means stocks and bonds of their own road, or stocks and bonds of other roads?—A. I really do not know of any stocks and bonds of other roads.

Q. You do not know that the Central Pacific does own stocks and bonds of any other roads?—A. I do not think of them at this time, excepting as held in the sinking funds. Do you know what this is, Mr. Tweed?

Mr. TWEED. I do not know what it is.

The WITNESS. I think it is probably on the California and Oregon branch. They put in so many issued; and if they had them on hand—

Mr. TWEED. Possibly that is it.

Commissioner ANDERSON. How is it in 1884?

The CHAIRMAN. Two hundred and fifty-three thousand dollars appears in 1882; a very much lower sum. Stocks and bonds in 1881, \$160,000.

Commissioner ANDERSON. It is California and Oregon in some way, but I want to understand on what theory it is entered. We will pass the item and get the explanation of it at some other time.

The WITNESS. I cannot explain that item at present, but will do so at some subsequent period.

By Commissioner ANDERSON:

Q. I notice in 1873 the sum of \$61,000 again entered for legal expenses. Are your explanations as to that the same as those given for 1872?—A. I have no other to give. The same.

Q. And Mr. Franchot was the Washington attorney during that year?—A. Yes, sir. I think he died in 1878 or 1879.

FIRST DIVIDEND IN 1873.

Q. The report for the year 1873 contains your first dividend, I believe, that was paid; or were any dividends paid at all before that?—A. I think not.

Q. It is marked dividend No. 1?—A. Yes, sir.

By the CHAIRMAN:

Q. Your earnings, however, commenced with 1865?—A. Yes, sir; I think so.

By Commissioner ANDERSON:

Q. According to your best impression, that is the first dividend?—A. Yes, sir; in 1873. That is, according to my recollection. Up to the time of the completion of the road we paid everything we could get our hands on to complete it.

Q. Was there another division of profits made in some other way?—A. No, I think not; I never had any.

Q. By increasing the apparent value of the stock?—A. No; we never did that. We organized first to go to the State line, 130 miles or a little more, and the stock was \$8,500,000, and then we concluded we would build on to the Big Bend of the Truckee, and more if we could, and we made it \$20,000,000; and when we got there we made up our mind we would go to Salt Lake, or as much farther as we could, and, with some roads in California we made it \$100,000,000. That was less per mile of road than the \$8,500,000.

LEGAL EXPENSES FOR 1874.

In 1874 I find legal expenses \$84,000, I think it is. Will you see if the figures right?—A. Eighty-three thousand one hundred and five dollars.

Q. And portions of that, as far as you know, were always paid without vouchers?—A. I should say so. I think that is true in every year.

Q. And you can give us no other information as to the place where we can find the detailed payments except to refer us to the books in California?—A. No, we have nothing here. I have nothing here, I am satisfied that they will have nothing for those amounts that I paid. They will have nothing except my memorandum that I paid so much.

Q. A letter of instruction from you to charge so much to that account?—A. To charge it to profit and loss, or to charge it to legal and miscellaneous expenses, I think, is the general way I put it.

Q. Was that instruction given by you more than once a year, or simply once a year for the purpose of making up the books?—A. I think I used to send out a memorandum every month of what had been paid; I did not want to have as much as a year's business accumulate in my office, and my recollection is that I used to send out every month.

Commissioner ANDERSON. Certainly, as to material; but I am speaking of this item.

The WITNESS. As to any money that I paid.

Q. Then we would probably be able to get twelve items showing the distribution of these expenses every year?—A. I should think so, and still you might find them more condensed; Mr. Franchot and Mr. Sherrell used to get the money, and at the end of the year I would settle up and pay them whatever was due; but the people in San Francisco can explain it better than I can. They know more about the books. As I said, I do not pretend to know anything about book-keeping.

By the CHAIRMAN:

Q. If the unvouched accounts do not appear anywhere, how are we to find them?—A. I do not know; I do not know the necessity of it, as the commission does; but I kept the accounts just as I should my own accounts. I was satisfied that they were all right, and so wrote them down.

Q. What would the unvouched accounts amount to every year?—A. They are considerable some years; some years a great deal more than any you have got there yet.

Q. About what would they amount to?—A. I do not know; our business has been very large; I should not wonder if it would roll up to a couple of hundred thousand dollars a year, some years. You see there is a lot of commissions and things to be done.

Q. Were all the items small items?—A. I do not know. I used to give money to General Franchot, when he said, "I have got to have a certain sum." He had my confidence, and I would hand it to him.

PAYING \$5,000 WITHOUT A VOUCHER.

Q. Would you pay a sum of \$5,000 without taking a voucher or having an account for it?—A. Oh, yes.

Q. Without knowing where it went?—A. That is, I would know it was right if I gave it to General Franchot; I would know it was the proper thing to do.

Q. Would you know to whom or how it was expended?—A. No.

Q. Would you have no knowledge of it?—A. There were certain things to be done, and General Franchot, as I said, I had always known; he was of the strictest integrity, and as pure a man as ever lived; and when he said to me, "I want \$10,000," I knew it was proper to let him have it, and I let him have it.

Q. Without ever knowing where it went or how it was paid?—A. Yes, sir; that is the right way to do business, in my opinion; I have been doing business over fifty years. My theory is the old theory to—

Trust all in all
Or trust not at all,

as the old poet says, and I have always acted on that. Mark Hopkins has handled hundreds of millions of dollars that he and I were interested in together, and I never asked him to show a figure.

Commissioner ANDERSON. That was not your custom with other items of expenditure, however; for instance, in the purchase of rails?

The WITNESS. No, certainly not. I always had them bring a bill in and very carefully looked it over, and I thought that was the way to do that. I was very careful to look it over and file it away.

“EVERYBODY WANTS EVERYTHING EXPLAINED.”

Q. How do you distinguish between your way in purchasing rails and in dealing with your solicitor?—A. I could not explain it, as I know of. But if a man will go to Washington and stay as I did for a great many years he will find that everybody is afraid. I have been in Washington for several years looking on, and everybody wants everything explained. There are a great many men I could not get to, and General Franchot could not.

By Commissioner ANDERSON:

Q. What was he engaged to do?—A. He was engaged to attend to our business, to the best of his ability.

Q. To your business with whom?—A. With everybody; with all the Departments and with Congress. I know, and probably you do, and perhaps it would be no harm in stating it—

Commissioner ANDERSON. None at all.

The WITNESS. No harm in stating that men go to Washington, and I will say it without any mental reservation, that I do not believe General Franchot—I know I never did—gave a man money or tried to influence a man in his vote for money; but there are lots of men in Congress I cannot talk to at all.

By the CHAIRMAN:

Q. On what subject?—A. You cannot get near them, and they are afraid.

EXPLANATION OF FRANCHOT'S BUSINESS.

By Commissioner ANDERSON:

Q. Why should they need money?—A. They do not need money.

Q. Why should Franchot need money?—A. Here is Richard Roe, who represents a certain district, and you cannot get near him, and he is afraid if he votes for my Goat Island bill, which I wanted, that it will hurt him in his constituency. You can send to his constituents and get John Doe, and he will tell him that is just what is wanted by his constituency.

Q. Who will get the money then, in the story you have told us?—A. John Doe would get it; not Richard Roe that had the vote. I do not know this. This is mere surmise.

Q. Would not the man that gives the money to John Doe say to him, “Tell me what kind of a talk you had with Richard Roe”?—A. No; he will explain the matter to him and tell him wherein it is to the pub-

lic interest, and convince him in the first place that it is right; and then he can sit down, as a man can with his chum and acquaintance, and say, "Here, you do not understand this. I understand all about it. Now, I want to have you do it."

Q. Were not Franchot's requirements for money larger while Congress was in session than when it was not in session?—A. I should think so, because we have all our printing to do, and much of our business was done while Congress was in session. There are a thousand little things that had to be paid for while Congress was in session, which, to a certain extent, would die out when Congress left. I do not believe that General Franchot ever used a dollar in his life improperly, for I knew the man as a beautiful, clean man. He never used a dollar in his life that the law, in its most sensitive sense, would not bear him out in.

Q. Can you give us an approximate statement of the whole amount of money used in this way from 1872 down to General Franchot's death?—A. No; I could not, now.

By the CHAIRMAN:

Q. Let me inquire under this act (and it is a proposition that comes in here) whether any of this money that you have spoken of in the unvouched items was used, or whether other valuable considerations were given, or any other act or thing done, for the purpose of influencing legislation?—A. Will you repeat that question?

Q. I follow the words of the act only. There is a subject of inquiry given to us; whether any of the sums named by you were used, or whether there was any other valuable consideration given, or any act or thing done by any agent of yours, in the direction that you have named under these unvouched items, for the purpose of influencing legislation?—A. No further than to explain questions and show that it was a right thing to do, and more in the interest of the public than it was in the interest of the company.

By Commissioner ANDERSON:

Q. How could Mr. Franchot personally earn \$30,000 or \$40,000 a year in explaining things to members of Congress?—A. He had to get help. He had lots of attorneys to help him.

Q. Whom did he have?—A. I never asked him.

Q. How do you know he had?—A. Because he told me so. He said "For these explanations I have to pay out a little here and a little there, and that aggregates a good deal."

Q. Would that satisfy you without the names of the persons employed by him?—A. Certainly.

Q. Are you sure that was all he said in explanation of the use of his money?—A. Yes, sir.

By the CHAIRMAN:

Q. What do you know as to the cost of the explanation?—A. I did not care anything about it. There are certain things that you have to explain, and you have to educate the people, and you frequently have to go to the newspapers to explain the thing.

INFLUENCING LEGISLATION.

Q. How did you educate the direction of legislation in Washington in that regard?—A. For instance, we wanted Goat Island, and they said that was very valuable to the Government; and we wanted to explain to everybody that that was not of any value to the Government—which

it was not and is not—and that it was of value to the railroad company, and that it was better for San Francisco to have the west end of the railroad line upon a rock, where there was water several fathoms deep, on the side toward San Francisco, than it was to be built up and stand on piles that were in 26 feet of water, which would be eaten off in time by the teredo, and have to be removed every little while. We have had several hundred feet lost at like slips. We had to explain that the island was no good to anybody but the Pacific Railroad.

Commissioner ANDERSON. A sort of common-school fund?

The WITNESS. Yes, sir.

By the CHAIRMAN:

Q. How did you measure the cost of the explanation? What did it cost you?—A. The same as we would when we go into court. We have to hire an attorney, and we give him about what he asks.

By Commissioner ANDERSON:

Q. Do you?—A. We do.

“MORAL INFLUENCE” IN COURT AND CONGRESS.

By the CHAIRMAN:

Q. You were not in court at Washington?—A. Yes, sir; just about the same. You have to explain. Now, this committee can go and build three or four thousand miles of railroad, and they will attack you from every direction, and you have got to explain, and you have to pay for the explanation. Not to buy votes, but to explain and bring influence—moral influence—to bear. There is no question about that.

Q. In what direction do you spend money to bring moral influence?—A. You have to send for parties that can explain it. One man cannot divide himself into four hundred parts and explain it.

By Commissioner ANDERSON:

Q. In addition to explaining with words, do you not suppose they explain with champagne and expensive dinners?—A. Very likely. I never gave a dinner in Washington.

Q. I am talking about the use made of your money. Was not a great deal of it spent in cigars and champagne dinners?—A. I think so. Not so much, but perhaps some of it was, to get some able man to sit down and really explain in the broadest sense what we wanted done.

Q. Was anybody to explain the purchase by you of the stocks and bonds of any other road, or the payment of subscriptions by any one?—A. No.

By the CHAIRMAN:

Q. Will you give us one illustration of the thing practically carried out, by which an explanation was made to some one in order to secure legislation?—A. I suppose half the members of Congress had to be explained to.

Q. Will you go through any one instance?—A. I have sat down and explained to them myself.

Q. What did you pay?—A. I did not pay anything, because I did it directly. There was nothing for me to pay. I did not get anything for my time; that is, nothing but what I ought to have.

Q. Somebody had to be paid. Now, how do they do?—A. I suppose they send for somebody as I say. Mr. Franchot says, “It costs a great deal to get the facts before members of Congress. They do not under-

stand these questions, and it costs a great deal to get the facts before them."

By Commissioner ANDERSON :

Q. In what year was the largest expenditure of this kind ?—A. I cannot tell you.

Q. Read all those items for legal expenses, year by year, and tell me.

LEGAL EXPENSES.

By the CHAIRMAN :

Q. Have you an explanation, or is the explanation already given, one for the item of legal expenses for the year 1874, of \$83,000, and also general and miscellaneous expenses, \$245,000 ?—A. I should think so.

The CHAIRMAN. The items are as follows :

1875. General and miscellaneous expenses.....	\$395,350 15
Legal expenses.....	106,184 44
1876. General and miscellaneous expenses.....	469,327 74
Legal expenses.....	193,758 59
1877. General and miscellaneous expenses.....	482,558 53
Legal expenses.....	146,112 04
The report for 1878 is missing.	
1879. General and miscellaneous expenses.....	394,752 79
Legal expenses.....	190,136 38
1880. General and miscellaneous expenses.....	378,696 82
Legal expenses.....	155,586 57
1881. General and miscellaneous expenses.....	239,606 98
Legal expenses.....	167,894 69
1882. General and miscellaneous expenses.....	330,646 72
Legal expenses.....	216,750 41
1883. General and miscellaneous expenses.....	377,561 26
Legal expenses.....	213,181 01
1884. General and miscellaneous expenses.....	659,271 06
Legal expenses.....	246,686 28
1885. General and miscellaneous expenses, accrued to April 1, paid during year.....	399,835 73
Legal expenses accrued to April 1, paid during the year.....	112,640 20

By Commissioner ANDERSON :

Q. The general explanation you have given applies to all these items ?—A. Yes, sir ; I do not think of anything else ; no other explanation.

Q. That is to say, as a part of all these items there are certain expenses which were paid by you without voucher and which were made, up to General Franchot's death, through him, and after that through Mr. Sherrell ?—A. Yes, sir.

INCREASE OF CAPITAL STOCK.

Q. Do you remember an increase in the capital stock of the road between 1880 and 1881, from \$54,000,000 to \$59,000,000 ?—A. No, I know there was about that time some increase.

Q. Do you know what the object of that was or how it came about ?—A. No, I do not ; I can get that very easily, or we can get it from Mr. Miller, if you desire.

Q. Was it connected with the California and Oregon construction ?—A. I do not think it was. It may be, however. I do not remember about that.

The CHAIRMAN. This is it: \$54,000,000, and then in 1880 it is \$59,000,000.

The WITNESS. That is easy of explanation. I cannot explain it, but the records will show it. I can get it for you by day after to-morrow, if you wish to have me.

Commissioner ANDERSON. Yes, sir.

By the CHAIRMAN:

Q. Will you also give an explanation of the item of accounts payable that appear in the same year?—A. The bonds?

Q. Yes.—A. Yes, sir.

LEASE OF CENTRAL PACIFIC TO SOUTHERN PACIFIC.

By Commissioner ANDERSON:

Q. Were you a party to the agreement for the lease of the Central Pacific to the Southern Pacific?—A. Yes; I was not in California.

Q. How did that matter come up?—A. It has been my view for a good many years that there ought not to be more than three or four transportation companies in the United States. There is a great economy in working them. In fact, it would be better, I think, if there was but one transportation company in the United States. It would serve the people a great deal better and do business cheaper.

By the CHAIRMAN:

Q. It would do away with the old theory of competition being the life of trade?—A. That competition is killing, and it compels them to take all they can get. In the long haul you have to do it frequently with a little profit on train expenses, and you have to make it up where you can.

By Commissioner ANDERSON:

Q. That is the way the subject came up?—A. Yes, sir. Therefore I thought if we should get all our companies together and get as many as possible to come in with us, we could operate all under one company. That is the way we started with the Southern Pacific. As we built a road, we let that company take it.

Q. What I want to get at particularly is why the Southern Pacific Company was selected as the lessee, and the change made from the prior order of things when the Central was a lessee of a portion.—A. The Southern Pacific got to be a greater company, and it looked a little like the tail wagging the dog for the 800 miles of road to run the 4,000 or 5,000 miles of road.

Q. The Southern Pacific is a Kentucky corporation?—A. It is.

Q. Mr. Stanford is the president of the Southern Pacific?—A. Yes, sir.

Q. And he is also the president of the Central?—A. Yes, sir.

Q. That was so at the time the lease was made, was it not?—A. I think so; I am not certain; yes, sir, I am quite sure; he has always been president of the Central, and I think he is of the Southern.

THE OFFICERS COMMON TO BOTH ROADS.

Q. What other officers are common to both companies?—A. I think they are mostly about the same. I could give you the names of both boards without any trouble, that is in my office.

Q. Who are the principal and directing men in both companies?—A. Mr. Stanford and Mr. Crocker and Mr. Hopkins and I myself. I have *something to say*.

Q. You four together own a very large amount of the stock of the Southern Pacific?—A. Yes, sir. There are a great many stockholders of the Southern Pacific; it is no more scattered than the Central, that I know of, but there are a great many stockholders in the Southern Pacific.

FREIGHT RATES.

Q. At the time when this lease was made who had charge of the direction of the arrangements that were made for the division of freight rates between the two roads?—A. The operating department, Mr. Town at the head of it; he is our general manager.

Q. Under whose direction would he fix his rates?—A. Naturally, under the president, I suppose. But Mr. Town has been with us a long time, and he is a very able railroad man and knows more about operating roads than any of us, and we leave that almost entirely to him.

Q. Has the division between the Southern Pacific and the Central Pacific, since the lease was made, been made on the basis of a "pooling" arrangement, or has it been made with reference to the actual freight and traffic going over each road?—A. There is no pool, I think; I think each road gets its earnings—I am quite sure of that; that is, they are kept separate, so that you can tell just what one road has earned and just what the other road has earned all through.

Q. Describe how the Southern Pacific makes its connection with the eastern portion of the United States.—A. Over the Central Pacific.

ROUTE OF THE SOUTHERN PACIFIC.

Q. No; how does the Southern Pacific make its connection with the eastern portion of the country?—A. They come to New Orleans with the rail and then they connect with the Southern Development Company steamers to New York.

Q. The Huntington line?—A. No; the Huntington line runs from Newport News to Liverpool.

Q. What is the name of the line that was purchased so as to make that connection?

Mr. TWEED. The Morgan line.

A. Yes, sir; that is a portion of the Southern Pacific system.

Q. Can you tell us anything about the proportion of through trade that is carried over the Southern Pacific as compared with what goes over the Central?—A. No. That is easily ascertained. On the tide-water, as we say, we take nearly all of it. We are the shortest line, equating water against the rail. The line by New Orleans is some 400 miles the shortest. When we get west of the Alleghanies we do not compete at all. That comes through the Atchison and Central Pacific. On the tide-water we carry most all of it by way of New Orleans.

Q. Whom do you mean by "we"?—A. The Southern Pacific. I am interested in the railroad from Newport News to New Orleans, but we do not do anything in that way.

By the CHAIRMAN:

Q. Speaking of the gentlemen you have named, have they, with yourself, the controlling interest in the Southern Pacific?—A. Yes, sir. The Pierce estate and we four have a majority. I think we four have; I won't be positive about that.

By Commissioner ANDERSON:

Q. This fact that so much of the freight goes around by New Orleans has, of course, grown up during the last three or four years?—A. Yes, sir; since the purchase of the Morgan Company.

CONCERNING THE DIVERSION OF PROFITS.

Q. Has not that had the effect to decrease the earnings of the Central Pacific in its through business?—A. Of course, to a certain extent when another road is built, it divides the increase. As a matter of necessity the Northern Pacific and the Atchison have to divide.

Q. I understand that ordinary competing lines will decrease the profits, but I call your attention to a diversion of profits made to a road in which the officers are in both companies.—A. We do not have anything to do with the controlling of freight.

Q. Nothing whatever?—A. Nothing whatever. The Union Pacific and Central Pacific have an office on the corner of Reade and Broadway, and they work for freight. Mr. Hawley is the agent for the Southern line. They work for freight. Nobody comes to me. But if they should, I should tell them to ship which way they have a mind to. And the freight that comes from the companies here will go by way of New Orleans, nearly all of it. It is the cheaper line, and I think it is the better line for freight. Passengers do not go that way to any considerable extent.

Q. Your company does nothing, then, to influence freight in favor of the Southern Pacific system as against the Central Pacific?—A. Oh, no.

By the CHAIRMAN:

Q. You have a controlling interest in the Southern Pacific also?—A. Yes, sir.

THE REGULATION OF FREIGHTS.

Q. So that you regulate the freights for both?—A. I could not tell you to-day what the rates of freight are.

By Commissioner ANDERSON:

Q. Who controls the fixing of the rates?—A. It is done by the general managers.

Q. Does he not receive instructions from the president?—A. No, sir.

By the CHAIRMAN:

Q. Or from other officers of the company?—A. I do not think he does. I never gave any instructions.

Q. Or the board?—A. The traffic men, as they say, agree upon the rates. I presume they do. We do not have anything to do with it.

By Commissioner ANDERSON:

Q. Have you no personal advantage in having a large quantity of freight going over the Southern Pacific rather than over the Central Pacific?—A. I should think we had. And I have got more interest in having it go over the Chesapeake and Ohio; but we do not send anything that way. I do not tell them to send anything that way, and I do not think they do.

By the CHAIRMAN:

Q. Did you submit the question of lease of the Central Pacific to the Southern Pacific to your stockholders?—A. I do not know. Do you know, Mr. Tweed?

Mr. TWEED. No.

CONGRESS NOT CONSULTED AS TO LEASE.

Q. Did you submit a proposition to Congress or to the United States Government that you were going to make such a lease?—A. I do not think we did.

Q. You ought to know.—A. I am quite sure we did not. There is nothing in the statute that requires it. I do not think there is; Mr. Tweed is the man for that.

Q. So that, without consultation with your other stockholders or without notice to the United States, you leased the Central Pacific to the Southern Pacific?—A. Yes, sir.

Q. The same interest that controls the Central Pacific controls the Southern Pacific?—A. Yes, sir.

The Commission then adjourned to Thursday, April 28, 1887, at 10 a. m.

NO. 10 WALL STREET, NEW YORK,
Thursday, April 28, 1887.

The Commission met pursuant to adjournment.

Present: Commissioner Patterson (chairman) and Commissioner Anderson.

CHARLES FRANCIS ADAMS, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. You are at present the president of the Union Pacific system of railroads?—Answer. I am.

Q. How long have you held that office?—A. I have held that office since the 17th of June, 1884; three years in June.

Q. What connection with the railway department had you prior to that time?—A. My recollection is that I had been director fourteen or sixteen months before that. Previously, I was for one year a Government director of the road. A member of the board of Government directors.

HISTORY OF CONNECTION WITH UNION PACIFIC.

Q. So that your first connection with the road began when?—A. If I recollect right, it began at the annual election in March, 1883. Possibly 1882.

Q. As Government director?—A. No; I was Government director in 1878 and 1879; one year.

Q. Between 1879 and when you were elected general director had you any connection with the road?—A. None whatever.

Q. Were you a stockholder?—A. A part of the time.

Q. From what period can you say that you are familiar with the general affairs and internal business of this corporation?—A. Really not until a short time before I became president, exactly three years ago at this time. I was called on, as a director, by the other directors to take an active part in the management. Complications then arose which caused me to be chosen president about six weeks afterwards. But prior to the 1st of May, 1884, I had very slight familiarity with the affairs of the company.

Q. Were you a member of the committees of the board of direction?—A. I was a member of one of the regular committees of the board of direction, but the work that came before that committee was nominal.

Q. Then your intimate acquaintance with its affairs date from the time you became president?—A. May, 1884; three years ago at this time.

Q. Since that period have you examined very closely into the affairs of the whole system?—A. Very closely, indeed.

Q. Have you been over the road frequently yourself, in your official capacity?—A. Very frequently.

Q. Are you familiar with the earning capacity and the qualities of both the main line and of all the different branches?—A. I ought to be, and profess to be.

Q. You have made it a subject of professional study?—A. I have made it a subject of close study.

Q. Have you also since you have been president examined the official affairs of this corporation relating to its history anterior to the period when you were elected president?—A. Never, except incidentally.

Q. In what particulars have you examined the subject yourself?—A. Its various lines, its connection with the Government, and its indebtedness to the Government, and the best ways of dealing with these questions.

KANSAS PACIFIC CONSOLIDATION.

Q. Have you examined personally the matter of the consolidation of the Kansas Pacific with the Union Pacific?—A. Never; I only have looked into it incidentally. I have accepted it as a thing which had taken place three years or four years before I became president, and it was my business to manage the consolidated road and not to examine into the history of the consolidation. I had to look into it to a certain extent in connection with some questions which arose in the State of Kansas, but I never had occasion to investigate it thoroughly.

Q. Have you examined it with reference to the question whether the corporation had a cause of action against any persons by reason of matters connected with that consolidation?—A. I have.

Q. You have examined it in that point of view?—A. I have examined it in that point of view.

Q. In relation to claims against persons individually, or in relation to claims generally?—A. There were stories that reached my ear, and charges were made against certain persons, especially Mr. Gould, who was then on the direction.

Q. Before you leave the names, please state what other persons it was reported had so conducted themselves that they were responsible to the corporation.—A. Well, they generally took the form of saying that Gould, Dillon, and Ames, &c., referring to the leading directors—

Q. Dillon?—A. Sidney Dillon and F. L. Ames. They were simply leading directors, old directors of the company. It led to my looking into that matter. I will state that I came distinctly to the conclusion—

Q. We will come to the figures later on. I wanted to know what examination you had made?—A. I had made that examination.

Q. Are there any other subjects connected with the prior history of the road, before you were president, that you had examined? I refer particularly to the origin of the branch lines.—A. Some of them I have

looked into, especially their financial questions and questions connected with their construction, to a greater or less extent. Enough to satisfy me.

BRANCH LINES.

Q. You say some of them. Will you please name which of these branch lines you have examined into particularly?—A. The first one I looked into was the Nevada Central. I then looked somewhat into the Denver and South Park and Oregon Short Line and the Omaha and Republican Valley. I may say, generally, that I looked into all of them.

Q. Did you make this examination mainly with reference to ascertaining whether these branches were a source of revenue or assistance to the parent line, or did you make it for the purpose of ascertaining whether the Union Pacific had claims against individuals by reason of circumstances connected with the origin of the branch lines?—A. I may say, generally, covering all those grounds, to a greater or less extent.

Q. Which of these branch lines which form a part of your system have a separate organization?—A. They all have separate organizations.

Q. Those that are connected with your company, as well as those in which you merely have an interest in the stock?—A. Yes. It arises out of the peculiarity of the charter of the Union Pacific. Nothing can be consolidated with the original Union Pacific except the through lines of which the present Union Pacific is formed. That is, the Kansas Pacific, the Denver Pacific, and the old Union Pacific. That consolidation was provided for in the original acts. Everything else is outside, and under a separate organization.

Q. Is there anything to prevent the Union Pacific building a branch road, just as it would build sidings or side tracks?—A. I do not understand that the Union Pacific can build a foot of road under its charter, strictly. It is a remarkably narrow charter, and never ought to have been passed in so narrow a form.

Q. You think, then, that it would be restricted from, for instance, connecting a gravel pit half a mile from the main road?—A. No; that is too narrow. I am speaking of the construction of branch lines. We have some forty organizations of which I am president, I think. I never counted them.

SYSTEM OF ORGANIZATION.

Q. What is the system of organization—a president and board of directors?—A. President and board of directors, the regular organization.

Q. Bonds and stocks?—A. Some of them have bonds and stocks, and some have stocks. They are of all sorts. I could not undertake to enumerate them at this time. Of course we will be ready to submit to you at any moment a schedule.

Q. Do I understand you to say you are president of all those?—A. If I am not, I ought to be. The intention is I should be president of them all.

Q. Of all the organizations?—A. Of all the organizations.

Q. Are the directors selected from directors of the Union Pacific?—A. As a rule, but we, of course, comply with the laws in the different States, &c., which prescribe sometimes that directors should be citizens of the States.

ACCOUNTS OF BRANCH LINES.

Q. Where are the accounts and how are the accounts of these separate branches kept?—A. They are kept at Omaha, and they are kept in Boston.

Q. Have you a complete transcript of the books in Boston?—A. I do not know; you will have to ask the comptroller.

Q. Please give the comptroller's name.—A. Oliver W. Mink.

Q. How long has he been with your company?—A. He has been with it many years, long before I had anything to do with it; he was assistant treasurer when I became president, and afterward, being much impressed by his integrity of character and skill as an accountant, when I reorganized the system I made him comptroller.

Q. Is he the man who has the fullest knowledge of your book-keeping?—A. Undoubtedly; I refer to him for everything in his department.

Q. Are the books of the branch lines and the business of the branch lines kept under the same supervision as the business of the parent line, as far as the book-keeping is concerned?—A. The same.

Q. You personally have no knowledge of the details of the books?—A. I do not think I ever personally looked into one of the books in my life; I rely wholly upon the head of the department.

Q. You say you did make some examination in regard to the origin or manner of construction of some of these branch roads?—A. Yes.

Q. Please select one that is most prominent in your mind; Denver and South Park?—A. Yes; I have looked into that, to a degree.

CONSTRUCTION OF DENVER AND SOUTH PARK.

Q. When was the road initiated?—A. The Denver and South Park was built by Governor Evans, of the State of Colorado, somewhere about 1880, 1881, or 1882, and along there. He sold it to the Union Pacific.

Q. Had he any connection with the Union Pacific at the time?—A. Not the slightest. Never had any that I know of.

Q. How much of it was built by him?—A. He built 150 miles, I think.

Q. Who has the books relating to that original construction by Mr. Evans? Have they been passed over to your company?—A. If they have I have never seen them or heard of them. I suppose they were. Mr. Mink probably can tell. He is here. It goes back before my time.

Q. I am speaking of this examination you made to find out how this branch road came to be constructed?—A. I did not go back to the original records. I made my inquiries from individuals who were acquainted with the facts.

Q. Will you please tell us who some of these individuals were?—A. They were in Colorado; people I have met in my visits in Colorado in going over the road. The engineer who constructed the road was one. I have seen Governor Evans himself, and I have talked with General Palmer and Mr. Dillon and Mr. Gould, and all the parties who were engaged in those transactions.

Q. Do you remember, at the time of the transfer from Governor Evans to the Union Pacific Company, what the stock and bonds of the road amounted to?—A. No; I do not. That is, I could not tell you at this minute. Our books tell.

Q. Your books tell?—A. The books tell.

Q. The books of the organization itself?—A. Yes; the books of the organization at the time we received it.

Q. That is why I ask you where they were.—A. I cannot now tell where they are.

TRANSFER OF DENVER AND SOUTH PARK TO UNION PACIFIC.

Q. Do you know who made the bargain for the transfer of that branch line to the Union Pacific?—A. I have heard. I do not know otherwise.

Q. A bargain was made?—A. Yes, a bargain was made.

Q. Do you know how it was carried into effect; I mean, was the stock all transferred or surrendered to the company?—A. Entirely.

Q. The stock of this branch road?—A. We bought the stock. It was all in the hands of Governor Evans. There was a sharp competition going on for the possession of that road between rival lines, as I have been informed. It was before I was a director. Governor Evans wanted to sell it; and General Palmer, of the Denver and Rio Grande, and Mr. Gould, on the part of the Union Pacific, were bidders for it; and Governor Evans played between the two, and he succeeded. At that time everything in Colorado was in that very inflated condition which usually precedes a great collapse. There was a state of artificial prosperity very marked. Finally, Mr. Gould, I think it was, on the part of the Union Pacific, closed the transaction with Governor Evans, and he (Gould) gave it to the Union Pacific, or the Union Pacific took the bargain of him.

Q. Have you ever seen the papers?—A. Never.

Q. Do you know whether the agreement between Mr. Evans and Mr. Gould was in writing?—A. I do not; I do not know whether it was a mere verbal agreement or whether it was in writing.

Q. Do you know whether anything but stock was transferred?—A. That was all that was transferred; the stock and property. We took all the stock Governor Evans had and which he represented, and it amounted to nearly the whole of the entire stock, at a fixed price.

Q. Do you remember the rate per share that was paid by the Union Pacific?—A. I do not.

Q. Do you remember it, about?—A. No; I do not. I cannot say. As things turned out afterward, it was a most extravagant price, but at the time it was not so considered. There never was such a collapse as that which took place in Colorado shortly afterwards that I ever heard of.

Q. Will you please describe that collapse with reference to the business done by this road?—A. It fell off more than half.

SOURCE OF REVENUE OF DENVER AND SOUTH PARK.

Q. What was the chief source of revenue of the road at the time the bargain was made?—A. The chief source of revenue of the road was in carrying men and material into Colorado to dig holes in the ground called mines, and until it was discovered that there was nothing in those mines the business was immense. That was the famous mining boom of Colorado—for it was famous at the time—when every one was crazy. While the craze lasted, the railroad did a magnificent business. When it broke down, and these mines and villages were deserted—and they stand there deserted to-day—of course the business left the road. It was the same with all the Denver and Rio Grande as well as the South Park.

Q. From what point on the Union Pacific does it diverge?—A. Denver.

Q. To what place?—A. It connects with us at Denver, and it runs to Leadville and Gunnison.

NOT EARNING OPERATING EXPENSES AT PRESENT.

Q. As a matter of fact, does this road at present pay operating expenses?—A. No; it has not paid operating expenses for two or three years, but at the time we bought it and after it paid dividends on its stock.

Q. For how long?—A. One year. The year that preceded the collapse. I ought to state, in justice to the gentlemen who purchased this property, that after the contract was made for its purchase from Governor Evans they were offered a bonus of \$500,000 for the bargain.

Q. You state that positively; you mean you are so informed?—A. I am so informed, and I have no question about it whatever.

Q. By whom?—A. My informant was Mr. F. L. Ames, who had then been a director, and whose statement I should accept instantly. It was a curious case of the illusory values of that time; but the bargain could have been sold by the Union Pacific for a large actual profit.

Commissioner ANDERSON. Sometimes when we have bought a piece of property at pretty high figures we say we are offered a price for it when somebody says he thinks it is worth so much more.

The WITNESS. I have no doubt General Palmer did make that offer; from what I know of him and from the statements I have received, I have never had the slightest reason to believe that there was anything that would not sustain a perfect examination in that transaction. It was an error of judgment, as things afterwards turned out; to that we are all liable.

Q. What is the chief business done by that road now?—A. The same as before. The Leadville business and the business to these mining camps up on the mountains.

Q. Are there any settlements of any magnitude on the line of the road?—A. Oh, yes; the road does a business. The report will tell. It is increasing rapidly now. A million and a half, I think it was, last year.

Q. A million and a half gross earnings?—A. I think so.

Q. What is the annual deficit or excess of operating expenses over the gross earnings, approximately?—A. About \$60,000 last year.

FUTURE OF DENVER AND SOUTH PARK.

Q. That is operating expenses alone?—A. That is what it was. It failed to pay its operating expenses and taxes by about \$60,000.

Q. Is there anything in the business that that road is doing that you can tell us of which causes you to expect that it will improve in the future in any way, so as to be an advantage to the Union Pacific?—A. In the ups and downs of railroad property, and especially in a region like Colorado, I should not consider the future of that road in any way hopeless.

Q. Is there anything connected with the special region that the road goes through that can give you reason to believe that its operation will be more profitable in the future?—A. Yes; mining companies, especially, are subject to ups and downs. If they strike a good mine anywhere on the road, or develop a mineral region, it would cause the South Park at once to pick up.

Q. Is there anything else that can be looked forward to as development for agricultural purposes?—A. Oh, no; nothing whatever. It is purely a mineral road.

Q. It is based solely on the expectation of future mineral discoveries?—A. Yes; such in the future as there have been in the past.

Q. In regard to this traffic that you actually do over that road in carrying men and material, are the persons that travel on that road mainly persons who use it for local purposes or only a short portion of the Union Pacific, or do they go over the whole length of the Union Pacific in going to and fro?—A. It gives us a very large control of what is called Colorado business, from Omaha to Leadville and beyond.

Q. Will your books show, so that we can discriminate as to the business of that road, how much of it is of benefit to the Union Pacific proper?—A. Oh, yes.

Q. So that we can divide?—A. Yes; I have had those tables made out repeatedly, in order to enable me to judge.

Q. And Mr. Mink can give those figures?—A. Our accounting department will give them. We have gone into the question frequently, in order to ascertain whether our branch system was a burden to us or not.

Q. What is your personal judgment in regard to this particular branch?—A. For two years it has been a burden to us.

CONSIDERATION GIVEN FOR DENVER AND SOUTH PARK.

Q. Have you told us all that you know or were able to find out in regard to the circumstances under which the Union Pacific became the owner of this branch?—A. Substantially.

Q. Have you any personal knowledge whatever as to the price paid by Mr. Gould to Mr. Evans before the transfer to the Union Pacific, or what was agreed to be paid?—A. I knew it, but it has escaped my memory, like many things connected with the road. I knew it exactly at one time, but whether it was \$100 a share or \$150 or \$200 a share I could now say. I should have to look the figures up and ascertain.

Q. Do you know whether the transaction between Mr. Gould and Governor Evans embraced any other subjects than the transfer of this branch road, at the same time?—A. I think not.

Q. Do you know whether Governor Evans received the entire consideration which was paid by the Union Pacific?—A. I have no doubt he did.

Q. You know nothing personally of it?—A. I know nothing personal whatever about it.

Q. Do you know whether the consideration was paid in money or in stock of the Union Pacific, or other securities?—A. It was paid in money, not paid in stock of the Union Pacific. I have every reason to believe it was paid in money.

Q. Do you know to what account that payment would be charged in the Union Pacific books? Would it be to "construction account"?—A. Oh, no; to investment account. We have a large investment account of \$33,000,000, have we not, Mr. Mink?

Mr. MINK. Yes, sir.

Q. What year was that purchase?—A. I think that was in 1881, is it not, Mr. Mink?

Mr. MINK. In 1881.

The WITNESS. It is stated in the reports; you will find it there.

OWNERSHIP OF STOCK AND BONDS.

Q. I notice in the statement in the report of 1884, that the Union Pacific has acquired title to only half of the bonds. Do you know anything in relation to that?—A. I did not think it had acquired title to any of them. I do not know what that means.

Q. I read from the report that the Union Pacific owned \$6,042,500 of stock out of a total of \$6,142,800 and \$2,689,000 of the consolidated bonds out of a total bonded debt of \$4,612,000.—A. I can explain that at once; when we bought the road there was a first mortgage upon it of \$1,800,000, which was in the hands of the outside public; it is now; afterwards we built extensions to Leadville and to Gunnison, and then we placed a consolidated mortgage upon the entire property, the old property and the new, but we reserved in our treasury a sufficient number of consolidated mortgage bonds to take up the first mortgage bonds when we could get them or when they matured, and therefore those bonds are in our treasury still; they were set aside, one-half of them to cover the first-mortgage bonds and the other half or more were open to sale or pledge, or what not.

Q. In regard to these charges, in your report of 1881 the stock of this road is stated at \$4,100,000 and the bonded indebtedness at \$901,000; are you quite sure about the figures you have given us?—A. I am sure about them as they stand to-day; I cannot say about 1881; I should have to look into the record.

Q. Then when the Union Pacific purchased you cannot say exactly subject to what outstanding amount of bonds the purchase was made?—A. I cannot now; I should have to look.

Q. What is the present status in regard to these bonds, the statement being that there are \$4,000,000 in all, and that the Union Pacific owns \$2,689,000?—A. That would make it exactly; there are \$1,800,000 bonds, a first mortgage on the line belonging to the original property which Governor Evans built; that is, the 150 miles; to offset these there are \$1,800,000 of the subsequent consolidated mortgage bonds which are in our treasury; the other \$2,600,000, making \$4,400,000 in all, are subject to issue at any time.

Q. Then I understand that there is no outstanding lien against this branch, except \$1,800,000?—A. That is all. But there are \$70,000 or \$80,000 of the consolidated bonds which we subsequently paid out to Westinghouse on a contract for air-brakes. He agreed to take his pay in these bonds. He took them to the extent of \$70,000 or \$80,000. Those are outstanding and in Westinghouse's hands. The rest of the consolidated bonds are all in our treasury.

Mr. JOHN F. DILLON. I understand this, and can make a suggestion about it.

The WITNESS. Judge Dillon knows more about it than I do.

Mr. JOHN F. DILLON. I think the first mortgage was \$1,800,000 at 7 per cent., covering about 150 miles of road, and that the extensions were built with the consolidated mortgage.

Q. And the bonds are outstanding?—A. No; the bonds are not outstanding of the consolidated mortgage. They are in our treasury.

Mr. JOHN F. DILLON. They have been issued.

The WITNESS. They have been issued, and we have taken them.

Q. You own them?—A. The distinction I drew in this case was between bonds in the hands of the outside public, which I call bonds that are marketed and are afloat, and bonds which have been issued and are in treasury.

BRANCHES OF DENVER AND SOUTH PARK.

Q. You say that there have been two branches of this branch constructed since you acquired it?—A. Yes.

Q. Name them.—A. One is over the Breckenridge Pass to Leadville, and the other from Buena Vista, southwesterly to Gunnison, with a branch to Baldwin; to the coal mines at Baldwin.

Q. What is the length of these branches, respectively?—A. About 100 miles.

Q. Your total mileage is 320?—A. 170 miles.

Q. Which was built first?—A. If I recollect right, the branch over Breckenridge Pass.

Q. When?—A. I could not tell you. Both were finished before I took charge. There has not been any road built since I took charge.

Q. Is the object of this branch a mineral object?—A. Entirely. They were the branches that gave us our main business. They were necessary to give us any business.

Q. Please state what was done in regard to the consolidated bonds issued on this new construction.—A. They were issued and sold to the Union Pacific, as I understand it. They are in the treasury of the Union Pacific. All the bonds and stock were issued to the Union Pacific in payment for construction.

METHOD OF CONSTRUCTION OF BRANCH LINES.

Q. That is to say, this Denver and South Park branch procured the Union Pacific to do the construction, and paid for the construction by issuing its bonds to the Union Pacific?—A. Practically that was the way.

Q. And the Union Pacific now holds those bonds?—A. Now holds those bonds.

Q. As a part of its investments?—A. Yes.

Q. Do you know, in fact, who controls the construction of these branches?—A. They were done under contract, under the supervision of the engineers the Union Pacific employed; there was no construction company whatever; there was an engineer in charge, and the lines were paid for in the regular way.

Q. How were the prices to be paid to the contractors for the work determined?—A. It was all done by the construction department of the Union Pacific Railroad; it was in the regular way; it was done by contract.

Q. Was it done by lump contract for so much a mile, or was it done directly by the Construction Company employing engineers to do the work?—A. We had no construction company.

Q. The Construction Committee, I mean.—A. There never was any construction committee; there is a construction department of the Union Pacific Railroad Company.

UNION PACIFIC CONSTRUCTION DEPARTMENT.

Q. Did the construction department let out the contract for the building of the whole road to some persons, or did it employ engineers and workmen and direct the construction itself?—A. In every case that I have known of it has made a contract which has been approved by the directors for the construction of the road for so much with responsibility.

Q. Would that be done on sealed bids or proposals beforehand?—A. As a rule, that is the way we have always done.

Q. As a matter of fact, do you know with whom the contract for building this Denver and South Park branch was made?—A. No; I do not. I will state, as it may enlighten the Commission, that all this work, ever since I have had anything to do with the Union Pacific and long before, was done by what is called the "engineer department" of the company at Omaha, of which the chief was a Mr. Blickensderfer, a Pennsylvania German, a man of high reputation and of great experience. He had been connected with the early construction of the Union Pacific, and has recently been retired because of his years. He is now living at Omaha. He knows all about these things and can tell everything.

Q. In regard to this branch, what is your personal knowledge, after the study you have made of it, in regard to the general question as applied to the future of the road, whether the retention and operation of this particular branch will be of advantage to the whole system and to the parent company?—A. It has been a subject of great perplexity to me, great doubt and perplexity, during the two or three years since I have had charge.

Q. So that you are not prepared to make a positive answer?—A. If I were I would have made it to the directors and reached a decision long ago.

THE NEVADA CENTRAL.

Q. Please give us the name of one of those branches that you have made a subject of examination.—A. The Nevada Central, a property that we once owned.

Q. Is it a stem of the road?—A. No.

Q. Not connected with it?—A. No; it was a road that I found we had all the stock of. It is in Nevada, and is some 200 or 300 miles from us.

Q. Between what points does it communicate?—A. Between Austin and Battle Mountain. It is on the Central Pacific. It was supposed it would, in some future period, be valuable to us in connection with the developments in Nevada.

Q. What is the length of the road?—A. Ninety miles, I think.

Q. Is it complete?—A. It is.

Q. Equipped?—A. After a fashion. I may as well say that about the first thing I did when I became president was to throw it overboard, and I have never regretted so doing since. I looked into that sufficiently to satisfy me that it had no future.

WHEN ACQUIRED.

Q. When was that stock acquired by the Union Pacific?—A. That stock was acquired by the Union Pacific about the same time as the South Park; a little later; I cannot say exactly.

Q. About 1881?—A. 1882, I should say.

Q. Was there an organization of the Nevada Central before the title to its stock was acquired by the Union Pacific?—A. Oh, yes; it was owned here in New York.

Q. Who was its president?—A. I do not know.

Q. Do you know any of the directors that were then in the organization?—A. Yes; the directors or bondholders are very well known people here in New York.

Mr. JOHN F. DILLON. Messrs. Phelps, Stokes & Co. ?

The WITNESS. Yes ; they supplied the capital to build it.

Q. Where does the transaction appear in the books of the Union Pacific Company—in the investment account?—A. In the investment account, undoubtedly.

Q. In what year?—A. I should say it would probably be about 1882. The reports will show.

Q. What was bought at the time the purchase was made?—A. The stock.

Q. No bonds?—A. The income bonds were bought. The report will show.

Q. Did you make your investigation in regard to the circumstances under which this interest was acquired, or did you simply make a study of the road?—A. I never made what you would call a thorough investigation. I found the road in our possession, and I asked why in the world we had it; and afterwards, in California, I met the parties who had been engaged in the transaction and inquired into the history of the thing.

Q. Please tell us whom you met?—A. I met the man who sold the road to us, a Mr. Brydges.

Q. What is his first name?—A. Lyman Brydges. I met him and many others. He always insisted we had made a very good purchase. Commissioner ANDERSON. They always do ?

The WITNESS. Yes, I have been there.

Q. Who acted for the Union Pacific in the negotiations with Mr. Brydges?—A. S. H. H. Clark, its general manager.

Q. He is living now?—A. Yes ; he is first vice-president and general manager of the Missouri Pacific Railroad. Mr. Dillon was president of the Union Pacific. Mr. Clark and Mr. Brydges met and made this bargain, and Mr. Dillon confirmed it. Whether it was in writing or not I do not know.

Q. Was it ever reported to your board, or does it appear on your minutes in any place?—A. I have never looked to see. It was all done before I became president of the company.

Q. Do you know the terms of the contract?—A. I do not.

THE COST OF THE UNION PACIFIC.

Q. You do not know what the Union Pacific gave for this property?—A. Yes ; our books show that. I did know it. When I closed the thing out, the Nevada Central owed the Union Pacific about \$565,000, if I recollect right.

Q. Does that include the purchase price?—A. It includes the whole investment account.

Q. That account included all payments on bonds?—A. All payments on everything.

Q. Does the account show any return from the Nevada Central at all?—A. I think the Nevada Central—certainly when I had it—never did much more than pay its operating expenses. That is, the Nevada Central was one of those roads which, in mining countries, are so dangerous. Any one who has had anything to do with them knows all about it. As the expression goes, "The mines peter out." We have had several such cases, where roads for the time earned enormously. The most brilliant and noted case in the history of mining and railroads is the case of the Comstock lode. The Virginia and Truckee Railroad was for many years one of the most valuable roads in the United States, and then

suddenly the Comstock lode ceased to pay. We have had numerous similar cases in our history. The mining railroads are a species of railroad gambling. That is, if you strike a mining camp which holds out it is the most profitable form of railroad there is; and then, again, if the mines are worked out you are left with your railroad on your hands.

Q. You say Mr. Dillon confirmed this contract?—A. He did.

Q. The arrangement then was made before Mr. Gould became president of the road?—A. Mr. Gould never was president of the Union Pacific.

Q. Or director?—A. He was director at that time.

Q. Do you know whether he had any connection with the action taken in confirming the contract?—A. Their offices were adjoining and I do not doubt that Mr. Dillon spoke of it to Mr. Gould when the action was taken; but I do not think he had anything to do with it. Mr. Gould had great confidence in Mr. Clark.

TO WHOM THE PURCHASE MONEY WENT.

Q. Do you know who the stockholders were of the branches at that time?—A. I know all the money went to California.

Commissioner ANDERSON. That is a big place.

The WITNESS. Mr. Brydges had it.

Q. He did not own all the stock and bonds?—A. No; he represented those who did, and he got a very large portion of the money paid. It was a good bargain that he made. I made as thorough an investigation as I could of that matter, and I became satisfied that the whole amount of money had been honestly paid over.

Q. What I want to ask you is whether you have any information as to who was benefited by it?—A. Yes, I have this information: that they were parties not in any way connected with the Union Pacific. I could not find that a dollar of it ever went to any one connected with the Union Pacific. I made very careful inquiry as to that.

Q. No director, or trustee, or large stockholder of the Union Pacific?—A. Not one dollar; I am satisfied of that.

Q. When did you report to the directors that the Nevada Central had better be given up?—A. At the first meeting after I became president. In September, 1884, I made a report and recommended that we stop paying the coupons.

Q. Since that time you have had no financial connection with the investment?—A. No financial connection; I am still president of the Nevada Central Company, I believe; we have never paid a dollar on account of it since.

Q. Will you take up any other of these branches with which you have made yourself familiar?—A. There are a good many of them, and you might read the list; I will tell you all I know about any of them, as you name them.

Commissioner ANDERSON. Perhaps that is just as good a way.

The WITNESS. You will find the list a long one.

Commissioner ANDERSON. I know; but I believe you yourself considered this one of the most important subjects of our investigation, and I do myself.

The WITNESS. Oh, yes. I have given a good deal of attention to our branch system.

Commissioner ANDERSON. Take the first one: The Central Branch of the Union Pacific Railroad Company—Atchison, Colorado and Pacific Railroad Company.

The WITNESS. That is one of them; I can inform you as to the Central Branch.

Q. By whom is that road operated?—A. That road is operated by the Missouri Pacific, under a lease from the Union Pacific to the Missouri Pacific.

MR. GOULD'S PLAN OF DEVELOPMENT.

Q. Where does it connect with the Union Pacific?—A. It does not connect with the Union Pacific. This will require a little explanation, for our branch system is a large subject. I can explain it better with the aid of a map. At the time Mr. Gould was the principal stockholder, and, in fact, the directing mind in the affairs of the Union Pacific, the company was not nearly as much developed as it is now; and Mr. Gould had a large scheme for the railroad development of that country. His theory, which I think was entirely a correct theory for that time, was for the Union Pacific to be developed into a complete system, starting from Missouri River points between Kansas City and Omaha, and serving the country west of the river, bringing the business of all that region to Omaha, Saint Joseph, Atchison, Leavenworth, and Kansas City, and there delivering it to the roads running east, just as the roads west of Chicago deliver to the roads that run east from Chicago. It was a large scheme. You can easily see the whole plan of it, and how he intended to work it out, but he afterwards got interested in other things and gave it up. In carrying out this plan he proposed to have the Union Pacific acquire by purchase, or development, or otherwise, various roads west of the Missouri; among these was a road called the Central Branch of the Union Pacific; it was a part of the original Pacific Railroad scheme provided for by Congress in the charters of 1862; the first 100 miles of it were subsidized by the Government, and in so far is a part of the matter which is referred to you under the act of Congress. The road ran from the town of Atchison in a westerly direction through the northern part of the State of Kansas. It had been taken up as an enterprise by certain interests, and they had built extensions, which were not subsidized by the Government. These extensions threatened to interfere with Mr. Gould's plan of development. They had been bonded and stocked at a very low rate, and in 1880 they were feeding the Central Branch.

THE CENTRAL BRANCH, UNION PACIFIC.

Q. These extensions were feeding the Central Branch?—A. They were, and are to this day feeding the Central Branch. The Jewell County road and others are extensions of the Central Branch. Mr. Gould entered into negotiations with the parties controlling them. Finally he bought the Central Branch stock on account of the Union Pacific. The stock of the 100 miles of the Central Branch Railroad represented also the investment in the additional lines which had been extended farther west. His intention was ultimately to connect that line down, making it a part of the Union Pacific system. The stock was bought with that view. I do not know in what year.

Q. Do I understand that this Central Branch is between what used to be the Kansas Pacific and the old Union Pacific?—A. It runs between the two, in the interlying territory.

Q. Where does it connect with the Missouri Pacific?—A. It now connects with the Missouri Pacific at Atchison.

Q. When was the purchase effected by the Union Pacific?—A. I can-

not give you the exact date. It has escaped my memory. It is stated in the report of 1884, I think.

Q. Have you a copy of the lease to the Missouri Pacific?—A. We have it in our office in Boston.

Q. That is, made by the Central Branch leasing itself to the Missouri Pacific?—A. I should have to look at the lease to see exactly how it was made. I made that lease.

Q. Is your interest asserted through the stock?—A. Stock? We own the stock. We are the owners of the road.

Q. Do you remember the amount of the bonded indebtedness?—A. It is stated in the reports. I could not tell you from memory.

CHARACTER OF BUSINESS DONE.

Q. In regard to the general business done on that road, what is the character of it?—A. Agricultural business; it is an agricultural road.

Q. Has that road paid?—A. Very profitably.

Q. Please give us your best judgment as to its present prospects and future.—A. I think it is a valuable property—more valuable to a road running east from Atchison than to the Union Pacific, but it is a very valuable railroad property.

LEASE OF CENTRAL BRANCH TO MISSOURI PACIFIC.

Q. How long is the lease to the Missouri Pacific?—A. The present lease has a little over twenty-three years to run.

Q. What are in general the terms?—A. The terms are that the Missouri Pacific is to operate the road, and that all the net earnings are to be paid over to the Union Pacific; the inducement for the Missouri Pacific, of course, being the control of the traffic; that is, it can carry the traffic from Atchison east.

Q. Is the Central Branch exposed to any immediate competition of a peculiar nature?—A. Yes; the competition in that region is continually increasing. Whether it exceeds the development of the country I cannot say.

Q. In regard to the transaction or the purchase itself, have you made that a subject of personal investigation?—A. To a certain extent. It happened long before I took charge. I took it as an accomplished fact, but I have examined into it.

Q. Have you examined to find out who the parties were who were interested in the sale to the Union Pacific?—A. Yes.

Q. Who were they?—A. Certain parties in Boston and elsewhere who owned the Central Branch.

Q. Please give us their names as far as you remember.—A. Mr. Pomeroy was one. He was suffering from paralysis and has since died. He came to see me about it.

Q. Were any of the parties who were interested in that sale in any manner connected with the Union Pacific or its affairs?—A. None whatever.

Q. No director or officer?—A. Not the slightest.

Q. May they have been stockholders?—A. They may have been stockholders, but I know, in that case, they were not stockholders to any large extent. Mr. Pomeroy represented the Central Branch, and was president of it.

Q. The whole of that transaction appears in your investment account?—A. It does.

Q. The date of the transfer of the securities and the amount paid ?—
A. I do not doubt it all appears.

Q. As far as that payment is concerned, that I presume was also made in money by the Union Pacific ?—A. I do not doubt it was.

INCREASE OF STOCK OF UNION PACIFIC.

Q. Please state on what occasions the capital stock of the Union Pacific was increased.—A. The capital stock of the Union Pacific was increased twice.—It was increased at the time of the consolidation—

Q. The Kansas Pacific ?—A. When the stock of the three companies were consolidated; in 1880; that was when the consolidated company was formed.

Q. After that consolidation, as I understand it, all the stock took the form and name of the Union Pacific Railway Company ?—A. The Union Pacific Railway Company, the old company was the Union Pacific Railroad Company; it was consolidated into the Union Pacific Railway Company.

Q. The increase, if I remember right, was from about \$36,000,000 to \$50,000,000 ?—A. It was.

Q. What was the subsequent action ?—A. Under some provision of the charter—I forget what; it was before my time—they issued \$10,000,000 stock.

Q. At par ?—A. At par; paid for, dollar for dollar.

Q. That was subsequent to the consolidation ?—A. Yes.

Q. Those were the only increases that you recall ?—A. Those are the only increases that have ever taken place; So far as I can at this moment recall, all the acquisitions of the Union Pacific were made with money; I do not think we ever paid for anything in securities.

NEW BOND ISSUES OF CENTRAL BRANCH.

Q. Has there been any new issue on this Central Branch since the Union Pacific acquired its title ?—A. There have been some bonds of the Atchison and Colorado, I think; the extensions, which have been issued at so much a mile; for instance, when 50 miles of road were built it was mortgaged; under the mortgage you would have the right to issue so many bonds; it was increasing the general lien of that particular mortgage.

Q. So that if the construction was unprofitable it might affect your interest as a stockholder ?—A. Yes; like any other. Since I have been president I think I sold some \$300,000 or \$400,000 of these bonds, if I recollect right.

Q. The Union Pacific itself would have no interest in those bonds ?—A. They were in the treasury of the Union Pacific Company. This road had paid them over to the Union Pacific for the construction of these extensions, and they were a part of the assets in our treasury. The Union Pacific constructed the extensions, and received for so doing the stock and bonds.

Q. Was that contract made in the same way as by your construction department ?—A. All of them.

Q. Do you know who the contractors were ?—A. No; but so far as I know or have been able to trace there has never been a suspicion of a construction company in the Union Pacific. All has been done as fairly and in as straightforward a manner as it could be.

Q. These bonds that the Union Pacific hold were issued by the Central Branch in payment for this construction?—A. They were.

Q. Are these still owned by the Union Pacific?—A. No; I have sold them. I sold them in order to pay the debts of the Union Pacific. They were assets; quick assets in our treasury; and I sold them to pay off our debts.

Q. All that will appear in your investment account?—A. Yes; it has been reported from year to year in great detail.

COUNCIL BLUFFS STREET RAILWAY.

Q. The next branch that I find mentioned is the Council Bluffs Street Railway Company. What is that?—A. That is a little road running from our union passenger station in Council Bluffs up to the town of Council Bluffs. I do not know under what circumstances that came into our hands. I found it there, like many other things which found their way or which had been taken into the Union Pacific for various reasons and considerations during the previous régime. I have been engaged since in seeing how it could be utilized.

Q. It is a street railway?—A. It is.

Q. How long?—A. Only a mile or so.

Q. It is a small matter?—A. A very small matter, indeed; it is so small a matter that I have repeatedly turned it over to my subordinates to advise me as to what course should be pursued about it.

Q. Have you examined at all as to when that interest was acquired?—A. Personally, I have not. I have, through my assistants. I have made a careful examination through them. I think Mr. Lane was sent out on that matter.

Q. Then you refer us to Mr. Lane as to more definite information in regard to that?—A. Yes; Mr. G. M. Lane, who is one of the assistants in my office. I have given some attention to it, but it is all rather vague in my mind and I turned it over to others.

Q. Have you any definite conclusion yourself as to whether the future operation of that road will pay or not?—A. That is a matter that I have been giving some attention to lately. I think it will pay. My hope and plan is, in connection with the new bridge that we built at Omaha, to have that become a part of the consolidated street railway system of Council Bluffs and Omaha, and we will get rid of our interest in that way. We would sell it or dispose of it to a consolidated outside company.

"A GOOD THING TO SELL."

Q. It is a good thing to sell?—A. A good thing to sell; very. There are many things in a corporation as large as the Union Pacific that it is desirable to dispose of when you can to advantage. Things change, and what seem to be at one time important to the general scheme become afterwards unimportant.

Q. Can you imagine exactly what importance this particular street railway company ever appeared to have to the Union Pacific?—A. I think we wanted to get that franchise. There was some purpose—to get up into town.

Mr. LANE It was to connect the Union Depot with the town.

The WITNESS. Yes, the Union Depot is quite a distance from the town.

DENVER, MARSHALL AND BOULDER RAILWAY.

Q. What is the Denver, Marshall and Boulder Railway Company?—

A. That is a road which runs from Denver to some coal mines at Marshall. If I recollect right, that was brought into the system, or we owned some of the mortgage bonds and I found it there. It was considered desirable at that time to have the Union Pacific have a controlling interest in the property. That was before I took charge. Since I took charge I have had the concern reorganized and straightened out, and the road now connects the Union Pacific with Boulder and with the Marshall mines. We do a large coal business there.

Q. What is the length from Denver to Boulder?—**A.** I think it is 30 miles.

Q. Is it a narrow-gauge road?—**A.** No, standard gauge.

Q. What does the company own besides its track; any equipment?—

A. Yes, the company owns whatever the report in your hand says. I do not remember what it is.

Q. I think the report of 1885 does not give any details.—**A.** The report of 1886 will probably give you the information. It is only within this year that the line has been operated.

Q. Do you know anything about the circumstances under which the stock of that company and what bonds you had were acquired?—**A.** I did know all about them, but I could not recall them at this minute; I should have to refresh my memory.

Q. Do you know who the parties were that were interested in the sale of it?—**A.** Yes, I did a large portion of the negotiation in this case myself.

Q. Of what?—**A.** The negotiations.

Q. For the purchase of the stock and bonds?—**A.** Yes.

Q. Who was the owner?—**A.** The road was one in which we had an interest, and in order to straighten the thing out and consolidate it and get it into shape we bought up the bonds. I think we paid for them about 35 cents on the dollar of the original investment. That is my recollection.

Q. Thirty-five cents on the par value of the bonds?—**A.** Yes.

Q. You say 35 cents on the cost of the original investment?—**A.** On the par value of the bonds. Then we extinguished them and consolidated and reorganized the road. The person with whom I dealt was a Mr. Wolcott, a lawyer in Denver, and he told me that he represented various holders, some living in Boston and some in New York. None of them had anything to do with the Union Pacific. It was a perfectly fair trade, and I thought we did tolerably well on it.

THE LEAVENWORTH, TOPEKA AND SOUTHWESTERN.

Q. The next company I find among those which are not directly connected with the system is the Leavenworth, Topeka and Southwestern Railway Company.—**A.** That was a company which was formed to build a road from Leavenworth to Topeka. For various reasons it was deemed desirable by the Atchison company and ourselves, Mr. Dillon then representing the Union Pacific, to control the property. It ran between our lines. The two companies entered into an agreement and bought it, and it has been operated under joint management ever since.

Q. When was the purchase made?—**A.** That purchase, I think, was made in the year 1882 or 1883, 1882 probably.

Q. Who owned the stock of the company before the Union Pacific

purchased it?—A. They were local parties in Kansas. I forget the name of the party representing the other company. I knew it, but the arrangement was one which Mr. Dillon made in connection with the Atchison people. They had nothing to do with the Union Pacific in any form. That I can say at once.

Q. If you do not know who they were, how can you tell?—A. Because I did know. I cannot recall the names. It was a good while ago. I was not then connected with the Union Pacific, and it made no impression on my mind.

Q. There were \$550,000 stock?—A. Yes.

Q. What does that road do?—A. It gives access to Topeka from Leavenworth.

Q. How many miles?—A. It must be about 50 miles—not far from 50 miles.

Q. What is the character of the business done on the road?—A. It is a local road. It runs through an agricultural country. It has not been a profitable road, but Topeka is the capital of the State, and Leavenworth is one of the principal towns. It is a road we did not want there, and we thought it desirable to control it in the interest of the two properties.

Q. Has it paid operating expenses?—A. I think it has.

Q. Anything more?—A. No, very little, if anything more. That is a road the purchase of which was somewhat forced upon us.

"FORCED" UPON THE UNION PACIFIC.

Q. What do you mean by "forced" upon you?—A. In this way—you will understand it perfectly: It was a road lying in this territory which we supplied or operated in, and it was possible that some of the lines running west from Chicago might pick it up to our injury. Any one familiar with railroads knows how it is. Here was this bit of a railroad, bankrupt and irresponsible, and the first thing we and the Atchison felt was that it might fall into the hands of some interest hostile to us and be used to our injury; and therefore it was bought as a measure of protection.

Q. You do not remember the price paid for the stock?—A. No, I do not. I do not think anything was paid for the stock. My impression is we bought the bonds of the road, and we took the stock as an incident. That is my impression, but it would appear in the books.

Q. You do not remember the cost of the road at first?—A. No; that was before my time, like many other things that were purchased before my time.

Q. I find in your supplemental income account for 1884, "Advances for account of the Leavenworth, Topeka and Southwestern Railroad Company coupons in 1883, written off, \$27,600." What is that?—A. I suppose Mr. Mink can explain it. I suppose it means written off to profit and loss. We regarded it as a bad debt, and therefore passed it to our income account, like any other bad debt.

Q. Do you still pay the coupons?—A. We do.

Q. Do you remember whether your company owns them all?—A. It is a joint guarantee of ours and the Atchison. We each pay half.

Q. What proportion does the company hold?—A. I do not think we own any. We own none of the bonds.

Q. I understood your prior statement to be that you acquired the title by buying the bonds, and the stock was thrown in?—A. No, no. *Let me see, how was that?* We guaranteed the bonds or something of

that sort. We put our guarantee on the bonds; some arrangement of that kind. The stock has no value.

Q. You bought the property, whatever it was, subject to the bonds?—
A. Yes; and put our guarantee upon them.

Mr. LANE. The amount of the bonds on the road is \$1,380,000.

Q. And of that the Union Pacific guaranteed half, and the Atchison, Topeka and Santa Fé the other half?—A. That is my recollection. My recollection is somewhat vague about all of these things, for they were done before I took charge. I afterward looked them up, and then they passed out of my mind after I had made my examination, which, of course, had to be done through others.

Q. What is your judgment in regard to the future of this company? Is it ever likely to earn over operating expenses enough to pay interest on the bonds?—A. My impression would be to-day that the situation is so changed in that region that the possession of that road is of no importance to the Union Pacific.

Q. And as far as paying for itself is concerned, what is your judgment?—A. I am not clear about that. Ever since I have been in there has been a sort of languid negotiation going on between the Atchison Company and the Union Pacific—we have several joint properties—as to working them. How it would be if we owned it entirely, or Atchison owned it, I cannot say. But I should think it would be important to one or the other.

MANHATTAN, ALMA AND BURLINGAME RAILWAY.

Q. The next item is the Manhattan, Alma and Burlingame Railway Company. What is that?—A. That is a road running from Manhattan on the Kansas Pacific, and that again is a connection that we own jointly with the Atchison road.

Q. What road is it; how many miles?—A. A little road running from Manhattan to Burlingame. I think it is some 40 to 50 miles.

Mr. LANE. Fifty-six miles.

The WITNESS. Burlingame is a point on the Atchison road and Manhattan is a point on our road; and this road was considered a necessity, or what not, and it was built between the two; and in order to prevent our quarreling over it, it was agreed that it should be built on joint account and jointly owned and jointly operated; and it has been so from that day to this.

Q. Your company owns half of the stock?—A. Our company owns half and the Atchison company owns half.

Q. Nearly half; \$418,650 out of a total of \$1,000,000. There must be some small holding outside of the two companies?—A. There was some township stock, unless the towns sold them; it has no value.

Q. What is the character of that road?—A. It was an agricultural road, running through a poor country, if I recollect rightly; I have been over it. That is one of the roads that there has always been this feeble negotiation going on about between the Atchison and ourselves as to whether we should take that, and we take the Leavenworth, Topeka and Southwestern, and they take this.

Q. Does it pay the interest on its bonds?—A. I think not.

Q. Does it pay operating expenses?—A. I think so. You are now getting into a class of roads where, when you say "Do they pay interest on their bonds?" the answer is twofold. It may be that they do not do it directly, and yet they may pay a very large interest indirectly by the business they bring to our line. This forms quite an important connect-

with our through line, for it runs away up to the Union Pacific proper division. It connects with our line at Manhattan. All these roads, except the central branch, connect with our main lines.

Q. You say it connects with the Union Pacific?—A. With the Kansas division of the Union Pacific; Manhattan is quite a station on the Kansas Pacific division; when you go over the road you will see the interconnection in these things more clearly; that road is operated by the Atchison.

Q. When was this purchase made?—A. That was before my time.

Q. Have you examined into the circumstances of the purchase at all?—A. Somewhat.

Q. It was a construction, rather; constructed jointly by the Union Pacific and Atchison companies?—A. Yes.

Q. Have you ever seen the construction contracts?—A. No; I know nothing about them.

Q. Do you know who was interested in the issue of the stock or bonds or the manner in which it was paid?—A. No; I do not believe anyone was.

Q. Somebody must have constructed the road and received the stock and bonds?—A. No; it was done in this way, as I understand it: The road was constructed by the contractor; it had its own organization, the Manhattan, Alma and Burlingame organization; the contract or received the stock and bonds of the company, and then he turned them over in a lump to the other two companies, who divided them between them and paid for the road; they paid for the road and they received the stock and bonds, which went into their treasuries; that has been the uniform practice, so far as I know, with the Union Pacific.

Q. But who the persons were who were interested in the construction you cannot recollect?—A. Probably no one but the contractor, and his contract is on file in our office.

Q. And Mr. Mink can tell us about this?—A. I have no doubt of it. They are probably in the hands of the Atchison company or in those of our company at Omaha.

Q. In regard to the payment of the interest on the bonds I presume the Union Pacific pays half and the Atchison pays the other half?—A. How is that?

Mr. LANE. We never disposed of our bonds.

The WITNESS. They are in our treasury.

Q. You have them in your treasury?—A. Yes.

Q. Do you not keep the account, or is it the same as if you paid out the interest and it comes back on the bonds?—A. Exactly the same. They are in our treasury.

Q. As I understand it the charge for interest appears as a charge for interest and then it appears in your investment returns?—A. Then it appears in our receipts—our general income.

Q. You do not lose anything by it?—A. We do not lose anything. It is out of one pocket and into the other; it is a book-keeping account, that is all; it simply makes it a branch of our road.

MANHATTAN AND BLUE VALLEY RAILWAY.

Q. The next I find is the Manhattan and Blue Valley Road?—A. The Manhattan and Blue Valley is a very important link in our system. It starts from Manhattan, on the Kansas Pacific, and runs up the Blue River to a junction with the Omaha and Republican Valley, and so connects the Kansas Pacific division with the Union Pacific division; con-

sequently it is a through line between the two divisions. Two years ago I found, on inquiry, that for the purpose of carrying the company's material between the Kansas division and the Union Pacific or Nebraska division, we paid about \$40,000 a year freight money to the Missouri Pacific, at the regular charges; and I was impressed with the necessity of having a connection of our own; this is the connecting link.

Q. How many miles long is it?—A. It is 40 miles long.

Q. Between what points does it operate?—A. It runs from Manhattan to Garrison.

Q. When was this purchase made?—A. It was not purchased; we built it. It was built since I came in; it was built under my orders.

Q. The language of your report is "the Union Pacific purchased its interest in the stock."—A. Oh, yes; when I became president there was a bit of a road built which had been abandoned. That was done when Mr. Dillon was president, and it had not been operated. It ran from Manhattan 10 or 12 miles up the Blue, and we have since continued it 28 miles farther to the point of connection.

Q. Does it pay interest on its bonds?—A. It does a very large business.

Q. How large a business?—A. It has only been running three or four months, but it has carried an enormous tonnage during that time. I cannot tell you how large.

Q. This report of 1885 is before it was complete?—A. Yes; and it is only mentioned for three months, I think, in the 1886 report.

NATURE OF ITS BUSINESS.

Q. What is the nature of the business?—A. Through business and local business, both. A freight business between our Union Pacific division and Kansas division. There is also a large business between the towns. It has brought a profit to us in a way which you gentlemen will come across very frequently. It is reported in the returns for these 40 miles only, but all of that business we haul for three or four hundred miles beyond, and we would not have it at all, except for these 40 miles.

Q. Is it of more benefit east or west?—A. This road runs north and south.

Q. Is it of benefit to the points on the Union Pacific that lie farther to the west or farther to the east?—A. It is farther to the east mainly that it is of benefit. It is between Kansas City and Omaha that it connects.

Q. What is your idea of the desirability of the branch?—A. It is indispensable. To part with it would be almost like cutting off a vital member.

Q. A connecting link?—A. That is it exactly. It was the missing link until we built it.

THE NEVADA CENTRAL.

Q. The next road is the Nevada Central, and that you have already explained?—A. Yes. In order to complete the line of inquiry I will now say that the Manhattan and Blue Valley was built in the regular way that we built roads. A contract was made, the stock and bonds were put in our treasury, and we paid cash.

Q. And built under your supervision?—A. Entirely. That is, I personally do not know anything about it; but I have implicit confidence

in Mr. Blickensderfer, our chief engineer. I believe him to be one of the most honest men on the face of the earth, and my only regret is that his age incapacitates him for more active work.

OMAHA BELT RAILWAY.

Q. The next is the Omaha Belt Railway Company?—A. That does not now belong to us. There is a history attached to that enterprise. We have not paid for it.

Commissioner ANDERSON. The statement of the report of 1885 is that all the securities of the company, when issued, will be owned by the Union Pacific.

Mr. LANE. That is the 1884 report. The 1885 report gives the explanation.

The WITNESS. It is explained in the 1885 report. I think the Union Pacific was rather dispossessed of that property.

Q. Will you please give the explanation of this, so that it will appear on our minutes?—A. Certainly.

Q. How was it that you ceased to have any further interest in this road?—A. It happened in this way: When I took charge of the Union Pacific the Omaha Belt was a pet scheme of Mr. S. H. H. Clark, general manager of the Union Pacific at that time. Shortly after I took charge, Mr. Clark, who had been many years with the Union Pacific, severed his connection with it, and in doing so, he did not like to lose control of the Omaha Belt Railway, which was his pet scheme. He therefore made an arrangement with Mr. Gould, of the Missouri Pacific, under which Mr. Gould advanced money to complete the Belt line; and I can only say that by some arrangement, which it is unnecessary to go into, we found that the control of the Belt line had passed out of our hands into the hands of the Missouri Pacific. Litigation followed; it was not a friendly litigation; the result was that after a time we concluded it was better to let the thing go; so we made up our bill or account, had a reference, and were repaid all the money which we paid in. The property then passed into the hands of the Missouri Pacific.

Q. Then the Union Pacific has received back all that it cost?—A. Yes; it has been settled within a fortnight. The award has been made by a referee and the money paid to us.

SAINT JOSEPH AND WESTERN.

Q. State in regard to the Saint Joseph and Western Railroad Company.—A. That is now a part of the Saint Jo and Grand Island. That was one of the concerns like the Central Branch. It was a part of Mr. Gould's great scheme of a railroad system west of the Missouri. In order to carry it out, they obtained possession of the securities of this Saint Joseph and Western Company. They were picked up at very low prices in the market, as they could buy them.

Q. When were the bonds and stocks bought?—A. They were picked up from time to time.

Q. Bought before you came in?—A. Bought before I came in. When I came in, I found that we had in our treasury a large number of these bonds, which were then at a nominal price, and there was a quarrel or litigation in progress. The road had been in the hands of a receiver, and there was great trouble. One of my efforts at once was to avail ourselves of that security, which seemed to be one that could be worked up to advantage. I forget what the bonds were selling for, but they were about 60 or 70, or along there.

Q. Where is this road located?—A. From Saint Joseph west.

Q. How many miles?—A. Two hundred and fifty-two. It runs from Saint Joseph to Hastings and from Hastings to Grand Island, where it connects with the Union Pacific.

NATURE OF BUSINESS.

Q. What is the chief characteristic of its business?—A. Agricultural road.

Q. Have you investigated to any degree the circumstances connected with the purchase of the stock and bonds?—A. Oh, yes; I have been through that very thoroughly. I reorganized the concern. It was done since I became president.

Q. I mean in the first instance?—A. Yes; I went through it as far as far as I could. It was necessary for my purpose.

Q. Do you know who the parties were who were in negotiation with the Union Pacific?—A. Mainly Mr. Dillon and Mr. Gould. They picked the stock up on account of the Union Pacific, and the bonds also, in open market. The prices are all stated.

Q. The prices are all in your investment account?—A. Yes; I have been through them two or three times in the process of working up the reorganization, to find out what it costs us.

Q. Those are the prices at which the Union Pacific Company paid for them?—A. Yes.

Q. Have you made any investigation to ascertain whether the prices charged in the books are the prices actually paid for those stocks and bonds?—A. No, I have not; but I think there can be no question about it. The securities were bought in open market, and were quoted all the time; the prices were low.

Q. So that you could compare the prices charged in the books with the market prices at the same date?—A. Yes; and I may as well now say, in justice to these gentlemen, that, so far as my observation in the company's affairs is concerned, I never saw anything of that sort in their dealings with it. They always dealt with the company fairly. In regard to any transaction in the open market, I cannot conceive it possible, from what I have seen, that it could be done otherwise. These things were all done in the board of direction, with full understanding of all the members of the board. I wish to say at once, and am glad of the opportunity of saying it, that I think Mr. Dillon, who mainly dealt with these things, had an individual feeling about the Union Pacific which always caused him to deal as closely for the Union Pacific as he would for himself. I never found anything that would lead me to believe that he would have been concerned in making any small personal profit out of it. On the contrary, it was all the other way.

Q. Does this road pay?—A. Yes; we have reorganized the company and made a good deal of money out of it. We have sold all our bonds, and they are now quoted at something like 109 or 110. It is a good property.

Q. It pays more than the interest on its bonds?—A. Yes.

Q. You still hold the stock?—A. Yes; because that represents the control. I no longer consider the control so important as it was, because the changes in that territory, through other companies coming in, have quite brought to an end Mr. Gould's plan of one railroad system.

Q. What is its particular advantage to the Union Pacific?—A. Under the recent changes in the last two years, they are very trifling. It gives the Union Pacific a direct connection with the Saint Joseph.

FUTURE VALUE OF THE ROAD.

Q. In regard to its future value to the company, what is your judgment?—A. I think it is probable that as a connecting link with the Union Pacific, giving it entrance into that territory, it is problematical. We may have an east and west business in coal, lumber, fuel, and products coming down, which may make the connection valuable, but that is a matter of the future.

Q. Has it paid any dividend on the stock?—A. It has not; but it has paid all its interest, and a surplus.

Q. Does it give you business applied to that portion of the road with which it connects so as to let you derive a benefit from it?—A. That was the theory of the thing; but up to this time there has been no such development as would make it of much value in that way to us.

Q. Your future interest in it would be solely in the hope of getting a dividend on the stock?—A. Yes; that and the incidental benefit which might accrue from a joint business. It is an independent and self-sustaining company. That is what it now is.

Q. The account of 1885 shows a deficit of \$5,828 on the interest account.

Mr. HOLMES. That was before the reorganization.

The WITNESS. That was before the reorganization. I know since the reorganization there has been no deficit. It was the first eight months after the reorganization.

SALINA, LINCOLN AND WESTERN RAILWAY.

Q. The next road is the Salina, Lincoln and Western Railroad Company?—A. That is a little road, built since I have been president, running from Salina, on the Kansas Pacific, in a northwesterly direction. The construction of it was forced upon us. It is a rich country, along the Salina River—a very fertile country—from which the Kansas Pacific drew a great deal of its business. We delayed building as long as we could; but one day a competing company threw construction parties in there and we found we were going to have this competing line running into our territory, from which we drew business, and we had therefore to make an arrangement, which we did, and took the road and rebuilt it. It is a road 50 miles long, and we are going to extend it into the country beyond.

Q. That road was built in the same way you have described before—by the construction department?—A. Exactly; we built it and took all the bonds and stock, which are now in our treasury. No, I am mistaken; they are not in our treasury; they have been turned into a trust for the greater security of the mortgage holders of the Kansas Pacific road, including the Government.

Q. How long has that road been in operation?—A. About six months. It was put in operation last October.

Q. How many miles long is it?—A. Fifty, I think, or 38.

Q. How much was the price per mile?—A. About \$12,000 to \$14,000 a mile. We can tell very nearly from the cost per mile whether a road is built properly in that country.

Q. That includes the land, grading, sleepers, and track?—A. Everything—station, buildings, and everything.

Q. Any equipment?—A. No; it has no equipment itself. The Kansas Pacific supplies the equipment.

Q. Fourteen thousand dollars per mile?—A. Yes. In an open Kansas country you can build a sufficiently good road at \$14,000 per mile.

Q. You have no rock excavation?—A. No; and not much bridging, nor very heavy fills or cuts. It is an average road; sufficiently good to bring the business out.

SOUTH PARK AND LEADVILLE SHORT LINE.

Q. Explain about the South Park and Leadville Short Line Railroad Company.—A. That is an unfortunate road. It was a spur road, a branch of the Denver and South Park to the London mines—Mr. George R. Blanchard's mines—which gave us a good deal of business; but, like many other mines, these came to grief. It was a little branch, lying around loose, and I think when I was out there I bought it for \$8,000, including a locomotive and some cars.

Mr. LANE. Four thousand four hundred and ninety dollars.

The WITNESS. It was an \$8,000 note, which I bought for \$4,490, and I got the rolling stock. We substantially got the consideration in the equipment. It was a small affair. If I recollect right, we bought a judgment against the property.

Q. You say you substantially got the consideration in the equipment?—A. I think so. If you are going on with me in this line you will be a good while at it. If it is convenient for you to adjourn I can come back. The inquiry will occupy a good deal of time, and I am afraid it will not be very intelligible. I am very glad to give you the information.

AFTERNOON SESSION.

CHARLES FRANCIS ADAMS, being further examined, testified as follows:

The WITNESS. I want to say that my memory is refreshed in relation to that London, South Park and Leadville Road. The way we came into possession was by foreclosure. When the road was building, we advanced the company some second-hand rails and took a mortgage on the whole property, which afterwards we foreclosed. The transaction I have referred to was simply perfecting our title by buying up a judgment. It was a trifling thing, and I merely mention it now because it escaped my recollection this morning until after I had left the room.

UTAH AND NEVADA RAILWAY.

By Commissioner ANDERSON :

Q. The next road is the Utah and Nevada Railway Company.—A. That is a road from Salt Lake City that runs around the southern point of Salt Lake to a place called Garfield, and thence down to a point near Stockton. The main business of the road is to carry people from Salt Lake City down to the bathing places and points of amusement at Garfield. Stockton is a mining camp below. It was a road in which we acquired our interest, if I recollect right, before I had anything to do with the property. It is quite a remunerative road, so far as it goes. It is small, but it is a good piece of property.

Q. Do you know anything of the circumstances attending the acquisition of the title to the stock and bonds?—A. Absolutely nothing.

Q. Do you know when it was acquired?—A. Only as it was printed in the reports before you. If I recollect right the road has been in our possession ten years—the stock and bonds or the ownership interest.

Commissioner ANDERSON. The report of 1884 states that the property was purchased in 1881.

The WITNESS. Was it as recently as that? I went over it, I remember, in 1878.

Q. Your first interest was in bonds, which were afterwards exchanged for \$438,000 stock out of a total issue of \$555,860. Do you know anything of the circumstances of some of the stock being held by other parties?—A. No, I do not know anything about it. That is a matter I never looked into.

Q. Does the road pay dividends?—A. Yes. It is a good property.

Q. In your judgment, would it be for the advantage of the Union Pacific to retain the road?—A. Yes. I do not know how it would be in the point of view from which the road was originally acquired. When that road was acquired there was a great speculative feeling about mining properties and every thing else all down through that country, way to Nevada—I mean to the western boundary of Nevada. It was supposed the road would be continued, and it was in connection with that road and with the idea of its existence that the Nevada Central was acquired. The whole scheme was one of those schemes which rise in speculative times.

Commissioner ANDERSON. The net income as returned for the years from 1881 to 1884 ran up to about \$14,000, and I find no income returned in 1885.

The WITNESS. I know we made a dividend the other day.

Q. Of what per cent?—A. I forget.

Mr. LANE. Fifteen or 20 per cent. An accumulation.

The WITNESS. It was quite large. Our books will show it. I am sorry that I have not got the last report here for you.

Q. The report of 1886?—A. Yes.

Commissioner ANDERSON. We have it here.

The WITNESS. That is merely the preliminary one. The full document is not yet set up. It will be in the course of next week.

Q. They are the returns for 1885 which appear in the report?—A. Yes; we paid a dividend on Utah and Nevada the other day. I forget the amount of it.

UTAH CENTRAL RAILWAY.

Q. The next road is the Utah Central Railway Company. Will you describe that?—A. The Utah Central is a property that was started by the Mormons, and long before I had anything to do with the Union Pacific. It ran down from Salt Lake City from Ogden. It was then extended to—I forget what point. The Utah Southern was to Frisco. Our interest is simply a controlling interest, not a majority interest, in the stock. We have none of the bonds. Until the Denver and Rio Grande road came to Salt Lake the property was very valuable and made large returns. It had been extended some 100 or 150 odd miles, or something of that sort, to Frisco, in order to reach the Horn silver mine. In the way those things are apt to happen, the Denver and Rio Grande came in, and at the same time the Horn silver mines "petered out" or caved in, and ceased to be productive. That was about the time I took charge, and then the Utah Central ceased to be profitable.

Q. The total length at present is all given under the Utah Central, from Ogden to Frisco, as 280 miles?—A. Yes.

Q. I notice in your return for 1885 that the net earnings fall off from \$1,400,000 in 1882 to \$483,000 in 1884.—A. That was owing to the two causes I mentioned. One was the coming in of competition, affecting

that line very seriously, and the other, the Horn silver mine, worth to the Union Pacific Railroad at least \$1,000,000 a year in traffic, suddenly stopped producing. There was no reason to suppose that such a thing was going to occur. It is an illustration of the ups and downs of mining.

Q. I notice that the bonded indebtedness is \$1,000,000.—A. Yes; that is not large for a road of the length.

Q. In your judgment, is that road able to earn operating expenses and interest on this bonded indebtedness?—A. Oh, yes; it does now, even in these bad times.

Q. The account of the operation for 1885 shows a deficit of \$53,000.—A. There may have been a small deficit that year, but it about pays its interest charges now.

NATURE OF BUSINESS AND FUTURE PROSPECTS.

Q. What is the character of the country through which that road goes?—A. The upper portion of it is agricultural, and then you get into a region with some grazing interests, and then into a desert and mineral country. The portion down in Southern Utah is about as bad as Arizona; but the country will fill up with population by degrees, and they will irrigate more and more, and that road will take care of itself.

Q. You are quite positive that its future prospects will keep it free from being a burden?—A. I think so. And if the Horn Silver Mine were to get into shape again and go on producing—and I believe there is still silver in it—it will become once more, in connection with the Union Pacific, an enormously valuable feeder, because we have a thousand miles haul from Ogden to Omaha. It was formerly an immensely valuable feeder to the Union Pacific.

Q. Does the traffic that is derived from that road pass over any considerable portion of the parent road?—A. The whole of it, from one end to the other, from Ogden to Omaha. It was that road and one or two others which made the palmy days of the Union Pacific.

Q. What is the distinction you draw between holding a majority interest and holding the control?—A. I should consider that a minority interest may be a controlling interest, if it is sufficiently large. For instance, two-fifths is generally a controlling interest. The other three-fifths will not combine against you.

Q. You then act as president of that road?—A. I am president of that road; but then it is managed by John Sharp.

Q. Do you know anything of the circumstances under which the Union Pacific acquired its interest?—A. No, I do not; it was acquired long ago.

Q. Back in 1872?—A. There are other members of the board of direction that can tell you all about these things.

Q. We would like to have their names.—A. Any of the old members, Mr. Atkins or Mr. Dillon or Mr. Fred. Ames. They can tell you all about these things. I know nothing about them.

Q. State in regard to the present working of the road and its operation.—A. It is worked by "Bishop" Sharp. I know nothing about it.

Q. He could give us all the information we desire.—A. Oh, yes. He lives at Salt Lake.

Commissioner ANDERSON. Probably we shall live at Salt Lake for a while.

The WITNESS. You will be there, and you can get it from him.

WASATCH AND JORDAN VALLEY RAILROAD.

Q. The next is the Wasatch and Jordan Valley Railroad Company.—A. That was closed out and wound up; probably it has been consolidated.

Q. The statement is, the Union Pacific owns \$10,000 of its bonds; you do not know when it was acquired or anything about it?—A. No; I should say probably it was an old branch; it has gone along on our books; there is no road of that name; oh, Mr. Mink now tells me that since the report of last December we wrote the account off; it has disappeared from our books.

COLORADO CENTRAL RAILROAD.

Q. We pass to what you call the operated lines; the first of these is the Colorado Central Railroad Company.—A. The Colorado Central is a road north of Denver, which Mr. Gould, in the early days of the company, constructed through to Cheyenne in opposition to the Denver Pacific, which we did not control; I know nothing about the early history of that road; now it is a local road in Colorado and a very good property, indeed; it is partly narrow gauge and partly standard gauge, and it furnishes a great deal of business on which we get a long haul; that portion of Colorado has been developed very rapidly, indeed; it is agricultural, and it is mineral, and it is grazing, and there are quarries there where we get large quantities of stone which we carry down into the prairie country below.

Q. I notice that there are \$4,701,000 of first-mortgage bonds, 7 per cent.—A. Yes.

Q. What proportion of those bonds are owned by the company?—A. It is stated in the report; I forget. My impression was they were nearly all owned by the company; \$4,697,000, Mr. Mink tells me. Nearly all of them.

Q. Is it your judgment that that road earns enough to pay operating expenses and interest on the bonded debt?—A. Decidedly. That road, if I recollect right, pays very well indeed.

Q. The report for 1885 shows a deficit of \$36,000.—A. I think in 1886 it turned the other way decidedly; did it not, Mr. Mink?

Mr. MINK. I haven't the statement here.

The WITNESS. The report of 1886 will show. It is a matter of record.

NATURE OF BUSINESS.

Q. What is the peculiar development in traffic that has improved it?—A. The road is in a very fine country, and population is going rapidly in there. Then, too, there are very valuable granite quarries, and we carry stone down to Omaha and Kansas City. It furnishes a great deal of business to our main line.

Q. Have you any knowledge of the circumstances attending the acquisition of that interest by the Union Pacific?—A. It would be more completely stated by other parties. It must date back nearly fifteen years. Mr. Dillon and Mr. Ames can tell you about that.

Mr. HOLMES. It was completed in 1874 or 1875 by W. H. Loveland.

Q. What is Mr. Loveland's address?—A. You will hear a great deal of Mr. Loveland when you get out to Colorado; he is a well-known character.

? Has this road been extended, or has any new construction been

put on it within the last five years?—A. Yes; we have been building a branch or two this year.

Q. From what points?—A. We built one to the Buck Horn quarries; that is under another charter, but it is an extension of this road; I should have to think for a few minutes as to the other; my impression is we built two branches at least, to points where we could get granite.

Q. What construction has been done through the construction department of the Union Pacific?—A. In the regular way; we are building there to-day through the construction department; whatever has been done there has been done since I came in; that I know all about.

Q. You construct and the bonds are transferred to your investment account.—A. That is it exactly.

COLORADO CENTRAL OF WYOMING.

Q. Tell us about the Colorado Central of Wyoming.—A. A part of that road was built under a Wyoming charter; it is a bit of road that goes over the border.

Q. The report states that it is virtually a part of the Colorado Central Railroad Company.—A. Yes; my impression is that that bit of road has been abandoned, and we now run our traffic by the Denver Pacific.

Q. When was that road built?—A. It must have been built at the time when Mr. Gould built the other; 1874 or 1875, or along there.

Q. Not Mr. Gould, was it?—A. Well, it was built when Mr. Gould was the guiding spirit in the Union Pacific; he built this road in order to force a consolidation with the Denver Pacific.

Q. In what year do you locate Mr. Gould's first connection with the Union Pacific?—A. I cannot say. Mr. Gould went into the Union Pacific, I think, about 1874 or 1875. The only way I can locate it is this: The first Union Pacific stock Mr. Gould bought was bought of Mr. Ames. The way he got interested in it was that when the Oakes Ames stock was thrown overboard as the result of Mr. Ames's troubles Mr. Gould bought it. That was the foundation of his large ownership.

PRESENT DIRECTORS WHO WERE SUCH IN THE BEGINNING.

By the CHAIRMAN:

Q. How many of the directors who are now in the present organization were in at the beginning?—A. Very few, as I take it; Sidney Dillon and G. M. Dodge. I am not sure when Mr. F. L. Ames came in. Elisha Atkins came in later. F. Gordon Dexter certainly came in early. Mr. Baker's father was an original director; he succeeded his father. If Mr. Holmes will read the list I can tell you in a general way.

Mr. HOLMES. The list is, Charles Francis Adams, Elisha Atkins.

The WITNESS. Mr. Atkins came in later.

Mr. HOLMES. Sidney Dillon.

The WITNESS. Sidney Dillon was an original director.

Mr. HOLMES. Frederick L. Ames.

The WITNESS. Possibly; I am not sure whether he was in at the beginning or not.

Mr. HOLMES. Gordon Dexter.

The WITNESS. He came in early.

Mr. HOLMES. Mr. Baker.

The WITNESS. He succeeded his father in 1874 or 1875.

Mr. HOLMES. S. R. Callaway.

The WITNESS. New.

Mr. HOLMES. Henry H. Cook.

The WITNESS. New.

Mr. HOLMES. David Dows.

The WITNESS. Mr. David Dows has been in many years.

Mr. HOLMES. He has been in and been out?

The WITNESS. He has been many years a director.

Mr. HOLMES. Granville M. Dodge.

The WITNESS. He has been many years a director.

By Commissioner ANDERSON:

Q. He was the engineer?—A. He was the original engineer of the road.

Mr. HOLMES. Colgate Hoyt.

The WITNESS. He is new.

Mr. HOLMES. John P. Spaulding.

The WITNESS. He is a new director.

Mr. HOLMES. Andrew H. Green.

The WITNESS. He came in recently.

Mr. HOLMES. John Sharp.

The WITNESS. John Sharp has been in many years.

Mr. HOLMES. James Rumsell.

The WITNESS. He came in recently.

By the CHAIRMAN:

Q. The majority of the present directors or interest have been in since the beginning?—A. No; I should say not. I should say the other way.

Q. How much the other way?—A. I should say not more than four have been in since the beginning, possibly five, out of fifteen.

ECHO AND PARK CITY RAILWAY.

Commissioner ANDERSON. The next I find is the Echo and Park City Railway Company.

The WITNESS. The Echo and Park City is a little bit of a road, which connects with the Union Pacific—not far from Ogden—and runs up through the Echo Cañon to Park City. It is practically our siding to the Ontario Silver Mine. That has been and still is the richest silver mine in the world. I take it there is no other like it. It paid its one hundred and seventy-fifth dividend, I think it was, the other day.

By Commissioner ANDERSON:

Q. The first mortgage bonds are given at \$480,000 and the capital stock is \$480,000 also, I believe. In your judgment, is that road able to earn the interest on its bonds, in addition to the operating expenses?—A. I suppose that road has earned its cost twenty times over—I might say fifty times over.

Commissioner ANDERSON. The earnings from 1881 to 1884 are given as high as \$36,000 and \$35,000.

The WITNESS. That is merely for itself. It is a very short haul. It brings the traffic of the mine down to our main line. The main line has the whole advantage of it.

Commissioner ANDERSON. In 1885 we find it reported as a deficit for its own business?

The WITNESS. I dare say.

Q. How do you explain that?—A. Simply that it is such a very short haul that it does not pay.

Q. How would you explain the difference between the net earnings of \$35,000 in 1884 and the deficit of \$15,000 in 1885?—A. I should have to look it up. I have never paid much attention to the Echo and Park City Company. I have always regarded it as a species of siding.

ITS VALUE AS A FEEDER.

Q. The peculiar advantage you state in regard to that road is that it furnishes to the parent road a complete haul over its whole length?—A. Yes; of the Ontario mine. There is a coal mine there also—Grass Creek.

Q. Do you know anything about the manner in which the Union Pacific Railway Company obtained possession of this road?—A. Nothing whatever. That dates back to 1871—sixteen years ago.

Mr. HOLMES. It was started in 1871, but was reorganized in 1881.

Q. In 1877, the report of 1884 says. That is prior to your dynasty?—A. Yes; and I never looked into it either.

Q. Who could inform us in regard to that?—A. I have no doubt Mr. Dillon could tell you all about it.

Q. Your judgment is that the retention of that branch would be a desirable feature for the Union Pacific?—A. There is no question whatever about it.

Q. Other things being equal, the branches at the west end of the Union Pacific are, I judge from the way you testify, more important than those at the east end?—A. That depends entirely on circumstances; but as a rule yes, unquestionably. You may have a very unprofitable branch at the west end, and then it is no good anyhow; but other things being equal, a branch at the west end is the most valuable of the two.

Q. The most through traffic that comes from the branches is done in connection with the eastern part of the country?—A. Yes; and it comes over our whole line; we have wheelage on it from one end to the other.

GEORGETOWN, BRECKENRIDGE AND LEADVILLE R. R.

Q. Explain as to the next road, the Georgetown, Breckenridge and Leadville Railroad Company.—A. That is a connection or extension of the Colorado Central; it is not consolidated with the Colorado Central; it is a line known as "the loop line," and is one of the engineering curiosities of the country.

Q. What was the object of acquiring it?—A. It was intended to make a short line from Denver to Leadville through the Loveland Parks. It ran up to Central City and other mining camps, which are of themselves valuable, and then it wound up through the mountains to this point, and was intended to cross over; there are now 14 miles of missing link, and whether we will put that through, making the road the "Leadville Short Line," is a question to be decided. It is a short road, and an extension of the Colorado Central—only 8½ miles long; a very difficult piece of engineering.

Q. Its business is mineral?—A. Its present business is mineral; and somewhat of pleasure travel. Many people go up there in order to get to Gray's Peak. It is an engineering curiosity also. It winds about over itself, and every one who goes to Colorado goes over it in order to see this mountain road.

Q. The operating expenses are reported to exceed the gross earnings?—A. I should think on that 8 miles they probably must.

ITS VALUE AS A FEEDER.

Q. Does that road give any business to your parent road?—A. Oh, yes; everything it has comes down over the Colorado Central.

Q. How can a road whose whole traffic is less than its operating expenses, and the annual business only amounts to \$7,000, be an advantage to the Union Pacific?—A. Because that \$7,000 may represent over a longer haul on the other road \$100,000. It would depend on the length it was carried over the mother road. Such a case as I suggest is a thing perfectly easily to be conceived, and it exists in the case of the Echo and Park City.

Q. It can be computed, but has the computation been made?—A. Oh, yes; I have had those made every year in order to ascertain what the branch line business of the Union Pacific road is worth to it.

Q. Have you made it for this particular branch?—A. For that particular branch. It is merged with the rest. I have not made it for that.

Q. Who has charge of that computation?—A. They always go to the comptroller.

Q. Mr. Mink?—A. Mr. Mink has them prepared for me.

Q. And he can furnish you with all those statements?—A. Yes.

Q. Do you know anything about the circumstances under which your interest in that company was acquired?—A. In the regular way. It was built by us. Our chief engineer laid it out, and it was built by our construction department.

Q. It has been constructed since your administration?—A. No; it was before my time. In 1882 when I was out there they were at work on it.

GOLDEN, BOULDER AND CARIBOU RAILROAD.

Q. I now find the Golden, Boulder and Caribou Railroad Company; will you tell us about that?—A. Has that road not been discontinued? I think that has been merged in the Denver, Boulder and Marshall; practically it was a sort of switch to the Marshall mine.

Mr. HOLMES. Yes, from Boulder to the Marshall coal mines.

The WITNESS. Since we constructed the Denver, Boulder and Marshall we have a better line, and so we have discontinued that, working our business over the other line.

Q. When was that road constructed?—A. We own the Marshall mine, and it was constructed to that mine. No; I am mistaken; we did not own the Marshall; the Louisville mine we owned. There was a quarrel there. When I came in it was one of the vexatious questions I had to deal with, and I dealt with it through the Denver and Marshall road, which made a short line, and we carried the coal out by that.

Q. It appears from your report that it cost the company \$120,000?—A. I should think it likely.

Q. Do you know anything about the circumstances attending the expenditure of that money?—A. Nothing whatever.

Q. Who can give us those facts?—A. I have no doubt Mr. Dillon can tell you all about it.

GREELEY, SALT LAKE AND PACIFIC RAILROAD.

Q. I now find the Greeley, Salt Lake and Pacific Railroad Company; will you tell us about that?—A. That is a franchise; it ran up from

Greeley of the Colorado Central to our quarries at a point called Stout, and has never been carried any further. It is practically a road with which we bring stone down from these quarries and ship it east.

Q. How long have you owned your interest in that road?—A. Long before I had anything to do with the Union Pacific.

Q. The report of 1884 says that this road was incorporated in 1881. It must have been acquired after that, was it not?—A. I only know that when I went over the road in 1883 we went up to Stout; that was my first acquaintance with it.

Q. What is the length of the road?—A. Fifty-four miles.

Q. What is the character of the road?—A. It is a road that runs through an agricultural and grazing country until it gets into the hills, and then it goes to these granite quarries. It was always supposed it would go up the pass beyond—that was the original idea—into the North Park.

Q. The reports show a constant deficit. Is that the present case?—A. I dare say; I do not remember.

Q. What is your judgment as to its future?—A. It is a very valuable feeder, indeed; it brings enormous quantities of stone to us, which are carried down to Kansas City and Omaha. When you get up there you will see an enormous movement going on; but the haul is short, and the road itself gets little from it; the profit goes to the main line.

"STONE DEPARTMENT" OF UNION PACIFIC.

Q. What quarries does this road connect with?—A. Those at Stout.

Q. By whom are these quarries owned?—A. They are owned and operated by us. We have a Stone Department there.

Q. Do those appear in your report as one of the investments outside of railways?—A. Yes; the Stone Department makes its own reports, just as the Coal Department does.

Q. Is the quarry used by you in connection with the masonry work on your own road?—Yes; for instance, we are now building depots out of the stone we quarry there. We buy our own stone, just as we buy our own coal.

Q. Is it a distinct company? I mean is the ownership of this quarry effected through an organization or company?—A. No, I think not; we work it exactly as we work the coal mines at Rock Springs; it is a part of our organization. This department is credited with the prices it gets. They keep their own accounts—they have to—see what the stone costs, and we get it at cost.

Q. When did your company acquire title to the quarry?—A. I do not know.

Q. It was before your time?—A. It was long before my time, and we must have taken up the sections in the regular way. It is not on the land grant.

Q. Was the main object of acquiring title to this Salt Lake road for the purpose of making that connection?—A. I cannot tell you that; that was before my time.

Q. Do you know anything of the circumstances of the acquisition of the title to the stock and securities of the Salt Lake Company?—A. No.

Q. Can Mr. Dillon give us that information?—A. I have no doubt he can.

Q. What is your judgment in regard to the advisability of retaining that road?—A. It is very valuable indeed. It is a source of great and growing business. I am building another just exactly like it to the

Buck Horn quarries now. The whole Mississippi Valley is devoid of stone that is worth anything, and we shall have a large business, all down hill.

Q. The great advantage being that the stone will be required at the east end of your entire line?—A. Of the entire line, 700 miles off.

JUNCTION CITY AND FORT KEARNEY.

Q. Explain about the Junction City and Fort Kearney Railway Company?—A. That is a road from Junction City on the Kansas Pacific to Fort Kearney and beyond. It is an agricultural road, and was before my time entirely, and it is an agricultural feeder of the Kansas Pacific.

Q. Do you know when the company acquired its interest in that road?—A. I should have to look and see when it was.

Commissioner ANDERSON. It came through the Kansas Pacific, I see in your report.

The WITNESS. Yes; it came through the Kansas Pacific. It was before the consolidation.

Q. Does it pay interest and operating expenses?—A. It pays its whole operating expenses, but does not quite meet its fixed charges; but the bonds are in our possession.

Q. What is the point of connection?—A. Junction City.

Q. How far from Kansas City?—A. One hundred and thirty-eight miles.

Q. What is your judgment as to the effect of that road as a feeder?—A. You see we have on that road 138 miles haul on its entire business. I should say that there was no question that it was a valuable property. I should be very sorry to lose it. It may not appear a source of profit in its own accounts, but there remains that grand fact of 138 miles haul on everything that goes to it or comes from it.

Q. You know nothing of the circumstances under which the stock was acquired?—A. No; that goes back to the original Kansas Pacific road, before it came into the Union Pacific system.

KANSAS CENTRAL RAILWAY.

Q. Will you explain about the Kansas Central Railway Company?—A. The Kansas Central was another of those roads which came in under the same heading as the Central Branch. It is a narrow-gauge road. That is the trouble with it. Until the gauge is widened it is a very poor piece of property. It will probably have a wide gauge. There are two points where it connects, at Manhattan City and Junction City. That road runs from Leavenworth due west.

Commissioner ANDERSON. I notice that the balance of the income account down to December 31, 1885, shows an aggregate loss of over \$700,000.

The WITNESS. Yes; that road has for the last few years worked very badly, and I think it will until we change the gauge and widen it.

Q. What is your practice in stating the accounts with these subsidiary roads, where you hold the bonds, in charging interest? Do you always charge the full interest at the rate of the bonds?—A. That is my understanding.

Q. The practice has not been to charge at an arbitrary rate of interest, 3 or 4 per cent.?—A. Oh, no, sir.

Q. If the bonds ran at 6 or 7 per cent.?—A. No; I know in some cases we have not presented coupons. We have left them attached to the bonds so that they accumulate and go on without being paid off.

Q. In that case the income account would show a more favorable result than the actual fact would be?—A. The real question to be looked at in this case is the question of operating expenses. The Kansas Central is a difficult problem.

Commissioner ANDERSON. I notice under the statement in regard to this company that your company holds \$1,162,000 of the bonds out of a total of \$1,348,000, and substantially owns all the stock.

The WITNESS. There is only about \$170,000 that is outstanding.

Q. On these bonds that are outstanding, has the interest been paid?—A. It has been paid until this year; I stopped it the other day.

Q. At 7 per cent.?—A. Yes; it is about \$10,000 a year that we paid.

Q. What was the object in paying that interest in prior years, when the road was running behind so heavily?—A. It was considered, as they express it here always, that we were "protecting our investment." We went on from year to year in the belief that the thing would work better, and we were not prepared to deal with the question of reorganization. This year the directors concluded that it would be better to deal at once with the question of reorganization, and therefore they stopped paying the coupons. I understand there will be legal proceedings.

Q. Do you know who are the owners of the \$170,000 of outstanding bonds?—A. Yes; it is Mr. Smith, of Kansas, commonly called Len. Smith. He built and owned the road, and when he sold it to us he retained that amount of bonds.

Q. When was that road sold to your company?—A. I really do not know.

Mr. MINK. January, 1880, was the first interest obtained in it.

The WITNESS. It was obtained, I know, from negotiations with Mr. Smith. Mr. Holmes could tell you a great deal more than I about that, for he was of counsel. The counsel of the Kansas Pacific is familiar with these things; I only know of them from hearsay.

LAWRENCE AND EMPORIA RAILROAD.

Q. The next road is the Lawrence and Emporia Railroad Company. Will you explain about that?—A. That was a road about 25 miles long, from Lawrence running southwest to Carbondale, as it is called, a place where there were some coal mines. It was a small affair, acquired some years ago, and we own all the stock and all the bonds. The coal fields there proved worthless, and we have abandoned them, and we have practically abandoned the operation of the road. Mr. Dillon could tell you all about that. It has given me a good deal of trouble, first and last.

Q. What coal mines were they that it connected with?—A. There were some coal mines, where you strip the soil off, and there are underlying layers of coal two or three feet thick; soft coal. We owned the mines; the Carbondale Coal Company and we worked them until we worked them out. Mr. Holmes again can tell you all about that. I merely know that it was a small affair; that the mines worked out, and it has been a burden to us since I have had charge.

Q. I notice your deficit runs up to \$14,000 and \$16,000 a year.—A. Yes; there is no business at all there since we stopped the mines.

Q. The enterprise is now abandoned?—A. No, we cannot abandon it. We have to keep it nominally running, but there is no business there. It is one of those cases which a railroad sometimes meets where you are prevented by your franchise from taking the iron up, or you are

unwilling to offend the local interests; but if the interest of the company only was consulted we ought to take the iron up. But the attorney-general and the legislature have threatened us.

Q. Threatened whom?—A. The Union Pacific road.

Q. I understand it is run by another road; is that so?—A. That is true; but they say "you are responsible for that, and you own it." We have to deal with it. It has been a cause of grave charge against us in the legislature, the fact that we did not do anything with a wholly worthless road. They wanted us to extend out, and we did not see our way to do it. It has been a very disagreeable experience.

Q. Do I understand that it is still causing you a loss of \$14,000 a year as now operated?—A. I do not remember the exact amount; it is in the report, copies of which will be handed you to-morrow.

Q. What is the total deficit in the income report?—A. I think we cut it down to a nominal figure this last year.

Q. It is \$137,000 to December, 1885, according to your income account, is it not?—A. That stretches over a great number of years.

Q. You know nothing of the circumstances relating to the acquisition of the interest?—A. I know more or less, for I inquired into that, but Mr. Holmes can tell you better than I, and my information is based wholly on hearsay.

MONTANA RAILWAY.

Q. Will you explain about the Montana Railway Company?—A. We have a Montana Railway and the Montana Union. This is a branch from our Utah Northern to the Anaconda Smelting Works. The Anaconda Smelting Works are some enormous works owned by James B. Haggin, of California, and this is practically a branch line to them, over which we do an enormous business; it has been very profitable, indeed.

Q. How long has that road been operated?—A. Only about three years, I think. It was finished after I took charge.

Q. What is the ownership of the Union Pacific in that?—A. It owns the whole of it, I believe. It owns all the stock. We never had any bonds on it.

Q. By whom was that road constructed?—A. It was constructed in the usual way by Mr. Brinkendorfer, the engineer—by our construction department. It was constructed under contract.

Commissioner ANDERSON. I see this is a narrow-gauge road?

The WITNESS. Yes.

"THE NARROW GAUGE A FIRST-CLASS NUISANCE."

Q. In regard to the construction of a narrow-gauge road, what is your judgment as to the effect on the usefulness of the road so constructed?—A. I consider the narrow gauge a first-class nuisance.

Q. In all cases?—A. Yes; I never saw a narrow gauge that I would give a cent more for because of its being narrow gauge.

Q. This road has been constructed on a narrow gauge?—A. It has; and we are going to make it a standard gauge next summer.

Q. Was not this done since your administration?—A. Yes; it was part of the Utah and Northern narrow gauge system, but we are going to widen the Utah Northern next summer.

Q. In your judgment, then, in almost every case the narrow gauge is undesirable?—A. We haven't got a case of a narrow gauge connected with the Union Pacific where I do not think it would be better to have the standard gauge.

COMPARISON BETWEEN NARROW AND STANDARD GAUGE.

Q. What is the difference, under ordinary construction, in the cost of construction?—A. I cannot tell you, but I do not think it very great; the whole theory of the narrow gauge is broken down; the theory under which it started was that it could have very much lighter rails, because it had very much lighter equipment, and it would require very much lighter structure; but since that, under the pressure of business, they have found it necessary to increase the weight of rails, and of locomotives, until they have got it up as high as the standard gauge was at the time the narrow-gauge roads were built; and the only ground it can possibly stand on now is that it can climb to points which the standard gauge cannot reach; for instance, on the narrow gauge you go over 4 per cent. grades—that is, 216 feet to the mile of ascent.

Q. Is it your present policy, wherever it is convenient, to alter the narrow gauge to the standard gauge?—A. Yes; so far as we can.

Q. How much narrow gauge have you?—A. Fifteen hundred miles, more or less, I should think—the Utah Northern, the South Park, and the Kansas Central.

OMAHA AND REPUBLICAN VALLEY RAILWAY.

Commissioner ANDERSON. I pass now to the Omaha and Republican Valley Railroad Company.

The WITNESS. The Omaha and Republican Valley Railway Company is a system of branch lines which we have built in Nebraska, and which feed the main line of the Union Pacific. It is a Union Pacific division. It is changed since the report you have before you. In our present report it has about 750 miles, I think.

Commissioner ANDERSON. I notice the earnings take a great jump in 1883 or 1884.

The WITNESS. The country is filling up very fast.

Q. What is the character of that country?—A. Agricultural.

Q. Please describe the other portions that have been consolidated with it to make up the 700 miles?—A. We have put all our branch lines in Nebraska and as many as we could of those in Kansas into one consolidation, which includes properties both north and south of the main division of the Union Pacific.

Mr. HOLMES. It is more easy to treat that under the name of the Omaha and Republican Valley Railway Company, in which the railroad, with others, was consolidated.

Q. This system is now known as the Omaha and Republican Valley Railway Company?—A. Railway Company, yes.

Q. Please describe the character of the business done by that road.—A. Agricultural.

Q. Does it do any mineral business at all?—A. None whatever.

Q. What is your judgment as to its future?—A. I think it good. I should be very happy to buy that road of the Union Pacific at any time. I think very favorably of it.

Q. Do you know anything in regard to the circumstances under which the Union Pacific acquired its interest?—A. It was in the regular way. The various roads were built under contracts made by our construction department, and paid for by the Union Pacific, and all the stock and all the bonds were put into the treasury of the Union Pacific.

Commissioner ANDERSON. I notice your report states the Union Pacific owns all the bonds except \$2,000?

The WITNESS. I do not know how they got out.

Q. Is the road valuable as a feeder, also?—A. Very. The only difficulty with it is that on traffic to and from it we have comparatively, what you remarked before, a short haul from Omaha.

MARYSVILLE AND BLUE VALLEY RAILROAD.

Commissioner ANDERSON. The next road is the Marysville and Blue Valley Railroad Company, which is stated to be a part of the one that we have been speaking of?

The WITNESS. It is the connecting link between the Union division and the Kansas division.

Commissioner ANDERSON. I should like to go away for a short while if you will go on with this.

The CHAIRMAN. I will leave that branch and take up another branch of the examination. I conclude that you are familiar with it from the fact that you have examined in detail from time to time the accounts of the road.

ORIGINAL COST OF CONSTRUCTION OF UNION PACIFIC.

By the CHAIRMAN:

Q. What was the original cost of the construction of the Union Pacific?—A. I cannot tell you.

Q. About what?—A. That goes far back into the early history, twenty years ago. Without long examinations of accounts and records I should be unable even to form a judgment.

Q. Where can we get that information?—A. You would have to go to the original records. It was a very confused state of affairs in those days. You know it was the period which immediately followed the war, and the road was built in the most costly way in which a railroad could be built. There has never been anything like it. It was built under great popular pressure; with a speed that was never known before; with gold at about 150; without any railroad reaching the Missouri River, and with everything to be carted across the prairie. You would have to get Mr. Dillon and others connected with the company in these days to tell you about that.

Q. Mr. Dillon and who else?—A. Mr. Blinkendorfer, our engineer, could tell you a great deal, and General Dodge, of course, could tell you a great deal.

Q. And the other directors who were directors at the time?—A. Yes.

Q. Where are the original records?—A. The original records of the Union Pacific are in Boston.

Q. Are the minutes of the meetings of the board of directors there also?—A. Yes; I presume so.

Q. Have you ever examined the minutes of the records of the early meetings?—A. I never have. I will state to you that I do not pretend to know anything about the Union Pacific Railroad prior to 1880—prior to the consolidation. I draw the line there. I have always insisted that there must be a period at which you draw the line, and I drew it at the consolidation. Before that it was matter of ancient history to me. I must take all that occurred prior to some specified date as accomplished facts, and, as that date, I took the year 1880—the time of the consolidation. Beyond that I regarded the statutes of limitations having run, so far as I was concerned.

Q. Then you are unable to give us any information by reason of your

own knowledge prior to 1880?—A. I have made it a rule not to go beyond that period. I have always had sufficient to do in attending to the business of the present time.

Q. Have you examined the establishment of the auxiliary system of roads with reference to the time prior to 1880, as to its effect upon the general road in the future?—A. No; I took the property as I found it.

INVESTMENTS IN BRANCH LINES FROM NET EARNINGS.

Q. From what fund has the Union Pacific made investments in the auxiliary roads from time to time?—A. It has made the investments largely from its net earnings. There was a very long period when the Union Pacific was immensely profitable, and it earned, I think, at times as high as 12 to 14 per cent. a year on its stock. The directors pursued a tolerably conservative policy, and they used to divide 6 or 7 per cent., and the balance was put into the property. That represented every year a large sum of money; several millions of dollars. And as that accumulated it made the basis of the branch system. The branch system of the Union Pacific represents money which the stockholders might perfectly well have divided, paying it out to themselves in dividends, but which they did not so use, putting it, on the contrary, into the property. They have, moreover, from time to time sold a portion of the securities, which, in the case of any other company, would have been represented by their own securities issued against their branch system. For instance, the C. B. and Q. has pursued the same course as we have. The Chicago, Burlington and Quincy last week put out a loan of \$12,000,000, secured on its branch system. That is a sound railroad policy to pursue, but we cannot pursue it. If we could, we would take our branch system and issue against it the bonds of the Union Pacific; we should then sell them exactly as the C. B. and Q. are selling similar bonds to-day. We are unable to do so on account of the peculiarity of our charter and our connection with the Government. Every other company does that, and, financially, it is the correct thing to do. We would do it if we could.

LOSSES ON BRANCH LINES FALL ON UNION PACIFIC.

Q. Then the loss account of the several branch roads which you have cited falls upon the Union Pacific?—A. That falls on the Union Pacific.

Q. Then as to most of the roads that have been named to you, I think in a majority of them there has been a deficit, according to your reports?—A. I do not know whether there has or not, but that would be immaterial.

Q. Where does the road derive the benefit; in the future?—A. No, it derives it in the immediate present.

Q. In what direction?—A. In the direction of business which the branch lines give to the main line, which it would not have but for the branch lines. We will take such a road as the Echo and Park City, or any road of a similar character. Such a road will give to the Union Pacific a large amount of business which it otherwise would not have, which the Union Pacific hauls 800 miles over its track. The wheels are going all the time; and if the main line did not have the branch it would not have its business. Therefore the Union Pacific makes immensely out of the branch, although the branch itself may show a deficit.

Q. Is it not true that in the future, as population grows, the branches

will be of more benefit than in the past?—A. That depends. As to the agricultural branches they will be, but as to mineral and mining branches it will depend entirely upon the mines to which they run.

SINKING FUNDS.

Q. For the bonds that were issued originally by the Union Pacific you have a sinking fund account?—A. The original bonds?

Q. Yes, sir.—A. No, there is no sinking fund for the original bonds.

Q. How do you make your investments for the sinking fund?—A. Every mortgage deed provides for itself. As a general rule, they provide for buying in their own bonds up to a certain price. When the bonds exceed that price they take something else. Each mortgage speaks for itself.

Q. Then the investment for each sinking fund is made in the bonds of the company?—A. In the bonds of the particular company; yes. The very object of the sinking fund is to absorb the bonds.

Q. Are the sinking fund accounts ever used for other investments.—A. No.

Q. You are only speaking now of the period since 1880?—A. They never were, I think. I am speaking of the whole time. But Mr. Mink can tell you a great deal more than I can about that. Going back to that matter of the branches, I would say that the last computation I had made, in order to ascertain what our branch system was worth to the Union Pacific indirectly, in the amount of business which the main line had which it would not have without the branches, led me to the conclusion that at present our branch system was worth to the Union proper about \$5,000,000 a year, entirely apart from anything that appears in the accounts of the branches themselves.

CONCERNING INVESTMENTS IN OTHER ENTERPRISES.

Q. What other interests have you outside of the Union Pacific in manufacturing or mining companies along the line?—A. We have coal mines at Rock Springs, Alma, and Grass Creek. That, you know, was the salvation of the Union Pacific; those mines saved it. Otherwise the Union Pacific would not have been worth picking up. It struck coal. Of course, in the wholly undeveloped condition of the country we had to become coal miners, and at first we mined coal solely for our own use. The road ran through a wilderness at that time. We did so, and gradually there grew up a regular coal department attached to the road. Then we began to mine for private consumption, as a regular miner, and it has since been a source of large profit.

In addition to that, we are interested or were interested—I have got rid of several of them—in other mines, and from time to time, in order to help things along in that country, we have been interested in elevators, exposition buildings, &c.; helping them along in those things.

Q. Then you have soda deposits and soda works?—A. Yes. That was a case where we tried to develop the country with very poor success. There was a lake with large deposits of soda; and Mr. Sickles came back from abroad with the idea that there was in that deposit a fund of wealth for the country and business for the road, and he induced us to put up works. Since that time we have been running them, because we did not feel like taking the risk of abandoning them, *There is no profit in them.*

OCCIDENTAL AND ORIENTAL STEAMSHIP COMPANY.

Q. I notice the Occidental and Oriental Steamship Company; will you tell us about that?—A. It is a profitable thing. Mr. Mink can tell more about it than I can. The Central Pacific people organized it to run a line of steamships to Japan, and we took a half interest, I think. That has been a source of profit.

Q. Have the investments in manufacturing and mining companies?—A. We never had any in manufacturing.

Q. Have any of those outside miscellaneous investments, as a rule, been successful in producing profits?—A. I think not. I am opposed to them, and the policy of the company is opposed to them; but they were rather forced upon us by the unsettled condition of the region through which the road ran. There are two pressures brought to bear very heavily on us the whole time out in that country. One is, as the people say, "To help things along, to develop the country, to lend us a hand." As a rule, when we do so—and we do so with great reluctance—immediately the counter feeling comes up, "Why do you put your finger into every pie in the country?" We are denounced if we do not do it for lack of enterprise; and if we do it we are denounced for meddling with things that do not belong to us. I am myself strongly inclined to confine the company strictly to its legitimate business as a common carrier.

Q. Then these investments have been a source of loss?—A. Not perceptibly. As a rule I should say we had made money on them.

CONCERNING THE 5 PER CENT. RULE.

Q. What have been your payments to the United States Government under the 5 per cent. rule?—A. We have made them every year.

Q. In cash?—A. Yes; practically, though there is no money paid; but, it is paid in transportation, for which the Government owes us, and then, instead of giving us the money, they deposit it to our account in the Treasury.

Q. Then, under the act of 1862, you have at no time made any cash payments more than twice, I think, according to the reports of the Secretary of the Treasury, other than in the credits that have been allowed by the Government for transportation?—A. I think that is all.

Q. How was the amount adjudged by the Court of Claims paid?—A. That was paid in legal-tender notes.

Q. Was it paid in full?—A. It was.

THE \$900,000 ITEM.

Q. Will you explain to me this item that appears in the report of Mr. Manning, Secretary of the Treasury, for the year 1885? The item is \$641,000 credit and \$200,000 is reported to be in cash. I see no cash payment in your returns.—A. Undoubtedly the rest of that particular item was paid in services rendered. I remember, if I recollect right, that I sent up legal-tender notes for \$716,000.

Mr. LANE. Nine hundred thousand dollars.

The CHAIRMAN. It does not appear there.

The WITNESS. I know very little of the way those accounts are kept. I merely remember that I had to get the money, and I got it, and it was paid into the Treasury, and a receipt for it in full given us.

Q. Who can explain that item?—A. Mr. Mink can tell you all about it.

Q. There does not, as a matter of fact, appear anywhere in the United States Treasury account the payment of any such sum as \$900,000, the award made by the Court of Claims.—A. It must appear somewhere; I know we made the payment. There was no check given, but the money was deposited in bills at the sub-treasury, for I remember the bills had to be counted; the sub-treasury in Boston.

Mr. LANE (to the chairman). The part going to the sinking fund you did not see; it is stated elsewhere.

The WITNESS. The total was \$917,000.

The CHAIRMAN. These are the total payments showing the amount withheld by the United States and the credits given, as reported January, 1887, showing the cash payments and the credits, in which this sum does not appear.

The WITNESS. I should have to refer you to Mr. Mink to explain that.

Mr. LANE. We held on to that money, awaiting their division of the amount between the two accounts, for a few days.

CONCERNING INTEREST OF OFFICERS IN OTHER ENTERPRISES.

Q. I will ask you a general question under the act of Congress, whether any of the directors, officers, or employés are interested in any way in contracts with the road?—A. I never heard of a case.

Q. You would hear of it if such was the case?—A. I should hope to hear of it. I never heard of anything of the sort. The only way in which an employé has ever been interested—but no one ever has. I was going to say, as to these construction contracts, that once or twice some one in our employ has been a nominal contractor. He made a nominal contract with us, for our construction department must have some one through whom these operations are conducted; but in such cases they have never been paid anything. We simply use their names in order to transfer the stock and bonds to our treasury. It is a nominal service.

Q. There is no profit?—A. No profit whatever; not a dollar.

Q. Speaking since 1880, has the road loaned or invested its sinking fund money in any way?—A. No. What sinking fund money?

Q. Sinking funds for bonds?—A. You mean the Thurman act sinking fund? On that the Government gave us 2 per cent. a year.

The CHAIRMAN. You have established a sinking fund to which you carry different sums from time to time, and out of which you make investments in order to accumulate to meet them at maturity.

The WITNESS. The trust companies do that. The company has nothing to do with it. I think it is always a trust company now. I do not think we have a single case of trustees. Oh, Mr. F. L. Ames is the trustee under the land-grant mortgage. That is an exception. But he cannot make any investments whatever. He is prohibited from doing so. He can only deposit the land money with a trust company in New York.

Q. Where do you carry the proceeds from the sale of land?—A. It goes to the trustees. All of it. The company has nothing to do with it.

Q. For what purposes?—A. In the Union Pacific land grant it is a trust to take up the land-grant bonds and the sinking-fund bonds at maturity. In the case of the Kansas Pacific, it is a trust to take care of the consolidated Kansas Pacific mortgage bonds.

Q. The trustees make investments for the bonds?—A. There are no investments to be made.

Q. What is done with this cash payment that you get from the sale of the land?—A. It is put into a trust company and accumulates there.

Q. What does the trust company do with it?—A. We do not know. They pay us 3 per cent. interest.

Q. Who can inform us as to what they do?—A. The trustees and the trust company.

Q. So that we would have to look to the trustees for that information?—A. Undoubtedly. The trust company would say "it goes into our general funds." We have an agreement with the company by which they pay us 3 per cent. interest, or whatever it is, but the money itself goes into the general investment account of the trust company.

DIVIDENDS.

Q. When was the last dividend of the road declared?—A. It was declared at the meeting held in March, 1884. It was paid the 1st day of April, 1884.

Q. How do the earnings of 1885, for the purposes of dividends, compare with 1884?—A. They fell off. In 1883 everything came on the Union Pacific at once. Before that it was earning enormously; but at that time the Northern Pacific was completed through, which affected us very severely on Pacific coast business and on Montana business, very severely, indeed. The Denver and Rio Grande was completed through to Ogden, which affected us on business to Salt Lake. At the same time the Southern Pacific was completed through, which affected us on the business to San Francisco and the Pacific. And almost at the same time the Horn silver mines ceased to be productive. The result was that our business fell off, if I recollect right, \$4,000,000 in one year. At the same time our rates were reduced and our expenses were necessarily increased.

USE OF NET EARNINGS FOR CONSTRUCTION OR TO PAY FLOATING DEBT.

Q. What disposition did the company make of the proceeds of the profits or net earnings of that year?—A. What was left of the net earnings of that year, after the Government was paid (which would have been applicable to dividends), was devoted to paying off the floating debt of the company and restoring its financial situation.

Q. Was that the case with the year 1886, the year just passed?—A. Yes. We were forced last year into a certain amount of construction and development, and that was the only fund we had to apply to it. It is so stated in the report of the year. Since I have been in charge of the Union Pacific we have put \$16,000,000 into the property; and we have raised that money, or about half of it, from net revenue, which would have been applicable to dividends which the stockholders went without; and the other half of it came from the sale of securities, the quick securities in our treasury. We turned them into cash, and put the proceeds into the business.

Q. Then the net earnings or profits of 1885 and 1886, which are nearly about the same, have all gone into the improvement of the road?—A. All gone into the general improvement of our property and the *paying of the floating debt.*

Q. Where would that appear in your balance-sheet?—A. You will find it in detail in the annual report of this year.

Q. Is that statement set out in the balance-sheet, showing the increase of investments from time to time?—A. Yes; in our investment account. You will find it there every year.

DECREASE OF ASSETS.

Q. The investments as they appear in 1884 are \$46,000,000 in total, and in 1886 are only \$45,000,000, as reported in the total investment account. What is the cause of that decrease?—A. There were \$4,000,000 or \$5,000,000 in Saint Joseph and Grand Island bonds that were sold. The account has been increased from some sources and diminished by the sale of quick assets; so the amount you name is the net decrease.

Q. How much of this went into the construction account of this \$16,000,000?—A. I should have to look to the report of this year to tell you; but it is stated there.

Q. Was there a large amount?—A. A very large amount.

The CHAIRMAN. I call your attention to the fact that in 1883 or 1884 the construction account total was \$158,918,607.04, and in 1886 \$161,283,688.21; so that of the \$16,000,000 net earnings of the three years, or two years, only \$3,000,000 went into the construction account.

The WITNESS. That was the construction account of the Union Pacific proper.

The CHAIRMAN. This is for the Union Pacific system, the railway company.

The WITNESS. Is it the railway company proper, or the system?

The CHAIRMAN. Yes, sir.

The WITNESS. The company proper is one thing; the system is another.

The CHAIRMAN. It is the railway company.

The WITNESS. Then very likely \$3,000,000 went into construction. That was represented in all kinds of things—equipment, and improved appliances, and bridges, and everything. We had to rebuild the Omaha bridge, among other things.

Q. Of that \$16,000,000, you have put into this Union Pacific Railway Company about \$3,000,000 in the construction account, in improvements?—A. Yes.

PAYMENT OF FLOATING DEBT.

Q. Where did the other go?—A. Then there was a debt we had to pay off. We paid off a debt of \$11,000,000, I think it was, a floating debt that the company had when I took charge. I mean bills payable. Our bills payable amounted, if I recollect right, to about that. Then a large portion of that money we paid over to the Government.

Q. I call your attention to the fact in the same report of the liabilities, the general balance-sheet of the Union Pacific Company, that the net floating debt was \$308,000.—A. I am now speaking of bills payable. That is a different thing entirely. The bills payable outstanding really represent the floating debt of the company.

FLOATING DEBT OF 1884.

The CHAIRMAN. It appears in the report of 1884 that the floating debt was \$308,513.

The WITNESS. That is a mistake, somehow or other. You are wrong there.

The CHAIRMAN. Very well, we will get the reports.

The WITNESS. We never had any such diminutive floating debt as that in 1884.

The CHAIRMAN. The report of the floating debt is \$1,861,000.

The WITNESS. I do not know where you get those figures.

The CHAIRMAN. It is from your reports.

Mr. MINK. You might look at page 81 of the report of 1885.

The CHAIRMAN. I call your attention to the liabilities in the Union Pacific Railway Company's balance sheet, page 79; floating debt, \$1,861,445.44.

The WITNESS. When is that?

The CHAIRMAN. The year 1884.

The WITNESS. Is that the floating debt?

The CHAIRMAN. Yes, sir.

Mr. LANE. You will find on the next page the details of that.

The CHAIRMAN. I call your attention to the other difference of the floating debt of 1884.

The WITNESS. There it is, yes, sir; \$1,861,000, which had been reduced then from \$7,000,000.

The CHAIRMAN. It was reduced from \$3,237,696.53.

The WITNESS. The floating debt touched its highest point the 1st of July, 1884.

Q. That was \$3,237,696.53?—A. It was a great deal more than that.

The CHAIRMAN. I call your attention to the balance sheet.

The WITNESS. That is December 31; I say June; it ran right up there to June. The net floating debt on June 30, when it attained its highest point, was \$7,800,000.

The CHAIRMAN. What have you to say in reference to the \$308,000 of floating debt?

The WITNESS. Is it not \$3,000,000?

The CHAIRMAN. No, sir; \$308,000.

The WITNESS. When was that?

The CHAIRMAN. This is the year 1883, where you deduct.

The WITNESS. They deducted material on hand in that account. We have never done it since.

Q. It appears in your account as a floating debt, \$308,000, for that year, does it not?—A. Yes, sir; I see it. We never deduct material on hand.

Q. I want to call your attention to this fact, that in the accounts of 1881 to 1886 fuel and material appear in all the years except 1883 and 1882. Why were they omitted then?—A. I am surprised that they did so appear. I did not know that they were omitted. What is more, I see in the table they have here it does not appear. It is contrary to my orders.

Q. So that they ought to appear in every year?—A. No; they never should appear in any year.

The CHAIRMAN. I call your attention to the amounts where they appear in 1880 to 1886.

The WITNESS. I directed them to be left out in 1884 and never put back again. I thought they had been left out, and they are left out here. I have not had a chance to examine those papers, so that I cannot tell what they are. Mr. Mink would have to account for them.

The CHAIRMAN. I want to call your attention to this report here: *fuel and material.*

The WITNESS. That is not floating debt. That is a different thing. That is not included in our floating debt.

Q. I want to know why these items are omitted in these reports in the years 1883 and 1882, and they appear in every other year?—A. I cannot tell you. Mr. Mink will have to explain that. They ought to appear in the general balance-sheet.

Q. Have you any items, miscellaneous accounts or legal expenses, that appear in any of the books since 1880, where there are no vouchers for each item of payments?—A. I think not.

Q. All your items, then, since 1880 are vouched for, with vouchers on file?—A. I cannot speak for 1880, but since I have been in charge they are—that is, since 1884. I supposed they were before that. Mr. Mink knows; I do not. I think our vouchers will stand a great deal of investigation.

HOSTILE LEGISLATION.

Q. On the question of hostile local legislation, I ask you, generally, upon that question, to what extent has hostile legal legislation affected the working of the Union Pacific along the line?—A. They have affected it quite seriously. That is, in nearly every State—at any rate in Nebraska and Kansas—there have been laws passed which have arbitrarily cut down our rates. And then, in a new country like that, and especially with a railroad like the Union Pacific, it has to bear a most inordinate share of taxes. Our taxes amount to \$1,100,000 a year; much more than they would be in a thickly settled country.

Q. Has there been any legislation known as hostile legislation that affected the Union Pacific?—A. I do not think there has been any. The legislature of Kansas commenced *quo warranto* proceedings against us on account of the consolidation; but those were settled long ago and the proceedings withdrawn. They are always threatening legislation and making us uneasy; injurious bills are constantly being introduced; but I do not think it has taken the form of actual legislation. At least, if it has, I should have to consult as to particulars with our officers on the spot and inform myself more accurately.

Q. Then you do not know of any hostile legislation that affects the general interests of the road?—A. No, except in the particulars mentioned.

LAND GRANTS.

Q. Has the United States anywhere aided any of the competing lines of the Union Pacific?—A. They have given them very large land grants.

Q. What lines?—A. The Atchison, Topeka and Santa Fé had a land grant from the State of Kansas; the Northern Pacific had a land grant, which we all know about; the Chicago, Burlington and Quincy, or the Burlington and Missouri, in Nebraska, had a very valuable land grant from the State of Nebraska, and the Northwestern and Elk Horn. There have been land grants to nearly all the roads, as well as to our own.

Q. I am speaking of the United States land grants to roads that compete with you; you can speak as to the effect of the competing lines upon your roads, can you not?—A. Yes, very decidedly; I have reason to; I have a realizing sense of that; everything in relation to land grants is a matter of record, and my evidence will be of little value.

The CHAIRMAN. I do not know that I want to go any farther to-day.

The WITNESS. I will be here at 11 o'clock to-morrow, and I should like to have my examination finished to-morrow, as I must go to Omaha as soon as I can get away.

The CHAIRMAN. Very well; we will adjourn until to-morrow at 11 o'clock.

The Commission then adjourned to Friday, April 29, 1887, at 11 a. m.

NO. 10 WALL STREET, NEW YORK,
Friday, April 29, 1887.

The Commission met pursuant to adjournment.

Present: Commissioner Pattison (chairman), and Commissioner Anderson.

CHARLES FRANCIS ADAMS, being further examined, testified as follows:

The WITNESS. Before I proceed further I should like to say that I notice in looking at the papers that there apparently is some disposition to comment upon my statement made yesterday that I never personally looked into one of the books of the accounts of the Union Pacific. I desire to explain. I am not a book-keeper or an expert in book-keeping; I do not pretend to any knowledge of book-keeping proper; and as, Governor Pattison, when you were governor of Pennsylvania, you never, I presume, looked into any of the books of accounts kept in the treasurer's office yourself, so it has been with me. I have called, and do call continually, for summaries direct from the books, and hardly a day passes that I do not call for them; but when it comes to going to the books themselves and examining them in detail, I could not understand them if I did, for I do not know enough of book-keeping to enable me to go into them intelligently. It is a foreign language to me. Every day in the practical work of my office the comptroller comes to me with his report. He takes my instructions in regard to how charges shall be made; and I call on him for summarized statements, drawn from the books, of whatever I want, whether bearing on the operation of the road, financial conditions, or anything else. I take these summaries as he brings them to me, and I must necessarily do so, for the books are too complicated for a person who does not make a regular business of book-keeping to look into them intelligently. I am not enough of a book-keeper to pretend to go into the books of the Union Pacific myself; I must take them from others in whom I have confidence, those who have the control of them.

OMAHA, NEOBRARA AND BLACK HILLS RAILROAD.

By Commissioner ANDERSON:

Question. The last one among the operated branches that we have examined about was the Omaha and Republican Valley. The next branch as to which I will ask for an explanation is the Omaha, Neobrara and Black Hills Railroad Company.—Answer. That is a branch extending from the main line of the Union Pacific in a northerly direction in Eastern Nebraska. It is an agricultural road. It has since been consolidated and is now a part of the Omaha and Republican Valley Railway Company, which I explained yesterday.

Q. What is the character of its operation?—A. An agricultural road.

Q. What has been its history in regard to paying?—A. It has been in connection with the Union Pacific a profitable road.

Q. That is, taking its own operation in connection with the operation afforded to the main line?—A. Yes; we have a very large constructive mileage from the roads east of us, which in the case of this road makes it a profitable road to the Union Pacific.

CONSTRUCTIVE MILEAGE.

By the CHAIRMAN:

Q. In constructive mileage does the branch road receive the benefit?

—A. No; the Union Pacific receives it from the roads east of Omaha.

Commissioner ANDERSON. We had better take each subject by itself.

The WITNESS. It is a complicated subject, and I think you will have to take that up by itself.

By Commissioner ANDERSON:

Q. In regard to this road, you say it has become part of the Omaha and Republican Valley system?—A. Yes.

Q. And that system, if I remember right, you stated now embraces about five hundred miles of road?—A. Just about; 498 miles.

Q. And your explanation given yesterday includes the explanation that you desired to give in regard to the Niobrara branch?—A. Yes.

THE OREGON SHORT LINE.

Q. I find the next company or branch is the Oregon Short Line Railway Company. Please state where that leaves the parent road.—A. It leaves it at Granger, about 180 miles, if I recollect right, east of Ogden.

Q. Can you indicate on this map?—A. I can; it is marked there very distinctly.

Q. That is Granger [indicating on the large map]?—A. That is Granger. It runs up to the border of Oregon and ends at Huntington, where it connects with the Railway and Navigation Company.

Q. At this point it connects with what [indicating]?—A. At Huntington with the track of the Oregon Railway and Navigation Company.

Q. And that makes connection with Portland, Oregon?—A. With Portland, Oregon—Washington business.

Q. Is this a proposed extension?—A. No; that belongs to the Railway Navigation Company. It is already built. We connect now and run to Portland, Oregon.

Q. That is the line between Huntington and Portland?—A. No, not Portland; Umatilla.

Q. Is this [indicating] the Oregon Navigation Company?—A. No; the lower part, running south, belongs to the Central Pacific.

Q. This is the Oregon and California?—A. Yes. The Railway and Navigation Company ends at Portland.

Q. And the yellow line is the Northern Pacific system?—A. That is the Northern Pacific.

Q. When was this Oregon Short Line first thought of?—A. About the year 1881, I think. It was incorporated in 1881.

ITS ORGANIZATION AND CONSTRUCTION.

Q. When did the construction commence?—A. It must have commenced, I think, in the fall of that year. It was completed in 1882—two years before I took charge as president.

Q. When did you say it was finished?—A. Our road was finished in 1883, I think, but the Railway and Navigation Company did not connect with us until after I became president; that is, some time in December, 1884. When I went over the road in the summer of 1884, immediately after I became president, I went to Huntington.

Q. What information can you give us as to the origin of this scheme of making this connection?—A. That is a matter that others are far more familiar with than I. It naturally suggested itself. The theory of the construction is obvious. It was then supposed that the Northern Pacific was in such a condition that it could hardly be extricated from its troubles. The Washington and Oregon business was a very valuable business, and the directors of the Union Pacific conceived the idea of securing it by means of the Short Line.

Q. With the Washington system?—A. With the Washington system of roads; not expecting that the Northern Pacific would be completed for many years. Then Mr. Villard suddenly appeared upon the stage, and the Northern Pacific was in fact completed first, which quite deranged their plans; and then the Oregon Short Line was completed afterwards, making an equally short line with the Northern Pacific. The two lines are of the same length.

Q. Please tell us who the parties were who were originally interested, and most prominently, in this scheme?—A. There was no one most prominently interested in the scheme. The plan for building the road was the one ordinarily adopted, and adopted by all the lines, so far as I know; more particularly, recently, the Atchison, Topeka and Santa Fé. It was proposed to build this line in connection with the Union Pacific. The charter was obtained from Congress as a sort of a child of the Union Pacific, and the right to subscribe to the securities was publicly offered to all the stockholders of the Union Pacific in proportion to the stock which they held. There were no reserved rights. The rights stood at a premium. The whole of them were subscribed for by the Union Pacific stockholders, and the money was called in on the subscriptions.

Q. My question addressed itself to the period prior to that. I want to know who the men were who were the advocates of this scheme of constructing the Oregon Short Line.—A. I think all the directors were convinced of its desirability.

Q. Was it the unanimous opinion of the whole board that it should be built?—A. I think so. I do not think there was any dissenting opinion about it. I did not belong to the board then.

Q. Was that before you were a director?—A. It was before I had anything to do with the company in any way.

Q. Not before you were a stockholder?—A. I think it was before I was even a stockholder. Mr. Holmes, who is better informed historically than I, tells me that it was started as early as 1875 or 1876. If so, it was long before I had ever been near the Union Pacific.

Q. When were these rights to subscribe to the securities of the Oregon Short Line offered to the stockholders of the Union Pacific?—A. That is matter of record, but I think it was in 1881.

Q. That is about the time you began to be interested in the company?—A. I had some stock then. I forget how much. I bought a little stock.

Q. How was that road actually built; by the construction department of the Union Pacific?—A. Yes.

Q. Have you copies of the contracts for construction?—A. They are on file.

Q. How many miles is it for the whole length of the road from Granger to Huntington?—A. Six hundred and ten miles.

CHARACTER OF COUNTRY TRAVERSED.

Q. What is the character of the country through which the road passes?—A. As far as Pocatello it is a mountainous country. The road runs along the valley of the river.

Q. What river?—A. The Bear River, and then the Pont Neuf. It is a grazing country, with good farming possibilities in these valleys lying among the mountains. Then it runs into a lava bed, and that lava bed extends for several hundred miles. Then there is the Wood River Branch, which runs from Shoshone to Hailey, about 40 miles up in the Salmon River mining country, a mineral region. Then, when they get near the Snake, on the western border, not far from Boise City, the line again runs into an agricultural and grazing country and out of the lava.

Q. What is the character of the country that you describe as a lava bed?—A. It is a country which is covered with sage brush, and evidently at some time in the history of the world, geologically, it has been in a highly eruptive state, so that the lava lies everywhere.

Q. It cannot be used for agricultural purposes?—A. On the contrary wherever sage brush is found the soil is rich. There are now great schemes on foot for irrigating that region. I regard Idaho as the most promising region the Union Pacific now has open to it. It has the most promising future. The Territory is full of schemes for irrigating, and wherever you have sage brush like that, water will turn the country into a garden.

Q. Is it naturally a productive country without artificial assistance?—A. Oh, no; no more so than Colorado.

Q. Then there are no earnings derived from the productions of that particular section at present?—A. There are a few cattle that graze there. That is all at present.

Q. When was this construction actually commenced?—A. I think the construction must have been begun in 1880 or 1881.

Q. When was the road opened for actual operation?—A. The road was opened early in 1882. That is stated in our report. On page 48 of that report you have in your hand you will find it.

COST OF CONSTRUCTION.

Q. Do you remember the rate of construction per mile?—A. On that road?

Q. Yes.—A. My impression is it cost between \$20,000 and \$25,000 per mile.

Q. That includes the land?—A. Everything.

Q. The grading?—A. Everything.

Q. Not the equipment?—A. Yes. The road could be built for less money to-day, because everything has since then gone down very materially.

BOND AND STOCK ISSUES.

Q. How much is that road bonded for?—A. Twenty-five thousand dollars a mile.

Q. How much is the stock per mile?—A. I think it is the same.

Q. Did I understand you to state that the stock and bonds were both subscribed for, the first option being given to the holders of Union Pacific stock?—A. They were all subscribed for by the holders of Union Pacific stock. Not all the stock and all the bonds. One-half the stock and all the bonds were subscribed for, in blocks.

By the CHAIRMAN:

Q. Did the Union Pacific guarantee the bonds?—A. No; the Union Pacific guaranteed the payment of interest on the bonds, under a traffic guarantee.

By Commissioner ANDERSON:

Q. You say one-half of the bonds?—A. All the bonds.

Q. All the bonds were taken at par?—A. I do not know. These blocks were subscribed for by the stockholders. A block would contain the bonds and stock, and they were all subscribed for.

Q. The point I want explanation about is that the par value of the stock and bonds is \$50,000 a mile, and you state that the construction was \$25,000 a mile.—A. Twenty-five thousand dollars; yes. One-half the stock was retained in the treasury of the Union Pacific, in order to represent the control of the property.

Q. And that is there still?—A. It is there still.

Q. What were the terms of subscription to the other half of the stock?—A. They will speak for themselves. I have not got them.

Q. The cost of your road as entered in this balance-sheet is \$26,000,000, and your statement that \$25,000 a mile covered the entire cost would only give us \$15,000,000 for 610 miles; so that there must have been other things besides.—A. There were 40 miles more on the Wood River branch.

Mr. LANE. That is included in the 610.

The WITNESS. We have not got \$25,000,000 of bonds out on that line. We have only \$15,000,000 of bonds out.

Q. Twenty-five thousand dollars a mile for 600 miles would give you \$15,000,000.—A. That is the exact amount of bonds we have out.

Q. The cost of your road, as stated in the balance-sheet, to balance both half the stock and bonds, is \$26,000,000.—A. That is right. That includes the stock that went out with the bonds. The way it was subscribed is this, if I recollect right: A thousand dollars in bonds and five shares of stock—

Q. Five hundred dollars in stock?—A. Yes; was given for every thousand dollars subscription. That is my recollection.

Q. Then the stock went with the bonds, without any additional payment in money?—A. Yes.

Q. And the statement in your balance-sheet of the cost of the road is made so as to balance that issue, and without reference to the actual figures of its cost?—A. The actual figures of cost were different; but that is what appeared on the books.

VALUE OF OREGON SHORT LINE TO UNION PACIFIC.

Q. What has been the operation of that road since 1882 as to general question of paying its expenses?—A. The road has always

its expenses and earned a very considerable surplus, but not sufficient up to the present time to pay the entire interest on the bonds as it accrued. We can give you the figures of that.

Q. Has the operation of the road improved from year to year?—A. Steadily.

Q. Of what degree of utility is this road to the Union Pacific as a feeder?—A. Very great, in my opinion. The Union Pacific has 800 miles haul on everything that goes to or comes from that road; 850 miles, or 860, I think it is.

Q. What proportion of the traffic that goes over that road and passes Granger has come all the way from Omaha?—A. Nearly the whole of it, except coal, &c., which comes from our mines at Rock Springs, and some which comes from Salt Lake.

CHARACTER OF BUSINESS DONE.

Q. What is the character of the freight that is carried all the way from Omaha to points on the Oregon Short Line?—A. It would be impossible for me to say. It is miscellaneous freight, going to Portland, and Washington Territory freight.

Q. Can you not give me the prominent items?—A. No; I should have to call for them. There is everything on earth. It would not be possible for me to specify. Everything that passes across the continent—transcontinental business.

Q. Can you tell me anything in relation to the proportion of freight or traffic that terminates on the line of the Oregon Short Line as compared with that which goes beyond, to Portland and points beyond Huntington?—A. There is a large business which goes over the Oregon Short Line up into the Wood River country, and comes back from the Wood River country; this is mineral. Stuff of every description goes in. The people there raise nothing; they depend upon us to carry them everything. They send out the products of their mines, and that goes over the line from Shoshone. Then the Boise City business is of a miscellaneous character. You could get that information much better by examining our freight agent than by examining me.

Q. Please give us the name of the freight agent.—A. Mr. P. P. Shelby would be the proper person to examine on that point—of Salt Lake City. He is thoroughly informed.

Q. What is the population that may be said to be tributary to this Oregon Short Line?—A. I could not tell you.

Q. In general terms, it is very sparse?—A. It is very sparse indeed along the line of the Short Line.

Q. Are there any special settlements of any magnitude along the line of the road?—A. No, except Boise City. That is at the western end of the road; and there is a series of towns springing up along Snake River. There is a surprising degree of activity you will see as you go over the line.

Q. The population is, in your judgment, increasing?—A. Very rapidly; very rapidly indeed. As I say, I regard Idaho as the most promising field of development—undeveloped field—that the Union Pacific now has. I am very sanguine in regard to the future of Idaho.

COMPARISON BETWEEN OREGON SHORT LINE AND CALIFORNIA AND OREGON.

Have you ever been over the section of the Central Pacific which their Oregon connection, which they call the California and

Oregon?—A. I have never been over that line. It was never completed so that I could go over it. I should have had to stage it.

Q. Do you know anything of the character of that country with reference to the difficulty of construction as compared with the character of the country through which the Oregon Short Line goes?—A. I am under the impression that it is much more difficult of construction.

Q. Does that apply to the whole section from Redding to the north line of California?—A. I cannot tell that. The region that I speak of is where the line crosses the Cascade Mountains. I have heard of that; I have never been there.

I want to say, in regard to the remark that I just made that the Oregon Short Line could now be built for much less than it was constructed for, that that is true of every railroad in the West that was constructed in the year 1881. Since that year the prices of material have gone down, so that it is safe to say the road could now be built for 30 per cent. less than it was built for then.

Q. Thirty per cent.?—A. I think so; it is safe to say that.

GUARANTEE OF INTEREST BY UNION PACIFIC.

Q. I think you stated that the Union Pacific had guaranteed the payment of the interest on the Oregon Short Line bonds?—A. Yes.

Q. When was that action taken?—A. That action was taken at the time. It is a matter of record.

Q. At the time the bonds were issued?—A. At the time the bonds were issued. I am informed that January 12, 1882, is the date of the agreement.

Q. Was it reported by the Government directors to the Washington authorities?—A. I presume so.

Q. You don't know?—A. I don't know.

Mr. JOHN F. DILLON. I know it was.

The WITNESS. Judge Dillon can tell you about it better than I.

Mr. JOHN F. DILLON. There is a record of the correspondence with the Commissioner of Railways on the subject.

WITHOUT THE CONSENT OF CONGRESS.

By the CHAIRMAN:

Q. Did you obtain the consent of Congress to make the guarantee?—A. Oh, no. It was not covered by the act of 1873, our counsel advised us. It was made under advice of counsel.

By Commissioner ANDERSON:

Q. Who was the counsel who so advised?—A. It is on record. Sidney Bartlett, I think, Judge Dillon, and Shellabarger & Wilson. I don't know whether Mr. Holmes advised that or not.

Q. All the counsel whom you have named advised you that the guarantee was within the limits of your powers and did not require the consent of Congress?—A. Yes.

Q. Was that the precise question that was submitted to counsel, as you remember?—A. I had nothing to do with it. It was before my time. I am merely speaking now of things that I have heard.

The CHAIRMAN. The act of Congress provides—I call your attention to it in connection with that question—that no new stock shall be issued or mortgages or pledges made on the property or future earnings of the company without leave of Congress.

The WITNESS. My attention has been called to that many, many times. It has been under long and careful consideration. I have pursued one course in regard to all those things and I think it is the only course I could pursue. I have submitted the questions as they arose, affecting acts of Congress or what not, to our counsel; and when Mr. Bartlett or Judge Dillon told me to go ahead on a certain line, and that it was legal, I did not undertake to revise their judgment, any more than I should the accounts of the comptroller. I simply went ahead. I have their opinions in writing.

Q. The Commissioners would like to have their opinions. Will you produce them?—A. You will have them. I have never yet met any counsel who had a different opinion on that point, and I have had the advice of almost innumerable counsel.

The CHAIRMAN. On the advice of counsel you yourself take the risk of the penalty in the act?

The WITNESS. Of course I must; I cannot help that; I cannot go behind the opinion of counsel; I am an official of a corporation. If the Government were to obtain a different decision, I of course must bear the penalty. I could merely fall back on our lawyers and say, "There is the written opinion, and I could not undertake to revise it." For everything I have ever done as president I have had the written opinion of counsel; but all that was an accomplished fact before I became president. I had no part in it.

The CHAIRMAN. Of course the Commission naturally run into this act in this examination.

The WITNESS. Oh, yes; I shall refer you there to Judge Dillon. He is the keeper of my conscience on all legal issues.

THE DEFICIT ON THE INTEREST.

Q. I will read you the figures of the deficit on the interest payable on these bonds. For the year 1833, \$106,000; in 1884, \$446,000; in 1885, \$336,000; in 1886, \$395,000. On what do you base your expectation, in view of the figures shown by your report, that this company will be able to pay the entire interest on its bonds, waiving for the present the question of any dividend on its stock?—A. I base it simply on the increase of business.

Q. On the expectation of the increase of business?—A. Yes.

Q. And the entire deficiency which I have stated in the interest has to be made up by the Union Pacific from its earnings from other sources?—A. Yes, from its earnings.

Q. Under its guarantee?—A. Not its earnings from other sources; its earnings from this line.

Q. The deficiency has to be made up from the earnings of the different lines?—A. No, not at all; the earnings from this line are far more than sufficient to make up the deficiency.

Q. I am speaking of the last four years.—A. I also am speaking of the last four years. The Union Pacific during the last four years has made money out of the Oregon Short Line—most distinctly and emphatically made money out of it.

Q. Still the earnings that are required to make up the amount required for the interest have to be taken from the earnings of the Union Pacific, which are not the local earnings of the Oregon Short Line.—A. Not the local earnings of that line, but still the earnings of the Union Pacific, from business derived from the Oregon Short Line, which it never would have had if the Oregon Short Line had not been built.

Q. Does not the determination of that statement require the examination, and the close examination, of the derived business which the Oregon Short Line furnishes to the parent line in order to ascertain that the net advantage from that business is equivalent to the deficiency?—A. Undoubtedly it does.

Q. And your statement is that after such examination you declare that it was more than sufficient to make up that difference?—A. That is my statement.

Q. Have you those statements in writing?—A. No; I have called for them from time to time, and they are made up for me. I stated yesterday that the Union Pacific, as far as I can now ascertain, derives about \$5,000,000 a year of profit from the branch line business which it does; not, you must observe, from business done over the branch lines, but from branch line business done over its own lines between Omaha and its branches, and this Oregon Short Line business would be included in it. The Union Pacific has a haul of 860 miles on the Oregon Short Line business, and business of that description is the most profitable business a railroad can do, without any exception. I should like to enlarge on this a little, because there is a very great misconception on the subject.

THE LONG HAUL.

The business a trunk line does for its branches is its most profitable business. All it does is to hitch a locomotive to a train of cars and haul that train 860 miles in the case of the Short Line; it then turns it over at Omaha, if it runs East, to the Chicago lines; or at Granger, if it goes West, to the Oregon Short Line itself; and then another locomotive is hitched on by the connecting line and the train is pulled off. It is a business upon which it is safe to say the profit is larger than on any other possible form of business which a railroad company can have; and it can be done at a lower rate, and therefore when you take an extension like the Oregon Short Line, which receives whole trains of loaded cars every day which are simply hauled and turned over to it, the business can be done by the parent line at a wonderfully low figure.

Q. You have to pay the same wages to the brakemen and the firemen on the trains?—A. And that is all.

Q. You have to pay for the wear and tear of the wheels?—A. Yes; but that is trifling.

Q. Do you have to repair the track?—A. You have to repair your own track; you would have to do all that, you know, even if these trains did not run.

RAILROAD OPERATION DESCRIBED.

Q. Is it not absolutely true that the wear and tear is directly proportioned to the number of trains that pass over a road?—A. Not by any means; decay goes on just the same whether you are using a track or not. Decay is what affects our ties, which are such a large element of expense, and our bridges, and it goes on just the same whether you are using your road or not. So of care of the road. The thing that makes the expense in handling a railroad is the delay of your cars at local stations on your road. For instance, a car is hauled 20 miles out of Omaha on the Union Pacific proper; it has to remain there three days to be loaded and unloaded, and the wheels are idle. You take the cars that are going to the Oregon Short Line and the wheels are turning night and day, *earning money the whole time*. No one has to be at the local sta-

tion to handle the freight; there is nothing to be done but simply hitch a locomotive on and pull a full train 860 miles.

Q. Is it not true that at certain rates of freight the motion of a freight train is a loss to the road instead of being an advantage?—A. Undoubtedly. That, however, cannot be fixed; it depends upon the class of business.

Q. Are the rates which are paid for Oregon Short Line freight, as applicable to the Union Pacific portion of the line, remunerative rates?—

A. I cannot tell you. Recently my attention was called to the fact that the business during one month was being done at a remarkably low rate. My attention had not been called to the fact previously, and I sent out to inquire why it was. I take it that it was some local disturbance which could be remedied. But we have a regular through transcontinental rate; the same rate that the Northern Pacific has.

Q. Comparing together branch roads which have been constructed by a system like the Union Pacific and branch roads which are constructed by the enterprise of the people themselves who desire to develop a given region and to make a connection, why is it better to have the parent railroad do all this work?—A. We would be very glad, in most cases, if such an arrangement could be made. There, as a rule—what has been so strongly criticised—the construction company comes in. It has been suggested to me repeatedly that the only way for the Union Pacific to overcome the difficulty was for the directors to build all these roads and lease them to the main line. I have stated that that did not seem to me to be sound policy. That is what you suggest?

Commissioner ANDERSON. No, sir.

The WITNESS. That is what it all comes to. The money comes from the East. It is put into the branch, and the branch has to be connected with the main line on some terms.

Commissioner ANDERSON. I presumed there were some citizens of the United States who were not directors of the Union Pacific who might be interested in such enterprises.

The WITNESS. Undoubtedly; but I do not think such a case probable. We have had some lines built in that way, but the profit on the business always does and always must go to the main lines.

Q. Are there not many branches of Eastern roads that have been built by local enterprise, in which the main road has had no connection whatever?—A. I think wherever it has been done you will find that the road has ultimately been leased to the main line, because it can be operated much more economically as a leased line or as a part of the main system than as an independent road.

VALUE OF BRANCH LINES AS FEEDERS.

Q. What I refer to particularly is this, that where a great system like the Union Pacific is anxious to develop itself by the construction of branch lines, is there not danger that in the desire to hasten the development of the road they will run ahead of the development of the country and construct lines before the period comes when they will be remunerative?—A. That is the history of all railroads in the United States; lines are constructed before they are remunerative; but they are constructed much more quickly in connection with a main line, and much more economically and profitably than they can be when they are constructed independently.

Q. The result of the history of the construction of your branch lines is that in a large number of instances they have not been found profitable.

ble; is not that so?—A. I think that generally, with very few exceptions, they have been found profitable *in connection with the main line*. It is there the economical question comes in. The business they bring is to the main line new business. For instance, if we build a line 50 miles long from Granger, the business comes from or goes to the East, and we have a haul on it not of 50 miles, but of 850 or 900 miles. The haul of 50 miles has no profit in it, but if you can do that same business and haul it 850 miles there is a very great profit in it. It is the length of haul that makes the profit.

Q. As far as the Government interest is concerned, I understand your proposition to be that the amount of 25 per cent. of the net earnings of the Union Pacific, or of that portion of the Union Pacific which has been aided by the Government, reaches a larger figure under the actual operation of the Oregon Short Line than those net earnings would reach if the Oregon Short line did not exist?—A. Unquestionably. It does not admit of doubt.

Q. We would like a table of that specific information.—A. You shall have it. In my opinion, speaking without the card, I do not believe that the 25 per cent. of the Government to-day would aggregate more than half what it now aggregates if the branch line system of the Union Pacific had not been built.

LEASE OF OREGON NAVIGATION COMPANY TO OREGON SHORT LINE.

Q. To return to the Oregon Short Line: I notice that within a few days a lease has been made by which the Oregon Navigation Company has become lessee to the Oregon Short Line. Will you please state what that transaction was?

Mr. DILLON. Lessor to the Oregon Short Line.

Commissioner ANDERSON. Lessor to the Short Line. It has leased itself.

A. It was a negotiation which has been going on for two years and which was brought to a close last week. We were delayed in coming to a close earlier owing to the difficulties which the lawyers found. The heads of an agreement had been reached long ago, but the lawyers threw so many difficulties of one sort and another in our way that we could not consummate the thing. Finally we got a law passed by the legislature of Oregon (both the Short Line and the Navigation Company's tracks being corporations of Oregon) authorizing the lease, and that removed the difficulty. The lease was then made.

Q. Will you please furnish the Commission with a copy of the lease?—A. Certainly.

Q. What are its general terms?—A. The usual terms of a lease. The property of the Navigation Company is turned over to the Short Line, and the Short Line guarantees the payment of certain sums of money. We have complete possession, just as if we owned it.

AMOUNT OF RENTAL.

Q. The Short line guarantees the payment of the interest on the bonds of the Oregon Navigation Company?—A. Yes.

Q. And what per cent. on its stock?—A. Six.

Q. Do you know the amount of the stock?—A. Twenty-four million dollars.

Q. And the amount of the bonds?—A. The amount of the bonds I cannot now give you. The whole amount of the rental will be about \$2,200,000 a year.

Q. What examination have you made of the net earnings of the Oregon Navigation Company for the past three or four years?—A. I have been pretty constantly engaged on it.

Q. Will you furnish us with reports of that company?—A. Certainly. I would rather give you the exact figures in these matters than state my memory of them. I cannot pretend to carry all these items in my mind. I can only give them generally.

Q. We only want your judgment as to how good a bargain you think the Oregon Short Line has made.—A. How good a bargain the Navigation Company made?

Q. No; how good a bargain the Short Line made?—A. I think it is a good bargain for both sides. My impression is that it is a very good bargain for both sides.

FUTURE OF THE CONSOLIDATION.

Q. In your judgment, is it possible, from what you know of the business done by the Oregon Navigation Company, that the burden on the Oregon Short Line at any time during the next few years will be increased instead of diminished?—A. My impression is now that the two companies can act together; that there will be a very great development of that country. Business will flow into it and flow through it in larger volume than ever before. Then, a part of the agreement is that there is to be active construction to complete our system. Emigration is pouring into that region very rapidly, and I look to see new lines of business develop under a joint management, a common management, and I confidently look forward to very beneficial results both to the public (it breaks down artificial barriers) and to the local communities of Oregon and Idaho, as well as to the companies themselves.

Q. In the event of disappointment in any of these anticipations could the disappointment go beyond the fact that the Oregon Short Line would be compelled to foreclose its mortgage, so as to get rid of the lease?—A. The Union Pacific comes into it as a third party. The Union Pacific comes in with a form of guarantee much like the Oregon Short Line, and I should say that the lease was tolerably safe.

Q. Then the foreclosure of the Oregon Short Line mortgage never could take place so long as the Union Pacific pays the interest?—A. So long as the Union Pacific stands in the way, no.

Q. If the result of the lease should impair the earnings of the Oregon Short Line?—A. It would be the usual case of a collapse.

POSSIBLE RESULTS TO THE UNION PACIFIC.

Q. And the burden on the Union Pacific would thereby be increased?—A. It would be increased; yes.

Q. But that is not at all likely, according to your view of the elements of this contract?—A. I don't think it likely.

Q. Then, in regard to the stock of the Oregon Short Line, how much did you say remained in the treasury of the Union Pacific?—A. I should have to look at the books; it is a majority of the whole stock.

Q. If this Oregon Navigation contract should be profitable, that would benefit the stock held by the Union Pacific?—A. Very largely.

Q. The stock so held is \$8,000,000?—A. It is so stated in our return.

Mr. LANE. Page 50.

SALINA AND SOUTHWESTERN RAILROAD.

Q. I find a branch called the Salina and Southwestern Railroad Company. Will you tell us about that?—A. That is another of those agricultural roads in Kansas. It branches off from Salina, on the Kansas Pacific, and runs to the town of McPherson, about 25 miles. It is like the other roads that I spoke of in Kansas; it is an agricultural feeder.

Q. How many miles is it from Kansas City?—A. One hundred and eighty-five miles. That makes the line practically 220 miles long. It is stated in the report for 1884.

Q. What has been the result of the operation of that road?—A. It has always paid its operating expenses and more, but I should have to look to ascertain whether it had paid the full interest on its securities, all of which we own. There are none of them in the hands of the public.

Q. When was this road built?—A. It was before my time.

Mr. HOLMES. 1878 or 1879.

The WITNESS. It runs through a remarkably beautiful country, rich and fertile. A few years ago it was the greatest wheat-growing county in Kansas; the champion county.

Q. You know nothing yourself personally of the circumstances attending the construction of the road?—A. Nothing whatever.

Q. And the acquisition of its securities?—A. It was entirely before my time. It was before the consolidation, even, that it was done. Mr. Holmes can tell you all about it.

Q. Who holds the securities?—A. They are held by our trustee or the trustees of the Kansas Pacific consolidated mortgage. There are none of them in the hands of the public. The branch belongs to the Kansas Pacific, in other words.

Q. What is your judgment as to the advisability of retaining the operation of this branch in connection with the Union Pacific?—A. There is no question of it whatever. I should as soon think of the Missouri Pacific or the Atchison, Topeka and Santa Fé or the C., B. and Q. parting with their branches. They guard them jealously.

Q. You would as soon think of cutting off one of your own fingers?—A. I would just as soon think of cutting off one of my own fingers with the idea of strengthening my body.

Q. The next line I find is the Salina, Lincoln and Western Railway Company. Please tell us about that.—A. That I explained yesterday. That runs from Salina in a northwesterly direction.

SALT LAKE AND WESTERN RAILWAY.

Q. I should have said the Salt Lake and Western.—A. That is a part of the road I was speaking of yesterday, the Utah and Nevada. It is merely an extension of that.

Mr. LANE. From Lehi Junction to Silver City. It is a separate organization.

The WITNESS. I forget about that. Is that the road to 'Frisco?

Q. It goes from Ironton to Silver City, 57 miles.—A. It is a part of a larger road; it is a road that runs down from Lehi Junction. It is a part of the Utah Central system; it is a road that branches off from Lehi Junction, on the Utah Central, to the mines at Tintec, down in Central Utah. It is a mineral road, and it comes under "Bishop" Sharp's management, which explains why I know so little about it.

Q. What is the character of its operations?—A. There is some grazing country there, but it is mainly a mineral region. I never was there but once.

Q. What has been its financial history?—A. I should have to look it up. It is a road I know little about.

Q. The income account appears to be debited about \$59,000, does it not?—A. It has more than paid its operating expenses every year, but there has been some deficit. You had better ask Sidney Dillon, and "Bishop" Sharp about that road. They could tell you much more clearly than I.

THE SOLOMON RAILROAD.

Q. We next find the Solomon Railroad Company.—A. That is a road in Kansas. I say the same of that as I have said of all the other Kansas roads. It runs along the Solomon River, in a very rich country. It is an agricultural road.

Q. How far from Kansas City is it?—A. Two hundred and twenty-two miles.

Q. Has its operation paid the interest on its bonds?—A. It has paid its operating expenses. I should have to ask about the interest on its bonds. All the bonds belong to us.

Q. The income account appears to be debited some \$50,870?—A. It paid its interest year before last, but whether it did last year or not I cannot say. You will have the facts before you in the tables. All the bonds belong to the Kansas Pacific road. It is a branch of the Kansas Pacific.

Q. What have you to say as to the use of that road as a feeder of the Union Pacific?—A. I say the same that I did in regard to the Salina and Southwestern and the others.

Q. There is no doubt about its being desirable?—A. I think not the slightest. I think the Kansas Pacific would be in a very bad way if it did not have those branches.

UTAH AND NORTHERN RAILWAY.

Q. The next branch is the Utah and Northern Railway Company. Please explain about that.—A. That is a larger affair. The Utah and Northern Railroad Company is a road which runs from Ogden, the western terminus of the Union Pacific, up through the Territories of Utah and Idaho and Montana to Garrison, where it makes a connection with the Northern Pacific. There are about 450 miles of it. It ends at Silver Bow now. There are, in exact numbers, 466 miles. It is a road which was originally constructed by the Mormons.

Q. It is west of the commencement of the Oregon Short Line, then?—A. Oh, no; it crosses the Oregon Short Line at Pocatello, about 160 miles west of Granger.

Q. I say west.—A. You are right. It crosses the Oregon Short Line at Pocatello, right at that green spot that you see on the map.

Q. Here [indicating on the large map]?—A. Yes. That green spot is the Indian reservation. It crosses the Utah and Northern about the middle of the Shoshone Reservation.

Q. And makes connection with the Northern Pacific at what point?—A. At Silver Bow to Garrison. Silver Bow is the point where the present Utah and Northern strikes the Montana Union, and then it goes over the Montana Union to Garrison, about 50 miles further north.

Q. When was that road constructed?—A. That road was constructed by the Mormons; Brigham Young was the engineer of it—long before my time. It runs back into ancient history.

Q. When did the Union Pacific obtain its interest?—A. Long before I knew anything of the Union Pacific; in 1875. It bought the stock of the company. Then it extended the road. At first the road, I think, only went to Pocatello. That road has been very profitable in the past.

ITS HISTORY.

Q. What has been the financial history of the operation of that road?—A. It has been very profitable indeed. It has paid dividends on its stock as well as the interest on its bonds in years past.

Q. How was it in 1883?—A. In 1883 the Northern Pacific had been built through, which cut the Utah and Northern business right in two, taking from us half of the business of Butte and the great camps at the north. The Utah and Northern suffered greatly from that cause and from various other causes, such as the price of copper. In 1883 or 1884 it began to improve.

Mr. LANE. 1885.

The WITNESS. 1885, I am told.

Q. These remarks apply to 1885?—A. 1885.

Q. What is its present business; how is the business running at present?—A. This year the road will pay its operating expenses and all its interest, and in all probability have a surplus over, judging by the way it starts out.

Q. What is the junction point with the Union Pacific?—A. Ogden.

CHARACTER OF COUNTRY TRAVERSED.

Q. Please describe the country between Ogden and the junction point with the Northern Pacific.—A. From Ogden the Utah and Northern runs north through a very beautiful agricultural and grazing country filled with Mormon settlements, although here it is a very badly located line. It was located by the Mormons, and they located it, as I have been told, on religious principles; that is, they did not want it to go through the towns, so they put it up on the hillsides when they might perfectly well have put it down in the valley; that holds good until you get north of Logan; then the road begins to run in a more hilly country until it gets to the top of the water-shed, when it passes into the lava country of the Shoshone Reservation and goes along the Pont Neuf until it strikes the Snake at Eagle Rock, north of Pocatello. That is all a lava region. They are, however, now bringing in some large irrigating schemes, and that country, there is every reason to suppose, has a good future before it. From there the road follows up by the gate of the Yellowstone Park, with a mining region on its west, from which it derives a very considerable business, until it passes the divide of the Rockies and comes down on the headwaters of the Missouri in a very beautiful region, agricultural and grazing—a beautiful region. It terminates practically at Butte, which is now the largest and the most active mining camp in the world. The road does an immense business there.

Q. What is the principal character of the business which passes over the road?—A. We carry coal, coke, and salt to Butte, to the mining camps, and everything that they eat, drink, and wear. We bring away the results of the mining camps—smelted ores and matte and whatever comes out of the mining camp. Matte is the product of copper ore.

Q. Substantially all that business, going both ways, passes over the entire length of the Union Pacific?—A. No; for the more economical

handling, we turn that business off at Pocatello and carry it down over the Oregon Short Line to Granger, and it passes on to the Union Pacific at Granger. That is, we go over the hypotenuse of the triangle. If we carry it to Ogden we have got to drop down into the valley of Salt Lake and then lift it up again on the other side of the triangle; whereas by taking the other line we go east by the hypotenuse.

Q. Is the side of this triangle between Ogden and the point where you cross the Oregon Short Line remunerative?—A. It is.

Q. That has none of the through business, I understand?—A. That has a very considerable business, local business, from Salt Lake. They carry salt up and a certain amount of coal. Of course it would be more remunerative if we forced all the business round two sides of the triangle.

Q. Then the Utah and Northern is substantially a continuous line with the Utah Central, which runs south from Ogden?—A. Yes; but the two have nothing to do with each other; they are wholly distinct corporations. By the way, you asked why we could not leave the building of branch lines to local enterprise. Those two roads were started by local enterprise, both of them, and the Union Pacific came in afterwards. The local support was not able to carry the enterprise on unaided.

Commissioner ANDERSON. I am a home-rule man.

The WITNESS. We would be delighted to see home-rule if it could only be made effectual and do the work.

Commissioner ANDERSON. That, I believe, completes the reference by you to all the branches operated by your road.

The WITNESS. I should say it did.

CONSTRUCTIVE MILEAGE.

Q. The subject of constructive mileage has been referred to several times. Please tell us what is understood by constructive mileage.—A. It is a system which is in use throughout the United States, so far as I know; certainly it is in use in New England. A parent road, we will say a main line leading to a terminus like Boston, New York, or Philadelphia, somewhere on its line meets a branch, say 50 miles long. That branch picks up business in little lots, a car-load here and a car-load there, and bringing it down, delivers it to the main line. The main line then carries it to its terminus; from that terminus again it carries the train back and delivers it over to the branch line, which again peddles it out, as it were, distributing at local points. Therefore, it has been universally the custom to recognize it as an economical fact, founded on sound principles, that the main line, doing the business on much more advantageous terms and consequently much more cheaply than the branch line, should allow the branch line constructive mileage; that is to say, 2 miles, more or less, to 1. For instance, if the branch is 50 miles long and the main line 100, and the branch line is allowed 2 to 1, each line would be counted as 100 miles and they would divide the results of the business equally. In the case of the Union Pacific, from the beginning—the earliest days—this principle has been recognized, and every line with which it has ever connected at Omaha (Eastern lines) has allowed it an arbitrary constructive mileage. The Chicago, Burlington and Quincy, the Rock Island, the Northwestern, the Saint Paul, the Wabash, all allow us this constructive mileage, which ranges down from 3 miles to 1 to a mile and a half to 1.

Q. They all allow that constructive mileage to the Union Pacific?—
A. Yes; they all allow it to the Union Pacific; it has been so from the beginning and is now a part of every contract. The Union Pacific, then, does exactly the same thing to its branches which its connections do to it. When it comes to a branch it allows it a constructive mileage; one and a half or two to one, or whatever it may be. Attention was called to this matter years ago; I think in 1882.

APPROVED BY GOVERNMENT DIRECTORS.

Rumors were afloat that we were bleeding the main line for the benefit of the branches, and the Government directors took the matter up. They looked into the matter. They were not a board particularly friendly to the Union Pacific. Mr. George G. Haven, who was mainly interested in the Chicago, Burlington and Quincy road, was the chairman of that board and wrote its report. They went into it very fully; they stated all the facts and approved of the arrangement, declaring that the divisions made were fair and just, such as prevailed among other roads; they have remained the same from that day to this.

Q. Have you their report?—**A.** Certainly; it is in their regular annual report. I can call your attention to it in a moment.

Q. Is it in the Government report of that year?—**A.** It is in the Government directors' report of that year. I can give it to you; we have it.

Q. While conceding the propriety of that division, as between a parent road and branches who all work in the same interest, would it not be a dangerous method if the parties who had the control of fixing the rates, as owners of stocks or bonds of a branch road, had an adverse interest to the parent road?—**A.** Undoubtedly it would; it would admit of abuse. Those things always admit of abuse; there are few things that do not, so far as my observation goes. But I have looked into that subject pretty carefully, and I think the Union Pacific has tried to do to its connections exactly what was done to it by its connections.

EFFECT ON GOVERNMENT'S 25 PER CENT.

Q. Please state the exact effect of this, without reference to the justice of the thing at all; the exact effect of it in relation to the net earnings which would remain as applicable to the Government's 25 per cent.—**A.** The Government makes very largely by the application of what is called the constructive mileage rule; that is, through what is allowed to us by our Eastern connections under the rule. If a rule is to be applied it should, of course, be applied universally. If the Government only allows it to be applied where it works in its favor and then refuses to have it applied where it works against it, the Government naturally would make. It would be so with a man also. But the Government still makes, unquestionably—I have no doubt of that—by the constructive-mileage rule universally applied; that is, the main line makes more under the rule at Omaha than it loses under it further West.

Q. Taking the allowances to the Union Pacific as an advantage to the Government, and the allowances—

A. (Interposing.) By the Union Pacific to its branch lines?

Q. (Continued.) And the allowances to the branch line as a disadvantage to the Government—

A. (Interrupting.) The Government makes.

Q. (Continued.) The balance is in favor the Government?—A. Undoubtedly.

Q. Can you furnish us with tables showing that result?—A. The matter is one which I have been looking into for my own information for a long time; it has given me much trouble. I am now having accounts kept to show the actual result.

Q. Who has charge of that business?—A. The accounting department.

Q. Is there not some one especially charged with it whom we can see at Boston?—A. Not at Boston; that has to be done at Omaha.

Q. Who do you refer us to?—A. Our auditor, Mr. Young.

CHIEF BENEFITS RECEIVED BY BRANCH LINES.

By the CHAIRMAN:

Q. Is it not true that the benefits under the constructive-mileage system are all in favor of the branch lines or unaided roads?—A. Undoubtedly.

Q. Then is it not also true that if that be so the income or gross receipts are that much less to the Union Pacific?—A. Undoubtedly, just as the Union Pacific receipts are so much greater by the application of the rule at Omaha.

Q. Would not the calculation of benefits to the Government be just that much decreased by reason of that?—A. Yes; if we abolish the rule at both ends, the Government would lose at Omaha and gain at the West; but if the Government takes the ground that they like the rule very well when it works in their favor, but will have nothing to do with it when it works against them, undoubtedly the Government will be the gainer. But, I take it, when the Government directors approve of it the Government will not upset the rule. We have the Government directors flat on record on that point after careful examination.

Q. It is not the custom to go behind the returns, I believe?—A. They have done it in one or two cases.

Q. The table then that you will give us will show the benefits to the branch roads?—A. Yes, undoubtedly; when it is printed.

Q. And the income to the Union Pacific?—A. Yes; there has been so much unintelligent talk on this subject that I was anxious to show what the working of the rule was throughout.

FREIGHT AGENTS.

By Commissioner ANDERSON:

Q. How many freight superintendents are there between Omaha and Ogden who have control of the rates of freight between those points, and on the intervening lines?—A. There is only one.

Q. Who is that?—A. Our general freight agent, Mr. Monroe, at Omaha.

Q. Does he determine all questions relating to freight rates?—A. The Union Pacific, like all large roads, is divided into five departments, one of which is known as the commercial department. The commercial department is under the charge of General Traffic Manager, Mr. T. L. Kimball. Mr. Kimball has under him a general freight agent and general passenger agent. So the thing is subdivided. There is also an *assistant general traffic manager*. The rates for the western portion of the line are made by Mr. P. P. Shelby, at Ogden, and Mr. Monroe is

the general freight agent at Omaha. They are in constant telegraphic communication.

CONCERNING SPECIAL RATES.

Q. What freight agents of your road have authority to make special contracts for freight with individual merchants in different localities?—

A. Since the 5th of April no one has; we have no special contracts.

Q. Since the passage of the interstate law?—A. Since the interstate-commerce law took effect.

Q. Prior to that time?—A. Prior to that time it was all done in Omaha. Wherever a special rate was made they telegraphed to and fro and obtained authority to make it. The traffic has to be concentrated at one point.

Q. Were those special rates reported to you?—A. No, they cannot be; I have to depend in this matter upon the general traffic manager.

Q. Did you make it a part of your business to look into them when visiting Omaha?—A. No; I talked about them with the general traffic manager. As respects the more important, where they involved sometimes two or three million dollars of business a year, as in the case of the Anaconda Mine or the Grant Smelter, the general manager would come to me at last and say, "What shall we do?" After talking with him I would decide the question of general policy; but when it came to details, the general in charge of an army might just as well himself try to overlook the details of his quartermaster's department.

CONCERNING DISCRIMINATIONS IN RATES.

Q. To bring the subject up in a different way, I will ask it in this shape: Have many complaints been made to you from merchants or persons engaged in business along these different branch lines, or on points on the main line, of discriminations made in favor of their rivals in business, which they themselves were unable to get?—A. I think they have been very rare indeed—very rare.

Q. There has been no great complaint then in regard to discriminating in favor of or against particular persons?—A. Sometimes, yes. There have been cases that have come to me. I remember, for instance, that ex-Senator Hill, of Colorado, came to me once or twice alleging that he could not carry on business. Other smelters have been to me, and I have talked the matter over with them and endeavored to reach some conclusion; but the cases are rare.

Q. What was the business that he was doing?—A. He is a large smelter of ores at Denver. He complained that he could not get the ores on equally favorable terms with his competitors.

Q. Where was his mine?—A. He bought ores. The works were at Denver.

Q. That related to the transit of the ores from what points?—A. He got his ores from Idaho, as I understood him, and other ores would come from Leadville over our South Park road. We have a large mineral system; it is very complicated. I will say, and I say it perfectly frankly, that I have always avoided those discussions, because I could not understand the ramifications and details of the business unless I devoted my whole time and attention to it, and I was sufficiently busy with the proper duties of my office. The general traffic manager understood them; it was his province, not mine, and he came to me simply on questions of general policy.

CONCERNING DISCRIMINATIONS BETWEEN LOCALITIES.

Q. To pass from what may be called discriminations as between individuals, has there been any complaint made to you of discriminations in favor of localities?—A. I have seen them continually; the localities in the West, like all rising localities, are prone to be jealous of each other, and to think that one has more advantage than another; and in the case of a road like the Union Pacific, which terminates at competing towns on the Missouri River, this jealousy is incessant.

Q. What particular localities have been loudest in their complaint?—A. I have had great difficulty at Council Bluffs and at Omaha. They said at Council Bluffs that we favored Omaha, and at Omaha they said we favored Kansas City. Those are examples.

Q. Are there any other localities that occur to you; we expect to go there, and wish to be referred to them?—A. I think you will hardly find a town on the road that does not think the next town is the favored town; they generally intimate that the directors own real estate in the next town, which causes them to favor it. They are very prone to that feeling.

CONCERNING DISCRIMINATION IN FAVOR OF BRANCH LINES.

By the CHAIRMAN:

Q. Have you as a matter of fact, in the general management of the road, in giving to the unaided lines the benefit of rates, discriminated in favor of the branch lines as against the main line?—A. No.

Q. Under no circumstances?—A. None whatever, that I know of. The rule which was laid down by me (and I stopped there) has been that, so far as possible, all localities should be treated evenly—as nearly evenly as might be; and, laying down that general principle, I had to depend upon the subordinate officers in charge to carry it out; I could not possibly attend to all the details myself.

Q. That is to say, that starting from Omaha and passing over the main line to the Oregon Short Line, you have in no case discriminated in favor of a resident upon the Oregon Short Line as against any point between where the Oregon Short Line joins and Kansas City, or Omaha?—A. No; nothing of the sort.

With reference to the Union Pacific, I wish to say once for all, in the beginning of this investigation, that there has been much idle, foolish talk about preparation being made to abandon the main line of the Union Pacific and turn it over to the Government, after stripping it of its branches, and all that sort of thing. I have never heard any such thing suggested, except on the street and in the newspapers. So far as I know, the directors of the Union Pacific, in every discussion ever had, have regarded the system as bound up together by the course we have adopted from the beginning, and that it could not be severed. It had got to stand or fall by itself, as a whole—a unit.

Q. There is one other question; I want to know whether there has been a diversion of earnings in favor of branch lines as against the main line?—A. Never, that I know of.

CONSTRUCTIVE MILEAGE UNIVERSAL.

Q. Then you do not regard, under the constructive mileage system, the benefits that are derived by the branch lines a diversion of the earnings of the main line?—A. No; I simply call it the application of a rule

which is universal. For instance, I will give you a case in point. You take the Chicago, Burlington and Quincy Railroad, which is our competitor in the South. They are not trammelled as we are by charters, &c., yet they apply to their branch lines exactly the same rules we do. So far as I know the rule is of universal application. With the Northern Pacific it is the same. So also with the Northwestern. I do not know a railroad company in the country that does not apply it; if the rule is wrong in our case it must be because we are for some inscrutable reason entirely exceptional.

Q. In this ten million of stock issued in 1881, was the consent of Congress obtained?—A. I think Judge Dillon can tell you more about it than I can. My impression is that the stock you refer to was issued under our charter—our original charter.

Mr. JOHN F. DILLON. The opinion of Mr. Bartlett and myself is in writing as to the authority to issue that stock.

Commissioner ANDERSON. You will let us have that opinion?

The WITNESS. It was long before my day; I know nothing about it.

Mr. JOHN F. DILLON. I will. It is in writing. That will tell the whole story.

GUARANTEES MADE WITHOUT CONSENT OF CONGRESS.

Q. You guaranteed the Saint Joseph and Grand Island bonds of seven millions, I think?—A. Yes.

Q. Was the consent of Congress obtained?—A. No; we did it under the advice of counsel. It did not come within the section of the act of Congress which you have referred to.

Q. Was there an opinion delivered by counsel?—A. Yes.

Q. You will let us have that?—A. Certainly.

Q. Also with reference to the collateral trust bonds of 1879?—A. These also were issued under advice of counsel. We have elaborate opinions; everything of that sort has been fortified so far as we could fortify it; that matter also has been before the courts.

Q. (By Commissioner ANDERSON.) What, the guarantee?—A. The collateral trust.

POOLS.

Q. Of what large pools, outside of the operation of its own system, is the Union Pacific a member?—A. Before the fifth of April we had pools everywhere. Since that we are in no pools. Wherever we met a competitor we had some kind of a pool arrangement, except in Kansas, where it was forbidden by law.

Q. Which are the more important pools of which you were a member prior to the 5th of April?—A. There is the Utah pool, the Colorado pool, the Nebraska pool, the Omaha pool, the Transcontinental pool, the Montana pool, the Oregon pool. It was the regular way of doing business wherever we met other lines.

TRANSCONTINENTAL POOL.

Q. Now in regard to the Transcontinental pool, who were the other members of that pool?—A. The original Transcontinental pool consisted—I ought to say that was long before my time; Judge Dillon can tell you better than I can—but it consisted simply of the Pacific Mail Steamship Company and the Pacific railroads—the Union Pacific and Central Pacific.

Q. When you became president of the road what was the membership of that pool?—A. When I became president of the road the Northern Pacific had gone through.

Q. And it had become a member?—A. It had become a member; the Denver and Rio Grande and the Chicago, Burlington and Quincy had gone through to Salt Lake in connection with the Central Pacific, if I remember right, and we had the Southern Pacific, and the Atlantic and Pacific, and the Atchison, Topeka and Santa Fé. There were five or six members of it.

Q. How were the operations of that pool conducted with reference to determining the percentage of each member?—A. That was managed as all pools were managed, by agreement and arbitration.

Q. Who were the persons that met together for that purpose; their names, please?—A. Mr. Clark, on behalf of the Union Pacific; Mr. Town. I take it that sometimes the presidents would meet here—Mr. Huntington, Mr. Gould, Mr. Dillon, and the president of the Pacific Mail. Then again the general traffic managers would meet. I never met the pool but once. The presidents then met in order to make a last effort (a year ago February) to prevent the thing from breaking up. We failed in our efforts, and it did break up. There is a certain etiquette in railroads, and when the presidents meet they always meet the presidents, and when the general managers meet they meet the general managers, and when the general traffic managers meet it is the general traffic managers.

METHODS OF DIVISION IN POOLS.

Q. On what basis is the percentage arrived at; has it any relation to the actual business done by each member?—A. Yes; for several years—five years—I was arbitrator of the trunk-line system here in New York, including all the railroads from the Ohio to the Lakes, and the same rule prevailed there. It is universal. It is dictated by common sense. That is, you take the statistics of the business, and the direction of the lines, and all the data that can be supplied to you, and you then sit down and ascertain as nearly as possible how the business would flow if left to itself regularly at equal rates and equal accommodations, and if you can you agree on the percentages; if you cannot, you refer them to arbitration. The basis is always how the business would naturally flow if left to itself.

Q. Was that the rule which prevailed in the Transcontinental pool?—A. It was.

Q. Do you know what facts or figures the members of the pool had before them to determine the natural flow of business?—A. They had the general data of the business which had been going on; and whenever they failed to agree, then they all cut the rates and the business went at a cut rate. We were guided to a certain extent by that.

Q. I am simply addressing you with regard to the elements that were placed before the different members of the pool as proving what each member would have been entitled to if left to the natural order of things. What particular evidence was placed before you as to the freight actually carried, or which would be actually carried, by the Pacific Mail Steamship Company?—A. We knew that at an equal rate the Pacific Steamship Company would carry nothing at all. Owing to the transshipment and the greater length of passage, &c., it could only carry by reducing the rate. At equal rates it would not carry any freight any *more than it would carry passengers*; but then it could reduce the rate, *carrying in ballast, &c., until it would make the business worthless to us, and yet make something itself.*

Q. How closely did you examine this subject yourself?—A. This subject had passed out of its earlier stages long before I had anything to do with the company.

PACIFIC MAIL SUBSIDY.

Q. When you became president of the company what did you find that your company was paying to the Pacific Mail Steamship Company?—A. I think our company was paying its proportion.

Q. No; what did you find the pool was paying to the Pacific Mail?—A. I think it was about \$80,000 a month. But when I say that the companies paid that, you must understand that there was a regular contract, which had been before Congress, before committees, &c., and which was perfectly well known, under which, in order to prevent the demoralization of the rates, the payment was in form that the companies agreed to take the whole freighting capacity of these steamers, which was to be estimated at so much—say, \$85,000 a month, or whatever it might be, and then they sent whatever they saw fit by the steamers; they used to send the heavier and coarser freights, which were not desirable to carry by rail. In that manner the balance that was paid was in the nature of a subsidy over and above the freight money earned on what was actually sent.

Q. It is not true that you have officially stated that this through business, as far as the Union Pacific is concerned, is a decreasing quantity, and becoming of less importance every year?—A. Undoubtedly.

Q. The interest of the Union Pacific, as connected with this pool—as influenced by this pool—solely relates to through business?—A. Yes; undoubtedly.

COMPARISON OF RAIL AND WATER TRANSPORTATION.

Q. What is the time of transit from Eastern points, say New York to San Francisco, by the Pacific Mail?—A. It is a month; thirty days.

Q. Is it over twenty-five days?—A. I believe so; I never went by that route.

Q. What is the time by the railroad?—A. For freight or passengers?

Q. Freight.—A. I think freight is about a fortnight or three weeks, except the fast freight.

Q. Do you regard the Pacific Mail as being a possible competitor for any of those kinds of freight as to which time is important?—A. It depends upon how important time is. People will delay a good deal for the sake of getting a lower rate; and on all these subjects you have me rather out of my sphere. The general traffic manager can enlighten you as respects them much more than I.

Q. Under the arrangement made, what proportion of the \$80,000 a month was paid or chargeable to the Union Pacific?—A. About a quarter to a third. That has all been reported to the Railroad Commissioner and is in print. We should be very happy to give you a copy.

Q. I desire to ask whether the payment of as large a sum as \$30,000 a month from your company to the Pacific Mail would not naturally cause you to make a close examination as to the reason which justified such a payment?—A. It was a perpetual subject of examination and discussion while it lasted.

EFFECT OF DISRUPTION OF POOL.

Q. Have you ever reached any conclusion yourself, founded on your judgment in this matter, as to whether it was an advantage to the

Union Pacific and to the Government to pay this subsidy or not?—A. I have reached a most decided opinion since the thing went to pieces. There is no question that it was an advantage in a money point of view; an immense one. The results since have proved that.

Q. Please describe the results that you refer to.—A. It is in the report of 1886, on page 21. This pool went to pieces in the beginning of the year 1886. As compared with the previous year, we carried sixty million more tons one mile, and we earned for so doing \$463,000 less than we had earned the year before. It was an appalling statement. In other words, we carried 35 per cent. heavier tonnage for 26 per cent. less money. It was an appalling demonstration of results.

Q. In comparing these two statements together in the year before the disruption of the pool, is the subsidy deducted as part of the operating expenses?—A. Yes; it was every year.

Q. In the comparison you put those two statements together?—A. It was deducted from the earnings in both years.

Q. In the year before the disruption?—A. Yes.

Q. So as to compare the actual net earnings of that year with the actual net earnings of the transcontinental business in the following year?—A. Yes.

DECREASE IN RATES AFTER DISRUPTION OF POOL.

By the CHAIRMAN:

Q. The decrease of rate was general throughout the country, was it not?—A. Nothing like what I have just stated.

Q. Not in the same proportion, but there was a decrease?—A. There is always a steady decrease; there has been year after year. On page 26 of the report you will find every month of the year how the thing affected us, and the rate.

Commissioner ANDERSON. The commission have not had an opportunity to examine this report yet.

The WITNESS. In January we got $1\frac{1}{4}$ cents a ton a mile on the transcontinental freight—1.26 cents. In April we got 0.41 of a cent. Just one-third as much. That is, two-thirds of the rate had disappeared in the struggle. And for the year we averaged three-fourths of a cent a ton per mile, as against 1.22 cents the year before. That was the result of the struggle.

Q. Were there not a great many irregularities in the rate for the different months of the year?—A. At times there was no rate whatever; it was a simple struggle to do business for nothing; they paid for carrying goods.

Commissioner ANDERSON. We find it stated that in January, 1885, the rate was only 0.77.

The WITNESS. I don't know what that is due to. Very likely it was due to a pool settlement made during that month.

Q. Special competition?—A. No, it could not have been any special competition; it must have been something or other, you cannot tell what, that took place that month. It was abnormal.

Q. The average for 1886 is 0.74 and for 1885 1.22?—A. That is it exactly. You will find there the analysis of the whole result of breaking up that pool.

POOL SETTLEMENTS.

By the CHAIRMAN:

Q. Will you please explain where, in your pool arrangement, if there is an income, you carry it in your accounts? Is it in the operating ex-

penses? Where is the deduction made. For instance, if it is from gross receipts, where do you deduct for the amount paid out in any pool arrangement?—A. That is made in what we called the pool settlements. It goes into the gross earnings.

Q. From which you deduct the surplus earnings to ascertain the net earnings?—A. Yes, we deduct the operating expenses to ascertain the net earnings.

Q. That is in the operating expenses?—A. It is in the earnings; it never goes into the operating expenses at all. That is, the gross earnings are so much less. For instance, when the earnings are about to be reported for a month and there is a pool settlement of \$20,000 against us, and the earnings are \$100,000, there is reported \$80,000. We earn so much less. We pay our pool settlement before reporting gross earnings.

Q. They do not enter into the gross earnings?—A. They do not enter into the gross earnings.

AFTERNOON SESSION.

CHARLES FRANCIS ADAMS, being further examined, testified as follows:

By the CHAIRMAN:

Question. There is only a general question that I wish to ask. How do you make up your total gross receipts from all sources?—Answer. That is income, apart from earnings?

INCOME ACCOUNT.

Q. Yes.—A. It is made up in the regular way. Whatever comes in which belongs to the income, general income, is added to the gross earnings.

Q. How many income accounts have you?—A. That you will have to ask Mr. Mink. There is only one income account, but that is derived from various sources.

By Commissioner ANDERSON:

Q. It has a great many branches?—A. It has a great many branches.

By the CHAIRMAN:

Q. Do you carry the coal profits into the general income account?—A. Yes.

Q. And also the stone company's account?—A. Yes.

Q. Then they are all carried into one gross sum, from which the operating expenses are deducted and from which result the 5 per cent. calculation?—A. It is not quite that.

Q. What is it?—A. A railroad company has two distinct revenues; one from earnings and the other general income derived from miscellaneous sources. The net earnings of the company are wholly distinct from the general income of the company; the net earnings of the company are derived from deducting operating expenses from gross earnings, not from gross income. You have those two things, earnings and income, net earnings and net income.

THE GOVERNMENT'S PERCENTAGE OF NET EARNINGS.

Q. Then when you ascertain the amount due the Government you do not deduct from the gross receipts the operating expenses, but you have

already made a deduction from which you deduct the operating expenses?—A. The payment to the Government is established on a wholly different basis; it is established by law. It is so much, 5 or 25 per cent., of the net earnings of the road—not the net income of the company.

Mr. JOHN F. DILLON. Net earnings of the road?

The WITNESS. Net earnings of the road, not the net income of the company.

Q. What do you do with the income received from the sale of land? Is that carried into the gross receipts?—A. No; that constitutes, as I explained yesterday, a wholly separate account, and in both roads it is paid over to trustees; it never comes into the hands of the company; the company never touches a dollar of it; it is forwarded by the land agent, under the terms of the mortgages, to the trustees directly; it does not enter on our books and cuts no figure there; we do not handle it in any way.

Q. Will you explain, then, why the income account from the land and from the coal company, the investments of the Union Pacific Company, are not a part of the gross receipts from which the Government should get its percentage of deduction?—A. Because that is prescribed by law; there is a law defining what net earnings are, and we have nothing whatever to do with it; it is all done in Washington, and has been passed upon by the courts; we have nothing to say about it.

The CHAIRMAN. These questions are submitted to us in the bill. That is why we ask.

The WITNESS. I understand.

JUDICIAL DECISIONS AS TO NET EARNINGS.

Mr. JOHN F. DILLON. If you will allow me to state, there have been before the Supreme Court of the United States two cases (three cases in 99 U. S.) in which they decided how you arrive at net income and net earning; and they decided in that case that the income of a company from lands was a source of revenue on which the Government had no right to the 5 or 25 per cent.

The CHAIRMAN. In this act there is submitted to us the same question.

The WITNESS. All those things we have nothing whatever to do with. We never touch them.

By Commissioner ANDERSON:

Q. Is your only authority for disposing of the proceeds of land through your trustees in satisfaction of junior incumbrances or the satisfaction of whatever they use the proceeds for as against the Government lien, the section in the act which directs, after stating that the issue of the bonds shall constitute a mortgage on the road, that nothing in the act contained shall prevent you from selling the property of the road in the ordinary course of business?—A. All this was done long before the passage of the act of 1878 or the act of 1873.

Commissioner ANDERSON. But that provision is in the act of 1862

The WITNESS. Then I shall have to refer you to Judge Dillon.

Mr. JOHN F. DILLON. No; there is no such provision there.

The WITNESS. I don't know anything about it.

Q. Under what provision of law do you claim that the proceeds of land sold are free from the lien of the Government mortgage?—A. I cannot tell you; it has been decided by the courts.

Mr. JOHN F. DILLON. Let me tell you that. The lien of the Gov-

Q. They are bought at a considerable premium?—A. No; they matured; they are paid off at par—a part of them.

Q. Have you bought any of them outside?—A. We have nothing to do with that. That is done by the trustee under the terms of the mortgage.

Q. Who are the trustees?—A. The trustee of that mortgage is F. L. Ames. We have nothing whatever to do with his trust money, which comes from the proceeds of the land grant with its accumulations.

Q. In the deduction of these payments from the gross sum to ascertain the percentage that the Government is to get, of course it diminishes the Government claim just that much. That is true, is it not?—A. How is that? I don't take it in.

Q. In deducting payments to anticipate, or in deducting funds that are made to anticipate, junior liens, it is deducted before the amount upon which you figure the 5 per cent. to the Government is deducted?—A. That has nothing to do with it.

Q. That is a separate account?—A. It is entirely separate. The two accounts do not bear on each other. We have nothing to do with the Government payments. They are computed for us; we do not compute them.

The CHAIRMAN. There seems to be a great difference of opinion about the payments.

The WITNESS. I know there is, but it arises from ignorance. The facts are plain. All these payments are gone over by the Government, and we have very little option about it. We contend that the Government has treated us in a harsh and arbitrary manner, deciding all sorts of doubtful questions, and questions which were not doubtful, against us summarily, and our remedy has been a very poor one, when we have had any remedy at all. They make out their own bill, and about all we have to do is to pay it, and then see if we can get our money back through the Court of Claims. That is a correct statement, is it not, Mr. Mink?

Mr. MINK. Oh, yes.

The WITNESS. Mr. Mink deals with these things far more than I do.

The CHAIRMAN. It was a general question I wanted to ask with reference to the accounts; that is all. I do not know that there is any other question now.

Commissioner ANDERSON. I move that the further examination of Mr. Adams be suspended until such future time as may be convenient to him and to the Commission.

The WITNESS. I think you would find your work very much facilitated if you will allow me to make a suggestion, which may save you a great deal of trouble. I see you have Mr. Norris as your expert. If you send him to Boston to familiarize himself there with our accounts on the spot, and to see Mr. Mink, I think it would simplify matters.

The CHAIRMAN. We would be pleased to have any suggestions you have to make.

The WITNESS. We have all the documents there. Of course we should be delighted to furnish you with any documents and statistics and any returns we have.

Commissioner ANDERSON. We intend to do that.

The WITNESS. Mr. Norris could put in several days' work there to very great advantage alone, merely familiarizing himself with what we have.

The CHAIRMAN. Have you any further suggestions?

THE WITNESS. Nothing whatever. Of course I need not say to you that our accounts are exceedingly complicated, owing to the fact that under the law we have to have so many organizations. They are not at all simple. They give me a great deal of trouble, all of which would be unnecessary if we could only proceed in a simple, direct way, as other companies do.

THE CHAIRMAN. If there is no further question, we will suspend the examination.

MR. JOHN F. DILLON. I have brought down the opinions of counsel contained in this printed pamphlet in regard to the collateral trust bonds, if you would like to have it.

THE CHAIRMAN. Yes.

MR. JOHN F. DILLON. It discusses other things, but nothing that is outside of your investigation.

COMMISSIONER ANDERSON. In regard to all opinions as to consolidations and trust deeds, and anything of that kind, have you all of them in your office?

MR. JOHN F. DILLON. I think they are most of them here in these various documents. I have the articles of consolidation.

THE CHAIRMEN. And the yearly report of the commissioners?

MR. JOHN F. DILLON. Yes.

COMMISSIONER ANDERSON. As to any papers of the company which we would like to see, to whom are we referred in Mr. Adams's absence?

THE WITNESS. I should think the best person you could go to would be the United States Railway Commissioner.

COMMISSIONER ANDERSON. He has not your private contracts; and there are other matters that we may want to see.

THE WITNESS. Send to us in Boston. Mr. Lane will attend to it, or Mr. Mink either, in my absence.

MR. ANDERSON. We will probably go to Boston before you return.

THE WITNESS. I shall be sorry not to be able to extend to you the hospitalities of the place.

THE CHAIRMAN. We are very much obliged to you, and will suspend your examination until a future day.

CHARLES F. ADAMS.

The Commission then adjourned to Wednesday, May 4, 1887, at 11 a. m.

No. 10 WALL STREET, *Wednesday, May 4, 1887.*

The Commission met pursuant to adjournment, all the Commissioners being present.

KANSAS PACIFIC CONSOLIDATION.

ARTEMAS H. HOLMES, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your occupation?—**Answer.** I am a lawyer.

Q. How long have you been in practice?—**A.** I was first admitted to the bar in 1871.

Q. Have you practiced in this city?—**A.** Yes, sir; since 1873.

Q. Your office at present is where?—**A.** In the Mills building.

FAMILIARITY WITH RAILROAD CONSTRUCTION WEST OF THE MISSOURI.

Q. How familiar have you been with the subject of the construction of any portions of the Pacific Railroads lying west of the Missouri River?—A. I have been counsel for the Kansas Pacific and Denver Pacific and Union Pacific and Northern Pacific and the Oregon Railway Navigation Company, and obtained such familiarity as my professional connection gave me with the business of the construction during the periods when I was connected with those roads.

Q. How long has that connection existed in one form or another?—A. Since 1876.

Q. What knowledge of the construction of the Kansas Pacific had you prior to that date?—A. Little or none; only as one keeps generally informed.

Q. Had you been in the Western country yourself?—A. I was brought up as a boy in Saint Louis, and I have traveled more or less in the Western country, particularly along the lines of the Kansas Pacific.

Q. Were you the owner of any securities of the Kansas Pacific prior to 1876?—A. Yes, sir.

Q. So that you had a personal interest in acquainting yourself with the facts relating to its construction?—A. Yes, sir.

CONSTRUCTION OF THE KANSAS PACIFIC.

Q. Please give us, in a general way, not calling upon you now for actual personal knowledge solely, such information as you can in regard to the origin of this Kansas Pacific construction by its earlier names.—A. In the fall of 1876 I became one of the committee of bondholders of the Denver Extension mortgage of the Kansas Pacific Company. The meeting of the bondholders was called by one of the receivers of that road, who had just been appointed, Henry Villard; and I shortly after became counsel of the committee and of Mr. Villard, as receiver of that road. The senior counsel was Charles F. Southmayd, of this city. Almost immediately I was required to go to Saint Louis, which was then the headquarters of the Kansas Pacific Company, and thence to the line of the road, and was charged with the duty of removing the foreclosure suit from Shawnee County, Kansas, in a local court, to the circuit court of the United States for the district of Kansas. From that time forward until the decree of foreclosure was entered and the road reorganized, I was more or less continually present along the line of the road, attending the circuit court of that circuit wherever it might be sitting, for the purpose of obtaining orders and defending actions in relation to that foreclosure suit.

Q. Before proceeding to that will you refer us to the records and give us such information as you have to enable us to understand the origin of the structure which exists from Kansas City to Denver, and a reference to the various mortgages that were from time to time put upon the property?

LEAVENWORTH, PAWNEE AND WESTERN RAILROAD.

A. My professional business required me almost immediately to familiarize myself with the history of that railroad. Beginning at the time of the charter, and commencing at the beginning, the Leavenworth, Pawnee and Western Railroad Company was organized by the legislature of Kansas in the year 1855. But little was done for some time in the way of actual railroad building. Indeed but little was

done until the final passage of the act of 1864, amending the act of 1862, known as the Pacific Railroad acts.

Q. The act of Congress?—A. The acts of Congress. Those acts, taken together, furnished the means with which to equip and build and operate these Pacific Railroads. By those acts you will find that Congress took up such railroads in the States as approached to the main line of the system, and the Leavenworth, Pawnee and Western Railroad, a Kansas corporation, was taken up and endowed by the Pacific Railroad acts with the rights, duties, privileges, and grants of land and money set forth in those acts. Immediately after the 1864 act was passed this road became a rival of the Union Pacific, Iowa division, to reach the one hundredth meridian first, because that one of the Eastern roads—and there were several—which reached the one hundredth meridian first had the right to proceed and build westwardly to a connection with the Central Pacific when they should come along eastwardly.

But beginning in 1865, and, indeed, for a year or two prior, the Leavenworth, Pawnee and Western Railroad Company had become divided among itself, and there were two boards of directors, two presidents, and two sets of officers, quarreling for the possession and management, and the contest was carried to Washington.

On one side were Generals Thomas Ewing and John C. Fremont as the claimants of the corporate franchise, ownership, and board of directors; and upon the other was Mr. Samuel Hallett and John D. Perry. Mr. Perry was a Saint Louis gentleman, and associated with most of the persons who were, as they said, the *de jure* board of directors. They went to work and had built some railroad from Kansas City to near Lawrence, in 1865.

Q. Lawrence being about how far from Kansas City?—A. I think it is not more than 30 or 40 miles; I do not risk my memory on that. Prior to August, 1865, there had been a construction mortgage made, and the bonds were outstanding. But the Perry party obtained the recognition of the Government, and then made contracts for the building of the railroad.

THE LEAVENWORTH, PAWNEE AND WESTERN MORTGAGE.

The first mortgage of the Leavenworth, Pawnee and Western Railroad Company, which had at that time changed its name to the Union Pacific Railway Company, Eastern Division, was from Kansas City to the one hundred and fortieth mile-post west of Kansas City. Its date was August 1, 1865, and they were the bonds and mortgages authorized by the acts of Congress, namely, at \$16,000 a mile, the aggregate of the principal being \$2,240,000. That contract was made with the then Union Pacific Railway Company, Eastern Division, on one hand, and with a party of gentlemen who were known as R. M. Shoemaker & Co.

Q. Will you please find that mortgage in the book which I hand you, so that we can identify it for reference? That book is a collection of the mortgages.—A. That is the mortgage found at page 58 of a compilation described as "Indentures of the Union Pacific Railway."

Q. Can you furnish us with a copy of that book?—A. Yes, sir; I supposed the Commission had it.

Q. Will you keep that book and refer to them all by pages as you come to them?—A. Yes, sir.

Q. You were proceeding with a statement of the contracts under the mortgage?—A. Upon the same date another contract was made be-

tween the same parties, the first contract being Exhibit 1 of the printed document I hold in my hand and the mortgage of the same date which related to the building of the branch road, which was compulsory by the act of Congress, from Leavenworth to Lawrence. That is marked Exhibit 2 in the papers I now refer to.

MORTGAGE TO THREE HUNDRED AND NINETY-FOURTH MILE-POST.

The next mortgage was upon the road proper from Fort Riley to the three hundred and ninety-fourth mile-post, which had been determined to be the point by the Government and road which the one hundredth meridian on the line of the Union Pacific would be if brought down to the parallel upon which the road was built.

Perhaps I should explain that by this time the acts of Congress had permitted the Kansas Pacific road to build in a westerly direction, in the direction of Denver, and the road was at this time no longer required to unite with the Union Pacific Railroad Company at the one hundredth meridian. That mortgage was in all respects like the first mortgage I have mentioned, with the exception that the due dates of the interest were June and December instead of February and August.

THE GOVERNMENT MORTGAGE.

The next mortgage, in point of time is the statutory mortgage of the Government, which is \$16,000 per mile, and is junior to the two mortgages I have mentioned, the two mortgages being merely sectional mortgages instead of an entire mortgage.

Q. Does the first mortgage stop at the one hundred and fortieth mile-post?—A. Yes, sir.

Q. The first, in point of time?—A. Yes sir; it was Fort Riley, which was a Government reservation, and which at that time was practically on the borders of civilization.

By the CHAIRMAN:

Q. What is located at the one hundredth meridian?—A. I have forgotten. It is simply an imaginary point. There is no town within some little distance of it. I think it is out there near Sheridan. I cannot speak positively. There is no town or settlement directly there, but that is the point at which the Government subsidy in bonds ended. When the Government permitted us to come down from *there* to *here* they said, "We will not give you any more bonds." The balance of the road is what is known as the Denver extension. It is from the one hundredth meridian to the city of Denver.

By Commissioner LITTLER:

Q. A distance of about how far?—A. Two hundred and forty-four miles.

By the CHAIRMAN:

Q. From Kansas City to this point?—A. No, sir; the one hundredth meridian, or the three hundred and ninety-fourth mile post, to the city of Denver is 244 miles.

Q. And from Kansas City?—A. It is 394 miles, making an aggregate of 638 miles from Kansas City to Denver, exclusive of 33 miles which should be added, from Leavenworth to Lawrence.

Q. You had \$16,000 per mile on the 394 miles?—A. Three hundred and ninety-four miles.

THE INCOME MORTGAGE.

By Commissioner ANDERSON:

Q. Will you please continue your statement of the incumbrances that were put on the road, from time to time, in its construction?—A. The next, in point of time, is what is known as the income mortgage. The income mortgage bears date July 1, 1866. It was made to cover the income, as defined in the mortgage of the line of road from Kansas City to the one hundredth meridian, and the Leavenworth branch, junior to the several mortgages I have mentioned, with very peculiar provisions as to what the income was, and reserving certain rights to the company. It was practically, in my judgment, a preferred stock, and by the terms of the construction contracts, of which I have spoken, between the company and R. M. Shoemaker & Co., and Shoemaker, Miller & Co., you will learn the methods by which this income mortgage was executed.

Q. Those contracts you will leave with us?—A. Yes, sir.

Q. Please give us a reference to the page of the income mortgage in your compilation.—A. The middle division mortgage, the mortgage from the three hundred and ninety-fourth mile post, will be found at page 71 and following, of the book referred to. The income mortgage at page 76 of the book referred to.

Q. Has that income mortgage been the subject of litigation?—A. Very generally, in a great number of suits.

Q. Is there one in particular that contains evidence taken with reference to the net earnings applicable to the income claimed by the mortgage?—A. Yes, sir.

MORGAN VS. UNION PACIFIC AND KANSAS PACIFIC.

Q. Will you please give us the title of that case?—A. Henry Morgan against the Union Pacific Railway Company and the Kansas Pacific Railway Company, in the United States circuit court for the southern district of New York.

Q. Who was Mr. Henry Morgan's counsel?—A. Mr. George H. Foster, of Weekes & Foster, of this city.

Q. Have you copies of the testimony taken?—A. The original testimony is on file in the suit, the suit having been got ready for hearing on the pleadings and proofs. The record in that case was printed, but it never was gone over carefully by me for the purpose of verifying the figures, of which there are multitudes, and a great many tables, because just about that time the suit had its quietus by the failure of Mr. Morgan and his parting with the bonds to his assignee.

By Commissioner LITTLER:

Q. Was it never tried?—A. It was never ultimately tried. My best judgment is that the figures on file—that is, the testimony taken and filed with the clerk in that circuit court suit—are the best available computations that can be made.

LEAVENWORTH BRANCH MORTGAGE.

By Commissioner ANDERSON:

Q. Will you continue now with these mortgages?—A. The next mortgage, in point of time, was the Leavenworth branch mortgage, which will be found on page 64 of this book.

Q. Six hundred thousand dollars in all?—A. Yes, sir. Something should be said here which anticipates a little. But in the negotiations for the extension of the road from the one hundredth meridian to Denver, the Denver extension mortgage was drawn; but its negotiability was hampered and thought to be impossible, unless the income mortgage should be subordinated to the Denver extension mortgage.

DENVER EXTENSION MORTGAGE.

Q. Please explain there why that was?—A. The Denver extension, as I understand it, was to apply to the property between the one hundredth meridian and Denver, a distance of 244 miles, and the income mortgage, as I remember, was limited to the road between Kansas City and the one hundredth meridian, including the branch.

Q. Why, therefore, was it that question was made as to the income mortgage being a lien on the proposed Denver extension?—A. That was for the reason that the income mortgage was a very loosely-drawn instrument; the gentleman who drew it once having characterized it in my presence as being "more loosening than binding."

Commissioner ANDERSON. A sort of laxative.

The WITNESS. And by its phraseology it was to cover the entire railroad of the company. At the time it was drawn it was not clearly determined whether the road was going, as I said it was the original intention, to the Union Pacific at the one hundredth meridian, or whether it would go to Denver. The corporation had long and serious considerations as to whether they should follow the Smoky Hill or the Republican Valley stream of water as its line of building. But, at all events, the language in the income mortgage was such that it could bear the construction that the Denver extension mortgage should be junior to it, and therefore the Denver extension mortgage could not be negotiated. For that reason the instrument was drawn between the Kansas Pacific Company, on one part, which still remained the Union Pacific Railway, Eastern Division, by proper name—the trustees of the mortgage—and certain persons who consented to having placed upon their income bonds a stamp, which, by its terms, subordinated it to the Denver extension mortgage. The instrument of which I have spoken and the stamp referred to are, respectively, Exhibits No. 4 and No. 5 of the paper I have referred to heretofore. They are not originals, but they were prepared by me.

The witness files Exhibits 1 to 5 inclusive, of which he has spoken. They are as follows:

EXHIBIT No. 1.

AGREEMENT made and concluded this first day of July, A. D. eighteen hundred and sixty-five, between the Union Pacific Railway Company, Eastern Division, of Kansas, of the first part, and Robert M. Shoemaker, Edward Miller, Jos. C. Butler, Matthew Baird, Carlos S. Greeley, Giles F. Filley, James Archer and Stephen M. Edgell, of the second part, witnesseth:

First.—For and in consideration of the covenants and stipulations hereinafter mentioned, to be performed by the party of the first part, the parties of the second part hereby agree to furnish all the material and equipments, iron, nails, chains, spikes, sleepers, timber, masonry, rolling-stock and other material needed to build, construct and equip for the party of the first part, a first-class railroad, with the needful turn-outs, from the town of Lawrence, in Kansas, to Fort Riley, and telegraph line, substantially on the route, which has been surveyed for said railroad company, reference being had to their maps, plans and profiles, and to construct and build such first-class railroad and telegraph line, and appurtenances, in the manner described in an Act of Congress passed July 1st, 1862, entitled "An Act to aid in the construction of a rail-

road and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military and other purposes," and the other acts of Congress passed in reference to said railway company, and to supply the depots, water stations, engines and cars, in accordance with the terms of said acts of Congress, complete as a first-class railroad, all to be done within the time in said acts specified.

Second.—In consideration of the construction of said road and sidings, etc., as in the foregoing section mentioned, the party of the first part agree to pay to the parties of the second part, the survivor or survivors of them, the full sum of fifty thousand (\$50,000) dollars per mile of main track, measurement as follows: Twenty-five thousand (\$25,000) dollars in the capital stock of the Union Pacific Railway Company, Eastern Division, for which full paid certificate shall be issued, and in cash twenty-five thousand (\$25,000) dollars, which said sum of fifty thousand (\$50,000) dollars is to be paid *pro rata* in such certificates of stock and cash on the estimate of an engineer to be designated for that purpose by the party of the first part, such estimate to be made every thirty days as the work progresses, in proportion to the work done and material furnished. Provided that said company may retain fifteen per cent. of such estimate, until each successive section of twenty miles is completed according to this contract, and full payment shall be made in accordance with the terms in this contract specified upon the completion and acceptance by the Government of the United States of each division of twenty miles.

Third.—It is further agreed by and between the parties hereto, that all of the work under this contract, and all the materials, shall be performed and supplied to the full satisfaction of the Board of Directors of the said Union Pacific Railway Company, E. D.; and if the said parties of the second part, the survivor or survivors of them, shall fail to perform the work herein contracted to be done as fast as said Board shall from time to time reasonably require, or shall do any kind of said work imperfectly, or not in accordance with the acts of Congress aforesaid, then the party of the first part is authorized to terminate this contract, paying said parties of the second part, the survivor or survivors of them, for the work actually done and the materials supplied only. And the said party of the first part may, thereupon, do said work, or contract with any other party therefor, and no damage shall be claimed by the party of the second part, the survivor or survivors of them. It is further understood and agreed that in case of a failure on the part of the parties of the second part, as mentioned in this section, then and thereupon the fifteen per cent. of the amount of the monthly estimate previously made shall be held and permanently retained by said parties of the first part as liquidated damages, and the said parties of the second part, the survivor or survivors of them, shall make no claim therefor.

Fourth.—It is further understood that in the event of the death of either or any of the parties of the second part, this contract shall not thereby be terminated, but the surviving parties shall proceed to the completion of this contract without interference upon the part of the personal representatives of the deceased party or parties, and in such case the party of the first part shall not be liable to account to or with the personal representatives of the deceased party, nor until the completion of this contract, and such accounting shall then be had between the party of the first part and the survivors of said deceased, and not with his representatives.

Fifth.—It is further agreed and understood that said parties of the second part shall have the control and use of the road, being liable for all expenses, and entitled to all receipts therefrom, until the completion and equipment of said road to Fort Riley, according to the terms of this contract; the party of the second part carrying the mails, troops and munitions of war, as required by the law.

In testimony whereof, the party of the first part have caused this agreement to be signed by their President, and the corporate seal fixed, and the parties of the second part have affixed their hands and seals the day and year first above written.

R. M. SHOEMAKER,	[L. S.]
JOSEPH C. BUTLER,	[L. S.]
C. S. GREELEY,	[L. S.]
GILES F. FILLEY,	[L. S.]
JAMES ARCHER,	[L. S.]
S. M. EDGELL,	[L. S.]
EDWARD MILLER,	[L. S.]
M. BAIRD,	[L. S.]

In presence of witness:
H. P. RUTTER.

JOHN D. PENNY,
President

[U. P. Railway Company,]
E. D., Secy.

J. P. DEVEREUX,
Secretary.

EXHIBIT No. 2.

Agreement made and concluded on the first day of July, 1865, by and between the Union Pacific Railway Company, Eastern Division, the party of the first part, and Robert M. Shoemaker, Matthew Baird, Edward Miller, Joseph C. Butler, Carlos S. Greeley, Giles F. Filley, James Archer and Stephen M. Edgell, the party of the second part, Witnesseth:

First.—The party of the second part agree and bind themselves to construct and equip a first-class railway, as now located, from the City of Leavenworth, in the State of Kansas, to the junction of the completed road of said company, at or near the town of Lawrence, Kansas, with all the needful stations and necessary rolling stock (not less than \$150,000 in value), complete, as a first-class railway, as provided for by the charter of said company, and the acts of Congress in relation thereto; to finish said railway and deliver the same to said company in good running order on or before the first day of May, 1866.

Second.—In consideration of the covenants to be performed by said party of the second part, as set forth in the previous section, the party of the first part agree to pay said party of the second part the full sum of six hundred thousand dollars, in the First Mortgage Seven per Cent. Bonds of said railway company, based upon that portion of their road to be constructed under this contract, and also bonds of the County of Leavenworth, to be issued by said county, amounting to two hundred and fifty thousand (\$250,000) dollars; also twenty-two thousand (\$22,000) dollars per mile in full paid capital stock of the Union Pacific Railway Company, Eastern Division, for the actual number of miles of railway constructed between Leavenworth and the point of connection, at or near Lawrence.

Third.—It is agreed that the said company shall, from time to time, and as fast as shall be required by the said contractors, make sale and conveyance of the Delaware lands at prices to be fixed by said contractors, and shall appoint an agent to superintend and take charge of the said lands, and to make such sales, which agent shall be satisfactory to the said contractors. Out of the proceeds of the sales of the said lands the said company shall pay and reserve the costs and expenses of the said sales, including the services of the said agent, and the amounts heretofore paid, or which may become due, or for which the company is liable to the Government of the United States for the said lands, or on account thereof, and the residue of the said proceeds shall be paid to the said contractors as part of the compensation for the performance by them of their contract; and at the completion of this contract the said company shall transfer and convey to said contractors the residue of the said lands unsold subject to the payment of all moneys payable for or on account of the same to the Government of the United States. The intention of the said company being to appropriate and dispose of the said lands for the benefit of said contractors, and to secure to them the same, and the proceeds thereof, as compensation for the faithful performance by them of their contract.

Fourth.—The payments arising out of this contract as provided for in the seven (7) per cent. bonds, of the said railway company, and County of Leavenworth, shall be made by the said party of the first part to the said party of the second part every thirty (30) days, *pro rata*, as the work progresses, according to the terms of this agreement.

The said party of the first part shall retain twenty (20) per cent. until the work contracted to be done is completed and said railway is finished and equipped, when full and final payments shall be made by said party of the first part to said party of the second part.

In witness whereof, the parties hereto of the second part have affixed their hands and seals, and the party of the first part has caused its corporate seal to be hereto affixed, and this instrument to be signed by its President, the day and year first above mentioned.

{ U. P. Railway
Company's
Seal. }

R. M. SHOEMAKER, [L. S.]
JOSEPH C. BUTLER, [L. S.]
C. S. GREELEY, [L. S.]
GILES F. FILLEY, [L. S.]
JAMES ARCHER, [L. S.]
S. M. EDGELL, [L. S.]
EDWARD MILLER, [L. S.]
M. BAIRD. [L. S.]

Witness: H. P. RUTTER,
JOHN P. DYERREUX,
Secretary.

JOHN D. PERRY,
President.

same, and the said party of the first part covenants and agrees with the said party of the second part to accept the terms and provisions of said treaty, and in accordance therewith to contract for the purchase of said lands, and upon the request of the party of the second part to assign said contract of purchase to them with the request that patents be made directly to said parties of the second part, or their assigns, and if the title to said lands shall be, by the United States, vested in the party of the first part, then to convey said lands by good and sufficient title to the parties of the second part, or their assigns, in accordance with the terms of this agreement. It is further understood and agreed that the First Mortgage Bonds aforesaid are to be delivered to the parties of the second part, as the necessities of the said parties of the second part may require to enable them to perform this contract, but not in advance of 100 miles of a continued completed line of railway of said party of the first part.

And the said Income Bonds, at the rate of \$10,000 per mile, shall be delivered as the said railroad and telegraph line shall be from time to time accepted by the Government and turned over to said parties of the first part by said parties of the second part as hereinafter provided.

All of the said bonds and stocks to be delivered as herein provided to said parties of the second part, or their assigns, and any title to the said Pottawatomie lands passing to the said railway company, the said parties of the second part, or their assigns, are to be invested with, when all their agreements with reference thereto shall be fully performed, such conveyance to be made and all other expenditures in and about said lands at the proper cost and charges of said parties of the second part.

It is further understood and agreed that as each and every division of the railroad and telegraph line to be constructed under this contract is completed and accepted by the United States Government, it shall be with its equipments turned over to the said party of the first part, the party of the second part performing any work thereafter which the United States Commissioners may require to be done on the same, and subject to the approval of the Board, and all the work to be done under this contract shall be performed, and all the equipments and materials supplied, to the satisfaction of Government Commissioners and Board of Directors of said Union Pacific Railway Company, Eastern Division; and it is agreed and understood that all the railroad and telegraph line herein provided to be built shall conform in every respect to the profiles, maps, drawings and specifications of the said railway company; and if, in the opinion of the said Board of Directors of the party of the first part, the parties of the second part shall neglect or refuse to prosecute the work herein undertaken to be done and performed in such manner as to give reasonable assurance of the complete performance of their contract within the time limited and stipulated, then it shall be lawful for the said party of the first part to declare this contract terminated, and they may enter upon the said premises and prosecute the work to completion at the expense of the contractors applying the assets to be paid them to the payment for the work, or an account may be stated under the direction of an engineer for that purpose selected by the Board of Directors of the value of all work done, material furnished and on hand, in process of manufacture, or in transit—all of which in such event shall be the property of the party of the first part, and shall be accounted for at its fair value to be with the work done estimated by the said engineer, whose decisions shall be final, and shall be credited to the said party of the second part in payment for the mortgage bonds, stock and lands advanced them, and if a balance shall be found due said parties, it shall be paid to them; but if said party shall be found indebted to said party of the first part on account of advances, such advances shall be returned in kind, or in default of which said party shall pay the company the par value of said advances in money; and it is further understood and agreed that the said party of the first part shall at all times, upon request, transport over that road, and to the exclusion of all other business, except Government business, all the rails, ties, spikes, bridges, material and other supplies of said parties of the second part to aid them in the completion of the contract within the time provided; and it is further agreed, subject to the provisions hereof, that all the iron, spikes, chairs, cars, locomotives and rolling stock of every description, and all other materials to be furnished by said parties of the second part, under this contract are, when purchased, and wherever situate, the property of said parties of the second part, and at their risk, and shall not become under this contract the property of the railroad company until after the several divisions of the road for which said equipments and material was provided are accepted respectively by the Government, and turned over to the company as herein provided. And for the transportation to be done as aforesaid for the parties of the second part by the party of the first part, they are to charge a rate not to exceed two (2) cents per bar per mile for rails, chairs, ties, bridges and other articles required for the construction of the road, for each and every mile transported over the road whether or not any portion of said road shall have been turned over at the time to the company by the contractors, and no charge shall be made by said railroad company for the original transportation of any locomotives or rolling stock going out of said contractors to such point on said road as may be required by the contractors.

EXHIBIT No. 4.

An indenture, made the twentieth day of June, one thousand eight hundred and sixty-nine, between Carlos S. Greeley and Adolphus Meier, Trustees under a certain mortgage or deed of trust, bearing date July 1st, eighteen hundred and sixty-six, made to them by the Union Pacific Railway Company, Eastern Division, parties of the first part, and John Edgar Thompson, Adolphus Meier and John A. Stewart, Trustees under a certain mortgage or deed of trust bearing even date herewith, made to them by the Kansas Pacific Railway Company, parties of the second part.

Whereas the said Union Pacific Railway Company, Eastern Division, heretofore made and executed its certain mortgage or deed of trust, bearing date July first, eighteen hundred and sixty-six, to the said Carlos S. Greeley and Adolphus Meier, Trustees upon the railroad and telegraph line of said company from the Missouri River, at the mouth of the Kansas River, and from Wyandotte, westwardly to the point west of the one hundredth meridian, to which the grant of United States bonds in aid of said company extends, which point has, upon subsequent survey, been ascertained to be the three hundred and ninety-fourth mile post west of the Missouri River and the branch road from Leavenworth to the junction near Lawrence, with appurtenances and equipment thereof, to secure the payment of the income bonds issued and to be issued by said company to an extent not exceeding ten thousand dollars per mile of its said road, and the application of the net earnings of the said road as therein defined, after providing for expenses and charges and prior incumbrances to the payment of interest accruing upon such income bonds in the manner and subject to the conditions in said mortgage specified.

And whereas the name of the said Union Pacific Railway Company, Eastern Division, was subsequently duly changed to the Kansas Pacific Railway Company.

And whereas, the said Kansas Pacific Railway Company is now engaged in the construction of an extension of its said railroad and telegraph line from the before-mentioned three hundred and ninety-fourth mile post to Denver, in the Territory of Colorado, a distance of two hundred and thirty-six miles or thereabouts, and with the object of raising funds therefor, has executed and delivered its certain mortgage or deed of trust bearing even date herewith to the said John Edgar Thompson, Adolphus Meier and John A. Stewart, as Trustees, covering as well the railroad premises, properties, rights and franchises which are embraced in and covered by the above-mentioned mortgage given to the parties of the first part as Trustees for the security of the said Income Bonds, as the said line of road now being constructed as aforesaid from the three hundred and ninety-fourth mile post to Denver, and certain lands granted by the United States in aid thereof, to secure the payment of bonds issued by the said Kansas Pacific Railway Company to the extent of six millions five hundred thousand dollars, payable May first, eighteen hundred and ninety-nine, with interest in the meantime at the rate of seven per cent. per annum, payable half yearly, interest and principal being payable in gold, which bonds are at a rate not exceeding thirty-two thousand dollars per mile of such extension.

And whereas, in the opinion of the Board of Directors of the said The Kansas Pacific Railway Company, it is necessary, in order that said company may be able to negotiate its bonds so secured by the said mortgage to the parties of the second part, and necessary in order to enable it to raise the means for the extension of its road to Denver, that the lien of the said mortgage so made and executed to the parties of the first part, and of the income bonds thereby secured shall be subordinate, as hereinafter expressed and declared, to the above-mentioned mortgage of even date herewith made to the said parties of the second part, and to the lien and security of the said bonds for six million five hundred thousand dollars, issued and to be issued thereunder.

And whereas, the holders of all the said Income Bonds issued under, or secured by the above mentioned mortgage to the parties of the first part, excepting such bonds to the amount of two hundred and forty thousand dollars, deeming it to their interest that the lien held for their benefit under said Income Bond Mortgage should be so subordinate to the end of furthering the extension of said road to Denver, as aforesaid, have, in writing, authorized the said lien held for their benefit under the said mortgage to the parties of the first part, as Trustees, to be subordinated in the manner and to the extent hereinafter expressed, to the lien of the said mortgage of even date herewith, made to the said parties of the second part, and to the said six million five hundred thousand dollars, issued or to be issued thereunder, and there has been accordingly stamped upon each and all of said Income Bonds, excepting those to said amount of two hundred and forty thousand dollars, a declaration of their being so subordinated.

Now, this indenture witnesseth, that the said parties of the first part, as Trustees ~~said~~, under the above mentioned mortgage of July first, eighteen hundred and ~~six~~, made to them for the security of said Income Bonds, and for and on behalf of holders of all the outstanding Income Bonds secured by said mortgage, in con-

consideration of the premises, and of one dollar to them in hand paid by the parties to the second part, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and for other good and valuable considerations have covenanted, granted and agreed, and do hereby covenant, grant and agree, with said parties of the second part, as Trustees under the above mentioned mortgage and deed of trust, of July first, eighteen hundred and sixty-six, made to the parties of the first part by the Union Pacific Railway Company, Eastern Division, of the land or in respect of all and singular, the railroad and appurtenances, rights and privileges, properties, rights, interests and franchises, mentioned in or covered by the said mortgage or deed of trust of July first, eighteen hundred and sixty-six, that they are hereby subordinated and made subsequent and subject to the lien and claim thereon of the said mortgage or deed of trust of even date herewith made to the Kansas Pacific Railway Company, to the parties of the second part as Trustees as aforesaid, and to the rights, liens and claims thereon, of the persons who shall become holders of the said bonds, within the amount of six million five hundred thousand dollars, issued thereunder, and that the said mortgage or deed of trust to the parties of the first part, of even date herewith, and the said bonds, within the amount of six million five hundred thousand dollars, issued thereunder, shall have preference and priority of lien over the said mortgage of July first, eighteen hundred and sixty-six, and over the lien of said Income Bondholders, upon all that is covered thereby, as fully and completely as if it had been actually and regularly made and recorded, and the said bonds for six million five hundred thousand dollars, issued hereunder, before the making of said mortgage or deed of trust of July first, eighteen hundred and sixty-six, saying and excepting, nevertheless, the rights, if any, of the holders of said outstanding Income Bonds, or either, the amount of two hundred and forty-one thousand dollars who have not expressly assented to such subordination.

In witness whereof, the said parties of the first part have hereunto set their hands and seals, the day and year first above written.

CARLOS S. GREELY [SEAL]
ADOLPHUS MEIER [SEAL]

THE STATE OF MISSOURI, }
City and County of St. Louis, } ss:

On this twentieth day of June, A. D. one thousand eight hundred and eighty-two, before me, the undersigned, T. F. Oakes, Commissioner, resident in the City of St. Louis, duly commissioned and qualified under the laws of the State of Kansas to take acknowledgments of deeds and other instruments, personally came CARLOS S. GREELY and ADOLPHUS MEIER, personally known to me to be the same persons who executed the foregoing instrument, and acknowledged the execution of the same.

[SEAL]

T. F. OAKES
Commissioner of Deeds

EXHIBIT No. 5.

The lien securing this bond has been, and by the consent of the Union Pacific Railway Company, dated June, 1882, executed to the Kansas Pacific Railway Company, to provide for extending the road to Denver, and the lien on such \$6,500,000 is made chargeable against net earnings before the payment of interest on this bond.

The WITNESS. The Denver extension mortgage will be found on page 92 of the book I have referred to.

Q. What is the amount of the Denver extension mortgage? — million five hundred thousand dollars.

By the CHAIRMAN:

Q. From the one hundredth meridian to Denver — the one hundredth meridian to Denver, and upon the land grant to the entire road, it being a first mortgage from the Union Pacific Railway Company to Denver on the land grant; and a first mortgage on the land grant, unstamped, unsubordinated income bonds as to the Union Pacific Railway Company.

KANSAS PACIFIC FIRST LAND-GRANT MORTGAGE

The next mortgages in point of time are the mortgages of the Kansas Pacific Railway Company.

O P R

grant mortgage was July, 1, 1870, to Adolphus Meier, of Saint Louis, and John A. Stewart, of New York. It was purely a land-grant mortgage, covering 2,000,000 of acres of land, from the beginning of the road at Kansas City to the three hundred and eightieth mile-post.

Q. Two millions?—A. About 2,000,000 acres of land.

By Commissioner ANDERSON:

Q. To the three hundred and eightieth mile-post?—A. Yes, sir.

Q. Leaving a gap of 14 miles between that and the other mortgage?

THE SECOND LAND-GRANT MORTGAGE.

A. Yes, sir. The next mortgage was the second land-grant mortgage.

By the CHAIRMAN:

Q. What was the amount of this land-grant mortgage?—A. I thought I had stated it.

Commissioner LITTLER. The mortgage is \$2,240,000?

The WITNESS. No, it is either \$1,000,000 or \$1,500,000.

By Commissioner LITTLER:

Q. What is the date of the mortgage you are now commenting on?—

A. July, 1, 1870.

Commissioner LITTLER. That is \$1,623,250.

The WITNESS. I think you are in error.

Commissioner ANDERSON. He is reading from the reports.

The WITNESS. That had accrued interest on it. The whole issue was \$2,000,000. The second land-grant mortgage, dated August 23, 1871, to Adolphus Meier and Charles Euslin, trustees. The whole issue was \$1,500,000. It covered the same property as the first land-grant mortgage.

A TEMPORARY MORTGAGE.

The next mortgage, in point of time, was a small one, made the 7th day of January, 1874, which covered the gap between the three hundred and eightieth and the three hundred and ninety-fourth mile-posts, and certain lands of the Delaware, Osage, and Pottawatomie Indians, if I recollect the name right, which had been acquired by the extinction of the Indian title. It was given to secure moneys which were paid by some of the directors for taxes upon the road, and the mortgage was subsequently canceled. It was really a temporary expedient.

By the CHAIRMAN:

Q. What is the amount of it?—A. One hundred thousand dollars.

FUNDING MORTGAGE.

The next mortgage, in point of time, was one called the funding mortgage. The bonds and mortgage were executed on the 2d day of October, 1876.

By Commissioner ANDERSON:

Q. Have you given us a reference to the land-grant mortgages; as to the pages of that book?—A. The land-grant mortgages I have mentioned are in a compilation—I am quite sure I have no other copy—of mortgages, reports, &c., of the Kansas Pacific Railway Company, with my name printed at the foot, which I have no objection to leaving with the Commission. I have not a copy of that funding mortgage

with me, but it played an important part in the history of the Kansas Pacific reorganization, about which, I dare say, the Commission will examine me later.

By the CHAIRMAN:

Q. What is the total of it? Give the date, amount, and what it covers, so that we can understand the testimony.—A. The resolutions authorizing the funding mortgage were adopted the 10th day of September, 1876. The mortgage and the bonds bear date, I am quite sure, October 2, 1876. The aggregate issue was a \$1,500,000. The rate of interest was 10 per cent. It was a general blanket mortgage, but what made it of the highest importance was that a schedule of securities was placed in the hands of the trustees of the mortgage and the securities were mentioned in the schedule, the chief among which was the controlling interest of the Denver Pacific stock.

THE DENVER PACIFIC RAILWAY AND TELEGRAPH COMPANY.

By Commissioner ANDERSON:

Q. Please explain to us, right there, what the Denver Pacific road, as it then existed, was, and why it was important to the Kansas Pacific.—A. The Denver Pacific Railway and Telegraph Company was a Colorado Territorial corporation. The Kansas Pacific board of directors and those most deeply interested—the road having been authorized to be built to Denver—undertook to foster and aid the construction of the Denver Pacific road from Denver to Cheyenne; and an act of Congress of March 3, 1869, was passed—it is only a page long, the title of it being, "To authorize the transfer of the lands granted to the Kansas Pacific Railway Company, Eastern Division" (the old name of the Kansas Pacific), "between Denver and the point of its connection with the Union Pacific Railway, to the Denver Pacific Railway and Telegraph Company, and to expedite the completion of the railroads to Denver, in the Territory of Colorado."

Q. Was that act passed before the Denver Pacific had reached Cheyenne?—A. Yes, sir. The second section of it is highly important.

Q. Was there any bond subsidy to the Denver Pacific?—A. No bond subsidy to any part of the road beyond the three hundred and ninety-fourth mile-post.

DENVER PACIFIC LAND GRANT.

By Commissioner LITTLER:

Q. Was there any land subsidy?—A. Yes, sir. By this very act the Kansas Pacific, to call it by its true name, was authorized to convey to the Denver Pacific all its rights to the lands, and the Denver Pacific was built by a mortgage on its road, earnings, and the land grant.

By the CHAIRMAN:

Q. From Denver to Cheyenne?—A. Yes, sir.

Q. There was no land grant from Denver to the three hundred and ninetieth mile-post?—A. Yes, sir. There was a land grant over the entire road. The subsidy was solely from Kansas City to the three hundred and ninetieth mile-post. That is, there was no subsidy on the Leavenworth Branch, there was no subsidy west of the three hundred and ninety-fourth mile-post, and there was no subsidy between Denver and Cheyenne.

VALUE OF DENVER PACIFIC STOCK TO KANSAS PACIFIC COMPANY.

By Commissioner ANDERSON:

Q. You were explaining why the stock of this Denver Pacific road, which was included in this funding mortgage, was of great significance to the Kansas Pacific. Please complete that explanation.—A. A large proportion of the Denver extension bonds and the Denver Pacific bonds were sold abroad, chiefly at Amsterdam and Frankfort, and were there held. The Kansas Pacific Company, through its contracts as to the building of the Denver Pacific, became the owner of within three or four shares of 30,000 shares of the capital stock of the Denver Pacific. Beginning at that time, immediately after the opening of the road through to Cheyenne—

Q. About what year?—A. About the year 1871 or 1872—the Kansas Pacific Company was having a very bitter quarrel with the Union Pacific to enforce its rights on the subject of prorating passengers and freight for all business going on to the Union Pacific Railroad at Cheyenne from the Kansas Pacific and the Denver Pacific, or business going the reverse direction from the Union Pacific at Cheyenne the other way. It was the ownership of the stock of the Denver Pacific that was supposed to control that link, and it was believed by the Kansas Pacific parties that if the Denver Pacific stock, which really had no intrinsic value at that time, should go out of the hands of the Kansas Pacific interest into the Union Pacific interest, we never could enforce the rights which we claimed Congress had given to us. In the fifteenth section, I think it is, of the act of 1864 will be found what gave to each of the systems of the Union Pacific the right which is now very generally covered by the interstate commerce act. In other words, that is the earliest historical scheme of the rights reserved now to the public by the interstate commerce act—equal rights for all connecting railroads of the Union Pacific system with the Union Pacific Railroad proper.

WAR OF RATES BETWEEN KANSAS PACIFIC AND UNION PACIFIC.

Q. On that subject I understand there was bitter dissension in the years 1872, 1873, and 1874, between the Kansas Pacific people and the Union Pacific people, in regard to the rates to apply to freight and passengers to and fro through Cheyenne.—A. Yes, sir. So much so, that there was passed by Congress a highly punitive act, leveled against the Union Pacific Railroad Company and its officers, fining and imprisoning any one of them who should violate the provisions of section 15 of the act of 1864.

Q. Give us a reference to the act which you now mention, or you can supply it later if it is more desirable.—A. It is the act approved June 20, 1874.

Q. Go on in regard to the importance of the Denver Pacific.—A. In 1873 the Kansas Pacific defaulted upon its interest obligations. Its then president went to Amsterdam and Frankfort, called meetings of the bondholders of the various classes of bonds—land grants, first and second mortgages of the earliest issue, and of the Denver Extension mortgage—and laid before them the situation, showed them the great difficulty that they were laboring under in regard to doing business over the Union Pacific, and explained to them the absolute necessity of taking care of their obligations on the Denver Pacific, and assuring to them the retention of the control by the Kansas Pacific of the Denver Pacific.

"BABY BONDS."

It resulted in the funding agreement, by which the holders of these various securities submitted to surrendering two coupons of \$30 each, and half of the five next maturing coupons—the two whole coupons, and a half of the next five—into the principal of a coupon-bond certificate; that is, the little coupon-bond certificate, commonly called Baby bonds, themselves bearing interest. As part of that negotiation it was agreed that this Denver Pacific stock should be held sacred, and that if default was made upon the Baby bonds, the company would surrender the management of the road to two receivers, one of whom should represent the bondholders and the other should represent the junior securities—the railroad directors' party. Just before, in 1876, in anticipation of it, the funding mortgage was made, and this stock was put into that trust in the hands of two of the directors, the mortgage being made to secure the floating-debt obligations which were held by the directors, and the mortgage also covered by the land notes (and these trustees received them) for the proceeds of sale of the land on time of all the land grant of the company.

Q. Did the funding mortgage also secure the certificates for funded coupons?—**A.** Oh, no; the funding mortgage bonds were issued to the floating debt holders, who were directors, and their associates; and the funding mortgage put in jeopardy the control of the Denver stock, which had always been represented and was always believed to be vital to the first mortgage security holders, so that they were stripped of their best security by the funding mortgage, which was made within thirty days of the default under their funding agreement.

By Commissioner LITTLE:

Q. Was the form of that Denver stock changed in any way by this funding mortgage, or was it continued as stock?—**A.** The certificates were simply transferred to the trustees.

By Commissioner ANDERSON:

Q. The stock, as I understand it, at this time belonged to the Kansas Pacific and was delivered by them to the trustees of the funding mortgage, and was enumerated in the schedule as a part of the security to be held by the trustees for the holders of bonds issued under the funding mortgage?—**A.** Yes, sir; I wish also to say that the terms of the funding mortgage were the most arbitrary and caustic that I think I have ever seen in a mortgage. The interest was at 10 per cent., and it permitted, without notice, a sale by the trustees, acting even by an attorney in fact, at public or private sale, to anybody.

By Commissioner LITTLE:

Q. Without a foreclosure?—**A.** Yes, sir.

By Commissioner ANDERSON:

Q. You say you have not a copy of that instrument with you?—**A.** I thought I had, but I do not discover it yet.

By the CHAIRMAN:

Q. The funding mortgage is the mortgage referred to by you over the whole road as \$1,500,000?—**A.** Yes, sir.

TOTAL AMOUNT OF KANSAS PACIFIC LIENS.

Q. Then you have enumerated in mortgages and bonds and the Government loan, up to that time, \$28,588,000?—**A.** That is about right; and there was an addition of the Baby bonds.

Q. What do they amount to?—A. I am unable to say, because they were the overdue interest; two principal coupons and half of the five next coupons put into a principal sum. They ultimately amounted to a great deal of money.

By Commissioner ANDERSON:

Q. How were they secured? Was there a funding contract?—A. The original coupons, the two cut off and the five next coupons, were deposited with the Bank of Commerce under an agreement, reserving the rights, so that a foreclosure could take place on the several mortgage. In other words, those coupons that were cut off were held in abeyance. They were not paid. They were obligations, which, if the funding agreement failed, would be in default, so that a foreclosure might be prosecuted.

By the CHAIRMAN:

Q. Will you furnish us with the amount of the "Baby" bonds?—A. It was a variable quantity. At that particular date I could, perhaps, have done so.

Commissioner LITTLER. The amount would be easily ascertained if we knew the number of bonds from which these coupons were taken.

The WITNESS. The answer to that is there had not everybody come in. Only a large proportion of the principal of each of these issues of bonds united in it.

By Commissioner LITTLER:

Q. What became of the outstanding ones that did not come in?—A. They held their peace. We afterwards paid them all off.

By the CHAIRMAN:

Q. Up to this period you have nearly \$30,000,000 on this road from Kansas City down to Cheyenne?—A. The document in my hands shows that the holders of \$15,609,000 in par value assented to that funding agreement. But then they continued to come in after that, and they were a variable quantity.

Q. I just wanted the amount up to that date. You say it is about \$30,000,000?—A. I think I have explained the question in regard to the funding mortgage. That is why it was considered that the Denver stock was so important.

HISTORY OF KANSAS PACIFIC.

By Commissioner ANDERSON:

Q. Going back to the construction of the road, describe its operation to us to the time it was completed through the Territory, and its early financial history.—A. I am unable to speak of the actual details of construction; it was before my knowledge of it, and was not a matter of record of such a character that I can speak by the book.

Q. When was it completed, substantially, from Kansas City to Denver?—A. I think it was early in 1871.

Q. And operations were commenced?—A. Yes, sir.

Q. Was it able to do a large share of business immediately, or was it hampered by the Union Pacific?—A. It was solely to Denver, but we had a large business to Denver. If my recollection serves me, the Colorado Central was not then completed, and the Kansas Pacific had its own way to Denver; but from Cheyenne, east or west, the traffic going to Cheyenne and desiring to go on its way, was blockaded.

Q. Then, as I understand it, the relations that determined this question of through freight, and the general relations at the time between the Kansas Pacific direction and the Union Pacific direction were hostile?—A. Entirely so.

Q. Do you know who then was president of the Union Pacific?—A. Dney Dillon.

Q. Do you know who was the president of the Kansas Pacific?—A. Robert E. Carr, I am quite sure, although during his absence there was temporary president. Adolphus Meier or Robert E. Carr, I am sure, as acting at that time.

Q. Who were the directors actively connected with the Kansas Pacific at that time?—A. Robert E. Carr, Charles S. Greely, Adolphus Meier, John D. Perry. That reminds me that it may be that John D. Perry was, during a part of that period, president.

Q. He succeeded Mr. Carr, did he not, as president?—A. I think Perry was twice president, with an interval in which Carr was president; but Carr was president in 1876 and 1875. The others were Stephen M. Edgell, T. W. Meister and Benjamin W. Lewis, jr., all of whom were Saint Louis gentlemen. Cyrus W. Burnham was also one, I believe.

DEFAULT ON FIRST MORTGAGE.

Q. You have stated that the company made default in the payment of the interest of its first mortgage bonds. About when did that occur?—A. In the spring or fall of 1873, possibly in 1872. The two coupons, the principals of which were funded, were November 1, 1873, and May 1, 1874, or the nearest dates thereto; the coupon dates of the various mortgages being the first day of almost every month in the year.

Q. This road subsequently went into the hands of a receiver?—A. Yes, sir.

Q. Can you give me the date of the receivership?—A. The bill to reclose the Denver extension mortgage was filed on the 3d day of November, 1876?

By Commissioner LITTLE :

Q. In what court?—A. In the district court for Shawnee County, Kansas, the third judicial district court of that State; and the receivers were appointed on the same date.

By Commissioner ANDERSON :

Q. Did the Kansas Pacific resume payment of any of its interest between the period of its default and the appointment of a receiver?—A. No, sir.

Q. It was in default all that time?—A. Yes, sir.

DENVER PACIFIC MORTGAGE.

Q. I do not think you have stated whether there was a mortgage on the Denver Pacific?—A. There was.

Q. Have you given us that mortgage?—A. My recollection is it was \$2,000 or \$25,000 per mile. A 7 per cent. mortgage. I can confirm it, but I think I have no copy of it with me.

Q. The distance is 106 miles?—A. Yes, sir.

Q. We would like to have a reference to that mortgage so as to have the whole subject before us. Would it be in these reports?—A. Oh,

Q. You will not find it in the Kansas Pacific. Will you let me see the report of 1885 of the Union Pacific?

Q. Are there some of them still outstanding?—A. There is one, but I guess it is a solitary flower.

Q. The last rose of summer?—A. I think so. Left blooming alone. I want the Kansas Pacific trust to look at. I can furnish you with that, but I cannot do it at this moment conveniently.

Q. The exact amount is not necessary. You can supply it the next time. It is about \$22,000 to \$25,000 a mile on 106 miles?—A. Yes, sir.

DENVER PACIFIC LAND-GRANT MORTGAGE.

Q. Was there on the Denver Pacific a mortgage on its land grant?—A. Yes, sir; that covered the land grant. It was the only bonded indebtedness that road had.

Q. So that the whole system represented generally a first mortgage of \$16,000 between Kansas City and Denver and the Government mortgage of \$16,000 on 394 miles?—A. The first mortgage and the Government mortgage were coterminous and equal in all respects. It extended only to the 394th mile post.

Q. What was the mortgage between the 394th mile post and Denver—\$25,000, after the Government subsidy ended?—A. Omitting from the consideration the unsubordinated income mortgage, the first mortgage upon that part of the road was the Denver extension mortgage.

Q. Then there was the income mortgage, the two land-grant mortgages and the funding mortgage, all on the Kansas Pacific, and on the Denver Pacific a single mortgage of about \$25,000 a mile, and its stock?—A. Yes, sir. The mortgage of the Denver Pacific will be found at page 180 of the book of indentures I have referred to. The whole issue of that mortgage was \$2,500,000.

RECEIVERSHIP OF KANSAS PACIFIC.

Q. Was the appointment of the receiver applicable to the Denver Pacific, or only to the Kansas Pacific?—A. It is only to the Kansas Pacific. But the Denver Pacific was then being operated under the contract with the Kansas Pacific; so that the receivership extended, to that extent, over the Denver Pacific.

Q. At the time of the appointment of the receiver can you give us, approximately, the total incumbrances of the Kansas Pacific and of the Denver Pacific, and the total stock of the Kansas Pacific and the Denver Pacific?—A. I have stated them heretofore in the examination.

Q. We want them in one group, if you will give them to us, so that we will not have to carry it in our minds.—A. I will not be able to do so without computation. Six million three hundred and eighty thousand dollars was the actual amount that was issued under the Denver extension mortgage. The difference between \$6,380,000 and the total issue was reserved to take up, I think, the income bonds, with the reservation, &c., so that the actual issue was \$6,380,000.

Q. So that, generally speaking, the actual amount named in these mortgages cannot be assumed as representing the correct indebtedness of the company, without examining to see what bonds may be reserved for retiring underlying liens. Is that not so?—A. Yes, sir; but not to any very general extent. I think the report of the Kansas Pacific, at page 34, for the year ending December 31, 1877, correctly states it.

Q. That is substantially as it stood when the receiver was appointed in 1876?—A. That is substantially the same, except as to the interest which accrued, which is stated in the second schedule on that page, between 1876 and 1877.

TOTAL INCUMBRANCES OF KANSAS PACIFIC.

Q. Please give us the totals, so that we may have them before the Commission, as taken from that report.—A. The total amount of outstanding bonded indebtedness of the Kansas Pacific, on December 31, 1877, as stated in the report, is \$22,181,600; and interest on bonded debt, due and unpaid, upon the various mortgages referred to in the total amount outstanding mentioned above is stated at \$4,585,759.85.

Q. What was the total stock of the Kansas Pacific?

The CHAIRMAN. And the floating debt, if you had any?

Commissioner ANDERSON. We will get that separately. The floating debt floated away.

A. I cannot, with any accuracy, state the floating debt at that time.

Q. About \$14,000,000, was it not?—A. I think not. I am quite confident the stock was \$10,000,000.

The CHAIRMAN. That covered the whole road from Kansas City to Cheyenne, on the main line?

Commissioner LITTLE. No.

The WITNESS. From Kansas City to Denver.

Q. Ten million dollars?—A. Let me get that right; I do not want to state it erroneously.

Q. Was there any stock from Denver up to Cheyenne on that branch?—A. That was Denver Pacific stock.

Q. What is the amount of that?

Commissioner ANDERSON. A few shares less than thirty thousand shares, I think you stated.

A. That is the amount which the Kansas Pacific held. It was about \$4,000,000 of stock.

Q. Four million dollars on that short road?—A. Yes, sir. In addition to these mortgages there were the Government bonds on the 394 miles at \$16,000 a mile, amounting to \$6,304,000.

By Commissioner ANDERSON:

Q. Do not the articles of consolidation recite the number of shares?—A. Yes, sir; it is \$10,000,000, divided into shares of \$50 each; two hundred thousand shares, at \$50 a share.

Q. You say the capital stock of the Denver Pacific was about \$4,000,000?—A. Just \$4,000,000.

Q. It was shortly after the appointment of the receiver that you became personally counsel to the Kansas Pacific, as I understand, and went out West and took a part in the proceedings?—A. Yes, sir.

Q. Please state what became of the suit in Shawnee County.—A. It was removed to the circuit court of the United States for the district of Kansas.

Q. What were the subsequent operations of the road under the receivership, in regard more especially to its relations with the Union Pacific? Did the contest as to the discrimination continue?—A. Yes, sir. The receivers, directors, and those most interested in the company and its securities continued the quarrel and contest in Washington, to enforce the alleged rights of the Kansas Pacific to prorate.

By Commissioner LITTLE:

Q. Who were the receivers?—A. Henry Villard, representing the foreign bondholders and first-mortgage bondholders here, and Carlos S. Greeley, representing the Saint Louis party and the junior security holders, and the directors of the company.

KANSAS PACIFIC AND UNION PACIFIC CONTROVERSIES IN COURTS
AND CONGRESS.

By Commissioner ANDERSON:

Q. You say this controversy was carried to the halls of Congress, in Washington?—A. Yes, sir; and in the courts at Omaha, and elsewhere.

Q. Who were the prominent persons engaged on both sides in that controversy?—A. It was all done in the name of the companies. A company against a company, aided by the parties in interest, and the bondholders, including the people who owned the Denver Pacific bonds. They were also represented by counsel. They were foreign bondholders.

Q. What were the prominent names that were arrayed against each other in their determination to prevent the prorating at Cheyenne, on one side, and the determination to procure it on the other?—A. The Union Pacific directors at that time, and their allies and associates, who were largely interested as stockholders and bondholders, and, on the other side, the Kansas Pacific directors, and the bondholders and security holders of that road.

Q. At that time, in 1876 and 1877, or 1876 alone, we will say, were there any persons who had a common interest in the two roads?—A. To some extent. The two companies had interests in common before Congress in some regards, particularly in relation to the Thurman funding bill, and also in regard to their claims before the Departments and against the Government for Government transportation and mail services. Wherever the acts of Congress affected the companies alike they were glad to aid and did aid one another.

Q. I refer to another matter: Were there any prominent stockholders of the Kansas Pacific in 1876 who were also large stockholders in the Union Pacific?—A. Not in 1876.

Q. Were there any persons in 1876 who held common offices in both companies?—A. No, sir.

Q. So that in that year the directorship in each company was entirely distinct from the other?—A. Entirely.

Q. And their relations were hostile?—A. Yes, sir.

Q. Except in such matters as you have alluded to?—A. Yes, sir.

MARKET VALUE OF KANSAS PACIFIC AND DENVER PACIFIC SECURITIES.

Q. Can you tell us about the market value of these various securities in 1876 and 1877, without undertaking to be precise?—A. Beginning in 1873, and from that time until the end of 1876, the market value of all the securities I have mentioned was extremely low. The Kansas Pacific stock was \$2 or \$3 a share, practically valueless; so regarded. The land-grant bonds, seconds, were purchasable at one time within that period at about 10 cents on the dollar, with all the interest connected with them. The Denver Extension bonds were worth about 40, practically, at that period, and ranged from 50 to 70 between 1876 and the early part of 1878. The first mortgage bonds of the railroad company, although they were prior to the lien of the Government, were selling considerably below par. The company's credit was bankrupt.

By Commissioner LITTLER:

Q. Were all these securities listed on the Stock Exchange here?—A. Many of them were; most of them were.

By Commissioner ANDERSON :

Q. Was the Denver stock salable during these years at all?—A. Oh, no; the only purchaser in the world for it was the Union Pacific party. Several efforts were made to obtain the ownership and control of that, and various attempts were made in the courts to disunite the Kansas Pacific from the Denver Pacific.

Q. How early were those efforts made?—A. The funding mortgage was one of the first efforts in that direction, some of the floating debt of the road being held by some of the people in the interest of the Union Pacific, who had advanced moneys or credits.

Q. The funding mortgage was in 1874, was it not?—A. Eighteen hundred and seventy-six.

Q. Just before the receiver was appointed?—A. Yes, sir. It is quite possible that in the year 1875 or 1876 there were one or two Union Pacific directors in the Kansas Pacific, but it was a mere act of courtesy. There were no actual interests. I do not remember; may be it was in 1877.

IMPROVEMENT IN BUSINESS AFTER 1877.

Q. Did any improvement in the character of the company and the business of this corporation take place; and, if so, when?—A. Beginning about the first of the year 1877, a marked and decided increase began, which at first was gradual. The limit of the fertility of the soil of the Kansas Pacific in 1876 and 1877 was considered to be but a comparatively short distance west of Kansas City. The company had previously, and the receivers followed suit, aided in giving away seed to people who endeavored to make the experiment of grazing cattle, and the receivers helped and joined with some others there in breaking up a lot of land to see whether they could, by breaking it up and by sowing it, produce a change, and by the time 1878 came along the moving line had gone west 100 miles. To-day that part of Kansas is the garden field for grain and wheat, which was in 1877 and 1878 regarded as utterly valueless except for grazing purposes, and mighty poor for that. So that now clear into Colorado the fertility of the soil is developed, and it is of great value. With this development came immigration, and with the immigration came the purchases of lands, and the activity and prosperity of Denver began. In 1878 we began to see daylight out of what was formerly an almost inextricable confusion of mortgages, debts, and bad credit.

RAPID DEVELOPEMENT OF AGRICULTURE.

Q. How rapid was this development of the lands and the act of reclaiming them?—A. It would seem that it was almost step by step. That is, you would rarely find 50 miles of interval of prairie. Taking it at Salina, for example, as the last place on the road where they raised any wheat, some would buy lands within a mile or two and break it up, and immediately it was found to be fertile. The theory of the time was, that during the vast number of years while this was a prairie country, the prairie fires and the buffalo grass together had resulted in forming a surface varying from 6 to 9 inches deep that was impervious to the rain; and the rain fall was very small. But as they turned this up and the surface rotted it was a natural manure, and as the growth of immigration and the use of the soil continued westward the rainfall increased. I believe the theory has now been established by the result that *rainfall in Kansas has increased tremendously. It was also the*

theory of some that the unbroken silence of the prairies prevented the storm clouds from coming, and that the very building of the roads and the running of trains broke the silence of the atmosphere and created currents which produced rain. But, at all events, whatever the theory was, the result was demonstrated that the country, instead of being a desert, became a garden.

Q. Then, as I understand it, the area of fertility and the population of this district increased in 1877 and 1878, moving gradually westward. What effect did that have upon the earnings of the road, as you remember them?—A. It affected them very favorably; and at the same time the cattle business of Texas and New Mexico began to affect the road as well very materially. We had very long hauls on cattle, and there began the struggle. The building of the Atchison, Topeka and Santa Fé helped us very much. The Denver and Rio Grande began bringing in new business in that direction, and there was a tide of immigration and prosperity which was tremendous in comparison with the dreadful depression which prevailed as to freight and traffic and passenger and agricultural and stock interests between 1872 and 1876.

BRANCH LINES OF KANSAS PACIFIC.

Q. Up to this point, what branches, if any, connected with the Kansas Pacific, had been constructed, and how were they built; how did they come to be built?—A. One of the earliest branches was the Junction City and Fort Kearney, if I remember right. That branch, together with the Arkansas Valley, and, indeed, all the branches of the Kansas Pacific, as they existed in the years 1878 and 1879, were the result of a combination of circumstances whereby the road was either persuaded or compelled, in self-defense, to aid in the building of the branches. For example, I remember that the receivers were urged and persuaded and coaxed to aid, so far as they could, in building one of the branches which ran up through Concordia. The tide of immigration set in there. It was about 80 or 90 miles from the Kansas Pacific; if we did not get there somebody else would. If we did not provide the territory there with transportation, in and out, roads from the Missouri River east would do so. And much of such influences were being brought to bear in other directions for the rest of the branches. The community itself would start a little road. The habit was then firmly fixed upon Kansas of granting aid in county and town bonds; and I remember as to the branch to which I referred—I have forgotten the name for the moment—that I was persuaded to unite in an effort to obtain from the court the privilege of using some old iron which we were taking up and some disused ties (short ties, culls, material that was of little or no value to us) for the building of this branch. I went up through the country and looked it over with a party of gentlemen interested in it, and the receiver got authority from the court, and got back the bonds of the little branch road, and also the bonds granted by the counties as county aid. That was true of the Solomon Valley road. That was true of the Junction City and Fort Kearney, and the Salina and Southwestern. The Arkansas Valley was on a little different basis; that was built by some Saint Louis people, and we found it there. It was much ahead of its time, and finally it became a valueless road.

SEPARATE ORGANIZATIONS FOR BRANCHES.

Q. Do I understand all these branches had separate organizations of their own?—A. Yes, sir.

Q. And their own system of bonds and stock?—A. Yes, sir; and in some instances they were represented by prominent people in the district, partly through courtesy and partly because of their aid in obtaining the assistance from the counties and towns, and also for the reason that it was of necessity, under the laws of Kansas, that a certain number of the directors of the roads should be citizens of that State.

By the CHAIRMAN:

Q. They were all built on the aided branches of the Kansas Pacific to the 394th mile post.

The WITNESS. Was that true of the Arkansas Valley?

The CHAIRMAN. I am asking you.

A. I think with the exception of the Arkansas Valley that was true, because that was where the development of the road was. The fact of its being aided had nothing to do with it.

Q. Except on the question of merging, you might have considerable to do with it in your settlements with your branch road?—A. I mean that did not enter into consideration at the time.

By Commissioner ANDERSON:

Q. The considerations were the demands of the residents and the immediate necessity of the territory?—A. Yes, sir; and the danger of having our territory invaded by companies which might begin feebly, as the Atchison company, for example. The Atchison road could have been throttled for \$40,000. It was a little weak road that ran down there, which developed and increased—and got credit, and capital, and interest with the people—into being a greater road than the Kansas Pacific in a very short period of years, and it was seriously contemplated at the time of buying them out and controlling them, to prevent the interruption of what we regarded as our business in that territory.

Q. As a matter of fact, all of these branches are on the eastern division of your road?—A. Yes, sir.

Q. And you say that was because that portion was first developed?—A. Yes; because that was where the demand was.

Q. Do I understand that the business of that end of the road was more active than that of the other end?—A. Oh! very much. It was practically a barren desert, with not a field of wheat or anything else west of the 394th mile post right up to the city of Denver itself. The only business of the western end was through Denver—Colorado business—and a little local cattle business.

Q. Can you enumerate these branch roads and state the amount of their bonds and stock?—A. No; I am unable to do so.

Q. Can you refer us to any source from which we can get that information?—A. Undoubtedly; the Union Pacific office, or Mr. James M. Ham, of this city, can do so; I knew at the time, but it was not within my province.

HISTORY OF KANSAS PACIFIC PRIOR TO CONSOLIDATION.

Q. Under the subsequent history of this road I understand that all these bonds and stocks went over to the Union Pacific through the consolidation with the Kansas Pacific.—A. Yes, sir, and a number of others which have been referred to, and which are not properly branches of the Kansas Pacific. There is another gentleman here, Mr. Amos H. Calef, that I will refer you to for information. He was for many years connected with the Kansas Pacific road up to the time of the consolidation.

Q. At the period of which you are now speaking, did you represent or were you in communication with a number of the holders of the various classes of securities that affected the Kansas Pacific and the Denver Pacific?—A. Beginning in the early part of the year 1878 I became so connected, and during the early period I was in constant connection with the bondholders and security holders of all kinds of the Kansas Pacific through my relationship with the committee of nine who were conducting the foreclosure and through my relationship with the receiver.

Q. The committee of nine represented whom?—A. The Denver extension-mortgage bondholders.

Q. Who was the chairman of that committee?—A. Louis H. Meier.

Q. What other interests were represented by committees or by prominent representative holders at that time; I mean, of the other securities?—A. We had no trouble from the mortgages which were the prior ones; which were like the statutory lien. They were all regarded as safe, and would take care of themselves. The representatives of the income bondholders were the source of very much concern. They occasioned many litigations.

Q. Who were they?—A. The Saint Louis people, as a rule, were the principal holders of them; and the holders of the funding mortgage bonds caused us a great deal of trouble. There was a great deal of litigation about that.

Q. The same Saint Louis people?—A. These same Saint Louis people; so much so, that we paid the interest on the funding mortgage bonds once, I am not sure but twice, by the direction of the circuit court, although they were junior to everybody else, in order to prevent the consummation of the cut-throat provision in that mortgage in relation to the Denver Pacific stock.

Q. Then there were, as I understand, constant litigations and dissensions between the representatives of these different securities?—A. Yes, sir; one may say so, and with the representatives of the Union Pacific. There were litigations at Denver, Colorado.

Q. Please describe how those dissensions developed, whether they ultimately culminated into an arrangement for pooling all these different interests?—A. Yes, sir; with the advance of the securities and the increase of public confidence in the road, and particularly in the change of heart that took place in the Union Pacific directory, who were animated, as I suppose, by two reasons: One, the apprehension that we would succeed in Congress and in the courts ultimately.

EFFORTS TO ENFORCE THE UNION PACIFIC TO PRORATE.

Q. Succeed in forcing them to prorate?—A. Yes, sir; and the other influence was their belief that the property would very soon, by the development of the country and by the sales of land and increased business, become so valuable that the securities were a wise thing to purchase, and perhaps also in the latter part of the period by the influence of their desire to form an affiliation and close connection with the Kansas Pacific, and unite the two interests, so that they could protect their own territory from the incursion of other railroad enterprises. It finally resulted in interesting the various security holders of all classes. One gentleman might perhaps own four different classes of securities, another gentleman would own two, another gentleman, who was an intimate friend and associate of the two I have spoken of, would own all one class—all stock or all income bonds, or all funding mortgage bonds—

But the appreciation going on and this change of view continuing, and the values of these securities increasing, finally brought them together upon a plan and theory that they should arrange a schedule of values of these securities and agree what rate they should be taken at and bunch them all together, and use the entire accumulation of such deposited securities as a means to carry out what was then thought to be the only ultimate end, a foreclosure of the Denver extension mortgage, which would foreclose the income and stock, and the funding mortgage, and the Devereaux mortgage, and the land grant, and put the road upon a sound basis. That arrangement I know was formulated. It was put in writing, and it ultimately furnished the means by which the Union and Kansas Pacific parties were affiliated, and the foreclosure suit brought to a termination, and the ownership of a control of these junior securities and stocks placed in the hands of the Union Pacific parties, and the foreclosure suit brought to a successful termination in this, that all the prior mortgages, including the Denver extension mortgage, received their interest, and the indebtedness to that extent was cleaned up, the Denver extension mortgage making a concession of reducing its rate of interest from 7 to 6 per cent.

RATES FOR FUNDING THE SECURITIES.

Q. Please describe when this arrangement of preparing the schedule of rates at which these different securities were to be funded was reached?—A. It was in the spring of 1878, and the paper which was then signed was dated, I think, the 24th of April.

Q. By whom was that paper signed?—A. I have not the original. I do not know where it is, but I have a copy, which I prepared myself largely. Carlos S. Greeley, John D. Perry, John P. Usher, Adolphus Meier, B. W. Lewis, jr., D. M. Edgerton, S. M. Edgell, Henry Villard, Robert E. Carr, F. W. Meister, Artemas H. Holmes, Sidney Dillon, Jay Gould. The holdings which were then signed for were subsequently increased very considerably by the action of the parties and by the proper authority to bind the parties thereto. So that ultimately that combination represented the ownership of \$784,000 funding bonds, \$754,000 of the second land grant bonds, \$75,000 of the Leavenworth Branch bonds, \$67,000 of the unstamped income bonds, \$2,611,400 of the stamped income bonds, \$450,000 of the first mortgage bonds of the Arkansas Valley Railroad Company, and a very large amount of the stock of the Kansas Pacific. I should think it was three-fourths of the issue.

Q. You say you have a copy of the agreement that was made between those parties?—A. Yes, sir.

Q. Will you produce it for our inspection?—A. Yes, sir [producing the paper].

Q. Does the paper which you have handed us show the relative interests of each of the parties signing it?—A. At the inception; yes, sir.

Q. It is the schedule annexed, is it?—A. Yes sir.

Q. These were the respective amounts they had in each different security?—A. Yes, sir.

Q. Have you any paper to show the increased interest of these different parties?—A. No, sir; the original papers, I think, soon left my possession and went into the hands of the executive committee, and the papers I have shown you are copies which I have found in my office.

Q. After that agreement was made, how was the business of the pool managed?—A. By a seven-tenth interest of the depositors of the pool.

Q. Did they meet regularly?—A. No; there was no regularly announced meeting. The whole constitution is that which you have read.

Q. Did they select a chairman?—A. No, sir; it ultimately resulted in this, that all the assets to which that relates were put into the hands of Messrs. Dillon, Sage, and Villard, I think. I know at one time they were in my custody and then they were put into the custody of others. The ultimate result of that was that the Union Pacific party having bought out the Saint Louis interest—the Kansas Pacific interest—they were practically in an overwhelming majority in interest in that combination.

TRANSFER OF SAINT LOUIS INTEREST TO THE UNION PACIFIC.

Q. When did that transfer of interest from the Saint Louis people to the Union Pacific people take place?—A. I think it must have been in the latter part of 1878 or early in 1879, and my recollection is that it did not take place as an entirety; but, as Mr. John D. Perry came along, for example, and made an arrangement with somebody to buy up his interest—

Q. Do you know that?—A. I know Mr. John D. Perry did arrange and sell to Mr. Gould his representative interest—that is, his ownership and all his rights under it—for so much. I do not remember what, if I ever knew. Then Mr. Carr parted with his.

Q. To whom?—A. Either to Mr. Gould or to Mr. Dillon or to Mr. Ames or to Mr. Sage. To the Union Pacific interest, which were practically in common.

Q. Does Mr. Sage appear to have been one of the original subscribers?—A. I do not think he does. I think he subsequently became interested in it.

Q. Who were generally the parties who purchased the Saint Louis interest, so far as you remember their names?—A. I think, chiefly, Mr. Gould and, to some extent, my recollection is Mr. Ames and Mr. Dillon and Mr. Sage, and perhaps some other parties of the Union Pacific interest—active men like Mr. Atkins or Mr. Dexter—were interested in those purchases.

Q. When was that transaction completed by which the Saint Louis interest was bought out?—A. It was prior to June 1, 1879.

Q. What is the date of the consolidated mortgage of the Kansas Pacific?—A. May 1, 1879. It must have been prior to that date.

PREPARATION OF CONSOLIDATED MORTGAGE.

Q. Who prepared the consolidated mortgage?—A. It was originally drafted by Judge John T. Usher. It was submitted to me.

Q. What is Mr. Usher's residence?—A. Lawrence, Kans.

Q. He is still living?—A. He is still living. It was then submitted to me for my examination, suggestions, and criticisms.

Q. At the time that mortgage was prepared who was president of the Kansas Pacific?—A. Sidney Dillon had then become president within a short time; in the spring of 1879, and part of the transfer of interests of the Saint Louis people involved the vacating by them of their seats on the board of directors of the Kansas Pacific Company.

CHANGE IN THE DIRECTION.

Q. When did that vacation of the seats of the Kansas Pacific board of directors take place?—A. I think in the early part of 1879.

Q. Does that appear in full on the minutes of the proceedings of the board of directors?—A. I am unable to state,

Q. Were you a director yourself at that time?—A. I think for a short time I was a director.

Q. Were you present at the meeting when the resignations took effect?—A. I do not recollect the fact.

Q. Do you remember what directors retired from the Kansas Pacific?—A. I am quite sure Mr. Greeley and Mr. Edgerton did not. I do not recollect about the others.

Q. And who was the president that retired?—A. Robert E. Carr, if I recollect rightly.

Q. Who was the vice-president?—A. D. M. Edgerton.

Q. Do you know whether he retired or not?—A. I know that Mr. Edgerton continued with the company, and for a period of months was the active manager of the Kansas Pacific business under the title of "vice-president."

Q. And Mr. Dillon then succeeded Mr. Carr as president of the company?—A. Yes, sir. I do not speak with great positiveness as to Mr. Carr, because his health became poor at that time; and whether he continued as president down to the succession of Mr. Dillon or not, or whether there was an interregnum, I am unable to tell.

Q. Mr. Dillon assumed control as the representative of the Union Pacific interest, and succeeded to whomever was before him who represented before that time exclusively the Kansas Pacific interest?—A. Yes, sir.

Q. You say that this change in the direction and in the officers of the road was a part of the acquisition or the buying out of the Saint Louis interest by the Union Pacific interest?—A. That was the result.

Q. Was it, to your knowledge, contemplated by the parties at the time?—A. Oh, yes, sir; and all the mortgage bond interest of the Kansas Pacific regarded it as a great piece of good fortune, because they were satisfied that the two roads would be then run harmoniously instead of in the cat and dog fight manner that they had been.

Q. Was that agreement, that there should be such a change in the direction, in writing at the time?—A. I think not.

Q. Was it evidenced by letters?—A. I do not think so.

Q. You think that was simply a verbal statement, by the parties selling out the stock, that they would do so and so?—A. Yes, sir.

Q. Carried out how soon after they parted with their securities?—A. I think pretty shortly afterwards. I think it followed upon the acquisition of what was the controlling interest of the Saint Louis party.

Q. So that it was substantially a part of the same transaction?—A. Yes, sir.

Q. That they should sell their securities and give up their places?—A. Yes, sir.

Q. You say you examined the consolidated mortgage?—A. I did.

Q. Do you know by whose direction it was prepared?—A. Yes, sir.

Q. By whose direction?—A. By the direction of the executive committee of the Union Pacific Company who had at that time become, and were in effect, the executive committee of the Kansas Pacific.

Q. In what month was it prepared?—A. In April, perhaps beginning in the early part of March, 1879.

Q. Then it was a part of this same transaction that led to the change in the direction?—A. Yes, sir; it was in direct line of that part of this pooling agreement which looked to the unity of the management of the two roads in common.

Q. Will you refer us to the consolidated mortgage?—A. It will be found at page 149 of the compilation, frequently referred to, "Indentures of the Union Pacific Railway Company."

Q. At the time this mortgage was drawn, had the principal of the indebtedness of the Kansas Pacific, or of the Denver Pacific, been materially altered?—A. No, sir.

Q. Had the arrears of interest been to any great extent taken up?—A. Not at all.

ADVANCE IN MARKET VALUE OF KANSAS PACIFIC.

Q. Had the market price of the stock of the Kansas Pacific prior to, say, January 1, 1879, advanced materially?—A. I think it had.

Q. Do you remember about what figure?—A. I should say that it was in the neighborhood of between fifty and sixty, and perhaps a little higher; I do not undertake to be bound by my oath to such questions.

Q. We will get the figures quoted; had any change been made in the tenure of the Denver Pacific stock up to the first of January, 1879, or did that still remain in the hands of the trustees of the funding mortgage?—A. That remained there.

Q. Who were those trustees?—A. Burnham and Lewis. We had snowed under the funding mortgage by legal proceedings, which put it in such conditions that they could not act under it. I had filed a cross bill to their bill to foreclose, and got an injunction; and the litigation was very active and very hostile, beginning after the formation of this pool. But at that time the cardinal features of the proposed settlement with the bondholders as to their back interest had been agreed upon and arranged, and a mortgage was drawn in view of the performance of the terms of that agreement.

Q. The consolidated mortgage?—A. Yes, sir.

Q. Where do the trustees of the funding mortgage reside?—A. Saint Louis.

Q. Had they a representative in New York?—A. No, sir.

Q. The litigation you refer to was then pending in the West?—A. Yes, sir; in the circuit court of the United States for the district of Kansas.

SUITS AGAINST TRUSTEES TO RELEASE DENVER PACIFIC STOCK.

Q. How soon after the consolidated mortgage was made were you requested to institute an action against Jay Gould and Russell Sage, referring to this stock of the Denver Pacific?—A. In the month of January, 1880.

Q. By whom were you requested to bring that suit?—A. The Kansas Pacific Company.

Q. By whom, in person, were you requested to bring that suit?—A. Mr. Sidney Dillon.

Q. Did he come to your office, or send for you?—A. I was sent for.

Q. Where did you go?—A. To the offices of the company, or to Judge Dillon's offices, which were in the same building.

Q. In the Western Union building?—A. I do not recollect whether they had then moved to the Western Union building, or whether they were still at No. 80 Broadway.

By Commissioner LITTLE:

Q. In this city?—A. In this city.

By Commissioner ANDERSON:

Q. Who was present at the interview?—A. My first interview was with Sidney Dillon, and Judge Dillon as my superior officer.

know that at the time the funding mortgage bonds were all in the possession of Gould and Sage as trustees of the mortgage. Therefore the funding mortgage no longer covered the shares of stock of the Denver Pacific.

Q. And the only title as against the Kansas Pacific to the Denver stock was in the trustees of the consolidated mortgage?—A. Yes, sir.

Q. Did Mr. Dillon express to you that he desired these proceedings to be hastened?—A. Yes, sir; he stated to me that he desired the business to be done with as much expedition as possible, and I was asked how long a time it would take.

Q. What reply did you make?—A. I said that if the trustees submitted their rights to the court, and if the proofs which I thought could speedily be made were made to a referee, that a reference could be had within a very short time, that is, a day or so after the issues were framed; and that if the issues were promptly framed and a reference had with as much expedition as could be had, that it would take but a few days to present to the court the questions involved upon the pleadings and proofs, and that if there was no opposition, and the court thought it was a proper decree to make, that a decree could be made at once; that I could not foresee what length of time would be involved, but it would be a short period to get a decision, favorably or adversely.

Q. How soon after that did you bring the suit?—A. The summons was dated on the 17th day of January. The complaint will speak for itself as to when it was verified.

Q. Please examine the judgment-roll I show you, and state whether or not that is the judgment-roll in the case?—A. That is.

Q. Consult the judgment-roll and tell us what that litigation was, and how it was conducted, and what the result of decree was?—A. The summons is dated January 17, 1880. The complaint is verified on the 20th day of January, 1880, by Sidney Dillon as president of the Kansas Pacific Railway Company. I think immediately, as soon as the complaint was prepared, indeed, in advance of it, I was referred to Messrs. Vanderpoel, Green & Cuming, as the counsel for Messrs. Gould and Sage, as trustees; and I may have visited them—I think I did—on the same day, on the 17th. I told them my instructions in the matter as to expedition, and asked Mr. Vanderpoel if he could not give it his immediate attention, to the exclusion of other business as much as possible; and he said he would, but he would have to act through Mr. Almond Goodwin. I think I exhibited a draft of my complaint to Mr. Goodwin, and I served the complaint, doubtless, the same day, the 20th.

Q. On the trustees?—A. Yes, sir.

Q. Personally, or was there an appearance and admission by attorney?—A. The answer was served, at least it has indorsed upon it, in my own handwriting, "Received Jan'y 20th, 1880. Admitted service. A. H. H."

Q. That is the answer?—A. That is the answer; so I must have conferred with Mr. Goodwin, and the character of the complaint was determined upon before it was actually served.

Q. The answer substantially submits the prayer of the complaint to the court?—A. Do you wish to have any part of it referred to?

THE COMPLAINT.

Q. Yes, sir. Give us an understanding of the prayer of the complaint.—

A. The complaint recites the character of the corporation, the *Kansas Pacific*, and that it is one of those entitled to share in the benefits and

advantages of the acts of Congress, meaning the Pacific Railroad acts, the making of the mortgage, and the amount of bonds secured thereby. A copy of the mortgage is attached as Exhibit A.

THIRD PARAGRAPH.

The third paragraph recites the number of bonds secured by the mortgage at that time issued pursuant to its terms, and that among the other property included in and covered by said mortgage are 29,986 shares of the capital stock of the Denver Pacific Railway Company, of the par value of \$100 per share, which said shares of stock are owned by and are the property of the plaintiff, that is, the Kansas Pacific: that no dividend has ever been paid on such stock, and that it has no market value, and that the same has always been valued by the plaintiff in the estimated value of its property and assets, at a very small sum: that the Denver Pacific Railway and Telegraph Company is the same company mentioned and described by that name in the act of Congress entitled, &c., approved March 3, 1869, and also in the act of Congress, June 20, 1874. It states its bonded debt and the capital stock: that that company has been in default in the payment of its first mortgage interest coupons for more than two years; all of which is further shown by the affidavit of A. H. Calef, hereto annexed.

SIXTH PARAGRAPH.

The sixth paragraph is that if said shares of stock remain in the hands of the trustees under the mortgage above referred to, they will add little, if anything, to the value of the mortgage securities, as no dividends are likely to be received therefrom; and that so long as said shares of stock remain in the hands of the trustees thereof they are of no financial value to the company, but that if they are delivered to the company the plaintiff can and will avail itself of an opportunity to use the same to its advantage and to the consequent advantage of its credit and stockholders.

SEVENTH PARAGRAPH.

The seventh paragraph is that the security is and is not sufficient without said shares of stock, and that the annual earnings of the plaintiff are more than sufficient to pay all interest, taxes, and other charges, together with all necessary expenses for operating expenses, repairs, renewals, and improvements; that the stock of the plaintiff is not in the market for about par.

EIGHTH PARAGRAPH.

Q. That is, the Kansas Pacific?—A. Yes. The plaintiff has applied to the defendants, Messrs. [redacted], to release said shares of stock from the mortgage. The plaintiff has made said application with an offer to substitute other property for which the same might be sold, or property of equal value, and in her [redacted] and agree that of the \$30,000,000 in [redacted] and by virtue of said mortgage the [redacted] sufficient in value to replace the [redacted] that the securities of said mortgage [redacted]

of the said mortgage; that the defendants, Gould and Sage, replied and alleged that they have refused, and do now refuse, to comply there with.

A copy of said application and their reply is annexed, and marked Exhibit C.

Wherefore the complaint prays that the value of the shares may be ascertained and determined, provided that the same shall remain in trust, and that your trustees may be directed to deliver said shares of stock and receive the securities or property for which the same shall be sold or exchanged of equal value, or upon the plaintiff binding itself not to issue at any time bonds secured by the mortgage herein set forth to amount equal to the ascertained value of said shares of stock so released, and for such other or further order, relief, or decree in the premises as to the court may seem just and proper.

THE ANSWER.

The answer of the trustees admits the allegations contained in the complaint, except the allegations contained in paragraphs 6 and 7 thereof. They allege that they are unable to admit or deny the allegations contained in paragraph 6 or 7, and are advised by counsel that it is their duty as trustees of the mortgage to do nothing which will or might impair the amount or value of the property covered by said mortgage.

Wherefore the defendants pray that this court will instruct or direct them in the premises as to the present or probable value of the shares of stock referred to in the complaint, and that the shares of stock, if released or delivered to the plaintiff by the decree or judgment of this court, may be released and delivered only upon such terms and conditions as will preserve the value of the defendant's trust unimpaired, &c.

It is verified by Mr. Gould.

Q. What was the next step in that litigation?—A. I requested Mr. Vanderpoel's firm, through Mr. Goodwin, to agree with me upon a referee, and we selected, at my suggestion, Mr. Horace M. Ruggles, whom I did suggest because of his large experience in railroad mortgages, or trusts of that description. I asked him also upon the same day to go with us before the court at chambers and obtain an order of reference to Mr. Ruggles.

Q. On what day did you attend in court?—A. On the 20th day of January, 1880.

Q. On the same day on which you received the answer?—A. Yes sir.

Q. By whom was the order made?—A. Mr. Justice Charles Donohue.

Q. On the same day on which you applied?—A. Yes, sir.

Commissioner ANDERSON: The order refers the issues in the action to Mr. Ruggles as referee to try and determine.

THE SUIT SENT TO A REFEREE.

The WITNESS. Upon the pleadings and upon the stipulations of counsel it was ordered that all and every issue therein be, and the same are hereby, referred to Horace M. Ruggles, esq., to take proof of the matters alleged in the complaint, and report the same, with his findings of fact and conclusions of law, together with his opinion thereon.

The next step in the proceedings was the arrangement to proceed

with the taking of the proofs before Mr. Ruggles, which was begun on the following day, the 21st. The proofs appear *in extenso*.

Q. Who were the witnesses examined?—A. A. H. Calef was the first witness. He had been connected with the Kansas Pacific road and with the Denver Pacific, as an officer in the Treasury Department, and as secretary or assistant secretary of the company, I think, since 1865. He was thoroughly familiar with the business of the road.

Q. He was then an officer of the road, was he?—A. Yes, sir.

Q. What position did he then hold?—A. I think it was secretary or assistant secretary, I am not sure which.

Q. Of the Union Pacific?—A. Of the Kansas Pacific. Sidney Dillon was a witness.

Q. He was president of the Kansas Pacific?—A. Yes, sir.

Q. And also of the Union Pacific?—A. Yes, sir. Russell Sage was a witness. There was no proof offered by the trustees, except the cross-examination of the witnesses on the part of the plaintiff. Then follows the referee's findings of fact and conclusions of law and his opinion.

Q. On what day were those witnesses examined before Mr. Ruggles?—A. On the 21st and 22d of January.

Q. On what day were the findings of fact?—A. The case was closed on the 22d, and the findings were signed on the 23d of January.

Q. The report bears date also the 23d of January?—A. Yes, sir.

Q. By whom was the report drawn?—A. By Mr. Ruggles.

Q. Is it in his handwriting?—A. It is in the handwriting of a clerk in his office.

Q. By whom were the findings drawn?—A. By Mr. Ruggles.

Q. Is it your recollection that they were prepared by him?—A. In every respect—without suggestion, comment, or criticism.

Q. From any of the counsel of either of the roads?—A. Not to my knowledge; that is to say, to the best of my knowledge.

Q. Have you ever seen the draft of those findings?—A. I think not.

Q. Are the findings attached to the judgment roll in Mr. Ruggles's handwriting?—A. No, sir; they are not.

Q. Do you know in whose handwriting they are?—A. No, sir; I do not think I know.

Q. Is the body of Mr. Ruggles's report in his handwriting?—A. No, sir. I know his handwriting, and I do not know this handwriting.

Q. Is it in the same handwriting as the findings?—A. I should say not; but I am not prepared to say as to that.

Q. By whom was the decree prepared?—A. It is in my own handwriting.

Q. What is the date of the decree?—A. January 23, 1880.

Q. And the case was closed on the 22d, and the findings and report must have been prepared between that time on the 22d, when the case was closed and the time when the decree was prepared on the 23d?—A. Yes, sir.

Q. In order to prepare the decree, you must have had the findings and the report before you?—A. No, sir.

Q. How could you prepare the decree unless you knew what the report was going to be?—A. I will withdraw that answer, and say yes, sir, that I must have had the report, but I had drafted the decree in conformity with the prayer of the complaint, leaving blanks for what the amount should be determined to be by Mr. Ruggles. I remember it was late in the afternoon of the 23d when Mr. Goodwin appeared with me before Judge Donohue, and we presented the case, and Mr. Goodwin

stated that it was not a hostile case, and they simply submitted their rights to the court. It was a question of law to be determined upon the proofs and pleadings; and while they were unwilling to consent to the entry of a decree, they had no opposition to make to it.

THE DECREE DATED JANUARY 23, 1880.

Q. What was the general scope of the decree, which I assume conforms to the report and findings?—A. After the preliminary recitals, it is ordered, adjudged, and decreed as follows—it is not very long, about two sheets of paper. I will read it:

The motion for judgment herein having been duly brought on for hearing: Upon the summons, complaint, answer, proceedings, the order of reference, testimony, and the report and opinion of Horace M. Ruggles, esq., the referee herein, after hearing Mr. Holmes for the motion, and Mr. Goodwin of counsel for both defendants; it is

Ordered, adjudged, and decreed, That upon the issue and delivery by the plaintiff company to the defendants as trustees of the first consolidated mortgage of the plaintiff company, dated May 1st, 1879, of five hundred thousand dollars (\$500,000) in amount of the bonds secured by said mortgage, together with the coupons of said bonds due November 1st, 1879, and all subsequent coupons annexed, that the twenty-nine thousand nine hundred and eighty-six (29,986) shares of the capital stock of the Denver Pacific Railway and Telegraph Company, set forth and described in the complaint herein, be forthwith released by the defendants from the trust created by said mortgage, and that the defendants forthwith deliver the certificates for said shares of stock to the plaintiff company, and that the said certificates for said shares of stock and the said shares of stock be, and the same hereby are, forever freed and released from the trust created by said mortgage; and it is further

Ordered, adjudged, and decreed, That upon receipt by defendants from the plaintiff company of the above described bonds, together with the coupons or interest warrants thereto annexed, as above provided, the said bonds and said coupons or interest warrants be forthwith cancelled by the defendants in some effectual and substantial manner; and it is further

Ordered, That the costs and disbursements of this action be not allowed to either party as against the other, except that the plaintiff do pay to the attorneys for the defendants an allowance pursuant to the provisions of law in that behalf the sum of five hundred dollars.

New York, January 23rd, 1880.

Q. How soon after that decree was entered was the stock actually delivered to the Kansas Pacific Company?—A. I cannot say. I delivered a copy of it to the company.

ARTICLES OF CONSOLIDATION DATED JANUARY 24, 1880.

Q. Do you know whether the articles of consolidation between the Union Pacific Company and the Kansas Pacific Company were in process of preparation at that time?—A. I do not. That business was done solely by Judge Dillon.

Q. You were not consulted; when did you first learn of the existence of the articles of consolidation, when they were signed?—A. After they were signed.

Q. What was the date of the articles of consolidation?—A. The 24th day of January, 1880.

Q. That is, the next day after that decree?—A. Yes, sir.

Q. Do you know, personally, the subsequent history of the 29,000 shares of Denver stock that were released under that decree?—A. I know what became of them, and what disposition was made of them, from an examination of the books of the company.

Q. Into whose hands did they pass from the Kansas Pacific Company?—A. They were delivered by the Kansas Pacific Company in payment for the bonds and stock of a number of what are now the branch roads of the Union Pacific Railway Company.

Q. They were the branch roads of the Kansas Pacific?—A. They were the branch roads of the Kansas Pacific Company.

Q. The same roads that you have referred to in the early part of your examination?—A. In part, and in part the roads which were mentioned by Mr. Adams in his examination. In other words, beginning in 1879, in the fall of that year, immediately after Mr. Gould returned from an absence in Europe, the plans of the company were changed into a large and widely extended scheme, of uniting the general system of the Union Pacific with its branch lines, or roads which were intended to be branch lines, for the purpose of adding and insuring to the lines of the system the feeding roads—the branch lines themselves.

WHERE THE DENVER PACIFIC STOCK WENT.

Q. To whom were those 29,000 shares transferred by the Union Pacific Company?—A. They were transferred to Mr. Gould and his associates, who had acquired, in pursuance of that plan, the ownership of these branch roads in advance.

Q. Who were the parties, in addition to Mr. Gould; I merely want the names?—A. Mr. Frederick L. Ames and Mr. Sidney Dillon; I think Mr. Sage and other associates in the Union Pacific. I think all of them, perhaps, with the exception of three or four, but all the active Union Pacific managing party. Mr. Dexter was one and Mr. Atkins was another.

Q. Under the consolidation agreement, for what was this Denver stock exchanged?—A. The stock of the new corporation, the Union Pacific Railway Company.

Q. And that stock at that time had a market value of what, immediately after the exchange?—A. Somewhat above par.

By the CHAIRMAN :

Q. What is the par?—A. One hundred dollars.

Q. What is the par of the Kansas Pacific?—A. Fifty dollars a share; but always treated as two shares constituting one.

RATE OF EXCHANGE FOR UNITED STATES STOCK.

By Commissioner ANDERSON :

Q. Kansas Pacific was exchanged, dollar for dollar, for the Union Pacific?—A. Yes, sir. What was practically done was the performance of the offer of the Kansas Pacific in its complaint (which the court did not refer to), not only in the alternative, but we did both. The bonds were canceled, as provided by the decree, and the Kansas Pacific became the owner of the properties which were the proceeds of the sale of the Denver Pacific stock.

By the CHAIRMAN :

Q. Then this is the stock which I understand you to say, in the case stated, was worth par, and it was said there was reason—

A. (Interrupting.) No, sir; this stock never was bought or sold anywhere, with two exceptions.

Q. In the complaint in the suit, he alleges that some of the stock is worth par.—A. That is Kansas Pacific stock.

SUDDEN RISE IN MARKET VALUE.

Q. That had risen in a short time from \$2 or \$3 to par?—A. No, sir; these various branch lines securities had been bought on the persons

credit and with the individual money of the various gentlemen, and this Denver Pacific stock, whose road was being foreclosed, the stock never having been worth any thing financially, was exchanged into Kansas Pacific stock, and the Kansas Pacific bought those securities, and became the owner of them, and the consolidation mortgage immediately covered those.

Q. Why did you say the Denver Pacific was exchanged for Kansas Pacific stock?—A. I did not say it was. I meant to say that the Denver Pacific stock was delivered over to the Kansas Pacific Company, freed of a mortgage, as an asset, and that stock was available to be turned into the new consolidated company, and they got par of the consolidated stock for it. It therefore had the same value which the Kansas Pacific or the Union Pacific had, provided that consolidation was carried out.

Q. Why should not the exchange have been made with the Kansas Pacific Company itself, and have the company take the benefit of the exchange, rather than to deliver it to Messrs. Gould, Ames, and Atkins, and have them get the benefit?—A. They did not get the benefit.

Q. They got the stock in exchange for the branch roads?—A. The Kansas Pacific delivered to them the stock for the branch roads.

Q. And they had the Denver Pacific stock?—A. Yes, sir.

Q. And that stock had been sworn by Mr. Dillon on the 17th of January as of comparatively no value?—A. Yes, sir; no financial value.

Mr. ANDERSON. Mr. Holmes will be here to-morrow, and I understand he is engaged at 2 o'clock. We may as well adjourn now.

The CHAIRMAN. You will be here to-morrow at 11 o'clock, Mr. Holmes?

The WITNESS. Yes, sir.

The CHAIRMAN. Then we will excuse you until 11 o'clock to-morrow.
ARTEMAS H. HOLMES.

The Commission then adjourned to Thursday, May 5, 1887, at 11 a. m.

NO. 10 WALL STREET, NEW YORK,
Thursday, May 5, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

ARTEMAS H. HOLMES, being further examined, testified as follows:

The WITNESS. Will the Commission permit me to volunteer a statement? Last year there was an investigation by the judiciary committee of the assembly of this State. It related to the action of Mr. Justice Donohue in the matter of the suit referred to. Upon that occasion Judge Dillon and myself and Mr. Almon Goodwin prepared professional statements, to which we are willing to make oath, but which were not verified at that time, but which were filed with the judiciary committee. I beg leave to present them to the Commission, and they may file them or make such use of them as they may desire.

The CHAIRMAN. Very well.

(The statements referred to were presented by Mr. Holmes.)

THE TESTIMONY BEFORE THE REFEREE.

By Commissioner ANDERSON:

Question. Who kept the minutes of the evidence taken before Mr. Ruggles?—Answer. They were written out by a stenographer employed for the occasion.

Q. Is that your positive recollection, or were they written out by some one who took them at the time and wrote them out at length?—

A. They were taken in short-hand notes by a stenographer, and written out at length by him.

Q. You were present, I assume, while Mr. Dillon testified?—A. Yes, sir.

Q. And while Mr. Calef testified?—A. Yes, sir; and I examined them both.

Q. Please look at the writing and state whether you know in whose handwriting it is.—A. I am unable to say. If I am not mistaken, or rather to speak more properly, my impression is that it is B. Monyhan's, but I am not positive. I think it is in the handwriting of B. Monyhan, who is at this time the official stenographer of one of the parts of the superior court.

Q. Is he in New York now?—A. I saw him here within two weeks. Bartholomew, I think, is his name; "Bat," I believe, he is called.

ERASURES IN TESTIMONY.

Q. Please look at page 12 of these minutes and state, if you can, by whose hands some of these lines were erased, and the words "at the rate of half a million per annum" were put in, which is in a different handwriting.—A. I do not know in whose handwriting it is, unless it is in that of the same person who wrote the other, the body of it.

Q. Please look for yourself and compare writings, and state whether you think it is in the same handwriting.—A. I cannot say.

Q. Are the erased words in the same handwriting as the body of the testimony?—A. I think they might have been, or that they might be written by the same person.

Q. Do you know whether the words "at the rate of half a million per annum" are in the handwriting of the witness, Mr. Calef?—A. I think they are not. Mr. Calef is here and probably will remember the circumstances.

Q. Did you mean in the room?—A. No, sir; in the city.

Commissioner ANDERSON. I desire to put on the record of this Commission this evidence, as it stood and as it is altered. I will read this part of the evidence. The witness is Mr. A. H. Calef:

THE RECORD AS TAKEN AND AS ALTERED.

By Mr. HOLMES:

Q. Do you know whether or not the earnings and receipts of the Kansas Pacific Company during the past year have been in excess of its fixed interest charge, operating expenses, and payments for taxes, replacements, renewals, and repairs during that period of time?—A. During the last eleven months very little.

The words "very little" are scratched out, and the words "at the rate of half a million per annum" are added, so as to fill out the line. I call the attention of the Commission to it, so that the Commissioners may inspect the handwriting.

Q. *Very little in excess.*

That, again, is scratched out or erased by a line being drawn through it.

A. Very little, if any. I could not say.

All of which is erased except the word "say."

Q. But they have been in excess during the last eleven months?—A. Yes, sir.

That question and answer are both erased.

Q. Has your attention ever been called to this erasure before?—A. I may have known it at the time. It took place, I am sure, at the time the minutes, having been written out by the stenographer, were read over by the witness in the presence of the referee and signed.

Q. Do you say that from a recollection of the occurrence, or because that is the orderly way?—A. No; I recollect it as a fact that the testimony was written out by the stenographer, and the testimony was then signed by the witnesses, with such corrections as they desired to make, and they were made.

Q. But you are unable to state in whose handwriting the correction is?—A. I am.

R. Do you know whether it is in the handwriting of Mr. Ruggles?—A. I should think not; I think Mr. Ruggles, or Mr. Calef, either of them, could tell.

WHICH ANSWER IS TRUE?

Q. Do you know the earnings of the Kansas Pacific during the eleven months referred to sufficiently well to state which is true as a matter of fact, the erased answer or the corrected answer?—A. I think the corrected answer is true, for the reason that at the beginning of that period of eleven months the road began to be for the first time operated harmoniously with the Union Pacific, and passengers and freight went freely in whatever direction they pleased for the first time.

Q. Is that the only basis you have for stating that the corrected answer is true rather than the erased answer?—A. Except the general prosperity, which was then almost at its height.

Q. My question is whether you make that answer because you examined the accounts and know the figures, or whether it is simple judgment, and what you think would be the result.—A. I am quite sure the change was made after the examination by Mr. Calef of the figures.

Q. My question is whether your answer that you now make, that in your judgment the earnings were about half a million per annum over and above the operating expenses and the payments referred to in the question, is the result of the examination by you personally of the accounts for these eleven months, or whether it is based on your belief in the prosperity of the road.—A. It is not the latter, and I am not sure that I made any such examination as to warrant my answering your first proposition; yes, sir.

Q. You never have made such an examination?—A. Yes, sir; frequently.

Q. Do you know those accounts now for that eleven months?—A. I cannot recall them; but it was my business to have made up and to state and to examine and to prove the earnings of the entire road of the Kansas Pacific, and also of the 394 miles, and the various sections of it, at a later date than that time.

Q. Who has the books which will show the actual earnings as contained in your accounts for that eleven months?—A. When I was investigating that subject and making proofs upon it I found some of the

books in Omaha and others in Boston, and I sent my witness to both places. He was an officer or employé of the road at that time.

Q. When was it that you made that examination?—A. I think it was in 1882 and 1883.

Q. Who was the person whom you employed to make the examination?—A. George E. Hanson.

Q. Where can he be seen?—A. I am unable to say; he left the employ of the company two or three years ago, and within a year he came to my office seeking employment, but of his present whereabouts I have no knowledge.

Q. Did he make a report to you; in writing, I mean?—A. He was sent to me at my request by the company, as being the most informed person.

Q. That is not my question. Did he make a report to you of the results of his examination in writing?—A. He made the reports in writing.

Q. Have you those reports?—A. They are on file in the record of the suit of Morgan against the Union Pacific Railway Company and others in the United States circuit court for this district.

Q. Was there a printed copy of that record containing the accounts?—A. Whether it contains the accounts correctly or not I am unable to say, because after the record was printed, before anything was done, the cases were withdrawn, and I never examined them accurately for the purpose of comparison between the original and these purported copies.

Q. Are you prepared to state positively, from your present information, that this answer "at the rate of half a million per annum" referring to the excess of earnings over the fixed charges, operating expenses, and payments for taxes, replacements, renewals, and repairs, as applied to the Kansas Pacific for the eleven months prior to January, 1880, is a correct answer or not?—A. I am unable to say.

Q. Do you know who drew the original articles of consolidation?—A. Judge Dillon.

Q. Do you know when he drew them?—A. No, sir.

Q. Do you know whether they were actually prepared before the 24th of January, 1880?—A. I think they must have been; I do not know.

Q. Where are the minutes of the meetings of the board of directors of the Kansas Pacific?—A. I believe them to be in Boston.

Q. Where are the minutes of the meetings of the Union Pacific?—A. Pardon me; I think they are a part of the earliest meetings before 1865, which are missing.

Q. Of the Kansas Pacific?—A. I think so; I am not positive about that.

The CHAIRMAN. All of the minutes of the Kansas Pacific are missing prior to 1865?

The WITNESS. I said some of them. There were, as I said yesterday, two boards of direction, and great hostility among them; and I think the board which was not the successful one had some of the minutes, and they never came back into the hands of the Perry party; the minutes, as referred to, are those of the Leavenworth, Pawnee and Western.

By Commissioner ANDERSON:

Q. I refer to the minutes of their transactions from 1875 to 1881.—A. Those are doubtless in Boston, all of them.

Q. Were you a member of the board of directors?—A. I think only for two or three months.

Q. Were you a member in January, 1880?—A. I think I was.

Q. Were you present at any of the meetings of the board?—A. I am unable to recall it.

Q. I mean when you were a director?—A. I think there were no board meetings held, if I recollect it; that is, the board meeting that was held, if I recollect, where the change of directors took place chiefly, was held in Saint Louis.

Q. That was in 1878?—A. I do not recollect.

Q. After the Saint Louis party was bought out?—A. Yes, sir; but I am not sure that it was in 1878; it may have been in the latter part of 1878.

Q. The evidence given yesterday located it in May, 1878; were there any meetings of the board of the Kansas Pacific held in January, 1880?—A. I am unable to say.

Q. You say you were a director at that time?—A. For only a very short period; and I do not recollect of board meetings being held at which I attended in that period.

Q. You were then counsel to the Kansas Pacific?—A. Not if that was earlier than—

Q. In this suit?—A. My connection with the Kansas Pacific as its counsel began in June, 1879.

Q. This suit was brought in January, 1880.—A. I was then counsel for the Kansas Pacific.

THE RESULT OF THE DECREE.

Q. The result of this decree was to vest the title of the Denver stock in the Kansas Pacific?—A. Yes, sir.

Q. As counsel for the Kansas Pacific, how could that stock be divested without a meeting of the board of directors?—A. I was not then a member of the board.

Q. You were counsel for the company?—A. Yes, sir.

Q. You had procured this decree by which the title became vested in the company?—A. Yes, sir.

Q. And you became aware within a very short time that that thirty thousand shares of stock had passed out of the Kansas Pacific into the hands of what you referred to as the Union Pacific party?—A. I learned that then or immediately thereafter; I was not asked at that time to attend any meeting of the board, and my recollection is that I did not; I do not know whether or not a board meeting was then held.

Q. Were you not curious, as counsel of the company, to ascertain by what authority the Kansas Pacific had parted with its title?—A. I may have had some curiosity on the subject.

Q. Was your curiosity gratified at that time?—A. I think not immediately at that time.

Q. As far as you know, there was no meeting of the board held?—A. As far as I know there was a meeting.

Q. There was a meeting of the Kansas Pacific directors?—A. I say so far as I know, because I know nothing about it one way or the other.

Q. You do not know of any meeting being held or any action that you know of being taken in the month of January, 1880?—A. I do not.

Q. In what manner were you informed that the title to that stock passed out of the hands of the Kansas Pacific into the hands of some one else?—A. By making inquiries, and by examining the books of the

Kansas Pacific Company, some time afterwards, when the transaction was the subject of newspaper comment, and the subject of a litigation which was instituted—I have forgotten how soon afterwards—by persons who were the holders of the consolidated mortgage bonds.

ROSENBAUM VS. KANSAS PACIFIC AND THE TRUSTEES.

Q. What suit do you now refer to?—A. I think the title of the suit was Rosenbaum against the Kansas Pacific, and Messrs. Sage and Gould, as trustees.

Q. Who was Mr. Rosenbaum's counsel?—A. Mr. Edward L. Andrews.

Q. How far was this suit carried?—A. It was carried until the bonds upon which Rosenbaum and others were suing, the income bonds, were purchased from them; the suit which I refer to having been brought as a mere club to compel a settlement of the suit upon the income bonds, and they discontinued their suit when their income bonds were disposed of by them.

Q. And bought by whom?—A. I think Mr. Sidney Dillon; at all events, Mr. Dillon conducted the negotiations with Mr. Andrews, for I was present on two or three occasions.

Q. Was that action tried?—A. No, sir.

Q. Was any evidence taken?—A. No, sir.

Q. Was it brought to issue?—A. No, sir; I am quite sure it was not.

Q. Was a complaint served?—A. There was.

Q. Have you a copy of that complaint in your office?—A. Yes, sir.

THE TRANSFER OF DENVER STOCK OUT OF THE KANSAS PACIFIC.

Q. You say that you found out, by examining the books of transfer, that the stock had been passed out of the Kansas Pacific shortly after your decree in the Kansas Pacific suit?—A. Not by examination of the transfer books, but by examination of the accounts of the Kansas Pacific Company.

Q. Did you examine the transfer books?—A. I did not.

Q. Did the book which you did examine give you any information as to the authority for making the transfer, and how it was derived?—A. No, sir.

Q. Who directed the making of the transfer?—A. I do not know; it must have been by the company itself, as a corporation.

Q. Why do you say it must have been by the company itself?—A. Because the stock belonged to the corporation.

Q. Do you say that because you have any knowledge on the subject, or because you simply think that would be the proper way to do it?—A. That is the only way to do it.

Q. If the president of the company told the transfer clerk to make the necessary entries and he did so, and delivered the stock, though that would be illegal, would it not effect the result, in fact?—A. Yes, sir.

Q. Do you not know that that is the way it was done?—A. No, sir; I do not.

Q. Have you not been so told?—A. I think my inquiries did not relate to the actual transfer of the Denver Pacific stock to the Kansas Pacific, and from that company to other persons. It related to the inquiry: What were the proceeds of that stock to the company? By

what transaction it was parted with by the Kansas Pacific Company to other persons?

Q. Then you made no inquiry whatever as to the source of authority for effecting the transfer out of the Kansas Pacific Company to Mr. Gould, and Mr. Ames, and Mr. Dillon, and Mr. Sage?—A. That was the business of my senior counsel, Judge Dillon, and I did not interfere with it, nor did I make any inquiry in regard to it.

Q. Did you know that he was engaged in making such inquiries?—A. I did not.

Q. Did you have any conversation with him on that subject?—A. Not at that time.

Q. Have you since?—A. Yes, sir.

Q. Has he told you what in his judgment the authority was for making the transfer?—A. No, sir; I do not now speak of the transfer of stock. I mean of the transaction—that Judge Dillon and Mr. A. J. Poppleton were both senior counsel to myself, and also Sydney Bartlett, esq., was my senior, and I did not interfere, except when called upon to do so.

KANSAS PACIFIC AND UNION PACIFIC DIRECTORIES NEARLY IDENTICAL.

Q. Can you recollect on the 24th day of February, 1884, the *personnel* of the two directories of the Union Pacific and Kansas Pacific?—A. I think they were in substance identical.

Q. Mr. Sidney Dillon was president of both roads?—A. Yes, sir.

Q. Please run your eye over the list of directors of the Union Pacific, and state, if you can, which of them were also directors of the Kansas Pacific.—A. I do not think I could state them, except to some extent—those whom I knew were. I think Mr. Gould, Mr. Dillon, Mr. Sage, and Mr. Ames were, and I think that Messrs. Atkins, Baker, and Dexter were also members of the Kansas Pacific.

MEETINGS ON JANUARY 24 PREVIOUS TO CONSOLIDATION.

Q. Do you know whether there was a meeting of the board of the Union Pacific directory in January, 1880?—A. I think there were board meetings of all three companies on the same day.

Q. And you have told us that you do not know of any meeting of the board of the Kansas Pacific in January, 1880?—A. Not to my knowledge, but I know that I was in the office for a few moments that day and saw a gathering of a large number of gentlemen, most of whom constituted the board of one or the other company.

Q. In what building was that?—A. My recollection is it was in 80 Broadway—78 and 80 Broadway.

Q. Who are those gentlemen whom you saw present?—A. Those gentlemen whom I last mentioned. Also D. M. Egerton, Mr. Carlos S. Greeley. Whether there were any other of the Saint Louis gentlemen there, I do not recollect; I think Mr. David H. Moffatt, junior, was one.

Q. Was this before or after the decree had been rendered?—A. After.

Q. Was it on the same day that the consolidation was signed?—A. Yes, sir.

Q. On the 24th of January?—A. That is my recollection.

Q. Have you that book of indentures that you had yesterday?—A. Here it is. I was asked in regard to the early minutes of the Kansas Pacific, or more particularly the Leavenworth, Pawnee and Western. I

sought to obtain them, and I got a copy from my adversary, who was a representative of the Fremont party. In examining my papers I found it. I can leave it with the Commission if they wish it. It was from 1857 to 1863.

By Commissioner LITTLER :

Q. Will you leave it here for our examination ?—A. Yes, sir ; if there is any fair hope of getting it back.

Commissioner ANDERSON. We are all lawyers.

Mr. JOHN F. DILLON. Does that mean it is dangerous ?

Commissioner ANDERSON. Yes, sir.

The WITNESS. I suppose a replevin would lie against a lawyer.

Commissioner ANDERSON. There is an article in the consolidated mortgage that fixes the rate of exchange for these different securities. Perhaps you can call my attention to the page number better than I can find it.

The WITNESS. There is one exception to the rate of exchange, which will be found on the foot of page 156 and top of page 157. They related to the securities in the hands of Dillon, Sage, and Villard. It begins with article 22 at page 168 of the Book of Indentures.

ARTICLE 22 OF CONSOLIDATED MORTGAGE.

Q. Article 22 appears to direct, after taking out \$24,000,000 of the \$30,000,000 of issue and considering them as applicable to the exchanges provided for in article 23, that any surplus that may remain out of the said \$24,000,000 after the conversion under article 23, and the six millions also which remained above the \$24,000,000, should be applied to the purposes of providing funds for the construction of extensions and branches of the Kansas Pacific Railway at the rate and in the manner and under the restrictions in the next article but two, hereinafter specified. Now the \$24,000,000 are controlled, as I understand it, by article 23, and that directs certain rates of exchange for all the miscellaneous securities which you have explained to us had grown up in the years prior to this mortgage. Will you please describe to us how these rates of exchange came to be agreed upon ?—A. I think they were arbitrary, having regard to the relative values at that time.

• WHO FIXED THE RATES ?

Q. Who directed the draftsman of this mortgage to fix these particular rates ; as, for instance, for the Eastern and Middle Division and Denver Extension, and the funded interest certificates issued for arrears of interest on said mortgages at par ? Who determined that par should be paid for them ?—A. Those rates were the result of a symposium of the various conflicting interests. That is, the committee of nine of the Kansas Pacific bondholders with the holders of the junior securities, and with the holders of the land-grant bonds, they together arranged and agreed upon a final settlement as to the rates, the mortgage being intended to be the means of resuscitation of the road and its reorganization, and also to provide for different maturing obligations, and to meet the requirements as should be determined upon as to building branch lines. It was intended to serve a very wide purpose, because the underlying securities were very numerous and of conflicting interests, and of varying valuations, but when they were fixed it was supposed that all of those rates would fully cover the

market price of the securities. That is, that the owners of them would be glad—

Q. To accept the terms?—A. To accept the terms.

Q. Where did these discussions take place?—A. Everywhere, from Denver to New York.

Q. Were you generally present at those discussions?—A. I was present at many of them.

THE PROMINENT PERSONS INTERESTED.

Q. Who were the prominent persons who advocated the rates?—A. It was all the parties in interest.

Q. Name those who present themselves to your memory.—A. Mr. Louis H. Meyer, Mr. Henry Villard, Mr. August Rutten, Mr. Horace White, myself, the Saint Louis party whom I have named frequently, and also the new Union Pacific party who became the successor in interest of the Saint Louis party.

Q. About what proportion of the whole securities that were to be affected by those terms were represented in these discussions?—A. All securities were represented. Which had the largest, do you mean?

Q. No; I mean when this mortgage was signed; about what proportion of the owners of the securities did you consider had already signified their willingness to accept those terms? Take any of those securities you please; take the Eastern and Middle Division, and the Denver Extension and the funded interest certificates issued for arrears of interest.—A. The Denver Extension bonds had all agreed to it, because we had formulated a plan of agreement in advance, upon which this was based.

Q. And because they were to get par was naturally the reason they should agree to it?—A. Yes, sir; and they also, by this mortgage got their back interest. All the securities named, beginning at the break at the foot of page 156, and the next two lines on page 157, had signified their willingness to consent.

Q. And many others besides?—A. And many others besides.

Q. And the special securities that you have referred to as being stated at the foot of page 156, are the securities which were held by the new Union Pacific pool, as I understand it.—A. It is not necessary to call it the Union Pacific pool. It was a pool of all the interests.

Q. By the pool that you have referred to, of which you left us a copy?—A. Yes, sir.

AGREEMENT OF APRIL 24, 1878.

Commissioner ANDERSON. I request that the agreement of the 24th April, 1878, be marked.

The following is a copy:

Memorandum of agreement made this 24th day of April, A. D. 1878.

We, Sidney Dillon, Fred L. Ames, Jay Gould, C. S. Greeley, John D. Perry, Robert E. Carr, Adolphus Meier, B. W. Lewis, jr., Henry Villard, John P. Usher, D. M. Edgerton, Artemas H. Holmes, hereby agree as follows:

First. To contribute to a pool or common fund to be placed in the hands of Frederick L. Ames, Carlos S. Greeley, and Henry Villard, as an executive committee the securities and stock of the Kansas Pacific Railway Company, and to the respective amounts thereof set opposite our several names, said several securities and stock to be considered and treated as of the value affixed thereto respectively as per account

paying schedule, and that our respective interests in said pool shall be proportionate to the amounts of said securities and stock taken at the value above referred to; which securities and stock, their respective values and amounts and our said several interests in said pool upon this day are severally set out on said schedule.

Second. That each and any of the parties hereto may at any time before the first day of June, 1878, contribute to said pool by delivering to the executive committee other of said securities and stock, and shall thereupon be entitled to have their respective proportionate interests increased by the amount of their respective contributions at any time after the rate set out in said schedule.

Third. That on the first day of June, 1878, it shall be the duty of said executive committee to compute and ascertain the respective proportionate interests of the parties hereto, the total amounts of said securities and stock contributed to said pool, and the total amounts of said securities and stock outstanding and not contributed to the pool.

Fourth. That we will severally on or after said last-named day at any time advance and pay to said executive committee, ratably and proportionately to our respective interests on said day, such sum or sums as shall be required and demanded by said executive committee for the purpose of carrying out the objects of this agreement, such sums not to exceed in the aggregate the sum of \$500,000.

Fifth. That if at any time each or any of us shall fail or refuse, within ten days after notice and demand by said executive committee, to pay or contribute the sum or sums so required or demanded, as in the next preceding paragraph required, then respective interest of the person or persons so failing or refusing shall not thereafter be increased by any subsequently accruing interests of said pool.

Sixth. That said executive committee shall act by and with the direction of a seven-tenths majority interest in said pool at any time, and not otherwise.

Seventh. That we will severally advance and deposit in the hands of such trustee, and upon such terms as shall be agreed upon by said executive committee, and the representatives of the Denver extension bondholders securities (which shall be of the character agreed upon by said executive committee and representative of the Denver extension bondholders) in such amounts as shall bear that proportion to the whole amount required which our respective interests bear to the entire interest contributed to said pool: *Provided*, That upon the failure of any of us to comply with this provision the persons so failing shall *ipso facto* suffer a reduction of ten per cent. of their then respective interests, such reduction to be apportioned ratably among such interests as shall comply herewith, and supply the requisite securities.

Eighth. That all profits which shall at any time accrue to the pool, from whatever source arising, shall be apportioned and distributed among the parties hereto at and after the proportion of their respective interests in said pool at the time such profits shall accrue, subject to the terms of this agreement.

Ninth. That the purpose of this agreement and pool, is:

(1) To unite in interest the Kansas Pacific Railway and Union Pacific Railway Companies, so that the two roads shall be operated as a continuous line and in all respects as contemplated by the several acts of Congress in relation thereto, and in order that the interests of the public and the Government may be better subserved.

(2) To provide for the payment or other satisfaction of the Denver extension bondholders.

(3) To provide and secure the payment of the bonds secured by the first mortgages upon the main line, according to the terms of said mortgages, and also for the payment of the bonds upon the branch road, so far as practicable, having due consideration for the value thereof.

(4) And the more effectually to accomplish these ends and to secure the parties, subscribers and contributors hereto, their residuary rights in the property of the Kansas Pacific Railway Company to reorganize said company upon a substantial basis.

(5) And upon such reorganization to apportion the stock created thereon among the parties hereto, according to our respective interests in said pool at the time thereof.

Tenth. It is further agreed that if upon the first day of June, 1878, it is found, pursuant to paragraph third, that Messrs. Gould, Dillon, and Ames have not a majority interest in said pool, that they shall have an option on such an amount of the other interests, ratably and for cash on the basis of the schedule as shall give to said Gould, Dillon, and Ames a majority interest.

Eleventh. That the executive committee, in furtherance of the ninth paragraph hereof, shall provide and secure that the stock to be created as herein contemplated, shall be ten million dollars, and that there shall be paid thereon for the first and second years after said reorganization semi-annual dividends, at the rate of six per cent. per annum; for the third and fourth years thereafter, at the rate of seven per cent. per annum, and for the fifth and subsequent years thereafter, at the rate of at least eight per cent. per annum: *Provided, however*, That if it shall be deemed best by said

U. S. PACIFIC RAILWAY COMMISSION.

and the dividends to be paid on said stock for the first and second
year calculated for the purpose of retiring or otherwise relieving the stock
pursuant to paragraph seventh hereof.
Witness my hand and seal in triplicate at the city of New York this 24th day of A

C. S. GREELEY.
JOHN D. PERRY.
J. P. USHER.
ADOLPHUS MEIER.
B. W. LEWIS, JR.
D. M. EDGERTON.
S. M. EDELL.

SIDNEY DILLON.
JAY GOULD.
HENRY VILLARD.
ARTEMUS H. HOLMES.
ROBERT E. CARR.
F. W. MEISTER.

EXHIBIT B.

	Present par value.	At per cent.	Estimated value.	Per cent. of total estimated value.	New stock, at rate of—	Gross shares, new stock.
Stock.....	\$9,600,000	12½	\$1,200,000	.24708	1 share for 8 shares of old stock.....	\$12,000
Floating debt.....	1,200,000	par	1,200,000	.24708	10 shares for \$1,000 of floating debt.....	12,000
Unsubordinated income bonds.....	227,000	50	113,500	.02339	10 shares for \$2,000 of unsubordinated income bonds.....	1,135
Subordinate income bonds.....	4,048,350	30	1,214,350	.24999	30 shares for \$10,000 of subordinate income bonds.....	12,143
Second land-grant bonds.....	1,055,000	50	527,500	.10865	10 shares for \$2,000 of second land-grant bonds.....	5,275
Arkansas Valley.....	570,000	50	285,000	.05876	10 shares for \$2,000 of Arkansas Valley bonds.....	2,850
Leavenworth Branch.....	630,000	50	315,000	.06488	10 shares for \$2,000 of Leavenworth Branch bonds.....	3,150
	17,330,350	.....	4,855,350	.9993		48,553

Securities contributed by pool members.

Proceeds of securities contributed (itemized).

Pool members.	Stock shares.	Funding bonds.	Unstamped income bonds.	Stamped income bonds.	2d land grants.	Arkansas Valley.	Leavenworth Branch.	Stock.	Funding bonds.	Unstamped income bonds.	Stamped income bonds.	2d land grants.	Arkansas Valley.	Leavenworth Branch.	Total interest in pool.	Signatures.
Jay Gould.....	.....	694,000	47,050	2,143,700	160,000	.....	.....	.....	6,940	235½	6,431	800	.....	.....	14,406½	Jay Gould.
F. L. Ames.....	.....	383,000	.....	.....	.....	40,000	40,000	759½	3,830	30	156	320	200	.....	3,830	C. S. Greeley.
C. S. Greeley.....	12,150	.....	6,000	52,000	64,000	.....	.....	968½	.....	.....	37½	500	150	.....	1,656½	John D. Perry.
John D. Perry.....	15,495	.....	.....	12,450	100,000	30,000	.....	.....	.....	.....	.....	.....	.....	.....	1,656	Sidney Dillon.
Sidney Dillon.....	.....	96,000	.....	.....	.....	.....	.....	.....	960	.....	.....	.....	.....	.....	960	.....
Robert E. Carr.....	6,959	.....	7,000	6,450	.....	20,000	.....	435	.....	7	10½	.....	100	.....	561½	Adolphus Meier.
Adolphus Meier.....	3,200	.....	.....	.....	76,000	.....	.....	200	.....	.....	.....	228	200	.....	628	B. W. Lewis, Jr.
B. W. Lewis, Jr.....	6,761	.....	.....	6,100	.....	40,000	.....	.....	.....	.....	.....	.....	.....	.....	640	.....
Henry Villard.....	10,000	.....	.....	.....	.....	.....	.....	625	.....	.....	.....	.....	.....	.....	625	Artemas H. Holmes.
Artemas H. Holmes.....	6,240	.....	.....	5,500	25,000	.....	.....	390	.....	.....	16½	125	.....	.....	531½	D. M. Edgerton.
D. M. Edgerton.....	1,000	.....	.....	.....	.....	.....	.....	62½	.....	.....	.....	.....	.....	.....	62½	J. P. Usher.
John P. Usher.....	220	.....	.....	.....	.....	.....	.....	13½	.....	.....	.....	.....	.....	.....	13½	.....

ARTEMAS H. HOLMES.

EXHIBIT C.

THE UNION PACIFIC RAILROAD COMPANY, PRESIDENT'S OFFICE,
New York, April 26, 1878.

The executive committee of the Kansas Pacific pool are hereby directed to open negotiations with the representatives of the Denver Extension bondholders for the purpose of carrying out the objects of the pool agreement this day signed.

JAY GOULD.
JOHN D. PERRY.
C. S. GREELEY.
SIDNEY DILLON.
B. W. LEWIS, JR.
ARTEMAS H. HOLMES.

EXHIBIT D.

Memorandum of agreement made this 23d day of May, 1878.

We, Sidney Dillon, Frederick L. Ames, Jay Gould, C. S. Greeley, J. D. Perry, R. E. Carr, Adolphus Meier, B. W. Lewis, jr., Henry Villard, John P. Usher, D. M. Edgerton, and A. H. Holmes, hereby covenant and agree that article first of that certain memorandum of agreement made and executed by us in triplicate at the city of New York the 24th day of April, 1878, be amended by substituting the name of Sidney Dillon instead of the name of Frederick L. Ames as one of the executive committee, as by said article constituted; and we do further consent and agree that said Sidney Dillon be vested with the duties and powers as one of the executive committee pursuant to said memorandum of agreement; and we do further consent and agree that this instrument be annexed to and made a part of said memorandum of agreement.

Made and executed in triplicate at the city of New York this 23d day of May, 1878.

C. S. GREELEY.	SIDNEY DILLON.
JOHN D. PERRY.	JAY GOULD.
J. P. USHER.	HENRY VILLARD.
ADOLPHUS MEIER.	ARTEMAS H. HOLMES.
B. W. LEWIS, JR.	ROBERT E. CARR.
D. M. EDGERTON.	F. W. MEISTER.
S. M. EDGELL.	

EXHIBIT E.

The executive committee of the pool are hereby directed to prepare, publish, and carry into effect a programme to bring in junior security holders not parties to the pool.

New York, May 30, 1878.

JAY GOULD.
JOHN D. PERRY.
C. S. GREELEY.
HENRY VILLARD.
SIDNEY DILLON.
J. P. USHER.
ARTEMAS H. HOLMES.

Commissioner ANDERSON. We will say instead of the Union Pacific pool, the parties named in Exhibit 1, of May 5, 1887.

The WITNESS. The securities mentioned in Exhibit 1, of May 5, 1887, were the foundation—the beginning. They were afterwards increased, I think, as to all the classes mentioned, very largely from time to time, and the paper marked Exhibit 1, last spoken of, was only the inception, and not the condition as it ultimately existed. That is, the securities mentioned in the paper are very much less in the aggregate, if my recollection serves me, than the securities named at the foot of page 156 of the book of indentures.

RATE OF TRANSFER OF SECURITIES IN CONSOLIDATION.

Q. The rate of transfer as to the special securities at page 156 is that the holders of the securities are to receive \$3,400,000 in amount of the said consolidated first-mortgage bonds. Are you able to state whether that sum in those bonds is greater or less than they would have received had they converted under article 23?—A. I am unable to say. I never made the computation. It would be a variable sum, as the rates of some of the securities mentioned would be estimated at.

Commissioner ANDERSON. It would be perhaps a little difficult to ascertain, because some of the securities mentioned at the foot of page 156 are not convertible at all under article 23.

The WITNESS. That is true. Pardon me, that is not altogether true, because some of the branch line bonds, such as the Arkansas Valley, which were not convertible under any of the sections you have read, nevertheless, being a branch of the road of the Kansas Pacific, and being within the definition mentioned at another part of the mortgage, were transferable.

RATE FOR ARKANSAS VALLEY RAILWAY BONDS.

Q. Please refer us to that other part, so that we can ascertain their exact value under section 23.—A. I mean securities which were exchangeable for bonds of the consolidated mortgage, which came within the definition and limitation mentioned in article 24. For example, Arkansas Valley Railway Company bonds, which were a part of the securities mentioned at page 156, which were exchangeable for \$3,400,000 consolidated bonds. Article 24 fitted the Arkansas Valley bonds, because article 24 provides that the consolidated bonds might be issued in exchange, upon certain requisitions, for any bonds payable, the principal and interest of which are guaranteed or assumed by said company. That had been done as to the Arkansas Valley Company by the Kansas Pacific Company, or issued by any other company, the road of which is leased by said company. That applied to the Denver Pacific.

Q. Then article 23, which fixes the rate, provides the rate to which those bonds, after having received that guarantee, would have been entitled?—A. Article 23 is silent on that subject, if I recollect it rightly.

Q. You say that by operating under article 24, we can put the securities which you have referred to, the Arkansas Valley, in such a condition as to ascertain what they would have been entitled to get under article 23?—A. No; under article 24.

Q. What figure would they be entitled to get under article 24 if a holder of those bonds had presented himself and asked for consolidated bonds?—A. The amounts of the first-mortgage bonds are issuable under article 24, after the rate of \$15,000 per mile east of the meridian of Denver, or \$25,000 per mile west thereof.

Q. Do you know how much per mile was upon the Arkansas Valley?—A. I cannot now state.

Q. Does that apply to the east or west side of the meridian referred to?—A. It applies to the east side—that is, east of Denver.

Q. Then your point is, that if the rate was not over \$15,000 per mile that you could get par for those bonds in consolidated bonds?—A. That is, the \$454,000 of Arkansas Valley bonds were exchangeable for new bonds at the rate of \$15,000 per mile of the Arkansas Valley for the consolidated bonds at par.

ARTICLE 24 REFERS TO BRANCH LINES.

Q. Does that article 24 apply to the branch lines as well as to the main lines? I mean that portion of the provision which relates to the bonds at \$15,000 and \$25,000 per mile.—A. It applies solely to branch lines, the difference being that west of Denver you were in the Rocky Mountains, and east of Denver you were in the prairie.

Q. You have said that the holdings under Exhibit 1, of May 5, increased from the period when this paper was made up to the time of the consolidation. You were yourself a member of that arrangement, I believe?—A. Yes, sir.

Q. Did you keep track of the increase?—A. I did up to a certain period; but when seven-tenths of the interest was accumulated in one or two hands, the interest of the other persons being perfectly protected to the extent to which they had joined, the seven-tenths could and did control it as they chose by the constitution provided in the paper itself.

Q. Which class of securities increase the most? I mean whether the pool owned more Kansas Pacific stock, or some of those bonds, or what?—A. I am unable to say.

AMOUNT OF KANSAS PACIFIC STOCK HELD BY POOL.

Q. About the Kansas Pacific stock. I think you stated that when the paper was originally made the pool held a very large quantity of stock. About what amount did you say?—A. I do not think I stated it, but it is shown on that paper. You will observe that the original scheme there was on the theory that there would probably be a reorganization and new stock issued, and that the old stock was going to receive new stock at the rate stated. That was never consummated.

Q. Do you know how much stock this pool held, or what there was in this pool at about the time of the consolidation?—A. I do not.

Q. Did it not approximate three-fourths of the whole issue?—A. I cannot state. I have no knowledge at all on the subject.

Q. Do you know who held the largest quantity of Kansas Pacific stock at that time?—A. I have always understood that Mr. Gould was the largest individual owner. I do not know definitely.

Q. Were you not directly interested as a partner in this pool?—A. Yes, sir.

Q. Did you ever receive an account of the liquidation of the pool?—A. I knew all about it at the time. My recollection is—I am not sure, but I have a strong impression—that the stock was taken out of the pool. That is, it was separated from the rest of the securities.

Q. That could not have been done without your knowledge, could it? In the paper as signed the stock is a part of the pool?—A. As signed, of course not; but my strong recollection is, that at one time the persons were permitted to withdraw the amount of the contributions of stock.

Q. It must have been on some terms as to the price. The stock fluctuated very rapidly in the market, did it not?—A. It made no difference, if all were entitled to withdraw. It simply changed their relative interest in the pool, and reduced their contributions to it.

Q. If one person had contributed 50,000 shares of stock to the pool, and another person 100 shares of stock to the pool, do I not understand that your interests were defined by the values placed upon all of your holdings at the start?—A. Yes, sir.

Q. So that it was a partnership in the whole pool?—A. Yes, sir; but that was a variable quantity. You might add some.

Q. True. But if the 50,000 shares of stock had received an accretion by an advance of 20 per cent. in the market of \$1,000,000, the pool would not permit the holders of that stock to withdraw it except upon just terms, would it?—A. The seven-tenths interest would dictate on that subject.

Q. Do you know whether the Kansas Pacific stock was withdrawn from that pool?—A. I have stated my best knowledge on that subject. I think it was. I say I have a strong impression, but I do not accurately remember.

JAY GOULD'S KANSAS PACIFIC HOLDINGS.

Q. Your recollection also is that when the consolidation took place Mr. Jay Gould was the holder of the larger portion of that stock?—A. I say that has been my information. I had no definite knowledge on the subject.

Q. Do you know on how many shares of stock Mr. Jay Gould voted to ratify the consolidation?—A. I do not. The record shows.

Q. I mean of the Kansas Pacific.—A. I am unable to say.

Q. Please look at the copy of the record which I show you, and state whether it was accurate.

The WITNESS. Do you wish me to state the amount as it appears upon this record?

Commissioner ANDERSON. If you will state that that is correct—A. I have no knowledge. The paper states for itself.

Q. You know the paper. Do you think that is a correct copy of the transaction as it occurred in the ratification of the consolidation?—A. I think so. They were prepared as an exhibit.

Q. Assuming that paper to be correct, if it is so, Mr. Gould was the owner of how much stock?—A. This record states the amount at 79,414 shares.

MEMBERSHIP OF THE POOL.

Q. What other members who were parties to this paper, Exhibit 1 of May 5, do you find upon that record as ratifying the consolidation? Mr. Ames?—A. Yes, sir.

Q. For how many shares?—A. Four thousand and thirty-five.

Q. Mr. Sidney Dillon?—A. Six thousand one hundred and eighteen.

Q. Does he appear in more than one capacity?—A. I do not find him in two capacities in this list.

Q. Mr. Henry Villard?—A. I do not find his name.

Q. Mr. Holmes?—A. No; his name is not here.

Q. Do you find that any other of the parties who were in the pool signed for large amounts of stock?—A. Carlos S. Greeley for 1,126.

Commissioner ANDERSON. I refer more especially to persons designated as the Union Pacific parties.

The WITNESS. Mr. Russell Sage.

Q. How many?—A. Nine thousand nine hundred and seventy-seven; I think those are all.

The CHAIRMAN. Mr. Gould held a majority of all, according to that statement.

Q. Were these shares \$50 shares, or \$100 each?—A. They were \$50 shares.

Q. How much stock in all signed the consolidation? How many shares?—A. The statement in the certificate to this paper states 199,084 shares.

Q. All the gentlemen whose names you have read were at that time directors of the Union Pacific, I believe; were they not?—A. I am unable to recall as to Mr. Greeley.

Q. I did not care for his name. Except Mr. Greeley, they all were—Mr. Gould, Mr. Ames, Mr. Sage, and Mr. Dillon?—A. Yes, sir.

Q. And at the time they voted for that consolidation they were the owners, as far as you know and as far as you can judge from that record, of the amounts of Kansas Pacific stock that you have stated?—A. I think no one could say that, except those gentlemen themselves, for doubtless many of them represented other persons who acted through them.

Q. As far as this record may be correct and shows, they voted on that stock?—A. Yes, sir.

Q. And had whatever interest to affect their transactions that might naturally arise from the ownership of such stock?—A. Yes, sir.

WHO KEPT THE POOL ACCOUNTS.

Q. Who kept the pool accounts?—A. I originally made up the papers and documents. I think they finally drifted into the hands of Mr. A. H. Calef.

Q. I mean by the accounts, the accounts showing profit and loss; the realizations and dividends, if any.—A. I am unable to state.

Q. You received some dividends from this transaction, did you not?—A. I think I did; I am sure I did.

Q. Who informed you that some statement had been prepared showing what amount you were to receive?—A. I could not say who informed me. As I stated, the management of it varied and changed. At one time one of the three gentlemen had the key to the box itself, and I possessed a key of the Safe Deposit Company in which the boxes were.

I am not referring to the securities; I am referring to the figures showing the amount of profits realized out of the pool.—A. I cannot tell you that.

Q. Were you not desirous of seeing and checking off the amounts that you were to receive?—A. It is simply a failure of memory on my part. My interest became very small. I knew at the time; but I have forgotten now through whom the information was conveyed to me.

Q. Do you know what was the whole profit made by all the members of the pool, collectively?—A. I do not know.

Q. Do you think it was as much as \$20,000,000?—A. Oh, I think not.

Q. It was a very large sum, was it not, after the transactions had all been closed?—A. Well, I cannot say that. I think it was no such sum as that.

By the CHAIRMAN:

Q. What did the pool pay for the stock, or what was the value of the Kansas Pacific and Denver Pacific coming into the pool when they got control?—A. The Denver Pacific never came into the pool in any way, nor any of its securities.

Q. There were ten millions of dollars at par of shares of stock of the Kansas Pacific, and four millions of dollars at par of shares of Denver

Pacific united together, forming fourteen millions of stock. Who got possession of it?—A. I think I did not.

Q. Who did?—A. I stated my recollection was that the stock of the Kansas Pacific was taken out of the pool, and the securities finally drifted into the control of a few people who owned the whole of the bonds represented in that combination.

Q. When they got control, what did the \$14,000,000 of shares of stock cost them?—A. They did not have 14,000,000 of shares of stock.

HARMONIOUS ADJUSTMENT OF VALUES.

Q. How many did they have?—A. I think all the shares were withdrawn from the pool and passed back to the original contributors thereof. You see, the pool was a very varying quantity. Some gentlemen may have purchased their securities on one day at one price, and some may have held them for years, and some may have bought them later, and each person's holdings aggregated a different sum or value, because purchased at different times. When the arrangement was originally schemed or contrived, everybody thought differently as to everybody else's securities as to their value; and we hit upon this simply as a harmonious adjustment as to the values of these several securities.

Q. What was the harmonious adjustment of the value?—A. Originally, as stated there in the schedule.

Commissioner ANDERSON. It is in the mortgage.

The WITNESS. Oh, no; the pool and mortgage are different as day and night.

Commissioner ANDERSON. But the rates?

The WITNESS. That is an entirely different question from the question of Governor Pattison, which was, "What were the rates from the inception?" That is stated there.

Q. Will you explain to me this table? Stock accepted, for instance, at \$9,600, estimated value \$1,200,000. What is the difference between those figures, in their relation to this agreement or contract, as to value?—A. The stock was estimated at 12½ per cent. of its par value.

By Commissioner ANDERSON:

Q. That is the Kansas Pacific stock?—A. Yes, sir.

By the CHAIRMAN:

Q. Can you recollect any estimate at that time as to the Denver Pacific stock?—A. It was not in the pool, and it was not in condition where it could ever be estimated. There were not ten holders in all of the Denver stock.

Q. Did it have any value?—A. Solely for the purpose of controlling the connection between Denver and Cheyenne. There were three millions, in round numbers, owned by the Kansas Pacific Company; but with the exception of what was necessary to qualify certain persons to act as directors, I think the balance of it was held by Amsterdam people, or by the commissioners of Arapahoe County, Colorado, who had acquired it or owned it in connection with the Denver Pacific bonds, which they had purchased. But the Denver Pacific stock is a stranger to that.

Commissioner ANDERSON. Somebody has kept the account, I presume.

The WITNESS. I stated that I think Mr. Calef finally kept the account of it.

EXCHANGE OF KANSAS PACIFIC FOR UNION PACIFIC STOCK.

By Commissioner ANDERSON :

Q. All the Kansas Pacific stock which was held by any of the parties, including, of course, Mr. Gould, as deriving stock from this pool, and any one else, under the consolidation, received a share of the Union Pacific Railway for two shares of Kansas Pacific stock?—A. Yes, sir; the Kansas Pacific stock being \$50 a share. But that was not because of any connection with the pool in anywise.

Q. I do not say that it was. The exchange was dollar for dollar, I understand.—A. Yes, sir.

Q. And the Union Pacific stock was at that time about par, or a little above par, in the market?—A. My recollection is it was.

Q. And the Kansas Pacific stock was substantially at the same price at that time?—A. Yes, sir.

Q. And had been so for how long?—A. I think but a very short time; two or three months.

METHOD OF ARRANGING RATES.

Q. In this second column of figures on the paper marked Exhibit B, attached to Exhibit No. 1, of May 5, can you tell me how these rates came to be fixed at 12½ cents for the stock, par for the floating debt, 50 for the unsubordinated income bonds, 30 for the subordinated income bonds, 50 for the second land-grant bonds, 50 for the Arkansas Valley, and 50 for the Leavenworth branch?—A. Yes, sir.

Q. How did they come to be fixed?—A. The holders of each one of that class of securities was prosecuting in some way hostile litigation to the foreclosure suit. The securities mentioned at that time were, I think, in every instance, in the open market, of less value than those figures, but not much; and the litigation, the main litigation of the foreclosure, had got into such a condition, while the property of the company was increasing in value and the future looked more prosperous, that these various hostile interests were got together, each interest as I have mentioned, being sometimes (and I think in every case) for a different class of securities, so that they were interested in several different kinds. They finally arranged these arbitrary figures.

Q. What were the figures intended to represent; the value to the holder of those securities of the class of securities referred to?—A. No, sir; they were to represent the proportionate interests in the reorganization of the Kansas Pacific road, which was then contemplated; the purpose being, through this arrangement, to get together and combine a sufficient amount, as many as could be got, of the various conflicting interests, withdraw the opposition, have a foreclosure suit, and represent their ownership in the results of the foreclosure suit, the equity of redemption, in the proportions mentioned in that paper.

STOCK RATED AT 12½.

Q. I want to know whether these rates have anything to do with the supposed value of the properties referred to?—A. Yes, sir.

Q. They do have something to do with the supposed value?—A. That is, they were fixed by a sort of arbitration among the parties, as to the relative value. My recollection is, we began with the stock and said, "That is the poorest security here. What will we treat that as worth?"

Q. What was it sold for in the market?—A. I think in all cases they were about or a little below the figures mentioned there.

Q. Then the 12½ per cent. opposite the stock indicates that its market value was then about 12½?—A. Yes, sir. Its quotation price was then on \$50 shares, or a little less, and these figures were made at a little more, so that people would say, "I can get more than the market price, and I will put those in and share with the rest." The figures were made as an inducement to the various holders to persuade them to come in.

THE FLOATING DEBT AT PAR.

Q. The floating debt is put at par. That had no market price, had it?—A. The floating debt was represented in reality by the funding mortgage bondholders who held the whip hand, and to a very large extent was Saint Louis money. These people insisted upon being paid. For instance, the Vulcan Iron Works had sold or delivered rails and other equipment to the Kansas Pacific Company, and they held their proportion of the funding mortgage bonds. The same is true of John D. Perry and Robert E. Carr; also the Boatman's Savings Institution, of Saint Louis, which had loaned money; also the estate of Mr. Oliver Ames; Burnham Perry; Williams & Co., who were the furnishers of the supplies. I have here a list which shows at the time the persons who held these bonds against moneys which they had advanced or paid to the company at various times.

Q. Your statement is, then, that the floating debt was treated for the purpose of this pool as being secure and worth par?—A. Yes, sir.

UNSUBORDINATED INCOME BONDS AT 50 PER CENT.

Q. The 50 per cent. for the unsubordinated income bonds. Was that the market value?—A. If you will pardon me a moment. There was another reason there. That is, the floating debt and funding mortgage bonds were all held by the Saint Louis people, who were making the principal contest in the foreclosure suit.

Q. As to the 50 per cent. for the unsubordinated income bonds; what was their market value at the time of the pool arrangement?—A. I think they must have been less than that.

Q. But in that neighborhood?—A. Yes, sir.

Q. And in the same way the 30 per cent. for the subordinated income bonds?—A. Yes, sir; those had been selling at 15, 16, 18, and 20; but at that time they were somewhat below that figure—30.

SECOND LAND GRANT AND ARKANSAS VALLEY AT 50.

Q. The second land-grant mortgage bonds are put at 50; that was about their market rate?—A. Yes, sir.

Q. The Arkansas Valley at 50, the same?—A. Yes, sir; they were held much in the same way, by Saint Louis people.

Q. Were they on the New York Stock Exchange list?—A. No, sir.

Q. Was the Leavenworth branch on the stock list?—A. They had been dealt in here, but not for many years, and if they were on the list they were not dealt in.

Q. These rates express the then prevailing market value, as well as you could get at it at that time?—A. Yes, sir; but a little bit higher.

Q. Had the market value of these various securities risen ~~more~~ within the year previous to the making of this pool?—A. I think ~~not~~.

pool?—A. No, sir; that question cannot be answered, because the facts are different from the supposition stated in the question.

Q. Can you tell me what the difference would be between the securities that came into the pool at the rates agreed upon in the pool, and the same securities figured under the consolidated mortgage, and the articles of consolidation?—A. No, sir; I have never made the computation. The meaning of that paper to which you refer is intended to be thoroughly explained by, and to be read in connection with, the first paper. The one explains the other; but the whole plan and scheme was changed, and the intention was never carried out. It only served the purpose of uniting in a few hands and in a common interest what were heretofore scattered, hostile, and very conflicting interests.

Q. Is not this true: That Mr. Jay Gould, Mr. Frederick L. Ames, Mr. Sidney Dillon, Mr. Russell Sage, Mr. Dexter, and one or two gentlemen whose names I may have forgotten, through the means of the pool acquired large interests in Kansas Pacific stock, in subordinated income bonds, in unsubordinated income bonds, in second land-grant bonds in Arkansas Valley bonds, and in bonds of the Leavenworth branch?—A. Yes, sir.

SECURITIES EXCHANGED FOR CONSOLIDATED BONDS.

Q. For what other securities did these gentlemen exchange the securities that I have enumerated?—A. With the exception of the stock, all of the other securities were exchanged for consolidated mortgage bonds, agreeably to the provisions of the consolidated mortgage.

Q. And at the rates therein specified?—A. Yes, sir.

Q. Was that exchange made before the articles of consolidation?—A. Yes, sir; at least six months, and I think nearly eight months before.

Q. Do you remember at the time the articles of consolidation were voted for, what amount of consolidated bonds had been issued?—A. Eight million four hundred and thirty thousand dollars.

Q. You are satisfied that all the parties I have named of those interested in the pool had come in and converted at that time?—A. Yes, sir. There was one feature of the pool which perhaps you would like to know about. That was, it was compulsory that \$500,000 should be advanced by the Union Pacific people to aid in adding, by the purchase of other securities, to the strength of the pool. In that way a large amount of securities was added.

Q. Who had charge of the conversions under the consolidated mortgage after the articles of consolidation?—A. The mortgage provides as to that, that it is solely between the trustees and the company, upon the company's requisition.

Q. The trustees and the holders of securities?—A. That did not follow.

Q. The holders of securities could not be made to convert, unless they presented their securities for conversion, could they?—A. No; I think the issue of the bonds was solely upon the requisition of the company upon the basis of the conversion.

Q. The consolidated mortgage called for an issue of thirty millions of bonds which, by your statement, was reduced to \$29,500,000. At the time of the consolidation only \$8,400,000 had been converted?—A. Yes, sir.

Q. My question is, who had charge of the negotiations with the holders of these outstanding securities after the consolidation took effect?—

A. In some instances the trustees; in some instances the company. But the trustees were the sole persons who could execute and deliver the bonds.

Q. How rapidly did those outstanding securities come in after the consolidation?—A. I am inclined to think that most of them came in before the consolidation. That is, a large proportion.

Q. Do you mean to say that all the securities that were entitled to conversion would not call for an issue of more than \$8,400,000 of bonds?—A. I think that would be a considerable portion of the actual number of bonds outstanding, even now.

Q. Have all the outstanding securities that are enumerated in the consolidated mortgage, and to cover which the consolidated mortgage is made, been retired up to this date?—A. No, sir.

Q. Which are outstanding?—A. The report of the Union Pacific states as to most of them what the total issue is, and how much are in the hands of the consolidated mortgage trustees, and how much are still outstanding.

Q. What was the total issue of bonds under the consolidated mortgage to this date?—A. I am unable to state.

Q. Who can give us these figures accurately as to the amount of the outstanding underlying indebtedness, and the amount of the bonds outstanding under the consolidated mortgage, both at the time of the consolidation and at the present time?—A. Mr. Ham, Mr. Amos A. Calef, of this city, or the comptroller of the Union Pacific.

Q. That is, Mr. Mink?—A. Yes, sir.

MR. HAM. There is a table of the bonds; the whole issue held by the trustees and the amount afloat. That is on page 35 of the report of 1886.

THE WITNESS. Do not ask me, for I could not answer. I could only refer you to the parties making up those figures.

Commissioner ANDERSON. I have no further questions to ask Mr. Holmes.

MR. JOHN F. DILLON. I received a telephonic notice to appear before you.

Commissioner ANDERSON. We will examine you.

MR. JOHN F. DILLON. Now?

Commissioner ANDERSON. After recess.

MR. JOHN F. DILLON. When the subpoena came it was addressed to "Mr. Dillon," and I was uncertain whether it meant Mr. Sidney Dillon or myself.

MR. SIDNEY DILLON. The person who served the subpoena called me the Hon. Judge Dillon. Will you please take one at a time? If you are going to examine Judge Dillon this afternoon, perhaps you might take the whole of the time. I am within two minutes' walk of here, at 40 Wall street. If you will take Judge Dillon in hand, I will be relieved for the present.

Commissioner ANDERSON. I do not think we will keep him more than a half an hour.

THE WITNESS (Mr. Holmes). I ask permission to read my testimony before I sign it.

Commissioner ANDERSON. Certainly.

MR. GOULD'S DENVER PACIFIC SOLD AT COST.

By the CHAIRMAN:

Q. I want to ask you, Mr. Holmes, one or two questions. Is there anything that you have not said that you want to say?—A. Yes, sir—

The CHAIRMAN. That is what we want to hear, for a few minutes at any rate. It is ten minutes of 1 o'clock now.

The WITNESS. The last question asked me in regard to the \$1,000,000 of Denver Pacific stock leaves the fact very misleading as shown by the report. Mr. Gould bought that stock at 10 cents on the dollar, as my information serves me—and I made careful examination of it—from the Amsterdam bondholders or the commissioners of Arapahoe County, Colorado; and he was paid the same sum which he paid, namely \$10 per share, for that \$1,000,000 of Denver Pacific stock, and it went into the Kansas Pacific Company with the other \$3,000,000; and the \$4,000,000 was used, as I have explained, in the payment for the acquisition of branch lines which had theretofore been made, and Mr. Gould by that operation as to that \$1,000,000 made not a penny; whereas, by appearances, he would make the difference between the sum of a million dollars and \$100,000.

By Commissioner ANDERSON:

Q. Ten cents on the dollar?—A. Yes, sir.

FINANCIAL ADVANTAGE TO UNION PACIFIC OF CONSOLIDATION.

By the CHAIRMAN:

Q. What was the advantage of the consolidation to the Union Pacific Railroad Company?

Commissioner ANDERSON. That is a big field.

Q. I mean financially; not as to agricultural or mineral results. What advantage was the consolidation to the Union Pacific?—A. It added into the three former companies the great number of branch lines that were purchased with the proceeds of that \$4,000,000 of stock, and it consolidated into that new company all of the interests which had theretofore been hostile. It also prevented what was at that time supposed to be under advisement, and which has since been thought to have been the fact, that had it not been consolidated and had not the Kansas Pacific and its branches and these other branches been brought into one family, the Kansas Pacific would have been used in a hostile manner and another through road built to the Pacific coast in direct hostility to the Union Pacific. Instead of that, Mr. Gould developed his plan into what is now the Missouri Pacific, and which apparently is hostile to or conflicts with the territory of the Union Pacific proper in only a small degree.

Q. Up to the time of the consolidation, if I understand your testimony, the stock of the Kansas Pacific Railroad and the Denver Pacific Railway was of little value?—A. That is not true as to the Kansas Pacific stock.

Q. What was it worth for some time prior to your agreement of this pooling interest in 1878?—A. It was worth comparatively little; but the moment that was understood, the public knew that the combined interests, the union of the interests of the territory which covered both Kansas and Nebraska and Colorado and Wyoming and all the territory to which these united roads were contributing, would be operated together, and that the growth of business and the great earnings which the Union Pacific Railroad was at that time making would be much further advanced and increased by the union of these branch roads.

INCEPTION OF PLAN OF CONSOLIDATION.

Q. The agreement of 1878 was made with the view of ultimately consolidating with the Union Pacific?—A. No; not exactly. I think the consolidation never entered into Mr. Gould's or any one else's mind until after Mr. Gould had made his trip abroad, when I had at the time a comparatively trifling conversation with him, but which impressed me very strongly. I asked him what impression his examination of the English system of railroads had given him, and he remarked in a very quiet way, that it struck him that the most notable feature was that the whole of the English system of railroad was practically in two managements; at most, three. The scheme was simply to take away the everlastingly possible conflicting interests and get them into common control, and make a foreclosure under the Denver extension mortgages, and distribute the equities among the junior security holders. But the whole drift and plan and theory changed, and all of these interests got into the Union Pacific interests as a party.

By Commissioner ANDERSON:

Q. That is, when the Saint Louis parties were bought out?—A. Yes sir; and then they changed the scheme. They had the power; they owned substantially all of them. They owned the seven-tenths, and they could, under the scheme and the plan, do just what they pleased and everybody knew they could not treat outsiders upon any different basis than they treated themselves.

THE MOTIVE FOR CONSOLIDATION.

Q. Limiting my question simply to the Kansas Pacific and Denver Pacific stock, is it not true that when Messrs. Gould, Sage, Dillon, Ames, and Dexter voted in favor of the consolidation they were the holders of large amounts of Kansas Pacific and Denver Pacific stock which they had derived partly under the pool, partly by purchase, and partly by the decree in the suit which has been referred to, and that the effect of that consolidation was to bring them a very much larger amount of money for these securities than the securities would have realized if the consolidation had not taken place?—A. That is true as to stock of the Kansas Pacific. It is not true as to these underlying securities. I do not think it is true of the Denver Pacific stock, because that was all held, either, as the lawful owner, by the Kansas Pacific (which was as to \$3,000,000), or by Mr. Gould (as to \$1,000,000); and as to the proceeds of the exchange of the entire \$4,000,000 for the stock and bonds of the branch roads, I do not think that was a source of profit to them, but rather to the roads themselves. I mean to say that in that transaction of the exchange of the Denver Pacific stock, from my best information, I am unable to learn that any of them made an profit.

Q. The question asked you was not whether the owners of the Denver Pacific stock made a profit as compared with the securities which they parted with to the Kansas Pacific, for I have not investigated that, but the question was whether, when they voted for a consolidation the moneys which they derived from the Union Pacific stock which was passed to them was more than they could have obtained for the Denver Pacific stock if they had undertaken to sell it on the market without such consolidation having been made?—A. The Denver Pacific stock could not have been sold on the market for anything, for we could have foreclosed the road within three months.

KANSAS PACIFIC'S TITLE TO DENVER PACIFIC STOCK.

By Commissioner LITTLER:

Q. How did the Kansas Pacific Railway Company obtain title to the stock of the Denver Pacific road?—A. They obtained it through the construction contracts, and the subsequent contract as to the operation and management of the Denver Pacific Company by the Kansas Pacific, the Kansas Pacific as a company having substantially built the Denver Pacific road.

Commissioner ANDERSON. I have not asked you the questions in regard to the value of the bonds and securities which were passed to the Kansas Pacific Company in exchange for the Denver Pacific stock, because I thought it would be better to ask the person who made the transfer.

The WITNESS. Quite right; I am really not a competent witness on that subject. But the previous question which you asked involved a supposition that those gentlemen owned the Denver Pacific stock as well as the Kansas Pacific, and that they acquired a large profit from such ownership of the Denver Pacific stock. It was as to that that I wished to explain that they did not make such profit.

THE MOTIVE FOR CONSOLIDATION.

Commissioner ANDERSON. My only question was whether they did not get more money under the consolidation than they would otherwise have got, so as to gauge the influence that operated upon them at the time they voted for the consolidation.

The WITNESS. Undoubtedly. If the consolidation had not been made the Kansas Pacific stock would not have been worth 10 cents on the dollar, and the Denver Pacific stock would not have been worth waste paper, for the reason that the default on the Denver Pacific mortgage had continued for several years and was very large, and a foreclosure suit was pending, by which the stock could have been wiped out. When I use the word "consolidation," I use it in the large sense of a unity of interest between the Kansas Pacific and the Union Pacific, and not the actual formal of consolidation.

EFFECT OF CONSOLIDATION ON UNION PACIFIC.

By the CHAIRMAN:

Q. Was not the effect to load the Union Pacific Railroad with two railroad companies whose stock was of no value?—A. I think not, for I think the earning power of the Kansas Pacific has been greater, relatively, since the consolidation to the new company than the Union Pacific main line has been.

Q. Has it not been at the expense of the Union Pacific?—A. I think not; I think the Kansas Pacific has more than paid its way all the time since the consolidation. The Denver Pacific was, to some extent, and perhaps it is now, a burden, because it is a parallel road of the Colorado Central. But you must remember that the only way in which the Kansas Pacific and the Union Pacific could have been consolidated was through the Denver Pacific, because you would have had a gap otherwise. You could not unite, by the charters of the companies, the Kansas Pacific and Union Pacific alone, for the reason that by the acts of Congress the Denver Pacific had been made a part of the Kansas Pacific, and should be operated *as such*. You remember the act.

Q. Yes, sir; but what effect would the consolidation of the companies have upon the income from the business of two roads such as the Kansas Pacific and Denver?—A. It increased their business very much.

Q. Why, and how?—A. Because all business was permitted to flow as it pleased, and the largest proportion of the business of the Kansas Pacific in either direction was derived from its local business and the business brought to it by its branch lines. Do you understand what I mean?

The CHAIRMAN. Yes.

The WITNESS. As it is now, anybody wanting to ship freight, or to go in person, in either direction into this great territory of Kansas and Nebraska and Colorado and Wyoming, can go freely any way they please.

Q. How had that affected the Union Pacific prior to that time?—A. The Union Pacific's local business at that time was comparatively little. Its principal earnings at that time were from its through business, and the through business was a threatening quantity. I assume that you can tell from the accounts whether or not the Kansas Pacific and Denver Pacific have not more than paid their way ever since the consolidation?

By Commissioner ANDERSON:

Q. There is another question I want to ask you while I have got this record here. I understood you to say that through such investigations as you have made you are satisfied that the value of the property transferred by Mr. Gould and his associates to the Kansas Pacific in exchange for the Denver Pacific stock was as much as they got for it—that is, about \$3,000,000?—A. Yes, sir; and I base my judgment upon the subsequent operations of those branch lines.

MR. DILLON'S EVIDENCE IN SUIT TO RELEASE STOCK.

Q. But that fact is all I want to know at present. Now, that arrangement for that transfer had been made at the time the articles of consolidation were entered into, had it not?—A. It was undoubtedly all a matter or subject of agreement, because all of these Union Pacific gentlemen were interested themselves in that transaction, and had provided the moneys, in part, with which to purchase these branch lines.

Q. In Mr. Dillon's examination, when you were present, before Mr. Ruggles, this question was put to him:

Q. Then, do you estimate the value of the stock—

Referring to the Denver and Pacific stock—

to the Kansas Pacific Company, or the trustees of this mortgage, as based upon the control which the ownership of the stock would give to the company, or to the trustees?—A. I value it worth something.

Q. Except the outside sum which it would be worth to the Kansas Pacific Railroad Company for that control, or freed from the present mortgages?—A. This stock was tied up in trust, as I said before; I do not consider worth anything. To carry on certain things, I think it might be worth to the Kansas Pacific Company a small sum, say, \$200,000 or \$300,000; somewhere in that neighborhood.

Q. (By the REFEREE.) Not to exceed \$300,000?—A. No, sir; that is my estimate of it.

Is it not your judgment that the witness, when he used the words "certain things," referred to the transaction which had been agreed upon and which was actually carried out?—A. I assume so.

Q. Then Mr. Dillon was one of the parties in interest, was he not?
A. Yes, sir.

Q. And you say the value, as you understood it, of the "certain things" that were passed to the Kansas Pacific was equivalent to \$3,000,000?—A. Yes, sir.

Q. How do you explain, then, the fact that Mr. Dillon, on being asked their value, declared that they did not exceed \$300,000 on this 22d day of January?—A. I think that is perfectly consonant with the alternatives which at that time presented themselves. If they could use the stock as they did use it, they had the means with which to buy for the consolidated companies these branch lines for which the stock was used. If they could not use the stock for that purpose, they could not acquire those branch lines. They considered that the company was getting in those branch lines a great deal more than any inherent or financial or intrinsic value which the Denver Pacific stock had, because they were then operating the two roads harmoniously. If they had not acquired the right to use the Denver Pacific stock the mortgage would have been foreclosed, a new corporation organized, and the combined corporation would not have acquired and purchased these branch lines.

Commissioner ANDERSON. Yes; but I call your attention to the fact that the answer of the witness makes that same distinction, and he says that he considers the stock worth nothing if tied up in the trust, and he is now speaking of the value to the Kansas Pacific if freed from the mortgage and used in order to exchange it for the branch lines. In that case, he says, it might be worth a small sum, say \$200,000 or \$300,000, somewhere in that neighborhood.

Q. Not to exceed \$300,000?—A. No, sir; that is my estimate of it.

The WITNESS. He doubtless had in his mind this: That by the use of it and the acquisition of these branch lines, they would get for this stock about \$200,000 or \$300,000 more than the branch lines were worth, for it was a fact, as my information goes, that those branch lines were taken at the prices at which they had been purchased, whereas at the time of the consolidation they were worth more, because all securities had appreciated more, and railroad properties had a greater value in the spring of 1880 than they had in the summer and early spring of 1879.

Commissioner ANDERSON. The witness is defining the value of the things that the Kansas Pacific is to get for the stock if freed from the trust.

The WITNESS. I do not think he meant that.

Q. His language is, "to carry out certain things, I think it" (that is, the stock) "might be worth to the Kansas Pacific Company a small sum, say \$200,000 or \$300,000." Is it true that that stock was worth to the Kansas Pacific Company \$3,000,000 the next day?—A. It was in the sense that it paid that sum of money—that representative of value—for these branch lines.

Q. Is it true that the branch lines were worth \$3,000,000, in your judgment?—A. That is my understanding.

Q. Then is Mr. Dillon's statement true, that all the Kansas Pacific Company could get for that stock would be \$300,000?—A. I do not think he meant that.

By Commissioner LITTLE :

Q. Which one of the Dillons is that?—A. That is Sidney Dillon.

By Commissioner ANDERSON :

Q. I suppose you refer us to him?—A. Yes, sir.

By the CHAIRMAN :

Q. If the facility had been afforded the Kansas Pacific and the Denver Pacific, under the act of 1874, would there have been any necessity for a consolidation ?—A. I am inclined to think not ; but there would then have been a very active rivalry and a reduction of freights from all Missouri River points, whereas by the consolidation that was eliminated.

Q. But if the facilities contemplated by the act of 1874 had been afforded this road, they would have had the advantage of all these facilities or could have acquired the facilities ?—A. Undoubtedly ; and the Kansas Pacific would have been of so much greater value that the consolidation in all probability would not have taken place.

AFTERNOON SESSION.

Mr. HOLMES. If the Commission please, I should be glad to add one short statement in answer to the last question put to me by the chairman.

I desire to say that in the litigation as to the judgment roll in which I have been examined, I had no communication with Mr. Justice Donohue, directly or indirectly, except in open court in the usual manner in which such orders and motions are made in similar cases. All my communications with him throughout that litigation took place in open court.

HOW DENVER PACIFIC STOCK WAS OBTAINED.

By Commissioner LITTLER :

Q. I began to examine you in relation to the manner in which the Kansas Pacific Railroad Company obtained possession of the Denver Pacific Railway stock, and you accounted for \$3,000,000 of the stock, as I understood you, in this way : That they obtained it in part payment for the construction of that road ; am I right ?—A. Yes, sir.

Q. How did the Amsterdam people obtain their stock ?—A. I think I stated in a part of my examination, as to that stock, it was acquired by them with, or as a part of, the contract by which the Amsterdam bondholders purchased the Denver Pacific bonds.

Q. I suppose that was the way they got them. That was all. This \$1,000,000 of stock which the Amsterdam people got was a bonus and accompanied the bonds, I suppose ?—A. That is my information about it.

Q. They really paid nothing for the stock, but bought the bonds which carried the stock with them ?—A. Yes, sir ; that is my understanding, but I have no personal knowledge about it, for the transaction took place long before my connection with the railroad.

ARTEMAS H. HOLMES.

No. 10 WALL STREET, NEW YORK,
Thursday, May 5, 1887.

JOHN F. DILLON, being duly sworn and examined, testified as follows :

Examined by Commissioner ANDERSON :

Question. You are counsel for the Union Pacific Railway Company—*I believe ?—Answer.* Yes, sir.

COUNSEL TO UNION PACIFIC.

Q. How long have you held that relation?—A. I came here in September, 1879, I think, and you may say that from that time probably it formally commenced, about the 1st of October—I am not quite sure.

Q. At whose invitation did you assume that position?—A. I would have to answer that perhaps a little fully. I came here in probably May, 1879, on an offer of a professorship in law in Columbia College, to see whether I would accept the place. It involved a very great change, and so I refused to say "yes" or "no" until I should come here, examine the ground, see what it cost to live, and whether, on the whole, it was advantageous to me. I brought my wife with me. We examined the matter, and found what house-rent cost and all, and concluded to go home in the West and stay there. That evening I received a dispatch from my uncle, Mr. Sidney Dillon, who was at that time president of the Union Pacific, stating in substance, "If you have not already gone, defer your going until to-morrow, and come down and see me." I remained over, and he stated to me—I had probably informed him that I had concluded not to come East, and that I might as well stay West—that if the offer of a counselship to the company was an additional inducement the executive committee might conclude to offer it, and if I chose to come I might take the professorship and also act as counsel to the Union Pacific Company. That put a new phase on the matter, and those two inducements led me to come.

Q. At that time who composed the executive committee of the Union Pacific?—A. I will not answer with positiveness, but I think Mr. Dillon, Mr. Gould, and Mr. Ames, and possibly Mr. Dexter, were members of it.

Q. Since that time you have remained counsel for the Union Pacific Company?—A. Yes, sir.

Q. Are you also counsel for the Missouri Pacific?—A. My firm is for such matters as arise in New York requiring attention. I am not, individually.

Q. Who is the president of the Missouri Pacific?—A. Mr. Gould.

Q. Have you acted as the personal counsel of Mr. Jay Gould himself in controversies?—A. I do not now recollect that I ever did.

PREPARATION OF ARTICLES OF CONSOLIDATION.

Q. You are quite familiar with the articles of consolidation between the Union Pacific and the Kansas Pacific?—A. I think I am.

Q. Who prepared the original drafts of the articles?—A. I have no doubt I did it. I do not recollect the physical act of writing it, but that is my recollection and understanding, that I did it.

Q. Do you remember when those articles were first prepared, or when you started to prepare the articles?—A. No, I cannot recall that.

Q. Do you remember whether you wrote them on the day when they were signed?—A. Oh, I should think not. I could not do that very well.

Q. Can you state about how long before they were signed you were directed to prepare them?—A. I cannot say that. I have no recollection of writing them, but I must have done so.

Q. Do you recollect the circumstance that it was not a very great period of time that elapsed between the preparation of the articles and the execution of the articles?—A. I should think not. My recollection is that I was away in January of that year, and that I came here just before the actual execution of the articles and prepared them.

Q. Do you think you prepared them after you returned?—A. Oh, I think so; yes, sir.

Q. Do you recall the occasion when Mr. Holmes was sent for in regard to the institution of the suit to take the Denver Pacific stock out of the trust?—A. No, sir; I do not recall that circumstance.

Q. Do you recollect the circumstance that such a suit was brought?—A. I know that such a suit was brought; yes, sir.

Q. Had you been spoken to by Mr. Dillon or Mr. Gould in regard to getting that stock out of the trust before the suit was brought?—A. I think I knew that; yes, sir.

Q. Do you remember whether the articles of consolidation had been prepared by you when that suit was brought?—A. I cannot say.

Q. The suit was brought, as appears from the record, on the 17th of January, being a week before the execution of the articles. Do you remember whether those articles were prepared by you, or the substance of them had been conceived by you, a week before they were executed?—A. I cannot answer.

WHO DIRECTED THEIR PREPARATION.

Q. With whom did you confer in regard to the preparation of the articles and the terms to be incorporated therein?—A. This is seven years ago. I do not recall any single conversation with any person, but I must have conversed with all the leading parties in interest in the several roads, and I have no doubt I did. Mr. Dillon, Mr. Gould, Mr. Ames, Mr. Dexter, and Mr. Baker—I have no doubt with all of them.

THE SIXTH ARTICLE.

Q. By the sixth article, for instance, certain persons are named as being the first directors of the company. Have you a copy of that article before you?—A. I have.

Q. From whom did you derive the suggestion that those persons should be the directors?—A. I cannot tell that.

Q. From whom did you derive the suggestion that Mr. Sidney Dillon should be the president of the company?

The WITNESS. You mean what particular person told me that?

Commissioner ANDERSON. I mean, with whom did you advise as to that?—A. Mr. Dillon was president, and I have no doubt I talked with him. I have no doubt I talked with Ames, Baker, and all of these gentlemen. Mr. Atkins was among them. I think they were all here; but now, after seven years, I cannot say who suggested particular names. I have no recollection of it. It must have been suggested. I could not have told you five of them without seeing who they were.

Q. How familiar were you at this time with the affairs of the Kansas Pacific and the Denver Pacific Railroad Companies?—A. I had only a general knowledge of their affairs. The Kansas Pacific was in court out there in my circuit, and of course I absorbed a little knowledge about it, but I had no intimate knowledge of its affairs.

Mr. HOLMES. You never signed but one order in that suit. That was a consent order. You always refused.

Q. Could you have said at that time that the Kansas Pacific was a paying concern without interviewing the accountants or officers of the road?—A. I would not know whether it was or not.

Q. The same as to the Denver Pacific?—A. I know that was in my court, in the hands of the receiver, at one time. I do not know when

it got out. As to anything that came up when I was at court I may have made some order, although Mr. Holmes said I never made but one order.

Mr. HOLMES. One order. You always refused to do it, because Mr. Dillon was interested.

Q. My question was, whether at the time you prepared these articles of consolidation you had a personal knowledge of the value of the Kansas Pacific or of the Denver Pacific stock.—A. No, sir.

THE THIRD ARTICLE.

Q. When you drew the third article, which provides that the capital stock of the Union Pacific should be \$50,762,300, being the total aggregate amount of the outstanding stock of the three constituent companies, and provided in that same article that each stockholder in the Denver Pacific Railway should receive a share of stock in the new company, the Union Pacific Railway, and that each stockholder in the Kansas Pacific Railway, the shares of which were only \$50, should receive one share of the new company's stock for two shares of the Kansas Pacific stock, what information had you that such an arrangement was a prudent or proper arrangement for the Union Pacific Railway to make?—A. I had none. I did not conceive it was my business at all to supervise the expediency or the wisdom of a contract which my employers told me they wanted drafted.

Q. Then your employers did tell you that they wanted it drafted just that way?—A. They undoubtedly did. I did not make their bargain for them.

Q. And you can only repeat the same names as being the persons from whom you received the specific instructions to draw Article 3, to which I have called your attention?—A. Yes, sir.

Q. Did you know at the time those instructions were given to you that any of those gentlemen you have named, and who gave you the instructions, had a personal interest in the Kansas Pacific stock and in the Denver Pacific stock?—A. If you ask me if I knew it personally, I say no. If you ask me if I understood that some of them were stockholders in both companies, I should say yes.

INTERESTS HELD IN BOTH KANSAS PACIFIC AND DENVER PACIFIC STOCK.

Q. I will ask you a shorter question. Did you ask Mr. Gould if he was, or did Mr. Gould tell you that he was, a holder of Kansas Pacific stock at the time you were preparing that article?—A. I have no recollection of asking him. I do not suppose I did. I have no recollection of his telling me. Yet, as I repeat, I had the understanding in some way that he was a holder of stock in the Kansas Pacific.

Q. You say you had the understanding when you drew that article?—A. Yes, sir; I think, I supposed he was.

Q. How was it in regard to Mr. Sidney Dillon?—A. I knew, that is, morally knew, that he was a large stockholder in the Union Pacific, and a stockholder, to some extent, in the Kansas Pacific. I never looked at the stock books.

Q. You also knew, did you not, that he was president of both of the corporations?—A. Undoubtedly.

Q. Did you have the same general knowledge about Mr. Ames?—A. I supposed that he was a very large shareholder in the Union Pacific, and, to some extent, a shareholder in the Kansas Pacific.

Q. What do you know in regard to Mr. Gould's having acquired an interest in the Denver Pacific stock?—A. I cannot now say that I knew that he had or had not.

OBJECT OF SUIT TO RELEASE DENVER PACIFIC STOCK.

Q. You say you knew that the suit had been brought?—A. Oh, yes, sir.

Q. Did you know the object of that suit?—A. Oh, yes.

Q. What was the object of that suit?—A. As I recollect, it was to liberate those Denver Pacific shares from the trust by placing an equal amount of security, or canceling bonds that would be equal to the value of that stock, and as that was an asset or the property of the Kansas Pacific Company, it should go into its treasury and become its property.

Q. Was that the whole object of that suit, as you understood it?—A. To the end, I think, that the scheme of consolidation here could be carried out, namely, consolidate that company, which was the link which connected the Kansas Pacific with the Union Pacific, with the other companies, and make one company of them.

Q. Could that consolidation not have been carried out just as well by surrendering the Denver Pacific stock from the Kansas Pacific Company to the Union Pacific Company, and giving to the Kansas Pacific Company the benefit of new stock in its own treasury?—A. I do not know how it was carried out.

TRANSFER OF DENVER PACIFIC STOCK TO GOULD, DILLON AND AMES.

Q. Did you not know at the time the suit was brought that the intention was to pass that stock from the Kansas Pacific Company into the hands of Mr. Gould and Mr. Dillon and Mr. Ames?—A. No, sir.

Q. When did you first learn that that transfer had actually taken place?—A. All I know about it is this; I think that appears; I have not examined the books since; but my impression is that the whole transaction is made a matter of record; if so, I knew it about that time.

Q. Where is that record?—A. It ought to appear on the Kansas Pacific records; I think they are in Boston.

Q. Does it appear on the Kansas Pacific records?—A. I do not know, but I presume it does; that is my recollection; I state this subject to correction if the record books do not show it.

Q. Did you know, on the day when the articles of consolidation were signed, that Mr. Jay Gould had acquired an interest in the Denver Pacific stock?

The WITNESS. In this stock that was liberated?

Commissioner ANDERSON. Yes, sir.

A. No; I never knew that he did; I do not know it now.

Q. When I say Mr. Jay Gould, I refer to him as being an associate with these other gentleman.—A. Yes, sir; I do not know that any of them ever did; my understanding of it is, that none of them ever got any personal profit out of that matter.

Commissioner ANDERSON. I have not asked you that.

The WITNESS. I think your question implied that.

Q. Did you know, on the day when the articles of consolidation were signed, that Mr. Jay Gould had acquired an interest in the Denver Pacific stock?—A. No, sir; I do not know it.

SIGNING THE ARTICLES OF CONSOLIDATION.

Q. Where were those articles signed?—A. In the office of the company, at 78 Broadway.

Q. Was there a meeting of the board of directors on that day?—A. That is my recollection.

Q. The minutes will show?—A. Yes, sir; I have no doubt of it; I think it must be so.

Q. Do you recall who was present at that meeting?—A. My recollection is, subject to correction when you see the minutes, that there were meetings of the board of directors of all three companies, and that they were pretty fully attended; but I cannot name the particular individuals that were present; I think I recollect Mr. Dillon being present, Mr. Frederick L. Ames, Mr. F. Gordon Dexter, Mr. Ezra H. Baker, Mr. Elisha Atkins, Mr. G. M. Dodge, and Mr. Jay Gould.

Q. Then you must have been present yourself?—A. I was present, in or out; I cannot say that I attended their deliberations; I may have done so, I may not.

KANSAS PACIFIC AND UNION PACIFIC OFFICES IN SAME BUILDING.

Q. Did the Kansas Pacific have an office in the same building?—A. That is my understanding; yes, sir.

Q. Or did they simply meet in the rooms of the Union Pacific?—A. No, I think they had an office there. I do not know that they had a separate office. Mr. Dillon was president of both companies.

Q. Who was president of the Denver Pacific?—A. I cannot tell you that without looking at the record.

Q. You say that you did not yourself know that Mr. Jay Gould had acquired this interest in the Denver Pacific stock when the articles of consolidation were signed. I infer, therefore, that Mr. Gould did not so report to the directors at the meeting of the directors.—A. I do not know. I cannot say that I was present at the meeting; if they called me in, I went in; I may have been there.

Commissioner ANDERSON. You have said you were in and out of the room repeatedly?

The WITNESS. Undoubtedly; I think it not improbable, in a matter of this gravity, that I was at the meeting.

Q. And you think it also quite likely, as to any question of moment or importance that affected the interests of these companies, that your opinion would have been asked?—A. That would be very probable; yes, sir.

Q. As a matter of fact, nothing was ever said to you as to whether the action of these companies ought to be changed or influenced by the circumstances which had been developed at the meeting, that Mr. Gould had a large personal interest in the Denver Pacific stock?—A. No, sir; I do not recollect that anything was said to me, and I do not recollect that any such fact was developed at the meeting. Do you understand there is referred to you the question of the validity of the consolidation?

The CHAIRMAN. We are to investigate all the facts relating to an alleged consolidation of the Union Pacific Railroad.

Commissioner ANDERSON. We have not asked any question directed to the validity of it.

The WITNESS. If that is the question, counsel are prepared to abide by their opinions.

By the CHAIRMAN:

Q. Are there any facts that you are acquainted with other than matters of record prepared by you as attorney in this consolidation?—A. I do not think so. I do not recall anything that would be of any moment except what appears there.

Q. That is, you have no personal knowledge of the other matters?—A. Except so far as I have stated.

Q. The preparation of records?—A. Yes, sir.

OPINIONS OF COUNSEL.

Commissioner ANDERSON. In regard to the opinions that Mr. Adams referred to as having been given by Judge Dillon as to the validity of certain acts of the company; have we those opinions?

The CHAIRMAN. They had better furnish us with the opinions.

The WITNESS. I have a copy of the opinion that I brought with me in which counsel unite as to the power of the Union Pacific Railway Company, consolidated, to issue ten millions of new stock—if that is the subject of inquiry.

Commissioner LITTLER. Yes.

Commissioner ANDERSON. That is the ten millions of new stock of the Union Pacific? That is not the thing. It is the guarantee of the Oregon bonds.

The WITNESS. That is a separate opinion. I can furnish you with that in print. Do you wish them produced now? I can do it now.

The CHAIRMAN. If you have them with you, you had better produce them.

The WITNESS. Have you a copy of that compilation? [Handing book to Commissioner Littler, being a compilation of acts of Congress relating to the Pacific roads.] You will find that very useful, and can spare it.

Commissioner LITTLER. Thank you; I would like to have it. Does this embrace everything?

The WITNESS. Down to its date; yes, sir. It is very useful. How will you have these opinions of counsel entered?

The CHAIRMAN. We will have them marked as exhibits produced by you.

The WITNESS. I produce, on request, a copy of my opinion, dated New York, January 10, 1881, concerning the power of the Union Pacific Company to make a further issue of stock. It is as follows:

OPINION OF JOHN F. DILLON AS TO THE POWER OF THE UNION PACIFIC RAILROAD COMPANY TO INCREASE ITS CAPITAL STOCK.

Has the Union Pacific Railway Company the power to make a further issue of stock?

It was provided by the act of Congress of July 2, 1864, that the capital stock of the Union Pacific Railroad Company, authorized by the act of July 1, 1862, shall be shares of \$100 instead of \$1,000 each, and that the number of shares shall be 1,000,000 instead of 100,000, thus fixing the amount of authorized capital at \$100,000,000. (Act of July 2, 1864, section 1.)

It is provided in the next section that "the capital stock of the said company shall not be increased beyond the actual cost of said road."

The actual cost of the line of road known as the Kansas Pacific, extending from Kansas City to Denver, was at least \$30,000,000. Stock however to the amount of only \$10,000,000 has been issued. The Territorial charter of that road limited the capital thereof to \$10,000,000. But constructed under the Federal franchise at actual cost, as I have just stated, over \$30,000,000.

The act of July 2, 1864, section 16, authorizes any two or more of the Pacific companies "at any time to unite and consolidate their organizations, as the same may or shall be, upon such terms and conditions, and in such manner as they may agree upon, and as shall not be incompatible with this act or the laws of the State or States in which the road of such companies may be, and to assume and adopt such corporate name and style as they may agree, with a capital stock not to exceed the actual cost of the roads so to be consolidated, &c."

By the act of Congress of March 3, 1873, as a part of what is known as the Cr dit Mobilier legislation, Congress among other things enacted, in reference to the Union Pacific Railroad, that "no dividend shall hereafter be made by the said company but from actual earnings thereof; and no new stock shall be issued, or mortgages or pledges made on the property or future earnings of the company without leave of Congress, except for the purpose of funding and securing debt now existing or renewals thereof. And directors or officers who shall pay or declare or aid in paying or declaring any dividend or creating any mortgage or pledge prohibited by this act shall be punished by imprisonment, &c."

This act was confined to the Union Pacific Railroad Company. None of its provisions were extended to any of the other Pacific roads. The penal provisions do not extend to any but the Union Pacific Company. All the other Pacific railway companies, except the Union Pacific, were left free to issue new or further stock as authorized by their constituent acts or the legislation of Congress applicable to them.

In the articles of union and consolidation of the companies forming the present Union Pacific Railway Company, of date January 24, 1880, it is provided (article 3) "that the capital stock of the said Union Pacific Railway Company shall be \$50,762,300 (being the total aggregate amount of the outstanding stock of the three constituent companies)." It is further provided in the articles of consolidation (article 9), that "nothing in this agreement contained shall affect or prejudice any rights otherwise existing of the consolidated companies to make such further increase of stock or bonds as the consolidated company may by law be entitled to make, or restrict the amount of stock and bonds which such consolidated company is by law authorized to issue or make."

The above are believed to be all the provisions of law or otherwise relating to the power of the present consolidated company to make a further issue of stock. My opinion is that the clause in the legislation of 1873 prohibiting the Union Pacific Railroad Company from issuing any new stock without leave of Congress did not repeal by implication, at all inverts as respects the Kansas Pacific, that part of the sixteenth section of the act of July 2, 1864, which authorized two or more of the Pacific companies, upon consolidation, to fix upon a capital stock to any amount which should not exceed the actual cost of the roads to be consolidated. And, therefore, assuming that the Kansas Pacific road actually cost \$30,000,000, and that only \$10,000,000 of stock have been issued, the present company, succeeding to all of the rights of the Kansas Pacific, may make a valid issue of stock in respect of the difference.

It is usual in charters to fix the authorized capital at the estimated or supposed cost of the enterprise; so here the object is to provide the corporation with the means of carrying out the corporate purpose. Congress meant, in the aforesaid section 16 of the act of July 2, 1862, that the companies should have authority to issue stock to the extent of the actual cost of the roads, so that they would be in possession of the means to provide for paying for the roads or paying the debt which had been incurred in their construction. It is plain that, if it were not for the prohibition in the act of 1873, that the consolidated company could provide for an additional issue of stock, not, however, to exceed the actual cost of the consolidated roads. The prohibition against the further issue of stock is limited to the Union Pacific Railroad, and, conceding that the effect of this would be to prohibit an issue of stock in respect of the construction of the Union Pacific road, there is no admissible principle of construction that would make this limitation and prohibition apply to the Kansas Pacific road. This limitation or prohibition is in derogation of existing rights, and on familiar principles is not to be extended by construction. The Government in its creditor relations to this company is a secured creditor, and its rights as such can in no way be unfavorably affected by an increase of stock. It is admitted that such an increase of stock will be incidentally beneficial to the Government by furnishing the company with the needful means to improve the condition of its property and make the same of more value. The proposed stock, if issued, will be allotted to the existing stockholders in proportion to their present holdings, and the measure will probably have their unanimous approval. It seems improbable that the Government or stockholders or creditors would ever have any motive or inducement to question the proposed action of the company.

The company's management are clearly of the opinion that such an issue is in all respects highly desirable. Under these circumstances any doubt that may surround a question of this kind may be more readily solved in favor of the proposed policy than if that policy were certain to be assailed.

On reading article 3, in connection with article 14, of the articles of union and consolidation, it would seem to me to be desirable, if the proposed policy is adopted, to amend article 3 so as to authorize the proposed increase and to have that amendment, as the proposed issue of stock, expressly ratified by the holders of two-thirds of the company's existing stock.

I have dictated these views as you have requested to the stenographer, and send them to you without much elaboration, so that you may have the benefit of Mr. Bartlett's valuable opinion. I feel quite sure that my conclusion is sound, and shall have no doubt about it if he shall concur with it.

One suggestion further, which I omitted in the proper connection. It may be suggested that the \$10,000,000 limitation in the Territorial charter of the Kansas Pacific is an obstacle to the proposed further issue of stock. This objection may be answered thus: The legislation of the State as well as its silence for sixteen years shows an acquiescence on the part of the State in the Congressional legislation, and in the modifications in that legislation of the charters of the Pacific railway companies. The legislation of Congress authorized a consolidation of the Kansas Pacific with any other of the Pacific roads. In the section which conferred the power to consolidate is found the provision as to the terms and conditions, and the amount of capital stock, authorizing the fixing of the capital stock at a greater amount than that fixed by the original charter of the Kansas Pacific. The judgments of the Supreme Court, under the Thurman act, in the case of the Central Pacific (a State corporation), show that the State legislation, so far as it was inconsistent with the Federal, had to give way.

JOHN F. DILLON.

NEW YORK, May 10, 1881.

The WITNESS. I produce also the opinion on the same subject of Sidney Bartlett, esq., dated Boston, January 17, 1881, addressed to Frederick L. Ames, esq. That is the only copy I have. Will you preserve it?

The CHAIRMAN. We will take care of it. We can have it copied.

OPINION OF SIDNEY BARTLETT, ESQ., AS TO THE ISSUE OF THE NEW STOCK.

I have examined with care and reflection the opinion of Judge Dillon as to the power of the Union Pacific Railway Company to increase its capital stock to the extent of the cost of its road as now constituted, and I concur in its results.

These results rest throughout on the ground that the present corporation has by legal consolidation succeeded to all the powers and rights of the several companies with which it has been thus consolidated; further, that the act of Congress of July 2, 1864, governs such consolidation and confers the additional power to increase the capital to the extent of the cost of the consolidated roads, and this whether such power be or not contained in the charters of the roads thus consolidated, and though one or more of such charters contain limitations repugnant to the exercise of such power.

The above general ground must be assumed in order to discuss the question on which the validity of the proposed issue of shares is ultimately to turn; and I am of opinion that whatever may be in other respects the technical effect of a consolidation of corporations (see 13 Wall., 210; 4 Otto, 444) that such legal consolidation confers on the consolidated corporation all the powers granted by the act of Congress of July 2, 1864, unless, by subsequent legislation, either directly or by implication, Congress has repealed the section of the act of 1864 authorizing such consolidation, or repealed that portion of the powers granted which has regard to the issue of shares, leaving the residue of the act unaffected.

The only subsequent legislation had, which it is supposed may be construed to repeal or modify that portion of the act of 1864 which allows such consolidation, is the act of March 3, 1873.

That act must, I think, be construed in connection with the report of the committee who framed and submitted it to Congress, that is to say, it must be construed in reference to the surrounding circumstances. The report above referred to discloses that the purpose of Congress was to restrain the issue of shares to pay for road building under existing contracts, which contracts the report reprobates. But, be this as it may, it would be a strange construction to hold that it repeals the rights of the Kansas Pacific Railway Company, or any of the other corporations not named in the act of 1873, to consolidate in conformity to the provisions of the act of 1864, or, upon such consolidation, to prohibit the issue of shares, not of the Union Pacific but of the consolidated roads, on the ground that one of those consolidated roads (the Union Pacific) was party to the consolidation and so had an interest in the issue.

Repeal by implication is not a favorite of the law, and I concur with Judge Dillon that the act of 1873 leaves to the roads legally consolidated under it complete authority to issue shares after consolidation to the extent of the cost of the roads consolidated.

I assume that the proposed issue of shares is not to be for gratuitous distribution among shareholders. Such distribution would not, I think, be warranted. The purpose, as I am assured, is that for each share thus issued there shall be paid into the treasury of the consolidated corporation its par value.

With these views it may be unnecessary to speculate as to what would be the effect of an issue of shares *ultra vires* of the corporation upon the title of those taking the original issue or of those to whom such issue might be transferred. It is clear that shares thus issued, being actually full paid, can never be subject to assessment at the suit of creditors.

As to the detail of carrying the plan into execution I have hardly given it thorough examination. Unless there be some striking advantage in causing such issue to be made under a vote of the board of directors, I should prefer that it should be made by a vote of the corporation. (1 Wall., 233.) I agree that, as a general principle, subsequent ratification is equivalent to precedent authority, but, having regard to the grave importance of the action, and looking to the fact that wayside ratification of stockholders is not an equivalent for a corporate meeting where discussion or mutual counsel may largely influence the consent of parties, my preference would be as above stated.

Respectfully yours,

S. BARTLETT.

Boston, January 17, 1881.

FRED'K L. AMES, Esq.

THE WITNESS. I also produce the opinion of counsel as to the validity of the Union Pacific Company's collateral trust bonds, dated October 2, 1882, signed John F. Dillon, Sidney Bartlett, Artemas H. Holmes:

OPINION OF COUNSEL AS TO THE VALIDITY OF UNION PACIFIC COMPANY'S COLLATERAL TRUST BONDS.

We are of opinion that the clause in the fourth section of the act of Congress, approved March 3, 1873, which provides "that no new stock shall be issued or mortgages or pledges made on the property and future earnings of the company," so far as the same relates to mortgages and pledges, has sole reference to the corporate property acquired or constructed for the completion and operation of the road, described in and authorized by the charter, to aid in which construction, and "to secure the use of the same for postal, military, and other purposes," grants of subsidies and of lands, were made by the Government.

And we are of opinion that the issue of bonds by the Union Pacific Railway Company, and the securing of the same by the deposit of underlying bonds as provided in the trust indenture of said railway company, to the New England Trust Company, trustee, dated the 1st day of September, 1882 (afterwards changed to April 2, 1883), are valid corporate acts, and do not contravene the above-recited clause of the act of March 3, 1873, or any provision of the charter of the company or other legislation of Congress applicable thereto.

October 2, 1882.

JOHN F. DILLON,
SIDNEY BARTLETT,
ARTEMAS H. HOLMES.

THE WITNESS. I also produce the further opinion of counsel on the same subject in answer to letters of the Hon. Wm. H. Armstrong, Commissioner of Railroads, dated November 22 and 23, 1882, which last opinion is dated Boston, December 4, 1882, signed Sidney Bartlett, John F. Dillon, Artemas H. Holmes:

FURTHER OPINION OF COUNSEL AS TO THE VALIDITY OF THE COLLATERAL TRUST BONDS.

The undersigned, to whom have been referred the letters of Hon. William H. Armstrong, Commissioner of Railroads, dated November 22 and 23, 1882, with their inclosures, to the end that we may advise the Union Pacific Railway Company, with some fullness, of the grounds on which rests our written opinion, dated October 2,

1882, declaring that in our view the trust indentures of the company, dated July 1, 1879, and September 1, 1882, were not in conflict with any act of Congress known to us, affecting the company, its rights or duties, proceed to state those grounds as follows:

1. The purposes of the indentures is declared by the company to be to obtain the means of reimbursement to the company of sums borrowed and expended in the purchase of the bonds of certain railroad companies which connect with the road of this company and from whose traffic the earnings of this company are very largely derived. The fruits, therefore, of this expenditure, whether it may have been wise or justifiable or not, inure largely to the security and benefit of the Government. The transactions are accomplished facts. The bonds are in possession of the company and the only pertinent inquiry bearing upon the validity of the trusts is not whether the purchase of the bonds was justifiable but whether the purchase, having been made, any act of Congress prohibits or restrains the company from using those bonds either by way of sale or pledge to obtain reimbursement of their cost.

2. It has been suggested that such prohibition or restraint is to be found in the fourth section of the act of March 3, 1873, which provides: "And no new stock shall be issued or mortgages or pledges made on the property or future earnings of the company, without leave of Congress, except for the purpose of funding and securing debt now existing or the renewals thereof."

Without adverting to the question whether this provision is not to be deemed repealed by the 6th and 9th sections of the Thurman act, our view was and is that the provisions of the act of 1873 must be construed as limited to the property of the company upon which, by the terms of the charter, the Government held a lien, and to the earnings of that property which were applicable to discharge the debt of the company to the Government. Substantially, the purpose, we think, was to prevent the creation of future liens upon the existing property of the corporation upon which the Government had a lien. It will be observed that neither of the trust indentures attempts to make any pledge of the earnings of the Union Pacific Company or to create any lien upon its road or the income thereof.

3. It has been further enacted in the 9th section of the Thurman act that "all sums due to the United States * * * are hereby declared to be a lien upon all the property, estate, rights and franchises of every description granted or conveyed by the United States * * * and also upon all the estate and property, real, personal, or mixed, assets and income of the said companies * * * from whatever source derived * * * But this section shall not be construed to prevent said companies, respectively, from using or disposing of any of their property or assets in the ordinary, proper, and lawful course of their current business, in good faith and for valuable consideration."

The effect of this section, without regard to the proviso, is not to prohibit any pledge or mortgage but to subordinate any such pledge or mortgage to the lien of the Government; nevertheless, it is obvious that such lien, if applicable to the bonds conveyed by the trust indentures, would prevent these indentures being carried into effect.

The first declaration in the section has reference to property granted or conveyed by the United States, and in effect redeclares the lien contained in the provisions of the act of 1873, and limits it in conformity with our construction of that act. The latter part of the section covers property from "whatever source derived," but the proviso enables the company to use and dispose of any such property in the ordinary and proper course of current business.

Now, since the bonds which are the subject of the trust indentures were not "property or estate * * * granted or conveyed by the United States," they fall within the proviso, and the proposed use of them is also, we think, clearly within the proviso. The company may, in our judgment, reimburse itself for expenditures incurred in the acquisition of these bonds, either by holding and collecting the interest and principal as they fall due, or by selling them with or without guarantee, or by using them as provided in the trust indentures. Either of these would be a use or disposition thereof in the ordinary and proper course of the current transactions of the company.

4. There is another view of the question which rests on the ground that the purchase of the bonds of connecting railroads for the purpose of increasing the traffic and earnings of the company was not among its chartered powers and so not warranted. If this be so, then clearly neither the act of 1873 nor the 9th section of the Thurman act can have any application to those bonds, since it can hardly be suggested that that legislation is applicable or could be made so to property acquired in contravention to or disregard of the previous legislation of Congress granting the company's charter.

Boston, December 4th, 1882.

SIDNEY BARTLETT,
JOHN F. DILLON,
ARTEMAS H. HOLMES.

The WITNESS. That last opinion was transmitted by President Dillon in an official communication to the Hon. William H. Armstrong, Commissioner of Railroads, in a letter dated December 5, 1882, in which he goes into the subject of the issue of these bonds and the policy and purpose of the construction of branch lines. It belongs to the official history of the roads. If you care to receive it, I will make it a part of my answer; otherwise I have no desire to volunteer it.

The CHAIRMAN. We would like to have it.

The WITNESS. A copy of this letter is produced as a part of my testimony:

LETTER OF PRESIDENT DILLON TO HON. W. H. ARMSTRONG.

NEW YORK, December 5, 1882.

HON. WILLIAM H. ARMSTRONG,
Commissioner of Railroads, Washington, D. C.

DEAR SIR: I have received yours of the 22d inst., stating that a communication from Mr. Arnold Leo, of New York, had been referred by the Secretary of the Interior to your office concerning a proposed further issue of bonds under the trust-deed of July 1st, 1879, from the Union Pacific Railroad Company to the Union Trust Company of New York; also yours of the 23d inst. on the same subject, and desiring to be furnished with copies of the papers in relation thereto. I beg to hand you herewith a copy of the collateral trust indenture of July 1st, 1879, to the Union Trust Company of New York, trustee, also a copy of the similar trust indenture of September 1st, 1882, to the New England Trust Company, securing the issue of what are known as the five per cent. bonds of the Union Pacific Railway Company (the date of this trust indenture was after the decision of the Leo suit changed to April 2, 1883); also a copy of the opinion of Messrs. Sidney Bartlett, John F. Dillon, and Artemas H. Holmes, as the counsel of the company, dated October 2d, 1882, in which they advise the company that the issue of bonds under the trust indenture of September 1st, 1882 (as counsel had previously advised the company in respect of the similar indenture of July 1st, 1879), was a valid, corporate act, not contravening the statute of Congress of March 3, 1873, or any provision of the charter of the company or other legislation applicable thereto. The trust indenture of July 1st, 1879, was sent to your office at or about the time it was made, and your office fully informed as to what had been done by the company thereunder.

The bonds under this indenture have been issued and sold and are in the hands of investors throughout the world. No greater wrong could be done to them and to the company as well as to the Government as the largest creditor of the company, than to have the slightest doubt thrown upon the validity of these bonds by any action of the Government or of its officers. The indenture of 1882 (now 1883), is similar to the one of 1879.

The principle here involved is one of vital importance as well to the Government as to the company. It is simply this, whether or not the company has the ordinary powers of a railroad company to borrow money, to sell or dispose of bonds to reimburse itself for the cost of their acquisition, and to take from time to time such steps as are necessary to protect its property and to hold and secure the territory naturally tributary to its subsidized lines of road. When the Union Pacific road was chartered it was supposed that as it traversed deserts and mountains, its principal revenues would come from *through* business with the Pacific coast and the countries beyond the Pacific Ocean. If we look to-day at the sources of income of the company we find that comparatively a small percentage of its net revenue is derived from this source, and that the volume of its net revenue is derived from local business. If we examine into the cause of this we find, as stated in your predecessor's report for 1880, page 25, that the main lines of the company subsidized by Congress are only 1,815 miles in length, while what he styles the various "branch and feeding lines controlled by the Union Pacific" give it an additional mileage of 2,400 miles. [It has since been greatly increased and is now 4,584 miles.] It was early perceived by the company that in order to secure the territory properly tributary to it, it was obliged to acquire or control these "branch and feeding lines." A list of these lines and of their respective mileage will be found in your predecessor's reports for 1879 and 1880. In the report of 1880 (p. 25) your predecessor says: "The policy of investing in these branch lines is undoubtedly the best for insuring a continuance of profitable business on the main line, and so long as the Government has such a large interest as creditor, it cannot but sanction and confirm these investments. If there is any way by which these branch properties could be merged in or consolidated with the main property it would be desirable, so that in any event or contingency the main property could not

be deprived of these valuable feeders." You have recently made a thorough examination of the roads of this company, and we cannot doubt that your own judgment will concur with that of your predecessor on this subject.

To these branch or feeding lines the United States has never given a dollar of money or an acre of land. Imagine them lopped off and all the revenue they bring into the company's treasury diverted to other roads. The disastrous effect of this upon the main line subsidized by the Government and upon which the Government has a lien is known to you, and can be easily ascertained by any person from the company's books. If the company had not promoted the building or acquiring of these collateral lines other roads would have occupied the territory and diverted this profitable business from the Union Pacific Company; thus these branch lines which the Government has not aided directly or indirectly to the extent of a farthing, have greatly added to the value of the roads subsidized by the United States and on which it has a lien, thereby increasing and in no way imperiling or affecting its security.

The books of the company will show that these "branch and feeding lines" have been acquired at their actual cost, without any inflation through construction companies or otherwise. The Union Pacific made, of course, some expenditures in the promotion and acquisition of the control of these feeders, for which it has received and holds the bonds of these companies. The transaction evidenced by the collateral trust indentures is simply, that this company issues its own bonds to raise a fund to reimburse itself for the bonds thus acquired, depositing the latter as collateral to an amount considerably greater than the amount borrowed on its own bonds. The current interest on the company's own obligations will be met by the interest received on the underlying bonds, and the difference goes into a sinking fund, which is sufficient to pay the principal of the company's own bonds at or before the time it becomes due. The company could, of course, sell the underlying bonds, and, if it chose, could indorse or guarantee them. No lawyer can doubt this power. What is done under the trust indentures is in substance the same. Many of the underlying bonds draw seven, and none of them less than six per cent. If merely sold and guaranteed, they would yield the company much less than they will under the plan in the trust indentures. Every solvent, well-managed company, in good credit, like the Union Pacific, will and ought to use its credit to the best advantage.

The decisions of the Supreme Court of the United States clearly define the relation of the Government to the company. It has held that the Government has no lien upon roads not subsidized, and no right to five per cent. of the earnings of the non-subsidized portions of the company's lines (99 U. S., 455, 460); and when the act of 1873 provided that no stock be issued and mortgages or pledges on the property or future earnings of the company made, it meant simply the property which the Government had given or aided to acquire, and the earnings of such property, and it had no reference whatever to collateral lines built under independent organizations, to which the Government has contributed neither money nor land. You will observe that the trust indentures do not make or attempt to make any pledge of the company's earnings, and that there is nothing in either of the instruments that gives any holder of the bonds of the Union Pacific any lien upon either its road or income.

It may be admitted that under the terms of the act of March 3, 1873, we can make no mortgage or pledge of the company's subsidized lines or the earnings thereof, and the company has not attempted to do so; but the company claims as respects the bonds of independent companies not aided by the Government and acquired and held by this company, as these bonds were, that it may use them as a means of reimbursing the company in respect of the acquisition thereof; and this is all the trust indentures seek to do.

The Government and the company have in this matter a common interest. If the company is disabled and helpless to secure its present property and natural advantages, and to defend it from the sleepless activity of hostile and rival interests, which is the principle that must underlie any possible objection to the trust indentures, the Government and the company will suffer alike. The company therefore submits if it is deemed by you to be your duty to take any official action in this matter that the objector (who for the first time acquired a small amount of stock November 17, 1882, and began to object the next day), be advised that in your judgment the trust indentures do not show that they are in violation of any of the rights secured to the Government by the acts of Congress applicable to the company.

Very respectfully, your obedient servant,

SIDNEY DILLON,
President.

THE GOVERNMENT NOTIFIED AFTER CONSOLIDATION.

By the CHAIRMAN:

Q. Was notice given to the United States Government of the consolidation?—A. The next day or the same day.

Q. Before the consolidation?—A. Not to my knowledge before the consolidation; I think not.

Q. Were the Government directors consulted?—A. I would have to refer to the records to know whether they were present at the meetings which authorized the consolidation. My recollection is that they were, and assented to it.

Q. Assented to the merger of the Union Pacific Railroad into the Union Pacific Railway Company?—A. Yes, sir; the merger of the three companies into one.

Q. The Union Pacific Railway Company?—A. That is the name.

GOVERNMENT DIRECTORS' RELATION TO UNION PACIFIC RAILWAY.

Q. What does the railway company regard as the relation of the Government directors now to their organization?—A. Do you want the official history of that?

Q. What is your opinion?—A. I had forgotten it myself in looking over the record in this *quo warranto* suit to-day since I have been sitting here. I have a good many duplicate copies of that. That is where the State of Kansas attacked the validity of this consolidation, the report of which you will find in the 101 U. S., 449.

The Government directors have been recognized as sustaining towards the consolidated company the same relations which they previously sustained towards the Union Pacific Railroad Company; the original act providing only for Government directors in respect to the Union Pacific Railroad from Omaha to Ogden. There were no Government directors in the Kansas Pacific, or in any other Pacific road.

Commissioner ANDERSON. We will go on with Mr. Sidney Dillon now.

The CHAIRMAN. Yes, if there are no other questions. We may recall you, Judge Dillon, concerning other matters in the bill.

The WITNESS. I shall be pleased to attend any time.

JOHN F. DILLON.

NO. 10 WALL STREET, NEW YORK,
Thursday, May 5, 1887.

SIDNEY DILLON, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. When did your relations with the Union Pacific commence?—Answer. I will have to get out a little document, for I had forgotten, until I asked by telegram to-day, from Boston, when I did commence, and I got the following reply:

HIS RELATIONS TO THE UNION PACIFIC.

I find by an examination of the papers in our office that work was first commenced on the construction of the main line of the Union Pacific sometime in 1863; it is impossible to say at just what period of the year. You were first elected a director on October 3, 1866. On March 11, 1874, you were elected president and continued in in that office until June 13, 1884.

Q. Those dates are doubtless correct?—A. I presume they are got it from the auditor in Boston; from Mr. Mink.

Q. Did you remain a director from 1866 until 1884?—A. Yes, and a director now.

Q. You have at all times been largely interested in the com
A. Yes, sir.

Q. A large holder of its securities?—A. Yes, sir.

Q. And are generally familiar with both its constructi
finances?—A. Yes, sir.

RELATIONS TO KANSAS PACIFIC.

Q. What have been your relations to the Kansas Pacific?—A. This consolidation was talked of, which you have been discussi
to-day, my attention was drawn to it at that time, and I looked
back and forth to see whether it was a thing which we wanted
anything to do with.

Q. I only asked when your relations with the Kansas Paci
menced?—A. I could not tell you that. If you will please to
dates of me I shall be much obliged.

Q. Were you the president of the Kansas Pacific previous to
cles of consolidation?—A. I think I was elected about that tin

Q. Had you been a director of the Kansas Pacific before y
president of the Kansas Pacific?—A. I think not.

Mr. HOLMES. I think you were for a while.

The WITNESS. For how long a time?

Mr. HOLMES. I think for a year before.

Q. You may take the explanation of Mr. Holmes; is that yo
recollection, that you were not a director before you were presi
A. I cannot recollect; my attorney says I was a short time be

Q. Do you remember how long you were president of that c
before the consolidation was signed?—A. I do not.

Q. Did you take any part in its affairs as president?—A. I d

Q. Did you attend the meetings of its board?—A. I did.

Q. You know that you were the president at the time the ar
consolidation were signed?—A. I was; I suppose I was; yes,

Q. You executed them?—A. Yes, sir; I think so.

Q. How long after the articles of consolidation were signed
remain the president of the Kansas Pacific?—A. Pardon me
ing—

Commissioner ANDERSON. Certainly. Until we object you
as much as you want to.

The WITNESS. As Mr. Ham, my secretary, says, I think I a
dent still, if there is a president in existence. There has been
tion since and no action taken by the Kansas Pacific since.

RELATIONS TO DENVER PACIFIC.

Q. What relation, if any, did you hold to the Denver Paci
time of the consolidation?—A. None.

Q. Were you a director?—A. No, sir; I think not. Was I?

Mr. HOLMES. I think you were not. I do not remember.

Commissioner ANDERSON. If you have a memorandum of th
ing there, please show it to the witness.

The WITNESS. Yes, sir; I would like to see it, if it is fair.

Q. It was January 24, 1880?—A. Yes, sir; I was. I was no
of it.

Q. On referring to the minutes of the meeting of January
you find you were a director of the Denver Pacific?—A. Yes,

Q. The fact, then, had escaped your mind entirely?—A. It

Q. When did you first acquire any interest in the Kansas Pacific stock?—A. I could not say.

Q. Was it sometime before the consolidation?—A. I think it was. I could not say.

Q. Did you act in concert with other persons?—A. I did not.

Q. Were other persons connected with you in the interests which you had in Kansas Pacific stock and other securities of the Kansas Pacific?—A. No, sir.

KANSAS PACIFIC POOL.

Q. Were you ever a party to an article of agreement made between yourself and Mr. Ames and Jay Gould and others, made in April, 1878, relating to stock of the Kansas Pacific and other securities of the Kansas Pacific?—A. I think very likely I was. I cannot recall it.

Q. Why do you say that no other persons were interested with you in the acquisition of the Kansas Pacific stock and other securities?—A. I mean to say that I went into the market and bought stock on my own hook, as I pleased, and sold it again, and kept along that way probably until the time of which you speak. That was my meaning when you asked me the question.

Q. I ask you now with regard to that time, which was April, 1878, did you then associate yourself with a number of other gentlemen in acquiring interest in the Kansas Pacific stock?—A. I did.

Q. Who were those other gentlemen?—A. I cannot tell you now, without the documents. There is some record of it, no doubt. I can tell you some of them.

Q. Tell me those you can remember?—A. Mr. Frederick L. Ames and Jay Gould and Russell Sage, and I cannot say who else. I think some of our other Boston friends there, such as Dexter and others. I think so.

Q. Do you remember what that agreement was about, and how it came about?—A. I cannot recall the substance of the agreement now.

THE UNION PACIFIC AND KANSAS PACIFIC CONTEST AS TO PRORATING.

Q. Do you remember generally before that time what relations existed between the Kansas Pacific Company and the Union Pacific Company in regard to mutual business and freight?

The WITNESS. Was that prior to the time that I was president?

Commissioner ANDERSON. I refer to before the time when you and Mr. Gould arranged together to purchase securities of the Kansas Pacific.

The WITNESS. Will you ask that question again, please?

Commissioner ANDERSON. I ask you, before that time, if you remember what the relations were between the Kansas Pacific and the Union Pacific Companies with regard to through business and freight and traffic at competing points?—A. Well, the Union Pacific denied that the Kansas Pacific had a right to prorate through to the Pacific coast.

Q. Was that contest a long and protracted and bitter one?—A. It was.

Q. And the interests of both parties were entirely separate and hostile?—A. Yes, sir.

MARKET VALUE OF KANSAS PACIFIC SECURITIES.

Q. Do you know generally at this time, just prior to the agreement of April, 1878, what the condition in the market of the Kansas Pacific securities was?—A. They were very low.

Q. Can you give us the figures for the stock, for instance?—A. I could not give it at various times. It ran from 6 to 12 per cent., and along at different higher rates.

Q. Did the Kansas Pacific stock not sell as low as 3?—A. It might have done so, but I never was lucky enough to get it.

Q. How lucky were you enough to get it at?—A. I got some as low as 6.

Q. In regard to the other securities; what did the land-grant bonds sell at?—A. It is a matter of record.

Q. Along in 1875 or 1876 what were they?—A. We can turn right to the stock record, or the records of the stock list in Wall street, and see; that shows exactly. It is so long ago that I cannot say what they were worth at that time. I do not know now; I do not remember.

Q. Of course we know that; but I was merely testing your memory as to these transactions. Now, to pass to 1878, please look at the paper, exhibit No. 1, of May 5, 1877, and state whether that is the instrument to which you became a party—what was known among you gentlemen as the Kansas Pacific pool?—A. I do not know. I never heard the pool mentioned so much before as I have to-day.

Q. How did you refer to your interest in that? There must have been some way of referring to it.—A. We did not refer much about it. We went and bought our securities and put them together; that is about all there was of it.

Q. Please state what you mean by putting them together. You delivered them to a certain committee, I suppose?—A. Yes, sir.

Q. Who was the committee?—A. I cannot say now.

By the CHAIRMAN:

Q. You say "we;" whom do you mean?—A. I meant to say that I bought the securities, and they were put in. You may, if you please, call it the pool, for the sake of—

Commissioner ANDERSON. Brevity?

The WITNESS. Yes, sir.

THE KANSAS PACIFIC POOL COMMITTEE.

By Commissioner ANDERSON:

Q. It appears from the face of the paper that Mr. Ames, Mr. Greeley, and Mr. Villard were the committee with whom the securities were deposited. Do you recollect that?—A. I presume so, but I have no recollection now.

Q. Do you recall the business of that at all—how it was conducted? Were securities from time to time turned in for account of the different parties, and were sales made?

The WITNESS. Do you mean bought and sold?

Commissioner ANDERSON. Yes.

A. I do not think there was any purchase and sale.

Q. None sold as a pool?—A. No, sir.

Q. Do you not remember that there were different purchases made, so that the securities increased from time to time?—A. That does not mean sales.

Q. Do you know who attended to the book business of that pool?—A. I think Mr. Calef had it; I am not sure.

Q. You think he kept the accounts?—A. I am not sure, but I think he did.

POOL ACCOUNTS KEPT AND RENDERED.

Q. Were accounts rendered to you?—A. No, they would not be rendered to me; it would be rendered to the pool—to the committee.

Q. The committee would render the accounts to the individuals when they were about making a dividend, would they not?

The WITNESS. What do you mean by "a dividend"?

Commissioner ANDERSON. I presume that when these securities were disposed of, as they were finally, and realized into money, that there must have been a division according to the interests of the parties. Is that not so?

A. I did not know they realized any money on them.

Q. Did you never realize any money for the securities you put into this pool?—A. No, sir; not to my recollection.

Q. What did you realize for them? Was nothing ever given back to you?—A. I cannot say how it was arranged, but I do not recollect receiving any money.

Commissioner ANDERSON. I suppose you received bonds.

The WITNESS. I cannot say how it was done. There was an exchange from that general class of securities into some other form in the Kansas Pacific, but I cannot say how.

Q. Is it not perfectly clear that, whether settled in money or in bonds, it was absolutely necessary that the person who kept the accounts should make up an account in which each member of the pool should be able to see what he was entitled to receive, whether in money or in bonds?—A. When the pool was consummated, and it took a different shape, it was.

Q. Was such an account rendered to you?—A. I presume it was, but I cannot recollect.

Q. If rendered to you, it was rendered by Mr. Calef, to your best knowledge?—A. I think it was Mr. Calef.

Q. Do you know whether he has the books of accounts?—A. Let me correct myself.

Mr. JOHN F. DILLON. Mr. Ham is Mr. Dillon's private secretary. Mr. Dillon is not accustomed to records and papers. He is probably mistaken about Mr. Calef. Mr. Ham will tell you.

Mr. HAM. Mr. Greeley at one time furnished all the securities and received them, and they were afterwards turned over to Sage, Dillon, and Villard.

The WITNESS. As to the secretary, I cannot tell who it was. It was not myself, nor to my order.

Q. What the Commission desires to get, is an account of the financial management of this pool, and how it began, and how it resulted. Can you tell us who has the books which show that transaction? We should be glad to see them.—A. I think they can be furnished by Mr. Ham.

Q. Do you remember that the parties to that arrangement were substantially divided between representatives of the Union Pacific Railroad and what was known as the Saint Louis party?—A. There were both parties in it.

Q. Did both parties remain in the pool until the end, or did one party survive the other?—A. That I could not say. I think they remained in it, but I could not say.

BUYING OUT THE SAINT LOUIS PARTIES.

Q. Do you not remember as a matter of fact that the Saint Louis people were bought out?—A. Not wholly, I think.

Q. Do you not remember that their control was bought out, and a large proportion of their securities were purchased from them?—A. I think there was a control bought.

Q. When was that done?—A. I could not say. Those papers that Mr. Ham will furnish very likely will give you that data.

Q. Was it not done just about the time that you were elected president of the Kansas Pacific?—A. I could not say what time it was.

Q. Were you consulted as to that purchase of the Saint Louis interest?—A. I presume I was.

Q. Did you pay up part of the purchase price?

The WITNESS. Do you mean to say, did I take a part of it?

Commissioner ANDERSON. Yes.

A. I did.

Q. Who else took a part of it?—A. I could not say; I presume the rest of them did.

Q. When you say "the rest of them," whom do you mean?—A. Those whom I have named heretofore.

Q. That is, Mr. Gould, Mr. Ames, and Mr. Sage?—A. I cannot say who took it. I do not know now; I do not recollect.

HOW THE PRICE WAS FIXED.

Q. Do you remember how the price came to be fixed at which the securities were to be bought?—A. No, I cannot say how it was done, more than to buy anything else—because they wanted to sell them.

Q. Do you remember how large a transaction it was, and how much money was paid to the Saint Louis people?—A. I do not.

Q. Do you remember that it was more than a million dollars?—A. I do not know that it was all done at one time. I am not sure.

Mr. HAM. It was not a matter of the pool at all. It was an individual transaction.

Q. Some members of the pool, individually, bought out some of the members?—A. That is true.

Q. My inquiry is, just how large the transaction is, in order that I may see whether you have any memory regarding the transaction of a million dollars.—A. I think I recollect now, that it was bought out by individuals not in conjunction with each other, but it was bought just because the parties thought they would buy it. That was my case.

Q. The result was that all the Union Pacific people bought out, substantially, all the Saint Louis people, or bought a control?—A. That is it.

MR. DILLON ELECTED PRESIDENT OF KANSAS PACIFIC.

Q. A coincidence, if not a combination. Well, after the Union Pacific party had obtained control, do you remember the fact that you were elected president of the Kansas Pacific?—A. Yes, I think I was elected president after they got the control. I think I was. I do not know whether it was after or before. I could not say.

Q. Do you remember when your nephew, Judge Dillon, came on here from the West?

The WITNESS. When he joined the company?

Commissioner ANDERSON. When he became counsel to the Union Pacific Company?

A. Yes, sir; I remember it.

Q. Do you recall the fact that you informed him that the executive committee had intimated that they desired to avail themselves of his services as counsel for the road?—A. I do not recall that fact.

RECOMMENDATION OF JOHN F. DILLON AS COUNSEL.

Q. What facts do you recall in regard to it?—A. I recall the fact that I recommended him, and Mr. Gould, who was in the neighboring office to me, being a largely interested party in the Union Pacific, said that he would like the company to have him. You know that a part of our directors were in Boston and part were here, and we could not at one time make any particular arrangement, except by telegraph or notice. We recommended it, and he was called as counsel.

Q. This occurred when, do you say?—A. Judge Dillon can speak.

Commissioner ANDERSON. I want to see how closely you can put these things together.

The WITNESS. I cannot put it together.

Q. Do you remember the fact that it occurred shortly before the consolidation?—A. It was before the consolidation; but I cannot say how long before.

Q. Do you remember that it occurred after you had been elected president of the company?—A. I do not recollect whether it was after or before.

Mr. JOHN F. DILLON. I want to say, when he says he recommended me, that I never applied for the position, directly or indirectly. I have a little pride about that.

The WITNESS. Mr. Gould said, "By all means, we want him," when I recommended him. This was how the point came up.

MR. DILLON'S HOLDINGS OF KANSAS PACIFIC SECURITIES.

Q. Can you tell us how much stock of the Kansas Pacific Company you owned just before the consolidation?—A. It shows for itself, I think.

Q. What was it you think showed for itself?

The WITNESS. You were pointing at something.

Commissioner ANDERSON. Mr. Norris is pointing out the vote to the ratification, and I do not know whether that would be a correct answer to my question.

The WITNESS. I suppose that is correct, 6,118 shares.

Q. Do you remember whether any important change of interest in the amount of stock held by you had occurred at about that time?—A. I do not.

Q. So that that is about what you held before the articles of consolidation were signed?—A. I think it was.

Q. Did you hold any other stock in any other name?—A. I did not.

Q. Do you remember what other securities of the Kansas Pacific you held at this time?—A. I had not many others; I cannot say what they were now.

Q. Any consolidated bonds?—A. I could not say; I had not a large amount.

Q. Do you know whether you had received any consolidated bonds—the interest you were entitled to receive under the articles of agreement of April, 1878—at this time?—A. I do not know.

Q. You do not remember that?—A. I do not remember; no, sir.

Q. Do you remember the fact that you did receive whatever bonds you were entitled to receive for the securities represented by that agreement?—A. Yes, sir; I presume I did.

Q. Do you remember whether you kept them any length of time after you obtained them?—A. I think I did.

Q. Do you remember whether, at the time of the consolidation, you owned or held any stock of the Denver Pacific Company?—A. I think I did not, any more than if I was a director; I might have had a little to make me a director. That was it.

Q. Do you remember the fact that at the meeting for ratifying the consolidation by the Denver-Pacific stockholders you voted on some stock?

The WITNESS. Some stock of what?

HIS HOLDINGS, AS TRUSTEE, OF DENVER PACIFIC STOCK.

Commissioner ANDERSON. Did you vote on the Denver Pacific stock?—A. I do not recollect it. I may have done it. I do not know.

Q. Do you not recollect the fact that you voted on over 39,000 shares of stock?—A. I do not recollect it. I might have voted on it.

Mr. HAM. That was the stock of the Kansas Pacific, put in his name as trustee.

The WITNESS. When you refer to me as an individual—

Commissioner ANDERSON. It is signed simply, "Sidney Dillon, trustee."

The WITNESS. Mr. Ham has stated the facts.

Q. What are the facts?—A. I voted it as trustee, I suppose. I should have said I had not voted at all. I had forgotten all about it.

Q. Did that stock stand in the name of Sidney Dillon, trustee?—A. I suppose it did, or else I should not have voted it.

Q. For whom were you trustee?—A. I do not know; I cannot recollect. You must excuse me if I do not know. I hate to be too ignorant.

Commissioner ANDERSON. I must object to the witness being assisted by his secretary, except as to facts and names.

Q. You do not remember whether there was a certificate of stock for 39,000 shares of stock in the name of Sidney Dillon, trustee?—A. I do not remember. I should not have remembered the transaction if it had not been brought to my notice.

Q. Do you remember the fact that you surrendered, either individually or as trustee, 39,000 shares of Denver Pacific stock, and that you received stock of the Union Pacific Railway in exchange therefor?—A. I knew that was done; but until this moment I was not aware that I was the custodian of the stock.

Q. You know that it was done?—A. That is to say, I understand it was done.

Q. Do you know how that stock of the Union Pacific Railway was delivered in exchange for the 39,986 shares? Do you know who got it?—A. The Union Pacific got it.

Q. The Union Pacific delivered it, did it not?—A. It bought it, and it was put back into the treasury again.

Q. Into the treasury of what company?—A. Of the Union Pacific.

Q. The 39,986 shares?—A. The exchange which took place—the Denver Pacific stock—the avails of it went into the treasury of the Union Pacific.

Q. Do you mean of the Kansas Pacific or the Union Pacific?—A. The Union Pacific Railway Company.

Q. So that your statement is that the 39,986 shares of Denver Pacific stock were surrendered to the consolidated company, and that the consolidated company issued new stock for the same amount, and that that new stock was sold, and that the proceeds of that sale were deposited in the treasury of the Union Pacific Railway Company?—A. I mean to

say that the stock was deposited in the treasury of the Union Pacific Railway Company.

Q. What stock was deposited?—A. New stock. Stock of the Denver Pacific the Union Pacific acquired, and for it it gave its own stock, and it was placed in the treasury of the Union Pacific as its own property.

Q. What was placed in the treasury of the Union Pacific?—A. The stock or the avails of it. The new issue that was made.

Q. Then we must find 39,986 shares of Union Pacific Railway stock in the treasury of that company?—A. Yes, sir.

Q. And that is what happened, is it?—A. Yes, sir, as I understand it.

AND THE NEW ISSUE RECEIVED IN EXCHANGE.

Q. To whom was that new stock delivered; who received it?—A. I suppose that I, as president of the road—it would come into our treasury; I could not say who received it.

Q. Who surrendered the old certificates of Denver Pacific stock?—A. It was a formal thing which took place, and I cannot give the names of who surrendered it, or of how it was done; but it was all on record.

Q. It is all in your name as trustee?—A. Yes, sir.

Q. Could it be surrendered without your signature?—A. I presume not, but I do not recollect how the transaction took place.

Q. When that surrender was made and you appended your signature, was a certificate for an equal amount of Union Pacific stock delivered to you personally?—A. I cannot say whether it was delivered to me personally; it might have been delivered to me somewhere, as the proper custodian of it.

Q. Was such stock delivered to any one for your account?—A. Not for my account personally.

Q. For whose account was it delivered?—A. For the Union Pacific.

Q. Did that stock remain in the treasury, or was it sold?—A. I think it was used at various times for the benefit of the Union Pacific.

Q. Can you be positive about it, being president of the road?—A. I am quite positive of it.

Q. What benefit was it used for?—A. For the purchase of various securities which were necessary, or for building lines which we built or were about building at that time; I could not define it into one particular channel where it went, but it went as if it were money that had been paid in to be used for any purpose which might inure to the benefit of the company.

TOTAL UNION PACIFIC RAILWAY STOCK.

Q. What is the total amount of the capital stock of the Union Pacific Railway Company?

The WITNESS. At this time?

Commissioner ANDERSON. Immediately after the consolidation.

A. I could not say without getting the report; the report shows; it is an open document before the public.

Q. Will you refer to the articles of consolidation? They will tell you. Look at article 3, and give the exact figures there.—A. The capital stock of said Union Pacific Railway Company shall be \$50,762,300, being the total aggregate amount of the outstanding stock.

Commissioner ANDERSON. Those are the articles of consolidation signed January 24, 1880. I now show you the report of your road

the year 1880, and you will perceive that the capital stock of the company outstanding is the exact sum you have given, \$50,762,300.

The WITNESS. Yes, sir.

Q. Will you please explain how, if the 39,986 shares had been deposited in the treasury of the Union Pacific, it is possible that its outstanding capital should have been the total capital of the company?—A. I do not know why it should not be; I cannot fully understand you.

WHERE DO THE 39,986 SHARES APPEAR?

Q. If you had placed the 39,986 shares of the capital stock of the Union Pacific stock back into the treasury of the company, then its whole capital stock would not then be outstanding; is not that so?—A. There might be stock in the treasury of the company, and counted as capital stock, and still the company would be the owner of it.

Q. Then it would have to appear on the other side of the balance-sheet, if the company charge itself with its whole capital stock, in order to make it balance. You would have to show that 39,000 shares were on hand on the other side. Will you refer me to anything in your financial statement as to that?—A. I cannot refer to it; I shall have to ask you to have the secretary explain that when you bring him on the stand.

Q. I call your attention to the other side of the balance-sheet, where there is an entry stating the amount of bonds and stock of the company which the company has on hand, and which entry I read to you: "Bonds and stocks of this company owned by the company, \$349,562." I ask you if that company had on hand 39,000 shares of stock, over \$3,000,000, where it appears on the balance-sheet?—A. I cannot tell you; I only say to you that I would like to have you accept the testimony of my secretary in this matter; I am not a close accountant of those things and figures, and therefore I could not say that to-day.

Q. May you not be mistaken in your statement that the stock which was issued by the Union Pacific Railway Company in exchange for the 39,986 shares of Denver Pacific stock was placed back in the treasury of that company?—A. I think I am not.

Q. And yet you are unable, as president of this company, to show in your financial statement where that appears?

The WITNESS. If you will allow me to speak to my secretary.

Commissioner ANDERSON. Certainly.

Mr. HAM. That report is a year after the date.

Commissioner ANDERSON. It may have been sold in that time.

Mr. HAM. It may have been sold in that time.

THE STOCK DISPOSED OF.

Commissioner ANDERSON. Is it your statement that that stock was sold?

Mr. HAM. Yes, sir; the stock was all parted with before that time.

Mr. JOHN F. DILLON. I will state that Mr. Ham is prepared to tell you all about it.

The WITNESS. What I want to state is the truth of the thing, as near as I know, as I understand it. If I am in error I am in error ignorantly.

Mr. JOHN F. DILLON. Mr. Ham says he understands it.

The WITNESS. I think you will find that no man belonging to the Union Pacific had one dollar's interest in that, as they have been ac-

caused, for the last ten years, of holding that property and putting it *into* their own pockets. I hope and trust you will so find, because it is *so*, so far as I understand it.

THE SUIT TO RELEASE DENVER PACIFIC STOCK.

Q. Do you remember calling Mr. Holmes to have an interview with you with regard to a suit to be brought for the purpose of getting 29,986 shares of this Denver Pacific stock out of the consolidated trust?—A. I think I did.

Q. Do you remember who was present at that interview?—A. I do not.

Q. Do you remember that you did see Mr. Holmes?—A. I think I must have seen him. If you had asked me if it was Mr. Holmes, except from what I have heard to-day, or Judge Dillon, I should have said it was some one of the attorneys that I talked with about it.

Q. Do you remember the conversation at all?—A. I do not now.

Q. Do you recollect telling him that you desired expedition?—A. I do not know the conversation. I know that we wanted that passed upon.

Q. You know that you wanted the Denver Pacific stock got out of that trust for some reason?—A. I did.

WHO SUGGESTED IT.

Q. Who first suggested that to you?—A. I do not know.

Q. Do you think you suggested it to Mr. Gould?—A. I cannot say whether I suggested it, or whether Mr. Gould suggested it, or whether it was talked of as a general thing; I could not say.

Q. Do you remember that it was talked about?—A. Yes, sir.

Q. And that you then sent for Mr. Holmes?—A. I say I could not say it was Mr. Holmes, but I think so.

Q. Was Mr. Gould present at the interview with Mr. Holmes?—A. I could not say whether he was or not; it has escaped my memory.

Q. Do you remember telling Mr. Holmes who would represent the trustees of the consolidated mortgage?—A. I do not.

THE TRUSTEES OF THE CONSOLIDATED MORTGAGE.

Q. Do you remember who were the trustees of the consolidated mortgage?

A. The WITNESS. Of the Kansas Pacific?

C. Commissioner ANDERSON. Who were the trustees of the Kansas Pacific consolidated mortgage?

A. I suppose that Mr. Gould and Mr. Sage were the trustees, as I recollect now.

Q. What next do you recollect about that suit?—A. I recollect we had a suit, and it passed through its regular course, and I cannot give the terms of it. I should like one of our attorneys here to give the balance of it.

Q. I only asked you what you recollect about it.—A. I recollect that we had a suit and it was in court here, and was passed on.

Q. Have you told us all that you remember about it?—A. I do not know that I can recollect much more about it.

Q. Do you recollect the fact that you were a witness in that suit?—**A.** I might have been; yes.

Q. Do you recollect that fact?—A. Yes.

Q. Do you remember who the other witnesses were?—A. I do not. I do recollect being a witness, now.

Q. Do you remember what you were examined about?—A. I think it was as to the value of it. I think so, but I am not sure.

Q. What means had you, then, for knowing anything about the value of the Denver Pacific stock?—A. I knew where the road was located, and I knew that the earnings of the road were very light. That is, that was the report to me. I think it was in the hands of a receiver. I am not sure. Was it, Mr. Holmes?

Mr. HOLMES. It was at that time.

The WITNESS. The Denver Pacific was at that time, I think; I am not sure.

Mr. JOHN F. DILLON. You get all wrong, if you try to recollect what happened ten years ago. I do not think it was. Mr. Holmes thinks it was.

By Commissioner ANDERSON:

Q. Where lawyers differ the parties get their rights. You were examined at some length as to the value of that stock?—A. Yes, sir; I presume I was.

WHAT WAS TO BE DONE WITH IT IF RELEASED.

Q. Do you remember that some arrangements had been made as to what was to be done with that stock, if you got it out?—A. I think there was an arrangement made, but I cannot remember what the talk was particularly.

Q. Do you remember what the general arrangement was that had been made?—A. The general arrangement was to make it a part of the system, the road.

Q. Do you remember anything that had been arranged in regard to the surrender of bonds of branch lines in exchange for that stock?—A. No, sir; I do not.

Q. Do you remember that any arrangements had been made by which the bonds of the branch lines of the Kansas Pacific were to be surrendered to the Kansas Pacific in exchange for the stock?—A. I do not recollect that that took place. It might have.

Q. Or that anything had been fixed upon which was to be carried out between the Kansas Pacific Company and yourself and Mr. Gould and Mr. Ames and others in regard to that stock?—A. It was fixed that if we got it, to place it where we did place it.

Q. Where did you place it?—A. We placed it in the Union Pacific treasury.

Q. In exchange for what?—A. Union Pacific stock.

Q. How much Union Pacific stock?—A. The same amount.

Q. What was that stock worth?

VALUE OF UNION PACIFIC STOCK AT TIME OF EXCHANGE.

The WITNESS. Which stock?

Commissioner ANDERSON. The stock of the Union Pacific that you got for the stock of the Denver Pacific?—A. I cannot say what it was worth at that time.

Q. Was the Union Pacific stock selling at par at that time?—A. Yes, I presume it was.

Q. Then the Union Pacific stock that you got for these 29,986 shares was worth \$2,986,000, taking it at par?—A. I admit that for the sake for an answer.

Q. You say you knew that it had been arranged between the parties in interest to have that done, and it was done?—A. It was done.

Q. Please examine the signature to the deposition which I show you, and state whether it is yours.—A. It is.

Q. Do you recollect the fact that that is the signature you made after giving your deposition in this suit?—A. I presume it is.

Q. Do you remember being examined before Mr. Ruggles?—A. I cannot say who it was I was examined before now.

Q. Do you remember being examined before some referee in this suit?—A. I presume I was.

Q. Do you remember whether your evidence was taken down at length in long-hand writing or by short-hand writer?—A. I do not know.

Q. Did you read this evidence over before signing it?—A. I have no doubt I did; at least I suppose I did.

EVIDENCE OF MR. DILLON BEFORE THE REFEREE.

Q. I will read some of the evidence to you, and see if you recollect it as given:

Q. What is your estimate of the value of the stock of the Denver Pacific Railway and Telegraph Company, which is now in the possession of, and owned by, the Kansas Pacific, relieved from the operation of the trust so that it can be disposed of?—A. The value of this stock to the Kansas Pacific road at any time, I consider, is nominal, as far as receiving any dividend or financial advantage is concerned. I do not think there is anything in it on that point.

Do you remember making that answer?—A. Yes, sir.

Q. Then the referee said to you:

That is, it has not earned, and is not expected to earn, dividends?

And you answered:

No, sir.

Then the referee said:

Supposing it to be freed from this mortgage, so that it can be disposed of by the Kansas Pacific, what, in your estimate, would be the value of it then?

To which you answered:

I feel to-day that the road is not worth its mortgage debt, and that we may yet have to foreclose it; that because of the peculiar situation in which it is placed it will never be able to pay the interest on its first mortgages; and I do not believe the stockholders will ever receive a dividend.

All that you remember saying?—A. I think so; yes, sir.

Q. You were asked then:

What do you estimate the value of the stock to the Kansas Pacific Company, or the trustees of this mortgage, as based upon the control which the ownership of the stock would give to the company or the trustees?

And to that you answered:

I value it worth something.

That is, for that purpose?—A. "It was worth something."

Q. Then the question was put to you:

State the outside sum which it would be worth to the Kansas Pacific Railway Company for that control, or freed from the present mortgages.

To which you said:

This stock, tied up in trust, as I said before, I do not consider worth anything; to carry out certain things I think it might be worth to the Kansas Pacific Company a small sum, say \$200,000 or \$300,000; something in that neighborhood.

I ask you what is the meaning of, or what did you refer to by, the words "certain things," in that answer which I have read to you?—A. I suppose it meant for the entire consolidation to take place between the Union Pacific and the Kansas Pacific; I suppose that was my meaning at that time.

Q. Have you not stated to-day that the arrangement had been made by which, if certain things were done—that is, the consolidation was to take place—that stock of the new company to an equal amount with the Denver Pacific stock was to be issued in exchange for it?—A. I do not know that I said that; I wish you would refer back to it.

Q. I just refer to you. Had it not been arranged that, if the consolidation took place, you were to receive, or there was to be issued, in exchange for the Denver Pacific stock, an equal amount of Union Pacific stock?—A. It was understood there would be.

Q. Did you not know on that day that if the consolidation took place and you received the Union Pacific Railway Company stock it was worth par?

The WITNESS. The Union Pacific, you mean?

Commissioner ANDERSON. Yes; that if the consolidation took place and you received—I mean the owners of this stock received—the Union Pacific Railway stock, it would be worth par.—A. I do not know that the stock was worth par at the time. It would have been worth whatever it was worth at that time.

Q. You knew the market value of that stock at that time?—A. I suppose I did; I know I did.

Commissioner ANDERSON. Mr. Holmes, we are safe in assuming that it was worth par.

Mr. HOLMES. That is my recollection.

Q. Then that Denver Pacific stock, if the consolidation went through, was worth \$2,986,000? Is that not so?—A. Yes, sir.

THE EXPLANATION OF THE EVIDENCE.

Q. How do you explain this sentence in your answer, that to carry out certain things, which you have said now were this very consolidation, that you think this stock might be worth a small sum, say \$200,000 or \$300,000?—A. I might say that, and it might be worth more. I need not say it would be worth two millions and a half. I could say it was worth that.

Q. That is the way you explain it? That it did not exceed a higher sum?—A. The reason why that stock was worth anything to the Kansas Pacific was because it was a link which wanted to be put in between the two, and it bound the two roads together; but by itself it was not worth anything. That is the whole position of it. And if the Union Pacific made it worth par by taking it, it was her make and nobody else's.

Q. You were then stating the exact facts, as you believed them to be?—A. I was not obliged to say it was worth \$2,500,000 or \$3,000,000 at that time.

Q. You put it at a low basis?—A. I put it at a sure basis. I thought it was worth that.

Commissioner ANDERSON. I call your attention to the fact that the referee then said this: "Not to exceed \$300,000?" To which you answered, "No, sir; that is my estimate of it."

The WITNESS. That was my estimate of it at that time. I might have estimated it too low, or there might have been a slip up on it.

Commissioner ANDERSON. This answer is made on the supposition that certain things are going through, for you say, to carry out certain things it is worth that, otherwise nothing?

The WITNESS. Yes, sir; it was not worth to the Kansas Pacific any \$300,000, or anything else, except that the Union Pacific of itself comes in and makes a consolidation, and makes it worth it. There is where it comes in to be worth something. The same as a man's note which goes to protest, and a good man puts his name on the back of it, he makes it worth par, when to-day it was not worth the paper on which it was written; and that is the same as that stock was at that time.

The CHAIRMAN. The man whose name is on the back of the note has to pay for it?

The WITNESS. The man whose name was on the back did pay for this.

The CHAIRMAN. That was the way with the Union Pacific?

The WITNESS. Yes, sir; it was its interest to take it, in other words.

Commissioner ANDERSON. The only question I want to get at is your explanation of that answer, because the answer as given is, to carry out certain things it may be worth a small sum, and the facts appear to be that if these things were carried out it was worth \$2,900,000?

The WITNESS. It might have been; I did not wish to estimate it too high; I may have been mistaken.

Q. Is it not a fact that if you estimated it high the court could not release the security, except on a payment of the amount of your estimate?—A. I do not know whether that would follow or not.

Q. Did you know that this stock at the time was a part of the schedule of property held by the trustees of this mortgage for the security of the bondholders?—A. I did; but it was worth nothing to them.

WHAT WAS GOT FOR THE DENVER PACIFIC STOCK.

Q. Did you know that the trustees had no right to release it, except they got an equivalent for it?—A. They got more than an equivalent for it. They could not have sold it to anybody else except to the Union Pacific for that amount.

Q. What did the trustees get for this stock?—A. I cannot say. The books will show. I cannot say, but Mr. Ham will give you that.

Q. What did the Kansas Pacific Company get for this stock?—A. I cannot say that.

Q. Do you not know that they got a lot of bonds of the branch roads?—A. I say I cannot state it. It is a good while ago.

Commissioner ANDERSON. I am trying to refresh your memory.

The WITNESS. If I could state it I would most cheerfully.

Q. You have no recollection on the subject at all?—A. I could not say how the transaction took place, only the material transaction; and that has been impressed on my mind for the last ten years, and I hoped that some time some gentlemen would get together and accept the facts that that was placed in the Union Pacific treasury instead of in the hands of speculators or the directors.

Commissioner ANDERSON. If it will gratify you, I will say right here that as a commissioner I will be entirely satisfied with the explanation.

of this transaction whenever it is made clear to me that the Union Pacific and Kansas Pacific Railway companies received the entire value of these securities, and that you did not.

The WITNESS. I have no doubt of it.

Mr. JOHN F. DILLON. I would like to have you ask him whether he got any personal profit.

Commissioner ANDERSON. What is the use, when he says he cannot remember his accounts. The only way is to show that the company did get it.

Mr. JOHN F. DILLON. I think you will get all the facts from Mr. Ham.

Commissioner ANDERSON. That is all I want on that subject.

Commissioner LITTLER. I do not suppose it desirable to examine Mr. Dillon in relation to the general management of the Union Pacific, is it?

Commissioner ANDERSON. I think when we get our accountant's reports we can do it much better. I thought we would confine our efforts, at present, to the Kansas Pacific consolidation, and finish that.

The WITNESS. I should think that there is a great deal of detail here that if the Commission would take from the officers that have it in charge, the books and papers and accounts, they would get at it in such a shape that the balance which they want of the officers would come a great deal easier.

Commissioner ANDERSON. That is what we are endeavoring to do.

By Commissioner LITTLER:

Q. I would like to know how old you are.

The WITNESS. I am over seventy years old, and I have given the better part of my life to the Union Pacific, and for only about three years of my life did I get a dollar out of it for services. The balance of the time it was done without cost to the company.

THE KANSAS PACIFIC AND DENVER PACIFIC ROADS IN POOR ORDER.

By the CHAIRMAN:

Q. As president of the Union Pacific, when the question of consolidation was brought up in the court did you pass over the Kansas Pacific and the Denver Pacific roads?—A. I did, often.

Q. About that time in what condition did you find the roads?—A. I did not find the Kansas Pacific in very good order; rather poor order; not so good as the Union Pacific.

Q. What was the condition of the Denver Pacific?—A. That was very poor; rather poor.

ADVANTAGES TO UNION PACIFIC OF CONSOLIDATION.

Q. In the board meetings what direction did the discussions take as to the advantages to the Union Pacific of this consolidation?—A. It was this: According to the acts of Congress, any Pacific road had a right to prorate or tap, or get over its neighbor. The Kansas Pacific came to Denver, and the link which we have not discussed here was owned personally by some individuals. The directors of the Kansas Pacific bought the stock to control it, and claimed it was a part and parcel of the Kansas Pacific, and they were knocking at our door every day to get in and go over our road. It was before Congress. I went myself to the committee in Congress and combated it. They wanted us to prorate; I said we could not prorate. I was the only one; I was alone there, and

had their counsel. I do not know but our friend Mr. Holmes was against me at that time.

Mr. HOLMES. Yes, sir.

EFFORTS OF KANSAS PACIFIC TO PRORATE.

The WITNESS. I made one or two remarks before the committee. I said, "They want to go over our road, where it is up hill and down, and they want to prorate. The rest of our road is level. If I have got a heavy load of stuff, hauling with a horse team, on a level, I always have to put on a double team on the hills, and should we not be paid for it?" The committee dismissed it, and said, "You must fix that yourself." The reason I wanted that road was because they were knocking at the door and they would have been let in, and it would almost have destroyed the Union Pacific at that time to let them in, as I thought. That was my idea.

UNION PACIFIC LIKE A TREE WITHOUT BRANCHES.

Now, so far as the branch lines are concerned, I think there was not a single mile before I was elected president. I saw the Chicago, Burlington and Quincy with its Burlington and Missouri going up into that country. I saw the other roads approach that country, and I said to our board of directors, "We, on the Union Pacific, are like an apple tree without a limb; unless we have branches there will be no fruit. We must build branch roads." They said Congress would not let us build them; that is to say, it was against the act of Congress to build them. I said, "We cannot stand here and starve if it is or if it is not." That is what I said. And I said, "I am in favor of building them." The men who made that act could not foresee all. If they were to make it to-day they would say, "Build your branches"—that is what I said—"and we will take the consequences." I say to-day if there are any consequences about it I am the father of that trouble. To-day if those branches were not built the Union Pacific would go into the hands of a receiver within a few years, and it may yet, I do not know. But those are facts about the Union Pacific. I had that Oregon Short Line built, which is 600 miles long. I gave it that name myself at Omaha, and created it and fixed it up at that time, and telegraphed to Boston that with their concurrence we would build that road. It was built. It is the great arm of the Union Pacific to-day, and without it where would we be? We would be nowhere. We had consolidated, you may call it; we have leased the Oregon Railroad and Navigation Company's road to the Pacific coast now.

THE OREGON NAVIGATION LEASE.

Commissioner ANDERSON. The Oregon Navigation?

The WITNESS. Yes, sir; and they wanted in Boston—they thought of having the Union Pacific do it. I said "no."

Mr. HOLMES. The Northern Pacific, you mean.

The WITNESS. I said, "These gentlemen are going around just about this time, and it is no time for the Union Pacific to do it, but let the Oregon Short Line do it. It is an arm of the Union Pacific. It is one of the arteries for its blood, and unless that very line is taken care of and supported by the Union Pacific the Union Pacific is of no account." *It is leased now, at the present time; it is leased by the Oregon Sh*

Line, and the Union Pacific cannot afford to let the Oregon Short Line go.

Commissioner LITTLER. For what length of time?

The WITNESS. I guess for all time.

Mr. HOLMES. Ninety-nine years.

BRANCHES BUILT TO SUPPORT UNION PACIFIC.

The WITNESS. Another thing, which you can see was my object. I saw the owners of the Central Pacific making its Southern Pacific and its Southwestern Pacific and every other Pacific around this way. I saw in a little time that the Central Pacific would have no business compared to what it had at that time, and I made up my mind, and told our board of directors, "I want to support this Union Pacific in such a way that if they shut down the gate at Ogden, and the traffic all goes around the other way, we can stand it." I think it is so to-day, because very little, comparatively, goes our way. If it does it is at small cost. That was my idea. I pressed forward those branch lines. I ran this road in debt to the tune of \$8,000,000, and those very branch lines are the ones which are now giving the company betwixt \$2,000,000 and \$3,000,000 on the road, besides what it is doing otherwise to it. Those are facts. And I feel proud of it. I feel proud that we have got those branches, and I think the Government ought to be proud that the Union Pacific has got them instead of we directors having the stock or the cost of them in our pockets. We could have had that stock in our pockets, and had our, perhaps, hundreds of millions of dollars, but we did not do it. Not a farthing has ever been received by the Union Pacific directors. It has gone into the lap of the Union Pacific.

"THE UNION PACIFIC WAS MY PET."

I say to-day that the Union Pacific was my pet, and whatever was done on that road was done the same as if I had owned it. Whatever was done for the benefit of the stock was done for the benefit of the Government, because if it was strong on one side, it was strong on the other. That was my feeling for the Union Pacific. And when I lost my poor wife, and was broken up and resigned, and President Adams was put in, they had money enough to pay everything off.

PAYMENT OF FLOATING DEBT CONDEMNED.

There was one road we got—the Saint Joseph and Denver. We got \$4,000,000 out of it. We had been picking that up with some of that same stock, or the avails of that stock, and picked up the securities, and we got them, and they are in the treasury; and since I resigned that \$4,000,000 and over has gone to help pay off the \$8,000,000 floating debt. Had I remained president I would not have paid off that debt. There is where I say our company has done wrong. I am speaking now of it as a financial matter. If they had taken \$4,000,000 of that money, and paid \$4,000,000 of the debt, and put the other four or five million into branch roads, when steel rails were \$23 or \$24 a ton, the first year after I resigned, we would have had four or five hundred miles of rail-road in our lap out in that country, which to-day would almost pay the dividends of the company. Instead of that, we must pay off the floating debt, and stop, because the Government will not allow us to go on other roads—the Northwestern and Chicago, Burlington and Quin-

cy, and every other road that ever was thought of, almost, is poking itself in alongside of our road to-day. If we were in debt five or ten millions to-day, or even twelve, we would be richer than we are. That is, the road would have been better off. I am only speaking of this at my time of life in vindication of the plans which I always wanted this company to follow. I had my stock. I held it from 131—40,000 shares of it—until it was down to 29½. I did not sell it out on the market. I allowed myself to suffer at the time. So it has gone. This is what I wanted to say to you gentlemen, and I am very thankful to have had the chance of saying it.

PLAN OF SETTLEMENT OF DEBT TO GOVERNMENT.

By Commissioner LITTLER:

Q. Let me ask you a question. Do you think the resources of this Union Pacific road, including all its branches, are sufficient to pay all its obligations; I mean its bonded indebtedness, including that which it owes to the Government?—A. I think if the Government to-day would let up on us, and say to us, you can build that road the same as other people build, that you can issue bonds to cover the entire road without a trammel, and we could stretch out wherever we had a mind to go without let or hindrance, it is safe, perfectly safe.

Q. What do you mean when you say, if the Government would let up? What is your plan?—A. I mean to say this: That every year—I presume you have heard of it, too—Congress has investigated; they are going to do this and that, and they talk about our stepping over the line. They talk about our building railroads where we ought not to, and taking the Government money, as they call it, the money that has been created by the Government. I mean to say that there has been a cloud thrown on the Union Pacific by the old Credit Mobilier affair, and all those old things. I say I thank God I was one of the men who signed to build the Union Pacific. It was the proudest day of my life when I put my name down there. If every man had said he had done so, and would like to have more, there would have been no trouble, and the Union Pacific would have been worth millions more than it is. I mean to say, if the Government would say to day to me that I could have it alone, or with the aid of the rest of the people, with Mr. Adams at the head, if you please; if the Government would say, "You may do the same as other railroads do; you may issue bonds on those branch roads, and you may indorse them by the Union Pacific, and they will all be considered legal," then the road to-day would be able to go on and pay every dollar it owes to the Government. Only give them time. We want to-day to branch right out in Oregon.

EXTENSION OF TIME WANTED.

Commissioner LITTLER. How much time do you want?

The WITNESS. I do not know. I want more time than our people have asked. What I mean by that, sir, is that I would want to make it sure that we could pay within the time agreed on, and leave us free, as other roads are, to extend the road and system as we found needful. The Government has benefited by the branches. The Government has sold its lands; they have populated a country, and if the branch had not been built they would not have sold the land. The Government is receiving its benefit to-day from the course the company pursued.

Commissioner LITTLER. Supposing the Government would give the time you require, how could you secure the indebtedness?

The WITNESS. I would secure it by every branch line that now exists. That is what I would do.

Commissioner LITTLER. You would put a blanket mortgage in favor of the mortgages over all the branch roads?

A BLANKET MORTGAGE IN FAVOR OF THE GOVERNMENT.

The WITNESS. I would put a blanket mortgage in favor of the Government and let them hold on to it as it is now, and instead of 70 years I would make it about 125 years. This is the reason I say that I would make it a small amount, and by having it a small amount I would be able to take the balance of the money to build branches. That is my point. I say to you, gentlemen, that all this talk about the Union Pacific directors gouging the Union Pacific is all wrong, when their greatest interest is to make it good. I have been feeling all the time as if I owned it, you understand me, and no man could trifle with it with my consent, by getting a dollar out of it, except it was lawfully due him. There is one more word I want to say: I say to you to-day that if the Government feels dissatisfied about the branches, every one of them, Kansas Pacific included, I will take every one of them off its hands within six months; I will put up a million of dollars within thirty days, and I will pay it principal and interest, and I will give it a million, yes, more, of dollars to boot.

OFFER TO BUY THE BRANCH ROADS.

Commissioner ANDERSON. Than what?

The WITNESS. Than what they have cost the Government.

The CHAIRMAN. If the Government will do what?

The WITNESS. If they will release them. They say we have a foothold on them.

The CHAIRMAN. You say you will pay the Government debt and interest?

The WITNESS. No; I do not. I say I will take the roads at cost.

Commissioner LITTLER. You mean the branch roads?

The WITNESS. Yes, sir.

Commissioner ANDERSON. I thought he was going to shut up this Commission right away.

The WITNESS. I mean those branches, at what they cost.

Commissioner ANDERSON. But the branch roads are worth their cost?

The WITNESS. I could sell them to five different roads now, and make myself worth more than I am to-day, over and above what they have actually cost the Union Pacific Railroad.

Commissioner ANDERSON. We recognize that that is perhaps the most important subject referred to us, and we intend to go there and examine them, and get all the information we can as to the utility of the branch lines to the main line. We are going there to see.

The WITNESS. Every man in this world makes a mistake sometimes, and in building twenty or thirty or forty or fifty branches there may be some as to which he will make a mistake. I will not tire you any longer.

Commissioner ANDERSON. We are very glad to hear you.

PLAN OF SETTLEMENT.

Commissioner LITTLER. I want to ask you another question. This Commission is not only charged with the duty of investigating these

companies, but also of submitting a proposition looking to the settlement of these difficulties.

The WITNESS. I know they are.

Commissioner LITTLER. Have you any plan to submit for our consideration?

The WITNESS. I could give you a plan, if you will accept it when you get ready for it.

Commissioner LITTLER. I direct your attention to that subject, and we may recall you.

The WITNESS. I would give you a plan—my own simple plan; and that would be to pay when I agreed to.

Commissioner ANDERSON. To pay in 1897? All your people admit that it is impossible to pay the principal and interest in 1897.

The WITNESS. I have just said I wanted to prolong the time a little. I mean to say, if I made a proposition to you, I was going to pay according to that proposition. That is what I had reference to.

Commissioner ANDERSON. You cannot pay when you agreed to pay. That is the trouble.

The CHAIRMAN. We want to hear you in full in the future on the general features of the road, and you can take up these questions then. To-day we wanted to hear you especially on the Kansas Pacific combination.

MR. DILLON'S LONG SERVICES TO UNION PACIFIC.

The WITNESS. I have taken up a great deal of your time. I say to you to-day that this Union Pacific Railroad has taken up over twenty years of the best part of my life, and until within the last two or three years I have allowed my own private business to go by the wall and have taken care of the Union Pacific. Those are facts. That is, with my co-operators, Mr. Ames and all those in it. I could talk a day on the subject—from the starting of the first spike; and I helped to drive the last spike on it. I do not know that it interests you, but it revolves in my mind a good deal.

The CHAIRMAN. We will give you a day. We want to hear you.

The WITNESS. Yes, sir; railroading is my forte. I saw the first locomotive run in the United States over the Albany and Schenectady Railroad—the little "John Bull."

Commissioner ANDERSON. In 1834?

The WITNESS. Eighteen hundred and thirty-four. I saw the locomotive roll over that railroad; and since that day I have done nothing much but to build railroads, and manage them.

CONSOLIDATION STOPPED COMPETITION.

The CHAIRMAN. What advantage could it have been to the Union Pacific to have taken two crippled roads into its organization?

The WITNESS. The advantage was to get rid of competition; and not only that, but I could see that Kansas was a rich country, and it was not always going to stand still. And to-day the Kansas Pacific, if you go over it, you will see is all filled with cities. At times I had to send out corn and wheat to the farmers there for their seed spring wheat. I gave it to them.

Commissioner LITTLER. To sow?

The WITNESS. To sow, or else they would have starved. What I want you gentlemen to see is this: No matter what

too much for it or too little—I say we did not pay too much—we took it because we considered it our interest to do so. I had a great deal more in Union Pacific than I had in the Kansas Pacific. I had between 30,000 and 40,000 shares in the Union Pacific, and I was not sacrificing the Union Pacific at the time we made the consolidation. It was for the benefit of the Union Pacific, and it got rid of competition.

OBJECT OF THE POOL.

Commissioner LITTLER. Looking to that end, you commenced your arrangement in 1878 with the agreement?

The WITNESS. We commenced our arrangement some time ahead; I do not know when. The roads used to fight about these different things, and we said, "Can not we bring this thing in in some shape or another?" It looked so very bad; it was a long time before we could make up our minds what we could do.

Commissioner LITTLER. Did the Union Pacific have the consolidation in view when they made the arrangements in 1878 that you call the pool?

The WITNESS. Oh, yes; some of the officers of the Union Pacific felt that that was the best thing to do.

Commissioner LITTLER. It was looking forward to consolidation that you then entered into that arrangement?

The WITNESS. Certainly it was; there was the leading point.

Mr. HOLMES. Unity of management would be a better term than "consolidation," for I think consolidation under the statutes at that time had never been talked about.

Commissioner LITTLER. Under the act of 1874 you were bound to afford equal facilities to all the connecting lines?

The WITNESS. Yes, sir.

Commissioner LITTLER. Why would not that have accomplished the purposes as well as the subsequent consolidation?

KANSAS PACIFIC'S CLAIM TO PRORATE.

The WITNESS. My dear sir, the Kansas Pacific would have been covering about half of our road. The Kansas Pacific claimed that they could go right over our road, if they pleased, to Ogden—not for us to haul their cars, but they could go right over it with their own cars. You understand me, with their locomotives. We could not afford to allow that, because it would have been a road with accidents and trouble all the time.

Commissioner LITTLER. Under what statute did they make such claim as that?

Mr. HOLMES. The fifteenth section of the act of 1864.

The WITNESS. We were in a very awkward position, and I could see it, and "any port in a storm," and we had to take that port, and we took it, and it was a good thing for us to do it.

The CHAIRMAN. Even although it turned out to be a burden?

The WITNESS. It is not a burden.

The CHAIRMAN. If it should have turned out to be a burden?

The WITNESS. Yes, sir. If I had known it to be a burden it would have been a greater burden to have an opposition road. Some of the other roads in the East here would have had it if we had not taken it. The result is now, here are some of these very poor roads that you go over that I bought. I bought them to keep them away from the Denver and Rio Grande. That is to say, we could do nothing with them. They bankrupted themselves, and almost bankrupted us in the

ing these things which, at that time, were prosperous, because there was a great deal of mineral in that country. We bought some of those roads which Mr. Adams told you about. They were bought to keep them away from other folks and to get our part of the business. There is the Nevada road, away up on the Central Pacific. You will say, "What under heavens did you buy that for?" I know what I bought it for. I was mistaken. Every one is mistaken some time. The Denver and Rio Grande people had a corps of twenty-five engineers in the Salt Lake Valley, in their prosperous times, surveying across, and they were going to make a connection from their road to a connection with the Central Pacific at that point and cut us off. I was induced to buy it to keep it out of their hands, whether it was good for anything or not. It paid its way for a while, but mining stopped. But the great point I make is, take the whole bundle of Union Pacific branches to-day, there is from two to three million dollars of advantage to the Union Pacific road, and it will increase.

Commissioner LITTLE. How many branches are there?

Commissioner ANDERSON. Twenty-nine, I think.

The WITNESS. Yes, sir. If I could have got my board of directors up to the point, I would have made a better showing, and I would have run in debt. I always will run in debt, if I can make money by it. I do not say this for any buncombe, but it is just as I feel as to the whole thing. I have got a great interest in the Union Pacific. There is but one man who owns more in it to-day than I do. I am not afraid of it, and I am not afraid of the Government, either one; not a bit.

THE INDIVIDUAL INTERESTS IN THE POOL PASSED TO UNION PACIFIC.

The CHAIRMAN. Had Mr. Gould or Mr. Ames or the other directors of the Union Pacific an individual interest in the pool or agreement of April, 1878?

The WITNESS. What do you mean?

The CHAIRMAN. An individual interest outside of the Union Pacific interest.

The WITNESS. It was all individual interests put into a pool.

Mr. HOLMES. There was no Union Pacific money in it.

The WITNESS. It was not the Union Pacific money that bought it.

By the CHAIRMAN:

Q. Did this individual interest pass to the Union Pacific?—A. It did, every dollar of it.

Q. Did the individuals who went into the agreement profit by reason of its passing to the Union Pacific?—A. It made all their securities better. Mr. Gould had a large amount in the Union Pacific; ten times, I was going to say, as much as he had in the Kansas Pacific. Mr. Ames had a very large amount, he and his family; some 40,000 shares of the stock of the Union Pacific. And all there was about it, their intent was to protect the Union Pacific. It was not to put in their pockets as pocket money.

Q. Did the individuals in the agreement profit by reason of the rise?—A. They did.

HOW UNION PACIFIC OBTAINED ITS INTEREST IN KANSAS P
DENVER PACIFIC.

Q. And the individuals who profited in the agree-
ment of the Union Pacific?—A. No.

Mr. HOLMES. No?

The WITNESS. I want to get it right.

Q. How and through whom did the Union Pacific get possession of the Kansas Pacific and the short line—the Denver Pacific?—A. The Denver Pacific, by its stock.

Q. Through whom?—A. Through the officers.

Q. What officers?—A. The president.

Q. Then the Union Pacific, through these individual interests, had secured control of the Kansas Pacific and the Denver Pacific, and then afterwards it was transferred to the Union Pacific?—A. I am a little mixed up there.

The CHAIRMAN. Perhaps I do not make it clear to you.

The WITNESS. I would like to make it clear, but I want to say one word about the Oregon Short Line. Mr. Ham can give you everything about that other matter.

The CHAIRMAN. I will not ask you about the facts now.

The WITNESS. I am like some of these other presidents—I do not look at the books much; I am thinking of something that is bigger than books.

THE OREGON SHORT LINE.

As to the Oregon Short Line, to show you that I wanted everything kept in the pocket of the Union Pacific, I conceived this idea and passed out a circular which went to every stockholder of the Union Pacific who had a right to come in and take so much of the stock and take so much of the bonds, 50 per cent. in stock and 100 per cent. in bonds. Then to the Union Pacific I said, "If you will guarantee these bonds, whether there is a cloud on them or not, and make a contract for a term of years, whereby you will protect the interest on this road and give us a pro rate or a right or interest in running over it, I will give to you one half of the stock," and that to-day is in the treasury of the Union Pacific Company. That stock to-day is worth 30 cents on the dollar, and it is how many millions?

Mr. HOLMES. I cannot recollect it.

The WITNESS. It is about thirteen millions; that was a gift to the Union Pacific.

Commissioner ANDERSON. What do you say that stock is worth?

The WITNESS. Thirty cents on the dollar.

Commissioner ANDERSON. The Oregon Short Line stock?

The WITNESS. Yes, sir; it is selling for that to-day. I said, to protect that, I did not want to let all that stock go out to the stockholders, because that might be brought into another pool and sold to the Northwest or somebody else; but I said, "Let us put that into the Union Pacific box and they can afford to do something for us." That was my theory in that.

PROFITS TO MEMBERS OF THE POOL.

By the CHAIRMAN:

Q. Can you inform me, to come back to this other question of the Kansas Pacific, whether the individual interests in the agreement of 1878 profited by reason of possession of the Kansas Pacific and the Denver Pacific by the Union Pacific?—A. If I owned one hundred shares, or if I owned a bond of the Kansas Pacific and did not sell it or a share of stock, or an income bond, or a share of the Union Pacific and that made that stronger, I profited by it.

Q. Then the individuals profited by it ? Then all the individuals who were in the Union Pacific profited by reason of their individual interests in this agreement ?—A. No, I would not say that. I would say that they did not all profit by it, because there may have been some who would not run that risk.

Q. But those who remained did ?—A. Those who remained if the stock went up profited, and if the bonds went up they profited the same as going into Wall street and buying. I know a good many gentlemen who went into Wall street taking their chance in buying these securities and they made money by the rise.

SIDNEY DILLON.

The Commission then adjourned to Friday, May 6, 1887, at 10 a. m.

NO. 10 WALL STREET, NEW YORK,
Friday, May 6, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

JAMES M. HAM, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. Where do you reside ?—Answer. I reside in Brooklyn.

Q. Give us the number of the street.—A. 278 Saint James Place.

Q. What is your business ?—A. I am a broker. I am a railroad officer.

Q. Where is your office ?—A. 40 Wall street.

Q. What railroad office do you hold ?—A. Assistant treasurer and secretary of the Union Pacific.

Q. How long have you been such officer of the Union Pacific ?—A. Since its consolidation.

Q. What was your business before January, 1880 ?—A. I was private secretary of Mr. Dillon ; also a broker.

TREASURER OF KANSAS PACIFIC IN 1880.

Q. Did you hold any railroad office before that time, with either the Union Pacific or the Kansas Pacific ?—A. I was treasurer of the Kansas Pacific.

Q. How long had you been treasurer of the Kansas Pacific ?—A. I cannot remember. Perhaps a year or two.

Q. Did you retain that office in form after the consolidation ?—A. There was no change.

Q. Where did you keep the books of the Kansas Pacific ?—A. I did not keep any books, excepting a cash-book.

Q. Before 1880 ?—A. Before 1880.

Q. You say you were the treasurer of the company ?—A. Yes, sir.

Q. Where was this cash-book kept ?—A. It was kept in the office.

Q. Where was the office ?—A. In New York.

Q. 78 Broadway ?—A. Yes, sir.

Q. How long did they have rooms at 78 Broadway to two years. I do not recollect just exactly how

Q. The rooms there were adjoining the room
A. Yes, sir.

Q. Before the occupation of the rooms at 78 Broadway, where were the rooms of the Kansas Pacific?—A. The Union Pacific had an office at 23 Nassau street.

Q. 20 Nassau street, was it not?—A. 23 Nassau street; and ever business was done by the Kansas Pacific was done there.

Q. Had not the Kansas Pacific at one time an office in New York entirely independent of the Union Pacific?—A. That was before any connection with it.

Q. When did your connection first commence?—A. In 1878.

MR. DILLON'S PRIVATE SECRETARY.

Q. At that time were you private secretary to Mr. Dillon?—A. Yes, sir.

Q. How long before that had you been his private secretary?—A. Five or six years.

Q. What were your duties as such private secretary, generally?—A. To attend to his business generally.

Q. His financial business?—A. Yes, sir.

Q. To keep his accounts?—A. Yes, sir.

Q. All of his accounts, or only his accounts connected with the Kansas Pacific and Kansas Pacific business?—A. His accounts generally.

Q. Did you keep his accounts of purchases and sales of stock of these particular affairs that we are inquiring about?—A. We had.

Q. Where did you keep those books at that time?—A. At his office at the same office.

Q. You mean the same office as the Kansas Pacific books were kept at?—A. At the office of the Union Pacific Railway Company.

Q. Not in Mr. Sidney Dillon's private office; or was that his office?—A. That was his private office.

Q. He had a private office in the rooms of the Union Pacific Railway Company?—A. Yes, sir.

KANSAS PACIFIC POOL.

Q. Do you recollect the circumstance of the formation of this Kansas Pacific pool? I beg to refer to it as such because it is such a convenient term.—A. I do not recollect about the formation; it was before I knew anything about it.

Q. How soon did you know anything about it after it was formed?—A. I could not tell exactly; some part of the time probably during the year.

Q. In connection with what were you made aware of its existence?—A. Only through attending to Mr. Dillon's business.

Q. Who spoke to you about it?—A. I could not say.

Q. Was it not Mr. Dillon?—A. Mr. Dillon probably gave me information regarding his business.

THE POOL AGREEMENT.

Q. Have you ever seen the original of the paper which you are now looking at [referring to the pool agreement]?—A. I do not think I have; I have no recollection of it.

Q. Have you ever seen a copy of it?

The WITNESS. Before this?

Commissioner ANDERSON. Yes.

The WITNESS. I do not know that I ever did.

Q. Have you ever seen a statement of the interest of the parties named in that instrument?—A. I may have done so.

Q. After seeing the exhibit of interest contained in the agreement, Exhibit No. 1, May 5, 1887, have you any doubt that a similar statement was shown to you?—A. I think probably it was.

Q. What were you requested to do in connection with that matter?—A. I was requested to make out certificates of the interests.

Q. What do you mean by "certificates of the interests"?—A. They were similar to stock certificates, only each one's interest in the pool.

Q. Anything else?—A. I kept an account of those interests.

KEPT THE POOL ACCOUNTS.

Q. You kept an account of all those interests?—A. Yes, sir.

Q. In what kind of a book?—A. In a certificate book.

Q. The certificate book would not be an account, would it?—A. That is what I had. It was a certificate book.

By Commissioner LITTLE:

Q. Do you mean a stock-certificate book?—A. Yes, sir; similar to it.

By Commissioner ANDERSON:

Q. What other book did you have?—A. That is all.

Q. Where is that certificate book?—A. I do not know where it is.

Q. When did you have it last?—A. It is a long time ago.

Q. I know it is; but when did you have it last? You may have had it yesterday.—A. I did not have it yesterday. I have not had it for a year.

Q. Have you had it within two years?—A. I do not think I have.

Q. Have you had it within three years?—A. I should think not.

Q. To whom did you deliver it?—A. I think it was sent to Boston.

Q. With the books of the Union Pacific Company?—A. Yes, sir.

Q. By whom was it sent to Boston?—A. I presume I sent it; I think I sent it.

Q. Did you keep a letter-press copy of the letter accompanying it?—A. No, sir.

Q. To whom did you address it?—A. To the treasurer of the company.

Q. Mr. Henry McFarland?—A. Yes, sir.

Q. What was this certificate book? Was it just an ordinary stock-certificate book, stating the interest of each person, and then with a certificate torn out and a receipt in the stub?—A. Yes, sir.

Q. That is all?—A. That is all.

Q. How would that book inform you as to the accounts of this pool?—A. I had a memorandum of the amounts that each one was to be issued for, and I issued the amount to them; but I did not sign the certificates; they were signed by the managers of the pool.

Q. Who were those managers? The persons who were named in the paper—Mr. Villard, Mr. Ames, and Mr. Greeley?—A. Mr. Villard, Mr. Sage, and Mr. Dillon.

THE SAINT LOUIS PARTIES BOUGHT OUT.

Q. Do you remember the fact that the parties who were known as *Saint Louis parties* were bought out by the other parties?—A. I do know as to that.

Q. You never heard anything about that?—A. There was a general report about it. I had no knowledge—no positive knowledge—about it.

Q. Do you know whether there was any transfer of certificates?—A. There were no certificates issued when they were in it.

Q. When were the certificates issued?—A. I cannot remember.

Q. It was after they went out?—A. Yes, sir.

Q. Then for the first time certificates were issued?—A. Yes, sir.

Q. Then you do not think you had anything to do with the matter until after the Saint Louis people went out?—A. No, sir; I did not.

Q. The names as stated in the paper originally as the managers are Mr. Ames, Mr. Garland, and Mr. Henry Villard. You say that when you were familiar with it the names were what?—A. Mr. Dillon, Mr. Sage, and Mr. Villard.

Q. Mr. Sidney Dillon, Mr. Sage, and Mr. Villard?—A. Yes, sir.

Q. Who else, besides you, kept any account of this transaction?—A. Nobody else that I know of, unless Mr. Calef may have done so; and Mr. Edgerton was here at that time.

Q. Do you mean to say you were the only person who had any connection with it that you know of, as far as keeping the accounts are concerned?—A. It was in the hands of Mr. Villard at one time. He had the whole charge of it, with his clerk. He managed the whole thing before I had anything to do with it.

Q. After you had anything to do with it, did Mr. Villard or his clerk have anything further to do with it?—A. No, sir.

THE POOL SECURITIES KEPT IN A TRUST COMPANY.

Q. Who kept the securities?—A. They were kept in a trust company.

Q. In whose name were they deposited?—A. In the name of the committee.

Q. Had you the power of access to the box?—A. No, sir.

Q. What has become of those securities?—A. They are in the hands of Mr. Gould and Russell Sage, as trustees for the consolidated mortgage.

Q. The securities mentioned in this pool agreement, you say, are in the hands of Russell Sage and Jay Gould?—A. As trustees of the Kansas Pacific consolidated mortgage.

Q. How do you know they are in the hands of Jay Gould and Russell Sage, as trustees?—A. That is the report of it. I cannot say that I know positively, from positive knowledge.

Q. Then why did you say they were in the hands of Jay Gould and Russell Sage, as trustees?—A. Because that is my belief.

Q. That is all you mean by it?—A. Yes, sir.

WHAT HAS BECOME OF THEM?

Q. Please look at the list of securities I refer to, being those stated in the lower statement of the Exhibit B, and tell me if you know anything about what has become of those securities?—A. What do you mean by "know"? Do you mean did I actually turn these securities over to Mr. Russell Sage and Jay Gould, so as to know positively that they went to them?

Commissioner ANDERSON. I mean to say you have told me they were in the hands of the committee named in that paper, held for the purposes stated in that paper; that is, for the benefit of the parties to

that pool; that you had no access to the box in which they were contained, but that you had a general management of the accounts of the pool, or at least of the interests of the parties.

The WITNESS. I kept an account of the parties' interests.

Q. I ask you what has become of the securities that belonged to that pool, if you know?—A. They were in the Union Trust Company, and by them they were delivered to these trustees, as I understand.

Q. Do you state that of your own knowledge, or because you have been so told?—A. I do not know how to answer you.

Q. Do you know that those certificates were delivered to the Union Trust Company?—A. I believe they were.

Q. I mean the stock held, for instance, by Mr. Holmes, who is now present; was his stock ever delivered to the Union Trust Company, or do you believe it was sold on account of the pool?—A. The stock may have been delivered to the Trust Company; I believe it was delivered to the Trust Company.

Q. And not sold?—A. It may have been sold; it does not appear; I never heard that that was turned over to the trustees, and I do not mean to say that it was.

THE BONDS DELIVERED TO THE TRUSTEES.

Q. What did you hear was ever turned over to the trustees?—A. The bonds.

Q. What bonds?—A. These bonds mentioned in that statement here, funding bonds, unstamped income bonds, stamped income bonds, second land-grant bonds, Arkansas Valley bonds.

Q. Was any of the Kansas Pacific stock delivered to the trustees?—A. I never heard that it was.

Q. What was received in exchange for the securities which you have enumerated as having been delivered to the trustees?—A. That is a matter of record in the mortgage; I can quote from the mortgage.

RECEIVED KANSAS PACIFIC CONSOLIDATED BONDS IN EXCHANGE.

Q. It was generally Kansas Pacific consolidated bonds?—A. Yes, sir.

Q. So that the pool still held all of those securities at the time of the making and issue of the consolidated mortgage?—A. Yes, sir.

Q. Where were those bonds placed—the bonds that were received in exchange for those securities, I mean?—A. They were delivered to the parties in interest.

Q. They were delivered to the managers of the pool, we will call it?—A. Yes, sir.

Q. To the committee?—A. Yes, sir.

Q. And replaced in the same box where the securities had been placed before?—A. No, sir.

Q. Where were they placed?—A. They were delivered to the parties in interest.

Q. Do you mean to all the different parties, according to their respective shares?—A. Yes, sir.

Q. How did that work?—A. I did it largely.

Q. How did you know how many bonds to give to one and how many bonds to give to another?—A. By the certificates that they held.

Q. Were there no items of charges of expenses and changes in value?—A. No, sir.

Q. Where are those certificates?—A. I do not know; I have not ~~the~~ books.

Q. Would not the certificates be separate from the book?—A. ~~They~~ They are with the book, I think.

THE POOL STOCK DELIVERED TO PARTIES IN INTEREST.

Q. You say that the stock was not delivered to the trustees of ~~the~~ the Kansas Pacific Consolidated Mortgage. What became of that stock?—A. I think it was delivered to the parties in interest.

Q. Was it not taken out of the pool?—A. That would be the ~~natural~~ result of it.

Q. That would mean, then, that it was delivered back to the party who had originally put it in the pool?—A. I would not say that.

Q. Do you mean that it was divided among all the persons who were in the pool?—A. Yes, sir.

Q. Kansas Pacific stock was?—A. Yes, sir.

Q. How did you know how much stock to give to one person and how much to give to another?—A. I had a list furnished to me.

Q. By whom?—A. I do not know who furnished it.

Q. Where is that list?—A. I do not know where it is.

Q. When did you last see it?—A. Not since this matter was closed up.

Q. Was that agreement delivered to you by Mr. Jay Gould?—A. I do not think it was.

Q. How positive are you?—A. It may have been.

Q. Do you remember in whose handwriting it was?—A. No, sir.

Q. Do you remember what the figures were?—A. No, sir.

WHO GOT THE LARGEST AMOUNT.

Q. Do you remember who got the majority of the Kansas Pacific stock?—A. No, sir; I do not.

Q. You do not remember that?—A. No, sir.

Q. Do you not remember that one person got a great deal more than all the others put together?—A. It may have been so.

Q. Was not the large majority of the Kansas Pacific stock withdrawn from that pool by Mr. Jay Gould?—A. Perhaps it was.

Q. Did you attend to Mr. Gould's affairs as well as Mr. Sidney Dillon's?—A. No, sir.

Q. Who did?—A. Mr. Morisini, I think.

Q. Did you confer with Mr. Morisini?—A. No, sir.

Q. Where did the parties receive their Kansas Pacific stock? Were you present when it was delivered to them?—A. I do not know; I do not recollect.

Q. But it was in the box with the other securities that belonged to the pool?—A. I think it was. It had been.

Q. When did this withdrawal of Kansas Pacific stock take place?—A. I cannot tell.

Q. It was after you had charge?—A. I did not manage any of those things.

Q. But, as a matter of time, you had knowledge when it took place?—A. Yes, sir.

Q. You have been telling us about it?—A. Yes, sir.

Q. So that it must have been after you had charge?—A. Undoubtedly.

Q. And it was after the Saint Louis people had been bought out?—A. Probable.

Q. And after the Union Pacific people had obtained control?—A. Probably.

Q. Do you remember, when you first took charge, whether Mr. Dillon was credited with any of the Kansas Pacific stock of this pool?—A. I do not remember.

HOW THE VALUE WAS DETERMINED.

Q. Will you please inform the Commission how the certificates you refer to were drawn, and what was written on them substantially?—A. Substantially, it was written on them that such a person was entitled to so many dollars in the Kansas Pacific pool, or something of that kind. I do not recollect the title that was used for it, but the number of dollars was stated that they were entitled to.

Q. How did you arrive at the dollars? How did you know how many dollars to write in?—A. I had a statement of each one's interest in dollars.

Q. Do you know how that result was reached?—A. No, sir; I do not.

Q. You simply took a column of figures that were handed to you?—A. And their names; yes, sir.

Q. Did you not know that the various securities were multiplied by certain factors that had been agreed upon, representing their rates of value, and that all the figures were added together so as to derive the interest of each party in the pool, in dollars and cents?—A. I may have known that.

Q. Did you not know it?—A. I think I did; yes, sir.

Q. Was not that the only way it could be reasonably done?—A. Yes, sir.

Q. Did you ever verify that computation?—A. I think so.

Q. Was that done on a loose piece of paper or in a book?—A. On a loose piece of paper.

Q. I presume—I am assuming that you have not possession of that paper.—A. No, sir.

Q. These valuable things always disappear. Do you remember the figures of any of these certificates?—A. No.

Q. I mean approximately.—A. I could not remember those; no, sir, I do not.

Q. Did they not change from time to time?—A. Yes, sir; they changed a good deal.

Q. New securities were added to the pool?—A. No, sir; there was no change in the securities after the certificates were made. The certificates remained just the same.

Q. How did the certificates come to change if there were no additional securities?—A. They were transferred between the parties. That is all.

Q. Do you remember that the number of holders became less and less, or were the number of stockholders increased?—A. They increased rather, if either.

Q. Do you remember whether the particular holdings of any one or two individuals increased just before the consolidation?—A. No, sir; I think the whole matter was closed up before the consolidation.

Q. How long before the consolidation?—A. It must have been a year, perhaps, I should think.

Q. Do you know when it was that these Saint Louis people were bought out?—A. I do not recollect; I did know at the time.

HOW LONG THE POOL EXISTED.

Q. I call your attention to the fact that the original paper is dated in May, 1878, and that the consolidation took place eighteen months after that. How long after you were in the management of it did you remain concerned with this business? It was quite a while, was it not?—A. Until it was closed up.

Commissioner ANDERSON. But I am endeavoring to find out how long. You say you think it was a year before the consolidation. I want to show you that a year before the consolidation was before you could possibly have commenced to have anything to do with it.

The WITNESS. Then it might not have been so long; it may have been only six months.

Q. Do you know the date of that consolidation mortgage?—A. May 1, 1879.

Q. So that the exchange of securities for consolidated bonds must have taken place after May, 1879?—A. Yes, sir; that is what made me think it was less than a year.

Q. When you refer to its being closed do you refer to the delivery of the consolidated bonds to the parties in interest?—A. All the certificates taken up.

Q. That is what you refer to as the closing of the pool?—A. Yes, sir.

Q. Did you take receipts for those bonds yourself?—A. No, sir; they surrendered their certificates and took their bonds.

Q. And you do not recollect making out any general statement of the affairs of this pool until at its close?—A. No, sir.

Q. Or going over the figures to see whether each person got the proper amount of bonds?—A. No, sir.

Q. How were the fractional figures of these certificates settled for?—A. They had to buy and sell to make them even.

Q. Buy and sell amongst whom?—A. Between themselves.

Q. Amongst the members of the pool?—A. Yes, sir.

Commissioner ANDERSON. I ask because you say that the certificate did not entitle the holder of the certificate to any bonds of the company.

The WITNESS. There would be fractions, and they had to buy and sell among themselves and make it even.

HOW HOLDERS OF CERTIFICATES OBTAINED BONDS.

Q. How could the holders of the certificates get the bonds? Describe what Mr. Sidney Dillon, as the holder of a certificate in this pool, would have had to do to get the bonds.—A. The bonds were nominally in charge of the committee, but I had them in my possession and delivered the bonds on the certificates.

Q. On what certificates?—A. On these certificates that I have mentioned.

Q. How did you get the bonds?—A. The bonds were issued by the directors in exchange for these securities and delivered to the committee.

Q. What did you first have to do to get the bonds?—A. The committee had to deliver the pool securities to the trustees, and then they got the bonds for them.

Q. And all the bonds, you say, were delivered to you, acting for the committee?—A. Yes, sir.

Q. Then you took these bonds and settled with the holders of the certificates?—A. Yes, sir.

Q. And the fractional shares, you think, they adjusted among themselves?—A. They bought and sold.

Q. You have no record whatsoever of this transaction in your possession?—A. Only those certificates.

Q. And they are not in your possession?—A. No, sir.

Q. You do not know how many bonds you received in all from the Kansas City Company, the gross amount?—A. It is the amount there stated in the mortgage.

Q. I say you do not know yourself how much that amount was?—A. I think it was about \$3,400,000.

Q. Do you mean that the securities which are enumerated in the consolidated mortgage at page 156 are exactly the same securities that were in this pool?—A. I should have to look at it.

Q. [Handing the Book of Indentures to the witness.] Look at the foot of page 156. Do you mean that the securities which are enumerated in the consolidated mortgage at page 156 are exactly the same securities that were in this pool?—A. As I recollect it, they are.

Q. And the amount there given of \$3,400,000 is the amount of the consolidated bonds which were delivered to you and used for the adjustment of the pool interests?—A. Yes, sir.

Q. That, as I understand it, includes none of the stock of the Kansas Pacific?—A. No, sir.

Q. And none of the stock of the Denver Pacific?—A. No, sir.

Q. After that adjustment had been made, had you anything further to do with any of the parties in this pool in relation to their interests in the Kansas Pacific stock?—A. No, sir.

Q. You kept no account of that?—A. No, sir.

Q. And you know nothing about it?—A. No, sir.

CUSTODIAN OF DENVER PACIFIC STOCK AFTER ITS RELEASE.

Q. What connection, if any, had you with the transaction by which the Denver Pacific stock was taken out of the mortgage which you have before you and released to the Kansas Pacific Company?—A. I think I received the stock as it was delivered; that was the first of the transaction that I had to do with.

Q. You received it from whom?—A. From the trustees of this mortgage.

Q. And on whose behalf did you receive it?—A. On behalf of the Kansas Pacific Railway.

Q. It was given to you, then, as the treasurer of the company?—A. Yes, sir.

Q. Where did you receive that stock?—A. I think at 78 Broadway.

Q. Which of the trustees handed it to you?—A. I do not know that the trustees personally handed it to me.

Q. It was in the custody of the trustees?—A. Yes, sir.

Q. And you could not receive it except by their orders?—A. I received it by their order. I do not remember who delivered it to me.

Q. You do not remember whether it was Mr. Jay Gould or Mr. Russell Sage?—A. It would not be likely to be either one of them. They had a secretary. Mr. Calef may have done it.

Q. Was he the secretary of the trustees?—A. Yes, sir.

Q. And he would have received his instructions from them?—A. Yes, sir.

Q. What did you do with that stock after you received it? What did you take it, I mean?—A. I kept it in the office.

THE STOCK IN ONE CERTIFICATE.

Q. Was it in one certificate, or several?—A. I think it was in one certificate.

Q. Do you know in whose name it stood?—A. It would appear to have been in the name of Sidney Dillon, trustee.

Q. I know; but before you got it, while it was held by the trustees of the consolidated mortgage, in whose name did it stand?—A. I do not know whose name it was in.

Q. You do not think it was in the name of Sidney Dillon?—A. I could not say; I do not know. From some things that happened here yesterday I think it was in his name, but I do not know in what name it was.

Q. You say Mr. Calef was the secretary for the trustees?—A. Yes, sir.

Q. Did you know anything of their accounts?—A. He kept their accounts.

Q. Do you remember whether that certificate, in order to pass from the trustees to the company, had to be transferred?—A. I do not think it had.

Q. Do you think it was payable to bearer?—A. No, sir; but it was indorsed by the party in whose name it was made, so that it was transferable.

Q. Where is that certificate? I mean the one that was held by the trustees, and was handed to you.—A. It must be in the office of the company in Boston.

Q. Whose name, do you think, appears on the back of it?—A. I could not say.

Q. But some name was there, so that it became negotiable?—A. Yes, sir.

WHERE IT WAS KEPT BEFORE CONVERSION INTO UNION PACIFIC.

Q. You say you kept it in the office. On what day did you receive it, with reference to the consolidation?—A. I could not say. It was in the winter that the consolidation occurred.

Q. Do you not associate it very closely with the consolidation in your mind?—A. I think perhaps it was very close to the consolidation.

Q. You do not think it was after the consolidation?—A. No, sir.

Q. And you do not think it was before the decree in the Supreme Court was made releasing it?—A. No, sir.

Q. So that it must, then, have been between the decree and the consolidation?—A. Yes, sir.

Q. The decree was rendered on the 23d of January, and the consolidation was on the 24th of January. You know that?—A. Yes, sir.

Q. So that it must have been received by you between these two dates. How long did you keep it?—A. Not very long.

Q. Did you keep it half an hour?—A. Yes, sir.

Q. You are sure you kept it half an hour?—A. Yes, sir.

Q. Where, exactly, did you put it after you got it?—A. In the safe.

Q. In the safe of the Kansas Pacific Company?—A. In the safe used in the office.

Q. At 78 Broadway?—A. Yes, sir.

Q. Who was in the room with you at the time, do you remember? I mean with reference to this transaction.

The WITNESS. Who occupied those offices?

Commissioner ANDERSON. No. Whom did you see in that room about this Denver Pacific stock, on that day? I did not see anybody.

Q. What next happened about that certificate?—A. It was converted into Union Pacific stock.

Commissioner ANDERSON. That is not the next thing. It must have been taken out of the safe by some one.

The WITNESS. I took it out.

Q. Who asked you to take it out of the safe?—A. I do not know.

Commissioner ANDERSON. It must have been somebody whose instructions you followed.

The WITNESS. Yes, sir.

Q. You would not have taken it out of the safe if I had asked you to do it?—A. No, sir.

Q. Who was the president of the Union Pacific Company at the time?—A. Mr. Dillon.

Q. Did Mr. Dillon tell you to take that stock out of the safe?—A. I think it likely he did.

Q. Or did Mr. Gould? Which is your best recollection?—A. Mr. Gould did not give me any directions.

Q. He did not give you any directions?—A. No, sir.

Q. You did take it out of the safe for the purpose of exchange?—A. Yes, sir.

CONVERTED INTO UNION PACIFIC.

Q. What did you do with it?—A. I took it to the Union Trust Company and had it converted into Union Pacific stock.

Q. What, if anything, had occurred between the day you received it as treasurer of the Kansas Pacific Company and the day you took it out of the safe?—A. I do not remember anything worthy of mention.

Q. Did you ask whether there had been any resolution of the board authorizing you to deal with it as you did? Did you ask Mr. Dillon that?—A. No, sir.

Q. Had any resolution of the board of directors of the Kansas Pacific been passed?—A. No resolution was furnished to me.

Q. As far as you know, as an officer of that company, has any resolution of that company ever been passed directing that that stock be disposed of in any way whatsoever, except as to the ratification of the consolidation?—A. Not that I know of.

Q. Was any resolution ever passed authorizing it to be sold for any consideration whatever, either to Mr. Sidney Dillon or to Mr. Jay Gould, or any one else?—A. Not that I know of.

THE UNION TRUST COMPANY THE TRANSFER AGENTS.

Q. You say you took that certificate to the Union Trust Company?—A. Yes, sir.

Q. Were they the trustees to effect the exchange?—A. They were the transfer agents.

Q. At No. 71 Broadway?—A. Yes, sir.

Q. And they acted then as agents for the issue of the new stock?—A. Yes, sir.

Q. Where are the books of original issue?—A. Either there or in the Boston office.

Q. Was that the same certificate that you took around there which you had received from the trustees of the consolidated mortgage?—A. Yes, sir.

Q. The same paper?—A. The same paper.

Q. Do you think you took it around there the same day?—A. I do not think I did.

Q. You think you took it around there the next day?—A. I do not think the stock was convertible until after the first of February.

Q. Who receipted for whatever they gave you in exchange for this certificate?

The WITNESS. Who gave me?

Commissioner ANDERSON. The Union Trust people. When you took the certificate of Denver Pacific to the Union Trust Company for exchange and delivered it to the Union Trust Company, I presume you received something in exchange for it?—A. I did not receive anything Not then.

Q. You left the Denver Pacific stock there?—A. For transfer or for exchange.

Q. What papers did you sign?—A. I signed the transfer-book, I think; I do not recollect.

Q. Do you think you were named as the attorney for transfer on the back of the certificate?—A. Probably.

Q. You think you signed the transfer-book?—A. Yes, sir.

Q. When next did you hear of that stock, if at all?—A. The next day after the transfer.

THE STOCK TRANSFERRED TO PARTICULAR PERSONS.

Q. Did you transfer it in blank, or to any one in particular?—A. Transferred it to the particular persons.

Q. Do you remember who they were?—A. No; I do not.

Q. Do you remember any of the names?—A. Some of it to Mr. Gould.

Q. About how much to Mr. Gould?—A. A considerable quantity of.

Q. How was the quantity that he was to get determined? You did not guess about it?—A. It was determined by the securities that the company received for the stock.

Q. That the Kansas Pacific Company got for the stock?—A. Yes, sir.

Q. It was determined by his interest in those securities?—A. Yes, sir.

Q. Who else had any interest in those securities?—A. Mr. Clark had some interest in them.

Q. And Mr. Sidney Dillon?—A. Mr. Sidney Dillon did not deliver any securities.

Q. Not to the Kansas Pacific?—A. No, sir.

Q. Or Mr. Ames?—A. No, sir.

Q. Do you mean to say that the transfer that you effected in the office of the Union Trust Company was simply to Mr. Gould and to Mr. Clark?—A. And to Mr. Perkins; I believe he had some of it.

Q. Mr. Perkins was then interested in the securities delivered to the Kansas Pacific, was he?—A. In the Kansas Pacific.

Q. In the securities which determined the shares of ownership in the exchange of stock?—A. Yes, sir.

Q. How did you arrive at the amount of ownership? What kind a computation did you make?—A. The securities they delivered were taken at an agreed price, and paid for in the stock at par.

Q. And you made that computation?—A. Yes, sir.

Q. Each one stated that such securities belonged to Mr. Gould, and such securities to Mr. Perkins, and such to Mr. Clark?—A. Yes, sir.

Q. And you made up a little statement to show what the relative interest was?—A. It was not made up that way. Each man delivered securities and got his stock.

THE MODUS OPERANDI OF TRANSFER.

Commissioner ANDERSON. I know; but I am now talking of the *modus operandi* by which you understood, when you transferred this stock at the office of the Union Pacific Company, how many shares you were to put down for Mr. Gould, and how many for Mr. Clark, and how many for Mr. Perkins?

The WITNESS. The securities that they were to receive were bought at a definite price, and the quantities made up enough stock at par given to them.

Commissioner ANDERSON. I understand. But somebody had to put that computation down on a little piece of paper?

The WITNESS. Yes, sir.

Commissioner ANDERSON. And you had to have that in order to be sure you got the thing right?

The WITNESS. I received the securities and I delivered the stock.

Q. If you delivered the securities and took no memorandum of the number of shares, and did not figure out what they amounted to, you would not know how many shares were to go to Mr. Gould, or to Mr. Clark, or to Mr. Perkins, would you?—A. I do not know what you are getting at now.

Commissioner ANDERSON. I mean to say that you must have made a statement on paper of the relative interests of these different parties in these securities in order to ascertain how much Union Pacific stock they were each entitled to receive.

The WITNESS. You talk of this thing as if it was a pool. It was not.

Q. I do not say it was a pool at all. We will put it this way: Have you any book or memorandum showing the relative interests Mr. Jay Gould, Mr. Perkins, Mr. Clark, and any other persons, whoever they may be, had in the stock of the Union Pacific issued against the Denver Pacific stock which you can produce before us?—A. No, sir.

Q. Have you seen that transfer that you made at the office of the Union Trust Company since the day you made it?—A. No, sir.

Q. You have not examined it since yesterday?—A. No, sir.

Q. Have you spoken about it to any one since yesterday?—A. No, sir.

THE NEW STOCK DELIVERED NEXT DAY.

Q. When was that stock actually delivered by the Union Trust Company?—A. The next day after I had delivered it to them they delivered the issue to me.

Q. They delivered the new stock to you?—A. Yes, sir.

Q. Did you receive it all personally?—A. Yes, sir.

Q. For whose account?—A. For the account of the persons to whom it was made out.

Q. And those persons were the same? Were there only those three?

—A. I think not.

Q. Who else was there?—A. No one else.

Q. I misunderstood your answer. Now, can you recollect the number of shares that were mentioned in the certificate that you received for Mr. Jay Gould?—A. No, sir.

THE LARGEST CERTIFICATE WENT TO MR. GOULD.

Q. Can you recollect the fact that that was the largest certificate of the three?—A. I think that was the largest.

Q. Did you, when you made this transfer of this certificate of 2 shares, which you have referred to as being the certificate that you received from the trustees of the Kansas Pacific consolidated mortgage, also have another certificate for 10,000 shares?—A. I think so.

Q. From whom did you receive that certificate?—A. I do not remember.

Q. In whose name was that certificate?—A. I do not know.

Q. What did you do with that certificate?—A. That was also referred at the Union Trust Company.

Q. Did you not receive that certificate from Mr. Jay Gould?—A. I do not know.

Q. Do you recollect anybody else than Mr. Jay Gould in connection with that certificate of 10,000 shares?—A. I do not recollect about it, I think it may have been Mr. Gould.

Q. That is the certificate that we understand represented large stock that had been bought from the Amsterdam holders?—A. Yes, sir.

Q. With that circumstance to refresh your mind, are you not satisfied you received it either from Mr. Jay Gould or by his direction?—A. Probably I did.

Q. And you took it around to the Union Trust Company at the time that you took the other one?—A. I do not know.

Q. Do you know whether you were the attorney to transfer this stock certificate?—A. Probably I was.

Q. As far as you remember, did you transfer it in the same manner and to the same parties as you transferred the other one for 2 shares?—A. It was a part of the same transaction.

Q. It was all a part of the same transaction?—A. All a part of the same transaction.

Q. When you received the certificates of stock the next day, did you receive just as many certificates as there were parties interested in that joint arrangement, or did you receive twice as many? Did you receive two certificates for each party or only one?—A. I received certificates for them; the certificates were made out in 100-share certificates, the whole quantity was made up that way.

Q. You delivered them in a large lot, and received them in 100-share certificates?—A. Yes, sir.

Q. Had you given those instructions to the company to make up in 100-share lots?—A. That is the usual course.

Q. And did they not have any larger certificates than 100 shares?—A. No, sir.

Commissioner ANDERSON. The other companies had—the Kansas Pacific and Denver Pacific?

The WITNESS. Their stock was not listed on the New York Stock exchange in that way.

TO WHOM THE NEW CERTIFICATES WERE DELIVERED.

Q. After you received all the stock of the Union Pacific Company, what did you do with the certificates?—A. Delivered them to the parties in interest.

Q. Did you receive receipts for them?—A. No, sir.

Q. Do you know how many shares of stock you delivered to Mr. Gould?—A. I do not know.

Q. Do you know how many you delivered to Mr. Clark?—A. Only a small amount.

Q. Do you know how many you delivered to Mr. Perkins?—A. That was quite a small amount.

Q. You are quite sure you delivered none of that stock to any one else?—A. No one else.

Q. Do you know personally what Mr. Jay Gould did with his stock after he got it?—A. No, sir.

Q. Do you know where he kept it?—A. No, sir.

Q. As a matter of fact, did you deliver any of that stock into the treasury of the Union Pacific?—A. Yes, sir.

Q. What portion of that stock that you received from the Union Trust Company did you deliver into the treasury of the Union Pacific Company?—A. I do not know; from 5,000 to 8,000 shares, I should think.

Q. Why did you not tell me that before? Why did you say you delivered all those certificates to Mr. Gould or Mr. Perkins or Mr. Clark?—A. I did not understand your question; I did not intend to make any misstatement.

[At the request of Commissioner Anderson the stenographer read the testimony just given from the question, "When you received the certificate of stock the next day, did you receive just as many certificates as there were parties interested in the joint arrangement, or did you receive twice as many; did you receive two certificates for each party, or only one?" down to and including the last answer.]

Commissioner ANDERSON. I call your attention to the fact that I asked you if you were quite sure that you delivered none of that stock to any one else than those three persons named, and you answered you were sure they were the only persons.

SOME STOCK RETAINED IN THE UNION PACIFIC TREASURY.

The WITNESS. I was under a misapprehension there; I did not understand; all the stock that I delivered to outside parties was to those three persons, but I kept some in the treasury of the Union Pacific; that was over and above the amount required to pay for these securities.

Q. How much did you keep?—A. I do not know; probably 5,000 shares.

Q. You received 40,000 shares in all?—A. Thirty-nine thousand shares.

Q. Thirty-nine thousand nine hundred and eighty-six?—A. Yes, sir.

Q. You think you kept 5,000 shares?—A. Yes, sir.

Q. Who told you to keep 5,000 shares?—A. I did not need to be told.

Q. From what computation could you ascertain what was to be kept?—

A. There were so many shares required to pay these parties for their securities, and I took so many shares to pay them for their securities, and the balance was left over.

Q. In order to ascertain what was left over, did you not require to have something, some computation, before you knew of the value of the securities that were to be paid for?—A. Yes, sir.

Q. You did not do that all in your head?—A. No, sir.

LOSS OF THE PIECES OF PAPER CONTAINING STATEMENTS.

Q. In what shape was that statement made out for you to look at; was it on a piece of paper?—A. Yes, sir.

Q. In whose handwriting?—A. I do not know.

Q. Where is that paper?—A. I do not know.

Q. Why do you say now that you suppose that the directors fixed this contract?—A. Because it is usual for directors to do so.

Q. You do not know personally anything about it?—A. No, sir.

Q. How was the proposition determined whether the Kansas Pacific was receiving an equivalent in value for the stock that it was parting with?—A. I do not know.

Q. Was that a subject of discussion between anybody?—A. Not in my presence.

Q. All you know is that Mr. Sidney Dillon and Mr. Gould told you to deliver the stock against these securities?—A. These were my general instructions; yes, sir.

Q. And these securities were received by you at par, or how?—A. Principally; some of them.

THE SECURITIES ENUMERATED.

Commissioner ANDERSON. Please enumerate the securities and their amount.—A. One million eight hundred and thirty-three thousand dollars Saint Joseph and Pacific, and Kansas and Nebraska bonds.

Commissioner LITTLER. Let him separate the amounts.

The WITNESS. I cannot separate them. They are all together. 15,140 shares Saint Joseph and Western stock; \$784,000 Saint Joseph and bridge bonds, and 4,000 shares of stock of that same company; \$375,000 Hastings and Grand Island bonds; \$479,000 Kansas Central bonds; that is all.

THE PRICES FIXED FOR THE VARIOUS SECURITIES.

Q. Was that Saint Joseph and Western stock of par value of 100?—A. Yes, sir; but it was not taken at that price.

Q. At what price was it taken?—A. It was taken at \$20.

Q. That would be \$302,800?—A. Three hundred and seven thousand dollars.

Q. Please state the prices at which these various securities were taken.—A. The Saint Joseph and Pacific bonds were taken at par; Saint Joseph bridge bonds at par, including toe stock; par for the bonds.

Q. The stock went for nothing?—A. Yes, sir.

Q. The Saint Joseph and Western was taken at \$20?—A. Twenty dollars.

Q. How much for the Hastings and Grand Island bonds?—A. They cost about \$60,000.

Q. How do you mean?—A. For the whole lot.

Q. Do you know the figure at which they were taken?—A. No, I have not got it.

Q. Do you mean to say they were turned in?—A. Yes.

Mr. JOHN F. DILLON. They were turned in.

a part of the Saint Joseph

Q. The \$479,000 of K

A. I think there were

quired in this Denver Pacific stock?—A. Saint Joseph and Pacific bonds.

Q. Have you a list of them?—A. I think I have a list of them.

Q. Ah! Is it in writing?—A. I have a pencil memorandum of them.

Commissioner ANDERSON. We do not get beyond pencils. Please produce it.

The WITNESS. I have it here.

Commissioner ANDERSON. Will you allow me to see the memorandum? (The witness hands the paper to Commissioner Anderson.)

Q. When was this memorandum made up?—A. It was made up to-day.

Q. From what was it made up?—A. From memoranda.

Q. Where are the memoranda from which it was made up?—A. It is in the office.

Q. Is it on a loose piece of paper or in a book?—A. I think it is in a book.

Q. What does that book contain?—A. The balance-sheets of the company.

Q. In whose handwriting is the book from which you took this memorandum?—A. In my handwriting.

Q. When did you make up that book?—A. That is made up at various times.

Q. From what sources?—A. From balance-sheets of the company.

Q. From balance sheets of the Kansas Pacific Company?—A. Of the Union Pacific Company.

Q. From what source do you identify and prove the fact that the bonds, of which you hand me a little list here, are the bonds that were originally Mr. Gould's and these other gentlemen's, and that were passed to the Kansas Pacific in exchange for this Denver Pacific stock? How do you identify those transactions?—A. Those were the amounts that I received and sent to the company in Boston. Those are the securities that I received and sent to the company in Boston.

Q. When did you receive these securities?—A. I received them in February, I think, 1880.

Q. You received these securities in what capacity?—A. As treasurer of the Kansas Pacific Railway Company.

Q. And these are the securities against which, or the promise for the delivery of which, you delivered the Denver Pacific stock?—A. Yes, sir.

Q. With what person did you make that arrangement?—A. I received my instructions from the president.

Q. From Mr. Sidney Dillon?—A. Yes, sir.

Q. But whose securities were they largely and mostly?—A. Mr. Gould's.

Q. Did you talk with Mr. Gould about it?—A. No, sir.

WHO ARRANGED THE TERMS OF TRANSFER?

Q. Who arranged the terms of the transfer?—A. I do not know; I suppose the directors did.

Q. You said that there was no resolution passed by the board of directors on this subject?—A. I am not the secretary of the company and I do not have access to the minutes.

Q. You say you know there was no such resolution?—A. How shall I know of it?

U. S. PACIFIC RAILWAY COMMISSION.

Q. Why do you say now that you suppose that the directors fix a contract?—A. Because it is usual for directors to do so.

Q. You do not know personally anything about it?—A. No, sir.

Q. How was the proposition determined whether the Kansas Pacific was receiving an equivalent in value for the stock that it was partially paid for?—A. I do not know.

Q. Was that a subject of discussion between anybody?—A. Not in my presence.

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Q. How do you mean?—A. For the whole lot.

Q. Do you know the figure at which they were taken?—A. No; have not got it.

Q. Do you mean to say they were turned in at \$60,000?—A. Yes, sir.

Mr. JOHN F. DILLON. They foreclosed those first-mortgage bonds, and a part of the Saint Joseph and Grand Island bonds to-day are held.

Q. The \$479,000 of Kansas Central bonds were taken at what price?

A. I think they were taken at par.

Q. What did that amount all foot up, at the figures you have given me?—A. About \$3,464,000.

Q. And it was the difference between that and \$3,936,000 which say you retained out of the certificates that you received from the Union Trust Company?—A. Yes, sir.

Commissioner LITTLE. Will you let me have that paper? The

The WITNESS. I do not care to give it.

Commissioner ANDERSON. The reporters may have them from our figures. I suppose they did not take these down.

Several NEWSPAPER REPORTERS. We have it now.

Q. Excepting the part of the stock received by you from the Union Trust Company, which you say you retained, about 5,000 shares, the balance, so far as you know, was taken by Mr. Gould and the other gentlemen as owners, and used by them as owners?—A. They were taken by them, and became their property.

Q. So that Mr. Dillon's statement that all that stock at first was held as treasury stock and sold by the company is erroneous; it was a mistake?—A. For the time being it was held in that way.

Q. After it was delivered to Mr. Gould; after that date it was not held by the company?—A. No, sir.

Commissioner ANDERSON. The facts are—we cannot dispute about them—that the Kansas Pacific Company exchanged the Denver Pacific stock which it had for the securities which you have here enumerated and that immediately after Mr. Gould and his associates had delivered or agreed to deliver these securities they regarded themselves as the owners of so much of the Denver Pacific stock as would equal the amount agreed to be paid, \$3,464,000, and after the transfer received that as their own stock?

The WITNESS. I think that is an inference.

Q. You do not think that is correct?—A. I think that is an inference.

Q. You do not think that is the way you would understand the transaction, as a common-sense man?—A. No, sir.

Q. Please tell us how you yourself would understand it.—A. I understand that they became the owners of the stock, and they delivered these securities when they received the stock, and not until then.

Q. Is not that just what I have said?—A. No, sir; I do not understand it so.

Q. That is what I meant to say. Perhaps you have expressed it better than I did. Do you know anything else about these securities that you have enumerated, personally or as a broker?—A. Yes, sir.

SAINT JOSEPH AND GRAND ISLAND RAILROAD.

Q. What do you know of the Saint Joseph and Pacific, and Kansas and Nebraska stock?—A. I know that those certificates are all merged into the Saint Joseph and Grand Island Railroad now.

Q. Is that one railroad, or two?—A. It was two corporations, consolidated into the Saint Joseph and Western, of which this stock we mentioned here is the stock.

Q. Was this \$1,833,000 of stock or bonds?—A. That was bonds of two corporations, which were afterwards consolidated into one corporation, called the Saint Joseph and Western.

Q. Where is the Saint Joseph and Western?—A. It runs from Saint Joseph to Grand Island.

Q. Where is the Kansas and Nebraska?—A. It was a part of that same line.

Q. And subsequently they became a part of what road?—A. Afterwards the Saint Joseph and Western.

Q. Where does the Saint Joseph and Western connect with the Kansas Pacific?—A. It does not connect with it.

Q. Where does it connect with the Union Pacific?—A. At Grand Island.

Q. Do you know anything about whether those bonds were listed on the New York Stock Exchange in January, 1880?—A. I think they were not.

Q. Do you know whether they were commonly bought or sold in market?—A. I do not know that they were.

Q. Do you know of any transaction in these bonds about that time excepting this one?—A. No, sir.

TOTAL ISSUE OF BONDS.

Q. What was the total issue of the bonds of the two roads? We take first the Saint Joseph and Pacific bonds.—A. I think it \$1,800,000.

Q. What was the total issue of the Kansas and Nebraska?—A. A million eight hundred thousand dollars.

Q. Do you recollect, generally, whether this sum that you have given me was about evenly divided, or whether there was more of one than of the other?—A. I think it was about three-fifths and two-fifths.

Q. Three-fifths of which?—A. Of the Saint Joseph and Pacific.

Q. Do you know how long Mr. Gould had owned these securities?—A. No, sir.

Q. Or from whom he got them?—A. No, sir.

Q. Do you know anything about their history at all?—A. No, sir.

Q. He did not tell you what they had cost him?—A. No, sir.

Q. Had they any market value in January, 1880?—A. I do not know.

Q. Do you know the date of their issue?—A. No, sir.

Q. Were they coupon bonds?—A. Yes, sir.

Q. Had the interest been regularly paid up to that date?—A. There was no interest matured then.

Q. They were new bonds, then?—A. I think so.

HISTORY ON SAINT JOSEPH AND GRAND ISLAND.

Q. Do you know how far the road had been constructed at the time?—A. It was constructed to Hastings, I think. It may have been constructed to Grand Island. The Hastings and Grand Island road made the connection to Grand Island; and the road proper, the Saint Joseph and Western, ran from Saint Joseph to Hastings; and the Hastings and Grand Island, which was consolidated with the Saint Joseph and Western, went on to Grand Island.

Q. Was the road then substantially complete at the time of the issue of these bonds?—A. Yes, sir; at the time of the purchase of the bonds.

Q. Do you know how many thousand dollars a mile it was bought for?—A. No, sir; it is 252 miles.

Q. Who built the road?—A. I do not know.

Q. Who was the president of either of these roads?—A. I think William Bond was president.

Q. Had Mr. Gould any connection with the roads?—A. Not that I know of.

Q. You do not know whether he was a director or not?—A. I do not know.

Q. Was he connected with the companies that built the road?—A. No, sir; I do not know.

Q. We have 15,140 shares of Saint Joseph and Western now. That was the corporation, as I understand it, into which these two other roads were merged?—A. Yes, sir.

THE STOCK OF LITTLE VALUE, WITH FEW SALES.

Q. Do you know anything of the value of that stock in January, 1880?—A. I think there had been some dealings in it.

Q. Was it listed on the Stock Exchange?—A. No, sir.

Q. Had it ever paid a dividend?—A. No, sir.

Q. Has it ever paid a dividend on its stock?—A. No, sir.

Commissioner ANDERSON. We will omit the other question, whether it will ever pay dividends.

The WITNESS. There is a prospect of it.

Q. There is always a prospect. You say there had been transactions in that stock?—A. I think there had been.

Q. Can you name any person who sold any of that stock about that time?—A. No, sir.

Q. You merely have been informed that there were transactions?—A. My recollection is that there had been transactions in it.

Q. Which you knew of as a broker?—A. No, sir.

Q. Have you any knowledge by which you are able to give us an estimate that you can rely on of its value at that time?—A. Only a general impression that the stock had been traded in at that time.

Q. Can you give us any quotations?—A. About the price it was taken at?

Q. About 20?—A. Yes, sir.

Q. You can refer us to no person who actually sold, or any person who bought, any stock?—A. No, sir.

Q. Have you any recollection whether the transactions were for large or small amounts?—A. No, sir.

Q. Can you refer us to any person who would have satisfactory knowledge as to the value of that stock at that time, gauged by actual transactions?—A. I do not know of any.

SAINT JOSEPH BRIDGE BONDS.

Q. In regard to \$784,000 Saint Joseph bridge bonds, what is the Saint Joseph bridge?—A. It is a bridge across the Missouri River to Saint Joseph.

Q. Is that an organization separate from the railroad?—A. It was then.

Q. What was the total issue of bonds?—A. The amount outstanding was \$784,000.

Q. That was the whole issue then?—A. Yes, sir.

Q. When was that bridge built?—A. I do not know.

Q. Have you ever seen it?—A. No, sir.

Q. What is the bridge used for; by the Saint Joseph Railroad?—A. Yes, sir.

Q. Are these coupon bonds?—A. Yes, sir.

Q. What was the date of their issue?—A. I do not know.

Q. Do you know when they mature?—A. No, sir.

Q. Do you know whether any of the coupons had been paid when they were assigned to the Kansas Pacific?—A. They were regularly paid.

Q. And have been paid ever since, or do you not know?—A. Unless there was a slight intermission at one time, not because the road did not earn it, however, or the bridge.

Q. The 4,000 shares of stock, you say, passed with the bonds?—A. The 4,000 shares; yes, sir.

Q. What was the total issue of the stock?—A. I think it was 4,000 shares.

Q. Three hundred and seventy five thousand dollars of Hastings and Grand Island bonds—what were those bonds?

The WITNESS. Can I make a suggestion?

Commissioner ANDERSON. Yes.

The WITNESS. Will you not ask me about the value of that stock?

Q. Yes, I will ask you about the value of that stock; do you know anything about the value of that stock in January, 1880?—A. I do not know anything about the value of it, only that the stock paid dividend regularly during all the time the company held it.

Q. Did it pay dividends in January, 1880, when it was transferred?—A. I do not know as to that.

Q. You say it paid dividends afterwards to the Kansas Pacific?—A. To the Union Pacific.

Q. What were the dividends?—A. I do not recollect it; they were good dividends.

Q. What was the par value; \$100 a share?—A. Yes, sir.

Q. That would be \$400,000; do you know the rate of dividends about?—A. No, I do not.

Mr. MINK. It ran from 20 per cent. down to 6 per cent.

THE HASTINGS AND GRAND ISLAND ROAD.

Q. Now, about the \$375,000 of Hastings and Grand Island bonds what was the Hastings and Grand Island road?

Mr. JOHN F. DILLON. I do not know whether I will have an opportunity of cross-examining; I do not care to; but you have not asked him how the investment in the Saint Joseph and Denver City road turned out; whether you omitted it because you did not care to ask it I do not know.

Commissioner ANDERSON. Of course we will ask any question that Judge Dillon suggests that would tend to shed more light on it; our mission is to report the facts of the consolidation and not the ultimate result; but as far as shedding any light is concerned we will take the suggestion.

Mr. JOHN F. DILLON. The inquiry seemed to point to the fact that these securities were not worth what was paid for them.

The CHAIRMAN. The witness can make any explanation he desires.

A. It was a road from Hastings to Grand Island. It was virtually an extension of the Saint Joseph road to a connection with the Union Pacific.

Q. When were these bonds issued?—A. I do not know.

Q. What is the total issue?—A. That is the total issue.

Q. This was a separate organization or corporation?—A. Yes, sir.

Q. Do you know who was its president?—A. No, sir.

Q. You do not know how Mr. Gould came to acquire title to that?—A. No, sir.

Q. Do you know whether the coupons on these bonds had been paid in January, 1880?—A. I think not.

Q. Have they been paid since, or do you not know?—A. Those bonds were absorbed into the Saint Joseph and Grand Island Railroad, and now they pay interest regularly.

Q. Do you know the terms of absorption?—A. At par, I think.

THE KANSAS CENTRAL.

Q. As to the \$479,000 of Kansas Central bonds; what is the Kansas Central?—A. It is a road from Leavenworth, Kans., running west.

Q. Does it connect with the Kansas Pacific except at Leavenworth?—A. That is all.

Q. Leavenworth, as I remember, is the end of a branch from Lawrence?—A. Yes, sir.

Q. How many miles long is that road?—A. I do not recollect.

Q. Do you know what the total issue of bonds is?—A. No, sir.

Q. Are these first mortgage bonds?—A. Yes, sir.

Q. Were the coupons paid in January, 1880?—A. I do not know as to that. They have been paid since.

Q. Are they bonds that are dealt in on the Exchange here?—A. They have never been on the market here.

Q. Do you know anything of what their actual value was, as evidenced by actual dealings in January, 1880?—A. No, sir.

Q. They were taken, I believe, at par?—A. Yes, sir.

Q. I have enumerated, have I not, all the securities that you have stated to me?—A. I think so.

THE PRIVILEGE OF CROSS-EXAMINATION EXTENDED TO COUNSEL.

The CHAIRMAN. Have you some explanation to make concerning the securities?

Commissioner LITTLER. The question which Judge Dillon makes before this Commission is likely to come up again during the history of it, and I think it would be good policy to settle now whether counsel representing these interests shall be allowed to cross-examine witnesses. For my own part, I am free to say that I am in favor of it, if they desire it. The object of this Commission is to arrive at the very truth of the matter, and if counsel desire to cross-examine, so far as I am concerned I should be glad to hear them.

Commissioner ANDERSON. As far as I am concerned, while reserving to ourselves the inherent power of, shall we say, shutting up the lawyers when they talk too much—which we all know is a dangerous privilege—I am entirely satisfied with this understanding; that on any reasonable occasion they shall cross-examine as much as they please.

Commissioner LITTLER. Of course, when a lawyer begins to run "tailings" we will cut him off.

The CHAIRMAN. The counsel here can produce witnesses to explain this consolidation if they wish to, but not in the nature of cross examination.

Commissioner ANDERSON. It is only for additional information.

The CHAIRMAN. Yes; as to any explanation or any remarks that the witness wishes to make, or if Judge Dillon, as counsel to the road, wants to bring it out, I see no objection to his doing so. Do you wish to do so now, Judge Dillon?

Mr. JOHN F. DILLON. I have nothing special to ask this witness except what he knows in regard to the value of those securities as they

Q. And have been paid ever since, or do you not know there was a slight intermission at one time, not because it earned it, however, or the bridge.

Q. The 4,000 shares of stock, you say, passed with the 4,000 shares; yes, sir.

Q. What was the total issue of the stock?—A. I think 4,000 shares.

Q. Three hundred and seventy five thousand dollars of Grand Island bonds—what were those bonds?

The WITNESS. Can I make a suggestion?

Commissioner ANDERSON. Yes.

The WITNESS. Will you not ask me about the value of the stock?

Q. Yes, I will ask you about the value of that stock. Anything about the value of that stock in January, 1880? I know nothing about the value of it, only that the stock was regularly during all the time the company held it.

Q. Did it pay dividends in January, 1880, when it was first issued?—A. I do not know as to that.

Q. You say it paid dividends afterwards of the Union Pacific.

Q. What were the dividends?—A. I do not recall the amount of the dividends.

Q. What was the par value; \$100 a share?

Q. That would be \$400,000; do you know the amount of the bonds?—A. No, I do not.

Mr. MINK. It ran from 20 per cent. down to 6 per cent.

THE HASTINGS AND GRAND ISLAND RAILROAD.

Q. Now, about the \$375,000 of Hastings and Grand Island bonds—what was the Hastings and Grand Island road?

Mr. JOHN F. DILLON. I do not know whether I should be permitted to testify in this case; I do not care to; but you may know the investment in the Saint Joseph and Denver road; whether you omitted it because you did not know.

Commissioner ANDERSON. Of course we will accept the suggestion of Judge Dillon suggests that would tend to shed light on the commission is to report the facts of the consolidation and the result; but as far as shedding any light is concerned, I have no suggestion.

Mr. JOHN F. DILLON. The inquiry seemed to me to be whether these securities were not worth what was paid for them.

The CHAIRMAN. The witness can make any explanation.

A. It was a road from Hastings to Grand Island, an extension of the Saint Joseph road to a connection with the Union Pacific.

Q. When were these bonds issued?—A. I do not know.

Q. What is the total issue?—A. That is the total issue.

Q. This was a separate organization or corporation?

Q. Do you know who was its president?—A. No.

Q. You do not know how Mr. Gould came to acquire the bonds?

A. No, sir.

Q. Do you know whether the coupons on the bonds were paid in January, 1880?—A. I think not.

ing for the defendants in that
 heard in regard to the matter, Mr.
 been referred to my firm to act for
 proceedings that he desired to take,
 Messrs. Gould and Sage. Before
 the subject of the suit was to release the
 by which it was held under the
 or Mr. Gould?—A. I saw both of
 from them.
 after the complaint was served?—A.

only a day or so. It was about that

ON DESIRED.

ter was desired to be conducted as
 the necessity for expedition?—A. I
 any reason, except they wished it done
 and so stated to me. Do you prefer to
 statement?
 you can make a statement afterwards.
 and Mr. Gould that articles of consol-
 Kansas Pacific, and Denver Pacific
 A. I was not.
 at the time the suit was brought?—

at the time the decree was entered?—

in regard to the proof to be given
 as to be released from the trust?—

the value of that security?—A.
 ries that I made. I did make
 ere, for I cross-examined Mr.

PROCEEDINGS.

Mr. Sage or Mr. Gould disclosed
 to the value of the securities
 A. I do not recollect es-
 I am willing to
 and Sage in
 actions, so
 When I
 Holmes
 to get
 My
 gen-
 did
 com-
 The state
 Talk so
 was busi-
 business

afterwards turned out—whether t
pany over and above the prices at

The WITNESS. The securities ha
resulted in quite a handsome prof

Mr. JOHN F. DILLON. That is a

The WITNESS. And these road-
acquisitions to the lines of the co

CONCERNING PROFITS OF

By Commissioner ANDERS-

Q. Mr. Dillon, when asked the ;
or derived out of the execution o
referred us to you as being able
kept his accounts. Can you say

Q. You have no memorandum
have no memorandum; no, sir.

Q. Have you any memorandum
profits were out of the Kansas Pa

Commissioner ANDERSON. The
Kansas Pacific stock to him, and
Pacific Railway stock received in

The WITNESS. I know nothing
vate affairs.

Q. Have you any such memori
in interest—Mr. Ames, for instat

Q. Or Mr. Dexter?—A. I did

No.

AFTER

ALMON GOODWIN, being
follows:

By Commissioner ANDE

Question. You are an attor-
Vanderpool, Green & Cuming,
Green, Cuming & Goodwin is

Q. At No. 2 Wall street?—
poel, Green & Cuming in 1880

Q. Where was your office th
in the Tribune building. We
Wall street.

Q. Were you a member of t,

COUNSEL FOR TRUSTEES IN S

Q. Do you recollect the sui
Kansas Pacific Railroad Com

The WITNESS. As trustee:
Commissioner ANDERSON.

A. I do.

[REDACTED]

THE STOCK MARKET VALUE AS IT STOOD.

Q. There was a time when the value of the stock was such that it was impossible to get it out of the hands of the people who were holding it. I remember that in the year 1880, when the stock was at its lowest point, it was worth only one dollar per share. I remember that in the year 1880, when the stock was at its lowest point, it was worth only one dollar per share. I remember that in the year 1880, when the stock was at its lowest point, it was worth only one dollar per share.

MY VIEW FIXED MIGHT BE WORTH TWO OR THREE THOUSAND DOLLARS.

Q. Do you remember the fact that he told you that if the fund from the trust, so that they could do certain things might have a value of from \$200,000 to \$300,000?—A. I will not give the testimony from memory, as I have not looked into it. I do not remember the details of it, but I have seen that his testimony was that the value of the stock was no more than some two or three hundred thousand dollars. Q. The evidence was read here yesterday, and the sentence was contained in the evidence. Did you, either while sitting here or afterwards in conversation with him, ask him those things?—A. I do not remember what I asked the witness. The record will show. But I had no talk with him at any time in regard to the matter. The only conversation between Mr. Dillon and myself was what took place upon the stand.

AFTER HEARING WITH ABOUT THREE MILLIONS IN

within a few days subsequently according to your table worth but \$200,000 to \$300,000. It was a substantial amount after the only

Q. Who saw you in regard to appearing for the defendants in that suit?—A. I think the first that I heard in regard to the matter, Mr. Holmes told me that the matter had been referred to my firm to act for the trustees, and spoke to me about proceedings that he desired to take, and subsequently I saw the trustees, Messrs. Gould and Sage. Before taking any action, I saw the trustees.

Q. You understood the general object of the suit was to release the Denver Pacific stock from the trust by which it was held under the terms of the mortgage?—A. Yes, sir.

Q. Whom did you see, Mr. Sage or Mr. Gould?—A. I saw both of them, to get my authority and instructions from them.

Q. Did you see them before or after the complaint was served?—A. My recollection is, before.

Q. How long before?—A. It was only a day or so. It was about that time.

EXPEDITION DESIRED.

Q. Were you told that the matter was desired to be conducted as promptly as possible?—A. I was.

Q. Was any reason assigned for the necessity for expedition?—A. I do not recollect that there was any reason, except they wished it done promptly. That is, Mr. Holmes had so stated to me. Do you prefer to ask questions, or shall I make my statement?

Q. We will ask questions, and you can make a statement afterwards. Were you informed by Mr. Sage and Mr. Gould that articles of consolidation between the Union Pacific, Kansas Pacific, and Denver Pacific Companies were in preparation?—A. I was not.

Q. Were you aware of that fact at the time the suit was brought?—A. I was not.

Q. Were you aware of that fact at the time the decree was entered?—A. I was not.

Q. Did you have any conversation in regard to the proof to be given as to the value of the security which was to be released from the trust?—A. I did not.

Q. Did you make any inquiry as to the value of that security?—A. I do not now recollect any special inquiries that I made. I did make inquiry upon the hearing before the referee, for I cross-examined Mr. Dillon at some length.

HISTORY OF THE PROCEEDINGS.

Q. What I want to get at is, whether Mr. Sage or Mr. Gould disclosed to you at that time anything relating to the value of the securities which they were about to deliver as trustees.—A. I do not recollect especially in regard to that. I think not. I will say that I am willing to state the instructions which I received from Messrs. Gould and Sage in the matter. I have asked their permission to give my instructions, so that I am relieved from the professional seal in the matter. When I saw Mr. Gould and Mr. Sage in regard to this matter, after Mr. Holmes had told me that he wished to bring such a suit, I went to them to get their instructions. I had done business before for both of them. My recollection is that Mr. Gould was busy at the time, and he told me generally about it, and he said, "Talk to Mr. Sage," who was there. I did talk with him at some length. He stated that the Kansas Pacific Company had asked to have this stock released from the trust of that mortgage; that he thought it was for the advantage of the road that it

should be done, but that he and Mr. Gould were acting as trustees, and they did not want to do it, unless they had a right so to do, which wanted us to consider, and he used the expression that "he wanted to see that the trustees and the bondholders were properly protected." I subsequently consulted with my partner, Mr. Vanderpool, in regard to his opinion as to the power of the court in the matter, and upon expressing the opinion that it had the power, I appeared in the proceedings. Mr. Holmes stated that they were anxious to have it decided immediately, and I said there was no objection, and we agreed upon a referee. I think he suggested the name of Horace M. Ruggles, whom I knew very well by reputation and slightly personally, and I said he was satisfactory and I agreed to an order appointing him referee. I then went before the referee upon the hearing, and cross-examined Mr. Dillon at considerable length in regard to the value of these securities, pursuant of my instructions, as I understood them, to see that the bondholders were fully protected. When the report of the referee was given, I had no conversation with him except as to what took place at the hearing. I examined it and it seemed to me that the bondholders were amply protected, as I understood the matter, and I then appeared in court with Mr. Holmes, upon his motion, for a confirmation.

THE STOCK WITHOUT VALUE AS IT STOOD.

Q. What we want to know particularly is in regard to the nature of the disclosures that were made to you by these trustees in reference to the real value of the assets that were being taken out of the trust. Do you remember the fact that Mr. Dillon stated, in answer to your questions, that as matters stood, and with this stock tied up in the trust, was substantially without value?—A. I remember that, in substance.

BUT WHEN FREED MIGHT BE WORTH TWO OR THREE HUNDRED THOUSAND DOLLARS.

Q. Do you remember the fact that he told you that if the stock were freed from the trust, so that they could do certain things with it, it might have a value of from \$200,000 to \$300,000?—A. I will not undertake to give the testimony from memory, as I have not looked at it for a long time. I do not remember the details of it, but I have a recollection that his testimony was that the value of the stock was no more than any event than some two or three hundred thousand dollars.

Q. The evidence was read here yesterday, and the sentence I stated to you was contained in the evidence. Did you, either while cross-examining him, or afterwards in conversation with him, ask him whether those certain things were?—A. I do not remember what I asked him at the cross-examination. The record will show. But I had no talk with Mr. Dillon at any time in regard to the matter. The only communication between Mr. Dillon and myself was what took place upon the hearing itself.

AFTER RELEASE WORTH ABOUT THREE MILLIONS DOLLARS.

Q. Did you within a few days subsequently ascertain that that stock which had been sworn to be worth but \$200,000 to \$300,000 had, in fact, been negotiated at a basis which made it worth substantially \$3,000,000?—A. I know nothing about the transaction after the entry of the judgment, except that I heard within a short time after—my recollection

that it was but two or three days after the judgment, but the date I do not undertake to give—that the consolidation of these Pacific railroads had taken place. Other than that, I know nothing whatever in regard to it.

Q. Is it not true, as a matter of fact, that the things which the trustees did with that stock afterwards, or Mr. Dillon did, resulted in its producing substantially \$3,000,000, which the bondholders who were interested in the consolidated mortgage did not receive?—A. I know nothing about it, except as a matter of hearsay. I had nothing whatever to do with the consolidation of the Pacific roads, and had no relations with them as attorney or counsel or in any way, and all that I knew in regard to it was what was the public talk at the time, the newspaper reports, and things of that kind. I knew the consolidation took place; I think I saw in the newspapers the terms of the consolidation, and I saw that in that consolidation the Denver Pacific, if that is the name of the stock, was taken in.

Q. You did not then inquire as to what these things were which were to give the stock some value for the purpose or with the object of ascertaining more definitely what that value under those circumstances would be?—A. If no questions of that kind appear upon my cross-examination, I did not. I do not recollect the details of that, except that I did make a cross-examination.

Q. You are positive, however, that Mr. Dillon did not, of his own motion, disclose to you what the value of that stock would be when those certain things were done, any further than he did by the answer to your questions?—A. I stated that I had no communication whatever with Mr. Dillon, except what took place upon the hearing, and all that I know from Mr. Dillon was what was stated by him as a witness before the referee upon that occasion.

ALMON GOODWIN.

NO. 10 WALL STREET, NEW YORK,
Friday, May 6, 1887.

Commissioner ANDERSON. Mr. Rosenbaum desires to make a statement in regard to some matters connected with the Union Pacific Railroad, Eastern Division. I am not exactly aware, except through what was developed the other day, what was his connection with it. I presume we will be very glad to hear his statement, if he makes it under oath.

ALBERT S. ROSENBAUM, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. Will you please state to the Commission what it is you desire to inform them of?—Answer. Well, I had a suit against the Union Pacific Railroad on the Kansas Pacific income bonds, or rather on the coupons. Mr. Andrews was my lawyer. I think it was in the neighborhood of \$200,000 of bonds.

By Commissioner LITTLER:

Q. You mean in dollars?—A. Two hundred thousand dollars in bonds, face value, excluding past-due coupons.

THE ROSENBAUM SUIT.

By Commissioner ANDERSON :

Q. When was the suit brought ? Is Mr. Andrews present ?—A. Mr. Andrews is present. What year was it, Mr. Andrews ? In 1885 ?

Mr. ANDREWS. I think it was 1885.

Q. Have you any of the papers in the suit ?—A. No ; I have only letters and correspondence from Mr. Adams in regard to some of the coupons that they tried to purchase from me—or from Mr. Adams's secretary.

The CHAIRMAN. Read the letter.

The WITNESS. Here is a letter, dated August 7, 1886, in which Mr. Adams writes :

I have to acknowledge receipt of your favor of August 6th. In answer to your inquiry, I would say that my assistant, Mr. Gardiner M. Lane, whose special provision it is to attend to matters of this sort, is now in Europe on business of the company. He will leave Liverpool for Boston to-morrow, reaching here about the 20th instant.

He is more familiar with the transactions we have had in these bonds during the last two years than any other person, and I should prefer the matter should rest up to his return. I will then give him instructions to take it up immediately, and communicate with you.

CHARLES F. ADAMS, JR.

Q. Had your complaint been served at that time ?—A. Yes, sir ; that was after the settlement of the first lot of bonds that I mentioned. These are other bonds and overdue coupons that I hold now.

Q. Was there any suit pending when that letter was written to you ?—A. No ; it was settled by my counsel. There was no suit pending then. It was on some bonds, income bonds, which are ahead of the consols.

Q. Can you give us the date of the mortgage to which your coupons belonged ?—A. I do not know. I have got nothing really except coupons with me. Perhaps they will tell.

Commissioner ANDERSON. Do you recognize this mortgage, so that we can identify the coupons ?

Mr. MINK. It is the mortgage of 1866, July 1.

Q. Is that the mortgage a part of which was subordinated and paid not subordinated ?—A. These are subordinated to the Denver Extension. That is, they are so stamped.

Mr. HOLMES. O, no. The stamped bonds that were subordinated to the Denver extensions were income bonds, coupons. He said they were Denver extensions.

The WITNESS. No, they are subordinate. I made a tender of the Denver extension to the company, provided they would return the securities which they had taken out. I did it through my counsel.

Q. What further statement do you want to make ?—A. I have other letters here to show how they valued these. They made me an offer here, which I considered should be given.

BOSTON, September 10, 1886.

A. S. ROSENBAUM, Esq., New York :

DEAR SIR : On the 3rd of this month I wrote you in regard to the Kansas Pacific income bonds and coupons held by you. As yet I have had no answer to that communication. It was not the intention to have the offer contained in my letter permanently open, and I must therefore ask you to let me know at your early convenience whether you will accept or decline it.

GARDINER MARTIN LANE,
Assistant to President.

By Commissioner LITTLER :

Q. Whose letter is that ?—A. It is a letter by order of the president, signed Gardiner Martin Lane. This is September 10.

Mr. HOLMES. I ask that the letter be accepted as the best evidence. Commissioner ANDERSON. These letters are taken down. If the witness makes a mistake in reading them, the mistake can be corrected. Each letter is to be on the record *in extenso*.

AN OFFER TO SETTLE.

The WITNESS. Here is the offer he makes:

BOSTON, September 3, 1886.

A. S. ROSENBAUM, Esq., New York:

DEAR SIR: This company has not recently purchased any Kansas Pacific income bonds or coupons. As you doubtless know, there are now very few of these bonds and coupons outstanding, and the company is under no pressure to purchase them.

Nevertheless, in consideration of the fact that it was your wish to sell your bonds to this company, when it was making extensive purchases at higher figures than the last purchase, we will buy your bonds from you.

If you decide to hand your bonds to us, we will give you for them par flat. This is the highest price which has been paid by the Union Pacific for Kansas Pacific income, and was considered by the directors at the time as too high; we should not offer it to you unless for the above consideration.

For your coupons from unstamped bonds, we will give you $21\frac{1}{2}$ flat. This is the only price which has been given for the coupons, so far as I know.

I need hardly add that this offer is final. If you do not care to accept it, we shall feel under no obligation, so far as your bonds are concerned. The directors consider that they are making a most liberal offer.

Please let me know your decision.

Yours, truly,

GARDINER M. LANE,
Assistant to President.

Q. You mean $21\frac{1}{2}$ per cent. ?—A. Yes, sir.

Q. Of the face value ?—A. Yes, sir.

By the CHAIRMAN:

Q. What did you do ?—A. I have seen Mr. Adams this week, and he says that is the best they will do for the bonds and coupons. He will be here the 16th, and I should make him an offer. No, I should give him the coupons, a copy of them, to see what bonds they are from. That I sent him.

COMPLAINT AGAINST DISPOSAL OF DENVER PACIFIC STOCK.

By Commissioner ANDERSON:

Q. Is there any subject connected with the administration of the affairs of this company that you considered as impairing your securities in any way to which you desired to call our attention ?—A. In my suit against them on some \$200,000 of bonds, which was settled with them from 95 cents to par flat, my counsel offered them, through me, the Denver bonds at par—I mean the Denver extension bonds. He made a tender to them. And we also claimed that if they would return the stock which they took as part security on these bonds, that I would give them—I made them a tender of the Kansas Pacific Denver bonds at the prices named in the mortgage, and offered to give them income bonds also, provided they would put the trust fund in the same status that it was previous to this transaction.

Q. What stock do you refer to now; the Denver Pacific stock ?—A. Yes, sir; I refer to about \$3,000,000 of Denver Pacific stock, which was sold for in the neighborhood of \$300,000.

Q. To what fund do you mean that you claimed that stock returned ?—A. That trust fund.

Q. The trust fund under the mortgage relating to the income bonds—A. Under the income bonds. The income and also the Kansas Pacific consols.

Q. Do you claim that the Denver Pacific stock was held by the trustees under the income bonds?—A. I do.

Q. Directly?—A. If I have read the mortgage right, I think so. Am I wrong?

Mr. JOHN F. DILLON. It is a dispute as to whether it is an income from the whole road, or of the 394 miles, and nothing else.

Commissioner ANDERSON. I want to get what Mr. Rosenbaum claims. Perhaps your counsel can explain the matter better than you can, Mr. Rosenbaum.

The WITNESS. Yes, sir; I think so.

DIFFERENTIAL RATES AND THREATENING CIRCULARS.

Q. Is there anything else that you yourself have to call our attention to?—A. No; it is nothing more than I think that a road which is built by the public moneys and the public lands has not been administered for the interest of the public. I have been a shipper to California for thirty-odd years, and I have had an order from the officers and managers of the Union Pacific Road that if I dared to ship one pound freight otherwise than across the continent, either by steamer or sailing vessel around the Horn, the charge on the freight across would be 10 per cent. higher than to those who signed. Such a circular was circulated among the merchants on the Pacific coast.

Q. Have you a copy of that circular?—A. I think I can get it. It was signed by all the merchants. It is a public, well-known fact.

Q. Did it use the expression, "If you dare"?—A. If anything shipped outside of their line, around the Horn, by sailing vessel or steamer.

Q. That your rates would be doubled?—A. Yes, sir; a different rate would be charged to me equal to 100 per cent., if not more. I was established on the coast in 1850, and I have been engaged in the business for many years. This is not trumped up by me; it is well known to the whole Pacific coast merchants.

Q. Will you please send us a copy of such circular?—A. I can get affidavits to that effect from every California shipper—old shipper.

By Commissioner LITTLER:

Q. Do you live in this city?—A. I have lived here since 1857, and live here now.

Q. What is your business?—A. I am a retired merchant. I was in the California business until 1880.

Q. What kind of business?—A. Tobacco.

Q. Have you been a large shipper over this road?—A. I have.

DRIVEN OUT OF HIS CALIFORNIA BUSINESS.

Q. What effect did that circular have upon your conduct; did you ship any around the Horn?—A. It drove me out of business, and I made no shipments around the Horn and stopped shipping across.

By the CHAIRMAN:

Q. Have you anything else to say?—A. Nothing that I can think of. I have been very busy, and I wanted to bring this up.

Q. Will you be kind enough to furnish us with any papers, or letters, or circular, or order, written or printed, that you may have in reference to this order that you speak of?—**A.** There will be no difficulty in doing that, and I will agree to have affidavits drawn up that such was the order of the managers and the officers of the Union Pacific road.

Commissioner ANDERSON. We cannot take affidavits; we will have to have the witnesses here.

Q. Will you produce any information that you may have to the Commission?—**A.** All right.

By Commissioner ANDERSON:

Q. When was this circular sent to you?—**A.** It was sent some years ago.

Q. How many years ago; was it before Mr. Adams was president, or since?—**A.** It was before Mr. Adams was president.

Q. Was it before the consolidation?—**A.** I think it was since the consolidation.

Q. You have been out of business ever since?—**A.** Since August, 1880. I sold out; I gave up the California business.

Mr. JOHN F. DILLON. May I ask a question?

The CHAIRMAN. Certainly.

THE CIRCULAR ISSUED BY THE TRANS-CONTINENTAL LINES.

By Mr. JOHN F. DILLON:

Q. Do you recollect who issued that circular: whether it was the Union Pacific or the Central Pacific?—**A.** It was the Union Pacific.

Q. The Central Pacific did not issue any circular?—**A.** The Central Pacific—it was called the Transcontinental Lines. They were all concerned in it.

Q. It was an effort on the part of the Transcontinental Lines to prevent shipments by ocean, and to compel shipments in that way across the country?—**A.** Yes, sir, they made differential rates.

TO PREVENT OCEAN COMPETITION.

Q. To increase its earnings?—**A.** I do not know anything about its earnings. It was an arbitrary and uncalled-for action on the part of a road that had been built by the public, with the moneys and lands of the United States, to compel every shipper not to ship one pound of goods, no matter how unprofitable it would be to send it across, and they could not be sent any other way than around the Horn; iron and heavy freights, and everything of that kind; and no regular shipper would dare to ship any goods by any other line except the Transcontinental without running the risk of having differential rates put upon him.

Q. You shipped some by water?—**A.** I did.

Q. Did you afterwards ship any by rail?—**A.** No, sir; I could not afford to. I did not dare to.

Q. Did you offer any freight to this Transcontinental Line after you had shipped by water?—**A.** I did not, because I sold out. I was driven out of the business.

Q. You do not know whether they would have applied the differential rate to you or not, do you?—**A.** It is not a special rate to me. It is a special rate to the whole commerce of the Pacific. It is a well-known fact that can be corroborated by every one engaged in such commerce.

Q. Did you ever offer freight after you had shipped by water?—A. No, I did not.

THE WITNESS' OWNERSHIP OF INCOME BONDS.

Q. How many bonds do you state that you have of those income bonds?—A. I have 15.

Q. How many coupons have you?—A. The exact number is 8,100 and some dollars.

Q. Have you acquired those since you made a settlement of the sum you brought?—A. Yes, sir.

Q. All of them?—A. Yes, sir.

Q. The bonds?—A. The bonds.

Q. And the coupons?—A. And the coupons.

Q. The first settlement embraced all that you had?—A. All that I possessed at that time.

Q. Bonds and coupons?—A. Bonds and coupons.

Q. At what rate was the settlement?—A. From ninety-five cents the bonds, flat, to a dollar.

Q. Do you recollect when this bond will mature?—A. Nineteen hundred and sixteen, I think.

Q. It is an income bond?—A. It is a bond.

Q. The interest payable out of income alone?—A. I suppose so.

Q. When was the settlement of this suit made?—A. I do not remember. Mr. Andrews, when was the settlement made?

Mr. ANDREWS. A. I do not recollect the exact date, but I think was in the summer of 1885. I think it was in June.

THEIR COST.

Q. How long had you had those bonds which were embraced in the suit?—A. I think I had them seven or eight years.

Q. What did they cost you?—A. My bonds cost me from 30 to par. I paid par for many of the bonds.

Q. How many were embraced in that settlement?—A. In the neighborhood of \$200,000. I was actually only the owner of about \$65,000.

Q. You commenced buying seven or eight years ago?—A. Yes, sir.

Q. Then you paid 30?—A. I paid 30.

Q. How many did you buy at 30?—A. I bought \$20,000. In the neighborhood of 30, it was; it was 29 and a fraction. I can give the exact figures.

Q. Do you know what your \$200,000 of bonds average?—A. No, I cannot say.

Q. About what?—A. I suppose they averaged 50 or 60.

Q. They averaged 50 or 60?—A. Somewheres around there.

Q. And you got 95?—A. Ninety-five to par.

Mr. JOHN F. DILLON. You have not very much to complain about in that.

The WITNESS. I think I have; I had Saint Joseph and Denver Central which cost me two cents on the dollar, which were turned into the Kansas Pacific road, and I sold for \$150.

Mr. JOHN F. DILLON. You have got a private grievance, and want to investigate it.

The WITNESS. None whatever.

BOUGHT BONDS AFTER THE SETTLEMENT OF HIS SUIT.

Q. You made this settlement about two years ago?—A. Yes, sir.

And you bought some more income bonds?—A. I paid, my balance I got from the company.

Q. From what point to what point was this?—**A.** Grand Island is on the Union Pacific road. The promoters and getters-up and builders of these roads all failed. They all went into bankruptcy, and there was a road overgrown with grass and everything going to pieces. They came to me and offered an immense amount of money to furnish them with rolling stock, and I was afraid of it.

Q. Why were you afraid to furnish rolling stock for money?—**A.** Not for the amount of money, exactly. It was for me to advance the money and take trust bond. They paid me for some receipts—I think 10 per cent. per annum on some receiver certificates issued by Mr. Dillon.

Q. Was this Hastings and Grand Island a part of the Saint Joseph and Denver scheme?—**A.** Yes, sir. That is, subsequently, after acquiring the bonds and securities of the Saint Joseph and Denver and Kansas and Nebraska.

Q. After these two were put together?—**A.** Yes, sir. After they got them into their possession, in order to make it valuable they built that extension and the bridge. The parties did.

Q. Was this road then in the hands of a receiver?—**A.** Yes, sir.

Q. Who was the receiver?

The WITNESS. Mr. Dillon was the receiver.

Mr. JOHN F. DILLON. Was it not William Bond?

The WITNESS. Yes, sir. He was formerly president.

Q. Is there a map here from which you can show me where those extensions were?—**A.** I think it was 24 miles which they built to Grand Island.

Mr. JOHN F. DILLON. It is the present line from Saint Joseph, over this bridge to Hastings, and from Hastings to Grand Island, on the Union Pacific. It is the present Saint Joseph and Grand Island Railroad. Saint Joseph is on the Missouri side of the Missouri River. That bridge crosses the Missouri River and connects Saint Joseph with the road.

Commissioner LITTLE. Where is Hastings?

Mr. JOHN F. DILLON. That is Hastings where it ended. Now, what is called the Hastings and Grand Island road is a road 24 miles long that connects it with the Union Pacific at the town of Grand Island.

SAINT JOSEPH AND GRAND ISLAND ROAD.

The WITNESS. We were never able to get any interest. There never was a coupon paid of the Saint Joseph and Denver or Kansas and Nebraska. Even after it came into the hands of the Union Pacific there never was anything paid, until James Benedict, the president of the Saint Joseph and Grand Island went to work.

Q. You call it the Saint Joseph and Grand Island?—**A.** It is called now the Saint Joseph and Grand Island. The entire system; it was formerly the Saint Joseph and Denver, Eastern Division, Kansas and Nebraska.

Q. Its present name is Saint Joseph and Grand Island?—**A.** Saint Joseph and Grand Island.

Q. In what year was it that the road was in the condition you have described it as being grown over with grass and in disuse?—**A.** In the spring and winter of 1878. In the early part of 1878.

Q. Was the road subsequently taken up and developed before the consolidation?—**A.** No.

Q. What was the condition of the road in January, 1880?—**A.** In 1880 it had improved considerably.

Western. Originally the Saint Joseph and Denver City road was built by Messrs. Tanner & Co; they were the financial agents of the old Saint Joseph and Denver road.

WITNESS' ACQUISITION OF THE BONDS.

Q. When was this, in 1880, that these bonds were sold at 40?—A. In 1880.

Q. Are you sure it was after the consolidation or before?—A. This was before the consolidation, the sale of these bonds.

Q. The consolidation was in January, 1880?—A. Yes, sir.

Q. How long before the consolidation?—A. I was in California in 1879; in 1878 I had \$100,000 of the firsts of Saint Joseph and Denver bonds in my safe, and \$150,000, to the best of my recollection, of the seconds, and 2,000 shares of the stock, from a gentleman by the name of John Haar, upon which I had advanced him \$9,000. He came to me in the spring of 1878 and offered the whole of those securities if I would give him \$1,000.

Q. What was the par of the stocks that you refer to; how many bonds?—A. \$100,000 firsts and \$150,000 seconds.

Q. And the stock was thrown in?—A. No; I had lent him \$9,000 on the whole of it. There was over 1,000 shares of stock.

KANSAS AND NEBRASKA ROAD.

Q. What is the Kansas and Nebraska road?—A. It is the western extension of the Saint Joseph and Denver City; the old Saint Joseph and Denver road.

Q. What were the bonds of the Kansas and Nebraska worth at same time?—A. They were about the same; they were a little low. The eastern division was considered the most valuable.

Q. Do you know who built that road?—A. Tanner & Co. were financial agents and promoters of the road. That caused them to fail.

Q. Who was the president of the road?—A. I do not remember. I did not bring any memorandum with me.

Q. Can you state what the value of these bonds was in January 1880, just before the consolidation?—A. Not exceeding 40 cents on a dollar.

SAINT JOSEPH BRIDGE BONDS.

Q. Now, in regard to the Saint Joseph Bridge bonds: Do you know anything about these?—A. That bridge was built after the purchase of the majority of these bonds and stocks of the Saint Joseph and Denver and the Kansas and Nebraska. It ended nowhere; and, in order to make it valuable, this extension was built to Grand Island, and the bridge across. That was built with moneys furnished by Mr. Gould and his friends.

Q. Do you know anything of the value of the bonds?—A. They were never marketed.

Q. Do you know anything of the stock of the Saint Joseph Bridge?—A. No; they never were marketed.

Q. It was all held by one person?—A. All held by one person.

HASTINGS AND GRAND ISLAND ROAD.

Q. What is the name of that extension?—A. The Hastings and Grand Island.

Q. From what point to what point was this?—**A.** Grand Island is on the Union Pacific road. The promoters and getters-up and builders of these roads all failed. They all went into bankruptcy, and there was a road overgrown with grass and everything going to pieces. They came to me and offered an immense amount of money to furnish them with rolling stock, and I was afraid of it.

Q. Why were you afraid to furnish rolling stock for money?—**A.** Not for the amount of money, exactly. It was for me to advance the money and take trust bond. They paid me for some receipts—I think 10 per cent. per annum on some receiver certificates issued by Mr. Dillon.

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Q. Its present name is Saint Joseph and Grand Island?—**A.** Saint Joseph and Grand Island.

Q. In what year was it that the road was in the condition you have described it as being grown over with grass and in disuse?—**A.** In the spring and winter of 1878. In the early part of 1878.

Q. Was the road subsequently taken up and developed the consolidation?—**A.** No.

Q. What was the condition of the road in January 1880 it had improved considerably.

Q. Was it running regularly?—A. The lands had been disposed of. If you will allow me, I will show you the different conditions of the lands and properties along the line between the spring of 1878 and the spring of 1884. In 1878, in the spring, for \$10,000 there was purchased by an officer of a bank in Wall street, I think, 12,000 acres of land, one quarter-section of which, I was told, was sold for \$50,000. It is something fabulous the way property has increased along the line within two years or more.

Q. Was Mr. Bond still in possession of that road as receiver in January, 1880?—A. I cannot remember dates.

KANSAS CENTRAL ROAD.

Q. Do you know anything of the Kansas Central bonds?—A. To the best of my recollection, they were of no value. Never had any value. I refused to buy them. They were not considered of any value here and were not quoted on the stock exchange, neither the miscellaneous stock exchange nor any other exchange.

Q. Do you know what that road was?—A. I do not know; a sort of an abandoned corduroy road. I do not know whether it was a narrow gauge or standard, but it was not known in financial circles at all.

Q. Where did it begin?—A. I give it up. I do not know. I remember that I kept aloof from it and would not touch it. I was invited to go into a pool, but I did not go.

Q. For all you know it may have been a steel railroad, superbly built with double tracks. Do you know anything about it?—A. I do not. I know nothing in its favor. I think everybody who deals in bonds would say the same.

Q. Can you refer me to any other persons in the city of New York who are good judges of what the value of these different securities were in January, 1880?—A. Yes, sir; John H. Haar.

Q. What is his address?—A. Raven & Co., in the Continental building on Broadway.

Q. Any one else?—A. Yes, sir; George Arents, of Arents & Young in the Drexel building.

INVITED TO JOIN A POOL.

By the CHAIRMAN:

Q. You stated that you were invited to go into a pool and that you declined. What pool was that?—A. That was a pool to sell the Kansas and Nebraska and Saint Joseph and Denver bonds to Mr. Gould.

Q. Who was in that pool?—A. The directors principally of the road.

Q. Of what road?—A. The Saint Joseph and Denver. Mr. Butworth was the gentleman that invited me—in the presence also of another gentleman I named, Mr. Haar.

Q. Do you recollect the names of the directors?—A. No; I do not. The names are on record.

By Mr. JOHN F. DILLON:

Q. I want to ask him a question as to dates. What was the original title of this road you speak of between Saint Joseph and Hastings?—A. Saint Joseph and Denver, Eastern and Western Division.

Q. The Saint Joseph and Denver City was the first name, was it not?—A. It may have been Denver City. The Saint Joseph and Denver, Eastern and Western Division. That is my recollection.

Q. That was the original road, the Saint Joseph and Denver?—A. Yes, sir.

Q. That road had a land grant?—A. No; I beg pardon. The land grant was only to the Kansas and Nebraska.

Q. Are you sure of that?—A. I am pretty positive of that; that the eastern division had no land at all.

Q. If you should look at the acts of Congress and find that a large grant was for the Saint Joseph and Denver City, without any Kansas and Nebraska, you would think you were mistaken, would you not?—

A. The scrip was given out. I handled the scrip.

Q. Do you know whether the land grant was to the original road or not?—A. To the best of my memory it was to the original road.

Q. And that was the Saint Joseph and Denver?—A. Yes, sir.

Q. Do you know when the foreclosure of that road occurred; what year; these are important here now?—A. Yes, I think it was in 1877, if my memory is right. That is as well as I can remember.

Q. You said you were asked to go into a pool for the sale or purchase of the Saint Joseph and Denver City bonds? A. No; for the sale of my bonds.

Q. Bonds on what?—A. I held the Eastern Division of Saint Joseph and Denver.

Q. The Saint Joseph and Denver City?—A. Yes, sir; Saint Joseph and Denver.

Q. And the pool was to sell your bonds in that?—A. I was asked to come in and to put my bonds in with the rest.

Q. What road issued those bonds?

The WITNESS. The bonds that I had?

Mr. JOHN F. DILLON. Yes, sir; the bonds that you were asked to go into a pool and sell.

The WITNESS. That was after the foreclosure sale.

Q. You never had any bonds?—A. Oh, yes; I had before the foreclosure sale, because I paid my assessment.

Q. You had bonds of the original Saint Joseph and Denver?—A. Yes, sir.

Q. You foreclosed that?—A. Yes, sir; it was foreclosed.

Q. That was in 1877?—A. I think so.

Q. About 1877?—A. I think so.

Q. Then it was reorganized?—A. Yes, sir.

Mr. HOLMES. The record says 1875.

The WITNESS. Possibly, I cannot remember dates so well. Perhaps, if I were to look at my books I could tell you.

A. Assume that it was 1875 that it was sold, do you recollect how it was reorganized?—A. It was reorganized—I paid 6 per cent. on the bonds, for which I got stock.

Q. It was reorganized into two companies?—A. Yes, sir.

Q. Do you recollect the names of those companies?—A. It was the Saint Joseph and Denver City and the Kansas and Nebraska.

Q. Are you not mistaken about that?—A. I may be. I cannot remember exactly.

Q. Was one not known as the Saint Joseph and Pacific?—A. Possibly. I think so. I think I should stand corrected there.

Q. The other, Kansas and Nebraska?—A. Yes, sir.

Q. And that was done in 1876, was it not?—A. 1876 or 1877; I am not sure which.

Q. You had the bonds from the beginning in
I had.

Q. You got them on the reorganization?—A. No; I did not have them on both roads. I only had the Eastern Division; Saint Joseph and Denver, Eastern Division. I never handled any bonds of the Western Division at all.

Mr. JOHN F. DILLON. I think the original mortgage was on the whole road, and you must have got them?

The WITNESS. I beg pardon; no, sir; I had bonds of the Eastern Division.

Commissioner ANDERSON. The practical question here is the value of these securities in January, 1880; we are not interested in this gentleman's private affairs.

Mr. JOHN F. DILLON. He has got the dates wrong.

The WITNESS. I do not pretend to be accurate about the dates.

By Mr. JOHN F. DILLON:

Q. What became of these two roads; were they not consolidated?—

A. They were consolidated under the Saint Joseph and Grand Island.

Q. No, were they not consolidated under the name of the Saint Joseph and Western?—A. I never changed my bonds.

Q. You do not know about that, then?—A. I paid 6 per cent., and that was an assessment after the foreclosure.

Q. What did you do with your bonds eventually?—A. I held them until last fall.

Q. You went into the second foreclosure, did you not?—A. Yes,

Q. And the company was reorganized?—A. Into the Saint Joseph and Grand Island.

Q. You had Kansas and Pacific bonds?—A. No.

Q. What did you have?—A. I had Saint Joseph and Pacific.

Q. Those bonds were worth what in 1877?—A. They were offered to me in the early part of 1878, say, at about 10 cents on the dollar.

Q. What were they worth in 1879?—A. In 1879 they were worth, I think it was 35 cents, and Mr. Elijah Smith was offered a large batch from Boston; he wanted them for the Burlington and Quincy, I think. They were offered at 29 in Mr. Haar's office; I was present.

Q. What year was that?—A. I am not sure whether it was the latter part of 1878 or 1879.

Q. Do you know whether those were on the market here on the stock list?—A. No, sir; they were dealt in on the "street."

Q. Do you know and can you testify to any sale of those bonds in January, 1880?—A. I had a transaction with them; I think it was in 1881 that I sold some at 85.

Q. At 85 in 1881?—A. Yes, sir.

Q. I ask you again if you know of any transactions in these bonds in January, 1880?—A. I do not remember the dates; but I think it was about that time they were selling at 40.

Q. Will you swear to that?—A. No; I will not.

Q. Will you swear that there were any sales at 40, or in that vicinity in January, 1884?—A. I will not.

Mr. JOHN F. DILLON. That is all.

The WITNESS. Not until I refresh my memory.

The CHAIRMAN. Have you any other information for the Commission?

The WITNESS. There is nothing.

A. S. ROSENBAUM.

Commissioner ANDERSON. Mr. Andrews, do you desire, in connection with Mr. Rosenbaum, to state to us what ground of complaint there

was in regard to the abstraction or diversion of some securities of a mortgage in which he was interested as a bondholder?

Mr. ANDREWS. No, sir; I have no desire to make any statement whatever.

Commissioner ANDERSON. Have you any knowledge on the subject that will shed light on the bonds?

Mr. ANDREWS. I know very little about this matter. I think I can shed very little light on it for the Commission.

The CHAIRMAN. Have you any information?

Mr. ANDREWS. In regard to what matter?

Commissioner ANDERSON. In regard to certain securities having been taken out of a mortgage in which your client was interested as a bondholder, so that his security was thereby lessened.

Mr. ANDREWS. The only information I have was as counsel in a suit that was instituted.

Commissioner ANDERSON: Does that bear upon the bonds?

Mr. ANDREWS. Yes, sir.

Commissioner ANDERSON. I think you had better be sworn.

NO. 10 WALL STREET, NEW YORK,
Friday, May 6, 1887.

EDWARD L. ANDREWS, being duly sworn and examined, testified as follows:

Examined by Commissioner ANDERSON:

Question. What precise mortgage was it that Mr. Rosenbaum was interested in? The income bonds of 1866?—Answer. Yes, sir.

Q. Was anything done by the Kansas Pacific, or its officers, to your knowledge, which decreased the security held by the trustees named in that mortgage?—A. No; I do not know of anything.

PROVISIONS OF CONSOLIDATED MORTGAGE.

Q. How did the security in which your client was interested become lessened?—A. The provision of the consolidated mortgage is to the effect that the consolidated bonds are exchangeable for income bonds, and that is how the income-mortgage holders became related to the consolidated mortgage.

Q. Then the decrease of security was effected in the securities held under the consolidated mortgage, and thereby affected the holders of income bonds?—A. Yes, sir; that was it.

Q. What action was taken in regard to the securities held under the consolidated mortgage to which you desire to call our attention?—A. As I said, I do not desire to call the attention of the Commission to anything; I am not a volunteer witness.

Commissioner ANDERSON: Your client has written me a letter, saying that he does, and has referred us to you.

HISTORY OF ROSENBAUM SUIT.

The WITNESS. There was a suit instituted by holders of consolidated bonds for the restitution of some securities that had been taken from the trust of that mortgage; I suppose that is what you refer to.

Commissioner ANDERSON. I suppose so; that Denver and Pacific stock, I presume.

The WITNESS. Yes, sir.

Q. Was the complaint served in that suit?—A. No; there was a summons issued; no complaint was served.

Q. Was a complaint prepared?—A. No, sir.

Q. Do you know anything of the facts which resulted in the withdrawal of the Denver stock from the funds which were held by the trustees, of which your client did complain at the time?—A. The only knowledge I had was derived from the submission to me of the record in the suit instituted by the Kansas and Pacific Company against the trustees of the consolidated mortgage; it was on that that I based the proceedings on behalf of my client.

Q. Who was the attorney who brought that suit?

The WITNESS. In the suit brought by the Kansas Pacific Company, Commissioner ANDERSON. Against the trustees?

A. That is the suit that has been referred to here to-day.

Commissioner ANDERSON. That was not to obtain restitution; that was the suit under which the stock was taken away.

The WITNESS. I say it was that record that furnished me the basis of the proceeding that I did institute.

Commissioner ANDERSON. The facts you know, then, are the same facts we knew, when we had the record before us?

The WITNESS. That is all.

Q. Do you know anything in addition to that, that you subsequently discovered from Mr. Sage or any one else?—A. No; because there was nothing done in that suit, except to get an order to show cause why the defendant should not be examined before trial.

EDWARD L. ANDREWS.

The Commission then adjourned to Saturday, May 7, 1887, at 10 a. m.

NO. 10 WALL STREET, NEW YORK,
Tuesday, May 10, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

WILLIAM BOND, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your occupation?—Answer. I have been connected with railroads. I have no occupation at present.

Q. Do you reside in the city of New York?—A. In the winter.

PRESIDENT AND RECEIVER OF SAINT JOSEPH AND DENVER RAILROADS

Q. What connection have you had, if any, with the Saint Joseph and Denver Railroad?—A. I was president of the railroad in the latter part of 1873. I was appointed receiver of the road by Judge Miller, of the Supreme Court of the United States, in May or June, 1874, and continued as receiver until some time in 1879, I think.

Q. Please give us the statements of the changes and reorganizations of that road. In 1879 what became of it?—A. I am not so good at dates. I made a memorandum of the date when it was sold. It was reorganized in March, 1877, by the foreclosure of the separate divisions

of the Saint Joseph and Denver City Railway, Eastern and Western Divisions.

Q. What was the point of division on the road?—A. Marysville. The Eastern Division was 112 miles, and the Western Division 115 miles.

NAMES OF REORGANIZED ROADS.

Q. Under what name, then, were the two divisions known after the reorganization?—A. The Eastern Division was known as the Saint Joseph and Pacific Road. The Western Division was known as the Kansas and Nebraska road. Separate mortgages were executed on the divisions in the reorganization, and they were afterwards consolidated under the name of the Saint Joseph and Western.

Q. Do you know the amount of the bonds that were issued on these two divisions after the reorganization?—A. One million nine hundred thousand dollars on each division of first-mortgage bonds; \$1,200,000 seconds on each division; making \$3,800,000 firsts, and \$2,400,000 seconds; \$3,300,000 stock.

Q. This I understand occurred in 1877?—A. Eighteen hundred and seventy-seven.

HISTORY OF SAINT JOSEPH AND WESTERN.

Q. Do I understand that the reorganization of the whole road as the Saint Joseph and Western occurred at the same time, or later on?—A. Later on.

Q. How was that effected?—A. The consolidation of the stock of the Kansas and Nebraska and the Saint Joseph and Pacific.

Q. Did those two companies that you have named, the Saint Joseph and Pacific and the Kansas and Nebraska, have separate organizations?—A. They had.

Q. And separate presidents and boards of directors?—A. The same president and separate directors, to a certain extent.

Q. Who was the president?—A. I was.

Q. Then when were they consolidated?—A. I do not recollect the date. It was shortly after they were organized. It was all practically one arrangement.

Q. Were they consolidated before the consolidation of the Kansas Pacific and the Union Pacific?—A. I do not know when that was.

Commissioner ANDERSON. In January, 1880.

The WITNESS. Yes, sir.

Q. Who became the president of the Saint Joseph and Western?—A. I did.

Q. Who formed its board of directors? Substantially the same persons that were in the divisions?—A. Yes, sir; those who were in the divisions.

Q. What was the next step in the history of that road?—A. The next step after what?

LEASED TO UNION PACIFIC.

Q. After the reorganization of the Saint Joseph and Western; what became of the road?—A. It was transferred from the receiver Saint Joseph and Denver City to the corporation, the Saint Joseph and Western Railway Company; then subsequently to that it was the Union Pacific Railway Company, under an operating lease.

Q. What was the date of that lease?—A. It was in June, 1879.

Q. How long did the Union Pacific operate it under that lease?—It operated it until it was foreclosed again in 1884, I think it was. That was long after I had anything to do with it.

Q. When did you cease to have personal connection with it?—A. A year after it was transferred to the Union Pacific.

Q. That was in 1880.—A. In 1880.

FORECLOSURE AND REORGANIZATION INTO SAINT JOSEPH AND GRAND ISLAND.

Q. So that we may understand its whole history, please tell us, if you know, what became of it in the foreclosure in 1883 and 1884.—A. It was foreclosed in 1883 and 1884, and a very successful and skillful reorganization was made by Mr. James H. Benedict, under the name of the Saint Joseph and Grand Island Road.

Q. Do you know the bonded indebtedness, as it stands, of the Saint Joseph and Grand Island?—A. Seven million dollars.

Q. First mortgage?—A. First mortgage.

Q. How much second mortgage?—A. My impression is, it was \$1,600,000.

Q. One million eight hundred thousand dollars, was it not?—A. It may be \$1,600,000 or \$1,800,000.

Q. How much stock?—A. I do not know. The reorganization included certain property that did not belong to the original Saint Joseph and Western Railroad.

Q. What property is that?—A. It included the Hastings and Grand Island Road, and Saint Joseph Bridge.

Q. Will you please explain exactly where this road commences at its route, and where it ends and the number of miles.

The WITNESS. Do you mean the present road?

LOCATION AND LENGTH OF THE BRANCHES.

Commissioner ANDERSON. Describe the road as it was when known as the Saint Joseph and Denver.

A. The Saint Joseph and Denver commenced at Elwood, in Kansas.

Q. On the Missouri River?—A. On the Missouri River.

Q. Which bank?—A. The west bank.

Q. That is opposite what point on the east side?—A. Opposite Saint Joseph.

Q. And from there?—A. It ran to Hastings, Nebr., 227 miles.

Q. Give us the location of each of these separate branches into which it was divided?—A. From Elwood to Marysville, 112 miles was one branch; and from Marysville to Hastings, 115 miles, was another branch.

Q. Was Marysville on the Nebraska frontier?—A. No; it is in Kansas.

Q. Substantially one branch was in Nebraska and the other branch was in Kansas?—A. Yes, sir; substantially, although it was not a matter of fact.

Q. What is the branch that you refer to as the Hastings and Grand Island?—A. To enable them to connect with the Union Pacific Railway.

Q. That extended from Hastings to Grand Island on the Union Pacific?—A. Yes, sir.

Q. What is the distance?—A. Twenty-five miles; about that; within a mile or two of that distance. ~

Q. During the years you were receiver of this property, was this property personally visited by you and inspected?—A. It was, nearly every month.

Q. So that you are quite familiar with its general construction?—A. Reasonably so at the time, yes, sir.

Q. I refer to its condition at that time; was it a single track road?—A. Yes, sir; it was.

Q. Was it laid with iron or steel?—A. Iron.

Q. Do you remember the weight?—A. It was 56 pounds.

Q. Can you give us a general description of its structure at that time?—A. It was fairly well constructed.

Q. Were the trestles iron or wooden?—A. Wooden.

Q. What are the principal towns that it passed through?—A. Hiawatha, Marysville, Hanover, Fairbury, and Hastings. Seneca was another large town.

Q. What was the general character of the traffic done on the road in 1877 and 1878?—A. Agriculture from the road, and returns from agricultural products on the road.

Q. More freight than passenger, as to traffic?—A. Yes, sir.

RECEIVER'S REPORTS OF EARNINGS AND OPERATING EXPENSES.

Q. Did you, as receiver, make up the reports of the earnings and operating expenses?—A. They were made up every three months, and filed in the circuit court of the United States at Topeka and Omaha.

Q. Are those reports in print?—A. They were printed annually.

Q. Have you any copies in your possession?—A. I do not know whether I have or not. I will look for some; if there are any they are in a storehouse. The substance of them is in Poor's Manual each year.

Q. Is the report in Poor's Manual accurate?—A. I assume it to be so.

Q. You have seen it?—A. I have no doubt of it; I saw them at the time; I did not verify them; of course they were made up from the printed reports of the receiver. Poor's Manual of 1878.

Q. Can you state in general terms what the gross yearly earnings were, and the operating expenses in 1878?—A. I do not carry figures in my head.

Q. Do you remember whether the road earned anything above its operating expenses in 1878?—A. Whatever was earned above its operating expenses from the time the receiver took possession until his discharge was expended upon the road in the form of betterments and improvements and additions to the rolling stock.

Q. Was anything paid by way of interest on the coupons of the Saint Joseph and Denver?—A. None whatever; the road was turned over with a small amount of receiver's certificates due at the time.

Q. Was anything paid on the bonds of the Kansas and Nebraska, or of the Saint Joseph and Pacific?—A. No, sir.

Q. Up to what time?—A. Never.

Q. What became of those bonds? Were they merged into the Saint Joseph and Western?—A. No; the bonds were merged into the Saint Joseph and Grand Island.

Q. Was nothing ever paid on the bonds of the Saint Joseph and Western?—A. Never. The Saint Joseph and Western was a corporation which changed stock and assumed the mortgages; executed no

mortgages of its own; assumed the underlying mortgages of the subordinate companies.

Q. If I understand you right, no interest was paid on the bonded indebtedness of this company, or of its branches, until after the reorganization as the Saint Joseph and Grand Island?—A. No, sir.

Q. That is correct, is it?—A. That is correct.

Q. Since the reorganization as the Saint Joseph and Grand Island interest has been paid, has it not?—A. I presume so. It has been advertised.

Q. Do you know those bonds?—A. I have seen them.

Q. Are they guaranteed by the Union Pacific?—A. The interest guaranteed.

Q. It is since that guarantee that the interest has been paid?—Yes. The interest was guaranteed by a traffic contract.

VALUE OF BONDS OF KANSAS AND NEBRASKA OR SAINT JOSEPH AND PACIFIC.

Q. Did you, in 1878 or 1879, have any dealings in the bonds of the Kansas and Nebraska or the Saint Joseph and Pacific?—A. No, sir; had no dealings in bonds or stock, except stock enough to qualify me as director.

Q. Have you any knowledge of the value of those bonds in 1878?—A. They ranged from the time they became merchantable at all from 10 to 40 cents on the dollar.

Q. Do you remember any change in the quotation of those bonds shortly before the consolidation between the Union Pacific and the Kansas Pacific, which occurred in January, 1880?—A. I do not recollect any by date. I know the bonds advanced very rapidly during 1880 or 1881; all the securities of the road.

Q. Was Mr. Jay Gould a director of the road?—A. He was of the Saint Joseph and Western.

Q. Did you confer with him in regard to the administration of the road at the time?—A. The road was transferred to the Union Pacific road. Under orders of the executive committee of the Saint Joseph and Western road it was transferred to the charge of the Union Pacific and Mr. Clark, the manager of the Union Pacific, assumed the direct control of the road.

Q. My question was whether you conferred with Mr. Jay Gould personally about it about that time?

The WITNESS. Conferred with him in reference to the operation of the road?

Commissioner ANDERSON. In reference to its transfer to the Union Pacific?

A. Certainly I did.

JAY GOULD LARGELY INTERESTED.

Q. Did you know at that time that he was a large holder of its securities?—A. Yes, sir.

Q. Did he make any statements to you as to the manner in which he had acquired these securities, or their amounts?—A. No.

Q. Did you know from whom he acquired them?—A. I knew from whom he acquired a large line of them; quite a number of them.

Q. From whom did he acquire the large line that you refer to?—He acquired them from the Warehouse and Security Company, from the

Guarantee and Indemnity Company, from the Commercial Warehouse Company, from Mr. Hezra A. Johnson, Mr. Henry H. Butterworth, Mr. George J. Forrest, and some others that I do not remember. I presume there were others.

Q. Do you know when he acquired these bonds?—A. I do not know the precise dates; some time in 1879.

Q. Did he ever state the price at which he acquired them?—A. They were transferred at about 40 cents on the dollar; that is, by these gentlemen. The price was fixed at about 40 cents on the dollar, at which they were taken.

Q. Was there any distinction in the value of Saint Joseph and Pacific, as compared with the value of Kansas and Nebraska?—A. None that I am aware of.

SAINT JOSEPH BRIDGE.

Q. They were substantially of the same value?—A. Yes, sir.

Q. What was the Saint Joseph bridge?—A. The Saint Joseph bridge was a bridge authorized by the Government, running from Saint Joseph to Elwood in Kansas, to which the city of Saint Joseph subscribed \$500,000 in stock, and paid in the money, and they mortgaged the bridge for \$800,000 and spent the whole \$1,300,000, or the proceeds of the bonds and subscriptions of stock, in the construction of the bridge. There was a sinking fund that retired \$16,000 of the bonds during the time I knew about it.

Q. Was that bridge used in connection with the Saint Joseph and Denver Railroad?—A. It was independent, but it was used in connection with it.

Q. The trains ran across the bridge?—A. Yes, sir; the trains started from Saint Joseph.

Q. Was the main depot in Saint Joseph?—A. Yes, sir.

Q. Were the terminal facilities owned by the railroad in Saint Joseph?—A. They were very meager there. Their machine-shops were in Elwood, Kans. They had no chartered rights in Missouri.

Q. When was this bridge built?—A. 1872 or 1873.

Q. Was there stock of the company that built the bridge also?—A. The stock was issued for the amount of the city's subscription. The city paid \$500,000 cash as their subscription, and received \$500,000 in stock of the company for the cash.

Q. What was the condition of that bridge in 1879?—A. Good condition.

Q. Do you know whether the interest on the bonds was regularly paid?—A. I think it was. They would not have applied it on the sinking fund if they had not been. There was a sinking fund upon which \$16,000 had been applied, or had been paid towards the sinking fund.

Q. To retire what?—A. To retire the \$800,000 mortgage.

Q. Do you know anything about the market value of those bridge bonds in 1879?—A. No, I do not. They were not on the market.

Q. What rate of interest did they bear?—A. My impression is 7 per cent.; but I will not be positive about it.

Q. Did you know at that time, in 1876, that Mr. Gould held \$784,000 of these bonds?—A. No; I did not.

Q. You know nothing about how he got that?—A. I knew nothing about his arrangements in regard to the bridge.

Q. Did you know that he held 4,000 shares of the stock?—A. It was rumored so; but I did not know that. We had nothing to do with the bridge, except to pay tolls.

Q. Do you know anything about the value of the Saint Joseph bridge stock in 1879?—A. Only what it cost the bridge company.

Q. Do you know whether dividends were paid on it at that time?—A. I do not think they were.

HASTINGS AND GRAND ISLAND ROAD.

Q. Was the Hastings and Grand Island end of the road built substantially as the rest of the road?—A. Yes, sir.

Q. Was that constructed originally as a separate corporation?—A. I think it was.

Q. Do you remember what its account in stock and bonds was?—A. Three hundred and seventy-five thousand dollars in stock, and \$15,000 a mile in bonds, and an equivalent amount in stock. That is my impression about it. It was 25 miles, and \$15,000 a mile in bonds.

Q. When was that end of the road built?—A. In 1879.

Q. By whom was it built?—A. By the Hastings and Grand Island Railroad Company.

Q. Was it built after the lease to the Union Pacific was made?—A. I think it was; yes, sir. Yes, sir; it was.

Q. It was built in connection with the Union Pacific?—A. It was built by the Saint Joseph and Denver Western road, to obtain its own access to the Union Pacific road. Previous to that time it had to go over 40 miles of the Chicago, Burlington and Quincy, or else it could not connect with the Union Pacific.

Q. Did you know at this time, in 1879, that Mr. Gould held \$375,000 of the bonds of the Hastings and Grand Island?

The WITNESS. They had no existence. What time do you mean?

Commissioner ANDERSON. At the end of 1879.

A. They were issued for building the road by the Hastings and Grand Island corporation.

Q. Do you know when they were issued?—A. I do not.

Q. It was built in 1879, you say?—A. That is my impression. My impression is, that as soon as they got possession of the road, in 1879, which is a question of ascertainment of dates, they immediately made a contract with the Hastings and Grand Island road to get to the Union Pacific road by its own line.

Commissioner ANDERSON. It appears \$375,000 of these bonds were transferred in January, 1880, to the Kansas Pacific Company, or to the Consolidated Company, and, therefore, they appear to have been in existence in January, 1880.

The WITNESS. Yes, sir; I think the road was built in the summer and autumn of 1879.

Q. Who was the president of that road in 1879, when it first organized?

The WITNESS. The Hastings and Grand Island?

Commissioner ANDERSON. Yes.

A. I am not certain. I think it was Mr. Clark.

Q. Who were the directors of the Hastings and Grand Island road?—A. I do not remember.

Q. You do not remember any of them?—A. I think I was one of them, myself.

Q. You say these bonds were issued and delivered in payment of the construction account?—A. Yes, sir.

Q. How about the stock?—A. I do not know. I think there was an exhaustive contract, as they called it, made to construct the road for stock and bonds. The road was constructed under that contract.

Q. From your knowledge of that class of railroads, what, in your judgment, would have been the fair cash cost of building that road at that time, from Hastings to Grand Island, per mile?—**A.** The cash cost of the railway proper would have been \$10,000 to \$12,000, perhaps; but there was an extensive mileage of bridge on the Platte River to connect with South Platte, and I do not know what that did cost.

Q. You stated that you did not know whether Mr. Gould had any of those securities, or how he got them?—**A.** I have no knowledge about it at all. I practically ceased to have any interest in the road after it was transferred to the Union Pacific road, although I was nominally president and director.

Q. Do you know who had the construction contract?—**A.** I do not. It was built under the general direction of the superintendent of the Saint Joseph and Western Railroad and the manager of the Union Pacific road.

Q. Do you know anything of the Kansas Central Railroad?—**A.** I do not.

Q. Do you know where it is located?—**A.** Not precisely.

Q. You know nothing about the value of its securities?—**A.** No, sir.

Commissioner ANDERSON. That is all I want to ask you.

The WITNESS. The detailed statements of the earnings and expenses of the road can be found on file in the circuit court at Topeka and Omaha. I have no doubt of the substantial accuracy of Poor's Manual, which I have examined, at page 910, of 1879.

NO. 10 WALL STREET, NEW YORK,
Tuesday, May 10, 1887.

GEORGE ARENTS, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your business?—**Answer.** Broker in Wall street.

Q. How long have you been in Wall street?—**A.** Seventeen years, about.

Q. Where was your office in 1879 and 1880?—**A.** At No. 9 New street.

Q. In what line of securities do you mostly deal?—**A.** Bonds and stocks.

CONCERNING MARKET VALUE OF WESTERN RAILROAD SECURITIES.

Q. Were you familiar in 1879 and 1880 with those Western railroad bonds and stocks?—**A.** Yes, sir.

Q. And dealt in them occasionally?—**A.** Oh; yes, sir.

Q. Do you know the bonds of the corporation known as the Kansas and Nebraska and Saint Joseph and Pacific?—**A.** Yes, sir.

Q. Did you know the Saint Joseph and Pacific?—**A.** The Saint Joseph and Pacific?—Yes, sir; and Kansas and Nebraska.

Q. Those were divisional bonds?—**A.** Divisional bonds.

Q. And the Saint Joseph and Western represented the whole road?—**A.** They did.

Q. Did you buy and sell those bonds in 1878 and 1879?—**A.** Yes, sir.

Q. To what extent were they dealt in in the market?—**A.** In 1878 were all moderately dealt in. In 1879, they became more active.

Q. Were they listed on the Stock Exchange?—**A.** No, sir.

Q. Were you in the habit of examining the quotations of those bonds as contained in the Financial Chronicle and other such papers?—A. Yes, sir.

Q. Do you know whether those reports are substantially accurate?—A. Yes; I think so, sir.

Q. Will your books show records of transactions in these securities in 1878 and 1879?—A. I think they will.

Q. Can you furnish us with the rates at which these securities were sold in each separate month, from the first of July, 1878, to the first of February, 1880?—A. So far as we dealt in them, I could. But some months we might not have had a transaction, and in other months we might have dealt in thousands of them.

Q. I presume you have no present recollection of the prices as distributed in the different months?—A. No, sir; not without referring to my books. I can give you a general idea. I think the bonds in 1878 sold as low as 23 cents.

Q. That is the Kansas and Nebraska, and Saint Joseph and Pacific?—A. Yes, sir; and afterwards there was a movement in them and they advanced to as high as 62 cents. There was very little difference between the two issues. Sometimes the Saint Joseph and Pacific would sell 1 or 2 per cent. higher than the Kansas and Nebraska, and then again the Kansas and Nebraska would sell higher than the Saint Joseph and Pacific; but one is a good guide for the other.

Q. When was this that they rose to 62?—A. They rose to 62, if my recollection is right, in 1879. I think in the fall of 1879 they advanced very rapidly.

Q. Did they not get as high as 85 in November and December?—A. Not the seconds.

Commissioner ANDERSON. I am talking of the firsts.

The WITNESS. The firsts never sold as low, to my recollection. The principal bonds which we dealt in were the seconds, and not the firsts.

Q. Did you deal also in the firsts?—A. Only to a limited extent.

Q. Have all the prices you have given been applicable to the seconds?—A. All to the seconds; yes, sir.

Q. In regard to the firsts, what is your general recollection as to their price in 1878?—A. I think they sold from about 45 in 1878 up to about as high as 85 in 1879. They fluctuated with the seconds, but the transactions were not so great in the firsts as they were in the seconds.

Q. You have had a large experience in these transactions at the Exchange, I presume?—A. In the Stock Exchange; yes, sir. But these bonds were never on the Stock Exchange. They were looked upon as what we call an "outside" bond.

Q. Do you know what the total issue of the firsts was?—A. I could not give you the exact amount. I could refer to Poor's Manual there.

Q. The total issue was \$1,800,000 for each branch?—A. That is correct.

Q. \$3,600,000 for the two?—A. Yes, sir; that is it.

Q. Do you know how those bonds were held at the time; whether they were all held in a few hands or were they generally distributed?—A. At first they were held in a few hands, of course, but in whose hands they were I was not familiar.

Q. What do you mean by "at first"?—A. When they first came out they were in a few hands, but afterwards they became scattered.

Q. Do you remember what the first year was?—A. I think the first transaction we had in the bonds was in 1878.

Q. Can you get us what quotations you had of actual transactions, from your books?—A. I can; yes, sir.

Commissioner ANDERSON. If you are satisfied that the quotations in the Financial Chronicle are accurate, you will find them right behind you, and you can quote from them.

The WITNESS. This is 1879.

Commissioner ANDERSON. Perhaps it will save time if you will make up the list from your books and from the Financial Chronicle, and present it to us later.

A. I will do so, as far as I can.

Q. In regard to other securities, do you know anything relating to the Hastings and Grand Island bonds?—A. No; those bonds were never on the market. Not to our knowledge. I never saw one.

Q. You never dealt in those at all?—A. No; never dealt in them.

Q. Do you know anything of the Saint Joseph Bridge bonds or stock?—A. Those bonds were never on the market.

Q. Do you know anything of a corporation called the Kansas Central?—A. No; I do not.

Q. You never dealt in those securities at all?—A. I never did.

Commissioner ANDERSON. That is all.

The WITNESS. If I send you a list will that answer?

GEORGE ARENTS.

Mr. Arents subsequently submitted the following list of prices:

Months.	Securities.	Highest.	Lowest.
1879.			
May	Kansas and Nebraska, 2ds	\$0 18	\$0 17½
June	do	20½	19½
August	Saint Joseph and Pacific, 1sts	63½	62½
	Saint Joseph and Pacific, 2ds	28½	27½
September ..	Saint Joseph and Pacific, 1sts	83	72½
	Saint Joseph and Pacific, 2ds	43	34½
October	do	54½	42½
November ..	do	57	49
	Kansas and Nebraska, 1sts	79	75
	Kansas and Nebraska, 2ds	48½	44
December ..	Saint Joseph and Pacific, 2ds	57½	55
	Kansas and Nebraska, 2ds	50	46

The foregoing are the highest and lowest prices at which we purchased and sold the above-named bonds during the year 1879.

ARENTS & YOUNG.

NO. 10 WALL STREET, NEW YORK,
Tuesday, May 10, 1887.

ARTEMAS H. HOLMES, being further examined, testified as follows:

MR. GOULD'S \$1,000,000 DENVER PACIFIC STOCK.

By Commissioner ANDERSON:

Question. It appears from a statement you made that the \$1,000,000 Denver Pacific stock was obtained by Mr. Gould from Arapahoe County. Do you know anything about the proceeding by which the

was obtained?—Answer. No, sir; I think it was by barter. My recollection is that it included also, partly, control of the Colorado Central stock.

Q. Do you remember the price paid for the Denver Pacific stock?—A. No, sir; I never knew.

Commissioner ANDERSON. I think you stated 10 cents on the dollar as being your recollection.

The WITNESS. That was as to other stock. I did not mean that to be the fact as to the acquisition from Arapahoe County. I am quite sure that was a parcel of two or three interests—Colorado Central, Arapahoe County stock, and some other matters, which together were bought for a considerable sum of money.

Q. Was not the sum of money for the whole of it that you have stated, \$300,000?—A. That is my recollection. I do not know what the sum was; I never knew. That was only by investigations made after the fact.

Q. Did I understand you to state in your direct examination that you made personal investigation as to what had occurred in regard to the Denver Pacific stock after it was gone out of the trust, and that you found that it had been applied to the purchase of some branch roads?—A. Yes, sir.

CONCERNING THE RELEASED DENVER PACIFIC STOCK.

Q. When did you make that investigation?—A. It was about the time of the institution of the Rosenbaum suit. If I recollect, it was early in 1885, and I may have made some investigation or inquiry previous to that date, but I do not recollect it as to time.

Q. You remember what branch roads you found had been purchased with this stock?—A. I remember the Hastings and Grand Island and Saint Joseph and Western, and the Saint Joseph Bridge bonds. I am not sure whether that includes it all or not.

Commissioner ANDERSON. Nebraska and Kansas and the Saint Joseph Pacific is the same thing as the Saint Joseph and Western. I suppose you mean to refer to them?

The WITNESS. I presume so. I remember how it looked on the page of the book; there were a good many lines of description; I should think nearly a page. Kansas Central was included.

Q. What book was it you saw these figures in?—A. The book in the possession of Mr. Ham, at that time.

Q. Was it a book of a corporation or a book of Mr. Gould's?—A. It was not a book of Mr. Gould's. It was in the custody of Mr. Ham, who was also an officer, or connected with either the Kansas Pacific or the Union Pacific.

Q. Do you remember whether this book represented transactions of the Union Pacific or the Kansas Pacific?—A. That book represented, as I understand it, the transactions of the Kansas Pacific Company.

Q. This transaction, as you understand it, was a sale or exchange by the Kansas Pacific after it had acquired the title to the stock, for the securities to which you have referred?—A. That is my recollection, but whether the actual process of delivery took place at that time or later I am not sure. I am inclined to think it must have been later, for I do not believe the new stock certificates were ready for delivery immediately at the date of the consolidation.

Q. Did you ever examine to see by what authority of the Kansas Pacific corporation that exchange was made?—A. I did not.

Q. Did you ever examine to see by what authority, or by whose action, the exact terms or rates were fixed for that exchange by which the bonds were taken at par and at the other figures enumerated by Mr. Ham?—A. If you will permit me to explain, I will tell you why I do not know. Judge Dillon was the senior counsel here. I was his junior. He attended to all these corporate matters himself, and I was not always called in, and in this instance I was not. When I made my investigation it was for the purpose of acquainting myself with the reason, or learning from Mr. Ham whether there was any reason, why we should seek to defeat the Rosenbaum suit, or whether or not, when it was proper to do so, the transactions could stand the investigation of a litigation. I satisfied myself that there was no reason to be apprehensive upon that point by the statements of Mr. Ham and of others; and what I looked at was simply that statement of the transaction.

Q. Still, you had been counsel in the suit which had resulted in taking from the consolidated trust, of which Mr. Gould and Mr. Sage were trustees, these \$3,000,000 of the Denver Pacific stock?—A. Yes, sir.

Q. You knew that the relief in that suit had been based upon proof that the securities so withdrawn were worth in no event over from \$200,000 to \$300,000?—A. While remaining in the trust, yes, sir.

Commissioner ANDERSON. No, if taken out of the trust and applied to the purposes to which it was intended to apply it.

The WITNESS. I did not know what that purpose was.

Q. You knew that, if so applied, Mr. Dillon had declared that that stock could not realize over \$300,000?—A. Yes, sir; but I did not know to what he referred.

Q. The question I want to ask you is, when you found that the actual purpose to which it had been applied, and made that stock produce \$3,400,000, did not that excite your curiosity?—A. Yes, sir.

Q. Did you discuss that any with Mr. Gould or Mr. Sage?—A. No, sir.

Q. Or with Mr. Dillon?—A. No, sir; not until sometime subsequently I think the time I refer to was in 1885, when I did discuss the matter with Mr. Gould and Mr. Sage and Mr. Dillon, but only to the effect as to whether or not there was any occasion for concealment of the actual transaction.

Q. It was in 1885 that you first ascertained that this had been done, as I understand it; that is, that these branch lines had been paid in exchange for the stock?—A. No; I had a general knowledge of it. I acquired it, I cannot tell you how; but I never had investigated the fact up to that time.

Q. Then when you did investigate it, you say you did have some conversation with these gentlemen about the transaction?—A. Yes, sir; at that later date.

Q. With whom did you have that conversation?—A. With Mr. Gould. I think with Mr. Sage. I know I did with Mr. Ham.

Q. Will you tell us what you said to them? You were acting as counsel for them at the time, as I understand it.—A. I was acting for Mr. Gould and Mr. Sage, I think, on the occasion of the suit by Mr. Rosenbaum, based upon the ownership of the consolidated-mortgage bonds.

Q. Were they parties personally to that suit?—A. Yes, sir.

Q. Do you know whether they have any objection to your repeating the statements you made to them in regard to this transaction as to the Denver Pacific?—A. I have not asked them. I have no instructions

from them on the subject. I prefer to be at liberty to ask them before answering further on that subject.

Commissioner ANDERSON. I suppose it is proper, under the circumstances, that he should ask his client in regard to it, without our committing ourselves to the question whether it is a privileged communication or not.

The CHAIRMAN. Does he make that claim as a right of counsel?

The WITNESS. I say I prefer to be at liberty to ask.

The CHAIRMAN. You make that claim, of course. That is the answer in the case. We want that information, unless you claim that

The WITNESS. Yes, sir.

By Commissioner ANDERSON:

Q. What knowledge have you of those securities? Did you ever own any of them?—A. No, sir; and I have no knowledge about it, really.

Q. And no knowledge of how they were acquired, or what Mr. Gould paid for them?—A. No, sir.

CONCERNING FORECLOSURE OF DENVER EXTENSION MORTGAGE —

By the CHAIRMAN:

Q. Are you familiar with a proceeding in the circuit court with reference to the suit of Adolphus Meier against the Pacific Company in 1878?—A. I think you mean by that the Denver extension foreclosure suit.

The CHAIRMAN. Just look at that book. This is the petition.

The WITNESS. That is it; yes, sir.

Q. What was that suit?—A. That was the foreclosure suit of the Denver extension mortgage begun in 1876, as to which I testified formerly.

Q. And continued up until when?—A. Until the 4th or 6th day of June, 1879.

Q. Under those proceedings there was an agreement entered into by which these roads that were claimed to be hostile were brought together. That is true, is it not?—A. No, not exactly.

The CHAIRMAN. Just read that petition, so that you can see. I call your attention to it.

The WITNESS. What was the date of that?

The CHAIRMAN. In 1878 the petition was made to the circuit court.

The WITNESS. This is the original petition upon the filing of the bill, I take it.

Q. Was not that an agreement entered into among the several railroad companies, the Kansas Pacific and the Union Pacific and the Colorado Central, for the purpose of making an arrangement by which they could run their freight and passengers upon better terms as to prices?—A. My recollection is—I do not connect this in point of time, for I do not see the date to the petition—

The CHAIRMAN. I call your attention to the date of the decree of the court, June, 1878. That is the court clerk's certificate to the decree of the court, Judge Foster, affirming the proceedings under the petition there.

The WITNESS. Yes, sir. At that time they had to come to some arrangement for the interchange of business between these companies; but that was long after the foreclosure suit was begun, although it was a proceeding in that suit.

Q. Was this near about the time of the pooling agreement, to which you were a party?—A. This was just subsequent to the uniting of the

various hostile interests into a common interest, under that pooling document of 1878.

THE POOL OF 1878.

Q. Then, if these proceedings in the court and the agreement brought about had secured the purposes for which the agreement was made, what was the necessity of the pool?—**A.** The pooling agreement came first, and then the Union Pacific party, who were also the Colorado Central party, having become largely interested in the securities of the Kansas Pacific road, were willing to take off the embargo that existed upon the interchange of freight.

Q. Then this proceeding grew out the agreement of April, 1878?—**A.** This petition was one of the results of making harmonious what had before been a quarrel, because the interests, the individual interests, of the various security holders of the Union Pacific and Kansas Pacific had become almost common.

Q. Then I understand the court proceedings simply carried into effect the individual pooling agreement?—**A.** No, not the pooling agreement. That was a separate matter.

Commissioner ANDERSON. The desires of the party to the pool?

The WITNESS. The desires of the parties; yes, sir. The agreement between the managers. But the receiver, I suppose, was not to have any such authority or power to enter into any such contract or pooling agreement without the authority of the court, for they might lose money by it. It was out of that new arrangement that flowed what I stated the other day—a complete raising of the embargo and an easy flow of business in every direction, which resulted in a great increase of the business to the Kansas Pacific and increased profits, to which was added, naturally, the increase of values of these securities.

By the CHAIRMAN:

Q. Then if you had accomplished it under the proceedings of the court virtually approving of it in 1878, what was the necessity of the consolidation of 1880?—**A.** Because that agreement was terminable at any time they chose. The general manager of the Union Pacific or the Colorado Central or the Kansas Pacific, for that matter, could have raised their hands, like one of those "walking delegates," and it would have stopped.

Q. What was your moneyed interest in the pooling agreement?—**A.** It states there. I have forgotten. My recollection is that others were represented by me, like an uncle, for example.

Q. Can you approximate about your total moneyed interests in the agreement at the time of its formation?—**A.** I cannot now state it.

Q. How long did you hold that interest?—**A.** I cannot say that.

Q. Did you hold it a year or six months or three months?—**A.** I remember receiving, on becoming the owner of, some of the consolidated mortgage bonds which were the results of that ownership.

Q. So that you held your interest up to the consolidation?—**A.** In securities other than stock; yes, sir. My distinct recollection is that the stock was distributed out of the pool and the proportionate interests reduced.

Q. What was the profit in money realized by you by reason of the change?—**A.** I cannot tell you now.

Q. Was there any profit?—**A.** Certainly.

Q. Was it 100 per cent. or 200 per cent.?—**A.** Oh, no; I do

Q. Three hundred per cent.?—A. No, sir.

Q. What was it; 50 per cent.?—A. I cannot tell you.

KANSAS PACIFIC STOCK IN THE POOL.

By Commissioner ANDERSON:

Q. You say the Kansas Pacific stock was taken out of the pool. Can you give us a little more information on that—how it came to be taken out of the pool and where it went?—A. I dare say I can, by going through some old papers in my office. But my best recollection is that it was decided by the parties in interest, that inasmuch as there was not going to be a foreclosure, and new Kansas Pacific stock, that the old Kansas Pacific stock should be withdrawn and given back to those who had contributed it.

Q. Mr. Gould had contributed none of the Kansas Pacific stock, as we understand it, in the inception?—A. I am quite sure he afterward added a very large proportion.

Q. Can you explain to us when Mr. Gould or anybody else contributed additional securities to that pool, how the accounts could be kept by the simple issue of the certificates, as Mr. Ham has testified?—A. Why, yes, sir.

Q. And that it would not be necessary to keep any ledger account or any cash accounts in order to present the respective interests intelligibly?—A. Nothing but a series of the old form of book-keeping; no double entry, but the common day-book form of entry.

Q. Would it not be necessary to keep a day-book or journal in order to enter a memorandum of what securities were received from time to time by the different parties?—A. Undoubtedly. They must have kept a list of the securities added to the pool, and the names of the parties who added them.

Q. Do you know whether there was anything further than an entry made on a loose piece of paper, stating the amounts received, and then the issue of a certificate torn from a certificate book and delivered to the party?—A. No; I do not know. It was after I had ceased to have any active charge.

Q. Then you never saw any day-book or cash-book purporting to contain an account of these transactions, and never received any statement in the form of an account containing a statement of the transactions?—A. Not of the entire transactions; I think not. I think I must have received a small statement of what my proportion was of the distributive share of the consolidated mortgage bonds.

Q. Have you that statement?—A. If I have not, I have some memorandum of it; but whether I have or not I cannot say.

Q. Did it purport to be an extract or copy from an account in the book?—A. No; I think not.

Q. Will you furnish it to the Commission?—A. I will endeavor to.

HYPOTHESIS AS TO A LEASE INSTEAD OF CONSOLIDATION.

Q. In regard to this consolidation, could not the result which was effected by the articles of consolidation have been effected equally easily by making a lease, of which the rents were equivalent to the actual receipts of the Kansas Pacific and of the Denver Pacific, to the Union Pacific?—A. I think not, for the reason that the counsel of the Union Pacific have maintained the position that it did not have the right to

make or accept a lease to itself; and the same opinion was given in regard to the charter of the Northern Pacific.

Q. Assume that that difficulty could have been obviated; would not the result of the consolidation have been absolutely and equally well effected by such lease as by the arrangement that was made?—A. That begs the question. I say they could not lease. The lease would be invalid.

Q. I beg of you to assume that some arrangement was found to make the lease valid; could not the interchange of traffic and a unity of interest and of management have been arranged just as well if the Union Pacific had been the lessee of all those companies, agreeing to report to each company the value of its earnings as derived from its share of the road?—A. I think not.

Q. Why not?—A. For the reason that any such lease continues only by the wishes of the parties; that all lease arrangements between railroad companies, as a rule, are open to be rescinded by a change of management and change of parties, or by the result of the management being more or less favorable to one than to the other, and litigation is always open to set aside and annul such arrangements.

Q. Do you not know that that course has been pursued as between the Missouri Pacific and the Kansas and Texas and International and Great Northern?—A. In none of those instances were the Pacific railroads existing under charter of the United States.

Commissioner ANDERSON. I am only desiring to compare the fairness of the result of the two methods.

The WITNESS. I think the instances you mention show how inoperative they are and how easy to avoid, because I think all of the roads have become involved in litigations and receiverships, although such a lease may have been made with the Missouri Pacific.

Q. Do you mean to say that there is any receiver of the Kansas and Texas?—A. I think parts of that system have been subjects of litigation.

Q. Was there any receiver of the International and Great Northern?—A. I do not now recollect it. I think they are in default upon some of their mortgage securities.

Q. Your opinion is incorrect. But what I want to call your attention to is, if such combined operation could be effected under lease, would not the result be that the general road which takes to itself the leases, say, of the Kansas Pacific and the Denver Pacific, would return to these roads just what they earned, under the arrangement, all friction about rights being removed?—A. That might be done, but you would have to consider the question as to whether the roads would stay hitched. They might at any time avoid their hitching-strap—their lease.

Commissioner ANDERSON. Assuming that the lease was made for 999 years, and the transaction was fair, and the result would be that the leased roads would get back just what they were entitled to get as their just proportion of the earnings, and that they would not be a burden to the lessee company.

The WITNESS. Yes, sir; but that is open to this difficulty, that if the leased roads earned more than the lessee, and were more profitable to themselves, and the lessee road was a burden to them, that would soon be avoided by the action of some of the parties in interest.

Commissioner ANDERSON. As long as the lease continued it would result in an equitable division of the profits of these roads, according to their real business, obviating contests as to all questions of prorating, and not putting one road as a burden upon the other, as long as they each only receive what they actually earned.

The WITNESS. That would be so, as long as the situation remains just the same; but if a hostile road runs into the same territory, crosses the lessor and lessee roads, or interferes in any wise, the situation is not the same; and the history of all those Western railroads that their prosperity is a vacillating and changing quantity.

Q. As a matter of fact, is it not true that in so far as the Denver Pacific should not earn anything beyond its operating expenses the interest on its mortgages, the payment of dividends on the Union Pacific stock, which was the exchange for the Denver Pacific stock, would be a burden on the Union Pacific?—A. Upon that hypothesis, yes, sir.

Q. And the same remark applies to the Kansas Pacific?—A. Yes. But there is one answer that I should be permitted to make to that Commissioner ANDERSON. We will be very glad to hear it.

The WITNESS. That is, that the Kansas Pacific and the Denver Pacific were not permitted to earn what they ought naturally to have earned.

Q. But I would only call your attention to the fact that on the position I have made of lease contracts, where all difficulties of proration and of the accepting of through freight would cease, the roads would have been free to earn just what they did earn, and would so receive in rent.—A. Yes, sir; but that never would have taken place with the Union and Kansas Pacific, for the reason that that was the principal contest before Congress; that we struck them before the laboriousness of their road began; that is, we struck them in the plains; but the moment you started westward, from there to Ogden, they went over mountains, through the most unprofitable part of their district, and insisted that, under the act of Congress—and I still think we were right—we could split it in half, although we went over the laborious part of the road, which was ten times more expensive to operate, maintain and keep up than the eastern end was. It would have worked unequally to the two roads. The Kansas Pacific would have obtained a vastly greater advantage. They were only bonded at \$16,000 per mile for the Government lien, and for the first prior liens, whereas the Union Pacific was bonded at the rate of \$16,000, \$24,000, \$32,000, and I think, as high as \$48,000 per mile for both the Government lien and the first lien.

DENVER PACIFIC STOCK.

By Commissioner LITTLER:

Q. Recurring to this \$3,000,000 Denver Pacific stock, did you recall Mr. Sidney Dillon's testimony in this case?—A. Yes, sir.

Commissioner LITTLER. As I remember it he stated that the \$3,000,000 of Denver Pacific stock were exchanged for consolidated Union Pacific Railway stock.

The WITNESS. He stated so.

Q. Do you understand that to be true?—A. I think he skipped the details and took the final result. He arrived at the goal but without going over the intermediate steps.

Q. He also stated that when this stock was exchanged it was converted back into the treasury of the Union Pacific Railway Company, and thereby became an asset of the company. Do you understand that to be so?—A. No, sir. I think he should have said "Kansas Pacific" and "Union Pacific."

Q. That is not what Mr. Dillon said. He said it went to the Union Pacific Railway, and he said, further, that it was paid out in the

struction of branch roads and betterments of the Union Pacific Railway Company. That was the substance of his testimony. Do you so understand it?—A. I understand that that is ultimately correct; but he did not state the intermediate steps which took place.

Commissioner LITTLER. You supply those intermediate steps, as you understand it.

The WITNESS. I understand the Denver Pacific stock went to the Kansas Pacific Company, and that the Kansas Pacific Company acquired the branch lines for the stock, and that the stock then in the hands of the sellers was exchanged for new consolidated Union Pacific stock.

Q. And then what became of that new stock? Who got it?—A. It went to the sellers of the branch line.

By the CHAIRMAN:

Q. Who were they?—A. I stated them before. I think not only Mr. Gould, but—

The CHAIRMAN. I want you to supply right here the answer.

The WITNESS. They went to Mr. Gould and other gentlemen who were interested with him. I am unable to state authentically their names, but my information has always been that Mr. Gould was not the sole person interested.

By Commissioner LITTLER:

Q. What I am getting at is, whether the Union Pacific Railway Company, consolidated, in fact, got the benefit of these \$3,000,000 of stock which Mr. Dillon says were covered back into the treasury of that company?—A. Unquestionably the Union Pacific did.

Q. Unquestionably so?—A. Yes, sir; the new corporation.

Q. And that it was paid out for betterments or construction account?—A. Or branch lines. In other words, that \$3,000,000 of stock was new-made wealth, precisely like the Government's printing mill when it converted blank sheets of paper into greenbacks.

Commissioner LITTLER. It was new-made wealth in the sense that the Union Pacific Railway Company simply increased its stock \$3,000,000 in order to take it up?

The WITNESS. Yes, sir; and got for it—

Commissioner LITTLER. And in no other sense?

The WITNESS. Yes, sir.

KANSAS PACIFIC STOCK.

Q. I want to call your attention to another branch of the case. I hope you will not consider that we are taking advantage of you by three of us asking questions. Refresh your memory and state, as near as you can, when you first became interested in the stock of this Kansas Pacific road which is mentioned in this pooling arrangement.—A. I think some of it descended from my father's estate.

Q. How long ago?—A. He died in 1871.

Q. You have no distinct recollections of the quotations of this stock on the stock board of this city for the years from 1873 up to 1880?—A. Oh, it ranged from very low prices until it finally was, I think, a little above par.

Q. I will read the prices for 1879, as reported in this paper which I hold: For the month of January the highest was 13 and the lowest 9½; for February, the highest was 22½ and the lowest 11½; for March, the highest was 22½ and the lowest 17; for April, the highest was 60 and

the lowest 20½; for May, the highest was 59¾ and the lowest 50; for June, the highest was 59 and the lowest 54; for July, the highest was 60 and the lowest 56; for August, the highest was 59½ and the lowest 53½; for September, the highest was 73½ and the lowest 55; for October, the highest was 85½ and the lowest 70; for November, the highest was 92 and the lowest 83; for December, the highest was 92½ and the lowest 85; and in January, 1880, they ran up to 108. That was about the time this suit was disposed of by which these \$3,000,000 of the Denver Pacific were released, of which you have already spoken. Now, assuming those figures to be correct, and assuming that Mr. Gould and Mr. Sage and others bought stock at any time between 1873 and January, 1879, and held it until after the 24th of January, 1880, their profits must have been the difference between about 25 cents on the dollar, which is an average of these prices, and 108; is that not true?—A. Yes, sir.

AS TO PURCHASE OF BRANCH LINES.

By Commissioner ANDERSON:

Q. I only want to ask about these branch lines. When you say that this stock was applied to the benefit of the Union Pacific in the purchase of branch lines, you refer to these particular lines that we have been discussing, the Kansas and Nebraska, the Saint Joseph and Pacific, the Kansas Central, the Saint Joseph Bridge, and the Hastings and Grand Island?—A. Yes, sir; and I am not sure but that there were others.

Q. If you have any knowledge that there were others, we would like to know them.—A. I recognize the names you mentioned, but I do not know whether that includes the whole or not.

Q. Mr. Ham has given this as a statement of all the stocks that were transferred for this Denver Pacific stock.—A. He ought to know much better than I know.

Q. That is all the purchase of securities or branch lines that you know of, then, and that is all that you mean when you say that the Union Pacific got the benefit of the stock?—A. Yes, sir.

By the CHAIRMAN:

Q. There is one other question. You made an address before Congress, or before a Congressional committee, upon the question of pro-rates or adjustments, did you not?—A. Yes, sir.

Q. Have you a copy of that?—A. I have one, bound, that was made.

The CHAIRMAN. The one I refer to was along about 1877.

The WITNESS. I think I have that; but I remember seeing the other, a brief or argument I made before Mr. Schurz, who was then the Secretary of the Interior, or Charles Devens, who was Attorney-General. I have forgotten which.

Q. Will you furnish the Commission with it?—A. I have only my bound copy.

Q. We will take care of it. You did not agree with Mr. Sidney Dillon at that time, did you?—A. Oh, no. We were very far apart.

Q. You were on different sides at that time?—A. Yes, sir.

The CHAIRMAN. If you could furnish us with a copy we would like to have it.

The WITNESS. I have no objection whatever to your using it.

ARTEMAS H. HOLMES.

The Commission then adjourned to Wednesday, May 11, 1887, at 10

NO. 10 WALL STREET, NEW YORK,
Wednesday, May 11, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

ADDISON CAMMACK, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. Where do you reside?—Answer. In New York.

Q. What is your occupation?—A. Stock business, Stock Exchange.

DIRECTOR OF KANSAS PACIFIC AND UNION PACIFIC.

Q. Were you, in January, 1880, a director of the Kansas Pacific?—

A. I was a director, I guess, about that time, but I have not thought of it in so long a time that I could not tell you the exact date.

Q. You remember you were a director at the time of the consolidation?—A. Yes, sir.

Q. How long had you been a director?—A. Just that year; that was all.

Q. Just for that year?—A. That was all.

Q. How did you come to be elected as a director of that road, do you remember?—A. Just before the election of the Union Pacific Railroad, a party of us bought a large amount of Union Pacific stock from Mr. Gould, and the syndicate that bought the stock made a bargain that two of their members should become members of this road and of the Kansas Pacific. This is my recollection of the transaction. And I and another gentleman—who it was I have forgotten now—were selected to represent this syndicate in the board of direction.

Q. In the board of direction of the Kansas Pacific?—A. No, of the Union Pacific. I do not know about the Kansas Pacific; I do not remember.

Q. You say you and another gentleman were elected to represent a syndicate in the Union Pacific?—A. Yes, sir.

Q. Were you a director of the Union Pacific?—A. I was; yes, sir.

Q. Not at the time of the consolidation?—A. I think so.

Commissioner ANDERSON. It is the time of the consolidation we are speaking of.

The WITNESS. Yes, sir.

Commissioner ANDERSON. The essential point is, that you were a director of the Kansas Pacific at the time of the consolidation?

The WITNESS. Yes, sir; that is my remembrance.

THE OCCASION OF THE CONSOLIDATION.

Q. Do you remember the occasion of the consolidation?—A. Yes, sir.

Q. Were you in New York on that day?—A. I was present at the meeting.

Q. At what meeting?—A. At the meeting consolidating the two companies.

Q. At the meeting of what board, of what company?—A. I think it was the Union Pacific.

Mr. JOHN F. DILLON. The record says that he was a member of the board of direction of the Kansas Pacific, and not of the Union Pacific.

Commissioner ANDERSON. He was in both boards. The gentleman is right.

The WITNESS: That is my memory.

Q. While we are on this subject, who was the other gentleman who joined you on the Union Pacific board to represent Mr. Gould, or to represent the syndicate?—A. We did not represent Mr. Gould; we represented the syndicate.

Q. Will you look over the names and answer?—A. It has been so long I have forgotten. [After looking.] James R. Keene.

Q. You alone represented this syndicate in the Kansas Pacific, or represented that interest?—A. No.

Q. Mr. Keene was there also?—A. Yes, sir; I did not represent the syndicate in the Kansas Pacific. We bought the stock of the Union Pacific from Mr. Gould. I think about \$7,000,000. I forget the number of shares. I think it was 70,000 shares. We were elected directors in the railroad.

Q. How would that explain your being elected a director of the Kansas Pacific?—A. I pledge you my word I could not remember.

Q. It was about the same time that you became a director in both companies?—A. I think so; yes, sir.

Q. Was it not connected with the same general subject?—A. I think so.

Q. You will notice that both you and Mr. Keene entered the directorate of both companies at the same time?—A. Yes, sir; I cannot tell you about the Kansas Pacific.

Q. The question that I put to you is, whether it would not be true that you and Mr. Keene entered both of these boards at the same time. You were elected the same time in both boards?—A. I could not tell you whether it was the same day or not. I do not know. I was not present. I do not know where the election took place.

Q. Do you know whether Mr. Keene had been in the board of the Union Pacific, or of the Kansas Pacific, before you were in them?—A. I do not think he was, but I would not on that subject trust my memory. But I think he went into the Union Pacific at the same that I did to represent the syndicate that bought the stock from Mr. Gould.

By the CHAIRMAN:

Q. Who composed the syndicate?—A. There was Mr. D. P. Morgan and Mr. Charles J. Osborn. It was all publicly known at the time, but I declare I have forgotten. And myself and Mr. Keene. I have forgotten now. It was a long time ago, and I never thought of it for years.

By Commissioner ANDERSON:

Q. In regard to this meeting on the day that the consolidation took place, where was that held?—A. In Broadway.

Q. Do you remember whether your notice to attend was received by telegraph or by a regular notice?—A. I could not remember.

Q. You do not recollect it?—A. I could not tell you.

Q. Do you remember whether the proceedings leading to the consolidation were hurried or were they deliberate?—A. I think there was quite a crowd there. It took I do not know how long. We were there the afternoon, if I remember right, and pretty much all the directors were there, and Judge Dillon read the document which consolidated the two roads.

Q. Had you ever read that document before you got there?—A. Never.

Q. Had you heard it discussed before you got there?—A. No, sir, not the document.

Q. Was it not rather a surprise to you?—A. I had heard that the consolidation would take place previously, but from whom I do not remember. I had sold out my interest in the road previous to this meeting—some time before—and of course when a man sells his interest he does not take—

Q. He does not take the same amount of stock in it?—A. No, sir.

Q. What do you remember that did occur, as far as the Kansas Pacific is concerned, on that day?—A. I cannot tell you now.

Q. Do you remember any meeting of the board?—A. I could not tell you. I had no interest in the Kansas Pacific, and I could not remember.

Q. You were a director of the Kansas Pacific?—A. I was.

SAINT JOSEPH AND PACIFIC BONDS.

Q. Do you recollect any discussion at a meeting on that day, or before that day, of the Kansas Pacific, in which there was talk about selling \$1,833,000 of Saint Joseph and Pacific bonds, or of the Kansas and Nebraska bonds?—A. I never heard of that transaction until I saw it in the paper the other day.

Q. You never heard about it at all?—A. Never heard of it until I saw it in the paper the other day. When did that occur?

Q. You think a transaction of that magnitude, while you were a director of that road, would have been discussed at any interview in your presence without leaving a trace of it in your memory?

The WITNESS. Which road?

Commissioner ANDERSON. The Kansas Pacific.

A. I never heard of it until the other day.

DENVER PACIFIC STOCK.

Q. Do you remember that you were ever in any wise consulted in regard to a sale of 29,986 shares of Denver Pacific stock, which was owned by the Kansas Pacific road, to Mr. Gould?—A. Never. I never was. I never heard of it until I saw it in the paper the other day. Was that not done after the consolidation?

Commissioner ANDERSON. I cannot answer your question.

The WITNESS. I do not know, but it strikes me that it was. I was not in the board after the consolidation.

Commissioner ANDERSON. The effect of it as fixing the price of the Denver Pacific stock was on the 24th January. When the securities were turned over or when the resolution was passed I do not know.

The WITNESS. When did the consolidation take place?

THE CIRCUMSTANCES OF THE CONSOLIDATION.

Q. On the 24th of January, 1880. Do you remember any resolution of the board of the Kansas Pacific approving of the consolidation?—A. I could not remember that.

Q. Were you, yourself, in favor of it?—A. I voted for it as a Union Pacific director. The other I have forgotten about.

Q. You do not remember what you did as a Kansas Pacific director?—A. I do not. I do not remember.

Q. Do you remember that during this day there was a meeting of the board of the Union Pacific?—A. There was; yes, sir.

Q. And you were present at that meeting?—A. Yes, sir.

Q. As a trustee it did not concern you, except for the people for whom you were acting as trustee? You had no other interest save the stock interest in the road? You had no interest for the *cestui que trust* the people who were interested in the railroad?—A. Oh, every man has more or less interest of that kind if he is a trustee.

Q. What interest did you have in this consolidation?—A. I had none no "dollar" interest.

Q. No, but what other interest had you? You did not have any? Is that a fact?—A. I did not have any pecuniary interest.

Q. Or any other interest?—A. If a man is a director in a railroad he wants to see it prosper, of course.

Q. Did you know whether it was prospering?—A. Only from hearsay.

Q. Then you had no personal knowledge yourself?—A. Directors do not, generally, when the office is in Boston and they meet in New York.

Q. Then you never made, as a director, any personal investigation at all?—A. No, sir.

Q. Your whole interest was your stock interest in the roads, and that was what you were watching, and not the interest of the people for whom you were trustee and director?—A. Oh, well, do not say that entirely.

Q. How much of it do you say?—Oh, well, if a man is a director in a railroad he must have the hope that the thing should prosper all the time.

Q. What was your hope?—A. If a man is connected with a property he wants to see it prosper; that is all.

Q. How much did you want to see it prosper at that time?

The WITNESS. What do you want to measure that by; dollars and cents?

The CHAIRMAN. I am asking you.

A. I cannot answer that.

By Mr. ANDERSON:

Q. There is one question on that point I want to ask. Was the effect of the consolidation, and of the dividends that would be called for on the stock as it affected the security of the United States of America, discussed at all at the time of the consolidation?—A. I think not.

Q. The fact of the Government debt was not alluded to in any way?—A. I do not remember that it was alluded to; it may have been, but I could not remember.

By the CHAIRMAN:

Q. You did not ascertain, then, whether these roads that you were taking into the Union Pacific had a large income, or whether they were bankrupt roads?—A. Well, I did not know much about it.

ADDISON CAMMACK.

No. 10 WALL STREET, NEW YORK,
Wednesday, May 11, 1887.

THOMAS T. ECKERT, being duly sworn and examined, testified as follows:

DIRECTOR OF THE UNION PACIFIC.

By Commissioner ANDERSON:

Question. Were you a director of the Union Pacific in 1880?—Answer. I think I was.

Q. At the time of the consolidation?—A. I think I was appointed either late in the fall of 1879 or in 1880, but I cannot recall definitely which.

Q. You say "appointed"?—A. I think I was appointed to fill a vacancy when I went into the board first.

Q. That is, elected by the board itself?—A. Elected by the board itself; that is my impression.

Q. How long did you remain a director?—A. About two years, or until Mr. Adams was elected. I withdrew, and Mr. Adams, I think, was appointed or elected by the board to fill my place.

Mr JOHN F. DILLON. 1884?

The WITNESS. I have forgotten.

Q. Where were you in January, 1880?—A. In New York.

THE CONSOLIDATION.

Q. Do you recollect the occasion of the consolidation?—A. I do.

Q. Were you present at the meeting?—A. I think I was.

Q. Do you remember receiving a notice to attend?—A. I do not recollect that; I presume I did.

Q. Where did you live then?—A. In New York City.

Q. What part of New York City?—A. I lived at the Windsor Hotel, then.

Q. Do you recollect being present at the whole of the meeting, from the beginning to the end of it?—A. I could not say as to that.

Q. Do you remember the circumstances of the meeting at all?—A. I do. I do not think I got into the meeting for some time after it had convened.

Q. What do you recollect as having occurred at that meeting?—A. Really, for the moment, I do not know that I can recall anything definitely. There was a general conference there, an expression of opinion by different members, but I could not recall what it was.

Q. Do you not recall what the general subject was that was brought up?—A. A consolidation with the Union Pacific.

Q. Was it a regular meeting or a special meeting?—A. That I am not able to say.

Q. Had you heard of the consolidation before?—A. I had.

Q. From whom?—A. From Mr. Fred. L. Ames.

Q. Any one else?—A. Mr. Dillon.

Q. Sidney Dillon?—A. Sidney Dillon.

Q. What had been said to you relating to the consolidation generally?—A. The question was as to the propriety and advisability of such a move.

Q. How far did you make any examination yourself?—A. Not very far. I was too busy a man in other directions, and was not able to get the other information I possibly should have had upon the subject. I might say there that I had repeatedly stated to Mr. Ames that I was not able to attend the meetings, and when they found a person who could give more time and do better service to the company, I would be glad to have my place filled.

Q. State to us what examination you made, if you made any at all?—A. I did not. The only thing I knew was what was spoken of in the meeting.

Q. Then in regard to the question of the consideration of what been paid for the new stock that was to be made, or the *va* Denver Pacific Company as being able to earn a dividend on

or of the Kansas Pacific Company as being able to earn a dividend its stock, that was not a subject that you examined at all?—A. was not.

Q. Did anybody vote against the consolidation, to your recollection?—A. I do not recollect.

Q. How did you vote?—A. I think I voted for the consolidation.

Q. Upon whose advice did you rely when you voted for the consolidation?—A. On Mr. Fred. L. Ames.

Q. At the time you say you so voted were you a holder of Union Pacific stock?—A. Yes, sir.

Q. How much?—A. It was not a large amount. I do not think exceed one hundred shares. I had more bonds than I had of stock.

Q. At the time you so voted were you interested in any of the securities of the Kansas Pacific?—A. I was not.

Q. Or the Denver Pacific?—A. None whatever.

Q. What were your relations with Mr. Ames, confidential and close?—A. They were friendly relations; always have been.

Q. What were your relations with Mr. Gould?—A. Pleasant and friendly relations.

Q. Did you see him frequently?—A. Very frequently.

Q. As a matter of fact, did he advise you to vote for the consolidation?—A. He did not.

Q. Did you have any talk with him on the subject?—A. I do not think I had any conversation with him on the subject, except what might have been in the office, in the presence of Mr. Dillon and a few of the directors.

Q. Was Mr. Gould present at the meeting?—A. I am not able to state that.

Q. Was Judge Dillon present then?—A. That I am unable to say.

Q. Do you remember that the articles of consolidation were read?—A. I think that a paper or papers were being read when I came in to the meeting.

Q. You do not remember who was reading them?—A. I do not.

Q. Was there any discussion during the session, while you were present, relating to the effect of the consolidation on the interest of the Government of the United States?—A. I do not recollect any discussion of that kind.

Q. You gave that subject no consideration yourself?—A. I did not.

Q. Were the Government directors present, as far as your memory serves?—A. I do not recollect.

By the CHAIRMAN:

Q. How many meetings did you attend during the two years you were a director?—A. I do not recollect. I was so thoroughly occupied that I never attended a meeting if I could get out of it.

Q. But you were a director?—A. I was a director.

Q. And had large interests at stake?—A. Not as large as some others.

Q. At whose instance did you assume the directorship?—A. I do not think the matter was presented to me until I was notified that I had been made a director.

Q. Did you not regard it of importance whether the Union Pacific was assuming worthless roads or valuable roads?—A. Of course, it was of importance; but from a general view of the situation I did not conceive that it was taking in anything that was not valuable.

Q. Then you voted upon the fact that you regarded it as a valuable connection of the Union Pacific?—A. Yes, sir.

Q. How did you inform yourself?—A. As I told you, I got most of my information from Mr. Fred. L. Ames.

Q. You made no personal investigation?—A. No, sir; no personal investigation.

Q. Had you discussed with Mr. Ames in 1879 the question of consolidation?—A. I do not think I had done so.

Q. The only conversation took place immediately before the consolidation?—A. I think a short time before.

THOS. T. ECKERT.

No. 10 WALL STREET, *Wednesday, May 11, 1887.*

AMOS H. CALEF, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am secretary and treasurer of some railroads.

Q. What railroads?—A. The Missouri Pacific and Iron Mountain.

Q. What other railroads?—A. Those are the only ones that amount to anything. The others are underlying roads.

Q. What are they?—A. I do not remember them all. There is the Saint Louis, Fort Scott and Wichita is one. I do not remember all these roads—little roads—of ours. The Iron Mountain and Missouri Pacific are the principal ones.

Q. There are so many you do not remember them?—A. They are branches. There are a good many of them.

By Mr. ANDERSON:

Q. In 1880 what office did you hold?—A. I was secretary and treasurer of the Missouri Pacific.

Q. What office did you hold in the Kansas Pacific Railway?—A. I think I was secretary of that.

Q. Where did you transact their business?—A. The office was at 80 Broadway in 1880.

Q. How long had you been secretary of that company?—A. I guess about three years. I do not remember exactly.

Q. What was the main office of the company, Kansas City?—A. Kansas City.

Q. Did you have any connection with the agreement, of which I show you a copy, Exhibit 1, of May 5, 1887?—A. No, sir; I had nothing to do with that that I know of. I do not think I have ever seen this before.

Q. Did you know at that time that there was an arrangement by which a number of gentlemen had purchased securities of the Kansas Pacific with a view to bringing about unity of action between the Union Pacific and the Kansas Pacific?—A. Yes.

Q. You knew who was in that arrangement. Who were the parties?—A. I only knew some of them. I was living in Saint Louis then. I was not here in New York.

Q. When did you come to New York?—A. I came to New York in 1879.

Q. You say you kept none of the accounts connected with that pool?—A. Not any; not a thing.

Q. And issued none of the certificates?—No, sir; never saw them.

Q. Had nothing whatever to do with it?—A. Never.

THE KANSAS PACIFIC CONSOLIDATION.

Q. Do you remember the occasion of the consolidation of the Kansas Pacific with the Union Pacific?—A. Yes, sir.

Q. Do you remember the day on which it took place? I do not mean the day of the month, but the circumstances of that day.—A. That was 1880. I do not remember what time or what day.

Q. Do you identify the day; were you present on the day when the occurrence took place?—A. No; I do not think I was.

Q. Where were you, if you were the secretary of the company?—A. I was here. I do not remember, Mr. Anderson, whether I was present or not.

Q. You do not remember seeing the articles of consolidation signed, then?—A. No; I do not remember that.

Q. You are quite sure you do not remember it?—A. Yes, sir.

Q. You are quite sure you were not a witness to the articles of consolidation?—A. No; I suppose I was, as secretary. But I do not remember the occasion.

Q. Please examine the section of the articles, and see whether it reminds you that you were a witness?—A. (After examining.) Yes, sir.

Q. Was not this quite an event, the execution of this paper by all these companies; did it not make quite a stir?—A. Why, no.

Q. It did not? Did it not make any impression on your mind that such big railroads should be consolidated, and was there not a good deal of talk of it at the time?—A. Yes; but there was very little talk where I was present about it.

Q. Do you remember whether there was a meeting of the board of directors of the Kansas Pacific Company before the paper was signed?—A. There must have been to have the authority. I do not remember any meeting.

Q. Do you remember anything about it? Who wrote the minutes of the proceedings of the directors of the Union Pacific in the minute book?—A. I did; that is, while I was secretary I did that.

Q. Do you remember whether you wrote them yourself or whether somebody else wrote them and you signed them?—A. I think I wrote them myself. Sometimes I wrote the minutes and sometimes other parties wrote them and I signed them.

Q. As a matter of fact, do you recall to-day whether there was a meeting of the directors of the Kansas Pacific authorizing this consolidation before the paper was executed?—A. I do not recollect it. There must have been one, though, to have given the authority. I have not seen the records for eight years—or seven years.

Q. If a meeting is entered in the minute book, which purports to have taken place before the articles were executed, would you feel positive that it did take place before and not afterwards?—A. Yes, sir.

DIRECTORS OF KANSAS PACIFIC AT CONSOLIDATION.

Q. Who were the directors of the Kansas Pacific at this time?—A. C. S. Greeley, John D. Perry, Adolphus Meier, B. W. Lewis, jr., D. M. Edgerton, Jay Gould, Russell Sage, Sidney Dillon.

Q. How positive is your recollection about Mr. Perry and Mr. Meier?—A. Mr. Perry was always a director, I think, until the last few years. I think Mr. Meier resigned, and his son Theodore G. was the director then, instead of Adolphus. S. M. Edgell was a director. He was a Saint Louis director.

Q. Which of these gentlemen do you remember being present, or taking part in the consolidation proceedings?—A. Mr. Edgerton and Mr. Greeley were the prominent men in the road, and attended to everything of that kind.

Q. Anybody else?—A. Mr. Gould.

Q. Mr. Jay Gould?—A. Yes, sir.

Q. You would call him a prominent man, I suppose?—A. Yes, sir; and so is Mr. Sage?

Q. And Mr. Sidney Dillon?—A. Yes, sir.

Q. Those gentlemen, as you remember, were all in favor of consolidation?—A. I do not remember that, but they were the prominent men in the board.

Q. Do you remember them as being present during the days that this consolidation was discussed and took place?—A. I do not remember that.

Q. How long before it was executed did you first hear about it?—A. That I do not recollect.

Q. Do you think you heard about it at all?—A. Oh, yes, sir.

Q. I mean until the day it was executed?—A. Yes, sir.

Q. Did you know at this time whether Mr. Jay Gould was a large stockholder of the Kansas Pacific at the time the consolidation articles were executed?—A. Yes, sir; he was a large stockholder for two years before the consolidation.

Q. And had been?—A. Yes, sir; for a long time.

Q. Do you know whether his holdings had largely increased in 1879, as compared with 1878?—A. I do not recollect that.

Q. Do you know whether Mr. Sidney Dillon was a large holder of Kansas Pacific?—A. He was.

Q. Do you know whether his holdings had increased about the time of the consolidation?—A. No, sir.

Q. You say you do not know?—A. I do not recollect that.

Q. Do you know whether Mr. Addison Cammack was a large stockholder?—A. No. He was a stockholder, but I do not remember how large.

Q. And James R. Keene?—A. He was not a large stockholder.

Q. And James M. Ham?—A. He never was a large one.

Q. And Russell Sage?—A. He was a large one.

Q. And Grauville M. Dodge?—A. He was a large holder, too, comparatively.

Q. And Carlos S. Greeley?—A. Mr. Greeley was always one of the large stockholders since the road started.

Q. D. M. Edgerton?—A. He was not a very large stockholder.

Q. J. P. Usher?—A. Not very large.

Q. And Frederick L. Ames?—A. He was always a large holder. I did not finish the board there, all of them.

Q. I have read you the names you gave us from memory, all of whom you then recollected, I presume. You made one or two parties directors who were not directors at the time, but it will not hurt them at all. Where was the office of the Union Pacific at this same time?—A. At 80 Broadway.

Q. In adjoining rooms?—A. Yes, sir; on the other side of the building.

STOCKHOLDERS OF KANSAS PACIFIC AT CONSOLIDATION.

Q. Please tell me of the gentlemen whose names I will read to you whether you know them to be stockholders of the Kansas Pacific at

this time. Was Elisha Atkins a stockholder of the Kansas Pacific?
A. I could not swear to that.

Q. Was F. Gordon Dexter?—A. I do not remember that.

Q. Frederick L. Ames you have already stated was.—A. Yes, sir.

Q. E. H. Baker?—A. Ezra H. Baker, I do not remember.

Q. Sidney Dillon you have already told us was.—A. Yes, sir.

Q. David Dows?—A. I could not certify to that.

Q. Jay Gould you have said was a large stockholder.—A. Yes, sir.

Q. Russell Sage the same?—A. Yes, sir.

Q. James R. Keene I think you said was a moderate holder. H.
about Solon Humphreys?—A. I do not recollect that he was a stockholder at all.

Q. Addison Cammack?—A. Not very large.

Q. William L. Scott?—A. I do not recollect about him. I do not think William L. Scott was a stockholder. I am not sure of it.

Q. S. H. H. Clark?—A. I do not remember.

Q. A. H. Loveland?—A. I do not remember about him.

Q. John Sharp?—A. No.

Q. G. B. Smith, a Government director?—A. No; I do not remember his being a stockholder.

Q. C. C. Housel, it is printed here?—A. I do not remember.

Q. Ralph P. Buckland?—A. No.

Q. You do not remember about him?—A. No.

Q. Daniel Chadwick?—A. No, sir.

Q. Nathaniel Niles?—A. No, sir.

Q. So that the prominent names which you recall as being stockholders of the Kansas Pacific are F. L. Ames, Sidney Dillon, Jay Gould and Russell Sage?—A. And Greeley.

Commissioner ANDERSON. But the first names I gave you were directors of the Union Pacific. Mr. Greeley, I believe, was not a director of the Union Pacific.

The WITNESS. I think he was afterwards; I am quite sure he was.

CERTIFICATE APPROVING OF CONSOLIDATION.

Q. Do you recall the fact that quite a number of the holders of the Kansas Pacific stock signed a paper declaring that they ratified and approved the articles of the union and consolidation, and that you certified that it had been signed by a large number of stockholders?—I think I remember it; yes, sir.

Q. Please look at the printed copy of the certificate, and state whether you recall signing such a paper, on page 67.

Mr. HOLMES. They are not consecutive pagings.

The CHAIRMAN. It is page 67 of the appendices.

Mr. HOLMES. That was an appendix to an answer in a lawsuit.

Commissioner ANDERSON. It is page 67 contained in a book of mortgages and reports, and indorsed "K. P. R. W"?

A. Yes, sir; I think I do.

Q. Do you remember where you signed it?—A. I suppose in my office, 80 Broadway.

Q. Do you remember when it was signed?—A. No, sir; I do not.

Q. Was it after the articles of consolidation? Look at your signature and see the date at the end of the certificate.—A. It is the 26th day of April, 1880. I do not remember what day the consolidation took place.

Commissioner ANDERSON. The 24th of January, 1880.

The WITNESS. That must have been after then, the 26th of April.

Q. Do you remember whether that paper, as it stood when you appended that certificate, had those signatures representing the shareholders and the amount of stock preceding your certificate?—A. They must have; yes, sir.

Q. Does your memory serve you what that paper was?—A. It was what it purports to be here, the signatures of these parties assenting to this consolidation.

Q. That signature was appended to a ratification?—A. Yes, sir.

Q. Look at the paper which precedes the signatures in the printed book and see whether that is the ratification which you refer to and which you certified as having been signed?—A. Yes, sir.

Q. Who brought you that paper with those signatures?—A. I do not recollect that.

Q. Did you have it in your possession for some time?—A. I think so.

Q. Was it not kept at the office for the purpose of getting the signatures?—A. Yes, sir.

Q. What ratification, or what sanction, by any of the stockholders was given to the consolidation before it was executed?—A. I do not recollect.

Q. Do you know whether any of these signatures were procured before the consolidation articles were executed?—A. I do not recollect that, but I presume they were.

Q. Why do you presume they were; simply because you think they ought to have been?—A. Yes, sir; I think they were procured before, but I could not swear to that.

Q. Do you remember anything about it?—A. Very little. I remember having that paper and having the signatures attached in my office.

Q. Were you not urged to get as many signatures to it as you could?—A. No, sir.

Q. Did you not ask stockholders when they came in to sign it?—A. Yes, sir.

Q. Do you remember who was the first person who signed it?—A. I think the officers and the directors of the company—Mr. Gould, Mr. Sage, and those who were in New York. Mr. Dillon.

Q. Did they sign it before the consolidation or afterwards?—A. I do not recollect; I think before.

Q. Was not Mr. Gould, according to your recollection, the first person that signed it?—A. I think so; I could not swear to that, though.

Q. Had you any office or connection with the Union Pacific Railroad at this time?—A. No, sir.

Q. Did you know of their proceedings?—A. No, sir; only in a general way.

Q. I mean with reference to the consolidation?—A. No, sir; only in a general way.

Q. Was it not stated to you by any of the officers on that day that the Union Pacific had agreed to consolidate?—A. I do not remember; I do not think so.

Q. You do not think so?—A. No, sir; I had no connection at all with the Union Pacific.

AS TO CONVERSATIONS ABOUT CONSOLIDATION.

Q. Do you mean to say that the first thing you knew of the Union Pacific having agreed to do this, to consolidate, was when you were asked to witness the articles of consolidation?—A. Oh, no; I knew the

thing was contemplated and going on, but in connection with the P. part I had no part in it.

Q. It could not go into effect until the Union Pacific executed?—No.

Q. You must have been told, at some time on that day or previous that they had consented.—A. I think I knew about it previously.

Q. You think you did know about it previously.—A. Yes, sir.

Q. With whom had you talked, pending the consolidation?—A. That I have no recollection of.

Q. What are the names of the parties, if you can recall them to your mind, as being the persons with whom you talked on this subject, all, at that period, in January, 1880?—A. I cannot recall any particular parties.

Q. Do you not recall the fact that you did talk of this subject relating to this consolidation at this time with Mr. Sidney Dillon?—A. I do not recollect it.

Q. Do you not recollect that you talked of the consolidation with Mr. Jay Gould?—A. No, sir; I suppose I did, but I do not recall any conversation about it.

Commissioner ANDERSON. I do not mean to say that you can recall just what was said, but that the subject was discussed in the office between you, Mr. Gould, Mr. Dillon, Mr. Sage, and Mr. F. L. Ames.

The WITNESS. It must have been so, and I must have known about it, of course, but I do not recollect any particular time or any particular conversation about it.

Commissioner ANDERSON. Mr. Holmes, have you any idea when we can receive those copies of minutes from Mr. Mink that he said we could have?

Mr. HOLMES. I have not seen him since about it and he has not mentioned the subject to me. I supposed he would be here to-day. I have not seen him to-day.

DENVER PACIFIC STOCK.

Q. Do you know anything relating to the delivery or the extraction of 29,986 shares of stock belonging to the Denver Pacific that was taken out of the trust held by the trustees of the consolidated mortgage and returned to the Kansas Pacific?—A. I recollect that that was done.

Q. Do you know who brought that stock to the office of the Kansas Pacific?—A. No, sir.

Q. Where were the securities kept; was there a safe in that room?—A. The securities were kept in the safe; yes, sir.

Q. In your room?—A. Yes, sir.

Q. Who had charge of that safe?—A. I had access to it and Mr. James M. Ham had access to it; both of us.

Q. You say you remember the fact that that stock was got out of the trust?—A. Yes, sir.

Q. Did you talk to anybody about these proceedings?—A. I suppose I did, but I do not remember any particular conversation.

Q. You do not recollect what was said?—A. No, sir.

Q. Do you remember, after that stock was got out of the trust, that in some way or other the Kansas Pacific parted with it?—A. I recollect they did; yes, sir.

Q. Do you recollect how it came to part with it?—A. I do not know the circumstances now.

Q. Do you recollect to whom it went?—A. I think to Mr. Gould.

Q. Do you recollect on what terms Mr. Gould got possession of it or anything about the terms?—A. No, sir; I do not; that I had nothing to do with; that was done by the treasurer.

Q. Do you recollect whether any proceedings of the Kansas Pacific directors were had by which the terms of exchange were fixed?—A. I do not recollect.

Q. This stock represented \$3,000,000 at its face value, did it not?—A. Very nearly the face value.

Q. If any proceedings had been had by the board by which it was provided that some \$3,000,000 should be paid to the Kansas Pacific for that stock would it not make any impression on your mind?—A. It would be a matter of record on the record books.

Q. Apart from the record books, would not that have been a very unusual transaction? By "unusual" I mean a transaction that very rarely occurred.—A. Yes.

Q. What value had the stock of the Denver Pacific before the consolidation had been agreed upon?—A. I do not know what value was put upon it.

Q. Had it any value?—A. Yes, sir.

Q. For sale on the market?—A. Oh, it was never on the market, that I know of. I never heard of a sale of any of the stock.

Q. Had the road not been in the hands of a receiver?—A. I think so; yes, sir. I do not know who the receivers were, though.

Mr. HOLMES. Walter S. Cheeseman was one.

Q. At what time did it come out of the hands of the receiver?—A. I do not remember.

Q. Was it in the hands of a receiver when you were secretary here in New York?—A. I think so. I think it was in the hands of a receiver before I left Saint Louis.

Q. Do you not know that the stock of that company, down to the end of 1879, had no value whatever, or no perceptible value? You could not have sold it to anybody for anything. Was that not the fact?—A. I do not know; I never heard of any offer to sell it, or heard of any price for it; it controlled the property.

Q. Is it not the fact that the interest on all the mortgages was in arrears?—A. Yes, sir.

Q. And unpaid?—A. Yes, sir.

Q. Is it not the fact that until 1879 the general result of the accounts—I am not asking for exact figures—showed that prior to 1879 it did not earn enough net earnings to pay the interest on its bonds?—A. Yes, sir.

Q. Then, in 1879, affairs had improved some, as I remember. That being the condition of the road, do I understand you that a sale of \$3,000,000 of that stock for producing securities of considerable value could take place and be arranged for in the board of directors and that you have no memory of it at all?—A. No; I say it must be a matter of record, but I do not recollect the facts about it.

Q. If it occurred in a board meeting, you certainly would have been present?—A. Certainly.

AS TO GOULD'S ALLEGED OFFER FOR DENVER PACIFIC STOCK.

Q. Did you ever hear discussed in the board of directors of the Kansas Pacific an offer on the part of Mr. Jay Gould to give to the Kansas Pacific \$1,833,000 of bonds of the Kansas and Nebraska and Saint

Joseph Pacific roads, as part payment for this Denver Pacific stock ?—A. I do not recollect that.

Q. You never heard those terms discussed ?—A. I do not say I never heard it, but I do not recollect it.

Q. Did you ever hear a proposition discussed that Mr. Jay Gould should give \$302,800 of Hastings and Grand Island bonds in part payment for this stock ?—A. That I do not recollect.

Q. Or \$784,000 Saint Joseph bridge bonds ?—A. I do not remember.

Q. Or 4,000 shares of the stock of the Saint Joseph bridge ?—A. No, sir.

Q. You do not recollect that, either ?—A. No, sir.

Q. Or \$479,000 of the Kansas Central bonds ?—A. No, sir.

Q. Then none of that transaction presents itself in your mind as being a transaction which occurred in the open board of the Kansas Pacific as far as your memory serves ?—A. No, sir; I do not remember.

Q. Do you think, if a transaction involving all these peculiar stocks and bonds, and the sale of this 29,986 shares of your stock, had occurred in your presence and been discussed that your memory would not have some trace of it to-day ?—A. I would recollect something about it, but not the details.

Q. Then your impression is that no such thing was ever discussed in the board, when you were present ?—A. No; I did not say that.

Q. Does your memory furnish you with any recollection of such transaction ?—A. No, sir.

Q. And you do say you think you would have remembered it, if had occurred before you ?—A. Yes, sir.

Q. Did any of these stocks come into the possession of the Kansas Pacific ?—A. I do not recollect that. The treasurer had that part of the business to do; I never had anything to do with it.

Q. In regard to the 10,000 shares of Denver Pacific stock that were held by Arapahoe County, Colorado, did you ever know anything of that stock ?—A. I knew that they had that amount.

Q. Did you know anything of the proceedings by which they parted with that stock ?—A. I do not remember.

Q. The stock was obtained by the directors here in New York, was it not ?—A. The Kansas Pacific directors.

Q. By Mr. Gould ?—A. By Mr. Gould, I think. I do not remember.

Q. Do you not remember that at the same time that he got that stock he got some other stocks ?—A. No, sir. What other stocks ?

Commissioner ANDERSON. What was it, Mr. Holmes ?

Mr. HOLMES. Colorado Central stock.

Q. You do not know what consideration was paid by Mr. Gould Arapahoe County for that stock ?—A. No, sir.

Q. Have you in your possession the reports of the earnings and operating expenses of the Kansas Pacific during the period that you were secretary ?—A. No, sir.

Q. You were examined as a witness in the Morgan case, were you not ?—A. Yes, sir.

Commissioner ANDERSON. Mr. Holmes, have you a copy of the record of the Morgan case with you ?

Mr. HOLMES. No, sir; I took it back to my office; I will bring it here again.

Q. You say you do not remember who the receiver of the road was ?—A. I do not. Mr. Holmes thinks that Walter S. Cheeseman was one; I do not know who the other was.

EARNINGS OF KANSAS PACIFIC BEFORE CONSOLIDATION.

Q. What is your recollection as to the gross earnings and operating expenses of the Kansas Pacific for the year preceding January 1, 1880; that is, from January 1, 1879, to January 1, 1880?—A. I do not recollect the figures; I know that the earnings increased very much.

Q. Do you recollect whether that road earned anything more than its operating expenses and the current interest for one year on its mortgages?—A. I do not remember, but I think it did.

Q. Do you know how much more?—A. No, sir; I do not.

Q. Were you examined as a witness in the suit that was brought to get this stock out of the trust?—A. I think I was.

Q. Do you remember before whom you went?—A. No, sir.

Q. Do you remember who was present when you were examined?—A. I do not.

Q. Do you remember who examined you?—A. I do not.

Q. Was Mr. Holmes there?—A. I do not remember.

Commissioner ANDERSON. Mr. Holmes, why do you not produce more impression on your witnesses?

Mr. HOLMES. I have had no conversation with him for six months.

Commissioner ANDERSON. No; but you examined him in this case, and he does not seem to recollect it at all.

Q. Do you recollect that you were asked in that case what the gross earnings and operating expenses of the Kansas Pacific had been for the eleven months preceding the date of your examination?—A. I do not remember.

Q. Do you recollect reading over that evidence after it was written out?—A. No, sir; I do not recollect it.

Q. Do you recollect some discussion as to whether some lines should be scratched out or not?—A. No, sir.

Q. Did you scratch out any lines in that evidence?—A. I do not remember.

Q. What is your best recollection?—A. I do not think I would scratch out anything.

Q. You do not think you did?—A. No, sir.

Q. Do you remember when you read that evidence, finding that something stated in it was incorrect, and you wanted to amend it or change it?—A. I do not remember reading it.

Q. How would you answer this question to-day, which was put to you on that occasion: "How much was the surplus left of the gross earnings of the Kansas Pacific for eleven months before the 1st day of January, 1880, after paying operating expenses, taxes, assessments, and interest on the mortgages?"—A. I should say there was a surplus, but how much I do not know. I do not remember the figures at all.

Q. How much was the interest charge for a year?—A. I do not remember. I think \$1,300,000 or \$1,400,000.

Q. How did you come to be a witness in that suit?

The WITNESS. In which suit?

Commissioner ANDERSON. In the suit brought by the Kansas Pacific against Jay Gould and Russell Sage to procure leave from the court to take this Denver Pacific stock out of the trust.

A. I suppose because I was secretary of the company.

Q. Do you remember who asked you to come around before the referee?—A. I do not.

Q. Do you remember whether you got any subpoena?—A. I do not.

Q. Do you remember talking to Mr. Sage or to Mr. Gould, before you went around?—A. No, sir.

Q. Or to Mr. Sidney Dillon?—A. No, sir.

Q. Do you remember the fact that Mr. Sidney Dillon was there with you?—A. I do not.

Q. You do not remember his testifying?—A. No, sir.

Commissioner ANDERSON. I will wait, Mr. Holmes, until you get the book that you say you have and will bring to us.

Mr. HOLMES. Yes; but I think the witness is entitled to see the testimony which he signed, and the erasures which you speak of, and whether it is in his handwriting. That is the best record of it.

Commissioner ANDERSON. I will send for it. Do you think it is his handwriting?

Mr. HOLMES. I said Mr. Calef was the best one to tell.

By the CHAIRMAN:

Q. What were your duties as secretary?—A. To keep the records of the company and sign the stock certificates.

Q. What other company were you secretary of in that year, the year of the consolidation?—A. None, I think.

Q. No other companies?—A. I was, too, of the Missouri Pacific, same one I am secretary of now.

Q. Did you keep the accounts in the same office?—A. Yes, sir.

Q. How many hours during the day were you at the office in the year of the consolidation?—A. From 9 until 6.

Q. Were you present at the directors' meetings regularly?—A. Most of them. I was not present at all of them.

Q. Do you recollect the attendance of the directors?

The WITNESS. Do you mean to notify them?

The CHAIRMAN. Do you recollect the average attendance at meetings, or the number of gentlemen attending the regular meetings of the board?—A. No; I do not remember how many.

Q. Do you recollect the fact that some of them did regularly attend and others did not?—A. Yes, sir.

The CHAIRMAN. I ask these questions to test your memory, that is

AS TO DEPOSITION OF WITNESS IN SUIT OF KANSAS PACIFIC AGAINST
GOULD AND SAGE.

By Commissioner ANDERSON:

Q. (The deposition in the suit of the Kansas Pacific Railway Company against Jay Gould and Russell Sage having been procured, was shown to the witness.) Please look at that signature and say if it is your signature.—A. Yes, sir.

Q. Look at the page preceding and tell me in whose handwriting the words, "at the rate of half a million per annum."—A. That is in my handwriting.

Q. That is in your handwriting?—A. Yes, sir.

Q. Who made the erasures of the four or five lines that have been scratched out?—A. I do not recollect that.

Q. You do not remember whether you made it yourself?—A. I do not think I did; I do not remember it.

Q. Please read that question and answer and state whether, as corrected to "at the rate of half a million per annum," it is correct or not.—A. I think so; yes, sir.

Commissioner ANDERSON. The question is:

Do you know whether or not the earnings and receipts of the Kansas Pacific Company during the past year have been in excess of its fixed interest charge, operating expenses, and payments for taxes, replacements, renewals, and repairs during the period of time?

The answer is :

During the last eleven months at the rate of half a million per annum.

the words "very little" being scratched out.

I have before me a transcript furnished by the officers of the Union Pacific Railway of the meeting held by the directors of the Kansas Pacific on the 24th of January, 1880, at 11 o'clock, subscribed by yourself as secretary. I understood you to say before that you recollected nothing in regard to the transaction in Saint Jo and Denver and other bonds?

The WITNESS. Yes, sir.

KANSAS PACIFIC MINUTES AS TO PURCHASE OF BONDS OF SAINT JO AND WESTERN.

Commissioner ANDERSON. I now read you this from the transcript:

The president reported that, pursuant to authority given to this company by the laws of Kansas to purchase and hold the bonds and stock of any other railroad company or companies, this company had bought the following bonds and stocks of roads whose lines, constructed or being constructed, connect with the road of this company, viz :

A majority of the shares of stock of the Saint Jo and Western Company, at \$20 per share, \$1,833,724.03.

Also, receiver's certificates of the Saint Jo & Denver City R. R. ; and mortgage bonds of the Saint Jo & Pacific R. R. Co., Kansas & Nebraska R. R. Co., since consolidated into the Saint Jo & Western Railroad Company, at par; also \$784,000 Saint Joseph Railroad Bridge first mortgage bonds, and 4,000 shares of the stock of said bridge thrown in, for the sum of \$784,000 (for said bridge bonds and bridge stock).

All of said sums the Kansas Pacific had agreed to pay on or before sixty days, in the full-paid stock of the Kansas Pacific Railway, or in the consolidated mortgage bonds of the last named railway company at par.

Do you recollect that transaction at all ?

The WITNESS. I do not. That is the first time for seven years I have seen or heard anything of it.

Q. Does what I have read refresh your memory that there was something of that kind that occurred ?—A. No; not at all.

Q. The entry, as I judge from your testimony, is in your handwriting ?—A. I suppose it is.

Q. What did you make that entry from ?—A. I do not remember. I do not know that it is in my writing, unless I can see the records.

Q. What was your practice in regard to making entries in the minute-book ?—A. I made most of them, but if I was very busy I had a clerk to write them out, and then I signed them.

Q. You recollect this particular meeting that related to the consolidation and that you were present there ?—A. I do not know if I entered the records or not on that meeting.

Q. You do not know whether you wrote out the minutes or not ?—A. I could not tell; no, sir.

Q. Do you know how long after that meeting was held the minutes were made up ?—A. I do not.

Q. As a matter of fact, the minutes were not entered by you in the book during the meeting in any case, I presume ?—A. Oh, no; after the meeting was over.

Q. You are not a shorthand writer ?—A. No, sir.

Q. So that whatever occurred, you would keep a memorandum on a loose piece of paper; is that so ?—A. On a pad; yes, sir. I do now, at all our meetings, and write them out afterwards.

Q. How long afterwards would you write them out ?—A. Within twenty-four hours.

Q. Do you know anything about what was done with reference to this transaction subsequently?—A. I do not a single thing.

Q. The resolution declares that the stocks I have enumerated were to be paid for on or before sixty days in the full-paid stock of the Kansas Pacific Railway Company. Did I not understand you to say that it was your business to sign transfers of stock?—A. Yes, sir.

Q. Do you recollect whether any such stock was issued after the meeting of January 24?—A. I do not recollect that.

PURCHASE OF CENTRAL BRANCH UNION PACIFIC STOCK.

Q. The minutes continue :

The president also reported a like purchase on behalf of this company of 7,611 shares of stock in the Central Branch Union Pacific Railroad Company for \$1,826,504 to be paid for, one half in Kansas Pacific consolidated bonds at par, issued under mortgage May 1, 1879, and the other half in Union Pacific collateral trust bonds at par.

Do you recollect that transaction at all?—A. I recollect when the Central Branch stock was purchased, and who it was purchased from, but I have forgotten the price, or how it was paid for, and everything else. I never had anything to do with the settlement for them.

Q. You do not recollect the fact that at that meeting the facts I have read were reported to the meeting?—A. No, sir; I do not.

Q. From whom was that Central Branch Union Pacific Railroad Company stock bought?—A. From Oliver Ames and Mr. Pomeroy.

Q. What Mr. Pomeroy?—A. He is dead now. He used to be the president of the Central Branch.

Q. When did Mr. Ames die?—A. Mr. Ames is governor of Massachusetts now. Mr. Pomeroy died a year ago.

Q. Mr. Oliver Ames?—A. Yes, sir. R. M. Pomeroy. He was president of the road and built it; that is, a great part of it.

Q. Did you ascertain at any time from whom the other shares that I have referred to were purchased?—A. No, sir.

Q. Your minutes then continue :

On motion, Mr. Russell Sage, seconded by Mr. F. L. Ames, it was

Resolved, That the action of the president in the purchases of the said bonds at stock, and each of said purchases, be, and each of them is, severally ratified and approved.

Do you recollect any such resolution as that being put and carried?—A. No, sir.

Q. It further appears from your minutes that at the same meeting

On motion of Mr. Sage, seconded by Mr. Edgerton, it was

Resolved, That 6,242 shares of the authorized capital stock of this company, remaining unsubscribed and unissued, may be issued, and the president and secretary are hereby authorized to execute certificates therefor, in payment of the first coupon on the consolidated bonds and for other indebtedness of the company.

Do you recollect that resolution?—A. No, sir.

Q. Do you recollect the fact that at the time this meeting was held there were 6,242 shares of unissued stock?—A. I do not recollect how much. There was some of it that had not been issued.

Q. Have you any doubt but what that figure is correct?—A. No, sir; not at all.

Q. The shares were \$50 shares?—A. Yes, sir.

Q. Did you have charge of the business of issuing those certificates?—A. I signed them. I do not know who issued them—who gave them out.

Q. Did you not have charge of taking the receipts in the stub-book ?—

A. Not always.

Q. Do you know to whom those shares were issued ?—A. I do not.

Q. Do you know for what other indebtedness of the Kansas Pacific Company that stock was issued ?—A. No, sir; I do not recollect of any other debts.

Q. Do you know how much was issued for first coupons on the consolidated bonds, and how much of it was issued for other indebtedness of the company ?—A. No, sir.

Q. What books will show that ?—A. The treasurer's books.

Q. And what particular book ?—A. The treasurer's cash-book, I suppose.

Q. Will not the stock-certificate book show to whom the certificates of stock were delivered ?—A. Yes, sir.

Q. How will the treasurer's cash-book show the indebtedness against which this stock was delivered, if it was delivered in payment of indebtedness; into what book must we look to find the record ?—A. The cash-book will show what was done with the proceeds—what indebtedness it paid.

Q. That cash-book is with the general books of the company, I presume ?—A. I suppose so. I do not know where any of the books are.

Commissioner ANDERSON. Mr. Mink, have you the cash-book ?

Mr. MINK. Yes, sir. I do not remember that particular book, however.

Mr. HOLMES. The witness desires to change his answer as to who the Denver Pacific receivers were.

The WITNESS. I desire to change my statement as to who were the receivers of the Denver Pacific Company. The receivers were D. M. Edgerton and George W. Clayton.

Mr. HOLMES. They were appointed April 5, 1878.

Q. Please examine the report for the year 1879, contained in Poor's Manual, and state, as near as you can from memory, whether that statement of the gross earnings and the operating expenses is accurate.—A. (After examination.) I presume it is.

Q. Have you a statement of the earnings of that road for the year 1879 ?—A. I have not.

Q. Was such statement prepared or made up ?—A. They are always made up in Kansas City, by the auditor.

Commissioner ANDERSON. Can you furnish the reports for the years 1878 and 1879 of the Kansas Pacific ? I have them down to 1877.

Mr. HOLMES. I really cannot say whether I have them or not; I do not think I have them; I doubt if there were reports made.

The WITNESS. It was in the receivers' hands at that time.

Commissioner ANDERSON. Mr. Villard and Mr. Greeley ?

The WITNESS. Henry Villard and C. S. Greeley.

AS TO KANSAS PACIFIC EARNINGS.

Q. On what did you base the statement made by you in the Kansas Pacific suit that the excess of net earnings for the eleven months preceding the time when you were then examined amounted to about half a million dollars ?—A. I do not recollect; but I must have had some figures in the office at that time to base it on.

Q. Did you have any account for that year that you examined before you could make that statement ?—A. There probably was one, but I do not recollect.

Q. Do you not remember, after seeing that deposition, the fact that you erased some lines, finding they were wrong, and substituted the words "at the rate of half a million dollars?"—A. I see I did that; I did not remember it.

Q. Does not that bring to your mind how it was you ascertained that it was half a million dollars?—A. No, sir; not at all; Ham was the custodian; I must have examined the account when I made that change.

Commissioner ANDERSON. In the statement you made of the fixed charges you fixed the figure, if I remember right, at \$1,400,000?

The WITNESS. About that, I said; I do not remember without figuring it up.

Q. Can you give it any more accurately. The funded debt is stated in Poor's Manual.—A. The funded debt is \$22,000,000.

Q. That would make the annual interest how much?—A. Between \$1,300,000 and \$1,400,000.

Q. At what figure do you find the gross earnings stated in that book?—A. Eighteen hundred and seventy-eight, \$3,610,224.

Q. For what year?—A. Eighteen hundred and seventy-eight.

Q. From what month to what month?—A. This is for the year; for the fiscal year, January to December inclusive.

Q. Is that for the year 1878 or the year 1879?—A. No, 1878; it is here from 1872 to 1878, right along.

Q. During that year the operating expenses were how much?—A. The operating expenses and taxes were \$2,411,560.

Q. What was the net revenue?—A. One million one hundred and ninety-eight thousand six hundred and sixty-two dollars; the gross earnings were \$3,610,224.

Q. So that during that year the net revenue would not be sufficient to meet the fixed charges by about \$200,000 or \$300,000, if these figures are accurate?—A. Yes, sir.

Q. From what statement on that report do you fix that report as being for the year 1878 and not for the year 1879?—A. It says "1878;" it is each year.

Q. Please read the sentence preceding the figures and see if that does not state operating expenses for the year ending December 31, 1878.—A. You know these come out two or three months after the year.

Q. They came out the following year?—A. That was in 1879 for 1878.

Q. Giving you the report for the preceding year?—A. Yes, sir.

Q. The report does not appear in Poor's Manual in 1880; please examine the report, as far as it is contained in Poor's Manual; it merely gives the gross earnings, as you will see at the foot; state whether, according to your recollection, that figure is correct.—A. No; I do not recollect that \$4,873,000.

Q. Have you in your possession the same source from which you testified in the Kansas Pacific suit, and from which you can furnish the figures to show that the earnings were half a million in excess of the fixed charges?—A. No, sir; I have no Kansas Pacific figures in my possession at all.

Commissioner ANDERSON. Can you furnish us with the report of 1879? We have the others.

Mr. HOLMES. I have not looked at it for years; perhaps I can find it.

The WITNESS. It says here that the gross earnings were \$4,873,000.

The CHAIRMAN. Let them furnish us with a copy.

Commissioner ANDERSON. Have you a report for 1879 of the Kansas Pacific?

Mr. MINK. No, sir; I have not.

Commissioner ANDERSON. Where are the books?

Mr. MINK. In Boston.

Commissioner ANDERSON. Then we can get it from the books?

Mr. MINK. Yes, sir.

FINANCIAL CONDITION OF UNION PACIFIC, 1876 to 1879.

Q. What was the general condition of the Kansas Pacific Railway Company during the years 1876, 1877, and 1878, in regard to its financial condition?—A. She was pretty poor.

Q. All of its interest on all forms of securities was in arrears, as I understand it?—A. Yes, sir; extended. The coupons were funded.

Q. Were there any payments made at all of interest on any of these bonds during these years?—A. I think there were partial payments on some of the bonds; half in 1877, I think.

Q. A payment amounting to how much?—A. I do not remember that.

Q. Do you remember the fact that it was a compulsory payment, on a suit brought on the funding mortgage?—A. No, sir.

Q. You do not remember the amount of it or the circumstances under which it was paid?—A. I do not.

Q. But, in general terms, the road remained embarrassed, and with its coupons in arrear, for the years I mentioned—1876, 1877, 1878?—A. Yes, sir; but in 1878 the business commenced to improve very much.

Q. And in 1879 the business still grew better?—A. Still better.

Q. Was the road in such a condition that under such circumstances as then existed there was any possibility of its earning a dividend on its stock, without the consolidation with the Union Pacific, at that time?—A. No; if they had been enabled to do a through business they would have paid dividends years before.

Q. But, without consolidation, and without through business, was the Kansas Pacific able to earn dividends on its stock, as matters stood before the consolidation?—A. No.

Q. You think not?—A. No; but I think, with the improvement that came in 1878 and 1879, she very soon would have been able to do it.

Commissioner ANDERSON. The earnings would have had to increase very largely over those of 1879 before it could have paid dividends on the \$10,000,000 of stock; that would have required \$600,000, at 6 per cent.

The WITNESS. In 1879 she earned \$4,873,000.

Commissioner ANDERSON. That was gross earnings?

The WITNESS. Yes, sir; it would not have had to increase so very much more, with the fixed charges \$1,300,000, to have earned a dividend on its stock.

Q. What was the rate of the operating expenses?—A. That I do not recollect; it varied.

By Commissioner LITTLE:

Q. I would like to ask you this question: Do you remember having sworn as a witness in the case of Henry Morgan against the Union Pacific Railway Company?—A. I remember I was a witness in that case.

Q. I call your attention to a question which was propounded to you, and also your answer:

Do you know whether or not there have been at any time any surplus earnings of the Kansas Pacific Railway Company, upon its line from Kansas City to the 304th mile-

post, and from Leavenworth to Lawrence, over and above all expenses of operating said railway, and carrying on its business, including taxes, assessments, and payments on the incumbrances prior in lien to the lien of the income mortgage?

Your answer is, "There has not been." That was true then, and true now?—A. Yes, sir.

Commissioner LITTLER. Another question was propounded:

Has there been any period of time between the default of the company upon its mortgage obligations in 1874, the occasion upon which you stated the coupon certificates were issued, and the 20th day of March, 1880, when the company was not in default upon some of its interest obligations, either to the Government or the holder of its February and August or its June and December bonds?

Your answer was, "There has never been a time when they were not in default."

The WITNESS. That is true.

CONDITIONS EXISTING AT TIME OF KANSAS PACIFIC CONSOLIDATION.

Q. So that was true at the time the Kansas Pacific consolidated with the Union Pacific, on January 24, 1880?—A. Yes, sir.

Q. Then it is true that at the time the Union Pacific and the Kansas Pacific consolidated, on the 24th day of January, 1880, the Union Pacific took into its care, if you please, a corporation whose first and second mortgage bonds were in default, and which had never earned money enough to pay its debts or its fixed charges; that is true?—A. I think in 1879 she earned the full interest, and perhaps more; but still there were these coupon certificates for back interest still outstanding.

Mr. HOLMES. They had not been presented?

The WITNESS. They were not presented.

Q. The directors of the Union Pacific Railway Company were familiar with the financial condition of the Kansas Pacific Railway Company were they, at that time?—A. I suppose; yes, sir.

Q. A portion of the Union Pacific Railway directors were also directors of the Kansas Pacific Company, as I understand, at that time?—A. Only a few of them; two or three.

Q. They had either the knowledge or the means of obtaining accurate knowledge, as to the condition of this Kansas Pacific road, and all its securities, at the time this consolidation was made?—A. Yes, sir; I would like to add one thing—that the condition of the business and the country out there in 1876 and 1877 was no guide to go by as to what it was in 1879 and 1880, because the country filled up so rapidly and the business increased so much.

Q. Had the stock of the Kansas Pacific Railway Company, including the \$4,000,000 Denver Pacific Railway Company stock, any market value on the 24th day of January, 1880?—A. Yes; I think the Kansas Pacific stock was selling over par.

Q. The Kansas Pacific stock?—A. I think so; yes, sir.

Commissioner LITTLER. On the 1st day of January, 1879, the Kansas Pacific Railway Company stock is reported to have been selling at 13 cents on the dollar, and on the last day of January it is reported to have been selling at 9½ cents on the dollar.

Commissioner ANDERSON. You have the years wrong.

Commissioner LITTLER. No. I have not. There it is.

Commissioner ANDERSON. Then the papers must be wrong.

Mr. JOHN F. DILLON. Does Mr. Poor state what it was worth in 1880?

Commissioner LITTLER. I am not reading from Poor's book.

A VOICE. Those prices are about correct.

Mr. PONDIE. I sold it at nine and ten dollars a share in 1879.

Mr. JOHN F. DILLON. Has there been any proof of the value of that stock in January, 1880?

Commissioner ANDERSON. I have ordered a complete list of quotations.

Mr. JOHN F. DILLON. May I ask a question on that subject?

The CHAIRMAN. Certainly.

By Mr. JOHN F. DILLON:

Q. Can you state, according to your best recollection, whether the Kansas Pacific stock was on the list?—A. Yes, sir.

Q. Its market value in January, 1880, was what?—A. I do not know about that month. I know one time the stock, I think it was in January, 1880, sold as high as 109.

By the CHAIRMAN:

Q. How do you fix the value of stocks in your mind? You are not able to fix any incident connected with a meeting of the board of directors. How do you distinguish between the two?—A. On stocks I always keep a pretty good interest in the market; the quotations.

Q. Did you not take any interest in your meetings?—A. Yes, sir.

Q. Did you not take the same interest in your meetings as you did in stocks?—A. Yes, sir.

Q. Why do you not recollect the instances about which you have been asked?—A. I recollect the price of stock better than the meetings, because I have not had a paper, or had anything to do with the Kansas Pacific for over seven years. I have not seen a book, or thought of it at all. I do know about that stock, because I had some.

Q. When were you employed first as secretary of the Kansas Pacific Railway Company?—A. I commenced as secretary in 1877, probably. I do not remember the month.

Q. What were you connected with prior to that time?—A. I was clerk in the Kansas Pacific.

Q. How long before that had you been clerking?—A. Since, I think, 1866.

Q. From 1866?—A. Yes, sir.

Q. Then you had been with the Kansas Pacific nearly from the beginning, as I understand you?—A. Pretty nearly.

Q. Do you recollect a meeting of any syndicate or combination for the purpose of buying up the stock of the Kansas Pacific or the Denver Pacific in 1878?—A. No, sir.

Q. Were you ever secretary of any such meeting?—A. No, sir.

Q. Have you had any other relation than the official relations as a clerk or secretary of Mr. Gould?—A. I did not know Mr. Gould.

Q. You did not know him?—A. No, sir.

Q. Did you hear at the time you were connected with the Kansas Pacific any discussion of a combination of the Union Pacific and the Kansas Pacific and the Denver Pacific?—A. Not until about the time of the consolidation.

Q. Not until the consolidation?—A. About that time.

Q. Did you ever hear it spoken of in 1878 or 1879?—A. No, sir; I did not come down here until 1879.

Q. At the office did you hear it discussed?—A. No, sir; I never new of any of the New York parties until I came down here in 1879.

Q. When did you first come down?—A. In 1879.

Q. Did you ever keep any accounts or statements of account that were given at the meetings of the board of directors?—A. Only the record books.

Q. Where are the record books?—A. I do not know. I suppose they are in Boston.

Mr. MINK. Yes. The Kansas Pacific books.

Mr. HOLMES. I would like to ask one question in explanation of Commissioner Littler's quotation.

The CHAIRMAN. Certainly.

THE MORGAN SUIT AGAINST THE UNION PACIFIC.

By Mr. HOLMES:

Q. Do you remember the subject-matter of the suit of Henry Morgan against the Union Pacific Company as to which you were interrogated by Mr. Commissioner Littler?—A. It was on the income bonds.

Q. As to the inquiries to which you made answer, quoted by Mr. Littler, were or were they not in relation to the earnings upon a part of the road, that part that was covered by the income mortgage according to the definition of "net income," as defined in the income mortgage?—A. Yes, sir.

Q. Did your answers relate or did they intend to relate to the operations of the entire road or only to that part of the road covered by the income mortgage?—A. That is all; only to the 394th mile-post.

Commissioner LITTLER. One of these interrogatories relates to that portion of the road extending to the 394th mile-post, and the other interrogatory covers the whole road, as I understand it.

Mr. HOLMES. I do not think so. I think I must have put those inquiries myself.

The WITNESS. The income bonds do not cover the whole road.

By Commissioner ANDERSON:

Q. Was not the 394 miles part of the road the part which produced the largest earnings?—A. Yes, sir.

Q. That was the eastern part?—A. The oldest part.

Q. With the branches in it?—A. Yes, sir.

INTEREST-BEARING INDEBTEDNESS OF KANSAS PACIFIC IN 1879.

By Commissioner LITTLER:

Q. I will ask you another question or two. Do you know the total amount of interest-bearing indebtedness on this Kansas Pacific Railway in 1879?—A. I could figure it up; I do not remember it now.

Q. Was it or not about \$26,116,350?—A. About that.

Q. Did this road ever pay interest on that sum of money from the time of its organization up to the 1st day of January, 1880?—A. I think not, on the whole.

Q. Then, as a matter of fact, the Kansas Pacific Railway never was able to earn enough money to pay interest on its several mortgage indebtednesses?—A. I do not know about 1879, but that she did. I could not state that. If these are gross earnings here, of \$4,873,000, I think perhaps she did.

Q. I read you a list of the mortgage indebtedness of this road, giving the several items:

The first-mortgage bonds were.....	\$45,303,00
The Denver extension bonds were	6,336,00
The Leavenworth branch was	888,80

The first land-grant bonds were	\$1,480,750
The second land-grant bonds were.....	1,500,000
Second-mortgage income	4,275,350
Funding bonds	1,500,000
Coupon certificates	2,340,503
Making a grand total of.....	24,335,603

CONCERNING EARNINGS OF KANSAS PACIFIC.

That is supposed to be the aggregate amount of the mortgage indebtednesses of this road on the 1st day of January, 1880. I now ask you whether that road was ever able to earn interest on that amount of indebtedness?—A. I can answer that up to 1879; about 1879 I cannot tell you.

Q. It is a mere matter of calculation how much it would take to pay interest on this indebtedness at 6 per cent. Will you tell me how much \$24,335,603 would require?—A. One million three hundred thousand dollars and odd.

Q. Do you remember the gross earnings of that road for the year 1879?—A. It is here.

Q. What is it?—A. Four million eight hundred and seventy-three thousand dollars against \$3,610,000 in 1878.

Q. What were the net earnings of the road?—A. It does not give it.

Q. Have you any means of ascertaining the net earnings of the road for that year?—A. I have not.

Q. Was it a sum equivalent to the amount of the interest on this indebtedness?—A. I do not know. Here is an increase of \$1,200,000 in gross in that year over 1878.

Q. Assuming that this Kansas Pacific Railway, with all its earning capacity, was never able to earn the interest on its bonded indebtedness, what was the value of this \$14,000,000 of stock; \$10,000,000 in the Kansas Pacific and \$4,000,000 in the Denver Pacific?—A. I could not answer that.

Q. Had it any real market value?—A. Yes, sir; it always had a market value.

Q. Had it any property of value behind it after paying the liens to which it was subordinated?—A. I think so.

Q. Do you mean to say that all the assets of the Kansas Pacific Railway, including its branches, would ever have sold for the \$24,000,000 which I have mentioned at public sale or at private sale?—A. I think it was worth it.

Q. You think it is worth it?—A. I do.

Q. In what market?—A. I think it is worth it to any connecting line.

Q. If it was worth that sum of money, would it not necessarily follow that it would pay interest on these \$24,000,000? Otherwise would it not be a bad investment?—A. I have no doubt that she earned it in 1879. The three or four years from 1874 to 1878 were terribly bad years.

Q. I do not doubt it; but do you know that it did?—A. I do not, for I have not the figures.

Q. Is it not true that these income bonds and the coupon certificates which were a lien upon the road were greatly below par at about the time this consolidation took place?—A. The income bonds were. The coupon certificates I never knew the price of. We had no market out here.

Q. If that be true, why do you say that this road was ever worth \$24,000,000, and would have sold for that much?—A. She had a land grant that was worth \$15,000,000 or \$20,000,000.

THE KANSAS PACIFIC LAND GRANT BONDS.

Q. How were these land-grant bonds; were not all the lands mortgaged to secure the land-grant bonds?—A. Yes, sir; but the issue of land-grant bonds was quite small.

Q. Were not all the lands mortgaged and were they not all subject to the land-grant mortgage?—A. Yes, sir.

Q. Then the land-grant mortgage did not aid the other bonds which were not secured by that mortgage?—A. No, sir.

Q. Do you mean to say that there was a large margin in these lands after paying off the land-grant mortgage?—A. Yes, sir; the land-grant mortgages, first and second, only amounted to \$3,500,000.

Q. How many millions of acres?—A. I think about 5,000,000 acres.

Q. In what part of Kansas are those lands located?—A. All through Kansas, right along from Wyandotte west.

Q. The larger portion was in the extreme western part of the State?—A. Not the larger portion.

Q. Do you know what the average price of lands was at that time along the line of that road?—A. I think the average price was something over \$3.

Q. Do you not know that a great deal of that land west, particularly on the Denver extension, was hardly worth the Government price at that time?—A. I know, but every year—

Commissioner LITTLER. But I am talking about this in 1879.

The WITNESS. Yes, sir; it did not have much value then.

Q. Not much?—A. No.

Q. Do you give it as your opinion that if that land-grant mortgage had been foreclosed and the land sold in 1879, there would have been a surplus after paying the interest?—A. Yes, sir; largely. I think that land-grant would pay out certainly \$12,000,000 above the first and second land-grant bonds.

By Commissioner ANDERSON:

Q. It would in 1879?—A. I mean as it has been sold. I do not know what the average is now, but I think it was much more than that per acre.

By the CHAIRMAN:

Q. If in 1879 you had a surplus, what was the necessity of issuing the certificates of shares of stock to pay some indebtedness of the company?—A. I do not say we did have a surplus.

The CHAIRMAN. As it was read to you it said so:

Resolved, That the 6,242 shares of the authorized capital stock of this company remaining unsubscribed and unissued may be issued, and the president and secretary are hereby authorized to execute certificates therefor in payment of the first coupon on the consolidated bonds and for other indebtedness of the company.

The WITNESS. I have not said there was a surplus in 1879.

The CHAIRMAN. There could not have been any surplus in 1879?

The WITNESS. I suppose not, from that; but the road shows \$1,200,000 more gross in 1879 than in 1878, and of course 40 per cent. of that must have been net. There must have been a large increase in 1879 but we have not the figures here.

A. H. CALEF.

AFTERNOON SESSION.

Mr. HOLMES. I desire to ask that the letter from Oliver W. Mink, May 11, to the chairman of the Commission, in response to the inquiry of the Commission, and the accompanying documents, be copied in the record of the Commission.

The CHAIRMAN. They will be put in the record.

Commissioner ANDERSON. In connection with the letter will be printed the minutes of the Union Pacific, the minutes of the Kansas Pacific, and the minutes of the Denver Pacific Companies, held on the 24th day of January, 1880.

They are as follows :

LETTER OF OLIVER W. MINK AS TO EXCHANGE OF DENVER PACIFIC STOCK.

[The Union Pacific Railway Company, Equitable Building. Charles F. Adams, jr., president; Elisha Atkins, vice-president; Henry McFarland, secretary and treasurer; Oliver W. Mink, comptroller; post-office box No. 5287.]

BOSTON, May 11, 1887.

Hon. ROBERT E. PATTISON,
Chairman United States Pacific Railway Commission,
No. 10 Wall Street, New York, N. Y.:

DEAR SIR: I am in receipt of your communication of the 6th instant, making certain inquiries in relation to the exchange of the stock of the Denver Pacific Railway and Telegraph Company at the time of the consolidation in January, 1880.

I submit the following answers:

First. The receipt for the Union Pacific Railway Company's stock issued in exchange for the Denver Pacific Railroad and Telegraph Company's stock is in the handwriting of Mr. James M. Ham.

Second. The Union Pacific Railway Company's stock so issued in exchange was delivered to the consolidated company and treated by it as stock owned by the company. I am not able to advise you as to whether or not there was any trust in which the Union Pacific Railway Company was recognized as the beneficiary, but I know of no circumstance which would have made a trust necessary.

Third. The accounts of the Union Pacific Railway Company show that that company derived all the advantages arising from the sale of said stock.

Fourth. The minutes of the meetings of the directors of the Kansas Pacific Railway Company, so far as they relate to this transaction, are submitted herewith.

Fifth. The books of the Union Pacific Railway Company, the successor by consolidation, show the compensation received for said Denver Pacific stock.

Sixth. In answer to this question I reply that at the date of the consolidation the Kansas Pacific Railway Company was the owner of 39,939 shares of the stock of the Denver Pacific Railway and Telegraph Company, which had been acquired in the following manner:

January 25, 1871.	15,010 shares received from Evans & Carr, in exchange	
	for \$500,000 in Kansas Pacific income bonds at par..	\$500,000
February 23, 1872.	14,979 shares purchased, for.....	150,000
January, 1880.	10,000 shares bought from Jay Gould, at \$10 per share.	100,000

These 39,939 shares thus owned by the Kansas Pacific Railway Company cost, therefore	750,000
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This stock was turned over to the Union Pacific Railway Company and regularly entered by the consolidated company on its books of account as an asset.

This stock was regularly exchanged for stock of the Union Pacific Railway Company on the following dates, viz:

	Shares.
February 16, 1880	39,986
January 6, 1887	3
Total	39,939

In addition to the above, in connection with other transactions, the Union Pacific Railway Company acquired 3,140½ shares of its own stock through exchanges, made mainly at or about that time, of stock of the Union Pacific Railroad Company and stock of the Kansas Pacific Railway Company owned by the constituent companies and then turned over to it.

The Union Pacific Railway Company, therefore, acquired from the constituent companies stocks, of those companies which were exchanged for its own stock, to the extent of 43,129½ shares.

These shares are accounted for as follows :

February 16, 1880, delivered to Jay Gould in payment for the following securities :		
Saint Joseph and Pacific first-mortgage bonds and scrip, at par	\$1,020,204 23	
Kansas and Nebraska Railway Company's first-mortgage bonds and scrip.....	729,820 00	
		\$1,750 00
Kansas and Nebraska Railway Company's second-mortgage bonds.....	24 00	
Kansas Central Railroad bonds.....	\$479,000 00	479 00
Kansas Central Railroad stock, 2,521 shares.....		59 00
Saint Joseph and Denver City receiver's certificates.....	\$784,000 00	784 00
Saint Joseph Bridge Building Company's bonds.....		307 24
Saint Joseph Bridge Building Company's stock, 4,000 shares.....		60,200 00
Saint Joseph and Western stock, 15,162 shares, at 20.....	\$375,000 00	
Hastings and Grand Island bonds	75,000 00	
Hall County bonds.....		
Total		3,464,168

(34,641 shares)

July 7, 1880, delivered to Jay Gould in payment for the following securities:		
Saint Joseph and Pacific Railroad first-mortgage bonds.....	\$10,300 00	\$12,000 00
Kansas and Nebraska Railway Company first-mortgage bonds.....	1,700 00	
		(120 shares)

December 18, 1880, sold to Sidney Dillon 8,300 shares, as follows :		
1,000 shares, at 107½		\$107,500 00
1,100 shares, at 107½		118,387 50
2,700 shares, at 107½		290,925 00
300 shares, at 107½		32,302 50
1,300 shares, at 108		140,400 00
600 shares, at 108½		64,950 00
1,300 shares, at 108 Ex. Div.....		140,400 00
		894,925 00
Less commission, ½		1,037 50
		893,887 50

April 12, 1881, delivered to Sidney Dillon, in exchange for a like number of shares of Union Pacific Railroad Company stock.....		893,887 50
May 11, 1887, on hand this date.....		

Total

Manifestly, therefore, the Denver Pacific stock was delivered to the consolidated company and held for a time by that company as stock owned by it. After having been exchanged, the new stock was disposed of and the proceeds were applied by the consolidated company to its own advantage. That company received as a consideration for the stock, the securities and cash above set out.

The Saint Joseph and Pacific, the Kansas and Nebraska, the Saint Joseph Bridge and the Hastings and Grand Island bonds have been exchanged for bonds of the Saint Joseph and Grand Island Railroad Company, which last-named company's bonds, thus received, were sold at a profit of \$428,615.95.

The Saint Joseph and Denver City receiver's certificates were paid in full with interest. The Saint Joseph and Western and the Saint Joseph Bridge stocks were exchanged share for share for stock of the Saint Joseph and Grand Island Railroad Company. The stock of the last-named company is, I am advised, now selling at from 28 to 30.

Taking into consideration the amount realized on the Saint Joseph and Grand Island securities, and also the amount realized on the Union Pacific stock received in exchange for the Denver Pacific stock, the net profits of the Union Pacific on the transactions in question were \$3,716,961.48. The present value of the Kansas Central securities is most uncertain. So far as they may have depreciated in value, so far the profits should be diminished. On the other hand, whatever sum is realized from the sale of the 4,000 shares of Saint Joseph and Grand Island stock, received in exchange for the Saint Joseph Bridge stock, which cost nothing, should be taken into account.

I submit a copy of the minutes of the meeting of the directors of the Union Pacific Railroad Company, held on January 24, 1880, called for in the telegram of your secretary of the 7th. The record book of the Denver Pacific Company is thought to be

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Ans. I am not able, at present, therefore, to furnish you copies of the minutes of meetings held by that company's directors in January, 1880, but will do so at the first moment possible.

I remain, yours, respectfully,

OLIVER W. MINK,
Comptroller.

MINUTES OF MEETING OF UNION PACIFIC DIRECTORS, JANUARY 24, 1880.

NEW YORK, January 24, 1880.

A special meeting of the directors of the Union Pacific Railroad Company was held, agreeably to required notice given by mail and telegraph, at the office of the president, 78 Broadway, at 11 o'clock a. m.

Present: Messrs. Dillon, Atkins, Dexter, Dows, Scott, Baker, Ames, Cammack, and Humphreys, and Government directors Niles, Chadwick, Smyth, Buckland, and House.

The record of the last meeting of the directors, held on December 4 was read and approved.

The records of the executive committee from December 4, to December 20, 1879, inclusive, were read for information, and the acts therein recorded were approved.

The resignation of Mr. Daniel Chadwick as a member of the executive committee was accepted, and Mr. Nathaniel Niles was appointed a member of that committee.

Mr. George B. Smyth resigned as a member of the finance committee, and Mr. Chadwick was appointed a member of that committee.

The president of the company laid before the meeting the resignation of Mr. Jay Gould as a director of this company and member of its executive committee, dated January 10, 1880, and stated that he had accepted the same.

On motion of Mr. Sage it was

Resolved, That the said resignation be received and accepted and that the action of the president in accepting the same be, and the same is hereby, approved.

On motion of Mr. Ames, seconded by Mr. Sage, it was

Resolved, That the proposition of the Colorado Central Railroad Company to this company to cancel and annul the leases of date the 17th and 20th days of February, A. D. 1879, whereby the Colorado Central Railroad Company leased its line of road in Colorado and Wyoming to this company for the term of fifty (50) years thence next ensuing, be and the same is hereby accepted, and the said leases are hereby canceled as of date January 1, 1870, of which notice shall be given at once to the said lessor company.

(Such notice was accordingly given to the executive committee of the Colorado Central Railroad Company.)

The president laid before the board a communication and report, dated January 16, 1880, from Mr. G. M. Dodge and Mr. Solon Humphreys in relation to a proposed consolidation of this company with the Kansas Pacific Railway Company, which was read and ordered to be placed in the files of the company.

The president presented for consideration the draft of articles of union and consolidation of this company and the Kansas Pacific Railway Company and the Denver Pacific Railway and Telegraph Company into a new company to be called the Union Pacific Railway Company, which articles were read, and are as follows:

Articles of union and consolidation between the Union Pacific Railroad Company, the Kansas Pacific Railway Company, and the Denver Pacific Railway and Telegraph Company, forming the Union Pacific Railway Company.

Whereas the Union Pacific Railroad Company, a corporation duly organized and existing under the act of Congress of July 1st, 1862, entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes," and the act of Congress of July 2d, 1864, and various other acts, amendatory of the foregoing, owns a line of railroad and telegraph extending from the Missouri River to Ogden, in the Territory of Utah, a distance of 1,042 miles; and

Whereas the Kansas Pacific Railway Company, described in the said act of Congress of July 1st, 1862, as the Leavenworth, Pawnee and Western Railroad Company, the name whereof was afterwards changed to that of the Union Pacific Railroad Company, Eastern Division, and again subsequently changed to the Kansas Pacific Railway Company, is a corporation which is entitled to participate in the benefits of the said act of Congress of July 1st, 1862, and of July 2d, 1864, and the various amendatory thereof and relating thereto; and

Whereas the said Kansas Pacific Railway Company owns and operates as a part of the Union Pacific Railroad a railroad and telegraph line, from a point at

with the Missouri Pacific Railroad, in Kansas City, in Missouri, thence from the Missouri River, at the mouth of the Kansas River, on the south side thereof, with a branch from Wyandotte in the State of Kansas, being from the east State line of Kansas to Denver, 639 miles in length, with a branch from a point on the main line near Leavenworth, 34 miles in length, in said State of Kansas, connecting Denver with the Denver Pacific Railway, and is entitled to extend said railroad to the western boundary of the former Territory of Kansas, to locate and construct branches of said railroad in the counties of the former Territory of Kansas adjacent to the line of said railroad, as then located and defined by law; and

Whereas the Denver Pacific Railway and Telegraph Company, under and virtue of the said acts of Congress, and of an act of Congress approved March 1869, entitled "An act to authorize the transfer of lands granted to the Union Pacific Railway Company, Eastern Division, between Denver and the point of connection with the Union Pacific Railroad to the Denver Pacific Railway and Telegraph Company, and to expedite the completion of railroads to Denver in the Territory of Colorado;" and of an act of Congress approved June 20th, 1874, which, among other things, enacts that for all the purposes of the said act of July 1st, 1862, and of all acts amendatory thereof, "the Denver Pacific Railway and Telegraph Company shall be deemed and taken to be a part and extension of the road of the Kansas Pacific Railroad to the point of junction thereof with the road of the Union Pacific Railway Company at Cheyenne, as provided in the act of March 3d, 1859," whereby and in force whereof the said Denver Pacific Railway and Telegraph Company is likewise entitled to participate in the benefits of the aforementioned acts of Congress of July 1st, 1862, and July 2d, 1864, and the various acts amendatory thereof and supplemental thereto, and relating to the Pacific system of railroads, all of which, whether particularly herein described or not, are, for greater certainty in this behalf, referred to and made part hereof; and

Whereas the said Denver Pacific Railway and Telegraph Company owns a line of road, one hundred and six miles in length, extending from Denver, where it connects with the said Kansas Pacific Railway, to Cheyenne, where it connects with the Union Pacific Railroad; and

Whereas in the aforesaid legislation of Congress, applicable to the above-mentioned three railroad companies, it is provided that they may unite and consolidate their respective organizations; and

Whereas each of the said above-mentioned three companies, by corporate act duly and severally had, have resolved, pursuant to the authority in that behalf vested in them by law, to unite and consolidate their respective organizations into one company, and have severally agreed to and with each other upon the terms of such an act and consolidation, being the terms herein embodied and expressed:

Now, this agreement of union and consolidation, made this the twenty-fourth day of January, A. D. 1880, between the said Union Pacific Railroad Company, party of the first part, the said Kansas Pacific Railway Company, party of the second part, and the said Denver Pacific Railway and Telegraph Company, party of the third part,

Witnesseth, that the said parties have respectively agreed, and do hereby severally agree to and with each other, upon the following articles of union and consolidation of their respective organizations into one company, viz:

ARTICLE I. The said Union Pacific Railroad Company, the said Kansas Pacific Railway Company, and the said Denver Pacific Railway and Telegraph Company, in consideration of the premises, do hereby severally agree to and with each other to unite and consolidate, and do hereby unite, form, and consolidate their respective organizations, properties, and companies into one consolidated company, which shall succeed to, possess, and be entitled to receive from the Government of the United States all and singular the grants, benefits, immunities, guaranties, acts, and things to be done and performed, and be subject to the same terms, conditions, restrictions and requirements which the aforesaid three companies respectively, at the date of this consolidation, are, or may be, entitled or subject to under the acts of Congress in that behalf, in place and substitution of said constituent companies so consolidate respectively; and the said consolidated company assumes to and for itself all of the provisions of said acts of Congress, so far as applicable, relating or in any manner appertaining to said constituent companies or either of them, including the power to sue and be sued in all courts of law and equity within the United States, whether Federal or State, and the right of corporations organized under a law of the United States to remove causes from State to Federal courts; and all of the provisions of the aforementioned acts of Congress, and each of them, so far as in their nature applicable to the company hereby formed, shall apply thereto, it being the intent of the parties hereto and of these articles of union and consolidation to organize the company hereby formed under the said acts of Congress, and to make the said acts of Congress and the charter or constituent acts of this company as fully as if the same were incorporated herein at large.

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ART. II. The name of the consolidated company hereby formed shall be the Union Pacific Railway Company.

ART. III. The capital stock of the said Union Pacific Railway Company shall be fifty millions seven hundred and sixty-two thousand three hundred dollars (\$50,762,300) (being the total aggregate amount of the outstanding stock of the three constituent companies), which shall be divided into shares of one hundred dollars each, and it shall be issued in lieu of the stock of the said constituent companies on the surrender thereof, for that purpose, by the respective holders thereof.

Every stockholder in the Denver Pacific Railway and Telegraph Company and in the Union Pacific Railroad Company shall receive, in place of every share of one hundred dollars surrendered, a share of one hundred dollars in the new company, and every stockholder in the Kansas Pacific Railway Company, the shares in which are only fifty dollars (\$50) each, shall receive, in place of every two shares of the stock at the time held by such stockholder in such company, a share of the capital stock of the new corporation, upon surrendering to the new corporation the certificates of stock held by such stockholder.

ART. IV. The said new corporation shall, without unnecessary delay, issue certificates of stock in such form as may by the board of directors be deemed advisable, and such board shall provide and adopt such rules and regulations as may be necessary and proper for the issuing and transfer of shares of stock of the said new corporation.

ART. V. The directors of the said Union Pacific Railway Company, to be elected by the stockholders at the annual meetings herein provided for, shall be fifteen in number, each of whom must be the *bona fide* owner of at least fifty shares of stock in the consolidated company. Such directors shall be chosen annually by a majority of the votes of the stockholders voting in person or by proxy at such election. And they shall continue to be directors until others are elected and qualified in their places. No person shall be a director unless he shall be qualified to vote for directors at the election at which he shall be chosen; and vacancies in the board of directors may be filled by the remaining directors at any regular meeting of the board.

The directors of said company shall, annually, as soon as may be after their election, elect from their own number a president and vice-president, and shall also elect a treasurer and secretary.

ART. VI. The following-named persons shall be the first directors of said corporation, viz: Fred. L. Ames, Ezra H. Baker, Elisha Atkins, F. Gordon Dexter, Sidney Dillon, Russell Sage, Jay Gould, Solon Humphreys, David Dows, William L. Scott, Silas H. H. Clark, Thomas T. Eckert, John Sharp, Grenville M. Dodge, Carlos S. Greeley.

The following-named persons shall be the first officers of the said corporation, viz: President, Sidney Dillon; vice-president, Elisha Atkins; treasurer and secretary, Henry McFarland.

The said directors and officers shall continue in office until their successors are chosen, as provided in these articles.

ART. VII. Until otherwise duly provided the annual meetings of the stockholders of the Union Pacific Railway Company shall be held at the company's office, in the city of New York, on the first Wednesday following the fourth day of March in each year, between the hours of 10 o'clock a. m. and 4 o'clock p. m. of said day.

Notice of such meeting shall be given as may be prescribed by the by-laws.

These provisions may be changed by the stockholders of consolidated company at any annual meeting of the said stockholders.

ART. VIII. The parties hereto of the first and second and third parts hereby assign, transfer, set over, and convey unto the said Union Pacific Railway Company, the consolidated corporation hereby formed, all the rights, privileges, exemptions, and franchises of each of said companies, parties hereto, and all the property, real, personal, and mixed, and all choses in action, debts, on whatever account, of, owing, or belonging to either of said companies, and all claims, demands, property, rights of way, leases, leasehold interests, branches, iron rails, rolling stock, tools, and implements, and property of every description, name, and nature, belonging to either of the said companies, with the appurtenances, to be held, owned, and controlled by the said consolidated corporation, its successors and assigns, as fully and completely, to all intents and purposes, as the respective parties thereto do or can now own, hold, use, enjoy, or control the same; and the parties hereto agree to execute and deliver to said consolidated corporation instruments of transfer or assignments, or other instruments proper or necessary to carry out the covenants, conditions, and provisions of this agreement.

This assignment, transfer, sale, and conveyance is made to the said consolidated corporation subject to all liens, charges, and equities pertaining thereto.

ART. IX. Nothing in this agreement contained shall affect or prejudice any rights otherwise existing of the consolidated company to make such further increase of stock or bonds as said consolidated company may by law be entitled to make, or restricted

the amount of stock or bonds which such consolidated company is by law authorized to issue or make.

Nor shall anything herein contained affect or impair the right to issue all unissued bonds under the Kansas Pacific Consolidated mortgage of date May 1st, 1879, wherein Jay Gould and Russell Sage are trustees; but such unissued bonds may, notwithstanding this consolidation, be issued in the same manner and with the same effect in all respects as if these articles had not been adopted and executed.

And it is expressly agreed that the stockholders of the consolidated company shall have all the powers which would have been possessed by the stockholders of each constituent company if this consolidation had not been effected, to ratify, approve and carry out any contracts made by either constituent company, and requiring the ratification or approval of its stockholders.

The power of the Union Pacific Railroad Company to issue all unissued bonds under the mortgage of July 1st, 1879, wherein the Union Trust Company is trustee is fully and completely reserved.

ART. X. The new company hereby formed does not herein assume any separate individual liability for the outstanding debts, obligations, and liabilities of the respective constituent companies, whose several and separate existence as to third parties, shall, as respects such debts, obligations, and liabilities of every kind and nature, still continue notwithstanding these articles of union and consolidation. But nothing herein contained shall prevent any valid debt, obligation, or liability of either constituent company from being enforced against the property of the proper constituent company, which by force of these articles becomes the property of the consolidated company.

The corporate existence of the respective constituent companies shall not absolutely cease *eo instanti* on the consummation of the union and consolidation herein provided for, but shall remain and continue so far as necessary to carry out the intent and purpose thereof.

ART. XI. These articles of consolidation shall go into effect, and the consolidated company hereby formed shall come into existence, upon the day on which a copy hereof is filed in the Department of the Interior, as provided in the legislation of Congress in that behalf.

ART. XII. The existing by-laws of the Union Pacific Railroad Company are hereby provisionally adopted, and shall apply to the company hereby formed, until duly changed or repealed.

ART. XIII. All books, vouchers, records, instruments of title, cash, evidence of debt, contracts, and documents pertaining to the business or property of the said three companies, parties hereto, shall, without delay, be delivered to the proper officers of the consolidated company, and the said books, records, and papers shall be deemed and taken, as far as necessary, as the records and books of said consolidated company; and said books, records, vouchers, and papers shall be subject to the proper examination and inspection of all persons interested therein.

ART. XIV. These articles may be amended and modified, from time to time, and in such manner as the holders of two-thirds of the stock of the consolidated company may direct or approve.

ART. XV. This agreement shall be executed on the part of the respective parties hereto, by the proper officers, and under the corporate seals of said companies.

In witness whereof the said parties have caused their respective corporate seals to be hereunto affixed, and the same to be attested by their respective presidents and secretaries, this the twenty-fourth day of January, 1880.

[SEAL.] THE UNION PACIFIC RAILROAD COMPANY,
By SIDNEY DILLON,
President.

Attest:
[SEAL.] HENRY MCFARLAND,
Secretary.

[SEAL.] THE KANSAS PACIFIC RAILWAY COMPANY,
By SIDNEY DILLON,
President.

Attest:
[SEAL.] A. H. CALEF,
Secretary.

[SEAL.] THE DENVER PACIFIC RAILWAY AND TELEGRAPH COMPANY,
By D. M. EDGERTON,
President.

Attest:
[SEAL.] D. H. MOFFATT, JR.,
Acting Secretary.

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The Union Pacific Railway Company has signified and hereby signifies its assent to and acceptance of the foregoing articles of union and consolidation, January 24, 1880.

[SEAL-]

THE UNION PACIFIC RAILWAY COMPANY,
By SIDNEY DILLON,
President.

On motion of Mr. Sage, seconded by Mr. Ames, it was
Resolved, That the president of this company be authorized and directed to execute, on behalf of this company, the said articles under its corporate seal, and also any necessary papers, contracts, and deeds to carry the same into effect.

On the passage of this resolution all directors present voted in the affirmative except Mr. Chadwick, who voted in the negative, and Mr. Buckland, who did not vote.

At 1 p. m. a recess was taken until 3.30 p. m.

Reassembled at 3.30 p. m.

On motion of Mr. Dexter, it was

Resolved, That whereas this company has united and consolidated with the Kansas Pacific Railway Company and the Denver Pacific Railway and Telegraph Company into the Union Pacific Railway Company, that the stock books of this company be closed.

At 4 p. m. adjourned.

HENRY MCFARLAND, Secretary.

A true copy.

Attest,

ALEX. MILLAR,

Assistant Secretary Union Pacific Railway Company.

MINUTES OF MEETING OF KANSAS PACIFIC DIRECTORS, JANUARY 24, 1880.

Meeting of the board of directors of the Kansas Pacific Railway Company, held at the company's office in the city of New York, January 24, 1880, at 11 o'clock, of which due notice was given by the secretary.

Present: Messrs. Dillon, Ames, Sage, Usher, Edgerton, Dodge, Ham, Greeley, and Cammack.

The president of the company presented the resignation of Mr. Jay Gould as a director of this company, dated the 10th day of January, 1880, and accepted by him as of that date.

On motion of Mr. Sage, seconded by Mr. F. L. Ames, it was

Resolved, That said resignation be accepted and the president's action in this regard ratified.

Said resignation is as follows:

NEW YORK, January 10, 1880.

To Mr. SIDNEY DILLON,

President of the Kansas Pacific Railway Company:

I hereby resign my place as director of your company and as a member of its executive committee.

JAY GOULD.

On motion of Mr. Edgerton, Mr. F. G. Dexter was unanimously elected to fill the vacancy occasioned by the resignation of Mr. Jay Gould.

The president reported that pursuant to authority given to this company by the laws of Kansas to purchase and hold the bonds and stock of any other railroad company or companies, this company had bought the following bonds and stocks of roads whose lines, constructed or being constructed, connect with the road of this company, viz:

A majority of the shares of stock of the Saint Joseph and Western Company, at \$20 per share, \$1,833,724.03.

Also, receivers' certificates of Saint Joseph and Denver City Railroad and mortgage bonds of the Saint Joseph and Pacific Railroad Company and Kansas and Nebraska Railroad Company, since consolidated into the Saint Joseph and Western Railroad Company, at par; also \$784,000 Saint Joseph Railroad bridge first-mortgage bonds, and 4,000 shares of the stock of said bridge thrown in, for the sum of \$784,000 (for said bridge bonds and bridge stock).

All of said sums the Kansas Pacific Company had agreed to pay on or before sixty days in the full-paid stock of the Kansas Pacific Railway or in the consolidated mortgage bonds of the last-named railway company at par.

The president also reported a like purchase on behalf of this company of 7,611 shares of stock in the Central Branch Union Pacific Railroad Company for \$1,826,500 to be paid for, one-half in Kansas Pacific consolidated bonds at par, issued under the mortgage of May 1, 1879, and the other half in Union Pacific collateral trust bonds at par.

On motion of Mr. Russell Sage, seconded by Mr. F. L. Ames, it was

Resolved, That the action of the president in the purchases of the said bonds and stock and each of said purchases be, and each of them is, severally ratified and approved, and it is further ordered that all the said stock be held and registered in the name of Sidney Dillon, trustee, and that the said bonds be deposited with the treasurer of this company, which resolution was unanimously carried.

There was presented to this company drafts of a proposed contract between it and the Saint Joseph and Western Railroad Company for a lease by this company to the hereafter executed, whereby this company agrees to accept a lease of the said Saint Joseph and Western Railroad on certain terms and conditions in the draft of the said contract specified.

On motion of Mr. C. S. Greeley, seconded by Mr. D. M. Edgerton, it was—

Resolved, That the president of this company be directed, on behalf of this company, to execute the said contract under the corporate seal of this company.

Which was then and there executed.

A like draft of a proposed continued contract for a lease of the Central Branch Union Pacific Railroad and its leased lines to the Kansas Pacific Railway Company was read, and, on motion of Mr. Cammack, seconded by G. M. Dodge, it was—

Resolved, That the president of this company execute the said contract under the corporate seal of this company.

Which was then and there done.

There was also presented the draft of a conditional offer to this company by Mr. Jay Gould for the sale to this company by said Gould of \$479,000 of the first-mortgage bonds of the Kansas Central Railroad, and of such other bonds as the said Gould may hereafter receive from the extension of the road now being built, and for the conditional offer of sale by him of two thousand five hundred and twenty-one shares of the stock of the said Kansas Central Railroad for the sum of \$479,000.

On motion of Mr. D. M. Edgerton, seconded by Mr. F. Gordon Dexter, it was—

Resolved, That said conditional offer be approved, and the president of this company be directed to execute an instrument showing such acceptance.

The president of the company read to the board a communication and report dated January 16, 1880, from G. M. Dodge and Solon Humphreys in respect of a proposition to unite and consolidate with the Union Pacific Railroad Company and the Denver Pacific Railway and Telegraph Company.

The president laid before the meeting for consideration articles of union and consolidation of this company and the Union Pacific Railroad Company and the Denver Pacific Railway and Telegraph Company into a new company, to be styled the Union Pacific Railway Company, which articles were read at length.

After consideration, on motion of Mr. F. L. Ames, seconded by Mr. Russell Sage, it was—

Resolved, That the president of this company be directed to execute on behalf of this company the said articles under the corporate seal, also any other necessary papers, contracts, and deeds, and to do all acts necessary to carry the same into effect.

On motion of Mr. G. M. Dodge, seconded by Mr. F. G. Dexter, it was—

Resolved, That whereas this company has agreed to unite and consolidate with the Union Pacific Railroad Company and the Denver Pacific Railway and Telegraph Company, into the Union Pacific Railway Company, that the stock-books of this Company be closed.

Subsequently the president reported that he had, pursuant to the resolution and vote above given, executed the articles of union and consolidation on behalf of this company, which said articles are as follows:

[Copy of the articles of union and consolidation will be found incorporated with the minutes of the meeting of the Union Pacific Railroad Company, held January 24, 1880, being the last preceding paper.]

A draft of a contract and indenture between the Union Pacific Railroad Company, party of the first part, the Kansas Pacific Railway Company, party of the second part, and the Denver Pacific Railway and Telegraph Company, party of the third part, and the Union Pacific Railway Company, party of the fourth part, intended to grant, bargain, sell, transfer, assign, and convey to the party of the fourth part, pursuant to articles of agreement and consolidation the property and assets of the respective parties of the first, second, and third parts as therein described, was presented for the action of this board, and on motion of G. M. Dodge, seconded by Mr. F. L. Ames, it was—

Resolved, That the president and secretary of this company do, on behalf of this company, and under its corporate seal, execute the said contract and indenture, and

MINUTES OF MEETING OF DENVER PACIFIC DIRECTORS. 313

other documents, papers, and instruments necessary at any time to carry the said consolidation into effect or execute its provisions.

On motion of Mr. Sage, seconded by Mr. Edgerton, it was—

Resolved, That the six thousand two hundred and forty-two shares of the authorized capital stock of this company remaining unsubscribed and unissued may be issued, and the president and secretary are hereby authorized to execute certificates therefor in payment of the first coupon on the consolidated bonds, and for other indebtedness of the company.

On motion of Mr. Sage the meeting adjourned.

A. H. CALEF,
Secretary.

A true copy.

Attest:

[CORPORATE SEAL.]

ALEX. MILLAR,
Assistant Secretary Union Pacific Railway Company.

MINUTES OF MEETING OF DENVER PACIFIC DIRECTORS, JANUARY 24, 1880.

Meeting of directors.

Meeting of the directors of the Denver Pacific Railway and Telegraph Company held at the company's office in the city of New York, January 24, 1880, at 78 Broadway, at 1 o'clock p. m., of which due notice was given by the secretary to each of the directors by telegraph, and in writing to each and every director of the company.

Present: D. H. Moffatt, jr., Sidney Dillon, D. M. Edgerton, W. S. Cheesman, C. S. Greeley, John D. Perry.

Mr. D. H. Moffatt, on motion, appointed secretary.

The resignation of Mr. Jay Gould, dated the 10th day of January, as a director of this company, was read and on motion accepted.

The president of the company read to the board a communication and report, dated January 16, 1880, from G. M. Dodge and Solon Humphreys in respect of a proposition to unite and consolidate with the Union Pacific Railroad Company and the Kansas Pacific Railway Company.

The president laid before the meeting for consideration articles of union and consolidation of this company with the Union Pacific Railroad Company and the Kansas Pacific Railway Company into a new company, to be styled "The Union Pacific Railway Company," which articles were read at length; dated January 24, 1880.

[Copy of the articles of union and consolidation will be found incorporated with the minutes of the meeting of the Union Pacific Railroad Company held January 24, 1880, heretofore printed in this volume.]

After consideration, on motion of Mr. D. H. Moffatt, jr., seconded by Mr. W. S. Cheesman, it was voted that the president of this company be directed to execute on behalf of this company the said articles under the corporate seal, the same to be attested by the secretary of this meeting, and also that the president execute any other necessary papers, contracts, and deeds, and do all other acts necessary to carry the same into effect.

Carried unanimously.

On motion of Mr. D. H. Moffatt, jr., seconded by Mr. W. S. Cheesman, it was—

Resolved, That whereas this company has united and consolidated with the Union Pacific Railroad Company and the Kansas Pacific Railway Company into the Union Pacific Railway Company, that the stock-books be closed.

Carried unanimously.

Adjourned until 4 o'clock p. m. this day at the same place.

D. H. MOFFATT, JR.,
Secretary pro tem.

I do hereby certify that the foregoing is a true and correct copy from the records of the proceedings had at a meeting of the directors of Denver Pacific Railway and Telegraph Company held on the 24th day of January, A. D. 1880, at 78 Broadway, in the city of New York.

Witness my hand and the seal of the company this seventeenth day of May, A. D. 1880, at Denver, Colo.

[OFFICIAL SEAL.]

R. R. MCCORMICK,
Secretary Denver Pacific Ry. and Tel. Co.

ADJOURNED MEETING.

JANUARY 24, 1880—4 o'clock.

Present as before.

Resolved, That the president be authorized to call any special meeting or meetings of the stockholders that may be deemed necessary or desirable to consummate the articles of consolidation.

DAVID H. MOFFATT, JR.,
Secretary pro tem.

I do hereby certify that the foregoing is a true and correct copy from the records of the Denver Pacific Railway and Telegraph Company in my office of a certain resolution adopted by the board of directors of said company at an adjourned meeting held at 4 o'clock p. m. on the 24th day of January, A. D. 1880, at 78 Broadway, New York.

Witness my hand and the seal of the company. Done at Denver, Colo., this 20th day of May, A. D. 1880.

[OFFICIAL SEAL.]

R. R. MCCORMICK,
Secretary Denver Pacific Rwy. and Tel. Co.

NO. 10 WALL STREET, NEW YORK,
Wednesday, May 11, 1880.

OLIVER W. MINK, being duly sworn and examined, testifies as follows:

UNION PACIFIC PROFIT ON TREASURY STOCK.

By Commissioner ANDERSON:

Question. You state at the end of your letter, as the result of your report, that the Union Pacific had made a profit of \$3,716,961.48 on the treasury stock that you referred to. I presume by that expression "profit," you mean that that is the total of the proceeds of that stock?—Answer. The proceeds in excess of the cost of the stock.

Q. Have you got that account made up so that we can see it?—A. The cost of the stock is shown on the first or second page of my letter.

Commissioner ANDERSON. I call your attention to the fact that the cost which you refer me to is the cost of the Denver Pacific stock to the Kansas Pacific Company.

The WITNESS. Quite right, sir.

Commissioner ANDERSON. But the statement of profit is the profit of the Union Pacific Company in the transaction in question. They do not appear to relate to the same money.

The WITNESS. It is the same. The Denver Pacific stock had been turned over to the Union Pacific Company as successor to the Kansas Pacific Company. The consolidated company inherited the Denver Pacific stock.

Commissioner ANDERSON. You mean to say that the account of the 39,986 shares of Denver Pacific stock, being charged with \$750,000 as their cost price and credited with all the transactions you refer to, would show a profit of three million seven hundred and odd thousand dollars?

The WITNESS. Precisely.

Q. Have you made that account out in connection with your letter?—A. No, sir; I have not. I can furnish it, though, without any difficulty. It is shown on the books of the company; either on the books of the Union Pacific or of the Kansas Pacific Company.

Q. You say, after having traced the title of the Union Pacific Company to 43,129½ shares of stock, that "these shares are accounted for

as follows," and then you state under date of February 16, 1880, that there was delivered to Mr. Jay Gould in payment for the following securities (which you there name), 34,641 shares of stock. From what book did you derive that information?—A. From the books of the Union Pacific Company.

Q. What particular book is that transaction entered in?—A. It is on the journal and the ledger—the first journal and ledger of that company.

Q. Does that book show between whom that transaction was made?—A. Yes, sir; as between the Union Pacific Company, as successor of the Kansas Pacific Company, on one side, and Mr. Gould on the other.

Q. I ask, does the book show who agreed to those terms?—A. Not that book; no, sir.

Q. What book shows how the terms were arrived at?—A. I think the record book of the Kansas Pacific Company.

Q. The Kansas Pacific Company?—A. Yes, sir.

Q. Then your understanding is that the terms were arranged between the Kansas Pacific Company and Mr. Gould before the Denver Pacific stock was passed over and exchanged?—A. Yes, sir.

Q. Do you know between whom, acting for and representing the Kansas Pacific Company on one side, and who, acting for Mr. Gould on the other, those terms were arrived at?—A. Only so far as is disclosed in the minutes that accompany my letter.

Q. You notice the fact that the shares of stock referred to in the resolution appearing in the minutes of the Kansas Pacific are not precisely the same as those which are contained in your letter?—A. I did notice it; yes, sir.

Q. Do you understand that it is the same transaction, subsequently modified?—A. I understand so; yes, sir.

Q. Can you explain how the modification came about?—A. I cannot, sir.

PURCHASE BY KANSAS PACIFIC COMPANY OF SAINT JOSEPH AND WESTERN STOCK.

Commissioner ANDERSON. I will read to you this report from the Kansas Pacific meeting, and see how far you can explain it:

The president reported that pursuant to authority given to this company by the laws of Kansas to purchase and hold the bonds and stock of any other railroad company or companies, this company—

That is, the Kansas Pacific Company—

had bought the following bonds and stocks of roads whose lines constructed, or being constructed, connect with the road of this company, viz:

A majority of the shares of the stock of the Saint Joseph and Western Company, at \$20 per share, \$1,833,724.03.

The WITNESS. If you will allow me, I cannot understand that. I think that must have been inserted in the record book by mistake. There is no connection with the sentence before it. I do not understand it at all.

Commissioner ANDERSON. The figures "\$1,833,724.03" appear to have no meaning in connection with the rest.

The WITNESS. No connection with the words just preceding them.

Q. Do you know in whose handwriting the minutes are?—A. In the handwriting of Mr. Calef.

Q. Are those figures in the same handwriting?—A. I believe so. I can explain it to you further along, but it has no connection with that sentence.

Commissioner ANDERSON. Then follows: "Also receiver's cert of St. Jo & Denver City R. R. and mortgage bonds of the St. Joseph R. R. Co., and Kansas & Nebraska R. R. Co., since consolidated into the St. Jo & Western Railroad Company at par," but it does not seem to state an amount.

The WITNESS. No, sir.

Commissioner ANDERSON. Unless this prior figure refers to it.

The WITNESS. I think it does.

Commissioner ANDERSON. Your judgment is that the figures 742.03 refer to the amount of the securities described after these which I have read?

The WITNESS. To those following, as well as those preceding.

Q. Have you added them up to see?—A. No, sir. Let me take a letter a moment, and I think I can explain it.

Commissioner ANDERSON. We will take your explanation now.

The WITNESS. The \$1,833,724.03 is made up of the face value of Saint Joseph and Pacific bonds, the Kansas and Nebraska bonds, the Saint Joseph and Denver City receiver's certificates.

Q. Can you give us the distribution of those different securities? They are set out in detail in my letter.

Q. They are set out in your letter?—A. Yes, sir.

Q. Then these figures agree with the figures which you reported the payments made for the stock delivered to Mr. Gould on the 1st of February, 1880?—A. Yes, sir; except as to a few cents difference. A slight clerical error was made there.

SAINT JOSEPH BRIDGE BONDS.

Q. The next item stated in the minutes is "\$784,000, Saint Joseph road bridge first mortgage bonds, and 4,000 shares of the stock of the bridge thrown in." Does that appear in your letter as being also referred to Mr. Gould at the same time?—A. As being received from Mr. Gould; yes, sir.

Q. Do these minutes contain any reference to the other securities enumerated in your letter as having been received from Mr. Gould, the Hastings and Grand Island and the Kansas Central?—A. I do not know whether the Hastings and Grand Island are referred to in the minutes; I do not remember.

Commissioner ANDERSON. I thought you were more familiar with the minutes than I was, and you would find it more quickly.—A. I think the Hastings and Grand Island is referred to specifically in the minutes, except as it may be embraced in a phrase at the close of the last resolution, which reads: "Other indebtedness of the company."

Q. The point of my inquiry is this: Do you understand that the arrangement for this transaction, this exchange of the Union Pacific stock for the securities enumerated in your letter, was an arrangement that had been consummated between the Kansas Pacific Company and Mr. Gould before the consolidation?—A. I do; yes, sir.

Q. That is what you understand?—A. That is my understanding of the matter.

Q. But you are unable to say by whom that was negotiated on behalf of the Kansas Pacific Company with Mr. Gould?—A. I am not sure, but I say by whom the negotiations were entered into.

Q. You cannot tell us?—A. No, sir; I cannot tell you.

Q. You never heard Mr. Gould say?—A. No; I never heard him refer to it.

Q. The report to the Kansas Pacific is made by Mr. Sidney Dillon?—
A. The president.

Q. Did you ever hear him say how that arrangement had been made between Mr. Gould and the Kansas Pacific?—A. Not to my recollection.

Q. Have you any knowledge of the value which these securities that were received from Mr. Gould bore at the time they were received by the company?—A. No, sir.

Q. Had you any knowledge at the time?—A. No, sir.

Q. Is it not true that the essential feature of the cash receipts by the Union Pacific Company from these securities was derived by a negotiation of the Saint Joseph and Grand Island bonds after the reorganization in 1884?—A. Yes, sir; to some extent.

Q. No interest had ever been paid on any of those bonds, or the underlying bonds, until after the reorganization?—A. Not in cash.

Q. On the Kansas and Nebraska and Saint Joseph and Pacific?—A. I ought to except the bridge; on none of them excepting the bridge bonds.

Q. From whom were those cash receipts of the Union Pacific Company, after the last reorganization, received?—A. From the persons to whom the bonds were sold.

Q. Was it not all done through one office?—A. I cannot tell you. My impression is that the bonds were disposed of in the market.

KIDDER, PEABODY & CO.

Q. Was not that entire issue sold through Kidder, Peabody & Co.?—
A. I cannot tell you; the books will show.

Q. The whole issue became \$7,000,000?—A. Yes, sir.

Q. And the interest of the Union Pacific, by the different changes, had reached \$3,500,000, or that vicinity?—A. About four-sevenths, if I recollect right.

Q. About four-sevenths of the whole issue?—A. Yes, sir.

Q. In order to effect that negotiation, what did the Union Pacific do in order to sell the bonds?

The WITNESS. In order to make the sale of the bonds?

Commissioner ANDERSON. Yes, sir.

A. I think the company did nothing, except to enter into negotiations with brokers and make the sale.

Q. Did they not, as a matter of fact, guarantee the interest on the whole issue of \$7,000,000?

The WITNESS. At that time?

Commissioner ANDERSON. Yes.

A. No, sir.

Q. I mean, have they not?—A. They had before that time; yes, sir.

Q. They guaranteed the payment of the interest before the sale, and then they sold the issue?—A. I believe that is right; yes.

Q. So that, in order to satisfy yourself that the Union Pacific has made this profit, it must turn out that they will lose nothing by that guarantee?—A. Precisely.

Q. And if they should lose anything by that guarantee it might be a very disastrous negotiation?—A. Yes, sir.

Q. What are the present earnings of the Saint Joseph and Grand Island?—A. They amount to more than enough to meet the interest on these first mortgage bonds and also on the second-mortgage bonds.

Q. How much are the second-mortgage bonds?—A. \$1,030,000, at 5 per cent.

CONSTRUCTIVE MILEAGE.

Q. Do you know what constructive mileage is allowed to that road, if any?—A. I do not; there is very little interchanged business with that line on which such allowances are made. The constructive mileage in this case amounts to almost nothing.

Q. So the main feature of its business is local business?—A. Very largely local.

Q. You say, on the whole, that road makes enough to pay the interest on the first and second mortgage?—A. Yes, sir.

Q. How long has that been true?—A. Ever since the reorganization, I think, except as to the first half year.

Q. Then it has been true for the last half of 1885 and all of 1886?—A. All of 1886, certainly.

Q. What was the date of the reorganization?—A. I think it was in May, 1885; I am not sure.

Q. Who was the president of the company?—A. Mr. James H. Benedict.

Mr. JOHN F. DILLON. I would like to ask him one question.

The CHAIRMAN. Certainly.

By Mr. JOHN F. DILLON:

Q. As a consideration for this guarantee, do the Union Pacific Company have a running agreement with the Saint Joseph and Grand Island in the nature of a lease, covering the whole period of the guarantee?—A. Yes, sir. I desire that my letter, and the minutes furnished by me in connection therewith, shall be regarded as given under oath, and as part of my testimony.

DODGE AND HUMPHREYS' REPORT ON THE ADVISABILITY OF KANSAS PACIFIC CONSOLIDATION.

In connection with the letter above referred to, I now produce a copy of the report which is referred to in the minutes of the proceedings of the different companies, being a report on the advisability of the consolidation, made by G. M. Dodge and Solon Humphreys, and embracing a letter from Jay Gould, Russell Sage, F. Gordon Dexter, Elisha Atkins, Fred. L. Ames, and E. H. Baker.

It is as follows:

NEW YORK, January 16, 1880.

Messrs. JAY GOULD, RUSSELL SAGE, F. GORDON DEXTER, ELISHA ATKINS, FRED. L. AMES, E. H. BAKER:

GENTLEMEN: We acknowledge receipt of the following letter, signed by you, and dated New York, October 23, 1879:

"General G. M. DODGE and SOLON HUMPHREYS, Esq.:

"GENTLEMEN: The undersigned, directors in the Union Pacific and in the Kansas Pacific Railroad Companies, conceiving that a consolidation of these companies upon equitable conditions will promote the interests of each as well as those of the public, and knowing your familiarity with the problems which such a step involves, and having confidence in your judgment, we unite in requesting you to thoroughly consider, and with all convenient speed report, upon the basis and terms of a fair, just, and equitable consolidation of these two companies."

In compliance with the request therein, we have considered the question of the consolidation of the Union Pacific, Kansas Pacific, and the Denver Pacific Railroads and respectfully submit our conclusions.

It is manifest from the act of Congress of 1862, and the more enlarged provisions in the act of 1864, for consolidation, as well as by the provisions of subsequent legislation, requiring the Pacific roads, under heavy penalties, to be operated throughout

their whole extent as one continuous line, that Congress contemplated such consolidation as probable, and it is equally manifest from past experience that this requirement can be much better carried out where the roads are under one management than where they are under two.

In considering the question of consolidation we first sought the views of the operating department of each road as to the comparative condition of the two roads and the probable results of such consolidation.

We next considered the comparative value of the two properties, their earning capacity, and the effect upon the country they now accommodate, and their future natural extensions, and finally the economy of such consolidation and its policy.

Without entering into details we will state briefly the results that control our recommendation.

First. The operating departments of the two roads consider a consolidation as very desirable so far as they are concerned. They hold that it will largely decrease their expenses and increase their gross and net earnings and harmonize conflicting interests; that they can better accommodate the traffic that pertains to each and obtain better net results therefrom.

Second. The present condition of the two roads, their road beds, structures, equipment shops, terminal facilities, may be considered to be first class, and ample for the business they now transact. Their earning capacity is being steadily increased to meet future demands, and the earnings of both roads for the year 1879 show very satisfactory results.

Third. The country that each seeks in the future to develop is naturally tributary to both, and a strong, prosperous, and healthy railway would be much more likely to afford adequate railway facilities than would be the case with two warring and rival companies.

Especially is this the case in the large and growing State of Colorado and in the Territory of Wyoming. Again, one corporation, of the wealth and receiving the earnings of these two roads, used under one direction, could develop new territory and advance capital to build new lines that at first the country would not justify.

Fourth. Both roads reach, and compete for business from, the same eastern and western commercial centers, while their local interests are widely separated; hence under one management these conflicting interests would be harmonized and more economically administered.

Fifth. The Union Pacific and Kansas Pacific Railroads (including the Denver Pacific and all their other branches) have to-day a mileage of about 3,746 miles, necessarily conflicting as they grow nearer to each other or as they contend for the same territory. To-day it is all paying property, and it is the duty to the owners, if possible, to harmonize their interests and protect their future.

These considerations, together with the fact that the physical conditions of the roads are about the same, their earning capacity being about equal as compared with their indebtedness, and with the strong conviction of those who operate the two properties of the beneficial results to be obtained from operating them as one, we have concluded to recommend to you that they should be consolidated, in accordance with their charters, upon the following basis:

The new company to be known as the Union Pacific Railway Company; that is, the Union Pacific Railroad with a stock capital of \$36,762,300, and the Kansas Pacific Railroad, including the Denver Pacific Railway, with stock capital as follows: Kansas Pacific \$10,000,000, Denver Pacific \$4,000,000, making a total of \$14,000,000, shall be consolidated into the Union Pacific, with a stock capital of \$50,762,300, and the stock of the Union Pacific Railway, after the consolidation, to be issued for the stock of the Union Pacific, the Kansas Pacific, and Denver Pacific Railroad, share for share.

The Union Pacific Railway would then represent a mileage of actually constructed and operated road of 3,746 miles, or less than \$14,000 of stock per mile, controlling and developing a territory now in its infancy, the growing business of which and its rapid development have astonished every one. Its future business no one can now safely predict, but it is beyond question that such a consolidation and such a corporation would control as many, if not more, miles of paying road than any other in the world, and would have a strength, character, and ability for future growth and development unprecedented.

Trusting that our consideration of this subject and our conclusion thereon may meet your approval,

We are, gentlemen, very respectfully, yours,

OLIVER W. MINK.

G. M. DODGE.

SOLOMON HUMPHREYS.

Mr. LEO. You sent for me. In case you want me to-morrow, will you oblige me by making it after 3 o'clock? I am alone, and busy.

Mr. JOHN F. DILLON. If you want to hear Mr. Gould to-morrow, he will come at any time.

Commissioner ANDERSON. Mr. Sage sent us word if we would let him off to-day he would come to-morrow.

Mr. JOHN F. DILLON. You want him first?

Commissioner ANDERSON. It is not material, but under those circumstances we thought we would hear him to-morrow.

Mr. JOHN F. DILLON. Mr. Gould is going to move into the country and he would rather attend to-morrow.

Commissioner ANDERSON. I would rather hear him after Mr. Sage. We will have a public session at 11 o'clock.

The Commission then adjourned to Thursday, May 12, 1887, at 10 a. m.

NO. 10 WALL STREET, NEW YORK.

Thursday, May 12, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

GIOVANNI P. MOROSINI, being duly sworn and examined, testifies as follows:

By Commissioner ANDERSON:

Question. What is your occupation?—Answer. I am a banker.

Q. Have you dealt in stocks?—A. Yes, sir.

Q. As a broker for other persons?—A. No; I am not a broker.

Q. Have you been a broker?—A. I have been a partner of Mr. Gould, as you know, when he had this broker's firm.

Q. When was that?—A. From 1881 to December 31, 1885.

Q. Who were the members of the firm?—A. Mr. Gould, his son (George), Mr. Connor, and myself.

Q. Where was your office?—A. The first office was at 23 Nassau street. Then we moved to 80 Broadway, and then to 71 Broadway.

Q. When did you move to 80 Broadway?—A. I think we moved in 1879.

Q. Were you at 80 Broadway at the time of the consolidation between the Union Pacific and Kansas Pacific Railroad Companies?—A. I think so.

Q. That was in January, 1880?—A. I think so.

CONCERNING THE ACCOUNT BOOKS OF W. E. CONNOR & CO.

Q. What were the names of the employés of that firm who kept your books?—A. Mr. Segur.

Q. Give his full name.—Answer. A. G. P. Segur.

Q. Where does he reside?—A. 71 Broadway.

Q. What was his position?—A. He was the book-keeper of the firm.

Q. Who was the cashier?—A. He was the cashier also.

Q. What other book-keepers were there?—A. We had Mr. Mathez.

Q. Give his full name.—A. His name is F. L. Mathez, I think.

Q. Where does he reside?—A. 71 Broadway.

Q. At present?—A. Yes, sir.

Q. Who else was in your office?—A. There were a lot of boys; but they had nothing to do with the books.

Q. Those were the only responsible clerks that you employed?—A. Yes, sir.

Q. In 1880 what books did your firm keep?—A. We kept only the firm's books.

Q. What books were those? Please enumerate them.—A. The daily purchase and sales of stocks, the cash-book, and the ledger.

Q. Did you keep a blotter?—A. We had no blotter. It is the purchase and sales book.

Q. Have you those books that you kept in 1880?—A. I do not know anything about that; I had nothing to do with that.

Q. When did you last see those books?—A. I never used to see them. I never bothered myself with the books. I had nothing to do, really, with the purchase and sale of stocks. Mr. Connor was the one that attended to that. He was the broker of the firm.

Q. Mr. Washington E. Connor?—A. Yes, sir.

Q. Who had charge of the supervision of the accounts?—A. Himself.

Q. Mr. Connor?—A. Yes, sir.

Q. Where is Mr. Connor now?—A. 71 Broadway.

Q. Is he there to-day, do you know?—A. Yes, sir.

Q. Do we really understand you to say that you never have heard of these books or anything at all about them?—A. Oh, I used to see them but I never took any notice of them, because my work was altogether different.

Q. When was your firm dissolved?—A. December 31, 1885.

Q. When it was dissolved was there not an ascertainment of the relative interest of each of the partners from the books?—A. When the firm was dissolved we divided what there was to be divided among the firm. That is all.

Q. For the purpose of seeing whether that result was correct or not did you have occasion to examine any books or accounts whatever?—A. They used to give us a trial balance at the end of the year to each of the partners. That is all.

Q. When did you receive your last trial balance?—A. December 31, 1885.

Q. You received it first just about that time?—A. Yes, sir.

Q. Not afterwards?—A. No, sir.

Q. Since that time where have you transacted your business in the day-time?—A. 71 Broadway.

Q. And Mr. Connor also at 71 Broadway?—A. Yes, sir.

Q. In the same room?—A. In the same old office.

Q. Has he continued substantially the same kind of business that he was doing before?—A. With the exception that instead of having Mr. Gould as a customer and partner he was doing business for other people.

Q. Do you know whether he continued his accounts in the same books which you had in December, 1880?—A. I do not know anything about it, because I have nothing to do with the firm. I only have office room there.

Q. Being in the room, did you ever see the old books of the old firm in that room?—A. No, sir.

Q. Do you know what kind of a mark those old books had on the back?—A. I suppose they had the year.

Q. Did they have the initials of the firm on the back?—A. I suppose so.

Q. Have you never heard Mr. Connor say what has become of those books?—A. No, sir; I have never asked him.

Q. You have talked to him about it?—A. No; I never did.

Q. You have been examined in another suit where those books were referred to?—A. I did not have the books.

Q. I know you did not have them; but I am now asking you whether you spoke to Mr. Connor about them at that time?—A. Mr. Connor was in Europe then, don't you see.

Q. Have you never spoken to Mr. Connor since about the suit?—A. No, sir.

Q. Never mentioned that you had been examined and that they bothered the life out of you about those books?—A. He simply smiled and it did not go any further.

"CHILDLIKE AND BLAND."

Q. "Childlike and bland!" You did have some little talk with him about those books?—A. I may have had an informal talk, you know; but I do not remember what I said to him about them.

Q. Did you have an informal talk with Mr. Connor more than once about those books?—A. No; I only told that I had a good deal of trouble about those books; that is all.

Q. And he smiled?—A. I suppose he did.

Q. Did Mr. Connor tell you he did not know where those books were?—A. No; he did not say a word.

Q. Did you ask him whether he knew where the books were?—A. No; I did not.

Q. You did not feel any curiosity to find out?—A. No; I did not care anything about it.

Q. Did you ever say to Mr. Gould that you had been asked about those books?—A. Mr. Gould was there at the time. He knew it at the time, you know.

Q. At the time of the trial?—A. Yes, sir; at the time of the trial.

Q. When you got off the stand did you and Mr. Gould talk about that suit?—A. No.

Q. He did not say anything about it?—A. He is a man of very few words, you know.

Q. But still I ask you whether you said to Mr. Gould at that time, or have at any time since said to him, that you had been troubled about those books, and referred to that matter in any way in talking to Mr. Gould?—A. Not that I remember.

Q. Would it not have been very natural to say to him, "I think those books ought to be found?"—A. I tell you Mr. Gould is a man that don't want to be talked to unless he talked to you first, and as he never brought the subject up to me I never said a word.

Q. You were his partner?—A. Yes, sir.

Q. And had been his partner?—A. I know; but that is the kind of a man he is, no matter whether you are his partner or not.

Q. I am only talking about your rights. You had been asked in public proceeding to produce books relating to transactions in which you were a partner. Is that not so?—A. I know it; but I could not find the books, although I hunted high and low for them.

Commissioner ANDERSON. Of course not, if you would not ask the question of the people who knew where they were.

The WITNESS. Of course Mr. Gould would say he did not know anything about the books.

Q. How do you know he would say that?—A. Because he was as good as himself.

Q. How do you know he would say that to you?—A. He did not say that to me, but he said that in court.

Q. How do you know but what, if you had asked him off the stand, he would have told you how the books could be found?—A. I did not ask him that because I thought there was no use to ask him.

"NOT AFRAID OF ANYBODY."

Q. Are you afraid of Mr. Gould?—A. I am not afraid of anybody.

Q. Why did you not ask him, when it was your public duty, to disclose where they were?—A. I did not know anything about the books; I never saw them. When they were taken away, I did not know what they had done with those books; I had no means of ascertaining; I recollect that Mr. Vanderpoel, who was my lawyer, sent me in one of those spare rooms where they had all the old books, boxes, and everything thrown in there, to find them, and I looked for a day and a half and I could not find any trace of them. I exhausted every means in my power to find them.

Commissioner ANDERSON. It does not strike me that you did, if you did not ask Mr. Connor and Mr. Gould.

The WITNESS. Mr. Connor was in Europe, and Mr. Gould did not know anything about them, any more than I did.

Commissioner ANDERSON. I questioned you as to what you asked Mr. Connor when he came back, and it appears that there has been no effort to find them.

The WITNESS. Mr. Connor simply smiled, and did not say anything else.

Q. Did you ever ask Mr. Segur where those books were?—A. Mr. Segur said he did not know anything about them.

Q. Do you think those books flew away by themselves?—A. I do not imagine any such thing; but I could not find where they were.

Q. Do you not know, as a matter of fact, that those books could only be removed by direction of some one who had authority to give the order?—A. I know; but I do not know who gave the order.

Q. And you did not care to ask the only persons who could give the order—Mr. Gould and Mr. Connor?—A. The matter dropped then, and I did not care to bother my head any more about it.

Q. Has your business in dealing with stocks been extensive?

The WITNESS. Do you mean personally or for the firm?

Commissioner ANDERSON. No; the other way. Have you had large transactions? I will pass to another subject first. Have you the trial balances which you used to receive from time to time?—A. No, sir.

Q. They are not in your possession at all?—A. No, sir.

Q. What has become of them?—A. They would have only a trial balance, and show it to us, and then we would give it back to the book-keeper.

Q. And they have gone with the other papers of the concern?—A. I suppose so.

Q. Has your business been extensive, on a large scale?

The WITNESS. Do you mean personally?

Commissioner ANDERSON. No, I mean for other people, in buying and selling stocks.

The WITNESS. While we were with Mr. Gould?

Commissioner ANDERSON. Yes.

A. We only did business for Mr. Gould; that is all.

Q. Were the orders that you gave large and frequent?—A. I never gave any orders; it was Mr. Connor, the broker.

Q. Were you not aware of the orders when they were given?—A. No, sir.

Q. And of the different transactions?—A. No, sir.

Q. Did you never hear of the amount of stock that your firm was buying or selling?—A. No, sir.

Q. Mr. Gould was not a member of the Stock Exchange?—A. No, only Mr. Connor was a member; that is all.

Q. Then, in all your transactions that went through your books, according to the rules of the Stock Exchange, your firm received the usual commission of one-eighth of 1 per cent.?—A. Yes, sir.

Q. You were then directly interested in knowing the dimensions of these transactions?—A. I knew that we dealt in so many shares, but I did not go into any particulars.

Q. I am not asking you for particulars. I only ask if you knew that the business was large.—A. Sometimes it was large, and sometimes there was nothing to do.

Q. Are you familiar with the mode of conducting operations on the Stock Exchange?—A. Yes, sir; I am.

Q. Do you remember the facts connected with the consolidation between the Union Pacific and the Kansas Pacific?—A. I have an indistinct recollection of it, because I had no direct interest in this thing, don't you know?

CONCERNING THE CONSOLIDATION OF THE KANSAS PACIFIC.

Q. I know that; but do you recollect when it happened?—A. No, I do not.

Q. Do you recollect the occasion? That is to say, what talk there was about it?—A. I heard that they were going to consolidate, but that was outside of my sphere.

Q. We will go outside of your sphere for a little while. How long before the thing occurred was it that you heard it was going to occur?—A. I did not hear it, except immediately before.

Q. Just the same day, or a day or two before?—A. I can't say precisely that; but I heard indirectly that they were going to consolidate, but I did not know anything about it.

Q. From whom did you hear that they were going to consolidate?—A. It was the common talk in the office.

Q. In your office?—A. Our office, you know, was adjoining the Union Pacific, and I heard either a day or two before that they were going to consolidate, but I cannot be precise about that.

Q. Did you hear Mr. Gould talk about it?—A. No, sir.

Q. He never spoke about it?—A. Not to us.

Q. And you, of course, never spoke to him about it?—A. No, sir.

Q. Because he had never spoke to you! Did you hear Mr. Connor talk about it?—A. No, sir.

Q. Whom did you hear talk about it?—A. If I heard anybody talking about it, it must be the Union Pacific people.

Q. Can you give me some names?—A. I cannot recollect that.

Q. Which of the Union Pacific people did you know?—A. I knew Mr. Ham and his brother; and I think Mr. Calef was there then; I never have heard indirectly that they were going to consolidate.

Commissioner ANDERSON. You do not mean to tell us that Mr. Calef talked at all?

The WITNESS. It may have been him, but I cannot be precise.

Q. Did you hear Mr. Ames talk about it?

The WITNESS. Whom do you mean?

Commissioner ANDERSON. Mr. Frederick L. Ames. Or do you not know him?

A. I know him, but I do not believe it was he; he came there very seldom.

Q. Do you know that shortly before this time, and during the summer, there had been large quantities of Kansas Pacific stock bought which your firm had in its books?—A. I do not recollect; and I do not believe it was so.

Q. Do you know the Kansas Pacific road?—A. I know it.

Q. Do you know the stock?—A. I know the stock.

Q. Do you know its securities?—A. Well, I am not very familiar, except I know there is such a road; that is all.

Q. You say that, as far as you can recollect, there were no shares of Kansas Pacific stock being carried for Mr. Gould on the books of your firm at this time?—A. I could not swear to that; I do not remember.

Q. How about the Union Pacific stock?—A. He had considerable Union Pacific stock; but that was paid for; it was not on the books of the firm.

Commissioner ANDERSON. I only want to get at where the securities, the shares of stock, were.

The WITNESS. He had this Union Pacific stock in his own vault, and that was paid for; it was not on the books of the firm.

Q. Where was his vault?—A. It was in the Stock Exchange vault.

Q. In the Stock Exchange safe-deposit vault?—A. Yes, sir.

Q. Your firm had nothing to do with it?—A. No, sir.

Q. No access to it?—A. No, sir.

Q. How then do you know that he had Union Pacific?—A. Because I knew that he was a large holder of it, and he had it in his own vault; I know that.

Q. From what he said?—A. No; because sometimes I used to go to the vault with him, and he would give me some of that stock.

Q. To use for his transactions?—A. Yes, sir.

Q. Did he never give you Kansas Pacific stock?—A. No, sir.

Q. Do you remember the fact that there was a meeting held in the summer, after the consolidation, for the purpose of ratifying the consolidation?—A. No, sir; I know nothing about their meetings.

Q. Do you remember the fact of signing any paper yourself in regard to the ratification of the consolidation?—A. I do not see what I had to do with the ratification; I was not a director of the company.

Q. Were you a stockholder of the company?

The WITNESS. The Union Pacific?

Commissioner ANDERSON. Yes.

A. No, sir; not that I know of.

Q. Did you hold a power of attorney from any stockholder?—A. Not that I know of.

Q. Do you remember signing any paper relating to the ratification?—A. Well, I have signed a great many papers in my life, but I do not remember signing any paper about this ratification.

Q. At whose request could you have signed papers of that character without knowing what they were about?—A. I never signed any paper unless I knew what it was about.

Q. I ask you again to recall in your memory whether you did not sign a paper approving of the consolidation between the Union Pacific

Railroad Company and the Kansas Pacific Railroad Company and Denver Pacific Railroad Company, and whether you did not sign that paper as the holder of 20,041½ shares of stock. The fact may possibly bring it to your mind.—A. I know there was half a share in my name.

Q. How about the 20,041 in your name?—A. I do not remember about that.

Q. Do you think anybody could give you \$2,000,000 worth of stock without your remembering or knowing anything about it at this time?—A. Sometimes they put stocks in the name of people that do not belong to them, just for convenience; but I do not recollect.

Q. What I am asking you about is, whether you signed a paper with your hand and wrote your name.—A. I may have done it, but I do not remember. You see, I could not swear to it.

Commissioner ANDERSON. Mr. Holmes, do you know where the original of the ratification is; is it in the office of the company at Boston?

Mr. HOLMES. I presume so. I do not think I ever saw the original.

Commissioner ANDERSON. Please read this paper which I show you on page 86, marked No. 1240, and say if, after reading it, you remember the transaction. I indicate where your name appears. That is the paper which you signed. Read the heading of it and see what it is that you signed.

The WITNESS. I tell you I may have signed—they might have put that in my name. They might have put that stock in my name just for convenience, and I forget all about it.

Q. When you say "they might have put that stock in my name," whom does that personal pronoun "they" refer to?—A. I suppose it was Mr. Gould, because I did not own the stock.

Q. When you signed that paper did you know anything about what you were signing, if you signed such a paper?—A. I suppose they told me that this was a consolidation of the two roads for the mutual benefit of them, and that I had better sign it.

Q. You say again "they." I suppose you mean the same persons.—A. Yes, sir.

Q. Every time you say "they" do we understand you to mean Mr. Gould?—A. Mr. Gould and his friends that owned the stock. I did not own the stock.

Q. When you signed that paper did you make any investigation regarding to the terms of the consolidation, to see whether or not the Kansas Pacific was a paying road?—A. I may have done it at the time, but I do not remember.

Q. Do you remember doing anything about it, reading any books, examining the roads?—A. Well, I suppose they had some resolutions passed, and they gave it to me to read.

Q. Do you know whether or not the Kansas Pacific Company at that time was a paying concern?—A. I do not know anything about it.

Q. And you did not then?—A. I only heard that the consolidation was for the benefit of both roads, on account of preventing the cutting rates. And it was a good thing for both of the roads. That is all.

Q. From whom did you hear this?—A. From the talk there in the office of the Union Pacific.

Q. Is that all you have to say in regard to the knowledge you acquired before signing this paper?—A. That is all.

Q. Is it not true that you signed this paper because the persons who owned this stock asked you to do it?—A. Of course, you know I could not refuse them. They were my partners and they told me this was the right thing to do, and I could not refuse to do it.

NO PERSONAL KNOWLEDGE.

Q. You do not pretend to have had at any time any personal knowledge of the affairs of the Kansas Pacific or of the Denver Pacific, or as to what their gross earnings were, or their operating expenses, or how far they were a paying concern? All those matters you do not know and did not know personally?—A. I did not interest myself in those matters.

Q. We are very anxious to see these books. Is there anything you can tell us to-day, after thinking the matter over, by which you can give us any intimation as to what witness to call in regard to those books?—A. You had better ask Mr. Connor or Mr. Gould, who were partners, what has become of those books. I am sure I do not know.

Q. Is there any other direction you can give us?—A. No, not that I know of.

Q. What were the exact functions that you discharged in this firm?—A. I used to sign all the checks.

Q. Anything else?—A. No, sir.

Q. Did you write out the body of the checks?—A. No, sir; sometimes I did and sometimes I did not.

Q. Then, before signing them, you would naturally ask what they were for, if you did not happen to know what they were for?—A. I knew it was for stock purchases.

Q. Who would bring the checks?—A. One of the boys.

Q. Who made out the body of the checks?—A. Several clerks; sometimes one and sometimes another. Mr. Segur, for instance, used to write out the checks, and then send them to me by some of the boys to be signed. Sometimes when they were very busy I would write out the body of the checks myself.

Q. Of course, but the responsibility for filling in the amount of the order must have been lodged only with your superior clerks. You would not let an office-boy fill up the checks, would you?—A. Oh, an office-boy would not fill them up. Mr. Segur would generally do it, or Mr. Mathez, sometimes.

Q. You know substantially what the transaction was intended for?—A. Yes, sir.

Q. It was to pay for stocks?—A. To pay for stocks.

Q. Do you know what has become of those checks?—A. I suppose they have got them; I do not know. You know they accumulate very rapidly, and I do not know what they did with them.

Q. The check stub-books are with the other books of the concern?—A. I suppose so.

Q. You do not know anything about them?—A. I never interested myself to look up the details.

Q. What bank did you check on?—A. On the Fourth National Bank.

Q. Was that the only bank?—A. Yes, sir.

Q. That was the only account you kept?—A. Yes, sir.

Q. Did you not keep accounts with trust companies?—A. No, sir; not for our business.

Q. What safe deposit company did you deal with; the Stock Exchange Vault?—A. The Stock Exchange Vault.

Q. Your firm had a vault there?—A. We had a vault there.

Q. And substantially all the checks, of any amount, exclusive of those that were given for office expenses, were checks that were given in the transactions of the firm in the purchase of stocks and other securities?—A. Yes, sir.

Q. And your only customer was Mr. Gould?—A. Yes, sir; we had say, half a dozen customers outside of him, but they did not amount to anything.

Q. So that all the large checks and amounts charged in that account we may assume to have been charged in transactions in which Gould was interested?—A. Yes, sir.

Commissioner ANDERSON. We can get the accounts at the bank anyway.

By the CHAIRMAN:

Q. Have you any other information to give the Commission?—None that I know of; they had better ask him.

Q. Have you any suggestions that you desire to make?—A. No; I have no suggestions. The legal talent before me is so great that my suggestions would not amount to much.

Commissioner ANDERSON. The statement that Mr. Calef "talked the most astounding suggestion I have ever heard of."

G. P. MOROSIN

NO. 10 WALL STREET, NEW YORK,
Thursday, May 12, 188

NATHANIEL NILES, being duly affirmed and examined, testifies as follows:

By Commissioner ANDERSON:

Question. At the time of consolidation of the Union Pacific and Kansas Pacific you were, I believe, a Government director?—Answer. My impression is the final consolidation took place shortly after my term expired. I cannot give the exact date of the expiration of my term of office.

GOVERNMENT DIRECTOR IN 1879.

Q. When were you a Government director?—A. I think, the early part of 1879.

Q. How long did you remain such director?—A. One year.

Q. During the term of your office, what examination of the affairs of this company did you make, if any?—A. I attended the meetings of the board of directors. I had access to the books of the main office in Boston. It would be difficult to recall the details of the examination made at that time.

Q. Were you a member of the committee of the board?—A. Yes.

Q. Of what committee?—A. The executive committee, I believe; I am not quite positive.

Q. How many meetings of the board did you attend?—A. All the meetings that were called during my term of office, except one.

Q. How often did you go to Boston while you were a Government director?—A. As often as once a month, or nearly so.

Q. On the business of the company, I mean.—A. Yes, sir.

Q. Did you personally, in fact, make any examination of the books of the company during the year?—A. I did.

Q. What books did you examine?—A. It would be difficult for me now to recall the details of the examination or the names of the books.

Q. What conclusion did you reach, if any, as to the financial condition of the company?

The WITNESS. That is rather a broad question.

Commissioner ANDERSON. You can make a broad answer. I merely mean as to its general financial condition, and not as to the exact amount of its earnings; or, if you have formed no conclusion, you can say so.—A. I thought that the road was well managed.

UNION PACIFIC WELL MANAGED.

Q. Did you reach any conclusion as bearing on the question of the Government security and of the ability of the company, as it then stood, to pay the Government claim when it would mature?—A. I did.

Q. What was your conclusion?—A. My conclusion was that if the policy of the directors was carried out the obligations to the Government would be paid.

APPROVAL OF DIRECTORS' POLICY.

Q. When did you first hear of the suggestion of consolidation between the Union Pacific and the Kansas Pacific?—A. About the time of consolidation.

Q. From whom did you hear it?—A. From the public prints, I think, in the first instance. I undoubtedly heard it afterwards in conversation with some of the board of directors.

Q. Can you give me the names of the directors with whom the matter was discussed?—A. I cannot.

Q. Does your memory serve you as to what directors were most prominently in favor of it?—A. It does not. I think I had no conversation in regard to the consolidation while I was a Government director except with three of the Government directors. I cannot fix the date.

Q. According to your memory, where were all the meetings held that you attended?—A. Some in Boston and some in New York.

Q. How many in New York?—A. Several; but I cannot specify how many. Possibly some of the meetings in New York were meetings of the executive committee.

Q. Who were the other members of the executive committee, or of the committee on which you served?—A. I cannot remember their names.

Q. Can you fix with any greater precision how long before the consolidation took place it was that you had any talk whatever with the other directors in the road on the subject?—A. I cannot.

Commissioner ANDERSON. You have said that it was but a short time?

The WITNESS. Yes.

Q. Do you mean by that that it was less than a month?—A. I should think not more than a month or two.

Q. Was the subject one of frequent discussion between you and the directors?—A. It was not.

Q. Where did you meet when you met in New York?—A. At the offices of the company.

Q. Seventy-eight Broadway?—A. Yes, sir.

Q. Do you remember being there when the articles of consolidation were signed?—A. I do.

Q. Do you remember being there when the consolidation was voted?—A. I do.

Q. Still, the consolidation was an event of great importance to the company. Can you not ascertain from your memory whether you were present or not at the meeting?—A. I remember that I was present.

PRESENT WHEN CONSOLIDATION WAS VOTED FOR.

Q. Was it not your impression at that time that the interest of the Government was a good deal involved in the question of this consolidation? I mean that it was a serious question to examine, as to whether it would have a hurtful or beneficial effect on the Government's security?—My opinion as an individual was that it was for the benefit of the Union Pacific road that it should be consolidated.

Q. Was it not your opinion that the subject was a grave one and required considerable examination in order to reach that conclusion?—A. In general terms, yes.

Q. Did you know how much stock of the Kansas Pacific and of the Denver Pacific was being taken into the system by the consolidation?—A. I cannot say that I did know the exact amount.

Q. Did you know how much of additional burden in the shape of securities and bonds on which interest was to be paid was taken into the system by the consolidation?—A. I understood approximately at that time.

Q. What examination, before the consolidation, did you make to determine whether, assuming that the consolidation as a general proposition would be favorable, the precise terms of the agreement as entered into were such as not to impose additional burden on the Union Pacific?—A. Without refreshing my memory I cannot definitely answer the question.

Q. Could you vote intelligently on the consolidation without knowing the amount of the stock of the constituent companies and the amount of their respective indebtednesses and their general financial condition as to earnings?—A. Certainly not.

Q. It appears from the record of the meeting held on the 24th of January, presented to us by the company, that you were in fact present at that meeting. Please look over the minutes and see whether they refresh your recollection as to the fact whether you were present. Perhaps, in connection with that, you may read your report to the Government. We do not know. We have these reports saying that you were present. Look at your report and say when your term of office expired. Look at this and say whether you were present or not, and whether you voted in favor of it.—A. It appears from the minutes of January 2, 1880, that I was present as Government director.

Q. And you are satisfied that the fact reported, of your presence at that meeting, is correct?—A. Yes; and that I was a member of the executive committee and not of the finance committee.

Q. Do you recall the fact that Mr. Chadwick was also present at that meeting?—A. I do.

Q. Do you recall the fact that he voted against the consolidation?—A. I do not.

Q. Do you remember whether there was any discussion in which you took part or expressed any views adverse to the consolidation?—A. I remember that there was a discussion. Whether Mr. Chadwick took part in it or not I cannot state.

Q. Do you remember the fact that Judge John F. Dillon was present and read the articles to the meeting?—A. I believe he was present and read the articles.

Q. Do you remember whether any explanation was made at that meeting to the effect that the \$4,000,000 of Denver Pacific stock was to be sold to Mr. Jay Gould in exchange for certain securities of the Santa Fe, the Joseph and Western, or the Nebraska and Kansas, or the Saint Joseph

and Pacific?—A. I cannot remember any discussion on that point, and very little of anything that was discussed, at this distance of time.

Q. Do you remember whether it was disclosed at that meeting or at any time before that meeting to you that a number of the directors of the Union Pacific were very large holders of stock of the Kansas Pacific Company, which it was proposed to exchange at par?—A. I do not remember that such was disclosed to me.

Q. Did you know that fact at the time you voted for the consolidation?—A. I did not.

Q. Can you tell us what were, in brief, the motives that induced you to vote in favor of the consolidation?—A. It would be difficult for me, at this distance of time, to recall all my reasons and conclusions then formed; but, generally, I can state that it seemed to be for the interest of the Union Pacific road that the consolidation should take place.

CONSOLIDATION TO THE INTEREST OF UNION PACIFIC.

Q. Is that as full a statement of the reasons as you can give?—A. It is.

Q. While you say you would have to examine some memoranda to ascertain what examination you had made of the facts and figures on which the benefits of the consolidation must rest, are you prepared to state to-day that at the time you voted you had made any critical examination of the relations of the Kansas Pacific and Denver Pacific to the Union Pacific for the purpose of ascertaining what the stock represented, the amount of indebtedness that was ahead of the stock, and the names of the persons who were to receive the benefits from the exchange of the stock of the Kansas Pacific and Denver Pacific, under the scheme, into the stock of the Union Pacific?—A. I am not prepared to make such a statement. My then knowledge seemed to me to be sufficient to act upon.

Q. You have stated that you did not know when you voted that Mr. Gould was largely interested in the stocks and securities of the Kansas Pacific and of the Denver Pacific. I will ask you the same question as to Mr. Sidney Dillon. Did you know that he was interested in these securities?—A. I did not.

Q. Did you know that Mr. Frederick L. Ames was interested?—A. I did not.

Q. Did you know that Mr. Dexter was interested?—A. I did not.

Q. Or Mr. Atkins?—A. I did not.

Q. Or Mr. Russell Sage?—A. I did not.

Q. Did you know that at this time Mr. Sidney Dillon was also the president of the Kansas Pacific?—A. I probably did know at the time, but I cannot remember now whether that was the fact or not.

Q. Was not your vote very largely influenced by the advice which you received from these other directors who had given the subject a great deal more attention than you had, and by the fact that they were advocating the consolidation?—A. As I now remember, I was chiefly influenced by conversations had with Mr. Smythe, one of the Government directors, where I desired information which I did not have.

Q. You mean, "from whom I sought information which I did not have" where you say "where I desired information which I did not have," do you not?—A. Upon subjects upon which I had no information, I was influenced chiefly by Mr. Smythe's knowledge.

Q. Where is Mr. Smythe?—A. I do not know. He lived at Des Moines, and I believe he is now dead.

Q. And your only customer was Mr. Gould?—A. Yes, sir; we had, say, half a dozen customers outside of him, but they did not amount to anything.

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Q. Were you a member of the committee of the board?—A. Yes.

Q. Of what committee?—A. The executive committee, I believe; I am not quite positive.

Q. How many meetings of the board did you attend?—A. All the meetings that were called during my term of office, except one.

Q. How often did you go to Boston while you were a Government director?—A. As often as once a month, or nearly so.

Q. On the business of the company, I mean.—A. Yes, sir.

Q. Did you personally, in fact, make any examination of the books of the company during the year?—A. I did.

Q. What books did you examine?—A. It would be difficult for me now to recall the details of the examination or the names of the books.

Q. What conclusion did you reach, if any, as to the financial condition of the company?

property, were they not?—A. I cannot recall the terms of the law. My duty was to look after the interests of the Government.

Q. More particularly that than anything else, was it not?—A. Certainly.

Q. That being true, was it not your duty, before consenting to these articles of consolidation, to examine particularly in relation to this Kansas Pacific Railway system, and more particularly to examine as to its indebtedness, and to ascertain for yourself whether, by the consolidation, the Union Pacific would not take upon itself additional burdens for that consolidation?—A. I have stated that I discussed the subject with Mr. Smythe, one of the other Government directors. Where my own judgment did not seem to be informed, I discussed the matter with him.

Q. Did you go to the trouble of examining the records of the Kansas Pacific Railway Company, or any other record, for the purpose of ascertaining the amount of its indebtedness, prior to signing these articles of consolidation?—A. I did.

Q. What was the result of your investigation into these matters?—

A. The result was that I thought the consolidation would be a wise act.

APPROVAL OF CONSOLIDATION.

Q. Did you go further, and examine the gross and net earnings of the company?—A. That was a part of the consultation had with Mr. Smythe and discussed otherwise.

Q. Did you find out in these examinations that all, or nearly all, of the securities of the Kansas Pacific Railway were in default at the time of this consolidation?—A. I cannot remember the details of what I found, but I remember the conclusions arrived at.

RIVAL INTERESTS HARMONIZED.

Q. Assuming that you went to the bottom of this matter, and found at that time that nearly all, if not quite all, the mortgage bonds were in default in the payment of interest, and that by the consolidation the Union Pacific would be chargeable with the duty of providing for the payment of this interest—assuming that you found all these things to be true, what induced you to consent to this consolidation?—A. One great inducement was that important rival interests were harmonized, and organizations under many heads and many officers and many salaries would be consolidated; that there would be a single organization and harmony where various interests had previously been in conflict.

Q. Is it not true that at and immediately preceding the date of these articles of consolidation, there were friendly relations between the managements of these two corporations, and that they had some sort of a traffic agreement, and that there was in fact no great conflict between them?—A. I cannot state the exact condition at that time, but I knew that in the nature of things there would always be conflict under separate managements.

Q. Did you know the market value or the real value of either of the several classes of bonds or of the stocks of the Denver Pacific and the Kansas Pacific companies at the time you signed these articles of association?—A. I cannot, at this distance of time, state in detail what my knowledge was in regard to the value of the separate securities.

Q. Assuming that all these securities, perhaps except the first land-grant bonds, were depreciated and below par at that time, and the interest defaulted on them, and assuming that \$14,000,000 of the stock

Commissioner ANDERSON. Gustavus B. Smythe?

The CHAIRMAN. George B. Smythe, I suppose you mean?

The WITNESS. George B. Smythe, of Des Moines.

Q. How often did you see Mr. Smythe in regard to this matter?—A. He discussed the matters with me whenever he was in this city, and when we were in Boston together on the affairs of the company.

Q. Did you not also rely on what Mr. Frederick L. Ames told you?—A. I cannot remember that I had any conversation with Mr. Ames on the subject.

Q. Or Mr. Sidney Dillon?—A. I may have had conversation with Mr. Dillon, but I have had no recollection of any.

Q. Did you have any conversation with Mr. Solon Humphreys?—A. I cannot remember having had any conversation with any one member of the board of directors, except the Government directors. But the subject has been discussed where a number of directors were together.

Q. Do you remember seeing a written report made by Mr. Solon Humphreys and Mr. G. M. Dodge on this subject?—A. I remember seeing a report on the subject, but whether it was the report you refer to or not I do not know.

Q. Please examine the paper I now show you, and see if you recollect it as the paper you refer to.—A. I cannot state.

Q. Do you recollect the fact that a report was made by some persons, at the request of some of the directors, as to the desirability of consolidation?—A. I remember examining a report or reports.

Q. Were copies of that report furnished to the Government directors?—A. I do not remember.

Q. Was the existence of such report, and the facts stated in such report, the subject of any discussion among the Government directors?—A. In my conversations with Mr. Smythe some reports were discussed, and all questions bearing upon the consolidation, but what the reports were I do not now remember.

Q. Did the Government directors have an organization of their own, with a chairman, I mean?—A. They had.

Q. Were you the chairman of the Government directors?—A. I was appointed to draw the report. I suppose that carried with it the chairmanship of the committee.

Q. Did the Government directors keep a minute of the proceedings of their meetings when together?—A. They did.

Q. Who kept that minute?—A. Mr. Smythe.

Q. Do you know where it is?—A. I do not.

Q. Have you read it?—A. I saw the minutes at the times they were taken, but I have not seen them since.

Q. You have no present recollection of their contents?—A. None whatever.

Q. Nor can you give any suggestion as to how we can see them or procure them?—A. I cannot, unless from Mr. Smythe's representatives.

By Commissioner LITTLER:

Q. You were appointed by the President for the purpose of looking particularly after the interests of the United States Government in the management of this Union Pacific road, were you not?—A. I was appointed particularly to fill the office of Government director.

Q. And by the terms of the law the Government directors were specially charged with the duty of looking after the interest of the United States in connection with the earnings and management of this

now, in a general way. I have had no occasion to refer to them for seven years.

Q. Did you have occasion to refer to the decisions of the Supreme Court of the United States relative to the relations between the Union Pacific Railroad Company and the Government; did you know of them at the time?—A. I read them all.

Q. Do you recollect reading the decision as to the Union Pacific and Credit Mobilier case, in which the Supreme Court of the United States decided that the Government had no interest in the stock of this road, and that its only relations were of a secured creditor, as specified in the acts of 1862 and 1864?—A. I remember reading the decision and all the papers in that case.

Q. Do you recollect the provisions of the Thurman act, that the Government reserve 25 per cent. of the net earnings of the Union Pacific Railroad, to be determined in a particular manner?—A. I remember it very well.

Q. And that whatever might be the expenses or charges against the company, subject to the payment of operating expenses and fixed interest, they did not come out of the Government?—A. That was the fact.

Q. Did you know, at the time, that the Kansas Pacific was also a road which had been aided by the Government with bonds, as well as with lands?—A. I did.

Q. And at the same rate, so much per mile?—A. I did not.

Q. Was it not \$16,000 a mile on the Kansas Pacific?—A. \$16,000, I believe.

Q. Was it not \$16,000 a mile on the Union Pacific until you reach the mountains, and then was it not more?—A. It was scaled.

Q. Was not the bonded obligation of the Union Pacific very much heavier than the bonded obligation of the Kansas Pacific?—A. Yes, sir.

OBLIGATIONS OF UNION PACIFIC.

Q. And were not the first mortgage obligations of the Union Pacific correspondingly greater than the first mortgage obligations of the Kansas Pacific?—A. That was the fact.

Q. Do you recollect the difference in the stock obligations of the two companies?—A. I cannot state now the difference in the stock obligations.

Commissioner ANDERSON. If the witness does not recollect this, there is nothing gained by the questions, as we have them all before us.

Mr. JOHN F. DILLON. I do not care to press it, then. I wanted to show the state of this corporation. I think it is demonstrable that, however stockholders might complain, the Government profited, beyond any question.

The WITNESS. I am sorry that my attention was not specially directed to the subjects upon which the Commission would like testimony. It is a very broad subject, and my mind is refreshed constantly by discussing it. I will say this, that the action of the Government directors, especially my own action, was influenced by the fact that no action of the board of directors could intervene to injure the security which the Government had for the payment of its obligations against the company.

By Mr. JOHN F. DILLON:

Q. You knew, at the time, how far it was from Omaha to Ogden, I suppose?—A. Yes, sir.

Q. Do you now recollect how far it is from Omaha to Ogden?—A. I forget the exact number of miles.

Mr. JOHN F. DILLON. It is a matter of geography; it is about 1,030 miles?

The WITNESS. It is.

Q. You knew at the time, at all events, the approximate distance from Kansas City, the initial point of the Kansas Pacific, to Denver, suppose?—A. Approximately.

Q. And the distance from Denver to Cheyenne, where the Denver Pacific connected with the Union Pacific?—A. Yes, sir.

Q. As I recall it, the distance between Omaha and Ogden is 1,030 miles; that is the only point of the line of the Union Pacific, as you understand it, on which the Government had any lien, is it not?—A. I understand it.

GOVERNMENT LIEN.

Q. And that the Union Pacific, as recited in the articles of consolidation, had an outstanding stock obligation of about \$36,000,000?—A. At that time; yes, sir.

Q. You do not recollect the amount of bonded indebtedness?—A. I do not.

Q. That is a matter of history; but whatever it was, there was an equivalent amount of the first-mortgage indebtedness prior to the Government claim, as you recall it?—A. I do so remember it.

Q. The Kansas Pacific, including the Denver Pacific—assuming that to be, as it is, about 745 miles from Kansas City to Cheyenne—

Commissioner LITTLER. About 638 miles from Kansas City to Denver; it is about 106 miles from Denver City to Cheyenne [continuing question] had a stock obligation of \$14,000,000, had it not?—A. I do not remember the exact amount, but about that sum.

Q. Ten million dollars on the Kansas Pacific, and \$4,000,000 on the Denver Pacific, with a first mortgage ahead of the Government only the 394 miles; do you recollect that, or did you not know it at that time?—A. I did not know it at the time, but I cannot more nearly recollect the figures now.

Q. You heard the articles of consolidation read, I suppose, at that meeting?—A. I did.

Q. Among the provisions of those articles is this: "Article 10. The new company hereby formed does not herein assume any separate or individual liability to the outstanding debts, obligations, and liabilities of the respective constituent companies, whose several and separate existence as to third parties shall continue as respects such debts, obligations, and liabilities of every kind and nature, shall continue, notwithstanding these articles of union and consolidation." I ask you if that was read?—A. It was.

Q. Do you know of your own knowledge of the administration of the affairs of this road, as respects the Government, since the date of consolidation?—A. Not since my term of office expired.

Q. Do you recollect that the Thurman act, which made a requisition of 25 per cent. of the net earnings, was an act which applied only to the Union Pacific and to the Central Pacific?—A. I know that the act provides.

Q. And you, as Government director, were a director only of the Union Pacific Railroad, and it did not apply to the Kansas Pacific?—A. Yes.

Q. Do you recollect that the original requirement of these companies

was to pay to the Government, not 25 per cent. of net earnings, but only 5 per cent. ?—A. I recall such a provision.

Q. As a practical question, assuming that the Union Pacific was, at the date of the consolidation, the stronger company, and that under the arrangement with the Government it was a secured creditor, and therefore it was not in the power of the consolidated company in any way to reduce the amount which, in any event, would go to the Government, would not the effect of that consolidation be that the Union Pacific would impart whatever strength it had to the Kansas Pacific, and the Government be benefited thereby, and in no degree injured? How would that strike you as a practical question?—A. Most decidedly, the Government would be benefited; the policy pursued by the directors of the Union Pacific road in this consolidation, and in building feeding lines, has, in my opinion, preserved the value of the security held by the Government on the line of the road.

By Commissioner ANDERSON:

Q. Will you please tell me what you mean, when you speak of the Government security?—A. I mean the obligations which the Government has against the road.

GOVERNMENT OBLIGATIONS.

Q. Do you mean the lien only which it has?—A. I mean the lien.

Q. Does it not also have the personal obligation of the railway company to pay the bonds?—A. The personal obligation of the railway company would be worth nothing if the property were worth nothing.

Q. I mean the corporate obligation; did it not also have the corporate obligation, before the consolidation of the Union Pacific Railroad, to pay any deficiency which might arise out of a foreclosure?—A. I suppose it legally had that obligation.

Q. If you had a second mortgage on a house, and also a personal responsibility of the bondsman, might not that personal obligation be a very valuable method of collecting your debt, in case there was a deficiency?—A. It has its value.

Q. May it not be of very immediate value?—A. Yes, if the obligation is worth anything.

Q. If you had such a security and you knew your bondsman, and he was perfectly good, and you heard he had gone into an enterprise in which he had personally made himself responsible for a very large amount of obligation, which increased the burden that he was carrying, would you not think that thereby your security was being impaired, even though your lien might be undisturbed?—A. It would depend altogether upon whether I considered his new obligations tended to increase the strength of his old ones or to weaken them.

Q. It was a subject you were interested in, and if the new obligations were unfortunate ones would you not think that you might lose money by it? If he became worthless, instead of being solvent, and there was a deficiency on your mortgage foreclosure, would you not lose?—A. I think it would be a legitimate subject of inquiry.

Q. While it may be true, then, that the Union Pacific did not formally assume the obligations of the Kansas Pacific, is it not true that after the consolidation it was impossible for the Union Pacific to avoid the payment of all those claims without leading to a break-up of the whole business? Is that not clear?—A. By "claims" I mean the interest on the bonds and all the other obligations. I think that would de-

pend a good deal on the circumstances, and the fact and law attend each claim, and upon what it was founded.

EFFECT OF INCREASE OF STOCK ON ABILITY TO MEET OBLIGATION.

Q. Is it not generally true that the corporate power of the Union Pacific Railroad Company or Railway Company to pay obligations may have been impaired by undertaking to pay dividends on the increased amount of capital stock and on all the classes of bonds on which it was paying interest to-day?—A. I cannot now express an opinion whether it may have been impaired or not.

Q. You know, as a matter of fact, that it is not paying dividends on its stock, do you not?—A. I do.

Q. You know, as a matter of fact, that the range of its net earnings, as compared with the net earnings in 1882 and 1883, has decreased, do you not?—A. I do.

Q. You know, as a matter of fact, that from the time of the consolidation until, I think, 1885 it paid dividends on all the stock, including the Kansas Pacific and Denver Pacific stock, at the rate of 8 and 7 per cent. per annum?—A. I know that when it paid dividends it had several less competitors for the business which then supported it than has now.

Q. Do you know that it did pay those dividends?—A. I knew that it paid certain dividends. I cannot state what they were.

Q. You knew that it paid dividends on the stock of the Union Pacific, which represented the Kansas Pacific stock and the Denver Pacific stock, as well as on the old stock?—A. I knew that it paid certain dividends.

By Commissioner LITTLER:

Q. Do you know that for the six years ending June 30, 1883, the interest due the United States was over \$12,000,000, and that of this sum this company only paid into the Treasury under the Thurman act a little over \$5,000,000, and that during a portion of that same period this company was paying from 7 to 8 per cent. dividends on its stock?—A. I can only testify from the reports made at the time as to the question you have asked me.

Q. Can you explain this to the Commission how that company could at any time have paid dividends on this stock, and at the same time fail to pay the amount required of them by the terms of the Thurman act?—A. I am not prepared now to answer that question in detail. If you desire an answer I will refresh my knowledge of the subject and give you the best information I have.

By the CHAIRMAN:

Q. Do I understand you to say that you first heard of the consolidation the day before it took place?—A. No, sir; I did not intend to say so.

Q. What day was it?—A. I said a short time before the consolidation.

Q. How long before the consolidation?—A. I stated one or two months. It may have been longer than that.

Q. Did you write the report?—A. I did.

Q. I call your attention to the fact that the report is dated December 4, 1879. Just see if that is the correct date, or whether it is not dated or not.—A. The report is dated at the time it was finally submitted. That is my impression.

Q. What date was that?—A. I cannot state. The records of the Interior Department would show the exact time. I know it was some time after the personal examination of the road-bed that I prepared the report.

Q. When did you submit the report to the Government?—A. I presume it was about the time the report bears date.

Q. You refer to the consolidation in that report. Was it from your knowledge at that date?—A. My knowledge of the consolidation began, as I have stated, perhaps two or three months before the consolidation took place.

Q. Then, when you wrote that report, you had knowledge of the consolidation?—A. I so state in the report.

Q. Well, you must have had. Did you not then regard it of sufficient importance to inform the Government in detail of this important step in reference to consolidation?—A. I considered it very important. I suppose that I was put there to act.

Q. Act how?—A. For the interests of the Government.

Q. Do you not presume the Government wanted to know how you were acting?—A. In what was done in regard to the direction, I suppose I represented the Government, and was the Government to the extent of my action, and that I was appointed to direct, in common with the other Government directors.

The CHAIRMAN. Please read all the report that you made to the Government on the question of the consolidation in the year 1879, December 4th.

REPORT TO GOVERNMENT.

The WITNESS. I am not prepared to say what reference there is in my report in regard to the consolidation further than this: "During the last year the Kansas Pacific Railway has passed into the control of this company, both roads having the same general manager and the same superintendent of telegraphs."

The CHAIRMAN. That information must have been based upon your conclusion fifty days before the board of directors had voted?

The WITNESS. I cannot state the time more nearly than I have when I first had information of the proposed consolidation, or why the report had a special date.

Q. Have you any further suggestions to offer to the Commission with reference to your course as to the consolidation, or any other general matters? If you cannot make them now, we would be glad to have them in writing, or in any other way in which you will present them.—A. I do not think at this time of anything further that I can say for the benefit of the Commission. I have expressed my opinion as to the consolidation, and the reasons for it, and the reason for my action in voting for the consolidation. I think of nothing else that I can add to it at present.

NATHANIEL NILES.

NO. 10 WALL STREET, NEW YORK,
Thursday, May 12, 1887.

RUSSELL SAGE, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your occupation?—Answer. I am a banker and broker and merchant.

Q. Where is your office now?—A. 71 Broadway.

Q. Where was your office in 1880?—A. 78 and 80 Broadway.

Q. That is the same building where the Union Pacific offices were?—A. Yes, sir; the same building.

Q. The same building where Mr. Gould's offices were at the time?—A. Yes, sir; at that time.

Q. How long have you been a banker and broker?—A. More than twenty years.

Q. Do you do business solely for yourself, or for the account of other customers also?—A. Mostly for myself; occasionally for others.

Q. Do you keep books of your transactions?—A. Yes, sir.

Q. Have you a book-keeper?—A. Yes, sir.

Q. What is his name?—A. Charles W. Osborne.

Q. Is he with you now?—A. Yes, sir.

Q. At your office, 71 Broadway?—A. Yes, sir.

Q. Was he with you in 1880?—A. I think not; I think he came with me in 1882; but I am not positive as to the year. I find on examination he came to me January 1, 1877.

Q. Who was your book-keeper in 1880?—A. I think Mr. Boardman. C. W. Osborne was in my employ then, and I think Mr. Neihber.

Q. Give us their full names.—A. Lansdale Boardman and C. Neihber.

Q. Will you give their addresses?—A. Mr. Boardman is still in the same building, 78 and 80 Broadway. He has been there, I think, ever since.

Q. And the other one?—A. I do not remember his place; it is somewhere in Broad street.

Q. He is in New York still?—A. He is in New York; he is accessible.

Q. Which of these gentlemen kept your books in 1880?—A. I guess they both kept them in part; Mr. Neihber was the cashier, and Mr. Boardman was the junior clerk at that time.

Q. What books did they keep?—A. They kept a set of books; stock ledger.

Q. Did they keep a purchase and sales book of each day's transactions?—A. Yes, sir; I have got what you want, I presume; I can give a list.

Commissioner ANDERSON. I am very glad to hear it.

The WITNESS. I came prepared for that. [Presenting a statement account.]

Q. You have all the books you had in 1880?—A. I have.

Q. Do I understand that they are at the service of the Commission?—A. Yes, sir.

Q. I will extend that question back to 1878; do the books extend back to 1878?—A. Yes, sir.

Q. When did you first become a stockholder, about, in the Union Pacific?—A. I became a stockholder—I cannot tell you the time—but it was within a year or two after this organization.

Q. You mean after its completion, or before its completion?—A. Well, about the time of its completion.

Q. About 1869; did you take much interest in the road during those earlier years?—A. No, sir; between, I think it was, 1869 and 1870, I first became interested; I remember very well about the price I paid for the first stock, if you choose to have it.

Q. We will have that interesting piece of past history; what was the price?—A. About 26 or 27 cents.

Q. Was it a large purchase or a small one?—A. Sometimes I traded pretty largely in it.

Commissioner ANDERSON. I refer to the first transaction.

The WITNESS. I think I bought a thousand or two thousand shares.

EXCURSION TO LARIMER PLAINS.

Q. When did you first go over the road?—A. I went over the road as far as it was completed, I think in 1868; to Larimer Plains, I think, was as far as the road was completed at that time; I think the 16th day of June they laid the last rail.

Q. You went on that excursion?—A. Yes, sir; I went with that excursion.

Q. Who went along?—A. A large number.

Q. All the parties interested in the completion of the road?—A. A large number of guests; there was a large train; I should think there was one hundred and fifty or two hundred that went; from all parts of the United States there were guests.

Q. During the years 1871, 1872, and 1873 you were from time to time the holder of different amounts of this stock?—A. Yes, sir; from that time down to the present.

DIRECTOR IN 1878.

Q. When did you first become a director in the road?—A. I think in 1878, or about that time.

Q. About 1878?—A. I think so; I could not tell you without looking; it occurred to me when I was coming up here that I should have looked it up.

Q. What was the occasion of your becoming a director in the road; how did it come about?—A. It came about by my being a large stockholder in the company. I was in the habit of lending money on their securities, aiding the company.

Commissioner ANDERSON. You have hardly told us all that led to your selection as a director; there must have been some conversation between you and other persons.

The WITNESS. Nothing only a general conversation; our directors were Boston gentlemen and New York gentlemen, and they desired me to consent to serve as a director; I had a very respectable interest in the concern, and they thought I could perhaps be of some service in aiding them in the administration of the company.

Q. Do you remember the names of the gentlemen with whom your conversation was chiefly had at this time on that subject?—A. Yes, sir; the Boston gentlemen, Mr. Ames and Mr. Atkins and Mr. Gordon Dexter and Mr. Baker.

Q. Do you remember in what month the election was held?—A. I think I was elected by the board to fill a vacancy—not at the annual election—the first time I was elected; that is my recollection.

Q. Do you remember whose place you took; what vacancy it was?—A. No, sir; I do not.

Q. Was it some one that resigned that you might be elected, or was it a vacancy by death?—A. I think it was to fill a vacancy caused by the resignation of some director.

Commissioner ANDERSON. I hand you a list of the board of directors for 1879 and 1878; you will find your name appears in 1877; perhaps that will tell you whose place you took.

The WITNESS. I do not remember that.

Commissioner ANDERSON. If it gives you no information we will pass it.

The WITNESS. I do not remember.

Q. Your memory is that you were elected by the board to fill a vacancy, and not by the stockholders at the annual meeting?—A. Yes, sir, at first.

Q. Then you became a member of the board after the annual meeting which was held in March, 1878?—A. Yes, sir.

Q. Do you remember about how much stock of this company you owned at that time?—A. I do not. I was a very respectable stockholder. I dealt pretty largely in the stock.

Q. Were you constantly a large holder, or did it vary very much?—A. No, sir; I was constantly a large stockholder in the company.

INTERESTED IN MISSOURI PACIFIC.

Q. Before becoming a member of the board of the Union Pacific, what interest had you, if at all, in the securities of the Kansas Pacific?—A. I was interested in the Missouri Pacific. That was my principal interest. I greatly increased that to the Kansas Pacific and the Saint Joseph and Western roads. I became largely interested in the bonds and stocks of these companies.

Q. Who was associated with you in these different purchases, if any one, either of the Union Pacific or the Kansas Pacific or the Saint Joseph and Western?—A. I was interested with Russell Sage.

Q. Any one else?—A. No, sir; in the main I had no partners. Occasionally we bought on joint account with other people, but in the main I bought in the open market, as my accounts will show.

Q. What other persons that you were in the habit of seeing frequently at that time were also purchasing these same securities, and conferring with you in regard to the properties?—A. I had a great many conversations with Mr. Dillon.

Q. Mr. Sidney Dillon?—A. Sidney Dillon and Mr. Gould and Mr. Cammack and other gentlemen who were dealing in these securities.

Q. Do you remember Mr. F. L. Ames?—A. Yes, sir; and the Boston gentlemen who were directors in the Union Pacific road.

Q. How frequent were your conferences with Mr. Gould at this time in relation to the Kansas Pacific business?—A. I used to see him frequently, as I did others.

HAD FREQUENT CONFERENCES WITH GOULD.

Q. In regard to those matters in which you had sometimes an interest with other persons, was Mr. Gould one of the persons in question?—A. Yes, sir; Commodore Garrison was another. Mr. James R. Keene was another.

Q. Do you know whether Mr. James R. Keene had any interest in the Saint Joseph and Western?—A. I do not know that he ever had. He was interested in the Union Pacific, largely.

Q. Had he any interest in the Kansas and Nebraska bonds?—A. I tried to induce him to become interested in the Kansas Pacific, because I was largely interested in the Union Pacific, and I was anxious to increase that interest, looking up towards Denver, and so protecting the interest.

Commissioner ANDERSON. My question was addressed to Saint Joseph and Western securities.

The WITNESS. I answer you that I do not remember of his being interested in those. I do not think he had any of the other.

Q. Neither Saint Joseph and Western, nor Kansas and Nebraska, nor Saint Joseph and Pacific?—**A.** No, sir.

Q. Those are the subdivisions, I believe, of that road?—**A.** Yes, sir.

Q. You yourself were interested in those securities?—**A.** Yes, sir.

Q. Do you remember how early you became interested in those securities?—**A.** I can tell by my book of my purchases and sales.

WITNESS' PURCHASES AND SALES OF SECURITIES.

Q. You say you have with you a statement of your purchases and sales of these different securities?—**A.** Yes, sir.

Q. Will you please produce them for our examination?—**A.** Yes, sir. [Handing the paper to Commissioner Anderson.]

Q. What does this paper, which you hand me, purport to represent?—**A.** It purports to represent my purchases and sales of the various stocks and bonds of these companies taken from my book. I have not had time to look them over. The young man furnished it to me half an hour or three-quarters of an hour ago.

Commissioner ANDERSON. They are limited to Kansas Pacific securities, I see.

The WITNESS. No, sir; Denver Pacific, Kansas Pacific, and Saint Joseph bonds.

Commissioner ANDERSON. The account is marked at the head, "Kansas Pacific first-mortgage land-grant bonds"?

The WITNESS. Yes, sir; you will see them all the way down there. They are taken right from my books. Or, at least, I ordered them to be so taken. I have no doubt it is a true transcript from the books.

The CHAIRMAN. Let Mr. Sage tell us what that is.

Commissioner ANDERSON. He says he has not had time to look at them.

The WITNESS. I have not looked at it, and I cannot tell without going over it.

Q. I find nothing but Kansas Pacific. Will you look and see whether there is any Saint Joseph and Western?—**A.** I have not examined it, and I do not know that he has taken it off. If it is not on here, we will give it. I did not know that you wanted it. If you do, we will give it to you [after looking]. There seems to be Kansas Pacific stock and bonds here. I can furnish you with all the transactions with the Saint Joseph and Western. The paper I hand you contains a complete record of my purchases and sales of Kansas Pacific stock and bonds for the years beginning July 8, 1878, and running down to March, 1880. I will furnish any statement required in regard to my interests in the Saint Joseph and Western or its subdivisions.

Q. Do you remember before this year, 1877, what the general relations were existing between the Kansas Pacific people and the Union Pacific people?—**A.** I know something about them, generally.

Commissioner ANDERSON. I mean generally.

The WITNESS: Generally; that is all.

Q. What were those relations, as you recall them?—**A.** They were like all laboring corporations that were struggling along to straighten out. The Kansas Pacific was very much embarrassed, as I understood, in 1878.

KANSAS PACIFIC EMBARRASSED IN 1878.

Q. Did you know at the time that all of its coupons were in arrears, and the roads were in the hands of receivers?—A. Yes, sir.

Q. Do you know the receivers, Mr. Villard and Mr. Greeley?—A. Yes, sir.

Q. You knew them both personally?—A. I knew them both personally.

Q. You know them well?—A. Yes, sir.

Q. And you were generally familiar with the financial condition of the Kansas Pacific at that time?—A. I knew them generally.

Q. I mean that you knew that the roads were embarrassed, and that the interest was in arrears. A. I knew them generally, just as any citizen does that reads of the embarrassed corporations that are in the hands of the receivers.

Q. In regard to the relations that that company held with the Union Pacific, did you know that their relations before 1878 and early in 1877 and 1876 were hostile relations, and that they were competing for business and freight, and that there was a good deal of difficulty between these two corporations?—A. I was not familiar with the details there. As I said before, my interest was below, in another corporation, and I had not any interest in the road before that time. I became interested later, as we cleared up the Missouri Pacific.

Q. Did you know Mr. Holmes at this time, personally?—A. I knew him in connection with the settling up of this thing; about 1879, I think.

Q. Do you remember becoming a party to an arrangement, in April 1878, relating to the securities of the Kansas Pacific, with Mr. Sidney Dillon and Mr. Frederic L. Ames and others?—A. I do not recollect it.

Commissioner ANDERSON. I will show you the paper, and ask you if you recollect the transaction. That is a copy of the paper.

The WITNESS. Perhaps you can tell me what it is.

Commissioner ANDERSON. It is what we call the pooling agreement for buying the Kansas Pacific securities at a scaled price.

The WITNESS. I can answer that. My account will show my transaction in that. I had nothing to do with it except to buy an interest in the pool. There was a pool made up.

Commissioner ANDERSON. "Pool" is a very good word.

The WITNESS. That is all right. It was what was called the Saint Louis pool of the Kansas Pacific securities, and that was bought out by Mr. Gould, and I became interested in that.

THE POOL.

Q. My question to you is, if you recall that transaction?—A. I recall that; but I do not know anything about the details of that. I bought \$200,000 worth, and my account will show that, which account I have handed in here. I tried to induce Commodore Garrison and Mr. Keen and others to join in it to protect our Missouri interests.

Q. Were you interested in this Saint Louis pool before the Saint Louis people were bought out?—A. No, sir.

Q. Your interest arose after that?—A. Yes, sir.

Q. And you say that the paper you handed us a few minutes ago will show the amount of your interest?—A. Yes, sir. I purchased these securities very largely, as my account will show there, in the open market here. From various persons; bought and sold them.

Q. Did you sign the pool agreement? Do you remember whether you signed it?—A. I do not remember that. I only remember I bought \$200,000 of it, and paid for it. That is all I know about it.

Q. Was \$200,000 the amount of the certificate that you held?—A. No, sir; I bought at different times. I bought \$100,000, and I think I took a second lot. I tried to sell a little to some people here to interest them in aiding the road in which I was interested. I was looking for feeders for the Missouri Pacific system.

Q. Did you deliver these securities when you bought them to the managing committee of the pool?—A. No, sir; I took them and put them in my safe until they were disposed of.

Q. How did they get entered in the details of this pool?—A. The pool was bought out. They were separated. That was bought directly from the pool. I had nothing to do with it.

Q. You had nothing to do with the pool until it was fully discharged?—A. No, sir; never had a 10-cent piece in the pool.

Q. Then, I understood, as the pool was originally formed, there being some Saint Louis people and some of the Union Pacific, that the Union Pacific people bought out the Saint Louis people, and that after the pool was terminated and liquidated, then you made certain purchases?—A. Yes, sir; I took an interest in the purchase. It was offered to me at the cost price, and I purchased it to protect my interest in other corporations.

Q. What connection have your purchases, that you refer us to, with this pool?—A. Nothing, only a continuation of the interest in the Kansas Pacific property.

Q. And it was a continuation between yourself and some other persons who had been in the pool before; is that the case?—A. The most of the persons retained but a very small interest. I understood Mr. Greeley retained some interest, and some of the other parties also that were in there; but, as the securities advanced, they did as most people do—they realized and sold out.

Q. Had your purchases anything to do with Mr. Greeley's interest or Mr. Holmes's interest, or Mr. Jay Gould's interest in this pooling agreement?—A. No, sir; as I say, I believed it was worth what I paid for it, and it would protect a large interest which I held in other corporations.

Q. In other words, you both had the same interest in bettering the property and advancing the securities, and, as you were both pursuing the same road, you bought on your account and they bought on theirs?—A. Yes, sir; I never bought any security with any other view in that road or in any other, than to benefit them.

Q. In regard to the securities that you purchased, were you entitled to the benefit of this liquidation to the consolidated bonds at the figures stated in this agreement?—A. I do not recollect this agreement. I presume I was treated just as others owning like securities, and no better.

Q. Were they purchased before the consolidated mortgage was made, or afterwards?—A. Before and after, both.

GOULD AND SAGE, TRUSTEES OF CONSOLIDATED MORTGAGE.

Q. Do you remember the consolidated mortgage?—A. I do.

Q. You are one of the trustees named?—A. I am.

Q. And Mr. Jay Gould is the other?—A. Yes, sir.

Q. By the terms of that mortgage, is it not provided that the different bonds and securities of the road shall be converted into bond

percentages named in the mortgage?—A. I think so. That recollection of it.

Q. Were you the owner of these securities before that mortgage made?—A. I say in part, as my account will show, I have been a large dealer in the securities and owned them all the way through as an owner still.

Q. How were those rates determined that are fixed in this consolidated mortgage, of which you are a trustee?—A. They were the result of a good deal of consideration and figuring in the office there between the parties in interest, and it was finally agreed upon as set forth in the instrument.

Commissioner ANDERSON. Do you remember the article that decided the rates?

Mr. HOLMES. Nos. 22, 23, and 24. I think that is it.

Q. I am inquiring now in regard to section 23; you say these were the subject of considerable debate?—A. Yes, sir.

Q. Between what persons?—A. Between the parties in interest were intrusted with these. I do not say every man that had a vote was consulted, but you know very well, as an intelligent business man that in such a matter the principal holders would discuss such a matter to see what would be an acceptable and proper adjustment and partition of the different securities. Just like a reorganization of any reorganized corporation, to see what was a wise thing to do to liberate it from its embarrassment and get it upon a paying basis.

Commissioner ANDERSON. The condition of affairs was substantially this: a good many holders of these different securities, on all of which the interest was overdue and unpaid, came together and said, that the whole it was better for all parties, instead of insisting upon the recognition of the full face value of each security, they should put them into a common fund and ascertain among themselves what each security was fairly worth, and scale them down in the reorganized system taking some at 50 and others at 30 and others at par, so they had the real value was.

The WITNESS. Yes, sir; that is about a clear statement of the matter that actuated us all in trying to arrive at a satisfactory solution of our embarrassment.

Q. That discussion led to the scheme which is developed in the consolidated mortgage?—A. Yes, sir.

Q. Do you remember who the prominent gentlemen were who discussed these rates and talked them over and advocated them? These Boston gentlemen I have named here, Mr. Ames, Mr. Deane and Mr. Atkins and Mr. Gould and Mr. Dillon.

Q. Was not Mr. Holmes quite prominent in the matter?—A. Mr. Holmes was consulted.

Mr. HOLMES. The committee of nine of the Denver extension holdings were also an important factor.

Q. Of which Louis H. Meier was the chairman?—A. Yes, sir; obliged to you for your calling my attention to it. Those gentlemen were strangers to me.

Q. You stated that in these different purchases, so far as you recollect them, while you had a common interest with these gentlemen the purchases that were made were made on your account for you, without connection with other people?—A. Yes, sir; where purchases were made I made my purchases just as I did here, in my own account.

AN EXPLANATION CALLED FOR.

J. Please explain, then, the meaning of this sentence at page 156 of the record: "And whereas said company, in pursuance and in furtherance of such resolution, has contracted with Sidney Dillon, Russell Sage, and Henry Villard, the holders of \$784,000, in amount of funding bonds, \$754,000 in amount of second land-grant bonds, \$75,000 in amount of Leavenworth Branch bonds, \$67,000 in amount of unstamped income bonds, \$2,671,400 in amount of stamped income bonds, and also \$454,000 in amount of first mortgage bonds of the Arkansas Valley Railway Company, guaranteed by said Kansas Pacific Railway Company, for the exchange and conversion of the entire amount of the bonds held by said Dillon, Sage, and Villard for \$3,400,000 in amount of said consolidated first mortgage bonds." My question is, explain how you reconcile the statement that all your purchases were for your individual account, though with the same general object as the other purchases, with this statement in the mortgage that the securities I enumerated were held by you and Mr. Sidney Dillon and Mr. Henry Villard?—A. I have not had my attention called to it. It is some years since. I think it was probably the result of what was left of the trust bonds and securities which were held there by these parties.

Mr. HOLMES. The Saint Louis pool.

The WITNESS. Yes, sir; the Saint Louis pool. That is my recollection of it. I mean, anything I purchased outside of a private character is stated on this account here.

Commissioner ANDERSON. I understood you to say you had not 10 per cent interest in the Saint Louis pool.

The WITNESS. No, sir; it was that pool before I purchased these securities. I was not a member of it.

Q. Did you ever have an interest in the pool?—A. No, sir.

Commissioner ANDERSON. Please read *that* to yourself again, and explain it. See if it will not recall to you the facts.

The WITNESS. I do not remember about that.

Mr. HOLMES. Mr. Sage was substituted in somebody else's place.

The WITNESS. I said, previous to the purchase of the securities that mention there in my account.

Q. My question is, after the purchase of those securities, had you any interest in that pool?—A. No, sir; only the closing up of the thing. This was the end, and it embraced some securities not embraced in there; and my recollection is now—I had not thought of it before, I had not drawn my attention called to it since the thing was closed up—that Mr. Dillon, and Mr. Villard, and myself were named here in this section.

CLOSED UP THE TRUST AND POOL.

J. You were appointed a committee?—A. Yes, sir; to close up this thing, and we distributed these bonds to the men who were the owners of the securities for which they were exchanged, and closed up the trust. This is my recollection. Closed up the trust and the pool.

J. Do you remember how long you had been a member of that committee before the mortgage was made?—A. I do not. It was some months. I do not remember the length of time.

J. Were you an active member of the committee?—A. Yes, sir.

J. Did you have control of the securities that are referred to in the portion which I read to you?—A. I think we left them in charge

Ham, or some one in the office. We used to meet, I think, in Nassau street, Mr. Henry Villard, Mr. Dillon, and myself.

Q. You say that you had no personal interest in those securities, the description of which I have read to you?—A. I do not recollect now any personal interest. I think we were used as—

Q. Your best recollection at the present moment is that you had no personal interest in those securities, or in the \$3,400,000 of bonds that were to be paid for them?—A. I do not remember all the figures, but I know Mr. Villard and Mr. Dillon and myself were there trying to adjust these matters and close them up, and this was the closing up at the end of it.

Q. I understand; but what I am now asking you is whether you received any of that \$3,400,000 of bonds?—A. I do not remember.

Commissioner ANDERSON. We will forgive you if you had a million of them.—A. I do not want to be forgiven for anything I have done.

Q. Your present recollection is that you had no personal interest in it?—A. I have not thought of it before, I say, since the transaction, until this moment here.

Q. You say you were an active member of that committee?—A. I met there with them; yes, sir, daily.

Q. Will you tell me how you ascertained who the persons were who were entitled to that \$3,400,000?—A. I have not got the record of it. I guess Mr. Ham must have it. I think he kept the record of the meetings of the committee.

Q. Do you remember whether he presented to you any record showing who was entitled to these bonds?—A. Of course he did.

Q. You think he did?—A. Yes, sir.

Commissioner ANDERSON. You were the trustee of the mortgage, and the bonds were to be delivered to you and Mr. Dillon and Mr. Villard?

The WITNESS. The securities we got for all those bonds Mr. Calef must have for the trustees.

Q. Why Mr. Calef?—A. These went right into the hands of the trustees.

Mr. HOLMES. Mr. Calef has kept their account, as secretary, since.

Q. Mr. Calef has kept the accounts as secretary of the trustees of the consolidated mortgage?—A. Yes, sir.

THE \$3,400,000 BONDS.

Q. I am now talking of the disposition of the \$3,400,000 of bonds which, by the section I have read to you, were to be issued to yourself and Mr. Villard and Mr. Dillon, in payment for these securities. They got the securities for the bonds. Mr. Calef must have those bonds for the trust.

Q. These securities were delivered?—A. Yes, sir.

Q. And the bonds were issued?—A. That is it.

Q. To whom were these \$3,400,000 of bonds delivered?—A. To the persons who owned these securities.

Q. Did they receive them immediately from the company, or did they receive them from the committee?—A. I do not remember as to that, at this moment.

Commissioner ANDERSON. The section which I read to you recites that the said company has contracted with Sidney Dillon, Russell Sage, and Henry Villard.

The WITNESS. Yes, sir.

Commissioner ANDERSON. As the holders of certain securities, to pay them for these securities, \$3,400,000 in bonds?

The WITNESS. Yes, sir.

Q. I want to be informed as to who got the bonds and who delivered them to the real owners of these securities.—A. I think that by perhaps a little examination I can refresh my memory, and answer that more intelligibly than I can right off, for I have not thought of it since the transaction was closed up.

Q. You say you think Mr. Ham did lay before the committee a statement showing the persons who were entitled to these bonds, and what their relative interest in these securities were?—A. I won't be sure that it was Mr. Ham, but of course there must have been such a presentation to us or we would not have acted upon it.

Q. You would not have distributed the bonds?—A. No, sir.

Q. Nor permitted them to be distributed?—A. No, sir.

Q. You say that you were not personally interested in these securities, as far as your present memory serves, and Mr. Henry Villard has made the same statement. Can you tell me who were the owners of these securities?—A. I cannot recollect the thing; it was so many years ago.

Q. Do you not recollect the fact that Mr. Gould was interested in them?—A. I think that very likely he was.

Q. And Mr. F. L. Ames?—A. I do not remember distinctly about it. I am not positive, as it is eight or nine years ago.

WITNESS' DUTY AS A TRUSTEE.

Q. As one of the trustees of this mortgage, was it not your duty to scrutinize the agreements that were made between the holders of the securities and the bonds, to ascertain and supervise the rates at which the bonds were to be issued?—A. It was our duty to see that we got what was provided for in the mortgage, and we got them.

Q. Was it not also your duty to see that the terms that were made for these particular people who were to receive bonds for these securities were not more advantageous to them than the terms offered to other bidders?—A. Certainly, that was so. There never was any preference given to any person that I knew of.

Q. What examination did you make to see whether there were any preferences or not to the holders of these securities?—A. We made a proper examination at the time. Of course we were acting as a committee, and we would not have been very likely to pass them without such an examination.

Q. Did you ever make such an examination?—A. Yes, sir; that is my recollection about it.

Q. Did you figure it out?—A. Yes, sir.

Q. You recollect doing that?—A. I do. I recollect our having the matter before us there and everything pertaining to it. We were in session several months.

Q. You will perceive that all the securities enumerated at page 156 may be converted by the rates contained in article 23, so as to compare the amount that they were to receive, and which at pages 156 and 157 is specified at \$3,400,000, with the amount they would receive under the converting rates provided for by article 23. Did you ever make that comparison?—A. I have no doubt that we made a comparison to conform with the mortgage at that time. I have no doubt about that.

Q. Would you be surprised now to be told that the amount they were to receive is not the same that they would have got if they had converted?—A. I should be surprised, unless there was some explanation accompanying it.

Q. Do you know how that rate of purchase, \$3,400,000 for these different bonds, came about?—A. I do not recollect it now. As I said before, it is eight years ago, and I do not carry any memory of it. I have got too many things to think of to carry anything of that kind with me, refreshing my memory.

Commissioner ANDERSON. At this time you were a trustee of the mortgage?

The WITNESS. Yes, sir.

Commissioner ANDERSON. And this was a large transaction, by which you were to part with \$3,400,000 of these bonds?

The WITNESS. Yes, sir.

Q. Can you recall between whom a negotiation of this magnitude was conducted, and who fixed the terms that were to be paid for the securities?—A. The committee fixed the terms with the owners.

THE COMMITTEE.

Q. What is the christian name of the committee?—A. Mr. Henry Villard, Mr. Sidney Dillon, and myself, I suppose.

Q. Can you specify which of those three gentlemen conducted the negotiation and reached the conclusion that it was about \$3,400,000?

A. I suppose it was the result of a conference, the same as it would be with this Commission here, the three gentlemen acting together.

Q. Then we are probably going to get \$3,400,000. Well, do you expect to collect any such conference?—A. I recollect, as I stated before, that we were there in session frequently on this business; daily.

Commissioner ANDERSON. As a member of this committee, you represented the interests of the holders of these securities.

The WITNESS. We represented the interests of both, I suppose.

Commissioner ANDERSON. You represented the interest, as a member of the committee, of holders of these securities. You were bound to protect them and get the best terms you could.

The WITNESS. We were bound to do justice to them; yes, sir; both to the company, as a trustee, and to the committee, who were the owners of the securities.

Q. Before the amount had been fixed at \$3,400,000, while you were serving on this committee, was it not your duty to see that the holders of these securities got the full market value of their securities in a settlement that was made?—A. I suppose we must have come to that conclusion, or else we would not have assented to it.

Q. We will take it before you were named as the trustee in the mortgage, when you were simply a member of this committee. You were put on that committee to represent the holders of these securities, to protect those interests, were you not?—A. Yes, sir.

Q. That was the object of your service as a member of that committee?—A. I suppose so.

Q. When you became a trustee of the consolidated mortgage, was it not your duty, as trustee of the consolidated mortgage, to protect the trust that was stated in the mortgage, and to see that no bonds were issued except on fair and equal terms?—A. Yes, sir; that is what we supposed we did.

MR. SAGE MEETS HIMSELF.

Q. You say that you met yourself, as a consolidated mortgage man, and you met yourself as a member of the committee, and that the arrangement was made between the trustees and the committee?—A. No, I do not say that.

Mr. HOLMES. The record recites, between the company and the committee a contract was made.

Commissioner ANDERSON. I have been endeavoring to get at how this arrangement was made and how the prices were reached. The record reads: "Whereas said company, in pursuance and in furtherance of such resolution." I will read the resolution. The resolution does not refer to the fixing of any prices, Mr. Holmes.

Mr. HOLMES. No; it recites that the company had made the contract with these people. That was made before this mortgage was drawn.

Commissioner ANDERSON. I will take Mr. Holmes's explanation as being yours; that is, that the contract which fixes the price for the conversion of these securities, referred to on page 156, was made and adjusted between the committee representing the holders of the securities, on one side, and the committee of nine of the Denver extension bondholders of the Kansas Pacific Company, on the other side.

Mr. HOLMES. The company was also a party to that contract, and it was in pursuance of that contract, which was a part of the plan and agreement of reorganization, that a part of the decree in the suit was incorporated into the mortgage as a part of the mortgage itself.

The WITNESS. That is it.

Mr. HOLMES. And the trustees of the mortgage were bound, by the terms of the mortgage, to carry out that contract. May I make a short explanation.

The CHAIRMAN. Certainly.

Mr. HOLMES. Mr. Sidney Dillon states that while the fact is that he purchased from the Union Pacific Company the amount of shares of stock stated in the letter yesterday, he was merely a conduit of title; that he purchased the stock above par, from the company, but sold it in open market upon the New York Stock Exchange, and the proceeds of it were paid over to the company.

Commissioner ANDERSON. We certainly will have occasion to examine Mr. Dillon again, and he can make that statement under oath.

Mr. HOLMES. It appeared to be a personal, private transaction, but it was done for the company.

Commissioner ANDERSON. I presume the prices stated in the letter will agree with the prices on the Stock Exchange.

Mr. HOLMES. I have no doubt of that.

The CHAIRMAN. We will excuse you, Mr. Sage, until 2 o'clock, and will now take a recess.

AFTERNOON SESSION.

RUSSELL SAGE, being further examined, testified as follows:

EXCHANGE OF OLD SECURITIES FOR CONSOLS.

By Commissioner ANDERSON:

Question. After you and Mr. Gould became trustees of this consolidated mortgage, do you remember how rapidly the old securities were exchanged for consols?—Answer. No, I do not specially remember, but they came in as they usually do in conversion of securities of that kind.

Q. Do you remember how many of those bonds had been issued when the consolidation took place?—A. No, I do not. I have no data here to refresh my memory.

Q. Did the issue continue after the consolidation?—A. It continued on as the securities came in.

Q. Those securities that came in were all those enumerated in that mortgage?—A. Yes, sir.

Q. All the different classes of bonds and certificates representing coupons?—A. Yes, sir.

Q. And all the rest of them?—A. Yes, sir.

Q. How high did that issue ultimately reach?—A. I could not tell you without data.

Q. Do you know the amount outstanding to-day?—A. I could not answer that definitely.

Q. Was it about \$14,000,000?—A. More than that, I think.

Q. You are the trustee now?—A. Yes, sir.

Q. What is the amount?—A. Some \$15,000,000, I think, or \$16,000,000. There have been some retired. Some were purchased and canceled.

Q. And quite a proportion of the underlying mortgages have been retired at this day, as I understand it?—A. Yes, sir.

Q. Do you remember, shortly before the consolidation, the subject of the withdrawal of some of the securities, which you held as trustee under that mortgage, being spoken of?—A. Not at this moment.

Q. Do you remember the fact that there were two schedules annexed to your mortgage, one containing a description, generally, of the property and the other containing an assignment of certain stocks to you and Mr. Gould as trustees?—A. Mr. Holmes says it was the Denver Pacific stock. He was more familiar with that perhaps than I am.

Q. As trustee of that mortgage, did you not become familiar with the securities that you held?—A. Oh, yes, sir.

Q. Please read the second schedule, and see if that refreshes your mind. Have you possession to-day as trustee under that mortgage of the securities enumerated in that schedule?—A. We have a list that is kept by Mr. Calef, under our directions, of all those things.

DENVER PACIFIC STOCK.

Q. Have you got that Denver Pacific stock in your possession to-day?—A. I do not remember at this moment.

Q. Have you got that Denver Pacific stock?—A. I could not answer that here.

Q. You do not know?—A. I presume we have got all the securities that were given to us, in trust, in the Safe Company, in the charge of Mr. Calef.

Q. Do you think you have got all the securities that were originally given you in your possession?—A. I presume we have got all we exchanged for, certainly.

Q. Could that 29,86 shares of Denver Pacific stock have been taken out of your trustees' pocket without your knowledge?—A. No, I tell it not. If they were put into the hands of our trust, where we kept those securities, we have them in the Safe Deposit Company.

Q. Do you not know to-day, as a matter of fact, that that property has been taken out of your trust?—A. I have not had my attention called to it before, until this moment, for several years, and I am not prepared to answer the question that you are putting to me.

Commissioner ANDERSON. You are a trustee under that mortgage

The WITNESS. Oh, yes, sir.

Commissioner ANDERSON. And, as such, you are responsible for the property in your possession?

The WITNESS. We are responsible under that trust deed, of course.

Q. Have you never heard that your trust has parted with that stock by a formal proceeding and suit in court?—A. Yes, sir. That recalls it to my mind. You have explained it further and it refreshes my memory. I have not given the thing thought for some time.

Q. What do you recollect now?—A. That brings back to my mind that there was some legal proceeding in relation to that.

Q. Now I will go back to the starting point. Were you spoken to about that proceeding before it was instituted?—A. I presume I was.

Q. It was a matter of some importance, was it not; twenty-nine thousand shares of stock that you were responsible for as trustee?—A. Yes, sir.

Q. Who spoke to you about it?—A. I presume it was talked over and considered by our counsel. We acted under the advice of our counsel, of course.

Q. Who was the counsel?—A. I think Judge Dillon and Mr. Holmes.

Q. Mr. Holmes would not come to see you about it. Mr. Holmes did not know anything about the suit that was to be brought unless it was called to his attention. How did the suit first come up?—A. I do not recollect for the moment. Perhaps by refreshing my memory a little I can bring it all out.

Commissioner ANDERSON. Mr. Gould was your associate in this trust?

The WITNESS. Yes, sir.

Commissioner ANDERSON. And you could not part with those securities without conferring with Mr. Gould about it?

The WITNESS. No, sir.

Q. Are you satisfied that you conferred with Mr. Gould about it before you let that stock go?—A. I do not recollect the circumstances connected with it for the moment.

Q. You and Mr. Gould were trustees under this mortgage, and held these securities for the purposes of your trust. Are you not entirely satisfied that before you permitted that to pass out of the hands of your trust you and Mr. Gould discussed it fully?—A. As I said before, it is some years since the thing occurred, and I do not recollect at this moment the particulars connected with it.

Commissioner ANDERSON. I know that, but I am asking you from your own knowledge.

The WITNESS. We would not part with those things without, of course, judicial action and under advice of counsel.

ACTED UNDER ADVICE OF COUNSEL.

Q. And before instituting such judicial action you would confer together as to instituting it?—A. Undoubtedly.

Q. And you have no doubt but what you and Mr. Gould talked it over before the suit was brought?—A. That is my impression; yes, sir.

Q. Who sent for Mr. Holmes?—A. As I said before, I do not remember the history of the thing for the time being. I close up my day's business, and I commence with the light of the next morning generally, and I do not attempt to carry transactions and details for nine years; and I do not think there is any man around this table that can.

Q. Do you remember Mr. Holmes coming to you and talking over this

matter with you?—A. I have answered you that I do not recollect the transaction.

Q. You say you do not recollect sending for him. I now ask you if you recollect his coming and talking to you?—A. I do not think I did anything of this kind, without talking with him or Judge Dillon.

Q. Were you served with a summons and complaint in this suit?—A. I think I was. It slipped my memory, and I have never had occasion to refer to the thing since the day it occurred.

Q. What lawyer did you employ to see that the thing should be done correctly?—A. My recollection is that it was the lawyers I named; Judge Dillon or Mr. Holmes.

Commissioner ANDERSON. Mr. Holmes was on the other side.

The WITNESS. That is true. Mr. Holmes was on the other side.

Commissioner ANDERSON. Mr. Holmes was for the plaintiff in that suit, so that he could not have been your lawyer.

The WITNESS. No; that is very true.

Q. Do you not remember who your lawyer was?—A. No, I do not recollect it now. The thing has passed out of my recollection.

Q. Do you know Mr. Aaron J. Vanderpoel?—A. I do.

Q. Do you know Mr. Almon Goodwin?—A. I do.

Commissioner ANDERSON. I will state to you that it appears from the record that that firm appeared for you and Mr. Gould.

The WITNESS. I think it did.

Q. Do you know at this time who was Mr. Jay Gould's personal counsel?—A. At this time?

Commissioner ANDERSON. At that time, in 1880.

The WITNESS. No.

Q. Do you know who it is now?—A. I think he has several counsel; I suppose so.

Q. Do you not know that Mr. Vanderpoel has for many years been Mr. Gould's personal counsel in many matters?—A. He has been in several matters. Mr. Goodwin has.

Q. Do you remember that an answer was interposed in that suit?—A. I do not recollect the particulars. I have not charged my memo-
with it. I remember now, since you spoke of it, that their firm did ap-
pear for us.

Commissioner ANDERSON. Mr. Holmes, do you happen to remem-
ber who swore to that answer?

Mr. HOLMES. Mr. Gould swore to it.

Q. Do you remember the result of that suit?—A. No; in part only. I have not refreshed my memory about the thing.

Q. Do you not remember that a decree was made by which you and Mr. Gould were directed to part with that 29,000 shares of stock?—A. Well, I remember that.

Q. Is it present in your mind that that suit was somewhat more rapid than most litigations generally are?—A. No, sir; it is not.

Q. You do not remember that?—A. I do not remember that it was more rapid than suits of a kindred character.

Q. If a suit of that character, involving \$3,000,000 of stock, was commenced, brought to issue, tried, determined, and decree entered and executed in seven days' time, you would think it very rapid, would you not?—A. No; I should not.

Commissioner ANDERSON. You have a better opinion of lawyers than I have.

The WITNESS. Well, I think if a case is properly prepared and the papers all as they should be, that that was ample time.

The CHAIRMAN. And everybody agreed ?

The WITNESS. Yes, sir; in half the time. Whether they agreed or not, if they got out the facts and the law that governed the transaction, seven days was ample.

Commissioner ANDERSON. I believe the Lord made the world in seven days, but I never knew a lawyer try a case in that time.

The WITNESS. It takes more time than it does for us business men to do the business.

By Commissioner ANDERSON :

Q. What happened about that stock after that decree was made ?—

A. I do not recollect the history of the thing.

Q. Did you not insist on being informed what was going to be done with the stock and who was going to take it ?—A. We simply insisted on knowing what was the right thing for the trust and for its benefit. That was the main thing that controlled me, I know.

Q. Were you informed at the time you parted with that 29,000 shares of stock that your co-trustee under that mortgage had agreed to buy the stock for certain securities in the Saint Joseph and Western road ?

—A. I do not recollect the fact.

Q. If you had been told that fact would you have permitted the transaction to go through ?—A. I would not, unless it was in accordance with the advice of counsel and of the trust deed.

Q. As a matter of fact, have you ever known a case where it was in conformity with the terms of the trust deed that the trustee of the mortgage should buy its securities himself ?—A. Perhaps I do not quite comprehend your question.

TRUSTEE BUYING FOR HIMSELF.

Q. As a matter of fact, have you ever known a case where it was in conformity with the terms of the trust deed that the trustee of the mortgage should buy its securities himself; the securities which he holds as trustee, I mean.—A. These are matters that are usually influenced very much by the advice of counsel having the matter in charge.

Q. I am asking for your own opinion. You have been a trustee under a great many mortgages and have held a great many trusts, have you not ?—A. Yes, sir.

Q. Do you hold the opinion that it is proper for a trustee to buy a property that he holds in trust from himself, and make his own bargain ?—A. Not as a naked question, without there were other connecting circumstances and facts that would cause counsel to say that it was a proper act to do.

Q. Then, if you had been told that Mr. Gould had arranged the terms on which he was to buy this stock that you held in trust, you would have considered it your duty to have examined it with great care before parting with the stock. Is that not so ?—A. I should have been influenced very much, as I have just stated, by the advice of counsel whom I had confidence in, to investigate the legal bearings of the question and the proper disposition to be made of it.

PURCHASE OF SAINT JOSEPH AND WESTERN SECURITIES.

Q. When did you first learn that Mr. Jay Gould had arranged to buy this stock for Saint Joseph and Western securities and Kansas and Nebraska bonds ?—A. I do not recall the time now, if ever.

Q. Did you ever hear of it before it was disclosed on this examination?

The WITNESS. The second examination of me?

Commissioner ANDERSON. On this examination by the Commission?—A. I heard of it at the time, of course.

Q. From whom did you hear that?—A. I must have heard that from our counsel, Mr. Vanderpoel and Mr. Goodwin.

Q. What did they tell you?—A. They told us the thing was the right thing to do, and I remember telling them distinctly if it was right thing, and if it was for the protection of the property and in pursuance of this trust, I assented to it.

Q. Did they tell you that this stock had been agreed to be sold to Mr. Jay Gould in exchange for Saint Joseph and Western securities?—A. I do not recollect what it was that was said. I remember the other part of it, and I remember that they advised the doing of this thing, or else I should not have done it.

Q. They advised the suit?—A. Yes, sir.

Q. Please confine yourself to this point. I want to know when you first learned that the agreement had been made by which Mr. Gould was to get this stock for Saint Joseph and Western securities?—A. At the time of the termination of the suit, of course; of the action there or during the litigation.

Commissioner ANDERSON. It did not appear in the suit, I may as well say. It appeared in the minutes of the proceedings of the board of directors of the Kansas Pacific.

The WITNESS. Yes, sir.

Q. I will read that minute to you in a moment, although that does not exactly disclose it. My question is when you first learned that Mr. Gould was to get this stock in exchange for Saint Joseph and Western securities?—A. I suppose it was at the time of the action of the board and the legal action.

Q. About this time?—A. Yes, sir.

Q. You say Mr. Holmes spoke to you about this at that time?—A. I think it must have been about that time. It must have been him or Mr. Vanderpoel. I have not charged my mind with it since the transaction was closed.

Q. Will you say that any of those gentlemen told you that it was proper for Mr. Gould, being a trustee of this mortgage, to buy this stock in that way?—A. I say we were advised that it was a proper action for the board to do, or else I should not have done it.

Q. That is not the question. The question is, whether any counsel advised you that it was proper for Mr. Jay Gould, being your associate trustee, to buy the stock which had formed a part of the property held in your trust for himself, and to pay for it in securities of the Saint Joseph and Western Company? Was it ever said to you that that transaction was a proper one by any counsel?—A. It must have been told us. I presume it was. That is my recollection.

Q. When did you first hear that the consolidation project was on foot how long before the consolidation?—A. It was talked of several months before.

Q. With whom did you talk about it?—A. With most of the directors in the company—the Union Pacific and the Kansas Pacific.

WITNESS DID NOT FAVOR CONSOLIDATION.

Q. Generally, as a desirable thing, to form one organization of the

three?—A. It was so reported by the gentlemen in the Union Pacific. I did not favor it myself.

Q. When did it take definite shape, so that you knew it was going to happen?—A. It was late in the fall or early in the winter of 1879.

Q. How long before the articles were signed, which was on the 24th of January?—A. January, 1880.

Q. How long before that did you know that they were going to be signed?—A. I did not know, because I had not given my assent to go into the consolidation until quite late. I was opposed to it. My interests were in another direction, as I said this forenoon. I did not favor the thing. I preferred to hold the Kansas Pacific, instead of going into the consolidation. It was a more growing property, and less incumbered and less liable to competition, which has since sprung up and depreciated its value.

Q. Did you know when the order or direction was given to have the articles of consolidation prepared?—A. I cannot tell the exact time, but I am very clear as to my own feelings.

Q. I am not asking about that at present. I want to know whether you know when Judge Dillon was directed to prepare the articles; how long was it before they were signed?—A. No; I cannot state the exact time, but I know that it was a matter of discussion and consideration for months, and our Boston friends were very anxious to bring this about to stop an anticipated rival that would be very injurious to the Union Pacific road.

Q. My only question is, whether you know when Judge Dillon was directed to prepare the articles?—A. I answer that I do not know.

Q. You answer so much more that the answer gets lost sight of. Were you in daily conference at this time with Mr. Jay Gould?—A. I will not say I was in daily conference; I was in frequent conference with him and Mr. Dillon. Their offices were on the same floor of the building where I was.

Q. Do you recollect, as a matter of fact, that he told you that Judge Dillon was preparing these articles?—A. He might have told me so; I do not remember.

PREPARATION OF ARTICLES OF CONSOLIDATION.

Q. Did you know that the articles were being prepared or drafted?—A. I did not know until a very short time before the meeting; perhaps a week or so.

Q. Did you know it two or three days before the meeting?—A. Oh, yes, sir.

Q. Did you know it a week before the meeting?—A. I think I did.

Q. When the articles were being prepared, had you given your adhesion then to the plan?—A. Not at first.

Q. Just when the articles were prepared, had you then stated that you favored it?—A. I will not be positive as to the day. I know the general scope, the reasons of this matter, were discussed very fully. We regarded it as an important matter.

Q. I am not asking that. All I want to get at is when it had been determined, so that you directors knew that this scheme was going through. How long before the 24th of January was that?—A. It may have been generally acquiesced in; perhaps it may have been ten days, and it may have been fifteen, and it may not have been more than a week.

U. S. PACIFIC RAILWAY COMMISSION.

Q. It took some little time to prepare these articles, did it not?—A. You are a better judge of that than I am, as a lawyer.

Commissioner ANDERSON. You say lawyers can do so much in seven days.

The WITNESS. Yes, sir.

Mr. HOLMES. It depends upon the lawyers.

The WITNESS. It depends upon the lawyers. I have found you to be very expeditious when you had important business to do.

Q. Did you ever see the articles before the 24th of January, or the draft of them?—A. Yes, sir.

Q. On the 24th of January?—A. No; I will not say that. I saw them at the board there.

Q. Had you seen the draft before that?—A. I do not remember of having seen the draft before.

Q. Had you had discussions with Mr. Gould or any one else as to some of the articles to be placed in it?—A. I had discussion on the general matter of consolidation more than in detail. That was a matter for the lawyers, and we blocked out what we thought ought to be embraced in it, and then we trusted to our counsel to put them in form. Judge Dillon did it.

Q. Are you satisfied that one week before the consolidation went through it was substantially arranged among the board of directors that it should go through?—A. As I said before, I cannot tell as to a day or two or three days, but I can state that the matters were under consideration there for several months before any result was reached.

Q. What I want is your best information as to whether a week before the meeting was held so many of the directors had given in their adherence to the scheme that you were satisfied it would go through, and knew it.—A. I believed it would go through, and I acquiesced in that against my own convictions of what was my interest. I did not believe it was my interest to make the consolidation, and I yielded to the wishes of my associates, as I generally do where I have respect and confidence in them.

Q. At the time this conclusion had been reached you therefore knew that the stock of the Kansas Pacific and of the Denver Pacific under the scheme would be exchanged for stock of the Union Pacific Railway?—A. Yes, sir.

Q. And when instructions were given by you, or by you and Mr. Gould, as trustees, to defend this suit, you knew that that Denver Pacific stock that you were going to part with would, under the scheme, be exchanged for Union Pacific stock?—A. That was supposed to be embraced in the agreement.

Q. When you parted with that security you knew that that security would be exchanged for something that was worth \$2,986,000; is that not correct?—A. I do not remember.

Q. The amount of the stock was 29,986 shares?—A. Yes, sir.

Q. You knew it was worth par if exchanged for Union Pacific?—A. No; Union Pacific was not worth par then.

Q. What was Union Pacific worth?—A. About 86.

Q. In January, 1880, a week before; from January 15 to January 24?—A. I think so; along there.

Q. Is that your best recollection of its price?—A. Somewhere about in the eighties.

Commissioner ANDERSON. I am talking of just that week.

The WITNESS. I do not recollect; I have not looked at it.

DENVER PACIFIC STOCK WORTH WHATEVER THE UNION PACIFIC WAS.

Q. You knew that the Denver Pacific stock under the scheme was worth whatever Union Pacific stock was worth, and was to be exchanged for it?—A. I supposed it to be.

Q. At that time you were a director in the Union Pacific, were you not?—A. Yes, sir.

Q. You became a director in 1878?—A. Eighteen hundred and seventy-eight; yes, sir.

Q. What committees did you serve on?—A. I served on the executive committee a part of the time, and I think one year on the finance committee.

Q. Did you hold any office in the Kansas Pacific except as trustee of the consolidated mortgage?—A. No, sir, I believe not.

Q. You were not a director there?—A. I do not remember now; I do not know but I was elected a director; I rather think I was.

Q. When were you elected a director of the Kansas Pacific?—A. I cannot say.

Q. Were you such director at the time of the consolidation?—A. I do not remember that.

Q. Do you remember being present at the meeting of January 24?—A. Yes, sir.

Q. Do you remember taking part in the discussion?—A. I think it very likely.

Q. At that time how much stock of the Kansas Pacific did you hold?—A. I cannot answer.

Q. You cannot answer that?—A. No.

Q. You did hold quite an amount of it?—A. Yes, sir.

Q. Do you remember that after this consolidation there was a ratification made by the stockholders of the Kansas Pacific, which you signed?—A. Yes, sir.

Q. Please look at the paper I show you and state whether you owned the shares for which you signed.—A. Yes, sir; I have no doubt of that. I should never have signed it if I had not owned them.

Commissioner ANDERSON. Give the amount.

The WITNESS. Nine thousand nine hundred and seventy-seven.

Q. When was that paper signed?—A. There does not seem to be any date.

Commissioner ANDERSON. I suppose from time to time, and not all signed at once?

The WITNESS. No; I suppose not.

Q. Do you know when you signed it yourself?—A. I do not.

Q. You do not remember how long after the consolidation it was?—A. No, sir.

Q. Do you remember whether you owned the same stock of the Kansas Pacific at the time of the consolidation which you did when you signed that paper?—A. I have no doubt I owned the greater portion of it. I do not remember the particulars.

LARGE HOLDER OF KANSAS PACIFIC AND UNION PACIFIC STOCK.

Q. The Kansas Pacific stock, as such, was not dealt in after the consolidation, was it, or very little?—A. Oh, yes, sir; it was dealt in; I was a large holder at that time in both the stocks, both Kansas and Union Pacific, and dealing in them.

Q. Was not the conversion very rapidly made, as soon as the securities were ready, so that afterwards it was merely known as Union Pacific stock?—A. Oh, no; it was no more rapid than ordinary transactions of that kind. Some people would rush in to make their exchanges and others would wait along, and I presume are waiting now, for all that I know. That is the history of the most of those things.

Q. At the time of this meeting how much Union Pacific did you hold?—A. I could not answer that without an examination.

Q. Do you know whether your controlling interest was Union Pacific or Kansas Pacific?—A. I had a pretty large interest in both companies, of the stock. I have been a large holder of other securities all the way through.

Q. Did you also sign for your Union Pacific stock the ratification that was signed by the stockholders?—A. If you have it there that will tell the story.

Q. Please look at the amount of shares you have there on the second page; 15,000 shares, is it not?—A. Yes, sir. That is quite likely.

Q. Do you also think that you owned that amount of Union Pacific stock at the time of the consolidation?—A. I did. I sometimes owned as high as 30,000 or 40,000 shares.

Commissioner ANDERSON. I mean at the time of the consolidation?

The WITNESS. It is whatever it was at the time I signed. I do not borrow things to sign on.

Q. Do you recollect the course of the market as to the Kansas Pacific stock during the year 1879?—A. It was very fluctuating.

Commissioner ANDERSON. I mean its general course, starting in January, 1879, and landing in January, 1880?

The WITNESS. It was—

Commissioner ANDERSON. Quite a rocket?

The WITNESS. Yes, sir; and that was what caused such a desire on the part of the Union Pacific directors and stockholders to bring about this consolidation. There was an apprehension that it would be diverted in another direction, and would be very injurious to the Union Pacific.

KANSAS PACIFIC ABOVE PAR IN 1880.

Q. As a matter of fact, did the Kansas Pacific stock not rise from about 10 in January, 1879, to about par in January, 1880?—Yes, sir. It went above par. It was 10 per cent. at the time of the consolidation with the Union Pacific.

Q. In the statement which you have handed us to-day, I understand that all your transactions relating to Kansas Pacific stock and bonds are entered?—A. This is what I bought and sold there. That is the abstract that the young man took from my entries there.

Q. Does it contain all the transactions which you entered into?—A. No; I told him to make some others which you asked me for, as to bonds and other things.

Q. My question is, whether this contains all the transactions in Kansas bonds and stock?—A. It does, from that day.

Q. From July, 1878, down to the date of the consolidation?—A. Yes, sir. I have got some collateral interest in the Saint Joseph securities, and Saint Joseph and Western.

Commissioner ANDERSON. You answer more than my question as for. You will kill the stenographer before he gets through. I notice a number of purchases of Kansas Pacific stock which are marked as having been bought from Mr. Jay Gould during the year.

The WITNESS. Yes, sir.

INTEREST IN SAINT LOUIS POOL.

Q. In those cases the price of the purchase is not given. I call your attention to the purchases of the 7,105 shares, with some other securities, on the 18th of March, 1879. Can you tell me the rate per share?—

A. No; I cannot tell you. As I say, that was a part of the Saint Louis pool that I told you about this morning.

Q. That was what?—A. I took two-twelfths, as it were, when he purchased out the Saint Louis pool, as it was called. There had been a pool formed in Saint Louis, running three or four years, by people there picking up these securities, Mr. Greeley and others, and Mr. Meirer, I think. And Mr. Gould bought that interest. I took this interest in, and when I took that interest I expected to use that in connection with the Missouri Pacific system.

Commissioner ANDERSON. I am only asking about that item.

The WITNESS. I have only regretted down to this time that it was not done so.

Q. You took two-twelfths at that time?—A. I took, first, one-twelfth, and then afterwards a second twelfth, and tried to get others to do the same—Commodore Garrison and others.

Q. Does the item which I now indicate to you represent one-twelfth or two-twelfths?—A. Two-twelfths.

Q. Did you pay to Mr. Gould the same price that was fixed as between him and the Saint Louis parties?—A. I so understood it.

Q. And you cannot tell us how the rate is to be arrived at by disengaging these other two items?—A. No. That is made up, and I suppose I got it at just what it cost him.

Q. Were those securities delivered to you, or did you simply take an interest in the pool?—A. No, sir; the securities were delivered to me.

Q. The securities were delivered over?—A. Yes, sir.

Mr. JOHN F. DILLON. I would like to have you examine, between now and to-morrow, so that you can answer it, the relative value of the Union Pacific and Kansas Pacific stocks within a week of the consolidation, and also your personal holdings in the two companies, stock and other securities.

The WITNESS. I can do that.

The CHAIRMAN. We will hear you again to-morrow at 11 o'clock.

RUSSELL SAGE.

The Commission then adjourned to Friday, May 13, 1887, at 10 a. m.

NO. 10 WALL STREET, NEW YORK,
Friday, May 13, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

RUSSELL SAGE, being further examined, testified as follows:

By Commissioner ANDERSON:

Question. At the close of yesterday's examination you were explaining to us this purchase of one-sixth interest by yourself of the holdings of the Saint Louis party in the pool on the 18th of March. Have you anything that will tell us at what rate the Kansas Pacific 7,185 were charged?—Answer. That is the gross sum, the things that are in there.

Q. There are \$29,000 of Denver Extension bonds. Do you know what they represented? It could not have been over \$29,000, could it, at that time?—A. No, sir; I think not.

Commissioner ANDERSON. They were considerably depreciated, as I remember, in March, 1879?

The WITNESS. That is my recollection.

Mr. HOLMES. They must have been about 80, then.

Q. Please tell us what the third item is; 200 of something of the reorganization certificates?—A. I do not know, except from the entry there.

Commissioner ANDERSON. Read it.

The WITNESS. Two hundred thousand dollars Kansas Pacific reorganization certificates.

KANSAS PACIFIC REORGANIZATION CERTIFICATES.

Q. Did you buy any such amount as \$200,000 of certificates at that time?—A. This was what I purchased. They must have represented certificates against the interest in the Saint Louis pool. That is undoubtedly it. These \$200,000 Kansas Pacific reorganization certificates were the proportion of that pool, the Saint Louis pool, of these gentlemen, Mr. Meirer and Mr. Greeley, and several others, stated at par.

Q. So they bought \$29,000 of Denver Extension bonds, \$200,000 of the certificates; and in addition to that you received 7,185 shares of Kansas Pacific stock, and for the whole batch you paid how much?—A. \$200,250.

Q. Do you know what the value of the certificates was at that time?—A. I do not.

Q. Was that negotiation made between yourself and Mr. Gould?

The WITNESS. What negotiation?

Commissioner ANDERSON. The negotiation by which you paid out that check for these securities.—A. As I stated yesterday, I bought this two-twelfths interest as I understood. He paid \$1,200,000 for it and I took \$200,000 interest in it. This is the accrued interest from the time he paid for it.

Q. What was the accrued interest?—A. \$250.

Commissioner ANDERSON. Then, as I understand it, the Saint Louis party got \$1,200,000, and for that they surrendered their interests in this pool, and those interests amounted to just six times the figures that are stated in this account, which represents what you got.

The WITNESS. That is my recollection of it.

Q. Then the whole interest of the Saint Louis party in the pool would be six times 29 Denver Extension bonds, six times 7,185 shares of Kansas Pacific stock, and \$1,200,000 in certificates?—A. Yes, sir.

Q. And for that Mr. Gould paid them, or agreed to pay them, \$200,000?—A. That is my recollection of it.

Q. Can you explain why there was a distinction between the shares of the Kansas Pacific stock and the certificates in the pool agreement as originally made? The certificates carried an interest in the Kansas Pacific stock which was already in the pool. Do you know whether this represented stock that had been added to the pool after the certificates were made?—A. I do not.

Q. Was there any paper prepared by you at that time, or handed you at the time, stating the details of this negotiation and how it arrived at?—A. I do not remember that there was.

Q. You have no paper of that character ?—A. No, sir; that is an abstract of my books just as the entries were made.

Q. Was there any one else interested in this purchase except yourself and Mr. Gould ? Did any one else take a share ?—A. I think he parted with others. I tried to negotiate, as I stated yesterday, \$100,000 with Commodore Garrison and \$100,000 with Mr. Keene.

Q. But they did not take it ?—A. They did not take it.

Q. Did Mr. Ames take any share ?—A. I do not remember.

Q. So far as you knew Mr. Gould had five-sixths and you had one-sixth ?—A. I understood that he had parted with a portion of his five-sixths.

Q. Did you understand to whom he had parted with it ?—A. No ; I do not remember now. If I was told at the time it has slipped my mind. I do not remember it.

Q. I call your attention to another entry in this paper, under the date of April 17, which is as follows : \$14,000 of bonds, 3,592 shares Kansas Pacific I presume, and \$100,000 of reorganization bonds, in brackets, with the words " Jay Gould " opposite, amounting to \$101,363.89. Will you please tell us what that entry refers to ?—A. I think it refers to a purchase of bonds that he made in Europe, and I took this interest in the purchase.

Q. That is, a portion of the purchase made while Mr. Gould was in Europe ?—A. That is my recollection ; I am not positive about it.

Q. Do you remember what proportion of that purchase you took with Mr. Gould ?—A. I do not.

Q. How was it brought to your notice ?—A. He had been negotiating with the parties here before he went there ; I think he bought it while he was abroad, and he asked me if I would take a proportion of it if he bought it, and I said I would, and I took this proportion ; that is all ; I do not remember the amount.

Q. Do you remember whether your proportion was one-half or less than that ?—A. Less than that, less than a quarter, I believe ; I do not remember.

SECURITIES PURCHASED FROM A SYNDICATE OF GERMAN GENTLEMEN.

Q. From whom were those securities purchased ?—A. I could not tell you at the moment ; I think it was some German gentlemen, or a syndicate of German gentlemen, who held it abroad.

Q. Can you not identify them a little closer than that ?—A. No, I could not.

Q. To whom did you give the check here ?—A. I gave it to Mr. Gould.

Q. Mr. Gould was in Europe, was he not ?—A. I gave it to him on his return.

Q. You do not remember at all the name of the German syndicate ?—A. I could not recall the names ; I should not remember them anyway, for I had no interest in them, only in that way. It was a second-hand interest with me. I just took the interest that I told him I would take and paid him for it without going any further.

Q. Was the amount you were to pay \$100,000, and is this \$363.89 for interest ?—A. I presume that was it.

Q. You cannot tell us any closer what your proportion was, whether it was one-sixth or one-tenth ; might it have been one-tenth ?—A. I cannot tell you ; I have not a very clear recollection of the amount.

Q. What are these 14 bonds, the first that are enumerated?—A. That I do not know.

Q. Denver extensions?—A. I cannot tell you that; I rather think they were.

Q. They were at that time, in April, 1879, worth about 80 or 85?

Mr. HOLMES. I think these are Denver Pacific bonds; I think they were bought through A. G. Dulman and Mr. Ten Have.

Commissioner ANDERSON. He had ten, I suppose.

The WITNESS. That brings it back to my mind.

Q. Do you know who their representative was in New York?—A. Yes, sir; A. G. Dulman was the man who lived here, and this Ten Have lived abroad and was here occasionally.

Q. Does Mr. Dulman live here now?—A. Yes, sir.

Q. Where is his office?—A. I cannot tell you.

DENVER PACIFIC BONDS BELOW PAR IN 1885.

Commissioner ANDERSON. What were the Denver Pacific bonds worth, about, in April, 1885?

Mr. HOLMES. I cannot tell; I do not know.

Commissioner ANDERSON. They were under par?

Mr. HOLMES. Oh, yes, sir.

Q. What were the reorganization bonds worth at that time?—A. I cannot answer that.

Q. Were they under par?—A. There may be some sales on the other side; that may give you a little key to it.

Q. Are you able to tell me at what rate these 3,592 shares of stock were bought by you in April, 1879, on this transaction?—A. No, sir; I cannot tell you anything different from what is on that paper.

Q. All you are able to say is that you bought with \$100,000 these 14 bonds and \$100,000 of reorganization bonds, and also paid for 3,592 shares of stock?—A. That is as it appears there; I presume that was the proportion; I understand it. That is the proportion of the interest which I took in the purchase.

Commissioner ANDERSON. What I cannot understand is that the reorganization bonds are quoted at that time as being worth about par, so that the reorganization bonds alone would consume the whole of the \$100,000, and the 3,592 shares of stock would appear to have been absolutely thrown in. Look for yourself.

The WITNESS. I do not know about that; Mr. Gould was absent, and I do not know what the change in the values was. I took the interest in the purchase at cost, whatever it was. I do not remember what that was.

Q. Then Mr. Gould may have made this purchase some time before?—A. That was it; it was not closed up there; I entered it when we paid for it, and that accounts for that interest being added to it on his return home. I think he was gone about four weeks, if I recollect right.

Commissioner ANDERSON. The interest represents at 6 per cent. for a little over half a year, \$363 on \$100,000?

The WITNESS. I guess it was 7 per cent. then; I do not remember.

Commissioner ANDERSON. No; the interest only represents a short period.

The WITNESS. Well, he was not gone so long; that is just what it represents, just the proportion of the interest in the purchase he made which I took.

Commissioner ANDERSON. The information derived by you from Mr.

old is, that he himself purchased at similar rates his proportionate part of these same securities?

THE WITNESS. He purchased the whole of them, and sold my share them to me.

Q. He sold them to you at the same rates at which he had bought them?—A. Yes, sir; adding interest.

Q. I notice that there is no purchase of stock on this paper prior to March, 1879. It was about March, 1879, then, that you began buying stock?—A. I think so.

Q. Are you able to tell us to-day exactly what securities of the Kansas Pacific, and what bonds you held at the time of the consolidation?—A. Stated here yesterday, I think. I can give it to you, I guess.

COMMISSIONER ANDERSON. You said you would look it up.

THE WITNESS. I held on the 1st of January Kansas Pacific—COMMISSIONER LITTLER. January, 1879?

THE WITNESS. January, 1880. I held 8,877 shares, and 14,700 shares Union Pacific.

By Commissioner ANDERSON:

Q. Do you know what bonds of the Kansas Pacific you had at this time?—A. I have not got that tabulated here. I held quite an amount of those bonds.

Q. What was the character of the bonds that you held; do you remember which they were without giving the details of their amounts?—A. I held Kansas Pacific consolidated bonds. I have got a memorandum here of the Saint Joseph and Pacific bonds. Kansas and Nebraska is another.

Q. The Kansas Pacific consolidated bonds are known as K. P. consolidated?—A. Yes, sir; that is it; and I had Denver and Pacific bonds.

Q. Have you enumerated all the kinds of securities?

THE WITNESS. You want the amount?

COMMISSIONER ANDERSON. Afterwards; but I want to know now if I have given us a statement of all the kinds of securities.

DENVER AND BOULDER VALLEY BONDS.

Q. All, except I think there is Boulder Valley; I had some of those Denver and Boulder Valley bonds.

COMMISSIONER ANDERSON. I want you to get through with the enumeration.

THE WITNESS. That is all.

Q. How many of the Kansas Pacific consolidated bonds did you hold?

A. I had \$758,000 of bonds.

Q. How many of the Saint Joseph and Pacific?—A. One hundred eighty-one thousand dollars.

Q. How many of the Kansas and Nebraska bonds?—A. One hundred fifteen thousand nine hundred dollars.

Q. How many of the Denver and Boulder Valley?—A. Ninety-four thousand dollars. That finishes the lot.

Q. Have you stated all the different securities of these two roads and their branches—the Union Pacific and the Kansas Pacific—both as to shares and bonds, which you held at the time you voted for the consolidation?—A. I have not examined, only as to the stock in the Union Pacific. I think I owned some stock in some of the roads there but I am not sure as to the date. I have not made that examination of the stock.

Q. Some stock in the branch lines, do you mean?—A. I think so; I can give you that.

Q. Will you please prepare for us a statement, so that we can see just what your interests were at the time of the vote for the consolidation, in all the various stocks and bonds that might be affected by it?—A. Yes, sir.

SAINT JOSEPH AND WESTERN.

Q. In regard to this Saint Joseph and Pacific and Kansas and Nebraska do you remember whether that was bought directly by yourself or in connection with any one else?—A. I bought a great many of these bonds in the open market here; I see by my books that I traded in them; I bought and sold.

Q. Have you prepared for us a statement of your purchases in Saint Joseph and Western?—A. No; I have not; I have got only the aggregate here.

Commissioner ANDERSON. We called for it yesterday, and would like to have that account. If it will cause you too much trouble we will send some one to copy it from your book if you will give the facilities.

The WITNESS. It is not necessary; I will have a copy of it made.

Commissioner ANDERSON. The account in the Saint Joseph and Western we desire.

The WITNESS. Yes, sir.

Q. You say you bought these Saint Joseph and Western securities in the market here?—A. I bought those Saint Joseph and Western and Kansas and Nebraska. I bought and sold.

Q. Can you tell us at what rate you bought the Kansas and Nebraska?—A. No; I could not without examining the list.

Q. That is why I want the statement for them. Do you know how long you had held them before the consolidation?—A. The entries in my books will show.

Q. Were any of those bonds used in the consolidation for the exchange of any securities of the consolidated company?—A. I think very likely they were.

Q. By yourself?—A. I think so.

KANSAS AND NEBRASKA.

Q. How could the Kansas and Nebraska be used for any of the securities of the Consolidated Company?—A. I do not remember now the circumstances, without examining the entries in the books, of the transactions.

Q. In order to make such use of them, did you not have to make some agreement with the officers of the company by which they would take them in pay for bonds or for stock?—A. Yes, sir; I suppose so, or else they would not be taken; they went in as others went in, I presume.

Q. Your impression is that some of those bonds were disposed of in that way?—A. I do not recollect the particulars connected with it.

Q. Do you know that at the same time Mr. Gould was a large holder of these same securities, Kansas and Nebraska and Saint Joseph and Pacific?—A. I think he was a holder of most of these securities.

Q. Can you give us a statement or estimate, from your knowledge of Mr. Gould's affairs, at this time, as far as it went, of what securities of the Kansas Pacific Mr. Gould held at or about the 24th of January 1880?—A. Not the slightest.

Q. Do you know how many shares he voted on?—A. No, sir; I do not know that. I presume I may have seen it at the time, but I never charged my mind with it. It is a matter of record.

Q. He was the first signer of the ratification, and signed for, I think, 79,000 shares. Do you remember noticing that fact when you signed the same paper yourself?—A. I do not remember it now. I presume his name was on before I signed, but I do not remember now.

AS TO GOULD'S KANSAS AND NEBRASKA HOLDING.

Q. Do you remember whether he held other shares of the Kansas Pacific besides that 79,000 shares at the time of the consolidation?—A. I presume he was a large holder of both the Kansas Pacific and Union Pacific.

Commissioner ANDERSON. I am now talking simply of the Kansas Pacific.

The WITNESS. I do not remember any details about it. He was a large holder of these securities. That was the general belief.

Q. Do you know how many Kansas Pacific consolidated bonds he held at the time?—A. I do not.

Q. You know he was a holder of the Saint Joseph and Pacific bonds and of the Kansas and Nebraska bonds?—A. That is my recollection about it. I am not positive as to that.

Q. Do you know how he obtained those bonds or when he obtained them?—A. I suppose he obtained them as other people obtained them, by purchase.

Q. My question is, do you know from whom he bought them?—A. I do not know.

Q. Do you know what price he paid for them?—A. No, sir.

Q. Did you ever hear him say?—A. No, sir.

Q. You never have heard him say what price he paid for them?—A. Not that I remember. I have heard him speak about his buying securities, and paying, as gentlemen do every day, but I did not charge my mind with it. It is a very easy matter to get at by getting him on the stand here.

Commissioner ANDERSON. We have got you. "Sufficient for the day"—

Commissioner LITTLER. "Is the evil thereof?"

The WITNESS. I assume he is just about like myself. He attends to his own business, and I try to take care of my own; and I am more successful in that than I am in taking care of other people's business.

Commissioner ANDERSON. I wish I was as successful in taking care of my business as you are?—A. Certainly; I am aware of that.

CONCERNING THE KANSAS PACIFIC CONSOLIDATION.

Q. We will come down to the consolidation now. Do you remember the occasion of the consolidation? You were present at the meeting, I think.—A. Yes, sir.

Q. Do you remember whether Mr. Gould was there?—A. I think he was present.

Q. Do you remember whether he took any part in the debate?—A. I do not think he was a member of the board at that time.

Q. He had been a director, had he not?—A. Yes, sir.

Q. What makes you think he was not a director on the 24th?—A. My recollection was that he resigned from both boards.

Q. Do you recollect whether that resignation was a surprise to you when it was read on the 24th?—A. I suppose he had a good reason for it to himself.

Q. I ask you whether it was a surprise to you. Had you heard before that that resignation was written out and was to be presented?—A. No, sir; I do not remember that I had.

Q. Please recall the matter, and see whether you did not know before you went to that meeting that Mr. Gould's resignation was to be read?—A. I did not.

Q. Did you ask him why he resigned?—A. No, sir.

Q. Did you know why he resigned at that time?—A. I have no knowledge of his motives. He is a law unto himself, as it were.

Q. Did you guess why he resigned at that time?—A. I am not in the habit of guessing in that way about people's motives. I take their acts.

AS TO GOULD'S RESIGNATION.

Q. Do you not know that Mr. Gould resigned because the transactions that he was having, or that were going through, might be open to criticism if he were a director in the road at the time they were consummated?—A. I have no reason to suppose anything of the kind, or extent, beyond others. Other people are not doing it. He had his own reasons, and those reasons were known to himself.

Q. You say other people were in the habit of doing it. Will you please say what you mean by "it"?—A. Acting upon their own impressions as to what was proper for them to do and what was not proper.

Q. My question to you was, what was his motive for his resignation?—A. I do not know the motive.

Commissioner ANDERSON. I am asking you.

The WITNESS. I have answered it.

Q. Do you not believe now that the motive for his resignation was that as he was taking stock in the new company and paying for it with certain securities of his own, like these Saint Joseph and Western, had been advised that that would not do if he was a director in the company; do you not know that?—A. No; I do not know it.

Q. Do you not believe it to-day?—A. I have no belief about it.

Q. Can you assign any other possible reason for it?—A. That would be a reason, I suppose, with a good many people.

MR. GOULD A DIRECTOR AGAIN.

Q. Did he become a director again afterwards?—A. Yes, sir.

Q. How soon afterwards?—A. I do not remember the date.

Q. Did he become a director during the same year, afterwards?—A. I do not remember the date, as I stated before.

Commissioner ANDERSON. He resigned January, 1880?

The WITNESS. What was the date of his resignation; I had forgotten.

Mr. JOHN J. DILLON. He was named in the articles of consolidation I think.

Commissioner ANDERSON. That will explain it. Please look at the articles of consolidation and see if Mr. Jay Gould is not named as one of the directors.

The WITNESS. Yes, sir; it is in this printed form.

Q. Those articles went into effect how soon after you had presented Gould's resignation as a director?—A. I do not remember; I cannot say without examination.

Q. You were present at this meeting?—A. Yes, sir.

Q. Do you not know those articles of consolidation were signed at the meeting on that same day?—A. I presume they were.

Q. So that you presented his resignation at the meeting, when you convened, and he became a director again as soon as the articles were signed, that same afternoon; that is the fact, is it not?—A. I do not remember.

Q. Please answer us. You know that those articles were signed in your presence at that meeting, do you not?—A. I do not remember that I presented his resignation.

THE KANSAS PACIFIC CONSOLIDATION.

Q. I read from the minutes of the meeting:

The president of the company (Mr. Dillon) laid before the meeting the resignation of Mr. Jay Gould as a director of this company and member of its executive committee, dated January 10, 1880, and stated that he had accepted the same.

On motion of Mr. Sage it was voted that the said resignation be received and accepted, and that the action of the president in accepting the same be and the same is hereby approved.

Do you remember that circumstance?—A. I did not remember it until you read it now. I presume that is correct.

Q. I ask you if it be not true that Mr. Gould, on that same afternoon, became, under the articles of consolidation, a director, as soon as they were signed and in your presence?—A. If the minutes say so; I do not remember the transaction. I should say that he did, and I presume that they state that; I did not charge my mind with it.

Q. The minutes state that—

At 1 p. m. a recess was taken after the articles had been read until 3.30 p. m. Reassembled at 3.30 p. m.

On motion of Mr. Dexter, it was voted that whereas this company has united and consolidated with the Kansas Pacific Railway Company and the Denver Pacific Railway and Telegraph Company into the Union Pacific Railway Company, that the stock-books of this company be closed.

When you reassembled that afternoon you understood that the articles of consolidation had been actually signed; is not that so?—A. If it states so there, I did; I do not remember.

Q. Do you not remember that those articles were signed?—A. Yes, sir; I remember that.

Q. On that day when you had all these meetings?—A. I presume they were.

Q. I have read, and you say now that I recall the fact to you that you remember it, that you moved that this resignation of Mr. Gould should be accepted; does that recall anything more to you about it?—

A. It recalls the fact that the resignation was presented and approved by the board—the action of the president in accepting it on the 10th, as stated there.

Q. Does it not, perhaps, recall the fact that Mr. Gould had asked you to present it, or to make this motion, as soon as they came to order?—A. No, sir; I do not remember that he ever requested me to make it.

Q. How did you come to ask that his resignation be received and accepted?—A. Because that was a part of the business before the board, and it was a mere routine business that would be for some one to move that it be either accepted or rejected.

Q. Why should you want the resignation of Mr. Gould and accepted, when he was to be reappointed within

articles of consolidation?—A. Because I supposed that it was evident that he wanted his resignation accepted, and the board acted upon his request, the same as you would if you were there.

Q. That is what I supposed also, and I ask you whether you acted upon his request?—A. I say I do not know. You asked me for the reason, and I say that was the reason, I suppose. You asked the question, and I will answer it.

Q. I accept that answer. Is it not perfectly clear that Mr. Gould, for some reasons of his own, wanted that resignation acted upon, and requested you to move its acceptance?—A. I do not remember whether he asked me to do it; but, whether he did or not, if a resignation came before a board where I am a member, and no one else did it, I should move that it be accepted, or that it be laid over.

GOULD A DIRECTOR FOR MANY YEARS.

Q. And Mr. Gould remained a director in that road for how long afterwards; quite a number of years?—A. Yes, sir.

Q. An active, hard-working member?—A. Yes, sir.

Q. Taking great interest in the affairs of the company?—A. Yes, sir.

Q. So that you did not consider that his resignation on the 24th of January was a serious one, and meant that he wanted to abandon the business, and not be a director of the road any more? That was not the object, was it?—A. I should judge not, from the fact of his accepting a reappointment.

Commissioner ANDERSON. We judge not, too.

Q. Do you know Mr. Solon Humphreys?—A. Yes, sir.

Q. How long have you known him?—A. Twenty-five years.

Q. What is his business?—A. He is a merchant.

Q. Is he a large dealer in stocks also, and a holder of these different securities?—A. He has been a holder of railroad securities for many years, in the firm that he was connected with, E. D. Morgan & Co.

Q. What positions has he held as trustee of mortgages, or receiver, do you know?—A. He has held several positions with railway companies—he was connected with the North Missouri Railroad for a long while, and the firm of E. D. Morgan & Co. was, very largely.

Q. Was he not connected with the Texas Pacific mortgages also?—A. I think quite likely, and other roads.

Q. Was he not one of the receivers of the Wabash?—A. Yes, sir. He was president of the Wabash Company.

Q. Has he not been identified, very closely, with the railroads that are known as Mr. Gould's property for many years?—A. No, I do not think he has, beyond the amalgamation of the Wabash system. His interests, as I understand, were principally in the North Missouri road.

Q. The Missouri Pacific also?—A. Not largely, in that.

Q. Do you know whether he has much acquaintance with Mr. Gould?—A. Yes, sir; I think he has been acquainted with him.

Q. And had at this time, in 1879 and 1880?—A. Yes, sir; he was acquainted with Mr. Gould, I guess, longer than that.

Q. At this time he was well acquainted with Mr. Gould, and saw him frequently in relation to business matters?—A. Yes, sir; I presume he did.

THE DODGE AND HUMPHREY REPORT.

Q. Did you have much acquaintance with Mr. G. M. Dodge in 1879?—A. Yes, sir; I knew Mr. Dodge before 1879.

Q. He was the original engineer in the construction of this road, was he not?—**A.** The Union Pacific road.

Q. Do you recollect writing a letter to these gentlemen on the 23d of October, 1879?—**A.** Yes, sir.

Q. You remember that?—**A.** I do.

Q. What was that letter about?—**A.** It was in relation to the desirableness and the value of the property out there, &c.

Q. Is that all you remember about it?—**A.** No; we asked them to give us their views in relation to property out there. Mr. Dodge was an eminent engineer and railroad builder, a citizen who had represented one of the Iowa districts in Congress, and Mr. Humphreys was an honored and well-known merchant for more than twenty years.

Q. I am only inquiring as to what you put in that letter; what you wrote to these gentlemen?—**A.** The letter will speak for itself. I do not remember the language of it, but we asked their opinions as to certain things which are stated in the letter, and they gave them. We thought they were very proper men to give the information.

Commissioner ANDERSON. I know they are proper men, and I am only trying to see what you remember as to what you put in this letter.

The WITNESS. If you want to get the information, I am quite happy to give you any we possess why we selected those men, and if we erred in judgment I am willing to tell you about it.

Q. No; you have told me that you asked them to report as to the desirableness of the roads, and as to the value of the property. Is that all you remember?—**A.** The desirableness for the consolidation of the property.

Q. You asked them to report as to whether a consolidation between the Union Pacific and the Kansas Pacific would be desirable, did you?—**A.** The letter will speak for itself.

Q. Do you remember who signed that letter?—**A.** I do not recollect all the names.

Q. Tell us what you recollect.—**A.** I signed it myself, and I stand by what I signed.

Q. Nobody is finding any fault with the letter. We want to find out who was interested in these movements then. Who signed it besides Mr. Russell Sage?—**A.** The gentlemen I stated in my examination yesterday.

Q. It will be very short to give the names.—**A.** I might err in giving the names.

Commissioner ANDERSON. Then we will correct you; to err is human.

The WITNESS. I do not propose to state anything that I do not remember clearly; that would not be worth anything to you.

SIGNERS OF THE LETTER TO DODGE.

Q. Do you not remember any person who signed that letter besides yourself?—**A.** I think, Mr. Dillon, and, perhaps, Mr. Ames; I do not recollect all; they were men who were largely interested in the property, and were very desirous of bringing about a union of the properties.

Q. Was there not somebody else who was deeply interested and very desirous of bringing about the union of the properties—was there not just one other man?—**A.** I do not know; Mr. Gould owned about \$17,000,000 of stock in the Union Pacific; he was probably interested in that, but I think his real interest, his judgment, was more in harmony with mine, which was opposed to it. I was opposed to it myself, as I said yesterday.

Q. Do you not know that Jay Gould signed that letter?—A. I do not remember whether he signed it or not.

Commissioner ANDERSON. Answer my question.

The WITNESS. I do not recollect all the names.

Q. Are you not as positive as you are that you are sitting in that chair that Mr. Jay Gould did unite in writing that letter to Solon Humphreys and Mr. Dodge?—A. I do not recollect that he did.

Q. It is quite as likely that he did as that Russell Sage signed it?—A. Oh, yes, sir.

Commissioner ANDERSON. I will read the letter, so that you can see whether you recognize it; it is on the minutes already.

(The letter addressed to G. M. Dodge and Solon Humphreys was then read.)

Q. Do you remember the letter, now that I read it to you?—A. Yes, sir.

Q. You see that the main thing that you ask these gentlemen is to report upon a basis of consolidation?—A. Yes, sir.

Q. Do you remember whether these gentlemen made any answer at all to this letter?—A. I think they made an answer to it.

Q. Did you not see the answer?—A. Yes, sir; it was read to the board.

Q. Do you remember when the answer was made?—A. I do not recall the date. The minutes of the company, of the board of directors, will show.

Q. To whom was that answer of these gentlemen addressed?—A. It was addressed to Mr. Gould, Mr. Gordon, Mr. Dexter, Mr. Ames, Mr. Sage, Mr. Atkins, and Mr. Baker; they were all directors in the Union Pacific road.

Q. Do you remember whether the answer was printed or written?—A. I do not.

Q. Being addressed to you, you doubtless received it, as well as the other gentlemen; is that not so?—A. My recollection is that it was presented to the board and read at a board meeting.

Q. What I want to know is whether this answer, which is dated January 16, 1880, was received by the gentleman to whom it is addressed on the day when the letter was dated; it is dated in New York.—A. I am unable to state the day because I do not recollect it.

AS TO DODGE'S REPORT.

Q. Will you swear that you did not know all about this report for a week or ten days, or several days, before the meeting of January 24 was held? Please look at the report; you know what it is.—A. I know what it is.

Commissioner ANDERSON. It is dated the 16th of January?

The WITNESS. I do not remember seeing the letter until it was presented in the board of directors.

Q. You will not swear that you did not see it?—A. My best recollection is that I did not see it.

Q. Was it not talked of between you and the other gentlemen to whom it was addressed before the board meeting?—A. No, sir; some of those gentlemen I did not see until we met in the meeting.

Q. Was it not talked of between you and any of those gentlemen before the board meeting?—A. It may have been mentioned that they had sent that letter. I think quite likely I may have spoken to some of them; but these Boston gentlemen I am sure I did not see until they

me over to attend the meeting. Sometimes they were not here more than once a fortnight, and sometimes not more than once a month.

Q. I call your attention to the fact that the terms of the consolidation, as reported in this letter, are the same terms that were inserted in articles of consolidation; that is, \$10,000,000 stock for the Kansas Pacific, \$4,000,000 for the Denver Pacific, and the Union Pacific stock \$36,000,000, to stand as it stood before, making a total of \$50,000,000 and some hundreds. Those are the exact figures inserted in the articles of incorporation. Are you not satisfied that this report, or the figures contained in it, was laid before the counsel for the purpose of drawing the articles of consolidation?—**A.** I have no knowledge of it.

Q. Do you think that Judge Dillon, or the gentlemen who drew the articles, would have hit on these same figures, if they had not been communicated from this report to the attorney who drew the articles?—**A.** I have no means of knowing where he got his information. I only know what I knew about it.

Commissioner ANDERSON. I will interject here a question to Judge Dillon. I will ask you whether you had this report in your possession when you prepared the articles?

Mr. JOHN F. DILLON. My recollection is that I did.

Commissioner ANDERSON. Can you tell us here from whom you received the report?

Mr. JOHN F. DILLON. I do not recall it until I heard it read. My recollection now is that at or about the day of consolidation General Dodge submitted that report to me, and I may have gone over it with him; but the substance of it was prepared by him. That is my present recollection.

Commissioner ANDERSON. When you say "at or about," you mean within a week?

Mr. JOHN F. DILLON. Yes, sir, I think nearer than a week.

Commissioner ANDERSON. The report—I call your attention to the fact—is dated the 16th of January, and written at New York. So it must have been complete on the 16th of January?

Mr. JOHN F. DILLON. Yes, sir; but I have an impression that I was not in New York City at that time. I can ascertain probably just when I returned.

Commissioner ANDERSON. What I would like to be informed about is whether this report was not delivered to the parties to whom it was addressed on the 16th day of January, 1880?

Mr. JOHN F. DILLON. I have no means of knowing that. My impression is that General Dodge submitted that to me.

Commissioner ANDERSON. Before it was finished?

Mr. JOHN F. DILLON. Submitted a report at or about the day of the consolidation, and that is all I know about it. Whether he delivered copies to these gentlemen, I am not aware.

Commissioner ANDERSON. From what source did you derive the figures that you inserted in your drafts, crediting the Kansas Pacific with \$10,000,000, and the Denver Pacific with \$4,000,000? I call your attention to the fact that these are the figures in General Dodge's report.

Mr. JOHN F. DILLON. Either from that report or from some other authentic source.

Commissioner ANDERSON. You mean by "authentic source" some officer of the company?

Mr. JOHN F. DILLON. Oh, yes, sir. I have no knowledge whether that letter, if that is the point of the inquiry—

Commissioner ANDERSON. No, the point of the inquiry is, whether

you have any doubt in your mind that Sidney Dillon and Jay Gould knew on the 16th of January of the contents of that report?

Mr. JOHN DILLON. I have no knowledge on that subject, and I have no means of forming an opinion.

PROCEEDINGS OF MEETING.

Q. Now, Mr. Sage, I will read to you the next thing that was done at this meeting, and see whether it will come to your mind at all, "On motion of Mr. Ames, seconded by Mr. Sage, it was resolved that the proposition of the Colorado Central Railroad Company to this company to cancel and annul the leases of date the 17th and 20th days of February, 1879, whereby the Colorado Central Railroad Company leased its line of road in Colorado and Wyoming to this company for the term of 50 years thence next ensuing, be and the same is hereby accepted, and the said releases are hereby canceled as of date January 1, 1880, of which notice shall be given at once to the said lessor company." Had the canceling of that lease anything to do with the consolidation?—A. I really do not remember; I had not been familiar with the Colorado roads but a short time. I do not recall it.

Commissioner ANDERSON. Mr. Holmes, is this the road that was referred to as having been built in competition with the Denver Pacific?

Mr. HOLMES. It was built down there partly by Loveland, and afterwards was taken up by the Union Pacific, and was under their control and management for the purpose of getting to Denver, without regard to the Denver Pacific.

Q. You did not yourself know, then, whether the canceling of this lease of the Colorado Central had anything to do with the management, as intended, to be carried on under the consolidation?—A. No; I do not remember. I recollect, from Mr. Holmes speaking of that, about this road being under the control of this man Loveland.

Q. Why did you second this motion, if you did not know anything about it?—A. Because it had been discussed there, for the reason I mentioned a few minutes ago. It was more *pro forma* than anything else, and to dispatch business. It had been talked over between the directors.

Q. The canceling of a lease of fifty years of a road 198 miles in length is hardly a piece of routine business, is it?—A. It is a branch road, and rather an unimportant thing—so considered, I know, in the discussion there—and I never passed over it but once in an examination of the lines.

Q. Before you appeared at this meeting on the 24th of January, had the fact that such a motion as this was going to be made been discussed among you?—A. No, sir. Let me state, to put this right, we very seldom have any conferences of the kind you are inquiring about here. That is, these men come here for 200 miles distance to attend this meeting. They came here the night before, and would go into the meeting and discuss the questions there.

Q. Was this motion discussed in the board?—A. Yes, sir.

Q. Was it discussed before the motion was put?—A. Yes, sir.

Q. Informally?—A. It was discussed there.

Q. I mean, before the motion was put.—A. Yes, sir; certainly.

Q. Or, rather, before the motion was made?—A. It was discussed. That matter was one of the objects of the meeting; that, with other regular routine business.

JOHN F. DILLON. I will state to you that my recollection is that

on my advice, that lease was canceled, because the Union Pacific had, in my judgment, no authority to take it, as it had the stock of the company. The lease was practically or legally of no use, and its cancellation would work no substantial change in the relations between the Union Pacific or the consolidated company and the Colorado Central.

Commissioner ANDERSON. Judge Dillon, was not that emphasized at this particular meeting? Because, if the Denver Pacific came into the family of railroads, the manner in which you operated the Colorado Pacific, and your control over it, was not as important as it was before?

Mr. JOHN F. DILLON. I did not understand the point of the inquiry.

COLORADO CENTRAL A BENEFIT TO UNION PACIFIC.

Commissioner ANDERSON. I understand that the Colorado Central had been used to secure to the Union Pacific the control of business that otherwise would have gone over the Denver Pacific.

Mr. JOHN F. DILLON. Yes, sir; they were, to some extent, parallel roads.

Commissioner ANDERSON. When you acquired the Denver Pacific the Colorado Central was no longer as essential as before?

Mr. JOHN F. DILLON. Certainly not, as to that part of the Colorado Central between Cheyenne and Denver.

Q. You do not remember, Mr. Sage, at whose request you seconded this resolution?—A. No; I do not.

Q. The next proceeding was, "That the president laid before the board a communication and report, dated January 16, 1880, from G. M. Dodge and Solon Humphreys, in respect to the proposed consolidation of this company with the Kansas Pacific Railroad Company, which was read and ordered to be placed on the files of the company." That circumstance you remember?—A. Yes, sir.

Q. Mr. Dillon presented this report to the board?—A. Yes, sir.

Q. It was an open report, and not a sealed paper, as I presume?—A. I do not remember about whether it was sealed or not.

Q. Who moved that the president of the company should execute the articles of consolidation?—A. I do not recall it. You name me as doing it, but I do not recollect the routine of the business there.

Q. This is the entry: "On motion of Mr. Sage, seconded by Mr. Ames, it was resolved that the president of this company be authorized and directed to execute on behalf of this company the said articles under the corporate seal, and also any other necessary papers, contracts, and deeds, and to do all acts necessary to carry the same into effect."—A. I have no doubt I made that motion.

Q. Do you remember the vote on that motion?—A. I do not; I believe it was unanimous.

Q. Do you remember whether there was any objection made by anybody?—A. I do not remember any objection. The thing was being discussed there, and we tried to harmonize matters, as all boards do, to have our action unanimous.

Commissioner ANDERSON. There is no record of this meeting to show that this matter had been discussed until you made this motion.

The WITNESS. That would not follow. We might have discussed it an hour or two or four hours, and that would not have appeared.

Q. And you might have discussed this two or three days before?—A. Certainly; that is very likely. It was a matter that was discussed from the time of our letter of the 16th, eight days before, but I do not remember seeing anything of it until it was presented by the president to the board on the 24th of January.

A GOVERNMENT DIRECTOR AGAINST THE CONSOLIDATION.

Q. Do you remember that any Government director voted against this resolution; did Mr. Chadwick?—A. I do not remember.

Q. Do you remember Mr. Chadwick?—A. Yes, sir; I had but very slight acquaintance with him.

Q. Where is he now?—A. I do not know.

Commissioner ANDERSON. Can you tell me, Mr. Holmes?

Mr. HOLMES. No, sir; I do not know.

A GENTLEMAN IN THE ROOM. He is dead.

Q. It appears that he voted against the consolidation, and his was the only vote; do you remember that circumstance?—A. It rather occurs to me now that that was so; I never had much acquaintance with Mr. Chadwick; I think I only met him once or twice there, and then only for an hour, perhaps.

Q. Now, that I named Mr. Chadwick, do you remember whether he made any argument, or said anything, as to his views?—A. No, sir; I think not; I think he defined his position simply by giving a vote.

Q. You do not think he gave any reasons at all?—A. I do not think so; I do not remember them.

Q. Do you remember that Mr. Buckland was there?—A. I could not recall him.

Q. Do you remember whether any director there present declined to vote?—A. I do not remember.

Q. You say that you think you were elected a director of the Kansas Pacific, was it not at this same time, in January, 1880?—A. I do remember the date.

MEETING OF KANSAS PACIFIC BOARD TO ACCEPT CONSOLIDATION.

Q. Do you remember the fact that there was a meeting of the Kansas Pacific board on the same day for the purpose of accepting and carrying this consolidation into effect, and that it was held in the same building?—A. I presume there was.

Q. Did you know all the directors of the Kansas Pacific?—A. I could not recall them all now.

Q. Were not most of them also directors in the Union Pacific?—A. I think most of them were.

Q. I will read to you from the minutes of the meeting held of the Kansas Pacific, a list of the directors whom the minutes show were present, Messrs. Dillon, Ames, Sage, Usher, Edgerton, Dodge, Ham, Greeley, and Cammack, do you think you were present at that meeting?—A. Yes.

Q. I will now read the minutes: "The president of the company presented the resignation of Mr. Jay Gould as a director of this company dated the 10th day of January, 1880, and accepted by him as of that date." Do you remember the fact that the president produced that resignation?—A. Yes, sir.

Q. This was the resignation dated the same date as the resignation in the Union Pacific, was it not?—A. Yes, sir.

Q. "On motion of Mr. Sage, seconded by Mr. F. L. Ames, it was resolved that said resignation be accepted, and the president's action in this regard ratified." Do you remember that you moved that, and Mr. Ames seconded it?—A. I presume so, if the record says so; I have no doubt of it.

Q. Now, that you find that Mr. Gould resigned both of these positions of these two companies on the same date, and that you presented both of these motions, does not that refresh your mind that there was a motive for this resignation, and that it was explained to you why he resigned?—**A.** It was not explained to me; it came up there as a part of the business of the board.

GOULD HAD NOT TOLD WITNESS OF HIS INTENDED RESIGNATION.

Q. Are you positive, and will you swear that Mr. Gould had not told you the day before that he intended to take this action, and wished you to make this motion?—**A.** Yes, sir; I have no recollection of his having spoken to me about it.

Q. Are you prepared to swear that he never did, and no one did on his behalf?—**A.** I do not recollect his telling me; he may have told me, I doubt it. He is not in the habit of telling things until they are done. That is my experience with him.

Q. You do not recollect feeling any surprise at this resignation, either?—**A.** I knew that he had a reason that was satisfactory to himself, and that he did not send that in there as a mere pastime. It was business, therefore for the board to act upon.

Commissioner ANDERSON. It was "business"?

The WITNESS. It was business that came before the board, and we acted upon it accordingly.

Commissioner ANDERSON. As they say, "it meant business"?

The WITNESS. It would be very strange indeed if a man of Mr. Gould's intelligence and standing would send in a communication unless he expected his associates, one way or the other, to act upon it.

Q. I know that; but when we find him restored to his position as director a few hours afterwards, and also that he was selling a large amount of peculiar securities to the company, it seems extraordinary that you do not know that the motive was that he had been told that he could not, while a director, sell his own securities to the company. That is a singular thing that you did not recognize that as being the controlling motive. After you made that motion, the resignation appears as follows:

GOULD'S RESIGNATION.

NEW YORK, January 10th, 1880.

To Mr. SIDNEY DILLON,

President of the Kansas Pacific Railway Company:

I hereby resign my place as a director of your company and as a member of the executive committee.

Do you remember that letter?—**A.** Yes, sir.

Q. You held it in your hand, I presume, at the time you made this motion, did you not?—**A.** No, sir; that does not necessarily follow. I presume the president presented it, and the secretary read it, and the motion was made, as is the customary thing in all boards of directors of corporations.

Q. Had you noticed any difference in anything that Mr. Gould had done in regard to this company for a week before these meetings were held? Do you recall any change?—**A.** I do not know of any.

Q. Everything went on just as before?—**A.** I do not recall any special change.

Q. As far as directions to bring this suit, and consultations in regard to the preparation of these articles of consolidation, and every

else, you cannot recall any change in Mr. Gould's transactions that preceded these meetings?—A. I knew nothing of them.

Q. If you had been asked on any day between the 10th day of January and the 24th day of January, "Has Mr. Gould ceased to be a director in the Union Pacific, or in the Kansas Pacific," what would your answer have been before you knew of this letter?—A. I should have said I had no knowledge of any change.

Q. There was nothing that occurred in the shape of his giving up office, or ceasing to discharge his duties, that would have led you to think he was no longer a director?—A. I did not notice. My office was in William street, and his, I believe, was up on Nassau street. I was not in the way of seeing him. I only saw him in a meeting.

Commissioner ANDERSON. You have told us that you saw Mr. Gould quite frequently during these days.

The WITNESS. After 1880?

Commissioner ANDERSON. I mean during this week, when this subject was discussed, and the Denver Pacific stock was bought.

The WITNESS. I occasionally called in. Perhaps not once a week. After he moved into the new offices, I saw him every day.

Q. The next thing that appears is this: "On motion of Mr. Edgeton, Mr. F. G. Dexter was unanimously elected to fill the vacancy occasioned by the resignation of Mr. Jay Gould." Do you remember that?—A. I remember it as you read it there; yes, sir.

Q. Then "the president reported that pursuant to authority given this company by the laws of Kansas to purchase and hold the bonds and stock of any other railroad company, or companies, this company had bought the following bonds and stocks of roads whose lines, constructed or being constructed, connect with the road of this company to wit:

REPORT OF STOCK BOUGHT.

"A majority of the shares of the stock of the Saint Joseph and Western Company at \$20 per share. Also receiver's certificates of the Saint Joseph and Denver City Railroad and mortgage bonds of the Saint Joseph and Pacific Railroad Company and Kansas and Nebraska Railroad Company, since consolidated into the Saint Joseph and Western Railroad Company at par, \$1,833,724.03.

"Also \$784,000 Saint Joseph Railroad Bridge first mortgage bonds and 4,000 shares of the stock of said bridge thrown in for the sum \$784,000 (for said bridge bonds and bridge stock).

"All of said sums the Kansas Pacific Company had agreed to pay, or before sixty days in the full paid stock of the Kansas Pacific Railway, or in the consolidated mortgage bonds of the last-named railway company at par." Do you remember the president reading that report?—A. Yes, sir; I do.

Q. Was there anything that struck you as peculiar about it when you heard it?—A. No, sir; I do not think there was.

Q. Was it news to you?—A. It had been talked over as being a desirable thing for the company to purchase those securities.

Q. It had been talked over?—A. Yes, sir; informally, by some of the directors.

Q. I call your attention to the fact that the report is not a suggestion but that the report was that this company had bought the securities that I have enumerated, and had agreed to pay for them in a certain way. You knew that that had been done before the president read that?—A. I do not know; I do not recall the circumstances of that

The president may have consummated the thing subject to the approval of the board; I do not remember.

Q. Did it not strike you as peculiar when the president read that report that he did not say from whom the company had bought these securities?—A. I do not know as it was.

Q. Were you not curious to know from whom that company had bought these several millions of dollars' worth of securities?—A. As I say, it had been a matter that had been talked over as to the desirableness of buying these securities, and controlling that thing, to prevent a competitive company getting in there.

REASON GOULD RESIGNED.

Q. You did not answer my question. Was it not curious that Mr. Sidney Dillon did not say from whom this purchase had been made?—A. It would have been a little more business-like to have inserted the name from whom he had purchased them.

Q. Who was the person named?—A. I do not know.

Q. Will you say on your oath that you do not know, and did not know, from whom that purchase had been made?—A. It had been made, I suppose, principally from Mr. Gould.

Q. You knew it at the time?—A. I only know what he reported to us.

Q. You knew that Mr. Gould held these securities, and that the talk was to buy Mr. Gould's securities from him, because it was desirable for the road to have them?—A. A great many other people owned those securities besides Mr. Gould.

Q. There was no negotiation to buy anybody else's securities pending, and no talk of anybody else's securities?—A. Oh, yes, sir; there had been talk about other holders of securities, to my own personal knowledge.

Q. Please tell us what other holders.—A. Other holders. There had been large numbers held in the street for years, and they were owned in Boston. They had been largely dealt in here, and acted in.

Q. It is sufficient for me to have you say that a larger portion of this was intended to be bought from Mr. Gould. Was not that the reason he resigned?—A. I do not know.

Commissioner ANDERSON. Not after I have read to this to you?

The WITNESS. No, sir; I did not know his reason.

Q. At the time this resolution was read in your presence you were a trustee of the Kansas Pacific consolidated mortgage. Is not that so? You were one of the trustees with Mr. Jay Gould?—A. Yes, sir.

SECURITIES TO BE PAID FOR WITH KANSAS PACIFIC STOCK OR CONSOLIDATED BONDS.

Q. When you heard these words read, that the company had agreed to pay for the securities that I have described in the full paid stock of the Kansas Pacific Railroad Company, or in the consolidated mortgage bonds of the last-named railway company, at par, did you say nothing?—A. I do not remember all the discussion. As I stated before, it had been a matter that had been talked over, as to the desirableness of acquiring these securities and thus preventing competition.

Q. Did you not know as a trustee that you had no right to agree to pay for these securities in consolidated bonds at par, without your assent had been given to it, and you were satisfied it would be an advantage to your trust?—A. We considered it so, and do now.

Q. I asked you what you did then.—A. I did then! I thought it was a desirable thing for the trust, and do now, as the result has proved.

Q. Did you, when you heard these words read, remember it as something that had been presented to you and you had agreed it would be a good thing to pay for these securities in consolidated bonds at par?—A. Undoubtedly, or we should not have done it. We regarded it for the interest of the property and the company; never changed our opinion for an hour.

Q. We are not disputing that. I am asking why it was you showed and felt no surprise when that sentence was read. If I should tell you now that I had agreed to issue a lot of your consolidated first mortgage bonds for some securities in South America, and you never had heard of the matter before, would you be surprised as you sit in that chair?—A. I should, certainly.

Q. And you would think that you ought to be consulted before you consented to do it?—A. There is some difference between property in South America and the Saint Joseph, which lay right alongside of the Kansas Pacific and Denver Road.

Q. If I had agreed to issue a million dollars of your bonds instead of Government bonds you would be surprised and would say you would have to be spoken to before any issue would be good, would you not?—A. Oh, yes, sir.

Q. Is it not perfectly clear that you had been consulted about this arrangement?—A. The president reported before that meeting was held. I said two or three times before that the desirableness of acquiring these things had been talked over, and this mortgage was made with a view of acquiring the various securities.

Q. Had you not agreed to the terms which are reported here of the issue of consolidated bonds at par for these securities which Mr. Dillon reported in your presence, and had you not made that agreement before that meeting was held?—A. I think not. I do not remember it, at any rate.

Q. Then please tell me when that was read in your presence and what you had to say about it?—A. It was considered there, after discussion, to be a desirable thing for the company to do and was approved by the board.

Q. The report, as read by the president, was this: "All of said sum—the Kansas Pacific Company had agreed to pay on or before sixty days in the full paid stock of the Kansas Pacific Railway, or in the consolidated mortgage bonds of the last-named railway company, at par. That had been done before the meeting and before the report. Was that report true that Mr. Dillon read?"—A. I do not remember the circumstances connected with it. I see it is an alternative—either full paid stock, which was an act of the company to perform, or in the consolidated bonds.

Q. Do you believe that report was true that Mr. Dillon read in your presence?—A. I suppose it was true or else he would not have read it.

Q. Then the agreement to pay in consolidated bonds had been made before that time?—A. I do not recall any agreement as to that. He may have had a conversation with Mr. Gould in relation to it. I do not recall any agreement. I know no bonds were issued unless we had the securities to exchange for them.

Q. I will ask you who, as you are now informed, was the holder of these different securities—the Saint Joseph and Western and Kansas and Nebraska bonds and the others? I mean these particular securi-

ties. They were afterwards bought and paid for.—A. I know. They were paid to different parties.

Q. No, sir; to one party. I will read to you the president's report of the purchase. Are you able to tell me through whom that purchase was consummated?—A. I am not.

Q. In referring to the delivery of certain shares of the Union Pacific Railway Company, after the consolidation on February 16, 1880, Mr. Mink reports as follows:

SECURITIES DELIVERED TO JAY GOULD.

February 16, 1880, delivered to Jay Gould in payment for the following securities:

Saint Joseph and Pacific first-mortgage bonds and scrip, at par	\$1,020,204 23	
Kansas and Nebraska Railway Company's first-mortgage bonds and scrip.....	729,820 00	\$1,750,024 23
Kansas and Nebraska Railway Company's second mortgage bonds and scrip.....		24,700 00
Kansas Central Railroad bonds.....	479,000 00	479,000 00
Kansas Central Railroad stock, 2,521 shares.....		59,000 00
Saint Joseph and Denver City receiver's certificates.....		784,000 00
Saint Joseph Bridge Building Company bonds....	784,000 00	784,000 00
Saint Joseph Bridge Building Company stock, 4,000 shares.....		307,240 00
Saint Joseph and Western stock, 15,162 shares at 20.....		60,204 25
Hastings and Grand Island bonds.....	375,000 00	
Hall County bonds.....	75,000 00	
Total (34,641 shares)		3,464,168 48

I call your attention to the fact, in connection with the Saint Joseph Bridge Building Company's bonds, \$784,000, and 4,000 shares, that in Mr. Dillon's report is this sentence: "Also \$784,000 Saint Joseph Bridge first-mortgage bonds, and 4,000 shares of the stock of said bridge (thrown in)," and in the report I have just read you will find the 4,000 shares included, with nothing charged for them. I now ask you, are you not entirely satisfied that the securities reported by Mr. Dillon at the meeting of the Kansas Pacific, at which you were present, and which had been agreed to be paid for, either in full paid stock or in consolidated bonds, are the same securities, or are included in the securities, which I have read to you and which Mr. Mink reports were received from Mr. Jay Gould in payment of the stock of the Union Pacific Railway?—A. I assume, from what you have been reading there, that the arrangement was made with Mr. Gould. I will add, after a few moments reflection, I have no doubt that he represented a large number of the holders of these securities.

GOULD REPRESENTED A LARGE NUMBER OF HOLDERS.

Q. Who represented a large number of holders?—A. Mr. Gould, because they were very widely distributed and largely dealt in, and had been, I may say, for years. It was not a new thing. These things were sold here as Reading is sold over in Philadelphia and the world over.

Q. I dare say; but the only point I am making is, that at the meeting of January 24, 1880, it was reported in your presence that Mr. Jay Gould had sold about \$3,000,000 or \$4,000,000 of these securities to the company, to be exchanged for stock of the new company, at par, and that the report was made in your presence, and that you knew it?—A. I believe that he represented a large number of other people. That is a very common thing.

Q. Very possibly he did, or very possibly he did not. It is not material. "The president also reported a like purchase on behalf of this company of 7,616 shares of stock in the Central Branch Union Pacific Railroad Company for \$1,826,500, to be paid for, one-half in Kansas Pacific consolidated bonds at par, issued under the mortgage of May 1, 1879, and the other half in Union Pacific collateral trust bonds, at par." This is your mortgage that is referred to as May 1, 1879. Were you present when that was read?—A. I presume I was, if my name is stated there as being present.

CENTRAL BRANCH SALE.

Q. What was that transaction in Central Branch?—A. The Central Branch was a sale of securities, and it was a very valuable piece of property; was then, and is now.

Q. Who made that sale to the company?—A. I do not remember distinctly now the transaction, but I know there was a sale made there by Mr. Gould, or some one. I guess it was made by Mr. Gould.

Q. Did you issue these bonds under your mortgage, in payment for this stock?—A. I think we did. That is my recollection of it.

Q. What precise book that you kept will show the issue of these bonds and the consideration you received in exchange for them?—A. Our securities will show.

Q. What precise book that you kept will show the issue of these bonds, and the consideration you received in exchange for them?—A. I was trying to get the thing clear in my mind. The transaction is not clear.

Q. The question now is, what book we are to call for?—A. Mr. Calef has kept the records of these transactions.

Q. Mr. Calef is sick to-day. Can you have the book brought around here which will show the issue of these bonds, and the consideration received in exchange for them?—A. He is sick.

Commissioner ANDERSON. Mr. Mink, you know what book we want?

Mr. JOHN F. DILLON. Mr. Calef is their secretary. I have never seen his book. Of course, Mr. Sage is mistaken in supposing that the trustees, under the terms of that mortgage, could issue any bonds, and enter into that transaction. The bonds could be issued only pursuant to the terms of that mortgage, and when the company got them they could give them for this purpose, if they were assets in the treasury.

Commissioner ANDERSON. Then the company's books will show the consideration received?

Mr. JOHN F. DILLON. That is it.

The WITNESS. That you can get at. The company owned them. Mr. Mink can furnish all that. The Union Pacific books will show the whole transaction.

Mr. JOHN F. DILLON. Mr. Mink thinks they show they were received from Mr. Gould.

Commissioner ANDERSON. Do you know from whom the sale was made?

Mr. MINK. Mr. Gould.

Mr. JOHN F. DILLON. There is no trouble about the facts.

Commissioner ANDERSON. But the trouble is we have not the books to show.

AFTERNOON SESSION.

RUSSELL SAGE, being further examined, testified as follows:

By Commissioner ANDERSON:

Question. This trade that I have referred to, and which was reported

by Mr. Dillon, of 7,616 shares of the Central Branch Union Pacific stock for \$1,826,500, which we have been told was Mr. Gould's stock, was negotiated, as to the terms, by whom, and which came to about \$239 a share?—Answer. I think the negotiation was made by Mr. Dillon.

Q. You think it was between Mr. Dillon and Mr. Gould?—A. That is my recollection.

Q. I am not talking now about the present condition of the Branch road; but at that time were you familiar with its earnings and operating expenses?—A. I was not very familiar; I got my information from others.

Q. Do you know now what its bonded indebtedness is?—A. I could not give it to you without reference to reports.

LIABILITIES OF CENTRAL BRANCH.

Q. Assuming that its total capital stock is \$1,000,000, and the bonded indebtedness is \$2,230,000, exclusive of the Government debt—it is one of the roads that has been aided by the Government—it owes the Government \$1,600,000 for bonds; for arrears of interest to the Government a net amount of \$1,476,687.88, and also amounts payable, of \$103,667.16; making a total of liabilities of \$6,410,355.04, and that for assets it had its road, the cost of which is given at \$3,939,544.07; cash on hand, \$2,409.69; investments, being certain stocks that the company holds, \$123,737.76; bills and accounts receivable, \$279,081.11; and that in order to make up the total obligations that I have mentioned to you there is a deficiency of assets amounting to \$2,065,580.41. Assuming that to be the condition of that road, that its assets are over \$2,000,000 less than its total obligations, would you consider it a prudent thing to pay \$239 a share for its stock?—A. I have always understood that it was a very valuable piece of property, and that it possessed a great value now, and has ever since I knew anything about it, or heard anything about it.

Q. The figures that I have read to you are from the balance sheets for 1884. I again ask you, would you pay \$239 a share for the stock of a road where the indebtedness exceeded its assets by \$2,000,000?—A. That would seem to be a pretty high price on that statement; but, of course, you would want to take in the whole surroundings and the control of the property, its connections with other property, to give an intelligent answer to so sweeping a question as that.

Q. Did you know at the time this meeting was held in January, 1880, whether this road had ever paid any dividend on its stock?—A. I do not know; but, as I have stated before, I have always been informed that it is a very valuable piece of property, and from its earnings—

Commissioner ANDERSON. You have told us, and there is no necessity for getting it on the record so often, that you have been told it was a very valuable piece of property.—A. I was telling you what I had heard about its earning capacity.

Q. I ask you whether, as early as January, 1880, it had paid any dividends?—A. I do not remember whether I heard or not.

Q. Did it pay any dividends in 1881, 1882, or 1883?—A. I cannot tell you whether they paid dividends or not.

Q. Do you know whether it has ever paid any dividends?—A. It is leased and they get the net earnings, and the president of the Union Pacific represents that the property is earning about 10 or 12 per cent.

PRESENT EARNINGS OF CENTRAL BRANCH.

Q. Now?—A. Yes, sir.

Q. My question addresses itself to all these years between the time when Mr. Gould sold it at \$239 a share and the present time?—A. He was probably anticipating what is coming true now.

Q. He was anticipating in 1880 that it would be a 10 per cent. road in 1886, and, therefore, charged \$239?—A. If my memory serves me right, the earnings are larger than I stated them to be now, and have been for years past. It is a very valuable piece of property. Everybody who knows anything about railroads out there knows that to be so.

Q. But, so far as the year 1880 is concerned, you did not know at the time that it had earned any dividends, and you did not know what its financial condition was when you were present in this board in 1880?

A. I only knew from the reports that were before me at the time and its connections with the roads south and north.

Q. I will read to you from the report of the company of 1884 a statement of its net earnings, not including charges for rent for leased lines, or for taxes, or for interest on the bonds. The net earnings in 1880 were reported at \$307,233.76; the fixed charges on the mortgage bonds were \$140,000; and the rents paid for leased lines were \$287,375, making over \$500,000 against net earnings of \$307,000. The net earnings for 1881 were \$328,346.23, and for 1882 \$441,298.38; in each year the net earnings being less than the rents of leased lines and fixed charges. Did you know these facts during the years 1880, 1881, and 1882?—A. No, sir; I have not had occasion to look at them since.

Q. After the president had reported the sale of this stock at the price of \$239, as derived from the number of shares, and the price named by him, this took place:

On motion of Mr. Russell Sage, seconded by F. L. Ames, it was

Resolved, That the action of the president in the purchases of the said bonds and stock, and each of said purchases be, and each of them is severally ratified and approved, and it is further ordered that all the said stock be held and registered in the name of Sidney Dillon, trustee, and that the said bonds be deposited with the treasurer of this company, which resolution was unanimously carried.

Do you remember making that motion?—A. I presume I made it, or else it would not be there.

APPROVAL OF THE PURCHASES.

Q. Then you approved of the purchase of the Union Branch stock at \$239 a share?—A. I approved the doings as recorded there, I have no doubt.

Q. And you approved of paying Mr. Jay Gould for the Saint Joseph and Western securities at the price which had been reported by the president?—A. I approved of all that this record shows. It shows for itself.

Q. Was anything further said in the board about these matters than you have told us?—A. I do not remember anything. It is a long time ago.

Q. All that you remember is that the president made this report, and you made this motion to confirm it?—A. Oh, it had been considered and discussed, of course, before that was adopted. That was a mere *pro forma* conclusion, after consultation and consideration of the whole matter.

Q. What consultation and consideration in regard to the Union Branch business do you remember?—A. I remember it was discussed as to its value. I want to say that it was considered a very valuable line, and

now and has been ever since, in my judgment, to-day. If the Union Pacific wanted to part with that property, they could part with it at a very high price on that stock.

Q. Who made the representations in that board in regard to the Union Branch?—**A.** They were made by the different members who were familiar with the value of it. Mr. Dillon and Mr. Ames and other gentlemen who knew about it particularly.

Q. Were the figures of its gross earnings and its operating expenses stated at that meeting?—**A.** Oh, yes, sir. They were read over there and discussed very fully, because it was regarded as a very important piece of property for the Union Pacific Company to have the control of. Commissioner ANDERSON. I call your attention to the fact that the reports of the Union Branch for that road show that it did not earn its fixed charges of \$200,000.

Mr. JOHN F. DILLON. In what year?

Commissioner ANDERSON. In 1880.

The WITNESS. I have known property that did not earn its fixed charges that was sold at a very high price, and did possess very great value. Vacant lots up here in New York are worth \$300,000 or \$400,000. That does not always follow as to value.

Commissioner ANDERSON. Very likely not, but you do not pay
250—

The WITNESS (interposing). Yes, sir; property that sold at 16 cents a share the last five years sold for \$1.80.

Q. As a trustee, would you not be guided by the earning capacity of the road and its financial history up to that date, before advocating such a purchase at the price of \$239 a share?—**A.** I should take that into account, certainly.

Q. Have you any reason to give for your vote in favor of this transaction, any further than you have stated, which will show that it was a prudent and proper thing to do as based upon the reports of its earnings at the time?—**A.** Nothing except, as I say, the general discussion that took place there and its geographical commanding position in connection with the roads south and north, and east and west. It was a very valuable piece of property then, and I want to repeat it again, and I cannot repeat it too strongly, that it is to-day.

Q. Did you know from whom Mr. Gould bought his shares of stock?—**A.** I did not.

Q. Did you know how much that stock had cost him?—**A.** I did not; I look upon it as a very valuable piece of property.

Commissioner ANDERSON. We have had that twenty times already. **The WITNESS.** It is not my fault.

Q. Did you ask Mr. Gould what that stock had cost him?—**I** do not recollect that I did.

NEVER OWNED A SHARE IN CENTRAL BRANCH.

Q. Did you ever own any of that stock yourself?—**A.** I never owned a share in it.

Q. Did you ever know of its being sold in the market?—**A.** I cannot say that I did. It had been considered a very choice stock.

Q. I have asked you only if you ever knew it to have been sold in the market?—**A.** I do not know; I never had any myself.

Q. Have you ever heard of a sale of that stock in the market, or of any other shares of that stock than this stock?—**A.** I cannot particularize any particular sale of it.

Q. Did you ever hear of any quotation of that stock that approximated \$239 a share?—A. I have heard it spoken of as being the most valuable stock that was connected with the whole system there.

Commissioner ANDERSON. That you have said two or three hundred times.

The WITNESS. No; I beg pardon, I have not said it so often.

Q. Have you ever heard of any transaction in that stock at a figure approximating \$239 a share?—A. I have answered that I did not recollect any such transactions.

Q. The next proceeding at this meeting related to a lease of the Saint Joseph and Western road, which does not appear to bear directly on the question of the transfer of securities by Mr. Gould to the Kansas Pacific Company, although, if it does, you may explain it. I then pass to the following matter that was brought up:

GOULD OFFERS KANSAS CENTRAL FIRST-MORTGAGE BONDS FOR SALE.

There was also presented the draft of a conditional offer to this company by Mr. Jay Gould for a sale to this company by said Gould of \$479,000 of the first mortgage bonds of the Kansas Central Railroad, and of such other bonds as the said Gould may hereafter receive from the extension of the road now being built, and for the conditional offer of sale by him of 2,521 shares of the stock of said Kansas Central Company for the sum of \$479,000.

Do you remember that that matter was brought up?—A. I do not recollect anything, only as you read from that now.

Q. You were present at the meeting?—A. Yes, sir; I was.

Q. Did you know anything at that time about the Kansas Central Company?—A. I knew what was said there; I do not know particularly; I do not know personally.

Q. Where is the Kansas Central Company?—A. It is in the State of Kansas.

Q. Is that all you can tell us about it?—A. I never passed over the road; I know very little about it.

Q. Do you know how many miles long it is?—A. I do not; I cannot answer that question.

Q. Do you know from what city it runs?—A. I have answered you I have never passed over it and could not tell you.

Commissioner ANDERSON. I know you have answered that, but I am endeavoring to see if you have any knowledge about the road at all.

The WITNESS. I only know what is represented there, and what is contained in the reports, but I have not read them recently.

Q. Do you know in what condition that road was when you were present at this meeting?—A. Nothing only what is represented there.

Q. Do you know how far it had been built or what it had cost?—A. I do not recollect now.

Q. Did you know anything about its earnings at the time?—A. I do not recollect.

Q. After the report which I read to you had been made, then this was done:

On motion of Mr. D. M. Edgerton, seconded by Mr. F. Gordon Dexter, it was, *Resolved*, That said conditional offer be approved, and the president of this company be directed to execute an instrument showing such acceptance.

Do you recollect that?—A. I do not recollect anything, only as you read it there.

Q. Do you recollect exclaiming or protesting against any acceptance of that offer?—A. No, sir; I do not.

Q. Do you know anything about the subsequent history of the Kansas Central and its present accounts?—A. No, sir; very little.

NOT A DIRECTOR OF THE UNION PACIFIC.

Q. Are you still a director of the Union Pacific?—**A.** No, sir.

Q. Up to what day did you remain a director?—**A.** About three years ago, I think.

Q. Did you interest yourself in finding whether this Kansas Central ever earned the interest on its fixed charges?—**A.** I have not investigated that; I was not on the finance committee and did not investigate it particularly.

Commissioner ANDERSON. Still you had been present on the occasion when this security was acquired, and you might take some interest in ascertaining whether it paid its fixed charges or not.

The WITNESS. Yes, sir; I knew generally. It was a new road, and was acquired to prevent a competitor there in getting business and cutting rates.

Q. Did you know that that road had been foreclosed shortly before this meeting?—**A.** I did not; I do not recollect it. Large corporations are compelled to acquire these branch roads to protect the main lines, many times, that do not prove to be very remunerative directly, but indirectly are a great saving to the treasury of the main system.

Q. I dare say; but when they are obliged to pay to their own directors two or three times what the securities are worth to do that, it may not be a very desirable thing. Immediately after the transaction that I have reported to you the president of the company, Mr. Dillon, read to the board a communication and report, dated January 16, 1880, from G. M. Dodge and Solon Humphreys, in respect to the proposition to make a consolidation with the Kansas Pacific Railroad Company and the Denver and Pacific Railway and Telegraph Company, and the president laid before the meeting for consideration the articles of union and consolidation. Do you recollect that transaction?—**A.** Yes, sir; I remember his presenting a communication from General Dodge and Mr. Humphreys.

THE CONSOLIDATION MEETINGS.

Q. Do you remember at what hour of the day it was that this meeting began in this building, No. 80 Broadway?—**A.** I do not recall the hour; I do not think they were all called at a uniform hour; but I think it was 12 o'clock usually.

Q. At 12 o'clock, about?—**A.** Yes, sir.

Q. Do you remember how these meetings were held? Which was held first?—**A.** I do not remember that.

Q. The same men being largely in both companies, you had to move from one room to the other, or at least you had to move to different parts of the rooms to hold your separate meetings, did you not?—**A.** We could not have been in both rooms at the same time very well.

Q. Did you hold the meetings in different rooms—the meeting of the Union Pacific and the meeting of the Kansas Pacific?—**A.** My recollection is that there were two rooms occupied by the two companies.

Q. I call your attention to the fact that the Union Pacific meeting adjourned at 1 p. m., and reassembled at 3.30. Is it not your recollection that the meeting of the Kansas Pacific was held after the Union Pacific meeting was adjourned?—**A.** I do not remember whether it was after or before.

Q. The minutes show that the president laid before the consideration the articles of union and consolidation. Is your recollection that they were laid before the Kansas Pacific

had been laid before the Union Pacific Company?—A. I do not remember whether it was before or after.

Q. The minutes show that the whole proceedings in the Union Pacific were completed by 3.30 o'clock, at which time they reassembled and the articles had been signed. Is it not your memory, therefore, that the whole proceedings of both these boards, including recess and signing the articles of consolidation, must have taken place between 12 and half-past 3 o'clock?—A. It would appear so by the record, and I should be governed by the record rather than by my memory.

Q. You recollect nothing that is different from that, or that makes you think it took longer?—A. No, sir; nothing that I can think of.

Q. The record then shows that it was

STOCK-BOOKS CLOSED.

Resolved, That whereas this company, the Kansas Pacific, has agreed to unite and consolidate with the Union Pacific Railroad Company, and the Denver Pacific Railroad and Telegraph Company, into the Union Pacific Railway Company, that the stock-books of this company be closed.

That was the same resolution passed by the Union Pacific. Can you recall the resolution?—A. No, sir.

Q. You do not remember that?—A. No, sir.

Q. Then a resolution was passed to make suitable conveyances to carry the whole business into effect. After this had been finished, I call your attention to the following resolution, just at the end of the meeting:

ISSUE OF STOCK.

On motion by Mr. Sage, seconded by Mr. Edgerton, it was

Resolved, That the 6,242 shares of the authorized capital stock of this company remaining unsubscribed and unissued may be issued, and the president and secretary are hereby authorized to execute certificates therefor in payment for the first coupon on the consolidated bonds, and for other indebtedness of the company.

Q. Do you remember moving that?—A. I do not, but I presume I did from the reading of the record.

Q. What other indebtedness was it that that stock was applicable to?—A. I do not remember for the moment.

Q. To whom did that stock go?—A. I cannot tell you that; it was done a good while ago, and I do not remember.

Q. How did you come to make that motion?—A. I do not remember; it was a part of the business of the meeting there, and I was a mere representative of the meeting in moving it; that was all.

Q. All the business had been done, and the consolidation had been effected, and the Kansas Pacific stock here referred to was provided for, and was entitled to exchange itself into the stock of the new company. What was the object, therefore, in providing that it might be issued to pay other indebtedness of the Kansas Pacific?—A. Well, there might have been other claims that it was apprehended might arise that it would be necessary to make some provision for, and there might be a falling off in earnings so that they would not be able to pay the interest; that is a very common thing in railroad corporations, to authorize the president to use the credit of the company to provide for any contingency of that kind.

Q. Is that all you can tell us about it?—A. I do not remember; I cannot recall it.

Q. Do you not know that that stock was issued to pay certain claims that existed against that company then, and that it was issued very

shortly after that meeting?—A. I do not remember it; I do not recall the transaction.

Q. Do you know to whom the stock went?—A. No, sir; I do not.

Commissioner ANDERSON. Mr. Mink, you have not got that little statement we called for as to the issue of that stock?

Mr. MINK. I have not. My recollection is that about two-thirds of it went into the treasury of the company, and was disposed of in the place of those securities. As to the other ones, I do not remember how it was. It was all entered on the books of the company, and will appear in the account.

Q. Do you know whether, at the time this resolution which I have just read was passed, Mr. Gould was, in fact, on the books of the Kansas Pacific Company a creditor of that company?—A. I do not.

Q. Do you know whether he advanced any moneys that had been used to pay any arrears of interest on coupons?—A. I do not remember it now.

Q. What branches of either the Kansas Pacific or the Union Pacific have you had an interest in from 1878 until the time when you ceased to be a director?—A. I think there is one extension that I have some stock in, and but one, of the Union Pacific road; I have no interest in any other branches that I remember.

OWNS STOCK IN THE UTAH NORTHERN.

Q. What road is that you refer to?—A. I think it is the Utah Northern; I can get my book and give it to you.

Q. The Saint Joseph and Western you have already told us you were interested in?—A. Yes, sir.

Q. Have you that statement of your transactions with the Saint Joseph and Western?—A. No; I did not have time. I went out and got my lunch. I will give it to you hereafter.

Q. The Saint Joseph and Denver, and Kansas and Nebraska, and Saint Joseph and Pacific, and Saint Joseph and Western, we understand, are all the same thing, are they?—A. Yes, sir.

Q. Did you have any interest at all in the Denver, South Park and Pacific road?—A. Yes, sir.

Q. You did have an interest in that?—A. Yes, sir.

Q. What was your interest in that road?—A. I think I bought of Governor Evans some of his stock and securities.

Q. When did you buy that stock from Governor Evans?—A. I cannot tell without reference.

Q. Was your purchase made about the same time Mr. Gould had a negotiation with Governor Evans?—A. That is my recollection.

Q. At what rate did you buy your stock?—A. I do not remember; I have not carried it in my head.

Q. Can you furnish us that transaction from your books?—A. I think so.

Q. Do you know whether you gave more than par for it?—A. I do not recollect what I did pay.

Q. Did you know anything about the circumstances of the transaction between Mr. Gould and Governor Evans?—A. I heard it talked over.

Q. By whom and between whom?—A. I heard it talked over with Governor Evans himself; I went over the road with him.

Q. Was Mr. Gould along?—A. Yes, sir.

Q. Did they reach any conclusion?—A. I think not, then.

Q. What was Governor Evans asking for the road?—A. I do not remember the price; it was a very high price; he is a pretty high-priced man. A pretty high road.

Q. Do you still own your interest in this road?—A. I own some of the bonds; yes, sir.

Q. How many of the bonds do you own?—A. I think I own fifty of them.

Q. \$50,000?—A. Yes, sir.

Q. When did you buy them?—A. I cannot tell you that without reference to the books.

Q. Did you hold them for a long while?—A. Yes, sir; I have owned them for some time.

Q. From whom did you buy them?—A. I cannot relate the circumstances; I can furnish you an abstract from my book; I can give it to the Commission.

Q. Do you remember what you paid for them?—A. I do not remember; as I said before, I do not carry it in my mind.

THE POOL.

Q. Do you know, as a matter of fact, that this road has not earned its fixed charges for some time past?—A. It is reported so, because they have made a pool arrangement to divert its business in another direction. I understand that is the reason why it has not earned it.

Q. Are the bonds now in default?—A. Yes, sir.

Q. For the last coupon only?—A. Yes, sir; the last coupon.

Q. But you have received your coupons regularly ever since you owned the bonds until these last ones?—A. Yes, sir.

Q. Are you aware that the company paid something like 150 for this stock to Governor Evans, subject to \$1,800,000 of bonds?—A. I do not remember what was the price paid for it; my recollection is that it was not as high as that; I think it was about par.

Q. You think it was about par?—A. Yes, sir.

MR. HUNTINGTON EXCUSED TO GO TO EUROPE.

Mr. C. P. HUNTINGTON. Will you excuse me for interrupting you?
The CHAIRMAN. Yes, sir.

Mr. HUNTINGTON. I have been expecting to be called here every day since I was here before. As I have not been called, I want to go away from here next week, and I wish you would use me if you want me before that time. I want to be gone thirty days.

Commissioner ANDERSON. Where are you going?

Mr. HUNTINGTON. I am going to Europe.

Commissioner ANDERSON. How long will you be gone?

Mr. HUNTINGTON. Probably not longer than thirty days. My family are going over, and I want to take a little ocean voyage, and I am coming right back.

The CHAIRMAN. We will notify you after that date.

Mr. HUNTINGTON. I am obliged to you.

Q. I understood you to say you bought both stock and bonds?—A. That is my recollection.

Q. Have you parted with your stocks?—A. Yes, sir.

Q. Did you sell that to the Union Pacific Company?—A. I think so.

Q. How long ago was that sale made?—A. I cannot tell without reference.

Q. Do you not know what price you got for that stock?—A. I do not remember now.

Q. Do you not know that you made money on it, and got more than you gave?—A. Quite likely. That is what we trade for.

Q. I find from the report that the Union Pacific owns \$6,042,500 out of a total stock of \$6,142,800. Were you aware that the Union Pacific held this amount of stock while you were a director?—A. I was aware that they had made an arrangement, or had acquired it. It was regarded as a very desirable thing for the company to own it in order to control the business there.

Q. Do you remember how much of this stock you yourself sold to the company?—A. I do not.

Q. Do you remember whether all the rest of it that you did not buy was acquired or controlled by Mr. Gould?—A. I do not know that.

Q. Do you know whether he sold it to the company at the same price which he bought it from Mr. Evans?—A. I do not know that.

Q. Or whether he made any profit out of it?—A. I do not know.

Q. As to the rest of these branch roads, can you specify whether there were any others in which you had transactions in the stocks or bonds?—A. I do not remember any.

Commissioner ANDERSON. I will read the list over to you, and then you may remember, because your memory is apt to be helped a great deal.

Commissioner LITTLER. I will read it, as I have them here.

LIST OF BRANCHES IN WHICH WITNESS HAD TRANSACTIONS.

By Commissioner LITTLER:

Q. The Central Branch Union Pacific you have already testified about?—A. Yes, sir.

Q. Atchison, Colorado and Pacific?—A. No, sir.

Q. Atchison, Jewell County and Western?—A. No.

Q. Colorado Central?—A. No.

Q. Denver and Boulder Valley?—A. That I have spoken of, but that owned some bonds in.

Q. You now own some?—A. Yes, sir.

Q. Denver, South Park and Pacific you have already testified to?—A. Yes, sir.

Q. Echo and Park City?—A. No.

Q. Golden, Boulder and Caribou?—A. No.

Q. Greeley, Salt Lake and Pacific?—A. No.

Q. Junction City and Fort Kearney?—A. No.

Q. Kansas Central?—A. No; I think not.

Q. Lawrence and Emporia?—A. No.

Q. Marysville and Blue Valley?—A. No.

Q. Manhattan, Alma and Burlingame?—A. No.

Q. Manhattan and Blue Valley?—A. No.

Q. Nevada Central?—A. No.

Q. Omaha and Republican Valley?—A. I think not.

Q. Omaha, Niobrara and Black Hills?—A. No.

Q. Oregon Short Line?—A. No.

Q. Salina and Southwestern?—A. No, I think not. This belongs to the Kansas Pacific, I take it, that you are talking about now.

Commissioner ANDERSON. Mr. Sage means there is another connection of that name connected with the Missouri Pacific.

The WITNESS. Yes, sir.

Q. Solomon?—A. No; I do not remember.

Q. Saint Joseph and Western you have already testified about?—A. Yes, sir; I stated that.

Q. Utah and Nevada?—A. No.

Q. Utah and Northern?—A. That is the one I spoke of to-day.

Q. Utah Central?—A. No.

Q. Colorado Western?—A. No.

Q. Leavenworth, Topeka and Southwestern?—A. No.

Q. Loveland Pass Mining and Railroad Tunnel Company?—A. No.

Q. Montana Railway Company?—A. No.

Q. Georgetown, Breckenridge and Leadville Railway Company?—A. No.

Q. South Park and Leadville Short Line Railroad Company?—A. No.

Q. Salt Lake and Western?—A. No, sir.

By Commissioner ANDERSON:

Q. Now about the Utah and Northern; what interest did you have in that?—A. I will look it up and give it to you. I have got a little stock in that company that I have owned for several years.

Q. Do you know anything about the circumstances under which the Union Pacific acquired its interest in the Utah Northern?—A. I cannot give it to you. I should have to ask to investigate the matter and give you a statement.

Q. Will you give us a statement of your interest?—A. Yes, sir.

Q. Do you know anything about what happened when the Union Pacific got its interest in the Utah Northern?—A. I could not say.

Q. Do you know Mr. Joseph Richardson?—A. Yes, sir.

Q. Do you know that he had any connection with this road?—A. I do not know enough about it to speak of it intelligently here to the Commission, or I should give it with great pleasure.

Q. Have you any books or papers from which you can ascertain what this road actually cost to the Union Pacific?—A. No; I do not think I have.

Q. Have you been over the road?—A. No, sir; not over the whole of it. I have only been over a portion of it.

Q. Have you any of the bonds?—A. No, sir.

STILL OWNS ORIGINAL STOCK.

Q. Have you got all of the stock that you originally bought?—A. Yes, sir.

Q. You never parted with any of it?—A. I think not; that is my recollection now.

Q. You do not remember what you paid for it?—A. No; I do not.

Q. You say about the Oregon Short Line that you never held any of its securities?—A. No, sir; never.

Q. No bonds or stocks?—A. No bonds or stocks.

Q. In addition to the statement which we have asked you to furnish in regard to your dealings in Saint Jo and Denver and the Kansas and Nebraska bonds, which you are having prepared, will you furnish us with a statement of the number of shares of stock of the Union Pacific, of the Kansas Pacific, of the Utah Northern, and the Denver and South Park stock and bonds, and the number of bonds or amount of bonds of the Union Pacific and Kansas Pacific and of the Denver Pacific, which represented your ownership just before the consolidation on the 24th of

shortly after that meeting?—A. I do not remember it; I do not recall the transaction.

Q. Do you know to whom the stock went?—A. No, sir; I do not.

Commissioner ANDERSON. Mr. Mink, you have not got that little statement we called for as to the issue of that stock?

Mr. MINK. I have not. My recollection is that about two-thirds of it went into the treasury of the company, and was disposed of in the place of those securities. As to the other ones, I do not remember how it was. It was all entered on the books of the company, and will appear in the account.

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Mr. HUNTINGTON. I have been expecting to be called here ever ⁵ day since I was here before. As I have not been called, I want to go ^{away} from here next week, and I wish you would use me if you want me ^{before} that time. I want to be gone thirty days.

Commissioner ANDERSON. Where are you going?

Mr. HUNTINGTON. I am going to Europe.

Commissioner ANDERSON. How long will you be gone?

Mr. HUNTINGTON. Probably not longer than thirty days. My ^{family} are going over, and I want to take a little ocean voyage, and I am ^{coming} right back.

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Q. The Central Branch Union Pacific you have already testified about?—A. Yes, sir.

Q. Atchison, Colorado and Pacific?—A. No, sir.

Q. Atchison, Jewell County and Western?—A. No.

Q. Colorado Central?—A. No.

Q. Denver and Boulder Valley?—A. That I have spoken of, but that I owned some bonds in.

Q. You now own some?—A. Yes, sir.

Q. Denver, South Park and Pacific you have already testified to?—A. Yes, sir.

Q. Echo and Park City?—A. No.

Q. Golden, Boulder and Caribou?—A. No.

Q. Greeley, Salt Lake and Pacific?—A. No.

Q. Junction City and Fort Kearney?—A. No.

Q. Kansas Central?—A. No; I think not.

Q. Lawrence and Emporia?—A. No.

Q. Marysville and Blue Valley?—A. No.

Q. Manhattan, Alma and Burlingame?—A. No.

Q. Manhattan and Blue Valley?—A. No.

Q. Nevada Central?—A. No.

Q. Omaha and Republican Valley?—A. I think not.

Q. Omaha, Niobrara and Black Hills?—A. No.

Q. Oregon Short Line?—A. No.

Q. Salina and Southwestern?—A. No, I think not. This belongs to the Kansas Pacific, I take it, that you are talking about now.

Commissioner ANDERSON. Mr. Sage means there is another corporation of that name connected with the Missouri Pacific.

The WITNESS. Yes, sir.

- Q. Solomon?—A. No; I do not remember.
 Q. Saint Joseph and Western you have already testified about?—A. Yes, sir; I stated that.
 Q. Utah and Nevada?—A. No.
 Q. Utah and Northern?—A. That is the one I spoke of to-day.
 Q. Utah Central?—A. No.
 Q. Colorado Western?—A. No.
 Q. Leavenworth, Topeka and Southwestern?—A. No.
 Q. Loveland Pass Mining and Railroad Tunnel Company?—A. No.
 Q. Montana Railway Company?—A. No.
 Q. Georgetown, Breckenridge and Leadville Railway Company?—A. No.
 Q. South Park and Leadville Short Line Railroad Company?—A. No.
 Q. Salt Lake and Western?—A. No, sir.

By Commissioner ANDERSON:

Q. Now about the Utah and Northern; what interest did you have in that?—A. I will look it up and give it to you. I have got a little stock in that company that I have owned for several years.

Q. Do you know anything about the circumstances under which the Union Pacific acquired its interest in the Utah Northern?—A. I cannot give it to you. I should have to ask to investigate the matter and give you a statement.

Q. Will you give us a statement of your interest?—A. Yes, sir.

Q. Do you know anything about what happened when the Union Pacific got its interest in the Utah Northern?—A. I could not say.

Q. Do you know Mr. Joseph Richardson?—A. Yes, sir.

Q. Do you know that he had any connection with this road?—A. I do not know enough about it to speak of it intelligently here to the Commission, or I should give it with great pleasure.

Q. Have you any books or papers from which you can ascertain what this road actually cost to the Union Pacific?—A. No; I do not think I have.

Q. Have you been over the road?—A. No, sir; not over the whole of it. I have only been over a portion of it.

Q. Have you any of the bonds?—A. No, sir.

STILL OWNS ORIGINAL STOCK.

Q. Have you got all of the stock that you originally bought?—A. Yes, sir.

Q. You never parted with any of it?—A. I think not; that is my recollection now.

Q. You do not remember what you paid for it?—A. No; I do not.

Q. You say about the Oregon Short Line that you never held any of its securities?—A. No, sir; never.

Q. No bonds or stocks?—A. No bonds or stocks.

Q. In addition to the statement which we have asked you to furnish in regard to your dealings in Saint Jo and Denver and the Kansas and Nebraska bonds, which you are having prepared, will you furnish us with a statement of the number of shares of stock of the Union Pacific, of the Kansas Pacific, of the Utah Northern, and the Denver and South Park stock and bonds, and the number of bonds or amount of bonds of the Union Pacific and Kansas Pacific and of the Denver Pacific, which represented your ownership just before the consolidation on the 24th of

January, 1880?—A. If you will give me a statement of what you want I will furnish them.

SHARES HELD AT TIME OF CONSOLIDATION.

By Mr. JOHN F. DILLON:

Q. I understand you to have stated that at the date of this consolidation you held 8,877 shares of Kansas Pacific?—A. Yes, sir.

Q. Those were \$50 shares?—A. Yes, sir; "half shares" we call them.

Q. That would amount to about \$443,000?—A. Yes, sir.

Q. That you had 758 consols?—A. Yes, sir.

Q. Commissioner LITTLER. What do you call consols?

A. JOHN F. DILLON. Kansas Pacific consols.

Q. Commissioner LITTLER. When you say consols, we understand you refer to Kansas consolidated bonds.

A. JOHN F. DILLON. Yes, sir.

Q. Of the par value of \$758,000?—A. Yes, sir.

Q. And that you held in January, 1880, \$181,000 Saint Joseph and Pacific bonds?—A. Yes, sir.

Q. At their par value that would be \$181,000?—A. Yes, sir.

Q. It is claimed they are worth very much less; the Kansas and Nebraska \$116,900?—A. Yes, sir.

Q. And that you held Boulder Valley bonds \$94,000?—A. Yes, sir.

Q. That would amount in round numbers, taking them at their par values, to \$1,600,000 about?—A. Yes, sir.

Q. You say you held 14,700 shares of Union Pacific stock?—A. Yes, sir.

Q. Which at the par value would amount to \$1,470,000?—A. Yes, sir.

Q. You now state that you have some Utah Northern stock?—A. Yes, sir.

Q. How much of that do you remember?—A. I cannot recall it, but I think it is 300 or 500 shares. I do not remember which. It is not large enough.

Q. That shows that your pecuniary interest in the one road may, for the purpose of the inquiry I am about to make, be assumed to be not so different from your pecuniary interest in the other at that time?—A. Yes, sir.

REASONS FOR CONSOLIDATION.

Q. What were the reasons, if you can recall them, which under those circumstances induced you to vote for the consolidation of these two properties?—A. The consideration in my mind was, after long discussion and consideration, that it would be a conservative act, and it would prevent new competition; and I believe it has done so—that it did so, and saved a great many millions of dollars to the treasury of the Union Pacific road. The Chicago, Burlington and Quincy had got into Nebraska between the Union Pacific and the Kansas Pacific, and they were very enterprising, as all railroad men know, in pushing forward; and by negotiation and management we kept them off for several years from extending their line to Denver. But they are there now, and I suppose they will not stop short of Ogden, and I do not know but they will go to the Pacific coast. After a good deal of reflection, the gentlemen associated with the property thought it was a wise thing to prevent the consumma-

tion of any new competition that might lower the tariff rates and divert business and depreciate the property. Under that consideration, with the fact that those who were associated with me thought that this was the wisest thing to be done, I yielded, as I said before to the Commission here, my own preferences and consented to this consolidation. I believe to-day, as I did in the commencement, that the Kansas Pacific would have been worth more to the Missouri Pacific system than we got for it in the consolidation, but the other considerations seemed to be controlling with the gentlemen in charge of the property, and I acquiesced with the sentiment that was dominant in the two roads.

Q. Your motive was not any pecuniary advantage to yourself as the holder of Kansas Pacific security or shares, but your judgment was that that was for the best interests of the whole properties—both of them?—A. I acquiesced in that. My judgment was that it was not best for my Kansas Pacific interest. I adhere to that to-day. That is my best judgment to-day—that it would have been better for me not to have consented to it.

Q. Your securities are generally regarded as pretty good?—A. Yes, sir.

Q. Now, was this scheme of consolidation with the Union Pacific properties, as it was finally carried out, one which you advocated and urged on the Union Pacific party?—A. Certainly not. I was the last one. My individual preferences would have been to have adhered to the Kansas Pacific and united it with the Missouri Pacific. I was in favor of it before.

Q. Do you know, from what was stated to you at the time by Mr. Ames, or any person with whom you may have conversed whose large controlling interests were in the Union Pacific, what were the reasons and motives that led them to wish this consolidation?—A. Oh, yes, sir; I know. They were very freely discussed there, and they were in part what I have just stated here. They feared competition by the Chicago, Burlington and Quincy, especially, because, as we termed the corporation then, the M. and M. was over in Nebraska, and was a great factor there; and later on they came out openly and consolidated with the Chicago, Burlington and Quincy. They feared that they would violate their agreement, which they did, in extending their road into Denver. We kept them off, as I said a few moments ago, for two years; I do not know but three, but two certain. In the mean time the Northwestern, on the north of the Union Pacific, began to assume very formidable dimensions in its extensions, and they have not stopped up to this time. It is a most remarkable instance, now, about the Northwestern. I will explain what they have done. They have paralleled this road a distance of some 600 or 700 miles.

Q. They have paralleled Union Pacific?—A. Yes, sir; the Northwestern people have; and now are turning down to Lincoln, crossing the Union Pacific, and the Chicago, Burlington and Quincy have extended their line to Denver, and they have turned north and are crossing the Union Pacific and running into the northern country. It is a very interesting fact to be considered that such a state of things should exist here to-day with two of the foremost corporations on this continent.

Q. Going back now briefly, you stated, as I understood, that you had been for some years prior to 1880 interested in the Pacific Railroad mostly?—A. Yes, sir.

Q. Where did that road in 1880, now known as the Missouri Pacific, and then also, begin, and where did it terminate, if you can state?—A. Of course the main line was commenced at Saint Louis and went to

ansas City and to Atchison, and the Lexington branch. We had inaugurated two branch roads extending over into Kansas, and we had our eye upon this thing to go right on to Denver, taking up the Kansas Pacific. That is what probably induced the citizens of Saint Louis to pick up these Kansas Pacific securities. They intended to do something with them. I saw the advantage, as I thought, of acquiring this property and these roads, that had all failed, and I urged upon Commodore Garrison their importance to our interests. He and I were the principal owners of the property at that time; indeed, we owned the majority of it.

By Commissioner ANDERSON:

Q. The principal owners of the Missouri Pacific?—A. Yes, sir; I urged the importance of securing this property here, and of trying to induce Mr. Gould and others to unite with us, and take hold of this property. It finally resulted in Mr. Gould very suddenly, and I guess without any consultation with any living being, buying out Commodore Garrison and acquiring that interest, to prevent what he thought would be a very disastrous thing to the Kansas Pacific and the Union Pacific roads. Now he told me at the time that he was very largely interested in Union Pacific, and he considered that an extension of that line up through here in hostile hands would be very injurious to his interests in the Union Pacific property.

Mr. JOHN F. DILLON. The act of Congress provides that the Kansas Pacific shall connect at Kansas City with the Pacific Railroad of Missouri.

The WITNESS. Yes, sir.

Mr. JOHN F. DILLON. They do so connect, I suppose?

The WITNESS. Yes, sir.

Mr. JOHN F. DILLON. The Pacific Railroad of Missouri, instead of stopping at Kansas City, under its new name, the Missouri Pacific, had it up to Atchison on the one hand?—A. Yes, sir.

By Mr. JOHN F. DILLON:

Q. And it was stretching out into the territory of the Kansas Pacific, the other hand, and that was the condition of affairs in January 30, was it not?—A. Yes, sir.

Q. Do you know of any steps taken on the part of Garrison, prior to a time when he sold his interest out to Mr. Gould, looking towards an invasion of Kansas Pacific territory by a still further extension of this road?—A. Oh, yes; he had two roads then under contract for extension, when he bought him out.

Q. Can you state whether or not, as you understood it, it was because of this Missouri Pacific system which had already invaded the Kansas Pacific territory, and which in strong hands could paralyze and very much injure it, which brought about this consolidation? State what influence those considerations had on Mr. Ames, and the large holders of interests in the Union Pacific, toward bringing about this consolidation; that is, what was your understanding at the time. Of course they can state it better than you can.—A. My understanding at that time was that that was the controlling argument with the Boston gentlemen in desiring consolidation.

Commissioner LITTLER. Judge, how can he state what the understanding was.

Mr. JOHN F. DILLON. He understood it from them.

The WITNESS. He says it was a matter of consolidation. I state here that my own interests were in another direction at that time, and except

that I had been a director in the Union Pacific Company and owned this large interest, as I did, I should not have surrendered up my own judgment to this consolidation. I was interested with Commodore Garrison, as I have just stated here, and we felt that we had a sure thing. The first crop had been swept away, the misfortune of a new railroad in a new country, and we had got a trunk line, and were in a very commanding position then, and have been ever since, and are to-day. When this question came up, of consolidation with the Kansas Pacific, I was very desirous indeed of securing that for the Missouri Pacific. And that was my judgment then, and has been ever since, and I have never changed it.

UNION PACIFIC FAIRLY DEALT WITH.

Q. Was it your judgment in 1880 that the Kansas Pacific was put into this consolidation at terms, considering the values of those properties at that time, which were unfair towards the Union Pacific interest?—A. Certainly not, because the Kansas Pacific securities had appreciated so that, my recollection is, they were selling at \$10 per share more than the Union Pacific in January, 1880.

Q. That was your judgment at that time?—A. Yes, sir; that was my best judgment.

Q. What is your judgment to-day?—A. It has not been changed at all. I would rather have the property to-day than to have the other. It is not changed at all. My judgment in that respect has been as clear as any man's judgment could be as to the value of property. I may not be wise in my generation.

Q. What was the general judgment of the public on that subject, as evidenced by the securities? Did they fall or rise after the fact of the union of these properties having been consummated was known?—A. It was considered a very conservative and salutary act, just as you, Mr. Chairman, see it in the Pennsylvania Railroad of your State, and other large corporations.

Q. Did they appreciate?—A. Yes, sir; they appreciated in the estimation of capitalists, and the property has been considered more stable. A speculative value for thirty or sixty days is one thing and the permanency of value is another.

Q. Do you know what the judgment of the shareholders in these two properties was concerning the consolidation, as evidenced by their assent to it or otherwise? How far did you understand the stocks had been changed voluntarily under this consolidation?—A. I do not remember of any large consolidation where there has been greater unanimity of feeling among the stockholders in favor of the consolidation. That has been evidenced by the concurrence, the almost unanimous sentiment of the stockholders in the two companies.

EXCHANGE OF SHARES.

Q. In the answer filed in the *quo warranto* suit in Kansas in 1883, it was stated on oath that out of the 200,000 shares in the Kansas Pacific Railway Company, all of the shareholders of the said company, with the exception of 31 shares, have since exchanged their shares of stock for the stock of the consolidated company, all of which was done years before this suit was commenced. Is that in accordance with the general fact, as you understand it?—A. Yes, sir.

Q. The same answer stated that the consolidated company, soon after consolidation was made, issued its stock in exchange for the stock of the said constituent companies, and all of the stock of the Union Pacific Railroad Company has long since been exchanged for the stock of the consolidated company, except 1,930 shares, most of which, however, has assented to the consolidation. Is that according to the general effect, as you understand it?—A. Yes, sir.

Q. Your attention was called to the purchase of the stock of the central branch. I was not present at the beginning, but I understand that that stock was purchased—I do not know whether you stated it from Mr. Gould. Do you know what he paid for it?—A. I do not.

Q. Were you at all interested in the purchase?—A. No, sir.

EARNINGS, UNION PACIFIC, 1883-'84.

Q. Reference was made to the earnings of that road from the report of the Union Pacific Company for 1883 and 1884, by which it appears that for 1884 the gross earnings amounted to \$1,715,145.48; that the operating expenses were \$1,035,318.81; that the fixed charges, including rent of leased lines and interest on bonds and taxes, amount to \$18,839.24; that the balance of income was \$160,987.43; is that so?—A. Yes, sir; I understand it so.

Q. In other words, a dividend on the stock for that year of about 16 per cent., was it not?—A. Yes, sir.

The CHAIRMAN. We will excuse you, unless there is something else you wish to say.

The WITNESS. I will come at any time.

The CHAIRMAN. I thought you had some other suggestion to make.

The WITNESS. No, I do not think of anything.

RUSSELL SAGE.

MR. SAGE'S HOLDINGS.

Mr. Sage subsequently submitted the following letter and accounts:

OFFICE OF RUSSELL SAGE, 71 BROADWAY,
(P. O. Box 1468.—Rooms 27, 28, and 29.)
New York, May 17th, 1887.

1. CHARLES P. YOUNG,

Secretary United States Pacific Railway Commission:

DEAR SIR: Your note of yesterday is before me. I was so occupied yesterday that I was unable to prepare the enclosed statement, which your memorandum calls for, until to-day. I herein enclose statement of Denver Pacific Ry. Co. account.

I find that I purchased, August 27th, 1880, from Jay Gould \$50,000 Denver & South Park 1st m'tg'e bonds and 1,903 shares Denver & South Park stock, paying therefor \$75,071.86.

I also find I purchased from same 689 shares Utah & Northern R. R. Co. stock, paying \$7,300.76, October 12th, 1880.

I also find that I owned on Jan'y 24th, 1880, 12,250 shares Union Pac. Ry. Co. stock, and 5,677 shares (of \$50 each) of Kansas Pac. Ry. Co. stock. My previous statement as to the amount of stock was as to January 1st, 1880, 14,700 Union Pac. and 8,877 Kansas Pac.

This completes the information that was required, and all that I now think of relating to said companies.

Very respectfully, yours,

RUSSELL SAGE.

S. PACIFIC RAILWAY COMMISSION.

Kansas Pacific 1st mortgage land-grant bonds.

1878.					
July	6.	10 ^m from H. C. Williams, at 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	6,861 50
	6.	7 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	4,795 00
	8.	6 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	4,113 75
	8.	10 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	6,862 50
	9.	10 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	6,862 50
	9.	2 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	1,470 00
	10.	8 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	5,450 00
	10.	10 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	6,762 50
	10.	5 ^m do. do. 67 $\frac{1}{2}$	67 $\frac{1}{2}$	.....	3,356 25
	13.	5 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	3,351 25
	13.	3 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	1,895 00
	18.	5 ^m do. do. 67 $\frac{1}{2}$	67 $\frac{1}{2}$	.....	3,381 25
	20.	5 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	3,351 25
	20.	5 ^m do. do. 67 $\frac{1}{2}$	67 $\frac{1}{2}$	.....	3,356 25
	31.	8 ^m do. do. 68 $\frac{1}{2}$	68 $\frac{1}{2}$	.....	5,350 00
Aug.	5.	1 ^m do. do. 64 $\frac{1}{2}$	64 $\frac{1}{2}$	.....	646 25
Oct.	2.	12 ^m do. do. 74 $\frac{1}{2}$	74 $\frac{1}{2}$	.....	8,893 00
	3.	21 ^m do. do. 74 $\frac{1}{2}$	74 $\frac{1}{2}$	.....	13,566 25
Dec.	18.	12 ^m do. do. 73 $\frac{1}{2}$	73 $\frac{1}{2}$	.....	8,635 00
	30.	13 ^m do. do. 77 $\frac{1}{2}$	77 $\frac{1}{2}$	.....	9,311 25
	31.	6 ^m do. do. 71 $\frac{1}{2}$	71 $\frac{1}{2}$	.....	4,297 50
1879.					
Jan.	2.	6 ^m do. do. 71 $\frac{1}{2}$	71 $\frac{1}{2}$	.....	4,297 50
	11.	5 ^m do. do. 75 $\frac{1}{2}$	75 $\frac{1}{2}$	.....	3,796 25
	11.	10 ^m do. do. 76 $\frac{1}{2}$	76 $\frac{1}{2}$	.....	7,612 50
	13.	44 ^m do. do. 77 $\frac{1}{2}$	77 $\frac{1}{2}$	.....	33,935 00
	14.	5 ^m do. do. 77 $\frac{1}{2}$	77 $\frac{1}{2}$	.....	3,856 25
	15.	1 ^m do. do. 77 $\frac{1}{2}$	77 $\frac{1}{2}$	.....	771 25
	17.	15 ^m cert., Asiel & Co., 75 $\frac{1}{2}$	75 $\frac{1}{2}$	.....	11,308 25
	17.	80 ^m $\frac{1}{2}$ script coupon, cert., Asiel & Co., 59 $\frac{1}{2}$	59 $\frac{1}{2}$	.....	1,800 35
	18.	5 ^m cert. do. 70	70	.....	3,800 00
	24.	9 ^m do. do. 76 $\frac{1}{2}$	76 $\frac{1}{2}$	.....	6,913 10
Feb.	10.	25 ^m " do. 82 $\frac{1}{2}$	82 $\frac{1}{2}$	.....	26,396 60
	25.	250 ^m $\frac{1}{2}$ script coupon, cert. do. 85 $\frac{1}{2}$	85 $\frac{1}{2}$	.....	2,304 00
	28.	20 ^m " do. 67 $\frac{1}{2}$	67 $\frac{1}{2}$	.....	29,321 60
Mar.	8.	10 ^m " do. 82 $\frac{1}{2}$	82 $\frac{1}{2}$	.....	16,537 25
	10.	5 ^m " do. 85 $\frac{1}{2}$	85 $\frac{1}{2}$	.....	4,291 75
	10.	9 ^m " do. A. Leo & Co., 90	90	.....	8,160 00
	10.	2 ^m " do. do. 92	92	.....	1,849 00
	10.	2 ^m " do. do. 92 $\frac{1}{2}$	92 $\frac{1}{2}$	.....	2,278 50
	11.	16 ^m " do. do. 92 $\frac{1}{2}$	92 $\frac{1}{2}$	.....	14,842 80
	12.	5 ^m bds do. 103	103	.....	5,150 00
	18.	20 ^m Kan. Pac., Den. Ex. } Jay Gould.			200,250 00
	18.	7,185 shares Kan. Pac. stock. }			
	18.	200 ^m Kan. Pac. reorganization cts. }			
	24.	10 ^m comp. cert., Asiel & Co., 93 $\frac{1}{2}$	93 $\frac{1}{2}$	.....	9,374 35
	27.	4 ^m bds. D. Ex., A. Leo & Co., 103 $\frac{1}{2}$	103 $\frac{1}{2}$	.....	4,150 00
	27.	18 ^m " do. 103 $\frac{1}{2}$	103 $\frac{1}{2}$	.....	18,652 50
	28.	2 ^m " do. 103 $\frac{1}{2}$	103 $\frac{1}{2}$	.....	2,067 50
	28.	13 ^m " do. 103 $\frac{1}{2}$	103 $\frac{1}{2}$	.....	13,487 50
	28.	13 ^m trust cert. do. 103 $\frac{1}{2}$	103 $\frac{1}{2}$	.....	13,487 50
	31.	5 ^m bonds, S. Ward, 100	100	.....	5,320 00
	31.	10 ^m bonds from A. Leo & Co., 106	106	.....	10,600 00
April	1.	10 ^m " do. 105	105	.....	10,500 00
	1.	10 ^m comp. cert. do. 90 $\frac{1}{2}$	90 $\frac{1}{2}$	.....	1,482 25
	7.	10 ^m trusts do. 106	106	.....	10,600 00
	8.	10 ^m " do. 106	106	.....	10,600 00
	8.	5 ^m bonds do. 106	106	.....	5,300 00
	10.	5 ^m " do. 107 $\frac{1}{2}$	107 $\frac{1}{2}$	.....	5,383 75
	12.	4 ^m " do. 108	108	.....	4,320 00
	14.	4 ^m " do. 108 $\frac{1}{2}$	108 $\frac{1}{2}$	.....	4,325 00
	14.	2 ^m trusts do. 108 $\frac{1}{2}$	108 $\frac{1}{2}$	.....	2,162 50
	17.	14 ^m bonds } Jay Gould			100,363 89
	17.	3,592 shares }			
	17.	100 ^m reorg. bonds }			
	18.	4 ^m comp. cert., A. Leo & Co., 102	102	.....	4,496 70
	23.	15 ^m bonds do. 111 $\frac{1}{2}$	111 $\frac{1}{2}$	.....	10,687 50
May	5.	5 ^m trusts, J. A. Schleicher, 112 $\frac{1}{2}$	112 $\frac{1}{2}$	.....	5,612 50
June	5.	1 ^m " Sage & Gould, 115 $\frac{1}{2}$	115 $\frac{1}{2}$	.....	1,157 50
	14.	200 shares, A. Leo & Co., 55 $\frac{1}{2}$	55 $\frac{1}{2}$	.....	5,587 50
	18.	500 " do. 56 $\frac{1}{2}$	56 $\frac{1}{2}$	.....	14,050 00
	20.	10 ^m trusts do. 101	101	.....	10,100 00
	23.	10 ^m " do. 101	101	.....	10,100 00
Sep.	16.	57 ^m comp. cert. do. 93 $\frac{1}{2}$	93 $\frac{1}{2}$	.....	5,399 62
Oct.	2.	300 shares, M. Doubleday, 70	70	.....	10,500 00
Nov.	13.	200 shares, Randall & Winum, 88	88	.....	8,800 00
Dec.	15.	2,000 shares, Jay Gould, 60	60	.....	60,000 00
	22.	\$140 comp. cert., W. S. Judson, 85	85	.....	119 00
1880.					
Jan.	28.	181 shares K. P. Ry Co. for 303 coupons		.....	0 00
Feb.	3.	12 shares, E. H. Perkins, 43	43	.....	538 20
1879.					
Jan.	13.	20 ^m to Sage & Gould, 77 $\frac{1}{2}$	77 $\frac{1}{2}$	.....	15,425 00

79.			
18.	5= to Asiel & Co.,	77½	3,856 25
10.	25= do.	83½	20,812 50
24.	25= trust cert., Asiel & Co.,	97	24,250 00
25.	19= do.	96½	18,250 00
26.	10= do.	94½	9,482 50
1.	21= bonds	95½	20,055 00
2.	20= do.	94½	18,867 50
13.	5= S. Ward, 103		5,150 00
9.	23= trusts, Speyer & Co., 105		34,650 00
9.	17= bonds do.	105	17,850 00
10.	9= S. B. Jones, 108		9,720 00
23.	15= K. Plum, 111½		16,725 00
2.	10= trusts, A. Leo & Co., 111½		11,162 50
3.	200 shares, McGinnis Bros. & F., 59		5,900 00
3.	100 Savin & H., 59		2,950 00
9.	10= assented trusts, F. Leake, 112½		11,287 50
13.	1= C. R. Leake, 112½		1,128 75
11.	Interest on bonds, U. S. Trust Co.		32,517 96
11.	" baby bonds,		17,811 30
13.	"		62 72
21.	400 shares, Meyers R. & Co., 54		10,800 00
23.	600 do.	54	16,200 00
30.	½ profit on Sage & Gould account.		7,408 80
3.	100= trusts, Speyer & Co., 100½		100,740 60
29.	200 shares, H. Lapsley & Co., 68		5,800 00
2.	200 A. Leo & Co., 59		5,900 00
5.	200 do.	60	6,000 00
6.	400 Chase & H., 60½		13,250 00
10.	15= bonds, A. Leo & Co., 106½		15,918 75
10.	5= do.	106	5,300 00
10.	10= do.	105½	10,575 00
11.	200 shares, Hallgarten & Co., 71		7,100 00
23.	200 do. L. Chase & Co., 65		6,500 00
23.	200 Meyers R. & Co., 67		6,700 00
12.	100= reorg. bonds, K. P. Ry. Co., 90		90,000 00
3.	18= bonds, A. Leo & Co., 108½		19,192 50
18.	200= reorg. bonds, K. P. Ry. Co., 90		180,000 00
21.	300 shares, Kimball H. & Co., 68		10,200 00
28.	200 R. N. Wilson, 68		6,800 00
1.	100 coupons, @ \$50 ea.		5,000 00
1.	200 " \$25 ea.		528 00
17.	5= bonds, J. M. Ham, 103		5,150 00
28.	3039 baby bond coupons, @ 2½ ea. + ½ %		6,379 86
2.	500 shares, E. H. Oppenheim, 70		17,500 00
5.	2= C. Benedict & Co., 102		2,040 06
6.	8= A. Leo & Co., 102		8,160 00
13.	167 ½ coupons, @ 2½ ea.		350 70
23.	400 shares, Meyers R. & Co., 68		13,600 00
30.	400 shares Meyers R. & Co., 75		15,000 00
31.	200 C. B. Gunther & Bro., 70		7,000 00
31.	200 W. Clapp & Co., 75		7,500 00
1.			
19.	10= Asiel & Co., 105½		10,587 50
14.	50= Hallgarten & Co., 109½		54,562 50
20.	25= Marx & Co., 109½		27,375 00
1.	112½ comp. cert., K. P. Ry Co.		114,392 83
12.	400 shares, Belden B. & Co., 94½		18,250 00
13.	200 Hallgarten & Co., 95½		9,547 00
15.	100 Belden B. & Co., 95		4,750 00
15.	200 Blake Bros. & Co., 96		9,600 00
15.	300 Drexel M. & Co., 94½		14,225 00
16.	800 Asiel & Co., 98		14,400 00
16.	200 Gracie & W., 96		9,600 00
17.	700 Belden B. & Co., 96½		33,850 00
17.	100 Chase & H., 95		4,750 00
17.	100 Mills R. & S., 96½		10,350 00
19.	300 Belden B. & Co., 101		13,137 50
27.	100 " 105½+		5,271 27
27.	100 Keilhalz Bros., 95		4,750 00
27.	1,400 H. H. Truman, 94		65,800 00
28.	100 Keilhalz Bros., 94½		4,737 50
28.	250 Thomas Denny & Co., 96		9,600 00
15.	3,970 converted into 1,985 Un. Pac.		

Denver Pacific R'y Co. 1st mtge. bonds.

9.			
9.	353= b'ds from Jay Gould, @ 74		261,220 00
6.	10= Ham & Munroe, 85½		8,525 00
18.	16= Asiel & Co., 85		13,600 00
1.			
22.	13= do.	99½	12,935 00
24.	17= do.	99½	16,815 00
23.	6= do.	99½	5,940 00
6.	7= do.	95	6,650 00

1878.				
Oct.	18.	353 ⁰⁰	bonds K. P. R'y Co.,	74
Dec.	6.	10 ⁰⁰	"	do. 85 ¹
	18.	16 ⁰⁰	"	do. 85
1880.				
April	28.	30 ⁰⁰	"	do. 100
1881.				
Feb.	15.	5 ⁰⁰	" F. H. Smith,	100 ¹
	16.	2 ⁰⁰	"	100 ¹

NO. 10 WALL STREET, NEW
Friday, M.

JAMES R. KEENE, being duly sworn and examined, testifies as follows:

By Commissioner ANDERSON:

Question. You were for a time a director of the Union Pacific.—Answer. I was.

Q. Do you recollect how the transaction came about?

The WITNESS. How I became a director?

Commissioner ANDERSON. Do you recollect how it came about?

A. I think I went in as a director to please Mr. Sage, rather.

Q. Was it not in connection with a purchase of a large amount of stock from Mr. Gould by a syndicate in New York?—A. I think I was a director before that time.

A DIRECTOR OF THE UNION PACIFIC.

Q. Did you not become a director at the same time as Mr. Sage?

A. My impression is I was a director previous to that time, but I may be wrong.

Q. Your impression is, Mr. Sage asked you to become a director?

A. I think so.

Q. What reasons did he assign?—A. Mr. Sage and I were both directors of the Union Pacific in 1878, I think 20,000 shares of stock were purchased, perhaps a few months, Mr. Sage suggested that I should join the board.

Q. Do you remember whether you were elected at a regular meeting or whether you were elected to fill a vacancy?—A. I cannot remember.

Q. How long did you remain a director?—A. Perhaps a year.

Q. Were you a director at the time of the consolidation of the Union Pacific?—A. I was, but I am not very positive about it.

Q. Were you present at the meeting?—A. I was not.

Q. Where were you in January, 1880?—A. In New York.

Q. Did you receive a notice to attend those meetings?—A. I did.

Q. Were you then the holder of a large amount of stock?—A. I do not think I was then.

Q. Do you remember the circumstances which caused the consolidation of the Union Pacific?—A. I do not think I attended many meetings of the Union Pacific, from the time I was elected until another person was elected in my place.

Q. Do you remember the circumstances of consolidation of the Union Pacific?—A. I believe it excited much interest at the time.

Q. Do you remember whether you had any definite opinion before the consolidation; were you in favor of it, or against it?—A. I do not think I took any interest at all in it.

Q. Did Mr. Sage call on you shortly before these meetings were held in regard to it?—A. I do not think he did.

Q. Do you remember having any conversation either with Mr. Sage or any other of the directors, just before the consolidation, bearing upon it?—A. I do not think I had any.

Q. How long after the consolidation did you remain a director?—A. I believe I answered that I thought I was a director when the consolidation occurred, but I am not sure; but if I was at that time I went out at the next election.

Q. You remained until the close of the year? You did not resign?—A. I did not.

Q. Were you not reported on the minutes as being present at the meeting in January?—A. No, sir.

Mr. JOHN F. DILLON. He is not reported as being present.

JAMES R. KEENE.

NO. 10 WALL STREET, NEW YORK,
Friday, May 13, 1887.

WASHINGTON E. CONNOR, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Q. What is your occupation?—A. I retired last January from active business.

Q. What was it prior to that?—A. Broker.

Q. How many years were you a broker?—A. Twenty-one.

Q. In the city of New York?—A. Yes, sir.

Q. Where was your office in January, 1880?—A. I think it was 80 Broadway. Either 80 Broadway or 23 Nassau street, I am not sure which.

Q. Who were the members of your firm?—A. The firm at that time was W. E. Connor. I think the firm of W. E. Connor & Co., was formed about 1881.

Q. Had you entire charge of the business of W. E. Connor?—A. Yes, sir.

Q. Was no other person interested?—A. No.

Q. That is, at the time of the consolidation of the Kansas Pacific and Union Pacific?—A. Yes, sir; I think at that time the firm was just W. E. Connor, in 1880.

Q. Are you positive?—A. I am not positive.

Mr. JOHN F. DILLON. That date was the 24th of January, 1880.

The WITNESS. I am quite sure I was then alone in business.

Q. What was the title of this firm that was formed either in 1880 or 1881?—A. It was W. E. Connor & Co.

Q. Who were the members of that firm?—A. Mr. Morosini, Mr. George Gould, and Mr. Jay Gould, as special.

Mr. JOHN F. DILLON. And yourself.

The WITNESS. Yes, sir; and myself.

Q. Did your business keep on in the same office which you had occupied before?—A. Yes, sir.

Q. Did you keep on employing the same clerks?—A. Yes, sir.

Q. Did you use the same books?—A. No.

Q. You started a new set of books?—A. Yes.

Q. I should like to know whether the transactions that I refer to are in the books of Washington E. Connor or Washington E. Connor & Co.?—A. That I could not say without referring to the books, of course.

EXAMINATION AS TO ACCOUNT BOOKS.

Q. Have you the books of either of those firms in your possession?—A. I believe I have.

Q. Where are the books?—A. I believe they are at my stable, Forty-fourth street. I have all the old books sent up there after we are through with them.

Q. Can you tell me how numerous they are or how much of a job it would be to bring them down here?—A. I think it would take some time. All the books, since I have been in business, are up there, as far as I know.

Commissioner ANDERSON. What the Commission desires to see is the book containing all the transactions had by the firm of W. E. Connor, or the firm of W. E. Connor & Co., for Mr. Jay Gould, from January 1, 1878, until July 1, 1880. If you will state to us what books will contain those transactions, I will then ask you whether you are willing to have them produced or whether we shall send and get them?

The WITNESS. I would suggest that the quickest way to get at the information, and the easiest for both you and myself, would be to have a book-keeper go there and take off a statement of all the transactions that you need from the books.

Commissioner ANDERSON. The book-keeper we may send up.

The WITNESS. With my own, of course. I do not want any other accounts interfered with or meddled with.

The CHAIRMAN. We will do that.

Q. Can you give us any idea how long a job it would be, or what forces we had better send up?—A. That I could not say.

Mr. JOHN F. DILLON. You only want, I suppose, the entries relating to these matters?

The CHAIRMAN. That is all. We do not want anything after that.

Mr. JOHN F. DILLON. It would not be an inquisitorial proceeding.

Commissioner ANDERSON. No; we have got enough to do.

The WITNESS. I think one man will do, with my book-keeper, who understands the books, and who can get at the information, of course, very readily. I think one man, with him, would get at it just as readily as if you had more.

Q. Do you think he could get through in two or three days?—A. I should think so. The transactions are not numerous. You are now referring to Kansas Pacific securities, I suppose?

Commissioner ANDERSON. The Kansas Pacific securities, Denver Pacific securities, and any transactions relating to branch roads in which Mr. Gould appears to have acquired an interest, if there be any, the branch roads being the branches of either the Kansas Pacific or Union Pacific.

The WITNESS. You understand that most of these securities were not listed on the Stock Exchange, and consequently the firm did not trade in them; and whatever buying was done was not done through our firm.

Q. Might not your firm have transactions entered on your books which

did make yourself, but where unlisted stocks were deliverable to you?—A. Very seldom that occurred. Mr. Gould generally makes his transactions direct.

Q. Can you inform the Commission what house did his business as to these particular securities?—A. It is my impression that the class of securities that you refer to were held in bulk by a few individuals, and that Mr. Gould made his transactions direct with them or through some outside broker.

Q. Can you state to us the names of the individuals that you refer to holding these securities in bulk?—A. I cannot, because I did not see any of these securities, and I know not how many of the transactions, any, passed through our office.

Q. Do you know Mr. Hanna?—A. I know there is such a man. I do not know him personally.

Q. Do you know Mr. Hassler?—A. I do not, only by name.

Q. Do you know the fact that the Guaranty and Indemnity Company held some of these unlisted securities that you refer to?—A. I did not know it.

Q. And Mr. William Bond?—A. I did not.

Commissioner ANDERSON. I think the best thing would be to get the copies from the books.

Q. Do you remember the fact of the consolidation of the Union Pacific with the Kansas Pacific?—A. I do not remember the particulars. I remember there was such a consolidation.

Q. You took no personal interest in the matter yourself at the time when it occurred?—A. I had no personal interest in it. If I acted at all, I did so in my capacity as broker.

Q. Do you remember signing a ratification of the consolidation?—A. I do not.

Commissioner ANDERSON. Please examine the list as representing the Union Pacific stock.

The WITNESS. If I signed at that time it was merely, as I said before, as a broker.

Q. Do you know on whose behalf you signed, if you signed at all?—A. Probably in the interest of Mr. Gould.

Commissioner ANDERSON. I think we may as well suspend this gentleman's examination until we get the account.

The CHAIRMAN. We will excuse you.

The WITNESS. Any time you are ready, if you will send over, I will have my bookkeeper go up there with anybody you select.

Commissioner ANDERSON. Very well; we will select a bookkeeper who will go.

W. E. CONNOR.

The Commission then adjourned to Saturday, May 14, 1887, at 10 a. m.

NO. 10 WALL STREET, NEW YORK,
Saturday, May 14, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

JOHN H. HAAR, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your present occupation?—Answer. Broker.

Q. Where is your office?—A. 100 Broadway.

Q. Where was your office in 1879?—A. 8 Broad street.

Q. With whom were you then in business?—A. I was there for myself. I was with the office of Raven & Co.

Q. You say you occupied the same offices?—A. Yes, sir.

Q. But your business was separate from theirs?—A. Yes, sir.

Q. At that time were you in the habit of dealing in the stocks and bonds of the Saint Joseph and Denver, afterwards the Saint Joseph and Western Railroad Company?—A. Yes, sir; at that time and before.

Q. Have you books containing those transactions?—A. I do not believe I have.

Q. Were those transactions transactions which you had as broker, for individual customers of your own?—A. They were individual customers and for myself. I traded in them considerably.

Q. Did Raven & Co., also trade in them?—A. Yes, sir.

Q. Did you attend to their transactions?—A. No; I did not attend to their transactions.

Q. In what books were those transactions entered?—A. In my books.

Q. What has become of your books?—A. I guess they are around some place.

Q. Can you be a little more specific?—A. I do not know whether I have got them home or whether in my office, or whether I destroyed them; it is just memoranda that I kept myself; I did not keep a set of books.

Q. Who were your principal customers in these securities?—A. Promiscuously. Everybody that knew something about the property.

Q. Did you not have a number of transactions with Jay Gould?—A. I do not know that I had any directly with him; I may have had with the firm of W. E. Connor & Co.; I think there were one or two transactions with him.

Q. Were they large transactions?—A. No; not at that time, I think.

Q. At what time did you have large transactions with the firm of W. E. Connor & Co. relating to Saint Joseph and Denver securities or Saint Joseph and Western securities?—A. I had larger transactions with Haar & Co., at 45 Wall street; that was previous to 1879, though.

Q. How long previous?—A. Ranging, I think, from 1874 up.

SAINT JOSEPH AND DENVER.

Q. Do you know that road, the Saint Joseph and Denver? Have you ever been over it?—A. Yes, sir; lots of times.

Q. Did you know it well in 1878?—A. Yes, sir.

Q. Please describe what kind of a road it was as to structure and population and business and travel?—A. The population at that time was very slim, but growing all the time; the road was very crooked from Saint Joseph to Marysville; very poorly built; the western portion of the road was a pretty straight road, and fairly built; better.

Q. That is, from Marysville to Hastings?—A. From Marysville to Hastings; yes, sir.

Q. At the time you went over it was the branch from Hastings to Grand Island constructed?—A. In 1878 I do not believe it was; I believe they were speaking of it then.

Do you remember the occasion of a foreclosure when it was reorganized in two divisions as the Saint Joseph and Pacific, and the Kansas Nebraska?—A. Yes, sir; I remember that.

Q. When did that reorganization take place?—A. I do not know whether it took place in 1876 or 1877; perhaps 1875.

Commissioner ANDERSON. Was it not in 1877, Mr. Holmes?

Mr. HOLMES. I cannot answer immediately.

Mr. JOHN F. DILLON. It was stated here the other day; I do not collect; I think it was about that time.

The WITNESS. I do not recollect; I think it was 1876 or 1877.

Q. After these divisional bonds of the Kansas and Nebraska and of the Saint Joseph and Pacific did you have dealings in them?—A. Yes, sir.

Q. The first-mortgage bonds?—A. Yes, sir.

VALUE OF KANSAS AND NEBRASKA; AND OF SAINT JOSEPH AND PACIFIC SECURITIES.

Q. Have you any actual transactions that will give us the fair market values of those securities during 1878 and 1879?—A. The only person, to my recollection, that bought the bonds was myself, and I believe I paid as high as 15 for them.

Q. During what year are you speaking now; shortly after the reorganization?—A. Shortly after the reorganization.

Q. For the first-mortgage bonds?—A. For the first-mortgage bonds; and on the Western Division as it was called, which was called the Kansas and Nebraska, the second-mortgage bonds and stock were thrown away; there were no second-mortgage bonds issued on the reorganization of the Eastern Division to the first-mortgage bondholders.

Q. With the Western Division the second-mortgage bonds were thrown in on all transactions had relating to first-mortgage bonds?—A. Yes, sir.

Q. And those purchases, when you first commenced to deal, were as low as 15 per cent.?—A. Yes, sir; lower than that; I bought some bonds as low as 6½ and 7 cents, in small quantities, with the "trimmings," as we called it.

Q. The "trimmings" thrown in? Will you please describe to us the progress of those investments in the market here from the time you first began to buy through the years 1878 and 1879?

The WITNESS. Do you confine me to 1878 and 1879 specially?

Commissioner ANDERSON. No; give us any dates you please.—A. I commenced to buy those bonds from 30, after the reorganization, down to, as I say, 6½; and I guess I owned over \$600,000 of them myself.

Q. These two divisions promiscuously?—A. Yes, sir; I could not tell you particularly what they were, whether they were eastern or western divisions.

Q. Can you tell about what these \$600,000 bonds average, or what they cost you for the whole lot?—A. I could not exactly tell.

Q. They were bought from 30 down to 6½?—A. Down to 6½, a very small quantity.

Q. In what year was it that you had acquired \$600,000 of these bonds?—A. I guess I had them in 1875 and in 1876, or along there; or in 1877.

Mr. JOHN F. DILLON. Poor states that the road was sold under foreclosure in November, 1875.

Q. That was when Mr. Bond was appointed receiver?—A. No; I think it was reorganized in that year. In 1874 the receiver was appointed.

Q. It does not follow from that, of course, when the reorganization

was effected, and when the divisional bonds appeared; but your idea is that the divisional bonds appeared shortly after the foreclosure?—A. Yes, sir.

Q. Tell us the history of the market value of these bonds, after you had acquired these \$600,000? Did you keep them a long while?—A. I kept them for quite a while, and sold them to different people, friends that I advised to buy them because I thought they were cheap.

Q. At what rates were you selling them?—A. I sold them at from 12½ up to 25 or 30.

Q. Did you dispose of all of them in that way?—A. I believe I had some left after 1878 and 1879.

Q. Can you tell us about the market price of them in 1878? Was it very much?—A. There were very little dealings in them. And the price was about that time principally made by me. I believe I bought some bonds, \$126,000 or \$127,000 at 9½ in 1877 or 1878, and I sold them at 12½, I believe, and they ran along up as high as 30.

Q. What transactions can you refer us to between yourself and the firm of Washington E. Connor & Co., relating to these securities?—A. I believe that some one came to me and asked me if I had some of those bonds for sale, and I told them I had, and I believe I sold them some at 30. If I had known what you wanted me for I might have tried to find the books and look over them.

Q. We are quite willing to give you time to find the books. What we want to know is to know what you know in regard to the prices of these bonds during the years 1878 and 1879, and what you know in regard to the acquisition of the title to those securities by Mr. Gould during those years, from whom Mr. Gould acquired them, and about what he paid for those securities?—A. I could only speak there from hearsay, as to what he paid for those securities.

FROM WHOM GOULD BOUGHT.

Q. You could suggest to us through what channels he bought them and then we could call the witnesses. Do you know from whom Mr. Gould bought his bonds?—A. He bought, as I remember, the bonds from the different trusts companies that loaned money on them at the time I was with the firm of Tanner & Co.

Q. What was Tanner & Co's connection with it?—A. They placed the original bonds on the market. They were building the road.

Q. You mean by the original bonds, not the divisional bonds?—A. I mean the Saint Joseph and Denver City bonds, when they were first placed on the market.

Q. Was the Guaranty and Indemnity Company one of them?—A. The Guaranty and Indemnity Company.

Q. Was that the company that was at the corner of Broadway and Warren street?—A. No, sir; that was down here in Exchange Place.

Q. Is that company still in existence?—A. I believe not.

Q. Who was the financial officer of the company, who would know about it?—A. I could not tell you. I could find out for you, however. I think the Commercial Warehouse Company had some.

Q. Is that a company that is still in existence?—A. No, sir.

Q. Who was the financial officer of that company?—A. I think it was Mr. Navarro. I think so.

Q. Jose Navarro?—A. Yes, sir; and John F. Baird.

Q. What other company can you refer to?—A. The New York Warehouse and Security Company.

Q. Who were their officers?—A. I think Hezron A. Johnson was the president there. I think he was the president. I am not sure.

Q. Is he living to-day, do you know?—A. It appears to me I saw him at a month ago.

Q. Is he a New Yorker?—A. Yes, sir.

Q. Are there any other names that occur to you?—A. The Mercantile Trust Company, I believe, had some.

Q. They are handy. Did you hear anything of a pool that was made here in New York for the purpose of selling these bonds to Mr. Gould or his firm of Washington E. Connor & Co., at 40 cents on the dollar?—A. Yes, sir; I heard of that.

Q. What connection had you with that pool?—A. None at all.

Q. Who composed that pool; who was in it?—A. Mr. Bond, I believe. He inquired of the larger bondholders to see if they would join and dispose of their bonds at 40 cents, I do not know to whom, but I suppose it was to the Union Pacific or to Mr. Gould. I do not know.

Q. You do not know?—A. No.

Q. Was that the price at which it was reported that these other companies disposed of their holdings to Mr. Gould, or how did that price come to be named?—A. I do not know. I suppose they would not pay any more for them.

Q. I did not exactly understand how they came to select 40 as being the price. Was that the market price at the time?—A. Forty was more than they had been selling for or sold for in the market.

Q. Are you quite familiar with dealings in bonds of this class in the New York market?—A. Yes, sir.

Q. Do you know that the market price or quotation of these bonds went up largely in 1879?—A. Yes, sir; very largely.

Q. Do you know what price they obtained towards the close of 1879?—A. I think I paid 75 for some; I think I did.

Q. Just before the consolidation did they not sell as high as 85?

The WITNESS. In 1879?

Commissioner ANDERSON. In December, 1879, or perhaps the first days of January, 1880?—A. Yes, sir; they did.

MARKET FOR SUCH BONDS IN 1879-'80.

Q. I want to ask you, from your own knowledge as a broker, of the market there was for these bonds, what would have been the effect, or how possible it would have been, at that time to have sold within a few weeks' time a million and a half of these bonds on the New York market at anything like those prices?—A. I do not think you could have sold them.

Q. It would have been impossible?—A. It would have been impossible. The road had been in bad repute and the bonds were flat. The original bondholders were about trying to get out and get their money back, and it was virtually a new security.

Q. When securities of the character of these securities are got together largely in the hands of one holder, so that there is only a small amount of the securities outstanding, is it easier to make a quotation on the market for them than it would be if they were distributed in a great many hands?—A. Certainly it would be easier to make a market or take quotations for them if there were few holders than if there were many.

Q. How safe a criterion is it for this Commission to go by in estimating the value of these securities to accept the quotation for these particular bonds as we find them in November and December at 80 and 85,

judging from your knowledge of the securities and the manner in which they were held?—A. I do not quite understand the question. I believe in the year 1880—

Commissioner ANDERSON. At the end of 1879 and beginning 1880.

A. (Continued.) In 1879 I think you could have sold the bonds. There was a demand for the bonds by some one; who it was I do not know, of course; by brokers. I believe 85 was bid for them.

Q. Is it your judgment that those bonds at that time, in view of the better feeling apparently existing in everything, could have been disposed of on the market and the whole issue sold at 80 or 85?—A. They could not have been sold, all of them, I think. I do not think there was a market for them; of course we judge of the market. If some one makes a bid and we can sell them on the bid it depends upon the quantity they want; it depends on what they want. They may want but five. If we make a sale that establishes the bid.

Q. Have you any means of forming a judgment at about what price the bonds would have been disposed of by such sales? If it is mere guess-work I would not ask you.—A. It would be merely guess-work.

Q. Discarding all market prices, from what you know of its earnings at the time, what in your judgment was the fair value of those bonds on the 1st of January, 1880, tested by the road and its earnings?—A. About 50 cents. It was a growing and increasing property all the time. Population was coming in there very fast and immigration was setting in. Little towns that probably had been there one year, and the next year where there were two hundred or three hundred, there would perhaps be eight or nine hundred. It was a very fast-growing country.

Q. Do you know anything about the Kansas Central bonds?—A. No, sir; I do not.

Q. Do you know anything about the Saint Joseph Railroad Bridge first-mortgage bonds?—A. I know they were in existence.

Q. Do you know anything about their value at the same period, the end of 1879?—A. The bonds were held abroad, I believe, by one party. I know at one time I could have bought them at 75 cents, the whole issue. I was trying to get up a pool to buy them.

Q. When was that?—A. That may have been in 1879 or 1880. I do not remember the date, I sold so many things.

Q. Do you know how these bonds were acquired by Mr. Gould, or from whom?—A. I do not.

Q. Who is this party in Europe who is supposed to have held them?—A. I think it was Rutten & Bonn.

Q. That is the gentleman who was here?—A. Yes, sir. Perhaps Donnell, Lawson & Simpson may give you some information about those.

Q. Do you know about the value of the Central Branch Union Pacific?—A. No, sir; I do not.

Q. You know which company I refer to?—A. Yes, sir; it ran from Atchison out to Waterville. I believe they have extended it since then.

Q. Do you know anything about the value of the receiver's certificates of the Saint Joseph and Denver City which were outstanding at the time?—A. At the time there were very few of them. I placed some at par with some friends that had some of the bonds.

Q. They preceded the bonds?—A. Yes, sir.

By Mr. JOHN F. DILLON:

Q. You said you kept some of the Saint Joseph and Pacific or Kansas and Nebraska bonds?—A. Yes, sir.

Q. How long did you keep them?—A. I had them up to the time of some business difficulties I had.

Q. What year?—A. That was in 1878. The latter part of 1878.

Q. You did not keep any after 1880?—A. No, sir; I bought some afterwards; not after 1880; no.

Q. You did not deal in them after 1880?—No; I did not.

Q. You did not hold any on your own account?—A. No, sir.

Q. In 1880, after the consolidation?—A. I was trading in the bonds from 1879 until about 1880 or 1881.

Q. You cannot fix distinctly any transactions during the year 1880?—
Not distinctly. I do not know whether it was 1880 or 1881.

JOHN H. HAAR.

NO. 10 WALL STREET, NEW YORK,
Saturday, May 14, 1887.

CHARLES W. HASSLER, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your occupation?—Answer. I am an attorney-at-law.

Q. In New York City?—A. Yes, sir.

Q. What was your occupation from 1875 to 1880?—A. From 1869 to 1884 I was a member of the firm of Hassler & Co., brokers, in Wall street.

Q. Where was your office?—A. Most of the time at 7 Wall street.

Q. Between the years 1873 and 1880 were you familiar with these securities of the Saint Joseph and Denver, and afterwards the Saint Joseph and Western?—A. Yes, sir.

Q. Did you hold any office in connection with that company?—A. In the summer of 1873 a meeting was held in our office to take measures for the foreclosure of the Saint Joseph and Denver bonds, the Eastern and Western Divisions, and the road was reorganized, the sale taking place in 1875. I was then, after 1875, one of the board of directors and a member of the executive committee of the board, and also one of the trustees on the land grant, which was assigned separately to Mr. Butterworth and myself as trustees. My firm were the transfer agents for the stock and bonds.

Q. How long did you remain such transfer agent?—A. Until the summer of 1879. The agency was then transferred to the Farmers' Loan and Trust Company.

Q. During the whole of that period how familiar did you become with this road, its earning capacity, and its condition generally?—A. I was frequently over the road, and was familiar with the accounts. Reports of the earnings were made weekly to my office, and the executive committee of the board of directors had monthly meetings, besides regular meetings of the board.

Q. Have you those weekly reports of the earnings or anything by which we could refer to them?—A. I may have them. I have not them with me.

Q. Can you give us the figures showing about what the earnings were of this road during these years?—A. I cannot give you the figures, excepting relatively. That is to say, the year 1878 is specially impressed upon my memory, because of the transactions in the early part of 1879.

In the year 1878 there was a balance of a few hundred dollars, after paying the operating expenses, taxes, and some few necessary repairs.

Q. Were those accounts or reports made by Mr. Bond as receiver?—A. They were made from the Saint Joseph office and sent on here. They were embraced in Mr. Bond's report, summarized, as receiver.

Q. His reports are on file at Topeka?—A. The reports were published in pamphlet form.

Q. Have you a copy of those pamphlets?—A. I have somewhere. I do not know exactly where they are now.

Commissioner ANDERSON. Have you, Mr. Holmes?

Mr. HOLMES. No, sir.

Commissioner ANDERSON. We will ask you to look them up, if you can.

The WITNESS. Very well, I will see if I can find any.

Q. The operating expenses, and taxes, and the charges of that nature for 1878 absorbed the earnings, without leaving anything over for fixed charges, except a few hundred dollars?—A. A few hundred dollars.

Q. How familiar were you with the transactions in the market relating to these bonds here in New York?—A. Prior to the default in the interest on the Saint Joseph and Denver bonds in 1873, my firm had been dealing in the bonds, and subsequent to the foreclosure proceedings being commenced those negotiations and dealings were continued. I gradually gave less and less personal attention to the business, but I know of some of the transactions.

Q. Do you know of any transactions after the reorganization, in the divisional first mortgage bonds, which were known as the Saint Joseph and Pacific and Kansas and Nebraska?—A. Yes, sir.

SAINT JOSEPH AND PACIFIC BONDS.

Q. Please tell us what transactions you know of?—A. The Saint Joseph and Pacific bonds—do you mean the sales of them, or how they were received in exchange for the old bonds?

Commissioner ANDERSON. You can tell us first how they were received in exchange for the old bonds, or how the old bonds were delivered up and these were issued?

A. (Continued.) Upon the Eastern Division there was a million and a half of old bonds, known as "White bonds;" for each old bond there was given about \$1,250 of new Saint Joseph and Pacific first mortgage bonds, and \$600 of the stock on the Saint Joseph and Pacific road. In the reorganization there were also second mortgage bonds on this Saint Joseph and Pacific, which were given in settlement of the contractors' claims at Saint Joseph. On the Western Division we organized the Kansas and Nebraska, and for an old first mortgage bond there was given about \$400 of first mortgage bonds, about \$250 of seconds, about \$400 of stock, and about \$450 or \$500 of the land scrip.

Q. You have not stated how much there was on the Western Division?—A. Five millions and a half of bonds. They were upon the land grant, and the Eastern Division were not secured upon the land grant.

Q. Were the new bonds, of which \$400 were given, secured by the land grant?—A. They were not. The land was deeded to Mr. Butterworth and myself as trustees.

Q. And a separate land-grant mortgage made?—A. Yes, sir; for the holders of the land scrip.

Q. Was the result of that that the amount of the new mortgage on the Saint Joseph and Pacific, as compared with the new mortgage on

Kansas and Nebraska, was for substantially the same amount?—
Yes, sir.

Q. What was that amount?—A. About \$1,900,000 or \$2,000,000 in round numbers, I think.

Q. As I understand it, the old bond was all the consideration that was given up for these new securities. There was no cash assessment, is there?—A. On the Eastern Division there was a cash assessment 3 per cent. and on the Western Division there was 2½ per cent. assessment, I think; I am not quite positive.

Q. In what year were these exchanges substantially completed?—The sale took place in 1875, and all the bonds exchanged during 1875 or 1876, and the new bonds were dated in 1876.

Q. In regard to the transaction in these bonds subsequent to that time, what knowledge have you of such transactions?—A. My firm was dealing in the securities continually.

Q. Do you remember the price at which they were bought during these early years of their issue?—A. During 1875, 1876, 1877, they were bought at from 5 to 10 per cent.; various rates. Indeed, I purchased a certificate of bonds deposited in the Trust Company for \$10,000, bonds of the Western Division, upon which 2½ per cent., I think it was, assessment was to be paid, and for that receipt of \$10,000 bonds I paid \$10,000. That was at the rate of 1 per cent., the assessment to be paid. I do not think I paid over 10 for any of the bonds which I purchased.

Q. Do you know of any transactions in which Mr. Jay Gould or W. Connor & Co. were interested, relating to these securities?—A. I had transactions with Mr. Gould in relation to them.

Q. Please state them.—A. In the fall of 1878 Mr. Bond informed us the executive committee of the board of directors that Mr. Gould would take the whole amount of bonds controlled by us, and by various trust and other companies, at 10 cents on the dollar, and we talked it over and decided not to sell them. Shortly afterwards, within the next two or three months, Mr. Bond said the offer was increased to 20 per cent. I still thought at that price it was a fair gamble to hold them.

March, 1879, he informed us that Mr. Gould would take the whole of them at 40 cents, and that several of the trust companies had agreed to it if we would agree to it; and, inasmuch as I controlled a large number of outside holders, besides simply my own bonds, they desired my consent to it. I then consented to it and made a sale to Mr. Gould.

SALES OF BONDS TO GOULD.

Q. How many bonds did you sell?—A. I had personally about \$150,000 of the first-mortgage bonds, with the "trimmings" or "tails" attached, and also extra stock.

By Commissioner LITTLER:

Q. The "trimmings" and "tails" went with the bonds at this price?—The price included the "trimmings" entire to the first-mortgage bonds.

By Commissioner ANDERSON:

Q. You would not have them go naked. Do I understand that the \$150,000 covered all the bonds that you transferred, and also those that you controlled?—A. No, sir; those were bonds of my own that I picked up at various prices.

Q. What other bonds were included in this transaction?—A. There were bonds belonging to others of the directors. I delivered the bonds belonging to Mr. Huidekooper, of Meadville, Pa.

Q. How many?—A. I think he had \$60,000 of them—I will not be quite positive about the number—and bonds of various other persons and customers.

Q. Do you know what was the total amount of bonds that you delivered in this transaction?—A. I do not remember. I was not giving very great personal attention to the matter myself. I only went on one occasion with a lot, I think, of \$50,000 bonds to Mr. Gould myself. On the other occasions they were delivered by clerks.

Q. Were these bonds delivered at Mr. Gould's personal office, or W. E. Connor & Co.'s office?—A. I do not remember W. E. Connor & Co. personally in this transaction at all. It was at the office, corner of Nassau street and Cedar, I think, upstairs.

Q. Do you know whether you received the check of W. E. Connor & Co., or of Jay Gould?—A. I am quite certain it was Jay Gould's check. I remember it was. Mr. Gould came up toward me, and I handed him the package of bonds, and we talked about the matter a little. Some so that in exchange for \$10,000 of second mortgage bonds, with the "trimmings," which I was to retain, I was to hand him a certificate of 1,000 shares of the stock. We discussed that. He said, "Will you do that?" I said, "Done." He said, "Hand them to Mr. Morosini." I handed him the bonds. He counted them over in my presence, and left, and my clerk waited and took Mr. Gould's check. I think there was \$50,000 in the lot. I attended personally to that transaction with him.

Q. These deliveries were made in different parcels?—A. Not all at one time.

Q. Was the payment made in one check or in various checks?—A. Various checks, as they were delivered.

Q. This transaction must be entered in your books?—A. I presume it is in the books of Hassler & Co., but unfortunately I had clerks who did not enter everything, so that I cannot now say.

Q. Have you looked to see whether they were entered?—A. I know there are some transactions entered, but not all of them.

Q. Will you furnish the Commission with the entries that you have?—A. I will endeavor to do so.

Q. Can you give us the total amount of bonds that you delivered, as near as you can estimate it, subject to correction from your books?—A. I should put it at \$250,000, although I may be mistaken. There may have been, and probably was, one or two deliveries that did not pass through the books, being delivered for other persons.

Q. Do you know anything about the deliveries made by the trust companies at the same time of their bonds?—A. I knew from information from Mr. Hezron A. Johnson, who was connected with one of them that failed in Pine street, I think it was; and from Mr. John Baird, who was receiver of another one that failed, that they delivered their bonds. They informed me so at the time, and from General Fitzgerald in regard to the Mercantile Trust Company's bonds.

Q. These gentlemen, whose names you have given us, can give us the details of the bonds delivered by their respective companies?—A. That I cannot say. I suppose so.

Q. Did I not understand that they had reported the deliveries to you?—A. They informed me. We talked it over. We spoke of it very frequently afterwards, because the price of the bonds advanced so rapidly in the market after we had made our sales, and we were disgusted at the transaction. When there were no bonds here, and \$5 was bid for them, we felt "cheap."

Q. Are you familiar with the transactions in the Stock Exchange in regard to dealings relating to this class of securities?—A. I have been. The last few years I have not been so familiar.

Q. Can you tell this Commission, from what you know of these securities, and the condition of the road, and the manner in which the bonds were held here, whether it would have been a possible thing in November or December, 1879, to have sold a million and a half of them at the prices which were quoted at the Stock Exchange?—A. The prices were never quoted at the Stock Exchange.

Commissioner ANDERSON. I mean of the unlisted securities.

The WITNESS. The quotations were furnished to the papers, either Hassler & Co., or by a combination, taking prices given by different brokers; taking the bids and the price asked at that time.

Q. Who would publish these prices?—A. The Commercial and Financial Chronicle. It sent around to different brokers dealing in these securities, asking them the prices, and the Chronicle published the combined quotation.

Q. What do you mean?—A. I mean if one quoted as 90 bid, another bid, another 95 bid, or quotations of that kind, then they would probably take 92½ as being a fair quotation for the bonds.

Q. How far would quotations taken in that way, not embraced by quotations in the Stock Exchange, form a fair guide to decide whether transactions had actually occurred at that figure?—A. It would be a very unfair guide. No guide at all.

Q. How far would it be a fair guide to form a just estimate of the value of the securities referred to?—A. None at all.

Q. It simply, then, amounts to a statement that somebody interested in the securities supposed they were worth that amount?—A. They might give that quotation for one bond in order to keep up the price. Then, again, they might wish to buy a large amount at that price.

Q. Leaving the market quotations entirely out of view, and judging from what you know of that property and of its earnings, and of its location and situation, what, in your judgment, at the end of 1879 were these bonds fairly worth? They were the bottom bonds, understand; the absolute first-mortgage bonds?—A. No, sir; there was a receiver's indebtedness of, I should think, about—well, a receiver's indebtedness ahead of the first-mortgage bonds, which was bearing 10 per cent. interest, and had an accumulation of interest upon it. To reply to your question, I should think that the bonds were worth more than 40 to 50.

By Commissioner LITTLER:

Q. Do you base that valuation on the value of the property on which the bonds were secured?—A. On the value of the property as not earning anything to speak of, and other roads coming in competition. It ran then only on Hastings, and had no connection. It was very poorly built. The Saint Joseph bridge was in litigation.

SAINT JOSEPH BRIDGE BONDS.

Q. What is your knowledge of the Saint Joseph bridge bonds?—A. Very slight. They were held by parties represented by de Neuville, and Donnell, Lawson & Co., knew more about it than I did. I did not pay attention to them.

Q. Were they held in one block?—A. I understood they were.

Q. Did you know anything about the bridge itself, and the money

expended in constructing it?—A. The bridge seemed to be substantially built. There was a change in the current of the river, which threatened to throw the draw over dry land, and the passage for steamers under the stationary part of the bridge. I do not know whether that occurred or not. There was a map of it published in one of the Saint Joseph papers when I was out there once, showing the changes.

Q. Do you know anything of the Kansas Central?—A. No, sir; I do not.

Q. Nothing whatever?—A. No, sir.

Q. Do you know anything about Hall County bonds?—A. No, sir. Those county bonds were sold long before I had anything to do with it.

Q. What was the market value of the receiver's certificates?—A. They were placed at par and used for the payment of taxes.

By the CHAIRMAN:

Q. Have you any other information which you can give to the Commission concerning these transactions?—A. I do not know.

Commissioner ANDERSON. We would like to have those printed books, if you can find them.

The WITNESS. Very well, I think I can find them.

Commissioner ANDERSON. Also the details of these transactions as they appear in your books.

The WITNESS. As far as they go I will furnish them. I do not know that the books cover the whole of the transactions.

By Mr. JOHN F. DILLON:

Q. Had you anything to do with the original placing of those bonds of the Saint Joseph and Denver City road?—A. No, sir.

Q. When were they placed?—A. They were placed in 1871, 1872, and 1873. The first default in interest was made in 1873.

Q. What had been the market value of them prior to 1874, when the hard times came on?—A. The bonds were sold on subscription, as it was called, at 90 cents on the dollar. The latter part of the year they were selling at about 30.

Q. The fall of 1873 bankrupted a good many roads?—A. Yes, sir.

Q. The receivers were very thick through the country?—A. Yes, sir.

Q. At what time was Mr. Bond appointed receiver of this road?—A. I should say it was before 1873. At the time of the two suits.

Q. The suit in Nebraska, on that portion of the road there?—A. The Nebraska suit was on the Western Division, and Kansas suit on the Eastern Division.

Q. Those were the two suits that foreclosure got through in 1875?—A. The sale took place in 1875, but the receiver's certificates, I think, were issued in 1877. They were issued for one year and renewable for another year.

Q. Then the road did not, on the reorganization which took place under the decree or decrees of 1875, go out of the hands of the receiver?—A. No, sir; it continued in the hands of the receiver.

Q. It was reorganized in one section, as the Saint Joseph and Pacific?—A. Yes, sir.

Q. And in another section as the Kansas and Nebraska?—A. Yes, sir.

Q. And Mr. Bond was continued as receiver?—A. Yes, sir; and elected president of both roads.

MR. BOND, RECEIVER, ELECTED PRESIDENT.

Q. Do you recollect how long it remained in the hands of the receiver?—A. I left the board of directors at the time of the election in 1879, which was, I think, in the summer of 1879; and if I mistake not, was then the receiver of the road.

Q. So that the receivership continued after the judgment, as you collect it, which was about 1875 until 1879?—A. I think so. I am positive.

Q. It is not a very favorable atmosphere for railroad securities, under receivership to flourish in?—A. It is the universal experience that it is not.

Q. These transactions to which you refer with Mr. Gould, you fix as being in March, 1879. That is about right, is it, according to your collection?—A. Yes, sir.

Q. You parted at that time with all your interest in the property?—Yes, sir; excepting as I purchased some afterwards.

Q. What was the western terminus of the road at that time?—A. Hastings.

Q. About how far distant is that from the Union Pacific line?—A. I do not remember.

Mr. MINK. Twenty-five miles.

The WITNESS. I was going to say about 25 miles.

Q. At the time of the transactions, and all of them about which you have testified, the road had no through connection with the Union Pacific. It stopped at the little town of Hastings?—A. Yes, sir. It had a through connection by the Chicago, Burlington and Quincy road, which ran from Hastings to a point on the Union Pacific.

Q. Do you know when the Hastings and Grand Island extension was made?—A. I do not know.

Q. It was made after March, 1879, was it not?—A. Yes, sir; it was. There was talk of it before that. The proposition to build it was several times presented to the board.

Q. What, in your judgment, would be the effect on the actual value of the property of an extension in its own interest to Grand Island on the Union Pacific line?

Commissioner ANDERSON. From Hastings to Grand Island?

Mr. JOHN F. DILLON. Yes, sir.

A. It would have a tendency to increase the earnings of the main line, if proper arrangements could be made with a connecting road at the other end.

Q. You did hear that this line had been extended from Hastings to Grand Island, did you not?—A. Yes, sir.

Q. And that it was consolidated prior to 1880 with the Saint Joseph and Denver City?

The WITNESS. You mean with the Saint Joseph and Western, do you not?

CONSOLIDATION OF SAINT JOSEPH AND PACIFIC WITH KANSAS AND NEBRASKA.

Q. Do you know anything about the consolidation of the Saint Joseph and Pacific and the Kansas and Nebraska into the Saint Joseph and Western?—A. Certainly; yes, sir; that was consolidated.

Q. In what year was that?—A. If you will allow me one minute, I have a pamphlet here which has the articles of consolidation in it.

Mr. JOHN F. DILLON. Certainly, look at it and answer.

The WITNESS. These are the articles of consolidation. I present also a copy of the by-laws.

Mr. JOHN F. DILLON. They are not dated.

The WITNESS. It says: "The day and year first above written." I was going to say 1877. I do not remember the date. It was sometime during the summer of 1877. I went out to the meeting, I remember.

Q. Those two roads, the Saint Joseph and Pacific and the Kansas and Nebraska, were consolidated in 1877?—A. Yes, sir.

Mr. JOHN F. DILLON. It was on some date prior to May 12, 1877, I take it, because that is the date of the adoption of the by-laws!

The WITNESS. Yes, sir.

Q. What was the length of that road at that time?—A. I think the road was 226 miles long.

Commissioner ANDERSON. That is, the Saint Joseph and Western.

Mr. JOHN F. DILLON. Yes, sir; the Saint Joseph and Western.

Q. Do you know anything of the acquisition by the Saint Joseph and Western, by way of consolidation or purchase, in the year 1879, of the Hastings and Grand Island road?—A. No, sir; that was proposed and consummated after I left the direction.

Q. Assuming that in January, 1880, parties in interest of the Union Pacific had a control of the majority of the stock and bonds of that road, and had made an extension to a connection with the Union Pacific, so that there were harmonious relations between the two, what effect would that have, in your judgment, on the value of the property, either in its intrinsic value or the market value of its securities?—A. It might have a beneficial effect. It depends upon which road had the greatest interest.

Q. Would not such a state of facts account, in part, for the enhanced price of these securities which you have given as occurring in 1879, after you made your sale?—A. The reports here in Wall street had more to do with it than that. The reports that the Union Pacific had bought that road had more to do with the increased price than any connection or business arrangement at all.

By the CHAIRMAN:

Q. It was a sudden increase?—A. Yes, sir.

By Mr. JOHN F. DILLON:

Q. You have stated, as I understand it, that the price fixed for unlisted securities are no safe or reliable guide as indicating actual transaction. Is that so?—A. Where there are few transactions it is no safe and reliable guide. Where there are a great many transactions it might be.

Q. So that it depends on circumstances whether it is or not?—A. As to whether bonds are active or not.

Q. Aside from that, do you not know that there was a great advance in these securities between March, when you made your transactions, and the 1st of January, 1880?—A. I think I have stated that I did know it, and was very sorry for it; sorry I could not take advantage of it.

Q. What, in your judgment, if you had kept your bonds, might you have realized for them, judiciously disposed of, in the interim between March, 1879, and January, 1880?—A. After I sold those bonds I par-

ame others. I sold the firsts as high as 90. I sold the seconds

85. I sold the stock as high as 55 and 50,

Q. In what year?—A. During the years 1879 and 1880; 1880 probably.

Q. Not "washed" sales; actual transactions?—A. Not at all. Actual transactions, but in very small amounts. There was a bidding demand for the bonds at the time.

Q. You have been asked whether a forcing of the whole issue of any security on the market would not have had a tendency to depreciate it. That is so?—A. Yes, sir.

Q. No judicious seller would do such a thing as that if he could avoid it?—A. Not generally, unless he had a great need of money.

By the CHAIRMAN:

Q. How did the Wall street transactions affect the prices? You have stated to Judge Dillon that the course pursued in Wall street had more effect upon it than the railroad transactions.—A. I mean reports, whether true or false. As I stated then, there was a statement that the Union Pacific had bought the road, and the reports went so far as to say that they were going to guarantee the interest.

Q. Where were the reports coming from?—A. I never could trace exactly where they came from.

Q. What was the indication in Wall street at that time?—A. A great demand for the bonds, with none offered, or with very few offered.

Q. What were the indications as to the directions from which the reports were coming?—A. I could not find anything. I was not sufficiently actively engaged in the business at the time. I was engaged in various railroad operations in the West at the time, and I did not trace these reports.

By Commissioner ANDERSON:

Q. Do you mean by reports, printed statements or mere talk?—A. Talk. I think it was printed in some of the papers. I will not be positive about that.

By the CHAIRMAN:

Q. Is that the method they use in what they call "pegging up" the stock? I would like to understand what that is.

THE WITNESS. The Wall street method, as I understand it?

THE CHAIRMAN. That is what I want.

A. I have had some little experience in regard to the matter. The way is, to bid for things that are not to be found just at the time. You have them already, and they are locked up. You bid for them, or get somebody else to bid for them, till there are half a dozen bids; nobody offers; the price advances. Afterwards, when the price has gone up, the "lambs" come in and want a few, and will take them at for five or ten times what they could have bought them for before. That is the whole of it.

Q. Was there any such transaction pursued in reference to the bonds in 1880 that we have been discussing?—A. After these bonds were sold by the directors and others here, there were no bonds in the market for a good while. The next transactions took place, as far as I know, some several months afterwards, and then there was a bidding for them separately. Different classes of bonds commenced to be bid for separately, and stock was bid for separately. I endeavored to sell the thousand shares of stock before spoken of for \$1,000 at the time I made the other transactions. I offered it to Mr. Gould through Mr. Bond for \$1,000, and could not do it. I took the \$10,000 second-mortgage bonds for the

thousand shares of stock, and I sold them about six months afterwards at about fifteen cents entirely separate. The stock subsequently bought in small amounts, and made up one lot of 50 shares, which sold at 50. The story was current that there was a great demand for the stock. It went up to 55, and then again was down. I had another quotation a few months afterwards at 22, and then again at 8. There was then no demand for it.

STOCK AND BONDS ISSUED BY SAINT JOSEPH AND HASTINGS.

By Commissioner LITTLE:

Q. What was the entire amount of stock and bonds issued on the road from Saint Joseph to Hastings?—A. The authorized amount of capital was \$10,000,000.

Q. Does that include stock and bonds, both?—A. No, sir.

Q. What was it?—A. The authorized amount of capital stock was \$10,000,000, of which \$3,000,000 was issued—I think that was it—in the reorganization, the other being reserved. The issue of the first and second mortgage bonds on each division was about \$2,000,000 of the first in each case. I have forgotten the amount of the seconds. There were two and a quarter millions of land scrip. The amount is correctly given in Poor's Railroad Manual for 1878. I furnished the figures myself.

Q. Assuming that this property was bonded and stocked for two or three times its value in the first instance, I wish you would explain how the construction of this little 25 miles from Hastings to Grand Island would actually increase the value of the bonds and stock. Judge Dillon has been trying to show that these 25 miles of road constructed after the Union Pacific got control added largely to the value of the securities of the main line. I want you to tell how that was.—A. I can see of one way in which it might be done. That was, if that line from Saint Joseph to Grand Island was used for not merely the business originating at Saint Joseph or at the other end, wishing to go back to Saint Joseph, or the little business originating along the line of the road, but was used for through business. I remember receiving a Saint Joseph paper which stated that the main line trains of the Union Pacific were to run from Saint Joseph over that road.

Q. In other words, if the Union Pacific had made some traffic arrangement, and had given to this road a constructive mileage, &c., then it would have increased its earnings?—A. Constructive mileage and sufficient business.

Q. Would these stocks and bonds have been affected in any other way by this link?—A. I do not see how they could.

By Commissioner ANDERSON:

Q. What roads from the east go to Saint Joseph?—A. There is the old Hannibal and Saint Joseph, directly from the east; there was the Saint Louis and Saint Joseph, reorganized as the Saint Joseph and Saint Louis, which I had bought in for the bondholders a few years before, which gave a little business—the tracks connecting; then from the north, connecting Saint Joseph with the north and south up and down the river, was the Council Bluffs, Saint Joseph and Kansas City.

Q. Was there any large amount of through business seeking the west, or coming from the west seeking the east, which, by reason of connections of Saint Joseph would have its natural flow toward the west?

aint Joseph road, and which would have been promoted and developed the construction of this 25 miles of link?—A. In connection with the Saint Joseph and Saint Louis Railroad I looked into that subject quite extensively in order to control the trade for the Saint Joseph and Saint Louis railroads, and I found that the combination of railroads

Saint Joseph were all against any such arrangements; that the eastern trade from Kansas City would go over either the Saint Louis, Kansas City and Northern or Missouri Pacific, and be carried from Saint Joseph down by the Council Bluffs road, or north by that same road, or east by the Hannibal and Saint Joseph; and, while we were very desirous of making arrangements to do that, it seemed to be impossible to make any connections to bring the trade that way; the combinations of the railroads were all against it.

Q. Can you tell who the prominent brokers were whom you remember as being the parties bidding for these securities at the room where they were sold, after your sale to Mr. Gould?—A. At that time there was no place for dealing in miscellaneous securities; it was simply one broker's office to broker's office; the brokers dealing in them were John T. Hanna, or Hanna Brothers, I believe it was then.

Q. He is still living, I believe?—A. Yes, sir; George T. Bonner & Co. I think were trading in them; and Haar for Raven & Co., and George W. Dougherty, his firm name I have forgotten now; I think is here in the Stock Exchange now.

Q. Dougherty is?—A. Yes, sir.

[The Commission received a memorandum from Mr. Haar stating that it is his impression that Rutten & Bonn were the parties who negotiated the Saint Joseph Bridge bonds.]

The WITNESS. If you will allow me to state, my recollection about it is that it was Mr. de Neufville; he was interested in the Mont Clair road in New Jersey, as I myself was; I have no reason for correcting your statement as to him.

By the CHAIRMAN:

Q. Is there any other information that you can give us?—A. Anything you wish that I have I will obtain for you.

The CHAIRMAN. You have not said that you wanted to say anything.

The WITNESS. No, sir; I do not want to say anything.

The CHAIRMAN. You remember the point called for as to your accounts of your transactions?

The WITNESS. And the other information asked for; yes, sir.

CHARLES W. HASSLER.

The witness subsequently submitted the following papers:

Sales of St. Jo. and Pacific, Kansas and Nebraska, and St. Jo. and Western R. R. Companies' securities by Hassler & Co., to Jay Gould.

1879.	Delivered.	Received.
March 1. \$10,000 St. J. & P. 1sts.		\$10,000
25,000 K. & N. 1sts.		
Accompanying were—		
4,600 K. & N. 2ds.		
4,500 K. & N. stock.		
7,900 St. J. & W. stock.		
March 8. \$50,000 St. J. & P'cf. 1sts.		\$20,000
Accompanying were—		
30,000 St. J. & W. stock.		
March 12. \$40,800 St. J. & P'cf. 1sts.		\$24,480
20,400 K. & N. 1sts.		

S. PACIFIC RAILWAY COMMISSION.

& N. 26c.
J. & W. stock.

of the above with the books of Haasler & Co., and find it correct
that there were other sales, but they do not appear to have been

CHARLES W. HAASLER.

12, June 20, 1877.

SAINT JOSEPH AND DENVER CITY RAILROAD COMPANY.

On October 1st, 1873, to October 31st, 1875, the monthly earnings and expenses follows:

Months.	Earnings.	Expenses.
.....	\$31,784 86	\$39,138 31
.....	28,113 19	27,426 79
.....	28,562 74	24,574 06
.....	24,591 79	33,690 11
.....	21,634 70	21,674 89
.....	28,189 55	25,153 35
.....	28,591 33	23,792 43
.....	32,323 12	39,408 23
.....	36,114 26	33,500 62
.....	35,928 21	36,964 74
.....	44,325 51	41,055 08
.....	45,799 82	39,520 94
.....	47,141 77	44,275 19
.....	34,958 69	46,821 32
.....	33,447 89	39,044 18
.....	21,967 44	29,129 41
.....	21,960 69	29,644 49
.....	37,981 23	34,090 72
.....	37,466 36	34,289 29
.....	34,135 56	37,821 46
.....	29,129 33	37,495 59
.....	30,291 94	32,225 69
.....	40,444 98	32,792 68
.....	50,546 67	46,215 05
.....	53,164 58	42,693 21
.....	859,785 93	843,393 37

Memorandum of an agreement made this day of in the year of our Lord
one thousand eight hundred and seventy-seven by and between the Saint Joseph
and Pacific Railroad Company, a corporation organized and existing under and by
virtue of the laws of the State of Kansas, party of the first part, and the Kansas
and Nebraska Railway Company of Kansas, a corporation organized and existing
under and by virtue of the laws of the State of Kansas, party of the second part.

Whereas the party of the first part was duly incorporated and organized for the
purpose of constructing, owning, maintaining, and operating, and became the owners
by purchase at a sale on foreclosure of mortgage of a continuous line of railroad ex-
tending from a point upon the westerly bank of the Missouri River, in or near the
town of Elwood, in the county of Doniphan and State of Kansas, to the town of
Marysville, in the county of Marshall and State of Kansas;

And whereas the party of the second part was duly incorporated and organized
for the purpose of constructing, owning, maintaining, and operating, and became
the owners by purchase at a sale on foreclosure of mortgage of a continuous line of
railroad extending from the town of Marysville, in the county of Marshall, in the
State of Kansas, to a junction with the Union Pacific Railroad at or near Fort Kear-
ney or Kearney City, in the State of Nebraska, and to extend a branch road to or
near Grand Isle on said Union Pacific Railroad;

And whereas the said railroads form a continuous and connecting line of railroad
with each other, so constructed as to admit of the passage of freight and passenger
cars over each continuously, without break, change, or interruption;

And whereas the parties of the first and second part are desirous of consolidating
with each other under and in pursuance of the laws of the State of Kansas;

And whereas the said parties have agreed upon the terms and conditions herein-after set forth as the terms and conditions of such consolidation ;

And whereas owners of more than two-thirds in value of all the stock of each of said parties have consented in writing to such amalgamation and consolidation upon the terms and conditions hereinafter set forth :

Now therefore this agreement witnesseth: That in consideration of the mutual agreements, covenants, provisions, and grants herein contained the said parties of the first and second parts do, by these presents, merge, amalgamate, combine, and consolidate their respective capital stocks, franchises, grants, immunities, privileges, capacities, properties, and rights of way of every name and nature into one company, to be called and known by the corporate name and style of the St. Joseph and Western Railroad Company, which said consolidated company shall from henceforth have and possess all and singular the rights, franchises, powers, immunities, privileges, and capacities which are or have been granted to or conferred upon or possessed or enjoyed by either of the said parties hereto, by or under the laws or enactments of the said State of Kansas, and shall continue in existence for the period of ninety-nine years from the first day of August, A. D. 1876.

And this agreement further witnesseth, that the said parties of the first and second parts have agreed upon, and by these presents do agree upon and prescribe, the following as the terms and conditions of such consolidation, which terms and conditions the said parties of the first and second parts mutually covenant, promise, and agree to preserve, keep, and perform, viz:

ARTICLE 1. The corporate name of the said consolidated company shall be the St. Joseph and Western Railroad Company.

ARTICLE 2. The number of directors of the said consolidated company shall be thirteen.

ARTICLE 3. The names and places of residence of the directors and other officers of said consolidated company who shall be the first directors and officers thereof, and shall manage its affairs for the first year and until others are chosen in their places, are as follows, to wit: José F. Navarro, of the city of New York; Robert W. Donnell, of the city of New York; H. H. Butterworth, of the city of New York; Charles W. Hassler, of the city of New York; William Bond, of the city of New York; Alfred Mitchell, of the city of New York; Louis Fitzgerald, of the city of New York; E. J. C. Atterbury, of Trenton, New Jersey; F. W. Huidekoper, of Meadville, Pennsylvania; Albe M. Saxton, of St. Joseph, Missouri; E. N. Morrill, of Hiawatha, Kansas; J. D. Brumbaugh, of Marysville, Kansas; Edwin Knowles, of Seneca, Kansas.

ARTICLE 4. The amount of capital stock of the said consolidated company shall be ten millions of dollars, consisting of one hundred thousand shares of one hundred dollars each.

ARTICLE 5. The capital stock of each of the said railroad companies shall, upon surrender of the certificate or other evidence thereof, be convertible into the capital stock of the said consolidated company, share for share, and none of said capital stock shall be issued except as herein provided for unless by votes of the holders of a majority of the stock outstanding.

ARTICLE 6. The first regular annual meeting of the stockholders of said consolidated company for the purpose of electing directors of said company for the year then next ensuing shall be held on the second Thursday of June, 1878.

Special meetings may be called at any time by a majority of the board of directors.

ARTICLE 7. From and after the consummation and filing of a copy of this agreement in the office of the secretary of state of the State of Kansas, all and singular, the rights, privileges, and franchises of each of said corporations, parties hereto, their several capital stocks, and all property, real, personal, and mixed, and all assets, and all debts due on whatever accounts, as well as of stock subscriptions, and other things in action belonging to each and every of said corporations, parties hereto, shall be consolidated, merged, and amalgamated, and shall be taken, and deemed transferred, and are hereby conveyed to and vested in the corporation hereby established without further act or deed, and all property, rights of way, and all and every other interest shall be as effectually the property of this new corporation as they were of the former corporations parties to these presents.

And all rights of creditors and all liens upon the property created by either of said corporations shall be preserved unimpaired notwithstanding said merger and consolidation, and all debts, liabilities, and duties of either of said corporations so merged shall thenceforth attach to this said new corporation, and be enforced against it to the same extent, and in the same manner as if said debts, liabilities, and duties had been incurred or contracted by it.

In testimony whereof the directors of the several corporations, parties hereto, have caused these presents to be signed in the names thereof by their respective presidents, and their several corporate seals to be affixed hereto the day and year first herein written.

PACIFIC RAILWAY COMMISSION.

ST. JOSEPH AND PACIFIC RAILROAD COMPANY,

By _____
President.

L.
S.

Secretary.

THE KANSAS AND NEBRASKA RAILWAY COMPANY OF KANSAS,

By _____
President.

Secretary.

The following letter is reprinted at the request of a number of the former bondholders:

No. 7 WALL STREET,
New York, December 18, 1876.

Sir,

RE: Your letter of 15th
view of the common
my and the
Western Div
to my being a
in divisions (also

received.
of the St. Joseph and Pacific Rail-
roadway Company—the reorganized
and Denver City Railroad.
we have a large interest in the old
that you purchased your bonds at

reference to my
and settle
they now exist
having taken
separate

the efforts to bring about a satis-
fying
organization of each division has
assumes a practical shape: Shall the
be united under the management

be operated separately, or may they be united under the management
of one company, and operated for the common benefit of all interested?

It is true, as you have heard, that I am one of the trustees of the new land scrip to be issued in part settlement for the Western Division bonds, but I do not see that this is sufficient reason for any one supposing that I might, on that account, necessarily favor a plan of organizing new companies on the supposition that those interested would be most benefited thereby.

The fact is that matters connected with the administration of the land department are connected with the railroad company, except so far as Mr. Butterworth and myself are concerned, and so far as the trust deed to us permits, or requires us to ask the board of directors of the board of directors in certain contingencies, which may arise. It is the purpose of the trustees to administer the land department as a trust independent of all other considerations whatsoever. If you will call on Mr. Alfred H. Brown, chief counsel and attorney for the trustees, at our office, No. 35 Broadway, you will be first advised of this.

I think you are aware of the fact that I have visited the line of the road. Not only from the purpose of knowledge acquired by personal inspection, but also from the fact that I am a member of the Executive Committee of the boards of directors of each of the new companies as now organized, and my opportunities for understanding the present condition and future prospects are of the best.

I sent you in August a statement of earnings and expenses for the period 24 June, 1876, to 24 June, 1877. They showed a balance of net earnings, \$1,671.51 for the road, there being \$1,932.55 net profit on the Eastern Division, and a deficit of \$261.04 on the Western.

As this showing an owner of Eastern Division bonds would say at once I will agree to a consolidation by which I will be injured and Western Division bonds be benefited. Such a decision would be natural enough under the circumstances named. But is such a decision really for the best interests of the person making it?

Under the reorganization the bonded debt and capital stock of the two divisions is follows:

Eastern—First-mortgage bonds, \$1,000,000; second-mortgage bonds, \$1,200,000; \$1,600,000.

Western—First-mortgage bonds, \$1,000,000; second-mortgage bonds, \$1,200,000; \$700,000.

length of each of the old divisions is about 113 miles, and, as you see, the debt and capital is about the same for each. The land, you will remember, is connected with the road, or covered by its new mortgages above named.

Now, the statement that the Eastern Division netted about \$30,000 during one year, and the Western lost about the same during the same period, the proper one on which to base calculations for the future?

Not. The business of the Eastern Division *originating* on its line would not increase, and any attempt to operate that line independent of, and without having business originating on the Western Division pass over it, would result in a deficit. An examination of the tables showing the points at which the business line originates has convinced me of this.

It is idle to ask if the new stockholders of the Eastern Division will assess themselves to make up any deficiency, however small it might be. You will agree with me that bondholders of each division have had sufficient assessments already.

You may think that the traffic originating on the Western Division has no outlet but the Eastern Division, and that all the business of the former must pass over the latter and pay it whatever rates it chooses to name.

Will you look at the map of Kansas and Nebraska, you will notice that the Atchison, Topeka and Santa Fe, or Central Branch Union Pacific, has a terminus within twelve miles of Marysville, the junction of the Eastern and Western Divisions of our line.

Our road received a Government subsidy of \$1,600,000, and issued its own bonds to the amount, which were sold to investors. And now that the "Excursion," in which many honorable and reverend gentlemen and their wives took part, and after which the bonds were disposed of, is forgotten, the assessment of ten per cent. now made from the bondholders is fresh in mind.

The Eastern Division, if ending at Marysville, has not the same chances of success as the Western Division and Pike's Peak, for the latter has a land grant from the United States Government, in addition to the subsidy in Currency Sixes.

It is now the effort of the company to build further westward, in order to obtain business now taken to our Western Division. If this could be done by simply extending the line twelve miles to Marysville, that company would most gladly build that line, and make our present Western Division a feeder to their unprofitable line.

Again, the Burlington and Missouri Railroad connects with our Western Division at Marysville. From that point the whole line to Chicago is under the control of the Burlington and Quincy; and that company can afford to pay lower rates at Hastings for eastern business originating at any station on our line, even on that from Marysville. True, this would be the longest route for the Chicago, Burlington and Quincy can afford to do the business at rates which could remunerate the Western Division, but which the Eastern Division, on that route, could not allow except to its own destruction.

Will you see that the Western Division now has two eastern outlets, and that it is a great deal of care to so adjust rates on the through route to enable us to compete with the freight which might be tributary to the Burlington and Missouri Railroad.

It is hardly worth while for us now to so act as to encourage the building of a new line which would give another. It is not worth while for our two rival companies to begin a "war" between themselves which would actually ruin them and would assuredly be to the detriment of the interest of both.

For voting at the special meeting, a circular has been sent out by the company.

Stocks of the new companies are now being issued, and the certificates are being sent out, and you have a perfect right to sign the certificates, and you may, if you wish, to sign them as a proxy direct.

Our securities are to be the same as the old ones, and you will receive the same interest on the same bonds, and the same interest on the same mortgage.

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When the new direction, succeeding Mr. Tanner, took possession of the road in September, 1873, the taxes for the years 1872 and 1873 had not been paid, and it having then become necessary to provide for the immediate payment of such as were most pressing, the new directors, being large bondholders, advanced the money necessary for the purpose, with the understanding that they should be repaid from the proceeds of the sale of the road, and these amounts so loaned have all been repaid by the purchasing committee.

Payments of taxes have also been made from the current receipts of the road, to the amount of about \$34,000 during the year 1876, and the purchasing committee have also paid large sums received from the bondholders in addition to the amounts refunded above referred to.

It has been impossible, however, to meet all demands in full, and when the two new companies, which had become owners of the property, by transfer from the purchasing committee were fully organized, the president was requested to make an examination of the matter and report to the board of directors such measures as he might deem expedient for adoption.

After a careful examination of the property, of its condition and its necessities for the near future, and of all the claims against it, it was ascertained that the sum of \$80,000 was necessary to meet the demands for taxes on the former Western Division, and the sum of \$75,000 was required for the same purpose and for necessary immediate repairs on the former Eastern Division.

It may be well to notice here that the plans of reorganization, adopted by the former bondholders, were prepared during 1874, when it was thought that the foreclosure would be speedily brought to a conclusion, and when it was expected that the earnings of the road would so greatly increase that the current taxes could readily be paid from that source.

These plans of reorganization provided, however, for the issue of such large amounts of first and second mortgage bonds in exchange for the former securities, that, when the board of directors of the two new companies examined the matter it was found that it was absolutely impossible to raise any money for any purpose, whatever, by the issue of any security which could now be authorized by them, for no sales could be made at any price of third-mortgage bonds and, much less, of any note or unsecured obligation of the new companies. The statement of earnings, appended hereto, shows a well sustained increase from month to month, and argues very well for the immediate future of the property, and had not the general stagnation in business affairs which has existed in all parts of the country been aggravated by the ravages of grasshoppers, the increase would, doubtless, be more marked. But even with this improvement it was found that some immediate action was necessary to provide the \$135,000 required as above, and as the United States circuit court had not yet released its control of the property—which indeed it could not do, according to its own order, until the taxes are paid—it was, after mature deliberation, decided that the president of the two new companies, and still receiver under the order of the court, should apply to Judge Dillon for orders authorizing him to issue receiver's certificates of indebtedness for the sum of \$75,000 and \$60,000, to be secured respectively on the former Eastern and Western Divisions, but not including the land grant of the latter.

After a full examination (the purchasing committee and the two new companies, the Saint Joseph and Pacific, and the Kansas and Nebraska—and the Saint Joseph and Western, as the successor, by consolidation of the two latter, having been fully notified), Judge Dillon has made such orders as authorize the issue of the certificates referred to, and place them as a secured lien on the property, prior even to the new first-mortgage bonds.

The certificates of \$1,000 each have printed upon them the order of court authorizing them; they bear ten per cent. interest from date of their issue, payable semi-annually; are due in one year with the privilege of renewal on the part of the receiver for one year additional; and it is especially provided that, in case of default in the payment of interest or principal, any holder may apply to court for an order directing the sale of so much of the property as may be necessary to pay them, and that, without suit, such order will be made.

At a recent meeting of the board of directors of the new, consolidated corporation—the St. Joseph and Western Railroad Company—the undersigned were appointed a committee to bring this matter to the attention of former bondholders (most largely interested in the property), and having made the above statement of facts, we desire simply to add that it is only the absolute necessities of the property which have caused the board's approval of the issue of these certificates, but that in view of all the circumstances of the case, and the extreme probability that any call for a cash assessment on the bondholders would meet with but few responses, we would urge upon you the propriety of your subscribing for as large a sum as possible, and this we do with the confidence that it is scarcely possible for a more safe investment to be found, in view of the fact that the whole line of road of 226 miles in length is bound for their payment, should they not be paid from the earnings of the property.

Your immediate attention is requested to this matter, as many of the claims are very pressing, and the United States court may make some other order in the case which may be even less agreeable to us.

Subscriptions may be forwarded by certified check to either of the undersigned, who will return the certificates as may be requested.

Respectfully,

R. W. DONNELL,
Donnell, Lawson & Co., 92 Broadway, New York.
CHARLES W. HASSLER,
Hassler & Co., 7 Wall Street, New York.

The following is a copy of the order of court in regard to the Western Division, and that relative to the Eastern Division is similar except as to names and amounts:

In the matter of the petition of Wm. Bond, receiver of the St. Joseph & Denver City Railroad Company, to borrow money to pay taxes.

Whereas, by the report by the receiver of the Saint Joseph & Denver City Railroad Company here presented to me and filed in the office of the circuit court of the United States for the district of Nebraska, of the operation of the said railroad for the six months prior to January 1, 1877, it is apparent that seventy thousand dollars of taxes upon the property of the Western Division of the company are due and unpaid for the years 1874, 1875, and 1876, and that by the prompt payment thereof by the receiver one-seventh thereof can be saved in interest and penalties, which are offered as a reduction by the different counties in Nebraska through which the road-bed passes, as an inducement to early payment, which is esteemed as of sufficient importance to make it advantageous to the property to borrow the money and pay such taxes, which by the law of said State is a first lien thereon; and whereas it is in proof that the same cannot be paid at an early day by any probable earnings of the railroad or from any other source within the power of the receiver to command:

Now, therefore, in view of the above facts, and in pursuance of the prayer of the petition this day filed before me by the receiver, the said William Bond, the receiver heretofore appointed by this court to control, manage, and operate the said St. Joseph & Denver City Railroad, is hereby authorized and directed to borrow, on the terms and rate of interest set out in the following form of debenture, any sum not exceeding sixty thousand dollars, to be used only for the purpose of payment of taxes on the Western Division of said road, and to issue to the person or persons advancing such sum, or any part thereof, his certificate, with coupons for interest warrants attached, signed by him, expressing the amounts so advanced, and the terms upon which the same may be advanced, which certificate may be in form as follows, to wit:

(\$1,000.)

ST. JOSEPH, MO., ———, 1877.

One year after date, unless sooner paid, for value received, I promise to pay ———, or his assigns, the sum of one thousand dollars, with interest thereon at the rate of ten per cent., payable semi-annually within six months from date of issue; at the banking house of Donnell, Lawson & Co., in the city of New York. This loan is made under and by virtue of an order of the circuit court of the United States for the district of Nebraska, at Chambers, on this 2nd day of March, 1877, a copy of which is printed herewith, as a part of the loan hereby authorized to be made.

This certificate is payable in one year from date or sooner, at the option of the said receiver, after sixty days' notice in the New York Herald, and may be renewed for one year after maturity at the discretion of the receiver, but the same shall in no event be renewed more than once, or for any period longer than two years from its issuance. The said loan shall be used exclusively by the receiver for the purposes herein stated, and for that purpose shall be kept separate from the other funds of the operating department.

The said certificates to be issued only as occasion requires, and to be numbered consecutively from one to sixty, and for that purpose the certificates issued by virtue of this order are made a first lien upon all the property of every nature and description now in the hands of the receiver, including road-bed, track, and rolling-stock, from Marysville, Kansas, to Hastings, Nebraska, and heretofore known as the Western Division of the Saint Joseph & Denver City Railroad Company, and the earnings of the said Western Division, after deducting operating expenses, floating debt, and the expenses of the receivership, are pledged for the payment of the principal and interest of this obligation, according to the tenor thereof.

No. ———.

Receiver of the Saint Joseph & Denver City Railroad.

Until further order of this court the said certificate shall in no case be sold for less than par in currency.

And it is further ordered that they shall be a lien upon all the depots and other property of the said Western Division prior to all claims whatever, and the said receiver is hereby ordered to pay the principal and interest mentioned in such certificates at all times according to the terms hereof, and in case of the failure to pay the same any holder or holders of such certificates may prosecute suits in their name and in behalf of all others to enforce the lien and compel payment hereof; and it is further ordered that a copy of this order be forthwith served upon the Farmers' Loan and Trust Company, trustee, by mail or otherwise, and also upon George J. Forrest, chairman of the purchasing committee, and that unless reasonable and proper cause is shown to the undersigned on or before the 23d day of March, 1877, at his chambers, why this order shall not be made absolute and placed of record in this cause, then the same will be done and this order be made final and of full force.

Given under my hand this 2d day of March, A. D. 1877.

JOHN F. DILLON, *Judge*.

Service of a copy of the foregoing order is hereby admitted.

New York, March 2, 1877.

GEO. J. FORREST,

Chairman of the Purchasing Committee.

Service of a copy of the foregoing order is hereby admitted.

New York, March 9, 1877.

THE FARMERS' LOAN AND TRUST CO.,

By E. G. EOLSTON, *President*.

APRIL 3, 1877.

The hearing having been postponed until this day and no opposition having been made, the foregoing order is made absolute and ordered to be entered of record, with this modification: That the lien of the said certificates shall not extend to the lands other than those used as a part of the road-bed, and for depots and stations, granted to the said railroad company by the act of Congress.

JOHN F. DILLON, *Judge*.

The following modification of the above order has since been made by Judge Dillon, and service of the same admitted by all the parties:

The said circuit court of the United States for the district of Nebraska reserves to itself the right, at any time, upon default in payment of interest or principal of said certificates, to order the sale of all or any part of the property of every nature and description now in the hands of said receiver, including road-bed, track, and rolling-stock, from Marysville, Kansas, to Hastings, Nebraska, and heretofore known as the Western Division of the Saint Joseph & Denver City Railroad Company, except such property as in said original order is excepted from the lien of said certificates, to pay the principal and interest of said certificates in said original order mentioned, upon the application of the holder or holders of said certificates, or upon the application of any person or persons interested in said property, upon such notice to all parties interested as said court shall direct, and without suit; and it is further ordered that a copy of this order be forthwith served upon the Farmers' Loan and Trust Company, trustee, by mail or otherwise, and upon Geo. J. Forrest, J. Augustus Johnson, and John J. McCook, purchasing committee, and upon the Saint Joseph & Pacific Railroad Company, of Kansas, and upon the Kansas and Nebraska Railway Company, of Kansas, and upon the Saint Joseph & Western Railroad Company—a company formed by the consolidation of said two last-mentioned companies—that unless reasonable and proper cause is shown to the undersigned on or before the 26th day of May, 1877, at his chambers at the city of Des Moines, Iowa, why this order shall not be made absolute and placed of record in this cause, then the same will be done and this order made final and conclusive; and said notice may be served on said last mentioned company by delivering a copy of the same to any two of the directors thereof.

At chambers, Omaha, May 11, 1877.

JOHN F. DILLON, *Judge*.

May 26th the following order was entered:

AT CHAMBERS, CITY OF DES MOINES, IOWA.

The hearing having been postponed until this day, and it appearing to my satisfaction that notice of the foregoing order has been duly served on all the parties by said order required to be notified, the said order is made absolute and ordered to be entered of record, no objections being made therein.

Des Moines, May 26, 1877.

JOHN F. DILLON, *Judge*.

Notified copies of the above orders may be seen at the offices of either member of committee.

Earnings from July 1, 1875, to April 1, 1877.

Months.	1875.	1876.	1877.
January.....		\$25,623 44	\$25,280 04
February.....		28,195 81	31,717 73
March.....		23,967 80	31,547 22
April.....		24,231 63	29,801 12
May.....		32,043 55	
June.....		35,216 82	
July.....	\$30,181 94	28,938 42	
August.....	49,510 83	43,962 89	
September.....	50,550 05	61,390 87	
October.....	53,164 58	53,928 68	
November.....	48,467 47	51,236 15	
December.....	41,304 96	38,998 10	

NEW YORK, *Saturday, May 14, 1887.*

HENRY VILLARD, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON :

RECEIVER OF KANSAS PACIFIC.

Question. You are named, I believe, together with Mr. Greeley, as the receivers of the Kansas Pacific?—Answer. Yes, sir.

Q. Do you remember the date of your appointment?—A. I believe was in January, 1878.

Mr. HOLMES. You were appointed receiver November 4, 1876.

The WITNESS. I am getting old, and have forgotten. Mr. Holmes as my counsel at the time, and so I look to him.

Q. How long did you and Mr. Greeley remain such receivers?—A. Until we were discharged by Judge Miller; by order of Judge Miller, of the Supreme Court.

Mr. HOLMES. I think it must have been the latter part of 1878 or the first part of 1879, because it was during the Christmas recess that we quitted the motion.

The WITNESS. We were discharged by order of Judge Miller.

Q. Late in 1878?—A. Late in 1878.

Q. How familiar did you become with that road during those two or three years?—A. Very well. I had my office here in New York, but I went out regularly.

Q. How often did you go over the road?—A. Four or five times a year. I spent considerable time at Kansas City and at Denver.

Q. Have you complete reports or copies of your reports as receiver of your office?—A. No; I think not.

Q. Where can they be seen?—A. I could not tell. They were rendered to the United States court.

Q. Is there a complete copy in the office of the Union Pacific to-day?—A. There was one in the office of the Kansas Pacific.

Mr. HOLMES. Yes; I think they will be found at the Omaha office of the Union Pacific.

The WITNESS. You see, we reported to the court and not to the company.

Q. Please tell us generally what was the financial condition of that road during the year 1876 and 1877.—A. It made default.

Q. In all of its securities?—A. On all of its first-mortgage bonds, et

which I represented different classes of holders, and as whose representative I was really appointed receiver by the court.

Q. How long did those securities remain in default?—A. They remained in default until 1879; June, 1879.

Q. Until you were discharged or your receivership was terminated?—A. Six months after it was terminated. We were discharged before the settlement between the first-mortgage bondholders and the company actually took effect.

Q. That settlement was effected by what instrument, substantially, or was it effected substantially by the arrangement contained in the consolidated mortgage?—A. During the last year of my receivership I was party to protracted negotiations, continued all through the latter part of 1877 and all through 1878, and various proposals were made by the mortgage creditors and various counter proposals made by the Kansas Pacific Company. I have no definite recollection what these proposals were. I could not find them.

AS TO POOLING AGREEMENT.

Q. Was not the most prominent step that was taken in that direction, as leading up to the ultimate adjustment, a pooling agreement by which a very large number, in amount at least, of the holders of these securities put their interest together at percentages agreed upon, and under which pooling agreement you, in connection with Mr. Holmes and Mr. Greeley, subsequently became a committee to hold the securities?—A. Yes, sir.

Q. What connection had you with that pooling agreement?—A. As representative of the first-mortgage creditors I was made one of the committee that really had charge of carrying out a plan of settlement agreed on between the Kansas Pacific Company and its mortgage creditors. It was to show the good faith and seriousness of the company—the serious purpose of the company in carrying out this plan of settlement—that I was put on this committee. I had no personal interest whatever in the pool. I was simply put there as a representative of the mortgage creditors, as a sort of means of information for them. I knew what was going on, and nothing could be done contrary to the plan of settlement agreed on without my knowledge and, through me, their knowledge; but I had no personal interest in the pool.

Q. In the agreement before us you are put down as representing 10,000 shares of stock of the Kansas Pacific Company, that amount being written opposite your name, and as representing no other securities than that. Will you please explain that?—A. However that may have been, I had no personal interest. That stock may have been put down to me. I did not sign, as you will see. My signature does not appear there. I may state by way of explanation that I was offered a participation in the pool, and no doubt was put down for an amount, but I declined it as being incompatible with my official position as receiver and as representing the bondholders. I was offered a participation, and that figure may account for that fact; but I had no holdings in it.

By the CHAIRMAN:

Q. Did you meet with those gentlemen in the settlement?—A. Yes, sir; as I explained before, I was party to the negotiations.

By Commissioner ANDERSON:

Q. What I want to get at is whether you can refer us to any person who can give us an intelligent account of this pool, and of the agree-

ons that came to it, the changes that came to it, so that we can obtain on such person an explanation of what the interests of the participants in the pool may have been, and what the changes in those interests were, and what each person realized from that pool?—A. I ought to have been able at the time, but I could not give the information now.

Q. Nobody, to your knowledge, kept an account, in the shape of a cash account, of the interest represented by the pool?—A. This committee, of which I was one, for a time—and I will explain directly what I mean when I say for a time—did receive these securities. I do not know whether during my membership of the committee all the securities here mentioned were received, but a very large proportion certainly of all the securities placed in the pool were received during my membership. I did not keep the accounts of the pool, but, owing to a difficulty which arose (I do not know at what period of my membership) I resigned from it. I had at one time sole control or sole custody of all those securities. I had the keys to a box in the Stock Exchange vault containing them, but I did surrender the control and I may have confounded the surrender of the control of the keys to that box, which gave my practical control or custody of all those securities, with my retirement from the committee.

Commissioner ANDERSON. The general difficulty, before that pooling agreement was made, then, as I understand it, was that the various interests representing securities belonging to this road, which were in default, were contending among each other, and there was a rivalry to obtain better terms for one set of securities as against the other; and, after negotiations which led to some personal adjustment, some would manifest dissatisfaction, so that the pool arrangement was resorted to in order to arrive at a definite conclusion by which those interests would become fixed.

The WITNESS. There was a struggle between the first mortgagees, and that may be termed the junior securities. The junior securities endeavored to get a settlement with the first-mortgage bondholders, which would improve their respective positions, naturally; and, as you see, there was a contest, so to speak, over this point, what side to the contest would make the most concession for the benefit of the other; and, finally, in order to tie up the junior securities—the stocks and the income bonds and land-grant bonds and funding mortgage bonds, &c.—this pool was formed.

Q. Was not the essential feature of that pool that the junior securities, including the youngest of those securities, which was the stock, could be scaled at a fair price, representing, as near as you could get it, what their fair relative values were, so as to reduce the gross amount of outstanding incumbrances, interest, and stock which hung over this road?—A. That was my understanding of the original object of the pool, that there was to be a reduction in the volume, in the nominal amount of the junior securities.

Q. Was not the effect of the consolidation, as carried out in 1880, directly the reverse, in the respect that it increased the volume of outstanding bonded indebtedness and the volume of the outstanding stock, both as to the Kansas Pacific and the Denver Pacific?—A. Practically it seemed to have been the effect. I do not remember the exact figures of increase.

Q. To go back to this pool, Mr. Ham has informed us that the cash value of each person's holding was carried out by a reduction in money at the rates agreed upon, and that certificates to the parties interested in the pool were issued and delivered, and that that is all the

evidence there is of the relative interests of each holder in that pool. Is that the way you understand it?—A. That is my recollection of it.

Q. We have also been told that from time to time the members of that pool would increase their holdings by bringing in fresh securities. Is that also your recollection?—A. Yes, sir; they had a right to do that. As far as I remember there was no restriction upon any holders of securities as to the amounts deposited.

Q. How was that possible? For instance, the pool was formed in April, 1878, and the agreement was that the holdings of Kansas stock should be converted into money at the basis of 12½ cents, which might very well do for April. Now, if a member of that pool in the following July or August, or later in the year, wanted to increase his interest in the pool by bringing in a lot of stock, and the stock had gone up 25 or 30 by that time, how could it be that he could bring it into the pool and have his certificates computed at 12½, when the stock so brought in would have cost him 25?

Mr. HOLMES. I can answer that.

A. It is only explainable by the assumption that the privilege of putting in securities terminated at a certain time. I do not remember.

Mr. HOLMES. Mr. Anderson should put his question on another basis.

SUBORDINATED INCOME BONDS.

Q. I will put it on subordinated income bonds. If that price fluctuated in the market, and a person wanted to buy such bonds, and wanted to put them in the pool, if under the pool, he could obtain nothing but the certificates at the agreed price in April, 1878, although the market price had gone up above that price, how could he increase his interest in the pool by the purchase of such bonds?—A. There was, I remember, a great rise in Kansas Pacific securities at a given moment. I think it was early in 1879. My recollection is that from the time when the market price of these junior securities exceeded the price at which they could be put into the pool, the depositing of securities ceased.

Mr. HOLMES. There was another explanation. Persons like the Saint Louis parties, and their associates and friends, without an exception, I think, held no one class of securities, but held funding mortgage bonds, which was floating debt, or held unstamped income bonds, or second land-grant bonds; and, although the price might have been a little more than the pool price, they could not get any price at all for the others. On the whole they concluded that these three classes of securities which they held were better in the pool for them; so they put them in.

The WITNESS. I think I can suggest another reason. Mr. Gould bought out the Saint Louis parties, paying them money for their interest in the pool, and that would reduce the number of parties in the pool to very few.

Commissioner ANDERSON. Still, that would not furnish any explanation for a person buying bonds at a higher price than the pool price.

The WITNESS. I am satisfied that was never done. There were speculators here in Wall street that bought up a certain class of those junior securities, for the purpose of compelling the company to recognize them at a higher value, and they did succeed. The income bonds, for instance. They were recognized at par, were they not?

Commissioner ANDERSON. Your explanation that they ceased to come in after the price got above the pool price, is all right.

The WITNESS. That is my distinct recollection.

Q. Do you know the figures of that purchase by Mr. Gould of the Saint Louis parties?—A. At the same figures that they went into the pool, 12½ for the stock.

Q. Do you know that?—A. I think so. I am very sure I am right by my recollection. He may have given them a bonus for some of the securities, but I remember very well how dissatisfied those people were for these securities commenced to rise in the market, within a few weeks after they got their money.

Q. They felt the same way Mr. Hassler did?—A. Whenever I meet them they still talk about that.

Q. In regard to the taking out of the Kansas stock from that pool, how was that done?—A. There was an article in the constitution of the pool under which seven-tenths of the ownership could direct the executive committee to do whatever they saw fit in disposing of the securities; and my recollection is that in pursuance of that authority, direction was given at one stage of the pool's existence—I do not remember at what exact time—to take out the whole of the Kansas Pacific stock.

Q. You mean by "taking out," to sell it to some one person?—A. No, it was returned to those who were entitled to it.

Q. Are those the same persons whose names appear as having stock in the list before you?—A. As far as I remember, it would, excepting the Saint Louis parties, who are Mr. Usher, Mr. Edgerton, Mr. Lewis, Mr. Meier, Mr. Carr, Mr. Perry, and Mr. Greeley; a majority of them.

Q. Was that done after Mr. Gould had bought them out?—A. Yes, certainly.

Q. Who does that leave as to whom the stock was delivered?—A. Mr. Gould, Frederick L. Ames, Sidney Dillon. Those three; that is bought all; and myself nominally; I had none.

Q. You got no stock?—A. No, I never had any. I never put any in, and never got any out, consequently. I do not remember how I happened to be down there.

Q. The result, as I understand it, is this: That Mr. Gould, Mr. Ames, and Mr. Dillon—is Mr. Sage's name there?—A. No.

Q. (Continuing.) Mr. Gould, Mr. Ames, and Mr. Dillon bought out the Saint Louis party, as to all their holdings?—A. Yes, sir; it was Mr. Gould alone, as far as my recollection goes. He bought out the Saint Louis parties.

Commissioner ANDERSON. And after Mr. Gould had bought out the Saint Louis parties, that under the four-sevenths provision, all of the remaining stock of the Kansas Pacific was taken out of the pool at the price of 12½ cents, named in the pool, and delivered to Mr. Gould, Mr. Ames, and Mr. Dillon.

The WITNESS. That is my recollection of it.

Q. Do you know at what time that took place?—A. I do not; I cannot give the time; I might find it; I really do not know.

Q. How long after the Saint Louis parties were bought out, or was a part of that transaction, that occurred early in 1879?—A. I do not know; I do not remember the time.

Q. Do you know how much stock it was that was taken out of the pool? Was it more than appears on the face of the paper before you?—A. There is no stock down to Mr. Gould there, at all. The stock of the Kansas Pacific was 200,000 shares.

Mr. HOLMES. Yes; half stock.

Mr. ANDERSON. There was 200,000 shares, representing \$10,000,000.

The WITNESS. My recollection is that eventually about three-fourths of all that stock, but I am not sure.

Mr. HOLMES. I do not recall it.

Commissioner LITTLE. Three-fourths of the stock was what?

The WITNESS. I am not positive, but my recollection is that three-fourths of all the stock was in the pool and taken out. I mean all of the outstanding Kansas Pacific stock.

By Commissioner ANDERSON:

Q. It was all outstanding, except about 6,000 shares, was it not?

A. All but about 6,000 shares; yes, sir. But this is not a positive recollection.

Q. What you do know is that the stock which is stated in that agreement as being in the pool was taken out and any other stock, if there was any, had been subsequently put in, which does not appear on that paper?—A. It was all taken out; whatever was in the pool.

Q. And at 12½ cents?—A. Twelve and a half cents.

Q. At the pool price?—A. Yes, sir; at the pool price.

VALUE OF KANSAS PACIFIC AND DENVER PACIFIC.

Q. Will you please tell us generally what your estimate was of this Kansas Pacific and Denver Pacific road, as to the business it did during the time you were receiver, and its operating expenses and the nature of its advantages, and your own fair judgment of the value of that road?—A. My recollection is that the gross earnings of the entire Kansas Pacific system during our receivership did not average more than \$3,000,000 gross yearly. It may have been a little over that. I do not remember. I think the highest earnings we reached were \$3,200,000. But I am not sure. I will undertake, however, to procure the exact figures. You see it is eleven years ago.

Q. We can get the exact figures. We want to know your judgment of the condition of that road.—A. My recollection is that when we assumed charge of the road it was in a wretched condition. It was utterly out of repair. No money had been spent on it. I recollect that distinctly, because Mr. Carr, who was then president of the road, came to Europe, when I was in Frankfort-on-the-Main, and made a speech to the bondholders, whom he called together there, and told them that was the reason they could not go on paying the interest, and some earnings of the road would have to be put into the road for repairs and renewal, or they would soon be obliged to stop operating altogether. My recollection is, further, that the necessity of using the net earnings of the road for repairs or renewals was so great that nothing was available towards the payment of its fixed charges, except the interest on the June and December and February and August bonds; that is, the first mortgage bonds against the subsidized portion of the line, 400 miles.

Q. Three hundred and ninety-four miles?—A. Yes, sir; we did apply to the court for permission to pay interest on account of unpaid back coupons. But that is all the road would yield at best—the interest on these two mortgages. There was the Denver extension mortgage, amounting to over \$6,000,000, and the interest on the land-grant bonds could not be paid. In fact, the road earned about half of its fixed charges.

Q. Please continue your picture during the term of your receivership and state what improvement, if any, came about.—A. We did apply for leave of the court to use a part of the earnings in relaying tracks

th steel rails. We applied for leave to buy some rolling stock, especially freight cars, and to renew some bridges, I remember. But the condition of the property was so discouraging in the line of the earnings, the receivers showed in their reports to the court, that even the first mortgage bonds on the subsidized portion of the road went below 50 at a time in this market, and the 7 per cent. Denver extension bonds went below 30.

By Commissioner LITTLER :

Q. What years are you talking about now ?—A. That was 1876 and 77.

Q. Continuing down up to 1879 ?—A. Yes, sir ; after we had obtained permission of the court to pay interest on the first mortgages on the subsidized portion of the line, of course the bonds commenced rising. At the time the settlement was made—I believe I am right—the Denver extension bonds were still 60.

Mr. HOLMES. That was in 1878.

The WITNESS. Yes ; it was an utterly forlorn railroad property at the time we took charge of it.

By Commissioner ANDERSON :

Q. How fair were the symptoms of improvement at the time you left ?—

My recollection is that there was no improvement in the earnings. We struck the years of drought in Kansas, too. We all remember the time, gentlemen, when there was three years of distress, and the whole country contributed to the relief of Kansas. We struck that time, and of course with these natural causes against us it was impossible to develop or to get better results from the property while the crops failed year after year.

Q. Do you recall the fact that while you were a receiver there was a persistent difficulty during the first year in regard to obtaining terms through business in connection with the Union Pacific ?—A. Yes, sir ; I remember it very distinctly, because we receivers worked very hard at that very problem, of securing recognition of what we understood to be the rights of the Kansas Pacific, as against the Union Pacific, under the acts of Congress.

Q. How far did you consider that success in that direction would relieve the condition of your road ?—A. Our belief always was that the Kansas Pacific could obtain a share of the through business over the Union Pacific to Utah and Nevada and California it would at once make the Kansas Pacific a good property. We did our best, through negotiations with the Union Pacific people and through efforts in Washington before Congress, to secure the special legislation that was deemed necessary in order to compel the Union Pacific to recognize the rights of the Kansas Pacific, but we failed.

Q. Did you not finally succeed—or it may have been after the pooling agreement was made, and the parties became interested ; but did it not finally succeed in obtaining a court decree by which a sort of official arrangement to last, I think, fifty years, was made between the Kansas Pacific and the Union Pacific people ?—A. I think we did. That is my recollection. But that was after the Union Pacific had built a rival line to the Denver Pacific—the Colorado Central.

Q. That was when the Union Pacific people had themselves begun to acquire interest in the Kansas Pacific ?—A. Yes, sir ; they were really in Denver, competing in Denver, with the Kansas Pacific, and had a vantage ground there that they did not have formerly.

Q. In regard to the adjustment of this question of traffic agreements between these two roads which would lead to the mutual benefit of both, and which, it is explained to us, was sought to be arranged by the method of consolidation, is it your judgment, as a man familiar with these matters, that that same object could have been obtained by means of leases of the Kansas Pacific and the Denver Pacific to the Union Pacific, on the terms of paying back to the lessor companies the earnings that appeared to be derived from their sections of the roads, and leaving the management in the whole control of the one lessee company?—

A. I never looked into the question which method would most speedily insure the accomplishment of that object; but I do remember very distinctly that the project of a lease of the Kansas Pacific to the Union Pacific was considered repeatedly. It was a project of a lease, with the guarantee of the interest or of fixed charges on the Kansas Pacific indebtedness.

Q. If the lessee company, the company taking the road, should simply obligate it to account to the other company for its actual earnings, after deducting operating expense, would not that have obviated the alleged injustice of undertaking to pay dividends on the total amounts of its stock, no matter how great, and interest on its bonds, and putting that burden on the consolidated company?—A. It has seemed to me it would have been better for the interest of the two companies, of the Union Pacific and the Kansas Pacific Company, if the account had been kept separate.

CONSOLIDATION ADVANTAGEOUS FOR THE KANSAS PACIFIC.

Q. How familiar are you with the actual relations which the Union Pacific, the Kansas Pacific, and the Denver Pacific, and their branches and respective interests in business bore to each other in January, 1880, and would you feel competent to answer this question: In your judgment, was it a desirable and beneficial thing for these companies to make the consolidation agreement as they made it, and on the terms defined in the articles of consolidation?—A. I am quite convinced that it was a very advantageous arrangement for the Kansas Pacific security holders to be taken under the wings of the Union Pacific; but whether it was advantageous to the Union Pacific, I am not prepared to say. I never was a Union Pacific security holder, never had a share of stock or a single Union Pacific bond, and thus I never had interest enough in the concern to look into the effect of that consolidation upon the Union Pacific securities. But it was certainly a very advantageous transaction for the Kansas Pacific.

By Mr. HOLMES:

Q. I would like to ask some questions. I think Mr. Villard misapprehended the scope of one of Mr. Anderson's questions. Did you retain your interest in the Kansas Pacific matters and securities up to the time of June, 1879, when the property was taken out of the hands of the receiver, or were you not up to that time the chairman of the committee of nine?—A. In 1879? We were removed long before that.

Q. You retained the chairmanship of the committee of nine of the Denver extension bondholders?—A. Mr. Meijer was the chairman.

Q. You retained your interest, so far as to acquaint yourself with the operation of the road, up to June 1879?—A. Oh, yes, sir; no doubt.

Q. State whether or not it is true that, beginning in 1878, there was a very marked increase in the immigration into Kansas.—A. I remember very distinctly there was after the first good harvest.

Q. Was there not a general increase in the business and in the operation and earnings of the Kansas Pacific after the middle of 1878?—

A. I cannot state positively whether there was or not.

Q. Was there not a large increase in the sales of their land grants?—

A. In their lands, there was.

Q. Was there not a very rapid increase in the public market value of the various securities of the Kansas Pacific, culminating, perhaps, in 1879?—A. There was, as I have already explained in my testimony.

Q. What I wish to get at is this: Was there not, in general, a great growth of the earning capacity and business of the Kansas Pacific, between your taking charge of the road as receiver and the termination of the foreclosure suit in 1879?—A. I do not think there was a great growth during our receivership; but subsequent to the receivership there was a general revival of railroad earnings, beginning with the winter of 1878-'79. The resumption of specie payments exercised a stimulating effect upon every sort of property.

Q. Had or had not the depreciation which existed in the first two years of your receivership very much disappeared in 1879?—A. No doubt.

Q. If you remember, was not the consolidated mortgage of the Kansas Pacific the result of the plan and agreement and settlement resulting in the decree of the court dismissing the receivers, and turning back the property into the hands of the company? Was not that consolidated mortgage one of the features which led up to the adjustment and payment of back interest and the general reorganization of the road?—A. My recollection is that the consolidated mortgage was made for the purpose of affording a means of exchanging some of the outstanding securities; of providing means for putting the road into proper condition.

Q. And for harmonizing all conflicting interests?—A. And for harmonizing, yes, sir. But the consolidated mortgage was a very large one, and how much of it went to these legitimate uses I cannot state from recollection.

Q. Was the consolidated mortgage not intended to supply the means with which to retire all the different existing mortgages?—A. Yes, sir.

Q. Both the prior mortgages, first in lien, and the Denver extension, and all others?—A. That was the scheme.

Q. Then that was the means by which the friendly termination of the foreclosure suit was reached?—A. The principal means was the satisfaction of the claims of the first mortgage bondholders.

Q. Which was provided for in part by the terms of the consolidated mortgage?—A. Yes, sir.

Q. I understood you to say that you do not consider yourself competent to express an opinion as to the advantages or disadvantages flowing to the Union Pacific from this consolidation; is that correct?—A. Yes, sir; I say that.

Commissioner ANDERSON. You can explain this agreement more readily than Mr. Villard can.

Mr. HOLMES. Yes, sir; I do not think that Mr. Villard knew more about it than the general outline. It was the means by which we were going to hitch these people to the stage.

The WITNESS. You mean the pool contract?

Commissioner ANDERSON. Yes. There are one or two things we want to ask you, Mr. Holmes.

By Commissioner LITTLER:

Q. Do you not think you are a little modest when you say you are

not competent to determine the effect of this consolidation upon the Union Pacific? Have you not been in railroad matters and had a large experience?—A. I have.

Mr. HOLMES. He means he has not examined the figures.

The WITNESS. But I have not examined the figures. Of course the termination of the competition between the two lines was an element of strength to both.

Q. If you knew all the facts in relation to both companies, would you consider yourself reasonably competent to determine the result flowing from the consolidation?—A. Certainly. Take the Denver business, which I remember distinctly represented nearly 50 per cent. of all the Kansas Pacific road earnings when I took charge as receiver. The Kansas Pacific had a monopoly of that business until the Union Pacific built the Colorado Central from Cheyenne down into Denver, and then it could compete and destroy this main income of the Kansas Pacific. On the other hand, the Kansas Pacific could prevent the Union Pacific from making any money out of the Colorado business by keeping rates down. In that way the consolidation may have benefited the Union Pacific, by enabling it to get a high rate on all the Colorado business, which it did until a new competitor appeared on the field—the Atchison, Topeka and Santa Fé, and then the Chicago, Burlington and Quincy subsequently.

By the CHAIRMAN:

Q. One question: Upon what basis was the interest guaranteed upon the issue of stock by the executive committee?

Eleventh. That the executive committee, in furtherance of the ninth paragraph hereof, shall provide and secure that the stock to be created as herein contemplated shall be ten million dollars, and that there shall be paid thereon the first and second years after said reorganization, semi-annual dividends at the rate of six per cent. per annum; for the third and fourth years thereafter, at the rate of seven per cent. per annum, and for the fifth and subsequent years thereafter, at the rate of at least eight per cent. per annum; provided, however, that if it shall be deemed best by said executive committee, the dividends to be paid on said stock for the first and second years shall be accumulated for the purpose of retiring or otherwise relieving the securities deposited pursuant to paragraph seventh hereof.

On what basis was that?—A. I ought to know; I can only say in a general way—where is the provision about the creation of stock. I think Mr. Holmes can explain that better.

The CHAIRMAN. I would like to have it from Mr. Villard.

The WITNESS. It is explained in the first section of Article 9:

To unite in interest the Kansas Pacific and Union Pacific Railway Companies, so that the two roads shall be operated as a continuous line, and in all respects as contemplated by the several acts of Congress in relation thereto, and in order that the interests of the public and the Government may be better subserved.

Q. What I want to know is, was that for the purpose of securing earnings and to pay the interest out of the earnings of the road, or was the end in view for the purpose of booming the stock, so that the pool might make a rise on the guarantee of interest?—A. I do not recollect the motives of the real promoters of the pool to that extent. I was not one of them.

Q. You signed that paper?—A. I signed that paper, certainly; but simply in a representative capacity and not as a party in interest.

Q. Did you deliberate upon that question at all with them?—A. I have no doubt I did at the time.

You do not recollect?—A. I do not recollect it; no.

Commission then adjourned to Tuesday, May 17, 1887, at 10 a. m.

No. 10 WALL STREET, NEW YORK,
Tuesday, May 17, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

JOHN PONDIR, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your occupation?—Answer. I am a broker.

Q. How long have you resided in New York City?—A. Twenty-three years.

Q. Have you had any special connection with the affairs of the Union Pacific Railroad?—A. I had connection with the Union Pacific.

WITNESS' CONNECTION WITH UNION PACIFIC.

Q. State what it has been, and whether it has afforded you an opportunity of becoming familiar with its affairs.—A. In 1865, in May, I was introduced to Dr. Durant, in Washington, by the Secretary of the Interior, Mr. Harlan. The same day I received a letter from Mr. Chase, the same afternoon, urging me to take hold of the railroad, to facilitate it with some money to build it. The same evening I was with Dr. Durant until 3 o'clock in the morning, from 8 to 3, examining his maps and everything, and he telegraphed the same afternoon to Mr. Cisco, and Mr. Cisco telegraphed him, "Stick to Pondir." I saw the telegram. General Dix was president of the road; no Boston people, no Mr. Dillon, and none of those people were connected with it. I arrived in New York, and I made up a syndicate and I gave them a million dollars in five days. The basis was that we should leave it to our lawyer. Mr. Jerry Larocque was to be the lawyer for the syndicate. Mr. Tilden and Mr. Tracy were the lawyers for the Union Pacific Railroad Company.

Q. Charles Tracy?—A. Yes, sir; Tracy & Olmstead. We had a meeting, and General Dix was there, with Mr. von Hoffman, Mr. Cisco, and Mr. Shuster.

Q. What Shuster?—A. Of Philips, Speyer & Co. Mr. H. Marcuse, Mr. Balzer, and Mr. Ratten. He lives here yet. We submitted all the papers and everything pertaining to the guarantee, to look into the act of Congress, and Jerry Larocque was to give the opinion.

Commissioner ANDERSON. Just give us the facts that show how familiar you became with the management of the company. That is what we want at present.

The WITNESS. I gave them that million dollars in ten days. Then I made up a plan by which all the banks in the city of New York were to be united to help to build the road; that they should give me 5 per cent. of their capital. I went to Mr. J. M. Morrison, of the Manhattan Bank, Mr. Peter M. Brysen, of the Phoenix Bank, and submitted my plan to them. I told them that I wanted to carry out a plan if they would give me their assistance. They told me, "Mr. Pondir, you must go to Charles H. Russell, of the Bank of Commerce, and if he puts his name to it you will be very successful in carrying it out." I went to General Dix and put the plan before him, and to Mr. Cisco. I told them, "If you can get the Bank of Commerce to come into it, the balance of the banks will follow." We went to Mr. A. A. Low, who is a director in the bank, and who is living, and General Dix had a long talk with the directors of the bank, including Governor Morgan, and they sent for me, by a letter, to come there. They called a special meet-

ing, and asked me whether I had looked into it in regard to the validity of the grant of the Government to them. Mr. George Ashmun, of Springfield, Mass., came to my house and brought me the report of Jerry Larocque. It was against the Union Pacific Railroad. His opinion was that the whole act of Congress was illegal.

By Mr. JOHN F. DILLON:

Q. Who gave that opinion?—A. Jerry Larocque.

Commissioner ANDERSON. He was a Democrat.

The WITNESS. He was a sincere man.

Commissioner ANDERSON. He was my cousin.

The WITNESS. Well, a man never lived that was a better man. He was convinced of it. I went over to General Dix, when the report came to me, and we went to Daniel Lord for his opinion. General Dix, Mr. Cisco, and myself went to Mr. Lord. Mr. Lord said to General Dix:

I will give you an independent opinion. I do not want to see Mr. Larocque's opinion; I do not want to see Mr. Tracy's opinion, or Mr. Tilden's opinion; but I will give you an independent opinion on the affair, if you will leave it to me.

LOAN OF \$1,000,000.

We conceded that. He gave us the report that everything pertaining to the act of Congress, and everything pertaining to the Union Pacific Railroad was valid. That was Daniel Lord's opinion. That opinion I brought to the Bank of Commerce and showed to them. They would not go into the plan of giving me 5 per cent. of their capital, but Mr. Russell told me that they would make me a loan of \$1,000,000 on the scrip of the Government.

Q. The Government scrip entitled them to bonds?—A. To \$16,000 a mile. I invited Mr. Charles H. Russell to become a director and to join us. He said he had no authority to use the people's name to go into railroad building. He loaned me \$1,000,000—the refusal of the currency 6's—to be put in at 90. That is, the Government scrip. I went over to General Dix and told him what I had done, and he was very much pleased with my success. The Union Pacific Railroad had at that time \$2,000,000 of working capital to start with. Dr. Durant was vice-president of the road, and John A. Dix was president; Cisco was treasurer, and Charles Tuttle was assistant treasurer.

Q. What were you? Were you a director?—A. No, sir; I was nothing but the person to get up the money for them to build the road.

Q. A sort of financial adviser?—A. Yes, sir. General John A. Dix made a statement that "as long as Foulds is with them, they will finish the road in 1876." The act of Congress required them to finish the road in 1876. We never dreamed that we would finish the road in 1869.

CREDIT MOBILIER.

After these loans had been effected the Boston people came on, and they brought the Credit Mobilier forward.

Q. Who do you say brought it in?—A. Dr. Durant.

Mr. JOHN F. DILLON. I think you said the Boston people.

The WITNESS. No; Dr. Durant brought in the Credit Mobilier. They informed me that they did not require my services any more. They had all the money they wanted. John A. Dix went out, and they brought forward Mr. Oliver Ames as president of the road. And they brought with them into the direction a man by the name of John B. Alley. I

not go near them. I had nothing more to do with them until the end of 1867, on the 2d day January—no, the 1st day of January.

By Commissioner ANDERSON:

Q. 1868?—A. In 1867 I was invited to come to the Union Pacific Railroad office by Mr. Tuttle, by Mr. Cisco, and by Mr. Charles Lombard. They were waiting to receive me there, to see what I could do for them regarding finances. I would not go. I told them they had treated me very shabbily, and that I did not want to have anything to do with them. Cisco came down himself to see me with Dr. Durant, to my office, and urged me to come as quick as I could to the Union Pacific Railroad office. I went up there, and they were in session. They told me going up that "Mr. Calhoun would not certify a check for \$27,000 to the Fourth National Bank, and that they had to pay the coupons, but they had not got the money, and asked me whether I would not hold it and help them out. When I got there Mr. Oliver Ames was in the chair; all the Boston directors and the New York directors were there, and Mr. Cisco, and they told me, "Mr. Pondir, we want immediately \$200,000 to pay coupons, and we have not got it." I told them, "I will write you a letter, and if you accept the letter I will become your fiscal agent." I wanted to go back to my office, and Dr. Durant popped out with Oliver Ames and Oakes Ames, and said, "Come in here and write us a letter." I wrote them the letter in the office, and not as long a time as I am telling you, they said, "Mr. Pondir, we accept it." They said they wanted \$200,000 right away, and I said, "Send down to my office and I will give you a check for \$200,000 on the spot." The directors used to run about and bid up money on themselves, and they used to charge from 1 to 1½ per cent. a day. When Mr. Oliver Ames made me agent for the road, and Mr. Oakes Ames and Mr. Dillon told them, "Gentlemen, there is only one condition"—and they have a letter from me—"that you shall audit the accounts every day from my books. I do not want to have any responsibility." They acceded to that, and I sent them a check; but they had so many thieves in the direction that it is a wonder to me that they did not run away with the rails of the railroad. I mean Mr. John B. Alley, the infamous rascal. He had the audacity to come down to my office the next day to borrow \$200,000 in 10-40's, and to charge the Union Pacific Railroad Company 1 and 1½ per cent. a day. That was John B. Alley. I declined to have anything to do with him. He was the chairman of the finance committee, and he was the chairman of the executive committee. I reported that to Mr. Oliver Ames, and to Mr. Oakes Ames, who were the honestest men that ever lived—Mr. Oliver Ames and Mr. Oakes Ames both. The greatest scoundrel in that board, who vilified the good names of Oakes Ames and Oliver Ames, was a man by the name of McComb, of Delaware. He was a perfect common plunderer and thief.

By Commissioner ANDERSON. Please come down to facts.

The WITNESS. Those are facts.

By Commissioner ANDERSON. We invite your attention particularly to the matters since 1873. Come to that point as soon as you can. Still, you go on and take your own course, but I call your attention to the fact that you are losing time in describing these men, whom we know about.

The WITNESS. I only want to vindicate the names of Oakes Ames and Oliver Ames, who were honest people. I do not believe Mr. Oakes Ames ever did anything wrong. They killed him in it, but he was an honest man.

Commissioner ANDERSON. We know how the road was built from 1867 to 1869, and how the four or five different contracts were made, and how those contracts were payable; how these men got all the bonds and stock and securities of the road into their hands, and we know it is alleged that they made from thirty millions to forty millions of dollars; how, finally, in 1869, the road was completed. There is no necessity going over that. It is all in other reports made by other committees.

The WITNESS. I only want to give the history of the road. They never dared to call me on the stand. They have avoided in everything to call John Pondir on the stand, who started the enterprise. Mr. Harlan is the only man living who was present in his office when Dr. Durant made his acquaintance with me. That was the first time I had ever seen Dr. Durant in my life.

Commissioner ANDERSON. Give us all the facts and figures you have in your possession showing who took any money to which he was not entitled.

The WITNESS. Everybody, before I came with them, used to run about here and there and borrow money, and they used to bid money up among themselves, actually, to make it and divide it among themselves. That is the way the road was built. I do not know yet with whom I dealt, whether with Union Pacific Railroad or with the infamous Credit Mobilier. To-day I do not know.

Q. What books have you got?—A. The loan books.

Q. What books are they; Pondir's books?—A. Yes, sir; Pondir's books.

Q. Your books, showing these transactions?—A. Yes, sir.

Q. You have them?—A. I have them.

Q. Between what dates do they show loans?—A. I found a ledger the other day of the final settlement and completion of the Union Pacific Railroad in 1869.

Q. Can you bring those books here?—A. I have got the ledger. I am looking for the other ones. I have moved them so much. I will get them up, as near as I can, for you.

Q. Do your books show that any director of the Union Pacific, at that time, made an improper profit out of these loans, that you can point out, and show how much he made in money?—A. I am telling you that Mr. Alley made a proposition to me.

Commissioner ANDERSON. I want transactions, and not propositions.

The WITNESS. I never had any transactions with him. I think he is the most contemptible rascal that ever lived.

Q. Please do not say that again. I want to know whether your books show that Sidney Dillon or Mr. Alley, or any of the other directors of the road at that time, borrowed money for account of the company at one rate from you, and charged it to the company at another rate, in dealing with the company?—A. I would not allow such a thing in my office.

Commissioner ANDERSON. Then go on with your statement of facts.

The WITNESS. I have known some of them who have divided with people. They offered to divide with me, but I would not have anything to do with them.

BUSHNELL AND ALLEY OFFERED TO DIVIDE SPOILS.

By the CHAIRMAN:

Q. Who offered?—A. Bushnell and Alley offered to divide with me.

I would not have anything at all to do with such trash as that. Alley came to me and offered to give me \$200,000 of governments, and to divide with me the spoils, and I kicked him out of my office. He offered me that.

Commissioner ANDERSON. Alley is dead, is he not?

A. No, sir; he is living.

Commissioner ANDERSON. Where does he live?

Mr. HOLMES. In Boston.

The WITNESS. John B. Alley is living.

Q. Is Bushnell dead?—A. Bushnell is here. He is this good—that he is poor.

Mr. JOHN F. DILLON. Mr. Bushnell is around here. I have seen him since the Commission opened.

Q. Was not a suit brought by Ames against Bushnell tried in the superior court?—A. I really do not know.

Commissioner ANDERSON. Go on.

THE UNION PACIFIC MOVES TO BOSTON.

The WITNESS. When the Union Pacific Railroad was attacked by Gould and by Fisk they sent all their securities, in 1869, to my office; everything. I was made fiscal agent of the Union Pacific Railway Company, to borrow, sell, and do anything, as the directors were enjoined by Judge Barnard from doing any business. They could not do any business. They could not move the company to Boston. I do not know which of the officers in Washington told them, "We did not give you a grant to put the Union Pacific Railroad in a car to carry it around from one town to another." The doors of the safe of the Union Pacific Railroad Company were broken down, but there was nothing in it. All the securities were in my office—everything. I attended to all their business till they went to Washington, and I believe they got the privilege of moving to Boston.

Q. Do you know anything about that injunction suit; what it sought to forbid?

The WITNESS. What injunction suit?

Commissioner ANDERSON. That Judge Barnard issued.

A. Yes, sir; there was trouble, from the time that the Boston people came in, with Dr. Durant, for supremacy, and for taking charge of the property. Dr. Durant told me that the Boston people wanted to put him out. He was president of the Credit Mobilier, and he invited Fisk to subscribe to a certain amount of stock. Fisk went and put his name down, without paying one cent for it. The first thing that was known, Mr. George Barnard issued a grab on the road, and the final result of it is known to everybody—that they battered down the safe, the most infamous thing I ever saw in my life. Mr. Gould was a partner to it. Mr. Gould was there at the time it was done.

Q. Who was the plaintiff in the suit?

The WITNESS. In what?

Commissioner ANDERSON. The suit brought against the Union Pacific Company, in which the injunction was issued.

A. Jim Fisk.

Q. What did you do with those securities that were sent to your office?—A. I had them there, and borrowed money on them. There were signed and unsigned securities, until I transferred them to the Boston people.

Q. How long did you have them?—A. About six or seven weeks.

Q. Then the whole business was sent to Boston?—A. The whole business was sent to Boston.

Q. And it has remained there ever since?—A. I believe so. I went on to Boston. They telegraphed me to come on to Boston. They owed me about \$3,500,000, which I borrowed for them. From Promontory Point to Ogden, the bonds belonged to me against the currency 6's, which I pledged for them. There was trouble about building parallel roads.

Q. That was a lap?—A. Yes, sir. Everybody that borrowed money or loaned money on those bonds to me I gave call on the market price. They say, "I want to loan \$100,000 or \$200,000." "All right. What securities will you give me?" "I will give you scrip against currency 6's." Then when the currency 6's were due, sometimes they renewed the loan; and when the section was finished, they all stood in my name. They made out all the bills to me and I delivered them to the people, and they renewed the loan again for more. They commenced at 90 and went up to 100. The last three or four sections between Promontory Point I think I bought a part. They never could deliver me the bonds. Mr. Dillon delivered to me the bonds that belonged to the Credit Mobilier. He loaned them to me to settle it up. I had a great deal of trouble with it.

UTAH NORTHERN BUILT BY JOSEPH RICHARDSON.

Q. There is one transaction that you were connected with, about which, perhaps, you know some facts that I do not know. I wish you would tell me, if you know, how it was that the Utah Northern was transferred to the Union Pacific?—A. The Utah Northern was built by a man by the name of Joseph Richardson. He furnished the money. You are welcome to see his accounts in my books.

Q. What were the terms of his contract—what did he get from the company for building the road?—A. He gave to John W. Young, I believe (the son of Brigham Young), one-fourth of the profits. I do not know the exact amount. His account is in my office.

Q. I want to know what did the road give to Richardson for building the road—how many bonds and how much stock?—A. That I do not know. I know that no Mormon had an interest in the road when Mr. Gould bought the interest of Mr. Joseph Richardson. They were both directors of the road.

Q. Do you know whether the road issued to Richardson all of its bonds and all of its stock in payment for the construction of the road?—A. It belonged to him. He was the man who owned it, after the failure of John Young.

Q. It belonged to him, because all the bonds and stock were issued to him for building the road?—A. Yes, sir, for building the road. Nobody had any interest in it. All that you see in the papers is not true.

Q. Then he held all the bonds and stock?—A. Everything. I will only tell you what I know, that he came to me one day, and he said, "John, I want \$30,000 to pay for rails." He kept his accounts with me. I gave him the money, and he sent it, I believe, over to Milwaukee to pay for them. They got this \$30,000, and the rolling mill failed. They could not either deliver the rails, or give the money back. He was the owner of the road. He was a director in the Union Pacific Railroad.

Q. Who else were directors in the Utah Northern, besides Richardson?—A. I do not believe there was anybody. I believe two sons of Brigham Young had an interest in it. I do not know whether Sharp had anything to do with it.

Who was the president of the road?—A. I could not tell you. I know Richardson or Sharp. I do not know. I only attended to the special business.

When was it that he built the road; in what year?—A. I can tell by my books.

How long was the road that he built?—A. I think it was about 90 miles when he sold it to Gould.

Have you ever been over the road yourself?—A. I have never been; I have had passes here and there; I have never been over the Union Pacific Railroad.

Do you know anything about the sale of these bonds and this stock by the Utah Northern or by Joseph Richardson to Mr. Gould?—I do not. I will tell you in one way; I heard only from hearsay. I did not tell you positively; but I know the bargain was made with him, and he told me he gave Gould five-eighths, and he had three eighths left.

Richardson told you that?—A. I think he told me that. I am positive. That is, to my best recollection, that when I came back from Europe I think he told me that.

Did any of the money that Richardson received pass through your books?—A. No; not at all. But I know that Joseph Richardson sold the road to Gould. They were both directors in the road at the time.

How do you know he sold it to Gould—simply because he told you so?—A. He told me himself that he sold it to Gould.

Do you know where Mr. Richardson can be found?—A. He is looking for the Vanderbilts, or in Harlem, where he lives.

Working for the Vanderbilts; where?—A. On a wharf somewhere. Building a wharf.

Commissioner ANDERSON. That is a little discouraging for the Sergeant-at-Arms.

The WITNESS. I have been connected with the Union Pacific Railroad since 1865. I have to tell you that I know all about Mr. Blaine's dealings with it with Mr. Tom Scott.

Before you go to that (and you have only a few minutes left of your time, although we will give you another hearing), I would like to know specifically, as you declared you had possession of some facts relating to the Utah Northern, whether you can tell me anything that tends to show that Mr. Gould, or anybody else, bought the Utah Northern bonds and stocks at one price from Mr. Richardson and sold the bonds and stocks at another price to the Union Pacific?—A. Joe Richardson told me so.

By Commissioner LITTLER:

Q. What did he tell you?—A. He told me he had to make a bargain with Mr. Gould to get rid of the Utah Northern.

By Commissioner ANDERSON:

Q. To do what?—A. To get rid of his road.

Q. Did he tell you what the bargain was?—A. No.

Q. Then you really know nothing about it except what Richardson told you?—A. What Richardson told me.

Commissioner ANDERSON. Now, you can tell us about "President" Blaine.

The WITNESS. I will tell you that when Tom Scott was made president of the road they made a bargain with him and I met him—I knew

him very intimately; I have known him a long while. Bushnell and John Duff went over there to make a bargain with him about the road; for Mr. Scott to become president of the road. I gave to Mr. John Duff—I had 28,000 shares of stock—my proxy to vote in Boston. When the meeting took place I was not there, but Mr. James Brooks was there. He was a director of the road. Mr. Brooks wanted Mr. Alley to take the chair. Mr. Duff told him that he was pledged to John Pondir not to allow Mr. Alley to take the chair; and Mr. Alley did not take the chair. Mr. Alley was the chairman of the finance committee, and a bigger thief has never been in the Union Pacific Railroad. He robbed it and plundered it of everything it had. He was actually dismissed on account of the intricacy of this infamous rascal. I wanted to throw him out of the window here, in the Union Pacific Railroad office. Mr. Dillon will tell you what robberies that man has committed on the road.

By the CHAIRMAN:

Q. Judge Dillon?—A. Mr. Sidney Dillon will tell you. That was right in the Union Pacific Railroad office. Mr. Anderson, he is the worst man. I am sixty-six years of age, and I assure you I never saw such a thief and such a rascal.

Commissioner ANDERSON. Really you are here as a witness to give us facts.

The WITNESS (interrupting). I only want to let the public know it.

Commissioner ANDERSON (continuing). And you must not take advantage of your opportunity to pour billingsgate on people. Tell us the facts.

Commissioner LITTLE. If you know anything, tell us. You commenced to tell us all about Mr. Blaine. Confine yourself to facts.

MR. SCOTT ELECTED PRESIDENT.

The WITNESS. All right. Mr. Tom Scott returned from the election. Tom Scott was elected, although they said another party would be elected, and although they went there to take charge of the treasury. When Mr. Scott came back I went up to Andrew Carnegie's, at the corner of Wall street, and John Duff was sitting with Tom Scott, and I looked into the room and Duff came in, and he says, "Come in; I want to introduce you to the new president, Mr. Thomas Scott." I walked in. Tom Scott says to me, "John, how do you do?" "Oh," says Duff, "you are acquainted." "Oh, yes," Tom Scott says, "I knew John when he was a young man and when I was a young man." I saw a bundle lying on the table. Duff went out. I said, "Tom, how are you getting on?" "Well," he says, "John, I have got a hard road to deal with." I says, "What is the matter? My 28,000 shares voted for you." He says, "Do you see that bundle?" I says, "Yes. What is it?" "There is a lot of bonds that I have promised Blaine to take from him." He told me they belonged to Blaine, and he says, "Do you know they repudiated to-day, and they will not take them." I says, "Blaine is Speaker of the House; what has he got to do with it?" Mind you, that is publicly known. But I was there and saw it. "Well," I says, "what bonds are they?" "Well," he says, "they have to take them. I am not going to pay it out of my own pocket."

By Commissioner ANDERSON:

Q. How many bonds were there?—A. I think eighty or eighty-two.

Q. Where was this room where you saw them?—A. Andrew Carnegie's office, at the foot of Broadway; where Andrew Carnegie had his

Q. Who else was in the room besides yourself and Tom Scott?—A. Nobody. Before that Duff was there; but when Duff went out he told me that.

Q. What did he say was to be done with those bonds?—A. They promised him to take them to reimburse Mr. Blaine for the bonds. To buy the bonds from him for Mr. Blaine. He told me that.

MR. BLAINE'S BONDS.

By Commissioner LITTLER:

Q. Who promised to buy the bonds from Mr. Blaine?—A. Mr. Scott, and the directors of the road.

Q. Was Mr. Blaine to pay for them?—A. No; they were to pay back the money to Tom Scott for account of Mr. Blaine.

By Commissioner ANDERSON:

Q. Who was to pay back the money to Tom Scott?—A. The Union Pacific Railroad.

Q. He had loaned the money to the Union Pacific Railroad?

The WITNESS. Who loaned the money?

Commissioner ANDERSON. You say they were to pay back the money to Tom Scott for account of Mr. Blaine?—A. Nobody loaned the money. The bonds belonged to Mr. Blaine.

Q. How did he get the bonds?—A. I do not know.

Commissioner ANDERSON. Perhaps he bought them?

The WITNESS. It was not Union Pacific bonds at all. It was some other bonds.

Commissioner ANDERSON. Perhaps it was Fort Smith?

The WITNESS. Yes; they had it out when the election took place. They showed these bonds up.

Q. What has this to do with the Union Pacific?—A. Tom Scott was made president of the Union Pacific Railroad at that time.

Q. What has the fact that Mr. Blaine was interested in some bonds that were not bonds of the Union Pacific, and that you saw them in the office here, and Tom Scott talked about them, got to do with the Union Pacific?—A. I am only telling you that he told me that everything was saddled on the Union Pacific.

Q. What did he mean by that?—A. I do not know.

Q. Then how can we find out?—A. I suppose everybody was after the Union Pacific Railroad money. That is the short and long of it.

Commissioner ANDERSON. We will have to ask you to bring your books here, and we will have to suspend your examination now.

The WITNESS. All right. I will bring them here.

By Commissioner LITTLER:

Q. Do you mean to state to this Commission that Mr. Blaine received eighty or eighty-two bonds, or any other number of bonds, from the authorities of the Union Pacific Railway Company, for some illegitimate consideration; is that what you mean to say?—A. The bonds did not belong to the Union Pacific Railroad at all.

Commissioner LITTLER. Answer my question.

The WITNESS. I did not state that. I told you that the bonds did not belong to the Union Pacific Railroad, but Tom Scott told me that those bonds had to be paid by the Union Pacific Railroad Company for account of Mr. Blaine.

Q. You do not know, then, whether Mr. Blaine gave value received

for any bonds, or any other valuable thing, which he may have received from the Union Pacific Railway through Mr. Tom Scott, its president?—
A. I do not know. I only give you what Mr. Tom Scott told me. They wanted to repudiate it, and he said he was in trouble.

The CHAIRMAN. Have you any other questions?

Commissioner LITTLER. No, sir; not now.

The CHAIRMAN. Bring any books you have bearing upon transactions of the Union Pacific and we will examine you again.

The WITNESS. I will.

Mr. JOHN F. DILLON. I would like to ask you a question.

The CHAIRMAN. Certainly.

By Mr. JOHN F. DILLON :

Q. You have not a very good opinion of Mr. Alley?—A. I think he is the worst man that ever lived.

Q. Mr. Blaine was not present at this time when Mr. Scott saw you?—
A. No, sir.

Q. And Mr. Scott is dead?—A. Yes.

Q. That is all?—A. That is all.

JOHN PONDIR.

No. 10 WALL STREET, NEW YORK,
Tuesday, May 17, 1887.

JAY GOULD, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON :

Question. How long have you resided in New York?—Answer. Since 1858 or 1859.

Q. During the last twenty-five years of your life you have been largely connected with various railroad enterprises?—A. Yes, sir.

Q. And interested in them in every way, as stockholder, bondholder, and builder, so as to be perfectly familiar with the whole business?—
A. Yes, sir; I think I ought to be.

HOLDINGS OF UNION PACIFIC.

Q. Do you recall your earliest financial connection or business connection of any character with the Union Pacific?—A. Yes, sir.

Q. When was that?—A. In 1873.

Q. Had you not been a stockholder in the company before that time?—A. No, sir. In the spring of 1873 I met Mr. Clark and Mr. Schell at Chicago. Mr. Clark was the president of the road and he and Mr. Schell had been out over it and were on their return trip.

By Commissioner LITTLER :

Q. What Mr. Clark is that?—A. Horace F. Clark. And they spoke so highly of the property that it induced me to send an order down to New York to buy that stock. I was on a trip over the Chicago and Northwestern, and I sent an order down, I think, to begin at 35 and buy the stock; buy it on a scale down. Well, it seems that Mr. Clark was then ill. He returned, and when I was off up in the woods he grew worse, and his brokers discovered that he would have to die, and they took the opportunity to sell his stock, and my orders caught it. After I got home the stock kept going down, and I got alarmed about

and began to inquire into the condition of the property, and finally I and Mr. Alley and I asked him what was the trouble with the Union Pacific. "Why," he said, "there was trouble enough. They have got immense floating debt, being carried at enormous rates—several millions of dollars—and they have got ten millions of income bonds coming due very soon," and he said he did not see how the company could hold a receivership. Of course that alarmed me. The stock had got down to about 14, and I inquired to see what directors there were that would help to stand by the property. I soon discovered that Oliver Ames and Sidney Dillon were the two that could be relied upon. They had a large interest in the stock. I sent for them.

By Commissioner ANDERSON:

Q. How large was your own interest at this time?—A. I think about 10,000 shares. I sent for them and had an interview with them. We looked up the financial condition of the company. I found that the directors had been charging a commission for indorsing, and that the notes were carried at very high rates of interest. I protested against that and said that I would stand in and take my share of the notes and were to put it right down to legal interest. We did so. Shortly afterward I made a further proposition that we should fund this floating debt, and I think I took a million of the bonds above the market price. We funded the debt and—

FUNDING THE FLOATING DEBT.

Q. Who joined with you in that operation of funding the debt?—A. The other directors.

By Commissioner LITTLER:

Q. You funded it into bonds or stock?—A. Funded it into bonds. There was a provision made in the 8 per cent. bonds—the sinking-fund bonds, as they are called—for this floating debt to be funded.

By Commissioner ANDERSON:

Q. Please state what directors joined you, or whether they all did.—A. I think Mr. Oliver Ames, Mr. Sidney Dillon, Mr. Atkins, and Mr. Dexter.

Q. Mr. Frederick L. Ames?—A. Frederick L. Ames was not then prominent in the company. It was his father.

Q. Which was his father?—A. Oliver Ames. I gave almost my whole life to the property and gradually it began to tell, and I think within about three years we got it upon a dividend-paying basis.

Q. You were telling us that you became a member of the board. When was that?—A. That was in the year 1874.

Q. On what committees did you serve?—A. I served on the executive committee and perhaps on some of the others. I do not remember.

Q. Were you chairman of the executive committee?—A. No, sir.

Q. Who were the other members of the executive committee who remained on for a considerable length of time?—A. Mr. Oliver Ames, Mr. Sidney Dillon, Mr. Gordon Dexter, Mr. Atkins, and, I believe, Mr. Bates, and one of the Government directors. I am not certain whether it was Mr. James F. Wilson or not. Of course, as we improved the condition of the property, the stock went up in the market.

Q. From 1874, then, 1875, 1876, and 1877, you were, during all that time, a member of the direction?—A. Yes, sir.

Q. And familiar with the affairs of the company generally?—A. Yes, sir.

Q. Did you go over the road yourself in person?—A. Yes, sir; twice a year.

Q. The whole length of it?—A. The whole length of it; yes, sir.

Q. Did you make any examination of its branches at that time?—A. Yes, sir.

Q. Before we pass to that, had you any personal connection whatever with a suit brought by Mr. Fisk against this company in 1869?—A. No, sir; I never had any interest until this time I speak of.

Q. Did you know that that suit was brought?—A. Only from the newspapers.

Q. Did you know it from any conversation whatever from Mr. Fisk?—A. No, sir; I had all the business I could attend to myself, and I did not know about that.

Q. Had you any contingent interest in any possible subscription made by him for stock of the Union Pacific?—A. Not a dollar.

Q. Do you know who his lawyers were in that suit?—A. I think David Dudley Field was one of them. I do not know who else.

Q. Did the same lawyers who acted for him in 1869 and 1870 act for you at all in any matters?—A. Mr. Field has acted for me more or less. At one time he was my personal counsel; for some little time.

NOT CONNECTED WITH PROCUREMENT OF INJUNCTION AGAINST
UNION PACIFIC.

Q. Were you personally present at any of the transactions that took place in which the Union Pacific was interested—I mean the transactions that led to the issue of the injunction, or to the examination of their safe?—A. No, sir.

Mr. JOHN F. DILLON. What year was that?

Commissioner ANDERSON. 1869 or 1870.

Mr. JOHN PONDIE. 1869.

The WITNESS. I knew nothing about the property until 1873.

Q. You knew nothing about any claims made by Mr. Fisk, or his adherents, in any way?—A. No, sir.

Q. So that I understand you to deny emphatically any connection, directly or indirectly, with that suit?—A. Yes, sir; emphatically.

Q. After 1875 when was it that you first had any interest in the Kansas Pacific?—A. I think it must have been in 1878, perhaps, that I first began to take an interest in that property.

Q. You knew the Kansas Pacific road, and where it was located, as early as 1873 and 1874, I presume?—A. Yes, sir.

Q. But you say you were not a holder of any of its stock or bonds before some period later?—A. I think not before about 1878.

Q. Do you recall the suggestion of consolidation between the Kansas Pacific and the Union Pacific, with which you were credited, as early as 1875?—A. No, sir.

Q. Do you recollect seeing nothing of that character alluded to as early as 1875 in the public press generally?—A. No, sir. Oh, there may have been in the press; I cannot remember what went floating along in the newspapers.

Q. Did you know Mr. Thomas A. Scott at that time, in 1875?—A. Yes.

Q. Do you remember meeting him and discussing the subject of a possible consolidation of the Kansas Pacific and the Union Pacific as

early as 1875?—A. No, sir; I never had any conversation with Thomas L. Scott about the Union Pacific or the Kansas Pacific.

Q. At the Continental Hotel, in Philadelphia?—A. No, sir.

THE COLORADO CENTRAL.

Q. Do you remember, in connection with the Kansas Pacific, as early as 1875, an agreement looking to the unity of operations between the Kansas Pacific and the Colorado Central, which was its rival, or a rival of the Denver Pacific end?

The WITNESS. In 1875?

Commissioner ANDERSON. Yes.

A. Nothing occurs to me at the moment. They were not rivals at that time. The Colorado Central tapped the mines up in the mountains, and the Denver Pacific ran from Denver north to Cheyenne under the mountains, and had no mineral business. The Colorado Central at that time was purely a mineral road.

Q. Between what points did the Colorado Central run?—A. The Colorado Central ran from Denver through Golden to Georgetown, with a branch running up to another mining town, 3 or 4 miles off.

Q. Had it a connection with the Union Pacific?—A. It was owned by the Union Pacific. It had a connection, I think, over the Denver Pacific.

Q. To what?—A. To the Union Pacific. It used that as an outlet.

Q. Where did it connect with the Denver Pacific—at Denver?—A. At Cheyenne.

Q. Cheyenne is also the connection of the Union Pacific?—A. Cheyenne is where the Denver Pacific and Union Pacific connect, and the Denver Pacific was the link between the Colorado Central and Denver.

Q. The Denver Pacific was the link between Cheyenne and Denver?—A. Yes, sir.

Q. Between the Kansas Pacific and the Union Pacific?—A. Yes, sir. If you are not familiar with it, I have a little map here that I can show you.

Commissioner ANDERSON. We will look at the map with pleasure.

The WITNESS (describing). *This is the Denver Pacific from there to here. The Colorado Central ran up here. There is Georgetown.*

Q. What is this road?—A. That is a road we built out, because the Denver Pacific made such an extortionate charge. We built a branch down there to connect with the Colorado Central. Afterwards we built this out.

Q. When was the branch you refer to built by you to connect Cheyenne with the Colorado Central? In what year was that?—A. I am not a very good hand at dates. I could not say the precise date without refreshing my memory. This little green line was the Colorado Central, as the Union Pacific first bought it. It ran from Denver up *there* and out *here*, and they had to get out over the Denver Pacific, and the Denver Pacific charged so high a rate that we built that line up through *there* [connecting with the Union Pacific].

By Commissioner LITTLER:

Q. How long is that?—A. About 100 miles.

AGREEMENT BETWEEN UNION PACIFIC AND KANSAS PACIFIC.

By Commissioner ANDERSON:

Q. Do you not remember that there was an agreement made between

the Union Pacific and the Kansas Pacific, dated New York, April 22, 1875, whereby the capital of the Kansas Pacific Railroad Company was to be increased at \$25,000,000, and \$5,000,000 of bonds were authorized to be issued?—Do you recall this extract from that agreement:

Of the said consolidated capital stock \$10,000,000 per shall be loaned to parties to be designated by the Union Pacific Railroad Company, and thereupon all outstanding shares of the stock of the Colorado Central shall be surrendered and canceled, and the residue of said consolidated stock shall be loaned to the Kansas Pacific Railroad Company, partly hence, to be distributed in exchange among its stockholders?

A. It seems to me, now that you recall it, there was something of that kind, but never carried out.

Q. Never consummated?—A. Never consummated. I had forgotten all about it.

Q. Then, as early as 1875, these relations between the Kansas Pacific and the Union Pacific had been the subject of discussion between you and other parties interested in the roads?—A. Yes, sir; the relations had. They were trying to force a low rate through from Cheyenne to Ogden.

Q. The Kansas Pacific people were?—A. Yes, sir; and of course we were fighting to protect the Union Pacific, and this negotiation to which you refer, I think, is one that would have, perhaps, given the Union Pacific a majority of the whole stock; but I have forgotten now about it; I have got so many things to think of.

Q. Nothing came of it?—A. Nothing came of that.

Q. Do you remember now seeing Mr. Thomas A. Scott in connection with it?—A. Possibly I did. The Saint Louis people had a great deal of confidence in him. I think very likely I might have seen him in connection with it.

Q. The Saint Louis people were the Kansas Pacific people?—A. Yes, sir; at that time.

Q. Can you not tell us when it was that this Colorado branch of yours was built a little nearer than you have? Was it not before the making of the Kansas pool, to which you subsequently became a party, in April, 1878?—A. It might have been. In 1878?

Commissioner ANDERSON. Yes, sir.

The WITNESS. Oh, yes; it was built before 1878.

Q. Was it not built as early as 1876?—A. I think not.

Q. Was that construction a part of this contest that was going on between the Union Pacific and the Kansas Pacific?—A. Yes, sir. You might say, in one sense, that it was a part of the contest, and in another sense that it was the movement of the Union Pacific people to protect their interests in Colorado.

Q. What was the effect of the construction of the Colorado branch, as you constructed it, on the Denver Pacific?—A. I do not know; I should think it did not help them any. But whether the business grew up so that their gross earnings were not very badly affected, I do not know.

Q. Do you know whether there was competition of rates between Denver and Cheyenne—between these two roads, the Denver Pacific and the Colorado?—A. I know that the Union Pacific put their business, as far as they could, on their own road. The statistics of the earnings of the road will show; I have not those at hand.

Q. Do you recollect a proposition that was made and signed by a number of persons interested in this business, as early as April, 1875, whereby the Union Pacific Railroad Company were to agree to abandon to the Kansas Pacific Railroad Company all the local traffic in Colorado,

of the Kansas Pacific Railroad Company were to abandon to the Union Pacific Railroad Company all claims to prorate on the traffic west of Leavenworth?—A. I have an indistinct recollection of something of that kind.

Q. That a discussion of that kind did come up?—A. Yes.

Q. You say that you do not remember owning any of the securities of the Kansas Pacific prior to 1878; is that correct?—A. I think so.

Q. My question embraces stock of the Kansas Pacific, bonds of the Kansas Pacific, including all their various issues, bonds of the Denver Pacific, and stock of the Denver Pacific. Do you remember owning one of these before the 1st of January, 1878?—A. My recollection is that I commenced to get an interest in 1878; I may have possibly lent them some money before that on some securities.

Q. Did your interest in the Union Pacific which, in 1873, you say was about 100,000 shares, vary very much during these years, from 1873 to 1878?—A. Yes, sir; I increased it.

Q. Can you tell us about what your interest was at the beginning of 1878 in the Union Pacific stock?—A. I should think about 200,000 shares.

Q. The total issue being 360,000?—A. 370,000 shares; about \$37,000,000, I think.

Mr. JOHN F. DILLON. \$36,000,000 and a fraction.

Q. During these same years, can you name to me some of the other large stockholders in the Union Pacific, between 1874 and 1878?—A. Oliver Ames and Sidney Dillon were the two largest ones.

Q. Besides yourself?—A. Besides myself.

Q. Do you keep books of your transactions?—A. Yes, sir.

Q. Have you a book-keeper?—A. Yes, sir.

Q. What was the name of your book-keeper between these years, from 1875 to 1880?—A. Mr. Morosini; no, I do not know whether Mr. Morosini was in as early as that or not.

Q. Who preceded Mr. Morosini?—A. I think before that I did not keep any books; I relied on my broker's account; I did not keep them myself.

Q. When did Mr. Morosini begin keeping your books? I mean merely whether it was before 1878?—A. It was before that; yes, sir; but I did not fix the time.

Q. Have you those books?—A. Yes, sir.

Q. Are they at the service of this Commission, if we desire them?—A. Yes, sir; with the greatest of pleasure.

Q. I show you an agreement entered into on the 24th of April, 1878; will you please run your eye over it and see if you recognize it [handing to witness the agreement known as the "Kansas Pacific Pool Agreement"]?—A. I presume I signed this; I see my name there.

Q. You recall the fact that there was an agreement of that character?—A. I recall it now, although I must say I had entirely forgotten it.

Q. Now that you see it, you recollect it?—A. Yes, sir.

SECURITIES OF THE KANSAS PACIFIC.

Q. What securities of the Kansas Pacific did you sign for?—A. I signed for \$694,000 of the funding bonds; \$47,050 of unstamped incomes; \$2,143,700 of the stamped incomes; \$160,000 of the second land grants.

Commissioner ANDERSON. The other figures are the results carried out?

Mr. HOLMES. Yes, sir.

Q. Then your largest interest there is represented by something over \$2,000,000 of the stamped incomes? How long before signing that agreement had you acquired that interest?—A. I do not know; I will ascertain that.

Q. Do you remember whether those bonds were all bought by you in a few transactions and in large blocks, or bought in numerous transactions of small amounts?—A. I do not remember; I prefer to give you that account.

Q. Do you remember the price paid by you for these income bonds?—A. No; I do not.

Q. At what price are they entered in the funding agreement?—A. They are entered at 30.

Q. Do you remember the fact that they were entered in that agreement at a much higher price than the price paid by you?—A. No; I do not; I presume they were, though.

Q. Do you remember they were at a higher price?—A. I presume they were; but I do not remember the fact.

Q. Are you not quite positive that they were considerably higher than what you paid for them?—A. I presume so.

Q. Your books will show exactly what you paid?—A. I will give you the account; certainly; yes, sir. It has been so long ago that I had not charged my mind with it.

Q. Do you know through what brokers' offices these bonds were mostly bought?—A. No; I do not; I do not remember but what I bought them of the Saint Louis people.

Q. Do you know P. J. Goodhart?—A. Yes, sir.

Q. Did he at this time do business for you?—A. No, sir; I may have bought bonds of him. He did not do any business for me.

Q. Was he a broker dealing in this class of securities?—A. I presume he was.

Q. Do you know John Hanna, also a broker?—A. Yes, sir; I knew him.

Q. Did you have dealings in his office, or did he have orders from you to buy securities?—A. He may have had an order from me, or he might have had bonds, and, knowing that I would buy them, brought them to me. I do not remember that I gave him any orders to buy. I might have said that I would take bonds at a certain price. I often did that.

Q. Will your books show who the broker was in these transactions?—A. Oh, yes, sir; certainly; the books will show from whom I bought them.

Q. Do you remember with what persons you conferred in regard to this pooling agreement?—A. I presume the persons whose names are signed there.

Q. Does not the subject-matter of this agreement present itself to your mind quite clearly, now that you have read it over?—A. Yes, sir; that is the basis of the funding of all the innumerable securities into one consolidated bond. That was a preliminary step to putting the property on its feet.

Q. Will you please tell us what difficulties existing between the holders of the different classes of securities had led to negotiations which culminated in this pooling agreement?—A. I am afraid I should have neuralgia worse than I have got it if I undertook to tell you all of them.

Commissioner ANDERSON. We are very patient.

The WITNESS. There was a mass of securities. For instance, the first

miles of the road from Kansas City west was subsidized, so called, on that there were two different first mortgages, I think.

Q. Divisional mortgages?—A. Two divisional first mortgages that reduced the Government lien, and then they had put an income mortgage on that part of the road limited to that 400 miles.

Dr. HOLMES. Three hundred and ninety-four miles.

THE DENVER EXTENSION MORTGAGE.

The WITNESS. Three hundred and ninety-four miles; and then they got on what they called the Denver Extension mortgage, which extended to Denver. It was a first mortgage on that portion, and I think general mortgage on the whole thing. That went to Kansas City, and of course you can see what innumerable accounts would arise to ascertain what was the income of the road. How can you divide it in the middle? It was entirely arbitrary. One book-keeper would say should be divided in one way and another in another way. The income bondholders would claim that the great bulk of the earnings should go towards their account. It led to such inextricable confusion that when I came to go into it I saw that the only way out was to take the whole mass of securities and get them into one party's hands, and encumber the principal down as much as we could, and then make one new mortgage over the whole property that would eventually take in everything. We made it at a lower rate of interest, 6 per cent.

Q. I call your attention to the fact that the consolidated mortgage was not referred to in this agreement, and that it was of subsequent growth.—A. Yes, sir; this was a preliminary step.

Q. What did the agreement contemplate in regard to all these securities except the first mortgage and the Government mortgage?—A. I have not read the details.

Commissioner ANDERSON. I beg of you to read it.

The WITNESS. I know that was the basis of it.

Commissioner ANDERSON. Read the ninth, tenth, and eleventh sections particularly, or read it as much as you desire to get it fully in your mind.

The WITNESS. I think this tells what the objects were. [The witness inspects the document.]

Commissioner ANDERSON. As the Commission read that agreement the first idea was to retire all liens, subsequent to the first mortgage and the Government lien, at a scaled rate, representing what you thought its fair market value was, and then for all the liens so retired, the mortgages so canceled, to substitute an issue of stock?

The WITNESS. Bonds.

Commissioner ANDERSON. An issue of stock, if you will look at section 11, on which certain dividends were to be paid, which could have been paid, because the interest charge would have been largely reduced withdrawing all mortgages on which interest was to be paid, except the first mortgage and the Government mortgage, on which interest was not in fact paid. Please read that last section and see if that was the scheme.

The WITNESS. This seems to be to convert it into stock, instead of bonds.

Commissioner ANDERSON. Then that was the way it first took shape, that the liens should be consolidated or massed together and retired at rates agreed upon in that paper, and then converted into stock?

The WITNESS. Yes, sir. That, I think, was found impracticable.

Q. It was found that the parties would not take stock, and they wanted some form of lien?—A. Yes, sir; and then it was modified by making the consolidated mortgage. I have forgotten it.

Q. Before going to that mortgage, I would like you to tell me with whom you discussed that paper as it was originally drawn.

The WITNESS. This paper?

Commissioner ANDERSON. Yes.

A. I do not know about this paper.

Q. Do you not know what lawyers were connected with the drafting of that?—A. I do not know. I do not think I ever read this paper before. I think I just signed it knowing what the object was.

Q. There is a lawyer whose name appears as one of the parties. Do you not remember seeing him about it at the time?—A. Mr. Holmes, I suppose, can tell you all about this.

Q. What I want to know is whether he derived any portion of his inspiration from you in preparing the articles?—A. I do not know. My plan was the consolidated mortgage. That was the only thing that I ever talked of with parties. I did not think parties would ever surrender their bonds and take stock, although I was willing to fall into anything that the others could carry through.

HOW PRICES WERE FIXED.

Q. You agreed in that paper to accept 30 for the bonds which you placed in that pool, as I notice. Is that not so?—A. Yes, sir.

Q. How was the figure 30 arrived at? You were largely interested in getting a fair price for your property. Why was it 30 rather than 25 or 35?—A. I could not say. I know that I led off, and a good many of the others thought it was too low; they would not come in.

Q. If you led off, do you remember as a fact that when you led off and subscribed for that amount you felt you were going to make a heavy loss, or do you remember no such thing?—A. I do not remember what my feeling was at that time.

Q. As a matter of fact, is it not true that at 30 those bonds would bring you in a great deal more than they would cost you? I mean the bonds for which you subscribed through that agreement.—A. I presume they would.

Q. Is it not true that those rates were fixed at something above the current rates of the securities, and were intended to be a basis on which other persons desiring to unite in the scheme could come in and unite with you?—A. I do not know who fixed that. I do not know how much I had to do with it or how the values came to be fixed.

Q. Had they not some relation to the relative value of the securities?—A. Yes, sir.

Q. Examine the paper and tell me why the stamped bonds are rated at 30 and the unstamped bonds are rated at 50.—A. The unstamped bonds, it is said, had some greater claim, I think; the income bonds, as they were originally issued, had certain liens on the road, and I think those that allowed their bonds to be stamped stamped them to let another bond in ahead. So that the unstamped bonds were considered as having a little better lien than the stamped bonds.

Q. And the stamped bonds were called the subordinated income and the unstamped bonds were called the unsubordinated income?—A. Yes, sir.

Q. If that be so, is it not evident that the values, as stated in the paper before you, had reference to the actual values of the different prop-

erties entered on that that list, and that is the reason why the unstamped bonds are rated at 50 and the stamped bonds at 30?—A. Yes, sir; but this was gotten up to be about as fair a basis, of course, as with our knowledge of the property we could make, if they were going to be all put in together.

Q. And the object was to attract other persons to come into it, too?—A. Yes, sir.

Q. And to make a general reorganization scheme?—A. Yes, sir; that was the idea.

Q. About what percentage of the whole outstanding bonded debt would exist, either in the form of stock or in consolidated bonds if that scheme went through? I think the paper before you tells it. The paper gives you the whole amount of the bonded debt that was to be funded, including the stock.—A. Yes, sir; there were \$17,000,000 to be funded.

Q. The \$17,000,000 were to become what, after funding? Look at the second column.—A. Four million eight hundred and fifty-five thousand dollars.

Commissioner ANDERSON. Mr. Holmes, is that answer correct?

The WITNESS. Four thousand eight hundred and fifty-three shares of stock, it appears to be. I will show you how that came about. These are 100 shares. That would be \$4,855,300 in stock.

Q. So that the effect of your scheme of reorganization would have given you a company with no lien whatever, except the first mortgage of \$6,000,000 up to the 394th mile-post, the other mortgage of \$6,000,000, the Denver extension, and the Government subsidy mortgage, and then the \$4,800,000 of stock; that would have been your company, as reorganized.—A. Apparently.

Q. When was this agreement modified so as to take the shape of a consolidated mortgage instead of a stock consolidation? I call your attention to the fact that the agreement you have before you was dated in April, 1878, and the consolidated mortgage is dated May, 1879.—A. It was between these periods. I think it was very soon demonstrated that this would not carry.

Q. In what way was that demonstrated; by parties objecting to take the stock?—A. I do not think that any one but the insiders seemed to be willing. The outsiders would not do it. It fell through.

Q. You wanted to get the outsiders in?—A. It was necessary to have everybody in to make it go; otherwise, if we canceled a part of the bonds it would only make those that lay back so much the better off.

WHEN CONSOLIDATED MORTGAGE TOOK SHAPE.

Q. Those who declined to come in and retain their lien would have priority over those who had come in and taken stock. Now, when was it that the scheme took the shape of a consolidated mortgage?—A. It was subsequent to this agreement, but I do not remember the date.

Q. Was it before the Saint Louis people were brought out?—A. I do not remember that.

Q. Do you know who drew that mortgage?—A. I think Judge Usher drew that mortgage.

Q. Was Judge Usher in New York or out West?—A. A part of the time out West, and part of the time in New York.

Q. Did you see him at this time and confer with him in regard to the terms of the mortgage?—A. Yes, sir.

Q. Have you any correspondence with Judge Usher that relates to this mortgage?—A. No, I have not.

Q. Have you any letters in a letter-book containing the letters to him, either in the letter-press book of the Union Pacific, or in your own private letter-press book?—A. No, sir; my communication with him was all verbal.

Q. What was the object to be attained by a consolidated mortgage? Was it substantially the same, substituting a mortgage for stock?—A. The object of a consolidated mortgage was to fund all this heterogeneous mass of securities into one uniform security, and at the same time to make a saving in the annual interest charge and also in the principal of the debt.

Q. The essential feature to make this a success was the establishment of a community of rates which should be acceptable to the holders of these various classes of securities?—A. Yes, sir; that is, that they would put them in on this basis.

Q. And the basis must be such as to be reasonable and acceptable to the holders of securities?—A. Yes, sir.

Q. What part did you take in the discussion that led to a settlement of these rates?—A. I must have taken a pretty prominent part in it.

Q. With whom did you discuss the matter?—A. I probably discussed it with Judge Usher. Perhaps with Mr. Holmes.

Q. Did you not also discuss that with the representatives of the various interests?—A. I presume so.

Commissioner ANDERSON. The rates are stated in Article 23 of the mortgage [reading]:

For the Eastern and Mobile division and Denver extension, and the funded interest certificates issued for arrears of interest on the said mortgages as hereinbefore recited, at par.

The WITNESS. Yes, sir.

Q. Do you recollect whether there was any opposition to that on the part of the holders of junior securities?—A. No; I do not see how there could be.

Commissioner ANDERSON. They might have claimed that the holders of the first mortgage must encumber something to them.

The WITNESS. It was not supposed that these bonds would come in any way at the time. It was only a provision that when they did at a future day mature, that we set apart enough of those bonds to take them up.

Commissioner ANDERSON. It was a provision for what you might call reserved seats for those people when they came in.

The WITNESS. Yes, sir; that was it.

Commissioner ANDERSON. The second provision is for the "bonds secured by the funded mortgage at par, for the principal bonds, with all overdue interest warrants annexed, nothing being allowed for the five interest warrants now overdue?"

The WITNESS. Yes, sir; those, I think, were a ten per cent. bond, and they were secured by special securities which made them good. It was very desirable to get those out I think. That is as I remember it now.

Q. Shall I call your attention to that funded mortgage itself?—A. Yes, sir; that would stand.

MEETING OF SECURED SECURITIES IN CONSOLIDATION.

Q. How did this provision come about, that nothing was to be allowed for the five interest warrants then overdue?—A. Well, that was in par-

ance of the policy of making the mortgage as small as possible—the consolidated mortgage. My mark was, I think, to save \$500,000 in the reduced charges in the general scheme; and so we began to cut down. We wanted to set the example ourselves, and so we cut off our own. Those bonds were held by myself and Mr. Ames, largely, I think.

Q. The funding bonds?—A. The funding bonds.

Q. What led to the issue of these funding bonds?—A. I think the Saint Louis people in their effort to carry this load had to indorse largely, and they got up a security that would protect themselves, and they put in all they could in the shape of floating securities, so that in any event they would be good.

Q. The amount of the mortgage was how much?—A. I think it was a million and a half; but I forget.

Q. And the rate of interest?—A. I think it was 10 per cent.

Q. You say that you and Mr. Ames held a number of these bonds?

—A. Yes, sir.

Q. Do you remember what amount you held?—A. I appear to have held \$694,000, and Mr. Ames \$383,000, and Sidney Dillon \$96,000.

Q. What was the date of that mortgage? When had it been made?

—A. I do not remember about that.

Mr. JOHN F. DILLON. The 2nd of October, 1876, recited in the consolidated mortgage.

Q. And this surrender was to be five interest warrants then overdue?

—A. That was the interest accrued up to that time.

Q. The claim for that interest was withdrawn in consideration of your being allowed to convert the funding mortgage at par?—A. Yes, sir; that was the basis of that.

Q. Does your paper give the amount of funding bonds held by the other members of the pool?—A. That is all that are down here.

Q. Then you do not know whether or not Mr. Ames had any bonds of his own?—A. Mr. Ames appears here with \$383,000.

Q. And you appear with how many?—A. I appear with \$694,000.

Q. Making a little over \$1,000,000?—A. A little over \$1,000,000. Mr. Dillon had \$96,000, making a little over \$1,100,000 out of the \$1,500,000.

Q. How did you obtain title to these bonds if they had been issued to the Saint Louis people? This was before the Saint Louis people had been bought out?—A. I do not know whether I bought these bonds of them or whether I loaned them money.

Q. Whether you loaned them money at the time the mortgage was first made.—A. Yes, sir.

Q. What are these securities which you say had been put into this mortgage to make it good?—A. I think there was a large amount of bonds and notes put in.

Q. That is, they were bills receivable for lands sold?—A. Bills receivable for lands. The thing speaks for itself.

Q. The mortgage shows for itself. I merely want to see how much Mr. Gould remembers of it. Do you not remember the fact that the Denver Pacific stock was held by the trustees of this mortgage as one of the securities?—A. I think it was.

Q. Who were the trustees of that mortgage?

The WITNESS. Of the consolidated mortgage?

Commissioner ANDERSON. No; of the funding mortgage.—A. I do not remember.

Commissioner ANDERSON. Do you know, Mr. Holmes?

Mr. HOLMES. Burnham & Lewis.

Mr. JOHN F. DILLON. I think it is recited there.

Q. The next provision as to the rates is the third:

For Leavenworth Branch bonds and unstamped income bonds and Leavenworth Branch funded interest certificates, at 50 cents on the dollar; that is, one of the consolidated first-mortgage bonds for two of such bonds, of equal amount, with all overdue coupons annexed, but nothing being allowed for any arrears of interest to the date.

Q. Do you remember that provision?—A. I presume so.

Q. With whom did you confer in regard to the establishment of that rate as to unstamped income bonds?—A. I do not remember.

Q. Had you any specific interest in the unstamped income bonds yourself?—A. Yes, sir; I had a small amount of them, forty-seven thousand and fifty, according to this paper.

Q. How much of the income bonds issued remained unstamped?—A. A minority interest. I do not remember the amount.

Q. Do you remember the names of any of the prominent holders?—A. I do not think the company knew, really; it had been pretty loosely done; I do not remember the names of any of them.

Q. What ground had you for assuming that those holders would accept the rate of 50 cents on the dollar?—A. We had not asked.

THEORY OF THE CONSOLIDATION.

Q. Was it not something more than a mere effort at a guess?—A. No; my theory was that this new mortgage would very soon assume a pretty high plane; that it would be a complete mortgage on the entire property, and that holders of these underlying securities would rather surrender their bonds and take a complete security; that is what I relied upon. That is, making the new securities more attractive than the other.

Q. Were you not guided in fixing that at 50 per cent. by the market price of the stamped income bonds, in some respects?—A. No, sir; I do not think so. I do not think there was much market price about it; I guess they were all pretty well tied up here.

Q. The fourth clause is as follows:

For the stamped income bonds, with all past due coupons annexed, 30 cents on the dollar for the principal of said bonds; that is, three of the consolidated first-mortgage bonds for ten of the stamped income bonds.

How did that provision come about?—A. That was arrived at in the same way that the general basis was.

Q. Why was it only 30 for these bonds, and 50 for the prior class?—A. I do not know.

Q. It was because they had been subordinated, was it not, to another mortgage?—A. Yes, sir; they had been subordinated, and they were fixed here, I think, in this scheme at 30 cents.

Q. They were so fixed because they were considered of less value than the others?—A. Yes, sir.

Q. Did you confer with any of the large holders of the subordinated income bonds, so as to arrive at this figure of 30?—A. I only knew those that signed here.

Q. You yourself had signed for over \$2,000,000, had you not?—A. Yes, sir; I did not know any of those, excepting as to that.

Q. Did you confer with yourself about it?—A. Yes, sir; I conferred with myself.

Q. And you thought that was a fair price?—A. Well; I thought, if it was a fair thing for me, it would be for others.

Q. Is that the price which you took for your bonds which were in the pooling agreement?—A. Yes, sir.

Q. Thirty cents?—A. Yes, sir.

Q. For all of the \$2,000,000?—A. Yes, sir.

Q. Who managed the business of this pool? I mean as to the figures, and who kept the securities?—A. I do not remember.

Q. To whom did you deliver your \$2,000,000 of bonds?

The WITNESS. That is, when I got the consolidated, the new bonds?

Commissioner ANDERSON. No; when you put them in the pool. The executive committee named in that agreement have stated that all those securities were delivered to them for safe-keeping.

A. I must have delivered mine to them; yes, sir.

Q. You would not deliver \$2,000,000 of bonds to any person unless you had full confidence in him, would you?—A. There were trustees appointed.

Q. Do you not remember who were the persons who acted in that capacity?—A. I think Mr. Villard, and—

Mr. HOLMES. Dillon and Sage.

Q. The names are given in the paper?—A. Yes, sir; the names speak for themselves.

Q. Is it your recollection that you delivered up your securities to that committee?—A. I do not know whether I did or not. Of course I knew if I signed I had to deliver them, but whether I actually delivered them I do not remember.

Q. Do you remember how the interests of the different parties to that agreement were kept?—A. No, I do not.

Q. How would you know how many bonds you were entitled to receive when the consolidation came to be made effective?

The WITNESS. Would not this paper show that?

Commissioner ANDERSON. It would if the accounts were kept properly. That paper simply shows the number of shares of stock which you would be entitled to on the theory of stock issue.

A. I thought the consolidated bonds were made up on the basis of these bonds.

Q. Do you mean that the commutation rates stated in the consolidation agreement are the same as those stated in the pooling agreement? It might be so; I have not compared it.—A. That is my recollection.

Commissioner LITTLER. How is that?

Mr. HOLMES. Only to some extent.

Mr. JOHN F. DILLON. I did not frame that.

The WITNESS. I know that we had cut and tried with this and had probably to modify it a little. Our experience had shown us that this would not go through, and then we had to try another thing, and we tried the consolidated plan.

Q. If there was a modification of those terms made, you could not rely on that agreement to determine how many consolidated bonds you were to get; and I ask you to state, from your memory, how it was that you found out how many bonds you were entitled to get.—A. I must have found that out from the books. I have got an account of all this transaction, which I said I would be very glad to furnish you, but I do not charge my memory. I am in so many things, and I do not like to speak, because something might come up that would refresh my memory, but my books are at your service.

Q. Do I understand that your books contain a complete account of

the pool transactions, or only of your own?—A. Only of my own, probably.

Q. Do you remember whether that account was kept by Mr. Morosini?—A. I think he kept it; yes, sir.

Q. Do you remember that under the pooling transaction you received what were called reorganization certificates, issued by Mr. Ham?—A. I do not remember it. I presume he did issue them.

Q. Mr. Ham has stated that the interests of the parties were computed on the basis of the pool, and that he kept a certificate book and issued to the different parties certificates for the amount of dollars that their different interests showed them to be entitled to in the reorganization scheme. Do you remember having such a certificate?—A. I do not know; Mr. Morosini would know. I left all those matters to him.

Q. Where would that certificate be, if you ever had one?—A. I presume it would be surrendered and canceled, with Mr. Ham.

Q. Surrendered and canceled for the bonds?—A. For the bonds. I think, now that you speak of it, there was some sort of a preliminary certificate issued, but I do not remember the form of it, or what became of it.

KANSAS PACIFIC STOCK.

Q. Confining my questions entirely to Kansas Pacific stock, we are informed that after the agreement was made there was an agreement made by which the stock of the Kansas Pacific was withdrawn from that pool and that you, either individually or in connection with others, took up or withdrew all the stock that was in that pool, this occurring after the Saint Louis parties had been bought out. Do you remember that transaction?—A. I remember that after we had made the consolidated mortgage, in which we put in all these bonds, then there was nothing left but the stock, and that, of course, was divided by the actual parties that owned it.

Q. How was it divided?—A. To the owners, I think.

Q. Who were those owners?—A. I was a respectable owner myself. Commissioner ANDERSON. I have no doubt of it.

The WITNESS. But who all the others were I do not know. I can't tell you how much I had.

Q. We will go back a little, then, to the purchase of the Saint Louis interest. Do you remember buying out the Saint Louis people?—A. Some of them.

Q. All of those whose names are before you on that agreement?—A. I do not know whether I bought them all out or not.

Commissioner ANDERSON. Look at the names.

The WITNESS. I think Mr. Greeley staid in, but I bought some of these I see here. Whether I bought all they had I do not know; but my books ought to show.

Q. State the names of the parties whom you bought out.—A. I should say Mr. Perry, Mr. Carr, Mr. Meier, Mr. Lewis, and perhaps Mr. Edgerton. I bought some of them, and perhaps all.

Q. What was it you bought from them?—A. I bought their stock, I think. I do not know but I bought their general interest.

Q. All their interest that appears on that paper?—A. I think I did; yes, sir.

Q. Is that entered on your books so that we can see?—A. I think so.

Q. Do you remember what you paid, as the gross price, to the Saint Louis people?—A. It seems to me I paid these prices, but I am not sure.

Q. Was it \$1,200,000?

he WITNESS. That I paid them altogether?

Commissioner ANDERSON. Yes.

. It may have been.

. Mr. Sage has stated to us that he took a one-sixth interest in that phase. Do you remember that fact?—A. I know he took an interest

. He says it was one-sixth, and that he paid you \$200,000, in his statement as furnished to us. Does that agree with your recollection?—A. I do not know; I will give you the account itself; that will give the exact figures.

Commissioner ANDERSON. I show you the entry in the account as it was stated to us. Please see if the securities mentioned there, and the amount of the respective securities, and the price and period agree with your recollection. The 18th of March, 1879, is the date.

he WITNESS. You refer to *these* three items?

Commissioner ANDERSON. Yes; his statement is that that represents twelfths of the Saint Louis purchase which he took from you.

he WITNESS. Yes, sir; I presume that is true, of course.

. What is the meaning of the third of those items? What is it?

. That item is as to the reorganization certificates. That would be valued to \$200,000 of the consolidated bonds, I suppose.

. Then the reorganization certificates are these same certificates I was inquiring about a while ago?—A. I should say so.

. They are those which Mr. Ham referred to?—I should say so.

. Do you remember whether this sale of a one-sixth interest to Mr. Ham was made by you to him at the same price which you paid to the Saint Louis people?—A. Yes, sir; the same price.

. So that we may assume, then, that the total purchase made by you from the Saint Louis people was six times the amount stated here as six times the amount of these securities? That is, six times \$29,000 mortgage bonds of the Denver Extension; six times 7,185 shares of stock and six times \$200,000 of the reorganization certificates, and that the price you paid for them was six times \$200,000?—A. We will assume that, provided I sold him just one-sixth. I think that I must have my books a statement that will give it to you more in detail. I do not understand that, and I would rather not talk by somebody else's statement [referring to the account submitted by Mr. Sage].

. We will accept the corrections from your books. Did any one else, except Mr. Sage, take a part in this purchase from the Saint Louis people?—A. I do not know whether Mr. Ames took some and Mr. Dillon did also, or not. I tried to get Commodore Garrison in, and some others that we thought would help the property, but they did not succeed in the case of Commodore Garrison. I do not know whether Mr. Ames or Mr. Dillon took some or not; I offered it around to them.

. You took this all, in the first instance, and then suggested to these gentlemen that it would be desirable for them to unite with you?—A. Yes, sir.

. Who conducted this negotiation with the Saint Louis people?—A. I think I must have done so.

. Which of the Saint Louis people did you see?—A. I think they came on here and saw me. They were dissatisfied, and kind of tired, and wanted to sell, and they made a proposition, and I accepted it, according to my own views of the values. I told them they might put in as much or as little as they pleased, or I would take it all. Whether they took it all in I could not say.

. You have stated before that you thought that the price was reached

by following the terms stated in the pool agreement; but, as you will see, in the body of the reorganization certificates themselves, you cannot effect that computation, unless you regard the shares of stock as thrown in, without charge, or else, perhaps, the shares had been taken out before?—A. I presume the reorganization certificates carried a certain amount of stock and a certain amount of bonds with them. They must have done that.

REORGANIZATION CERTIFICATES.

Commissioner ANDERSON. Not if they are made on the basis of the paper before you.

The WITNESS. If they were made on the basis of this paper, a reorganization certificate would carry these bonds and this stock, and a reorganization certificate would be issued in accordance with this price.

Commissioner ANDERSON. The reorganization certificate would include the value of the stock and the value of the bonds?

A. Yes, sir.

Q. And therefore, in buying the reorganization certificate, it would really include everything except the first-mortgage bonds, and there would be no stock to sell? It would be included in the certificate, unless the stock had been taken out of the pool before the date of this purchase?

The WITNESS. I could not say as to that.

Commissioner ANDERSON. Mr. Holmes, if you can give any information on this point we would be glad to hear you.

Mr. HOLMES. I think Mr. Sage made his entry in that way for the purpose of indicating what was represented by the certificates which were bought from the Saint Louis people, and that there really is a dual entry there, the same transaction being entered twice, the stock being included in the two hundred thousand. Mr. Gould says his books will show, and I think it is much safer to rely upon his entries in that matter than those.

The WITNESS. There ought to be some books. Somebody must have kept the accounts.

Commissioner ANDERSON. The object of the question is to ascertain from you, substantially, in this transaction, the price which you paid for those 42,000 shares of stock. We understand you to say that it was 12½ cents, as far as your recollection goes; that is, that it was at the same price contained in the agreement.

The WITNESS. Well, I just had that general impression—that they came on and said they would like to sell out, and I asked them what they thought they ought to have. Well, they said they thought they ought to have these prices. I said, "Very well; I take it." That is all. That is the impression I have. My books may carry out something different.

REORGANIZATION BONDS.

Q. Mr. Sage's account contains the entry of another transaction with you in the month following. It states that you sold him \$14,000 of bonds—I presume Denver Extension bonds—3,592 shares of stock, and \$100,000 of what he calls reorganization bonds, for \$100,363.89, the \$363.89 being interest. Will you please look at that entry and state what those securities were? I may as well say he described it as a purchase made by you when you were abroad, and that he had agreed to take some shares of you.—A. I think I bought nothing abroad. The

only thing I bought abroad was the Denver Pacific bonds from the Amsterdam people. I do not know but he placed some of those with Mr. Perkins at the bank. I do not know about that.

Q. You do not recognize that transaction?—A. No, sir.

Q. What are referred to by "reorganization bonds"?—A. I do not know. I should suppose he meant consolidated bonds.

Mr. HOLMES. It was before they were issued; before the date of the bonds.

Mr. JOHN F. DILLON. It may have been the certificates.

Mr. HOLMES. The pool certificates, I think he meant.

Commissioner ANDERSON. It may have been certificates which entitled the holder to consolidated bonds.

The WITNESS. Which entitled them to the bonds. I will try to enlighten you on that.

Q. You do not recall, then, any other purchase of a large amount of stock, in one lump, of the Kansas stock, except this purchase from the Saint Louis people?—A. No, sir.

Q. Do your books show the different purchases of this Kansas Pacific stock made by you, between the 1st of January, 1878, and the 24th of January, 1880?—A. I think so.

Q. Have you a transcript of that account with you?—A. No; not of that account; I will have that made; I will give Mr. Mink access to the books, and I think he can draw it off.

Q. How much of the Kansas Pacific stock did you accumulate during that period, or how much did you own, we will say in December 1879?—A. I think I owned about \$4,000,000 of it.

Q. Forty thousand shares?—A. It would be 80,000 shares; 40,000 full shares.

Q. Does the amount for which you signed the articles of ratification indicate correctly your ownership, prior to the consolidation?—A. I do not know what I signed for.

Commissioner ANDERSON. Judge Dillon will show you.

The WITNESS (after looking at a pamphlet which Mr. Dillon handed to him). I can tell you just what I owned; I drew that off, thinking you would want to know that; that is what I owned of the two stocks at the time of the consolidation [handing paper to Commissioner Anderson].

Q. Forty thousand three hundred shares of the Kansas Pacific; that is, full shares, as I understand?—A. Yes, sir; I owned 27,000 shares of Union Pacific, and 40,300 full shares of the Kansas Pacific.

Mr. JOHN F. DILLON. Those were \$50 shares.

The WITNESS. The Union Pacific was 93 $\frac{1}{2}$, and the Kansas Pacific 88.

Q. How long had you owned that Kansas Pacific stock, or the bulk of it?—A. I got it through these purchases.

Q. How much of it did you get in the Saint Louis purchase?—A. I do not know; I will give you that account; I cannot speak from memory.

Q. Your books will then show all the purchases and the prices paid, and the brokers' offices through which the purchases were made?—A. Yes, sir; they should show that, and I presume they do.

Q. In regard to your interest in stamped income bonds: When did you first commence to purchase these bonds? I see that was prior to the agreement of 1878.—A. Yes, sir.

Q. Do you recall how you came to interest yourself in those bonds?—A. No; I gradually began to take an interest in the property.

Q. Did you not buy those stamped bonds as low as 10 cents on the dollar?—A. I presume so; but I do not remember.

CONDITION OF KANSAS PACIFIC WHEN BOUGHT BY WITNESS.

Q. When you made that purchase, what was the condition of the Kansas Pacific property, generally—I mean its financial condition?—A. The general condition was bad; it had been badly financed; and, while it was an immensely valuable property intrinsically, it had been so badly managed that it got clear down in the rut.

Q. Everything was overdue, was it not?—A. I do not know about its being overdue.

Q. Were not all the mortgages in default when you first began to buy the stamped incomes?—A. I think they paid the interest on the first underlying bonds; but I will not be sure about that.

Q. Were they paying the interest on the Denver Extension bonds?—A. I will not be sure about that.

Q. Do you not know that those bonds were in foreclosure?—A. I think they did commence to foreclose, and we funded the interest afterwards.

Q. Do you recall the total amount that represented the arrears of interest that finally became funded?—A. No; I do not.

Q. Do you not know that it was over \$4,000,000?—A. I presume so.

Q. What was the credit of the road at this time, when you first began to buy the stamped incomes?—A. The credit was poor, of course, or the bonds would not be selling at those prices.

Q. Do you remember what security the stamped income bonds had?—A. It was a mortgage on the Eastern Division of the road.

Q. Payable out of the net income on certain conditions stated in the mortgage?—A. Yes, sir.

Q. Why did you prefer to buy that class of bonds, rather than any of the others?—A. I do not know.

Q. Was it not, perhaps, because they were very low, or cheap?—A. Probably they were the lowest.

Q. Is it not likely that they were offered to you in a large parcel?—A. I had a larger percentage of those funding bonds, or as large; I think there was about \$4,000,000 of the incomes. I had a majority of those, and then I had a larger percentage of the funding bonds; I suppose the reason that I bought those bonds was probably that they were a lien on the eastern portion of the road, and that was the most valuable at that time. They had an asserted lien west, but I never considered that that amounted to anything; the income bonds would run out to the 394th mile, and covered that road; but, to a certain extent, that was the key to the reorganization.

Q. Did you buy any more of these bonds after the pool agreement was made?—A. I do not believe I did, except as I might have bought them of these parties.

Q. Who else held the stamped income bonds besides yourself in that pool?—A. Mr. Greeley had \$52,000; John D. Perry, \$12,000; Robert E. Carr, \$6,000; B. W. Lewis, jr., \$6,000, and Artemas H. Holmes, \$5,500.

Q. Which of those bonds did you buy from the Saint Louis party?—A. I do not remember.

Q. Did you or did you not buy Mr. Holmes out?—A. I do not remember. I might have.

Q. I thought he staid in?—A. I do not know. I might have bought them through a broker and not have known it.

Q. Did you buy any of these bonds from parties residing in Europe?—A. No, sir; unless they sold them through brokers here, and I did not know it.

NEGOTIATIONS WITH AMSTERDAM PEOPLE.

Q. But you had no direct negotiation through people in Frankfort, people abroad?—A. Yes, sir; I had negotiations with some Amsterdam people. When I was in Europe, I got word that the Amsterdam people would sell out. I had not much time, but I thought I would go Amsterdam, and I supposed they would take a day or two smoking before they would make up their minds whether they would sell or not, and it would take more time than I had. Finally, I went over there and saw them. I got in there in the morning at 10 o'clock, and washed and got my breakfast, and let them know that I was there, and they met me at 11 o'clock, and 12 o'clock I bought them out and paid them.

Q. What was it that you bought from them?—A. I bought, I think, \$1,000,000 of Denver Pacific bonds, \$1,500,000 or \$2,000,000 of them.

Q. What month was this in?—A. It must have been in 1879; I went road in June, and perhaps it was in July or August, 1879.

Q. Do your books show that transaction?—A. I think so.

Q. Did they have any of the Kansas Pacific stock?—A. I think not, they just had these bonds.

Q. Are these Denver Pacific bonds the same thing that were called Denver Pacific Extension bonds?—A. No; the Denver Pacific mortgage is a mortgage on the road from Cheyenne to Denver.

Commissioner ANDERSON. There was but one mortgage on the road, I remember right, between Denver and Cheyenne.

The WITNESS. That was all.

Commissioner ANDERSON. That was about \$2,500,000?

The WITNESS. Yes, sir.

Q. Were these Denver Pacific bonds included in the exchange made consolidated bonds?—A. Yes, sir; they were exchanged.

Q. Do you remember the rate paid by you for the \$2,000,000 of them you bought in Amsterdam?—A. I think I paid 80 for them.

By Commissioner LITTLER:

Q. How much?—A. Eighty, I think, or about that.

By Commissioner ANDERSON:

Q. Who was interested in this purchase with you, or became interested afterwards?—A. I do not know that anybody was.

Q. Did you not sell a portion of these bonds to Mr. Sage afterwards?—A. I do not know but I did.

Q. Do you remember selling him \$353,000 of them on the 9th of September, at 74?—A. Perhaps so. Then that was the price I paid for them.

Q. If that is the price Mr. Sage got them at, that is the same price that you paid?—A. That is the same price, and I must have let him have some. Yes, sir; 74.

Q. Did these Amsterdam people have any of the Denver Pacific stock?—A. No, sir.

Q. So that the transaction there simply embraced about \$2,000,000 those bonds?—A. Yes, sir.

Q. Which you bought at about 74, or whatever price your books will show?—A. Yes, sir; there was \$4,000,000 of the Denver Pacific stock, \$3,000,000 was owned by the Kansas Pacific, and the other \$1,000,000 was owned.

Q. Can you state to us what your interest was in the bonds of the Kansas Pacific at the time of the consolidation, stating it either in the

original purchase, or stamped or unstamped bonds, and the others; or stating it in the consolidated bonds into which they had been converted?—A. I think, at the date of the consolidation, all this funding had been consummated, and that my interest represented so many consolidated bonds.

Q. State it first in consolidated bonds. What was your interest in the consolidated bonds?—A. I will give you the exact figures; but I have not got them with me.

Q. That interest had grown out of an exchange of the stamped bonds, and these Denver Pacific bonds. Were there any others?—A. All my interests that went in under the funding bonds.

Q. All those had been exchanged for consolidated bonds?—A. Yes, sir.

INTEREST IN KANSAS PACIFIC, AND SAINT JOSEPH AND WESTERN.

Q. And your interest in the Kansas Pacific, at the time of the consolidation, was represented by the 80,000 shares of half stock, and by the bonds to which I have referred?—A. Yes, sir, of which I will give the amount.

Q. At this time—I refer now to the years 1878 and 1879—in what other roads connecting with either the Kansas Pacific or the Union Pacific had you any interest?—A. I had an interest first in the Saint Joseph and Western road, which runs from Saint Joseph to Grand Island.

Q. Now?—A. Yes, sir; we found that the roads running east from Omaha were combining together to force the Union Pacific to pro rate. You see this thousand miles was really called 2,000 miles; and it was a vital thing to the Union Pacific to sustain itself. The Iowa roads combined to force the Union Pacific to pro rate, and they would have done it if we had not got another outlet, so that we hit the Hannibal and Saint Joseph and the Wabash—these Southern roads. That was why the Saint Joseph was important to the Union Pacific. I bought into these bonds, and then I built the road from Grand Island down.

Q. Let us know about your first purchases, when they first took place.—A. I have got an account, I guess, which will show you that.

MR. JOHN F. DILLON. That is it. Saint Joseph and Denver City, it is called.

THE WITNESS. Yes, sir; I think this embraces it. And there are the Saint Joseph bridge bonds and stock.

Commissioner ANDERSON. We will take the Saint Joseph and Denver first.

THE WITNESS. There are the receiver's certificates. Those papers that we are giving you now embrace the whole of that system. There was, first, the bridge, and then there were two divisions of that road, and then there was the road I built there. That embraces the whole thing.

Q. I will ask you the details. The first paper you hand me is headed "Saint Joseph and Denver Railroad first mortgage bonds." Do I understand by that that you refer to bonds on the Saint Joseph and Denver, which was the portion of the railroad in question between Elwood and Marysville?—A. I think I treat them there without separating them. I guess I treated it all here as the same thing—the Eastern and Western Divisions.

Q. Saint Joseph and Denver, then, is the whole road from Elwood to Hastings?—A. Yes, sir.

Q. Of which the Saint Joseph and Pacific was the Eastern Division?

A. Yes, sir.

Q. And the Kansas and Nebraska was the Western Division?—**A.** Yes, sir.

Mr. JOHN F. DILLON. I will tell you how it comes about: It was known here by Mr. Hassler that in 1877 they consolidated and became the Saint Joseph and Western. So that it was the Saint Joseph and Western. The Saint Joseph and Denver was the original name, and they got it mixed.

Q. Do I understand you to say that you had no transactions in these bonds prior to January 14, 1879?—**A.** That is the first, I think. Yes, sir, *this* represents the parties I bought them of, and *that* is the amount, and *this* is the price.

Q. My question is whether you had had any transactions prior to January 14, 1879?—**A.** No, I think not—no, that embraces all my transactions in those securities.

Q. From what book is this statement taken?—**A.** Taken from my journal.

Q. By whom was it taken?—**A.** By Mr. Mink, or my book-keeper—Mr. Philips, my book-keeper.

Q. Was it done to-day?—**A.** I gave Mr. Mink and Mr. Philips my notes yesterday, and they did it yesterday. You supervised it, did you not, Mr. Mink?

Mr. MINK. I supervised it.

Commissioner ANDERSON. So that the total amount of this purchase between January 14, 1879, and November 3, 1879, is \$1,562,886.98.

The WITNESS. Those were sold out.

Q. Yes, sir; and I will come to this in a minute. They were bought at 40, with the exception of two transactions of small amounts, which appear to have been bought at 35 and 37½, and the total cost of the bonds was \$603,204.78. Is that correct?—**A.** Yes, sir; that is a correct account.

Commissioner LITTLE. I suggest that the whole account be put in the record.

Commissioner ANDERSON. Undoubtedly, it should go in.

The following is a copy of the accounts presented by the witness:

Saint Joseph and Denver Railroad first-mortgage bonds.

Bought of		Bonds.	
179.			
a.	14. Alfred Mitchell.....	\$13,500 00, at 40.....	\$5,400 00
	25. H. A. Johnson.....	193,500 00, at 40.....	77,400 00
	26. George J. Forrest.....	93,200 00, at 40.....	37,280 00
b.	19. New York Guarantee Company....	96,461 30, at 40.....	38,584 51
	27. Mercantile Trust Company.....	96,600 00, at 40.....	38,640 00
	27. Mercantile Trust Company.....	17,000 00, at 40.....	6,800 00
	24. H. H. Butterworth.....	42,200 00, at 40.....	16,880 00
	28. S. C. Varnum.....	600 00, at 40.....	320 00
	28. A. H. Jackson.....	162,750 00, at 40.....	65,100 00
c.	1. H. H. Butterworth.....	17,700 00, at 40.....	7,080 00
	1. H. H. Butterworth.....	200 00, at 40.....	80 00
	1. Hassler & Co.....	35,000 00, at 40.....	10,000 00
	1. H. H. Butterworth.....	4,300 00, at 40.....	1,720 00
	3. Delorme Knowlton.....	3,800 00, at 40.....	1,520 00
	3. H. H. Butterworth.....	16,800 00, at 40.....	6,720 00
	7. Delorme Knowlton.....	4,000 00, at 40.....	1,600 00
	8. Hassler & Co.....	50,000 00, at 40.....	20,000 00
	10. Delorme Knowlton.....	6,700 00, at 40.....	2,680 00
	10. J. Alden Gaylord.....	2,280 00, at 40.....	912 00
	12. Hassler & Co.....	61,200 00, at 40.....	24,480 00

1879.	Bought of	Bonds.	
Mch. 12.	Alfred Mitchell.....	\$78,095 68, at 40.....	\$31,238 27
20.	Mercantile Trust Company.....	100 00, at 40.....	40 00
Apl. 1.	John S. Tilney.....	3,400 00, at 37½.....	1,275 00
7.	H. I. Haar.....	3,200 00, at 40.....	1,280 00
Feb. 26.	H. I. Haar.....	8,500 00, at 35.....	2,975 00
26.	H. H. Butterworth.....	50,000 00, at 40.....	20,000 00
Apl. 28.	M. Vault Stock Exchange.....	398,000 00, at 40.....	159,200 00
Nov. 3.	William Belden [settlement].....	113,600 00,.....	24,000 00
Total bonds.....		1,562,886 98	603,204 78

Less sales:

1879.	Sold to	Bonds.	
Mch. 13.	Russell Sage.....	\$100,000 00, at 40.....	\$40,000 00
Apl. 17.	Russell Sage.....	105,000 00, at 40.....	42,000 00
28.	F. L. Ames.....	100,000 00, at 40.....	40,000 00
May 13.	Sidney Dillon.....	200,000 00, at 40.....	80,000 00
June 17.	S. H. H. Clark.....	12,000 00, at 40.....	4,800 00
28.	Ezra H. Baker.....	40,000 00, at 40.....	16,000 00
30.	F. Gordon Dexter.....	30,000 00, at 40.....	12,000 00
July 2.	Elisha Atkins.....	30,000 00, at 40.....	12,000 00
Total.....		617,000 00	246,800 00

1880.			
Jan. 24.	Balance of bonds on hand.....	945,886 98, cost.....	356,404 78
Jan. 24.	Surrendered \$956,779 76 in above bonds and scrip in exchange for 9,578 shares of U. P. at par.....		956,800 00

Saint Joseph and Denver Railroad stock.

1879.	Shares.
Feb. 27.	To the Mercantile Trust Company..... 461
27.	To the Mercantile Trust Company..... 83
27.	To H. H. Butterworth..... 336
28.	To S. C. Barnum..... 7
28.	To P. A. H. Jackson..... 1,417
Mch. 1.	To H. H. Butterworth..... 79
1.	To H. H. Butterworth..... 1
1.	To Hassler & Co..... 124
1.	To H. H. Butterworth..... 37
3.	To Delorme Knowlton..... 34
3.	To H. H. Butterworth..... 103
7.	To Delorme Knowlton..... 18
8.	To Hassler & Co..... 300
10.	To Delorme Knowlton..... 24
10.	To J. Alden Gaylord..... 11
12.	To Hassler & Co..... 1,246
12.	To Alfred Mitchell..... 374
Jan. 26.	To H. A. Johnson..... } 2,109
26.	To George J. Forrest..... }
Mch. 19.	To N. Y. Guarantee Co..... }
Apl. 7.	To H. J. Haar..... 30
Nov. 3.	To William Belden & Co..... 2,015
8,810	

1879.	
Mch. 13.	By Russell Sage..... 474
27.	By Russell Sage..... 1
Apl. 22.	By Russell Sage..... 475
28.	By F. L. Ames..... 475
May 15.	By Sidney Dillon..... 950
June 25.	By Ezra F. Baker..... 190
25.	By Elisha Atkins..... 142
25.	By F. Gordon Dexter..... 142
Oct. 27.	By Haar sale..... 400

11,620 00

2. By S. H. H. Clark.....	57	
8. By Hallgarten & Co.....	500	\$16,625 00
Total.....		
Balance of shares on hand.....	5,013	
24. Surrendered the above shares in exchange for 1,002 shares of Union Pacific, at par.....		\$100,200 00

Saint Joseph Bridge Building Company's bonds and stock.

BONDS.

79.	Bought of	Bonds.	
26. August Ritten.....	\$120,000, at 75.....		\$90,000 00
8. August Ritten.....	170,000, at 75.....		127,500 00
8. August Ritten.....	356,000, at 75.....		267,000 00
14. August Ritten.....	24,000, at 75, less two coupons, \$70.....		17,930 00
15. August Ritten.....	15,000, at 75.....		11,250 00
20. Amy & Co.....	99,000, at 75.....		73,260 00
Total.....	784,000		586,940 00

Less sales:

79.	Sold to	Bonds.	
15. Russell Sage.....	\$50,000, at 75.....		\$37,500 00
1. Sidney Dillon.....	100,000, at 75.....		75,000 00
Total.....	150,000		112,500 00

190.		
24. Balance of bonds on hand. \$634,000.....		\$474,440 00

STOCK.

79.		
20. Purchased 4,000 shares of stock for.....		\$6,000 00
Total cost of \$634,000 bonds and 4,000 shares of stock.....		480,440 00

190.		
24. Received in exchange for the above 6,340 shares of Union Pacific stock, at par.....		\$634,000 00

Saint Joseph and Denver Pacific Railroad—Receiver's certificates.

79.		
12. To H. A. Johnson.....	9 certificates and coupons....	\$9,450 00
16. To Chas. B. Alexander.....	1 certificate	1,000 00
27. To H. L. Brown & Sons	1 certificate	1,000 00
1. To Sundry persons	14 certificates.....	14,150 00
9. To Kountze Bros	2 certificates and coupons....	2,100 00
14. To I. S. Lemon.....	3 certificates.....	3,000 00
21. To I. H. Sturtevant	2 certificates.....	2,000 00
30. To Donell, Lawson & Co	6 certificates.....	6,000 00
31. To Wood & Davis	1 certificate	1,000 00
8. To W. B. Colgate & Co	3 certificates.....	3,000 00
6. To Geo. DeForrest	12 certificates and coupons....	12,903 33
16. To E. M. Raven	5 certificates and coupons....	5,091 67
	59	60,695 00

190.		
24. Surrendered the above in exchange for 590 shares of Union Pacific, at par.....		\$59,000 00

Q. The sales which you made during the same period are stated at foot of this account?—A. Yes, sir.

Q. I notice that these sales are made to Mr. Sage, Mr. Ames, Mr. Dil-, Mr. Clark, Mr. Baker, Mr. Dexter, and Mr. Atkins; were these gentlemen all, with the exception of Mr. Clark, directors of the Union Pacific?—A. I think they were all directors.

Q. Were these gentlemen interested with you in the purchase at the time it was made, or did you subsequently sell to them, after buying?—A. After I bought. I told these gentlemen they could take any interest they wanted, and each of them took what he wanted.

The CHAIRMAN. We will take a recess until two o'clock. We will excuse you till then.

AFTERNOON SESSION.

JAY GOULD, being further examined, testified as follows:

HASTINGS AND GRAND ISLAND.

The WITNESS. In giving you that group of the Saint Joseph properties, I see I omitted to give you the Hastings and Grand Island. You might keep them all in a group.

By Commissioner ANDERSON:

Question. That is, the Hastings and Grand Island bonds, is it?—Answer. Yes, sir; and in partial answer to one of your inquiries about my interest, I gave you the stocks on the date of the consolidation, but not the bonds. I find that I had 2,661 of the Kansas Pacific Consolidated 6 per cent. bonds, and \$1,000,000 of the Union Pacific collateral 6's at the date of the consolidation. I will put that in also.

The following is a copy of the account:

Hastings and Grand Island Railroad Construction.

1879.	
June 30. Union Pacific advances	\$106,985 00
July 31. Union Pacific advances	21,834 20
Aug. 31. Union Pacific advances	13,327 77
Dec. 31. Union Pacific advances	45,897 58
1880.	
Jan. 2. Paid William Bond for services	25,000 00
2. 75 county of Hall bonds	1
13. Paid Rufus Adams, pamphlets	35 80
13. Franklin Note Company, printing bonds	000 00
Interest	7,249 70
	<hr/>
	220,839 25
<hr/>	
1880.	
Jan. 24. Received 2,202 shares of Union Pacific, at par	220,200 00
Cash	635 00
	<hr/>
	220,835 00

Q. These are all the bonds that you held at that time in either company?—A. In both companies; yes, sir.

Q. In your statement as to these Saint Joseph and Denver securities, I find a number of sales of \$617,000 of these bonds to Messrs. Sage, Ames, Dillon, Clark, Baker, Dexter, and Atkins; do you know whether the gentlemen last named retained their bonds until they were disposed of in connection with those which you held yourself?—A. I suppose so, because we bought them for a purpose, and I do not think they would have parted with them.

Q. I mean they were all disposed of by the same transaction, which we will come to later on?—A. Yes, sir; I think so.

Q. At the time the latter-named gentlemen voted for the consolidation, they were the owners of these bonds of the Saint Joseph and Denver?—A. I suppose so; I think I should correct that; I presume those bonds were sold; they were at the time of the consolidation the

property of the Kansas Pacific; the way the consolidation took place was this—those properties were all sold to the Kansas Pacific.

Commissioner ANDERSON. I know; I will come to that transaction later on.

The WITNESS. So that if they had theirs at the time they probably went in with my sale to the Kansas Pacific.

Q. They were held by them, and included in the transaction which you made with the Kansas Pacific?—A. I presume so; yes, sir.

Q. The details of that I will ask you about at a later period; you have handed me a list of purchased stock of the Saint Joseph and Denver amounting to 8,819 shares of stock, was this stock purchased substantially from the same people who sold you the bonds?—A. The names will show; I presume so; they were called "trimmings," I believe, and went in with it.

Commissioner ANDERSON. I find no prices mentioned opposite the stock.

The WITNESS. They went with the bonds, I think, except some of the lots down at the bottom there.

Q. I find a second column on the same paper, apparently stating deliveries of stock by you to Messrs. Sage, Ames, Dillon, Baker, Atkins, and Dexter; were these the shares that you delivered with the bonds that you sold?—A. That would be their relative proportion that went with the bonds.

Q. So that there was no price made separate for the shares as distinguished from the price fixed to the purchase of the bonds?—A. No, sir; I sold them to them just as I bought them.

Q. I find a transaction in the apparent sales of your stock of the date of October 27, par sales, 400 shares, with the amount carried out \$11,650; will you please explain that?—A. That is probably a lot of stock I sold in the market; they seemed to have become gilt-edged, and I suppose I sold a little for hotel bills.

Q. Do you remember the transaction?—A. I only remember it as I saw it on my books; I presume the stock ran up; I thought it was pretty high, and, as long as I kept a majority, it accomplished my purpose.

Q. Do you remember whether this transaction was connected with any other transaction or exchange of securities?—A. No; it must have been sold in the open market.

Q. Through what broker?—A. It seems to have been sold to Mr. Haar and Halgarten & Co.

Q. Those are separate transactions, one the Haar sale, and the other Halgarten & Co. sale?—A. Yes, sir; you know along about that time the securities ran up pretty high.

Q. In regard to these shares of stock held by the gentlemen whose names I have given, do you know whether they were retained by them until the subsequent transaction which you made with the Kansas Pacific, and were included in that transaction?—A. I presume so.

SAINT JOSEPH BRIDGE BONDS.

Q. You have handed me a statement of purchases of Saint Joseph bridge bonds, commencing April 25, 1879, and ending May 20, 1879, from which it appears that you bought \$781,000 of the bonds all but a small lot from August Ruttan, for which you paid \$586,940—were these all purchased as one transaction?—A. All one.

Q. And the price was 75?—A. Yes, sir.

Q. It appears from this statement that you sold a portion of these

bonds, \$50,000, to Russell Sage, on the 15th day of October, 1879, and \$100,000 to Sidney Dillon, on the 1st of November, 1879, at the same price, 75; do you recollect that transaction, that you sold them those bonds?—A. Yes, sir.

Q. Do you know whether they held them until the transaction that you subsequently made with the Kansas Pacific?—A. Yes, sir; I think they did.

Q. Then your statement contains a purchase of the 4,000 shares of the stock of the bridge for \$6,000; do you remember that transaction?—A. I do not particularly remember it.

Q. It was one transaction?—A. Oh, yes, sir.

Q. And the price, though not stated here, would be \$1.50 a share?—A. Yes, sir.

Q. Did you keep all that stock until the transaction that you had subsequently with the Kansas Pacific?—A. Yes, sir; that stock in time would become good from the earnings of the bridge.

Q. You sold it to the Kansas Pacific two months after you sold the bonds to Mr. Sage?—A. Yes, sir; I think I gave the Union Pacific the stock.

Q. Yes, sir; you did, to the Kansas Pacific or Union Pacific, whichever it was. How did you come to own the Saint Joseph receiver's certificates?—A. I do not know whether I took them of Mr. Bond or not. Mr. Bond was the receiver, and I guess he had placed them with some institution, and when I got interested in it I took them up.

Commissioner ANDERSON. The statement handed me shows their receipt from a number of different parties.

The WITNESS. Yes, sir; I must have taken them up from the parties who had advanced on them.

Q. Are the figures given in the column the face amount of the certificates, or the amount paid by you?—A. The amount paid by me.

Q. Then you paid par for these certificates?—A. Yes, sir.

HASTINGS AND GRAND ISLAND CONSTRUCTION BONDS.

Commissioner ANDERSON. The total amount being \$60,695. Then you have handed me a statement of the transactions in the Hastings and Grand Island construction bonds, commencing June 30, 1879, and ending January 13, 1880, in which it appears that you purchased all these bonds, \$220,639.25?

The WITNESS. No; I built the road, and through that I became the owner of the certificates, the stock, and bonds.

Q. When you say that you built the road, do you mean you, individually?—A. I built it individually.

Q. Making a contract with whom?—A. With the Hastings and Grand Island Company.

"UNION PACIFIC ADVANCES."

Q. The entry here is "Union Pacific advances;" what is the meaning of that form of entry?—A. The Union Pacific advanced a portion of the money out there, and then would draw on me for convenience in constructing it. As the contractor was out there on the spot, I authorized them to make these advances as the road went on, and draw on me for the advances.

Q. What form of paper did you get to represent these advances; was it merely a receipt for money, or was it a bond?—A. I got the bonds and stock of the railroad.

Q. Is the amount of the bonds and stock you got represented by the balance of this account which you hand me?—A. Yes, sir; that represents the actual cost.

Q. Then the four items which are marked "Union Pacific advances" represent actual payments made by the Union Pacific for your account?—

For my account; yes, sir.

Q. In the construction of this road?—A. Yes, sir.

Q. These four payments commence June 30 and end December 31; is the whole road constructed in that time?—A. Yes, sir.

Q. Was your contract with the corporation in writing?—A. I suppose so; yes.

Q. What is the total issue of bonds of the road?—A. I think it was \$75,000.

Q. How does it happen if, under your construction contract you were to receive all the bonds of the road, that the amount of the advances received is not the same as the amount represented by the bonds?—A. Because, if you divide one by the other, it would give you what the bonds cost me. Divide the cost of the road by the amount of bonds received, and that would show what the bonds cost me per thousand.

Q. Then the figures that are handed to me do not represent the face value of the bonds, but the actual cost of the road?—A. The cash cost of the bonds.

Q. The cash cost of the bonds and the amount which was paid by the Union Pacific for your account.—A. Some of the items were paid by the Union Pacific—those that are designated.

Q. To whom did the Union Pacific pay this money for your account?—A. They paid it to the contractors.

Q. What is the name?—A. I do not remember now. I was the contractor.

Q. Did you employ certain persons to do the actual work of the grading of the road and laying the track and buying the iron; who did that work for you?—A. I do not remember now who, but I think it was Mr. Collins.

Q. Was it not Mr. Bond?—A. No; I am not sure.

Commissioner ANDERSON. Mr. Bond appears in the statement you have handed me as receiving \$25,000 for services.

The WITNESS. I gave you these as all a part of the same transaction. In settling up with him for his receivership of the two eastern roads I paid him these \$25,000 for his services as receiver.

Q. So that it was all entered in the cost of the Hastings and Grand Island road?—A. And I charged it up in that account, as the three roads were immediately consolidated—this road and the other. I paid it in that account.

Q. It did not make any difference, then, in which account it was entered?—A. No, sir.

Q. Please tell me whether your statement is that, while you do not remember the name of the contractor, the items charged against you as advances represent the actual payment of cash made by the Union Pacific Company for your account to the person who did the work?—A. Yes, sir; that is it.

Q. And your reimbursement from the Hastings and Grand Island Company was effected by the issue of all their bonds and all their stock?—A. Three hundred and seventy-five thousand dollars of first-mortgage bonds and four thousand shares of stock.

Q. So that in order to arrive at a correct statement of the cost of

these bonds to you we have \$375,000 of bonds, which cost \$220,839.25; that is correct, is it?—A. Yes, sir.

Q. Regarding the stock, then, as additional or as thrown in?—A. Yes, sir.

Q. You stated in the early part of your examination that your interest in the Union Pacific along in 1878 was something like two hundred thousand shares of stock, I think.—A. Yes, sir.

Q. Did you make any large sales of this stock early in 1879? Do you remember a sale to Mr. Cammack?—A. I think I did; yes, sir.

Q. Do you remember how large a sale that was on the occasion of Mr. Cammack and Mr. Keene becoming directors?—A. Yes, sir; I remember what I held on the 1st of January, 1879.

Q. What did you hold on the 1st of January, 1879?—A. I held one hundred and seventy thousand shares.

Q. And after that you made this sale to the syndicate?—A. After that I made that sale to the syndicate.

Q. Do you not remember the approximate amount?—A. I must have reduced my interest, you see, from that time down to the 1st of January, 1880, down to twenty-seven thousand shares.

Q. Do you know whether you appear on the books of the Union Pacific Railroad on the 1st of January, 1880, or I will say on the 20th of January, 1880, as a holder of any shares of stock of the Union Pacific?—A. I think not. They had a law in Massachusetts by which any person setting up a claim, whether there was anything to it or not, could attach the entire stock and give an immense deal of trouble; and I found out about this law, so that I transferred my stock out of my name.

Q. Did your holdings in the Union Pacific Railway not appear on your ledger immediately after the consolidation?—A. I think they did; very likely.

Q. Was the law changed between the 1st of January, 1880, and the 1st of February, 1880?—A. No, I think not. But that was the reason I put the stock out. I had an attachment put on. Some fellow trumped up a claim and wanted to be bought off, and he attached my stock and destroyed it as a collateral; and for that reason I had it put out of my name.

By Commissioner LITTLER:

Q. Do you mean by that that you sold it?—A. No; I merely transferred it to somebody else—some other name. You cannot tell anything by a stock-list, because stocks are often in the name of brokers here for years after they have sold them; speculative stocks.

CONVERSION OF SECURITIES INTO UNION PACIFIC RAILWAY STOCK.

By Commissioner ANDERSON:

Q. You did convert, at the period of consolidation, all of your Kansas Pacific and all your interests in the Union Pacific Railroad stock, that were entitled to conversion, into the stock of the new company?—A. I converted twenty-seven thousand shares of the Union Pacific stock.

Q. All of the stock that you did convert, then, appears on your ledger as your stock?—A. I do not know about that; but that was what I actually owned.

Q. I hand you a statement furnished me by the company, and ask you to examine the same, as showing the interest which you started with in the Union Pacific Railway.

THE WITNESS. The new company?

COMMISSIONER ANDERSON. Yes.

THE WITNESS. I do not know that I understand this. You do not intend to say that this was all my own?

COMMISSIONER ANDERSON. So I understand from Mr. Mink.

(Mr. Mink explained the account to the witness.)

THE WITNESS. I do not know anything about this; I gave you the amount that I did own.

The only question is whether that twenty-seven thousand of Union Pacific Railroad stock may not have been sold by you between the 1st of January and the 24th of January.—A. No; I had that on the 24th.

In whose name did it stand?—A. I think twelve thousand shares in Mr. Dillon's name, and I guess the rest in Mr. Morosini's; probably so; I do not know.

When Mr. Morosini converted the balance which stood in his name, do you know whether the new stock was taken out in his name?—I do not know how that was.

You do not know how that was?—A. No; I do not remember.

Do you remember whether the twelve thousand shares held by Sidney Dillon were converted by him in the name of Mr. Jay Gould or in the name of Sidney Dillon?—A. I do not know; I do not remember; I held the certificates, of course; they were in my possession; they were in his name.

Indorsed in blank on the back?—A. Yes, sir.

Apart from that interest in the Union Pacific, does the paper which we show you correctly state the initial interest which you had in the Union Pacific Railway Company immediately after the consolidation?—I understand it to be a transcript from the ledger of the company.—A. I can only say as to this first amount. I presume that is correct. Then I had 27,000 shares of Union Pacific.

Which does not appear in the account?—A. Which does not seem to appear here. Then in making sundry sales here, which will develop, I received pay in stock, so that I had that amount.

That amount was 32,000 and how many shares?—A. It appears to be 32,960 shares.

That was the net amount after the thing was settled?—A. I presume that is right; so that I had 72,000 and 27,000. That would be 99,000 shares at the date of the consolidation.

Of the new stock?—A. Yes, sir.

COMMISSIONER ANDERSON. Of which 73,342 were derived as follows: 82 through the conversion of the Kansas Pacific stock, and 32,960 through the transactions which you have alluded to, and which, on this account, are entered as being the proceeds of Denver Pacific stock. I do not charge you with those words, "Denver Pacific," but they are so entered on the books of the company.

"LESS EGGS IN ONE BASKET."

THE WITNESS. I do not know about that; I never saw them before. Does this statement which I hand you, which is marked "Transcript from the ledger," show correctly the disposition made by you of the stock—I mean the periods of sales—it appearing between the 7th of February and the 15th of March following that you had sold all of the stock except about 16,000 shares?—A. I do not know whether this is correct or not. It is undoubtedly correct as far as the transfers on the Union Pacific books are concerned, but that would not be any other

tion of my sales. Those I can give you. I can only say, generally, that I had made up my mind after the decision of the Supreme Court, on the Thurman bill, that it would be perhaps better for this property to have the stock widely distributed; to have four thousand or five thousand stock-holders that would do a little of the "walking" instead of one; and I assumed that policy steadily, thinking it was better for the property. I thought it was better for me to have less eggs in one basket. I think that explains to you the whole of these accounts when you get them.

Commissioner ANDERSON. The only point I call your attention to is that that desire on your part appears to have been very much stimulated immediately after the consolidation.

The WITNESS. It was stimulated because the effect of the consolidation was to make a very large advance in the stock, and it enabled me to carry out a long-formed resolution. The effect of the consolidation was to put the stocks up about 30 points. There was not enough to go around.

Q. I notice that there are three sales here of 20,000 shares each; one to Mr. Morgan and one to Mr. Maltby and one to Mr. A. P. Segur. Do you remember those transfers?—A. Those do not represent sales. You are mixing the ordinary transfers on the stock books, which might come in months afterwards. I will give you an account of my sales for these two years, if you want them.

Q. We do; but I am asking you what those transfers were to Mr. Morgan, Mr. Maltby, and Mr. Segur. Were they transfers of name only, retaining the interests just as they stood before?—A. I do not know.

Commissioner ANDERSON. There were 20,000 shares each, representing \$2,000,000. I thought perhaps you might remember it.

The WITNESS. Well, Mr. Segur was one of the clerks of Washington E. Connor & Company. These stocks were transferred. Here are 60,000 shares of stock transferred—20,000 to Mr. Morosini; 20,000 to Mr. Maltby, a clerk of Connor's, and A. P. Segur another clerk. It was put in their names.

Q. They do not indicate a change in interest?—A. No; it does not show any change of interest. That was probably for the same reason I told you of.

HUMPHREYS AND DODGE'S REPORT.

Q. Do you remember writing a letter to Mr. Solon Humphreys and Mr. Dodge in October, 1879?—A. I remember there was such a letter; yes, sir.

Q. Who wrote it?—A. I don't remember who wrote it. I think I signed it, for one.

Q. Who suggested it?—A. I do not remember who suggested it. The question of the relations of these two properties to each other had been a matter of so much solicitude and discussion that I cannot locate any particular thing at any particular period. First, the two roads were at swords' points. Gradually we had tried the experiment of having the same president of both; and while we found a good many advantages from that, we found some disadvantages, some collisions. The Kansas Pacific stockholders thought that the president was not doing them justice; the Union Pacific stockholder thought the same. That was gradually leading up, and did lead up, to the actual consummation of the consolidation.

Q. When this letter was written it referred to a subject in which you had a great deal of interest, I believe.—A. Yes, sir; there were two men on the boards that seemed to be well fitted for such an investiga-

ion, and they had no interest in the Kansas Pacific and very little in the Union Pacific.

Q. Was Mr. Humphreys a member of the board?—A. They were both members of the board.

Q. The board of what company?—A. Of the Union Pacific. General Dodge had been the engineer that was selected by the Government to make the location of the road originally, and had been familiar with it from the start; and General Grant, in speaking to me of him, said he was one of the best engineers and the best railroad man that he had ever seen. He had had him during the war. We selected him. Then Mr. Humphreys was a man who had had a very large experience in the West. He had lived in Saint Louis and was conversant with both of these properties. We selected them as two disinterested men to tell us what would be a fair consolidation, and they went to work and made their researches. While the researches were going on my interest changed. From being in favor of the consolidation I bought the Missouri Pacific. In order to protect the Kansas Pacific I bought the Missouri Pacific, and my interest had changed.

MISSOURI PACIFIC.

Q. When did you buy the Missouri Pacific?—A. I bought the Missouri Pacific in November.

Q. November, 1879?—A. 1879.

Q. From Commodore Garrison?—A. From Commodore Garrison.

Mr. JOHN F. DILLON. I would like to have you fix that exact date, if you can, when you bought of Commodore Garrison.

The WITNESS. I think it was in November, 1879; I do not know whether I can fix the exact date.

Mr. JOHN F. DILLON. I know the date, but the witness is making a statement under oath. November 13, you mean, subject to any correction, if you find it incorrect.

The WITNESS. Yes, sir; I bought the Missouri Pacific on November 13.

Q. Where were General Dodge and Mr. Humphreys between October 23, 1879, and January 16, 1880?—A. I do not know.

Q. Did you see them from time to time between these dates?—A. I may have seen them, but I never had a word of conversation with them about the consolidation.

CONCERNING KANSAS PACIFIC CONSOLIDATION.

Q. Did you know what they were doing?—A. No, sir.

Q. Then when you speak of their researches, how did you know that they made any researches?—A. I presume they did; they had ample time.

Q. You were an active director in the company at this time?—A. Yes, sir.

Q. And would have known as to any extensive examination of accounts or reports?—A. No; I would not have known about that. The offices were in Boston and the business was transacted there, and I seldom attended the meetings, unless they were held here; but I would not know the extent of their researches. I presume, though, they were devoting time to it.

Q. Do you consider that it would have been an easy task to solve the question propounded to them as to what would be equitable terms of consolidation?—A. Yes, sir; I should think so.

Q. Would it not require a very accurate knowledge of the comparative values of these two properties?—A. Yes, sir.

Q. And of their earning capacity?—A. Yes, sir.

Q. And of the expenses in operating them?—A. Yes, sir.

Q. And of their general financial condition?—A. Yes, sir; and their assets.

Q. All these things would have to be studied and weighed carefully, would they not?—A. Yes, sir. That consolidation should be judged by the value of these two properties at the time they were put together, and into that has entered the question of how many miles of road they had, how many branches they owned, and how many acres of land and its value, and what other assets they had. All these were elements that, if they made this examination conscientiously, they should have gone into.

Q. Are there not some that you have omitted—as to how much indebtedness there was on the road?—A. Yes, sir.

Q. And as to how much stock there was on the road?—A. Yes, sir; that is an important element.

Q. And whether those gentlemen went through all this protracted examination you only infer, because they ought to have done it?—A. They ought to have done it. It was a very simple thing. The debt of the Union Pacific per mile was well known; it was about \$80,000 per mile. The debt of the Kansas Pacific was well known; it was about \$40,000 or \$45,000 per mile—about one-half. The stock of the Union Pacific was \$37,000 a mile. The stock of the Kansas Pacific was \$12,000 per mile. You see the data were very simple.

Q. Now the question comes up, which of those roads was the most valuable with its assets. Are there not some other considerations than those you have mentioned which would have required examination?—A. Yes, sir.

Q. Was not the past history of these roads, with reference to their earning power, a material matter?—A. No, sir; I think the future was more important than the past.

THE FUTURE AS A CRITERION IN ESTIMATING RAILROAD VALUES.

Q. Do you think these gentlemen knew more about the future than they did of the past?—A. No, sir; the past gives you a criterion to judge by, but in a property like the Union Pacific the past was no criterion with that property, for the reason, as you will see in a moment, that the Union Pacific were charging very high rates—say 8 or 10 cents a mile for passengers, and very high rates for freight. The arrangement with the roads east of Omaha which they were enabled to preserve, gave them about two miles for one. All of that was liable to disappear in a moment. Then you would see how the value of that property would slide down. If instead of getting two thousand miles it only got actual mileage you would see how its value would slip down. Whereas, the Kansas Pacific was on hard-pan, and could not get any worse than it was. It ran through a better local country than the Union Pacific. Its whole 745 miles was east of the Rocky Mountains. Five hundred miles of the Union Pacific was east of the Rocky Mountains, and 500 miles was up on a plateau six or seven thousand feet above tide, unsuited to agriculture.

Q. Nevertheless, do you assert that, in judging of this question of the just terms of consolidation, it would have been a fair or proper thing for these gentlemen to whom you referred the question to ignore the

t and the exact history of these roads in regard to the traffic that they had done between 1875 and 1880?—A. You must consider the past; it is more important to consider the future.

Commissioner ANDERSON. The past they certainly knew more accurately, and they could surmise as to the future.

The WITNESS. I have been all my life dealing in railroads—that is, so before I was of age—and I have always bought them on the future and not on the past. That is the way I have made my money. The first road I ever bought in I bought the bonds at 10 cents. Afterwards I took the property and built it up, that is, the future of it. Not only my roads became good but I sold my stock out at 125. It was just so in the Union Pacific. I saw, when I went in, that there was a future coming here. That is the reason I went into it. And just so in the Kansas Pacific, but I saw that the Kansas Pacific was going to develop faster than the other, because it ran through a better country.

J. Do you not think there is any difference between determining just measures of consolidation representing the rights of stockholders and creditors, by the tests of the past, and the cases which you cite from your own experience, which are individual speculations, where a man has a right to make his own adventures?—A. Yes; there is a better test than any of these, and that is the future. What was the effect of it? There is a test that you have not at the time you make it. That is the test we have now got here.

Q. I am only inquiring your views as to the duties Mr. Humphreys and Mr. Dodge were called upon to discharge. Do you not think it is their business to take the account of those two companies for the six years from 1875 to 1880 and examine them critically with regard to the actual performances of those two roads?—A. Yes, sir; that is the element.

Q. Do you know whether that was done by them or not?—A. No, I do not; I presume it was.

CONCERNING THE LETTER OF HUMPHREYS AND DODGE.

J. You cannot recollect who wrote that letter?—A. No, sir.

J. Please read it and see if its language recalls the composition of it to your mind?—A. (After reading.) I do not know who prepared this letter.

J. Who delivered it to Mr. Humphreys or Mr. Dodge?—A. I do not know.

J. Do you think it was sent by mail or handed to them?—A. I presume it was handed to them, although I do not know.

J. Your statement, I understand, to be that although you saw these gentlemen from time to time in November and December, you had no conversation with them whatever relating to the subject they were investigating?—A. No, sir.

J. They made a report. Do you remember that?—A. I think they did.

J. Do you remember seeing it about the time it was made?—A. I presume I did. I do not remember what time it was made.

J. Please examine the report which I hand you, and which bears date the 16th day of January, 1880, and state if you recall seeing that report and reading it at the time?—A. (After reading.) I presume I read it at the time.

J. And you doubtless read it when you saw it?—A. Yes, sir.

J. After reading this report, did you have any conversation with

either Mr. Humphreys or Mr. Dodge in regard to its contents?—A. No, sir; I do not think I did.

Q. Did you think it gave an exhaustive statement of all the considerations that should have governed in solving this question?—A. I do not know that I read the letter. I only glanced at it.

Q. Do I understand you to say that the figures for the consolidation had never been discussed between the examiners and yourself, or any of the other directors, to your knowledge, with the examiners? I mean the figures appearing at the end of the report suggesting that the new company should be constituted as follows: The Union Pacific, with a capital of \$36,762,500; the capital of the Kansas Pacific to be \$10,000,000; the capital of the Denver Pacific to be \$4,000,000; making a capital stock of \$50,762,500. Those figures were very familiar to you, were they not?—A. Those represented the stocks of the three roads.

Q. Yes, sir; but it did not follow as a matter of elementary conclusion that the solution of this question would give absolute parity of interest among the three companies as to their stocks. That did not follow, did it?

* The WITNESS. Why not?

Commissioner ANDERSON. Because they might possibly have concluded that one company should only have one share of stock for two shares surrendered.

The WITNESS. If they had come to that conclusion they would have changed their allotments.

Commissioner ANDERSON. I say the conclusion they came to is precisely the equivalent of the stock of the various companies as they existed before.

The WITNESS. Yes, sir.

Q. Was not that suggestion perfectly familiar to you at the time, and was not that the one that you had thought of?—A. Yes, sir; I had thought of that; but most of the Kansas Pacific stockholders thought they should have a distribution of the Denver Pacific stock among themselves, and—

Q. We will mix these matters up if you go on to other subjects. All I want is the manner of, and the degree of, communication that ensued between these examiners in question and yourself. Do you notice that this report states, after giving the amount of the total consolidation, that the new stock is to be issued for stock of the Union Pacific, the Kansas Pacific, and the Denver Pacific Railroads, share for share? Was that conclusion correct?—A. That is the way the consolidation was ultimately made.

Q. Do you not know that the stock of the new company was not issued for the Kansas Pacific stock, share for share?

The WITNESS. Was it not?

Commissioner ANDERSON. Do you not know that two shares of the Kansas Pacific stock were issued for one share of the Union Pacific?

A. Yes, sir.

Q. Do you think that these examiners had been doing anything, except to copy some paper?—A. What they meant was two shares for one share.

By Commissioner LITTLER:

Q. Did they mean dollar for dollar?—A. They meant dollar for dollar.

Commissioner ANDERSON. They did not say so.

The WITNESS. They proved that by the figures they carried out—\$10,000,000.

Commissioner ANDERSON. They do not give the value of the Kansas Pacific shares, anyway. The only point I am calling your attention to that it would seem that this scheme had been simply copied by them in a form, and not written out by them from their knowledge of the facts.

The WITNESS. I have only a general recollection; but I think they made a pretty extended investigation. How I got that impression I do not know. I had no conversation with them about it.

MILEAGE OF UNION PACIFIC AND BRANCHES.

Q. What was the total mileage of the main line of the Union Pacific Railroad at this time?—A. One thousand and twenty miles.

Q. Of the Kansas Pacific?—A. Seven hundred and forty-five miles.

Q. And of the Denver Pacific?—A. That included the Denver Pacific, which they owned.

Q. Seven hundred and forty-five miles?—A. Yes, sir.

Q. As far as there were any branches of the Union Pacific at this time, were they represented by the stock of the Union Pacific, or by their own stock and bonds?—A. They were represented, I think, by their own stock and bonds; but the Kansas Pacific owned the branches there.

Q. What branches did the Union Pacific own?—A. The Kansas Pacific, I think, brought in branches. I have got the annual report for 1879, which gives the Union Pacific 783 miles of branches, brought into the consolidation, and the Kansas Pacific 814 miles.

Q. Do you know what those branches of the Kansas Pacific were?—A. Yes, sir.

Q. Give the names of them.—A. They were all enumerated here.

Q. As to all these branches of the Kansas Pacific, is it true that none of them had their own stocks and bonds?—A. I think they were all assets of the Kansas Pacific; came as assets.

Q. Do you know what kind of roads those branch roads were?—A. Yes, sir.

Q. Do you know how they were constructed?—A. Yes, sir.

Commissioner ANDERSON. Mr. Holmes has stated as to a number of them that they were constructed at the urgent solicitation of the adjoining Territory, and that in many cases the old rails of the Kansas Pacific were used to build them, and the old ties. He said they were constructed in that manner.

The WITNESS. Not of old ties, I think. It is very common to take rails out of the main line and put in new rails there, and put the old ones down on the branches, where they are good enough; put them into side tracks; very likely that was done. In the early history of railroad-making a great deal of that was done.

Q. As to these branches, was that done?—A. I presume so as to the branches of the other roads.

By Commissioner LITTLER:

Q. Please give us the names and mileage in that connection.—A. Of the branches, the Kansas Pacific had the Carbondale branch, 32 miles; the Junction City and Fort Kearney Railroad, 70 miles; the Solomon Railroad, 57 miles; the Salina and South Western, 36 miles; the Saint Joseph and Western Railroad, including the Saint Joseph bridge, 252 miles; the Central branch of the Union Pacific Railroad, 334 miles; the Denver and Boulder Valley Railroad, 27 miles; the Golden, Boulder and Caribou Railroad, 6 miles; total, 814 miles.

By Commissioner ANDERSON :

Q. Are not most of those roads narrow-gauge roads?—A. No, sir; none of those are narrow-gauge roads.

Q. Can you tell me how these examiners arrived at the conclusion that the Union Pacific Railway after consolidation would then represent a mileage of actual constructed and operated road of 3,748 miles?—A. Yes, sir; I think I can tell you how that was. The Union Pacific, I said, was 1,020 miles. It is 1,042 miles of the main line. The Kansas Pacific was 783 miles; the Union Pacific branches, 783 miles; the Kansas Pacific branches, 814 miles. That makes about 3,500 miles.

Commissioner ANDERSON. Three thousand seven hundred and forty-six are the figures as given. We will not bother about a trifle of 200 miles.

The WITNESS. The Kansas Central would probably make that. That is not in here.

By Commissioner LITTLER :

Q. Is that a part of the Kansas Pacific; is it one of its branches?—A. Yes, sir; that became a branch by the consolidation. That would probably make it up.

By Commissioner ANDERSON :

Q. Do you consider that it was a proper estimate of the mileage of this road, for the purpose of stating the amount of stock per mile, to include the branches of the Union Pacific, which had their own stocks and bonds?—A. No, sir; I did not include that.

Q. You gave us the Union Pacific branches, 783 miles. Do you consider that it was a proper estimate of the mileage of this road for the purpose of stating the amount of stock per mile, to include the branches of the Union Pacific, which had their own stocks and bonds?—A. Yes, sir; if they had been in the treasury of the Union Pacific as an asset it would be proper to include it as mileage.

Q. That would not represent the stock per mile of road in the ordinary sense of the word, would it?—A. Yes, sir; it would. That is the way railroads always count.

Q. Do you know, as a matter of fact, that as to all the Union Pacific branches they held all the bonds and stock?—A. They held some of the bonds. I think they held nearly all the stock. In the Kansas Pacific I think they held all the bonds and all the stock.

Commissioner ANDERSON. That is the way this report was made up, then, where this language occurs: "The Union Pacific Railway Company would then represent a mileage of actually constructed and operated road of 3,748 miles, or less than \$14,000 of stock per mile?"

The WITNESS. Yes, sir; that would be correct.

Q. At the time you received this report were you in favor of the consolidation?—A. No, sir.

Q. Did you work against it?—A. No, sir; no, my interest had changed.

Q. I ask you if you worked against it?—A. No, sir.

Q. Did you have any conversation with Mr. Dillon, Mr. Sage, or Mr. Ames, at the time this report was received, in reference to it?—A. No, sir; I had some conversation before that. I resigned from the company after I had got the Missouri Pacific. Of course it was my interest to make the consolidation of these roads with the Missouri Pacific.

By Commissioner LITTLER :

Q. You mean the Kansas Pacific and its branches?—A. I mean the Kansas Pacific and those different roads that I had purchased.

ALARM CAUSED BY WITNESS' RESIGNATION.

By Commissioner ANDERSON:

Q. I am coming to your resignation in a moment. I think you would do along better if you would only answer the questions. My question is, what communication you had with Mr. Ames, Mr. Dexter, Mr. Sage, and Mr. Dillon, at or about the time this report was received, in regard to the consolidation. Was the matter talked over generally?—A. No, sir; had no talk with them until after I had resigned. They became greatly alarmed. The report got out that I was going to put these roads in with the Missouri Pacific and that I was going to build an extension from Denver through the Loveland Pass to Ogden, and they came over here greatly alarmed.

Q. Who came over here?—A. Mr. Ames, Mr. Dexter, and I think Mr. Atkins came, and Mr. Dillon. They came to me and said that I had been identified with the Union Pacific here, and that I was committed to the consolidation, and they lay right down on me to carry it out, though I would have given them a check for \$1,000,000 rather than have done it.

Q. You did not give them a check for a million dollars?—A. No, sir; but I have told them since, repeatedly, that I would give them a million, and they have always had the offer to take it, and put me back. They have got it to-day. They have got it this minute. If I had taken Missouri Pacific stock instead of Union Pacific stock, I would have had an asset to-day worth away above par.

Q. I do not think you need complain about not having assets enough. How long have you known Judge John F. Dillon?—A. The result of our talk was that they would not let me go out of the room until I signed a paper that I would carry that consolidation through.

Q. Where is that paper?—A. I suppose it must be in Boston.

Q. Have you ever seen it since?—A. No; but I remember Mr. Dexter sat right down there, and they would not let me go out of the room until I signed the paper.

Q. Do you remember whether that paper was signed before you received this report, dated January 16?—A. I think it was.

Q. Do you remember whether it was delivered in the month of January?—A. Oh, I will not be sure. I think it was after I resigned. I signed, I think, on the 10th.

ACQUAINTANCE WITH JOHN F. DILLON.

Q. How long have you known Judge John F. Dillon?—A. I have known him a good while.

Q. How long before the consolidation had you known him?—A. I think I had known him since about 1878.

Mr. JOHN F. DILLON. In 1879 I think I saw you first.

The WITNESS. I met you in 1878. I met you first on the steps of the Fifth Avenue Hotel, coming down, where Mr. Dillon introduced me. We were on here during one of your vacations—an intermission in our term.

Mr. JOHN F. DILLON. That was May, 1879.

The WITNESS. Was it May, 1879? I remember the incident.

Q. Nothing special occurred between yourself and Judge Dillon in May, 1879, when you met him at the Fifth Avenue Hotel, in a business way? It was merely a casual meeting?—A. I think so.

Q. When did you first know Judge Dillon in business?—A. He came here in the latter part of the year 1879.

Q. Was it in the same month that this letter to Mr. Humphreys and Mr. Dodge was written?—A. That I do not remember.

Q. Do you remember Mr. Sidney Dillon suggesting to you that Judge Dillon would be a very excellent counsel for the company to have, and that he was here with reference to a professorship in Columbia College and his suggesting to you that he would be a good man?—A. I think suggested it to Mr. Dillon myself.

Q. You talked about it together?—A. Yes, sir.

Commissioner ANDERSON. They contended for the honor together.

The WITNESS. Yes, sir; well, they might, too.

Q. You think you suggested it to Mr. Sidney Dillon?—A. I rather claim that honor.

Q. You both agreed about it entirely?—A. We both agreed; yes, sir.

Mr. JOHN F. DILLON. I want you to say that I never suggested it.

The WITNESS. No.

Mr. JOHN F. DILLON. That is all I care for.

Q. Immediately after that Judge Dillon did become the adviser of the Union Pacific Railroad?—A. Yes, sir.

Q. And has remained the adviser of its successor to this day?—A. Yes, sir.

Q. Did you see him very frequently between the time he entered on his duties and the following January?—A. I do not think I did.

Q. Did you see him at all?—A. I may have seen him. Nothing now recalls that to my mind.

Q. Did you have a number of interviews with him in regard to the papers that were being prepared from time to time?—A. I do not remember; I might have.

Q. Did you see him in regard to this letter that was written to Mr. Humphreys and Mr. Dodge?—A. No, I do not think I did. I think I was out of the board during the time the consolidation was effected.

Commissioner ANDERSON. But my question addresses itself to the October 23d meeting.

The WITNESS. October 23d was long after the consolidation.

Q. October 23, 1879?—A. I do not think Judge Dillon had ever heard of the consolidation at that time.

Q. You were writing a letter with reference to an important subject, and my question is whether you conferred with Judge Dillon, who was then the adviser of the company, as to what should be done to get fair terms of consolidation reported.

The WITNESS. Is that a letter to Judge Dillon?

Commissioner ANDERSON. No, sir; this letter is to Mr. Humphreys and Mr. Dodge.

The WITNESS. Very well.

Commissioner ANDERSON. I asked you whether you conferred with Judge Dillon about writing that letter, or what steps should be taken for the purpose of getting the information you desired.

A. No, sir; I do not remember that I conferred with him. I considered that I knew pretty well about it myself, without that.

CONCERNING PREPARATION OF ARTICLES OF CONSOLIDATION.

Q. Do you remember the preparation of the articles of consolidation?—A. No; I did not pay any attention to the details.

Q. They must have taken some little time to be prepared?—A. Yes, sir.

Q. Do you recollect seeing Judge Dillon in regard to these articles all ?—A. I presume I did, but if you will state any particular thing it will call it to my attention I may remember it.

Q. When you saw Judge Dillon where did you see him ?—A. I presume I saw him in his office.

Q. Where was his office then ?—A. I do not remember now. I have forgotten.

Q. Did you carry to him any drafts in your own handwriting as to the means of consolidation ?—A. No, sir; I do not think he had any communication with me. He did it with the officers of the company, probably, and ceased to be the power in the Union Pacific.

Q. I understand that. But nevertheless I want to know, as a matter of fact, what you did. Do you know that a conveyance of all the property of the two companies was prepared and executed on the 24th January, at the meeting of the company ?—A. I presume so.

Q. Do you know who prepared that conveyance ?—A. I think Judge Dillon, but I am not sure.

Q. Did you see him in regard to the details required for that purpose ?—A. I presume I saw him in regard to some of the details.

Q. As a matter of fact, you know that he was engaged on this work ?—A. Yes, sir.

Q. Preparing the papers that would be required to make the consolidation effective ?—A. Yes, sir.

Q. Can you tell me how long a time he was engaged at that work ?—A. No, I cannot.

Q. Do you think it was as long as a week ?—A. I should think so.

Q. Do you not recall furnishing Judge Dillon any of the data from which he was to draw these articles? Do I understand you correctly ?—A. I do not remember that I furnished it specifically. I suppose he got it from the officers of the company.

Q. To whom do you refer by the officers of the company ?—A. The secretary and treasurer and the accountants and the president.

Q. Please give the names. The secretary, Mr. McFarland ?—A. Mr. Farland was secretary, and Mr. Mink accountant, I think, and Mr. Dillon was president.

Q. Do you think Mr. Mink would have considered himself authorized to tell Judge Dillon who were to be the directors of the new company ?

A. No, sir; no; it would be the president of the company that would give him that information. The president or the executive committee.

Q. Do you think the president alone would have considered himself authorized without conferring with the other gentlemen to give their names ?

Mr. AMES. I presume he consulted Mr. Ames.

Q. Do you know how your name came to be inserted as one of the directors of the new company ?—A. No, sir.

Q. Do we understand that it was a matter of surprise to you that you were named as a director in the company ?—A. No, sir; I was asked to join by either Mr. Dillon or Mr. Ames or the executive committee.

Q. And you consented ?—A. Yes, sir.

Q. Was this on the same occasion when you signed the paper, saying that it should go through that you consented to be a director of the company ?—A. I presume so. It was during the time that the papers were being prepared.

Q. Who were those gentlemen who urged you to sign this paper, and whom you gave it ? Was Mr. Ames one of them ?

The WITNESS. Signed which paper ?

Commissioner ANDERSON. The paper you have referred to, by which you agreed that you would let the consolidation go through.

A. Mr. Dexter, Mr. Ames, Mr. Dillon, and Mr. Atkins, I think, and probably Mr. Baker.

Q. Substantially the executive committee?—A. Yes, sir; substantially the executive committee.

Q. Was the understanding that you were to be a director in the new company given to these gentlemen, whose names you have just recited, at the same time that they came on here, as you stated, and obtained this paper from you?—A. No, sir; after we had consented to the consolidation, then the question of detail came up. They would naturally put me in as a director because I had a large interest.

Q. At any rate, whenever this decision was made as to who were to be the directors of the new company, then your name was handed in with the others?—A. Yes, sir.

Q. And in that way it became incorporated into the articles of consolidation?—A. I suppose the executive committee fixed the board.

Q. At this period, whenever it happened, was not the consolidation an assured fact?—A. It was an assured fact; yes, sir; after the 15th of January, because I had signed a paper there agreeing to it, and I held a control, virtually, of the Kansas Pacific.

Q. When you say this paper is in Boston, can you not locate it a little more closely?—A. I signed the paper, and it was kept by Mr. Gordon Dexter; I think he prepared it and kept it.

Q. Do you know whether he has it to-day?—A. I do not know; I cannot say.

Q. Have you ever spoken to him about it since?—A. I do not know whether I have or not.

Q. Please give us the language of that paper as well as you can recall it.—A. I could not do that.

SUBSTANCE OF PRELIMINARY PAPER AGREEING TO CONSOLIDATION.

Q. What was the substance of it?—A. The substance of it was that I agreed to a consolidation based on certain terms. Those terms provided how the different lines should come in. First, how the stock should come in; then how the branch lines should be paid for. It was the consolidation as it was finally carried out.

Q. When you say "the branch lines," which branch lines do you refer to?—A. I mean the Saint Joseph and Western and the Central Branch and the Kansas Central, and the different interests which I sold to the Kansas Pacific. It then provided how the consolidation should be carried out. That was the basis of the consolidation.

Q. And the terms, as fixed for the branches you have referred to, were the result of this interview between yourself and these gentlemen, and the result of that negotiation?—A. Yes, sir.

Q. Do you remember, a few days before the consolidation, sending for Mr. Holmes in regard to a matter connected with the Denver Pacific stock?—A. I presume I did.

Q. At that time you were one of the trustees of the consolidated mortgage?—A. Yes, sir.

Q. And as such trustee, how familiar were you with that mortgage and its terms?—A. I was familiar with it.

Q. From beginning to end?—A. Yes, sir.

Q. You knew that 29,986 shares of the Denver Pacific stock was included in one of the schedules describing the property which you held as trustee of that mortgage?—A. Yes, sir.

Q. You say you remember Mr. Holmes coming to see you?—A. I do remember his coming to see me, but I presume he did. I saw him.

Q. You remember that you saw him?—A. Yes, sir.

Q. Who was present besides yourself and Mr. Holmes?—A. I do not know.

Q. Was Mr. Dillon there?—A. I do not remember; I only remember circumstances connected with that stock and its bearing on the consolidation.

CONCERNING SUIT TO RELEASE DENVER PACIFIC STOCK.

Q. Do you remember you had a talk with Mr. Holmes in regard to filing a suit?—A. Yes, sir.

Q. What did you say to Mr. Holmes?—A. The question—

Q. Just what you said to Mr. Holmes is the question; or give the substance of what you said and what questions you asked him?—A. I think the question was this. The question was whether we were to put the Denver Pacific stock into the consolidation, or whether we would foreclose the bonds. We held all the bonds, and of course we could make title, but it was decided that the franchise of the Denver Pacific Company would round out the consolidation; and while the stock, so to speak, had no intrinsic value, except as it was made by the consolidation, it yet made it a perfect consolidation; so that it was desirable to consolidate the franchises without foreclosing. There were \$4,000,000 stock. I had \$1,000,000 of it. We held as trustees \$3,000,000—twenty-nine thousand shares. After it was decided—

Q. Do you remember saying all this to Mr. Holmes?—A. This was conversation which came up. This was the conversation that we had. I then said that I would put in my stock at 10. I had \$1,000,000 stock. That is just what I had paid for it. I bought it of Arapahoe County, Colorado. I paid 10 for it.

Q. When had you bought it? How long before?—A. I had bought it a short time before. Then, in order to get at the value, we made a large value of the trust stock. We called that \$500,000, and reduced the mortgage that amount.

Commissioner ANDERSON. I call your attention to the fact that I am asking what you said to Mr. Holmes.

THE WITNESS. This all came out in the talk with him.

Commissioner ANDERSON. Your memory is better than his.

THE WITNESS. I remember distinctly because I put in my own stock which, if I had kept it, I would have got consolidated stock; and it really refreshed my memory that I put it in at 10, and bought it a few days afterwards at par, in payment of these things. Would such a circumstance fix it in your mind?

Commissioner ANDERSON. Yes, sir; but that is an experience that I should be very glad to go through.

THE WITNESS. To sell at 10 and take back at 100?

Q. Tell us what you told Mr. Holmes about that suit?—A. If it was Mr. Holmes—I think it was Mr. Vanderpoel, but I will not be sure—I told him that if he could get an allowance of \$500,000 for that stock, I would surrender it as a trustee; if he could get an order of the court. Considering that, of course, more than it was worth, but we could take it of the trust; but I refused to do so without submitting it to the court. I did not know but there might be some question about it.

Q. Have you given us all of your conversation with Mr. Holmes as you remember it?—A. I might remember more as I went on. I think I have given the substance of it.

Q. Did you ask Mr. Holmes how long it would take to carry a suit of that character through, so as to get a decree?

The WITNESS. A foreclosure?

Commissioner ANDERSON. No; a decree releasing this stock from the trust.

A. No, sir.

Q. You did not ask him anything about that?—A. I did not suppose it would take long, because I thought—

Q. I am asking you what you said to Mr. Holmes, or he to you? Did he say to you that it would take some time, but if the parties all agreed it could be done in a short time?—A. No, sir; I think not. I did not know how long it would take, but I wanted protection for the trustees.

Q. Did you ask him to hasten the proceedings as much as he could?—A. No, sir.

Q. To what counsel did you refer him to defend your interests as trustees?—A. I think it was Vanderpoel, Green & Cuming.

Q. Was Mr. Vanderpoel your personal counsel at this time?—A. Yes, sir.

Q. As trustee of that mortgage, did you regard it to be a part of your duty to cause all the assets which you held as trustee to realize as much as possible?—A. Yes, sir.

AS TO TERMS OF EXCHANGE OF DENVER PACIFIC STOCK.

Q. At the time of your conversation with Mr. Holmes, on the 17th day of January, as he states it, the consolidation was substantially an accomplished fact, I should judge from your previous testimony?—A. The consolidation was, but not the question of how Denver Pacific would come in.

Q. The terms of consolidation had been arranged, had they not?—A. Yes, sir.

Q. And a part of those terms was that the Denver Pacific stock should be exchanged at par?—A. Oh, no; more than that.

Q. Please look at the report of Mr. Humphreys and tell me whether those are not the terms, as stated in that report?—A. Provided the court had granted permission to make the exchange. Otherwise the Denver Pacific would have been foreclosed and the trustees would have gotten nothing.

Q. So I understand. My question is whether, provided you could extricate the stock from the trust, it had then been arranged, or was finally arranged, that the stock should be exchanged for Union Pacific Railway stock at par?—A. Yes, sir.

Q. So that this asset, if relieved from the trust, was worth whatever an equivalent amount of the Union Pacific Railway stock would be worth?—A. Yes, sir.

Q. How soon after the interview with Mr. Holmes was that suit commenced?—A. I do not know about the details of that.

Q. Do you not remember the preparation of two formal letters, one addressed to you and Mr. Sage, as trustees, by Mr. Dillon, as president of the company, and the preparation of a reply?—A. I presume that was the form that was adopted.

Q. Do you recall that such letters were prepared?—A. I presume they were.

- Q. Do you know by whom they were prepared?—A. No, sir; I do not.
 Q. Were they prepared by Judge Dillon?—A. I do not know.
 Q. Were both the letter and answer prepared by the same person?—
 I do not know.
 Q. Were they exchanged in the same room?—A. I do not know about it.

REGARDING MR. DILLON'S LETTER.

- Q. Where were you when you received Mr. Dillon's letter?—A. I do not know; I do not remember anything about the *modus operandi*.
 Q. I will show you the letter, and get you to read it. The answer is the following page [handing papers to witness]. Do you remember the letter, after reading it?—A. Yes, sir.
 Q. Where were you when you received it? At the office of the company?—A. I do not know whether I received it or Mr. Sage.
 Q. Look at the answer. By whom is it signed?—A. It is signed by both of us. It is addressed to both.
 Q. It is signed by you, is it not?—A. I do not know whether the letter was sent to me or Mr. Sage, or to both of us.
 Q. In either event, did you not see the letter before answering it?—
 Oh, yes, sir; certainly.
 Q. My question is, who handed that letter to you to read?—A. I do not know who handed it to me.
 Q. Do you notice that the answer to the letter bears the same date as the letter?—A. Yes, sir; that was a prompt way of doing business, was it not?
 Q. Were they not both prepared at the same time? When the letter was written, addressed to you, was it not understood what the answer would be?—A. I do not so recollect it.
 Q. Do you think that you debated over the matter some time before writing the answer?—A. I think I conferred with Mr. Sage, and probably we called in Mr. Vanderpoel and submitted the letter to him, and out of that came the reply; but that would be only a natural supposition. I do not remember how it was done. That would be my usual way of doing it.
 Q. How soon after the exchange of these letters were you served with a summons and complaint in this suit?—A. I do not remember. The complaint will speak for itself.
 Q. It will; but we would like to have you speak. Do you remember giving a summons and complaint?—A. I presume so. I do not know Mr. Holmes called on me, but that I instructed him to call on Vanderpoel, Green & Cuming, and very likely he might have sent it to them; I do not remember how it was.
 Q. Do you remember the fact of receiving that complaint to extricate the stock from the trust, before the articles of consolidation were passed?—A. No; I do not remember.

AS TO VERIFICATION OF ANSWER.

- Q. Do you remember whether you swore to the answer?—A. I do not remember. It ought to tell.
 Q. I will show you the answer. Please look over the answer, and say whether you ever remember seeing it and swearing to it.—A. Yes, sir.
 Q. On what day did you swear to it?—A. The 20th day of January.
 Q. So that the complaint must have been prepared and served on you before the answer prepared and verified by you between the 17th day of January, when you wrote your letter, and the 20th day of January, when you verified your answer?—A. Yes, sir.

Q. When you verified that answer, did you read the complaint over?—A. I do not know whether I did or not. If it was a long document I do not think I did. If it was a short one I presume I did.

Q. In the answer, you state that some parts of the complaint are true and other parts are not. Will you please tell me how you could make that statement under oath, unless you had read the complaint?—A. I suppose that Mr. Vanderpoel probably came with it and explained it to me, and read such parts as he wanted to. I may have read it all. I usually take what my lawyer says as the truth.

Q. Do you accept the suggestion of your lawyer in regard to verifying papers without examining for yourself?—A. Yes, sir; I have always done that. Hundreds and hundreds of things, when my lawyer comes and says "It is all right," I do not read through.

Q. Do you swear that the fact is true, because your lawyer tells you it is?—A. I do, with this sort of legal document. It is perhaps a little careless way, but then I have always done that.

Q. Did you notice the fact that Mr. Calef had made an affidavit which was annexed to the complaint at the time these papers were served on you?—A. I presume I did; at the time I must have known all about it.

MR. CALEF'S AFFIDAVIT.

Q. I will read you Mr. Calef's affidavit: "Being duly sworn, says that he is the secretary of the said Kansas Pacific Railway Company, and has been connected with the same, and has been familiar with its business and with the business affairs of the Denver Pacific Railway and Telegraph Company for about ten years; that he knows the value of the shares of the capital stock of the said Denver and Pacific Railway Company; that the road of said Denver and Pacific Railway and Telegraph Company is mortgaged for \$2,500,000, or at the rate of \$24,000 per mile; that said road has paid no dividends on its stock at any time, and has paid no interest on its first mortgage for about two years; that the present value of the said shares is merely nominal; that they are valued by the plaintiff on the trial balances at only \$1 per share, and that of the bonds of the first consolidated mortgage of the Kansas Pacific Railway Company \$8,400,000 only have been issued." Do you recollect that affidavit, and those facts as stated?—A. I presume so.

SUIT TO RELEASE DENVER PACIFIC STOCK.

Q. You knew the general object of this suit; that it was to take this \$3,000,000 of stock out of the trust?—A. Yes, sir.

Q. And you knew that the \$3,000,000 if taken out of the trust were to be exchanged for the new stock of the Union Pacific Railway Company?—A. Yes, sir.

Q. And you knew that that stock was selling on the market, and I think you have given the figures at \$103 per share?—A. No; not \$103, \$93.

Q. Ninety-three dollars it was; and you also knew at the time if that stock were extricated from the trust that it was to be converted into this stock of the Union Pacific Railway?—A. Yes, sir.

Q. Did you consider it a part of your duty as trustee of that mortgage to state that fact to Mr. Holmes, who was conducting the litigation?—A. No, sir; I did not. If it was not done we should have either foreclosed the road or else put the stock in for a nominal price. We could just as well put in Denver Pacific for \$500,000 of stock as \$4,000,000.

Q. Why could you not restore the proceeds of the Denver Pacific

ok, after it had been extricated and exchanged, to the trust which represented as trustee of the consolidated mortgage?—A. The consolidated company would not have made the stock on those terms. They would have found another way.

Q. In what respects would the consolidated company have been any worse off, if the proceeds of the stock had been returned to the trustees of the consolidated mortgage, than if it was returned to the Kansas Pacific Company?—A. It would have been very unfair to the stockholders of the company to have made stock and put it under that trust, because it was the signature of the consolidated company that gave value to the stock. When they made this consolidation they could have made \$4,000,000 of stock in another way as well as to make it in this. The reason they put in the Denver Pacific was because the franchise of their charter led up to a consolidation, and it was considered that the consolidation itself would be more symmetrical to embrace the franchises of the three companies. That having been decided upon, the question was how we would do it. One way was to take this stock in \$4,000,000, which would give the consolidated company the stock which they required to carry through the other purchases. Another way was this: We found we could put the Denver stock in at a nominal price. We could put it in for \$100,000 of the consolidation just as well as \$4,000,000. We had it all. In that way we would embrace the franchises; the other way was to foreclose the bonds—we had them—and make a title that way, but it would take longer. So that the only value of this Denver Pacific stock was a value that the consolidated company might give to anything that it put its name to. If it put its name to a bond, it was worth par; if it put its name to this stock, it was good; if it did not, it was not worth anything.

Q. Was not this stock, no matter what it was worth, the property of the trustees of the consolidated mortgage, precisely the same as this Kansas Pacific stock was your property?—A. Yes, sir.

Q. And, as such trustees, was it not your duty to hold for that trust the value that that stock could acquire, no matter how obtained?—A. Yes, sir; and that was precisely what the trustees did.

Q. Then I ask you again why, as trustees, you did not insist that after turning up the Denver Pacific stock for conversion the proceeds of that conversion, whatever they might be, should be paid back to you as trustees?—A. Because I knew perfectly well that if we did not make that arrangement the Denver and Pacific stock would become utterly useless. I could not go to the consolidated company and ask them to make \$4,000,000 stock to give to the Kansas consolidated trust when it was not worth it. I had to judge of that thing by my duty as the trustee of the consolidated mortgage. I stand on that, and I knew perfectly well if I did not consent to that that the Denver Pacific would be wiped out through the mortgage. Therefore I said, we will take no consideration for it.

Q. Why was the new company any more willing to make this \$4,000,000 new stock and give the stock to the Kansas Pacific Company, which it did, than it was to give it to the trust which you represented?—A. Why should they give it to the trust?

Q. Why should they give it to the Kansas Pacific Company?—A. Because it was stock that they made themselves. They could just as well have got the \$4,000,000 of stock without the Denver Pacific as without it.

Q. I ask you why they were willing to give it to the Kansas Pacific Company and not to the trustees of the consolidated mortgage?—A. Because it would not have been proper or just. They had made up

their minds what they would give—that they would give \$500,000 for that stock. They would reduce the mortgage to that extent.

Q. Who had made up their minds?—A. The parties that were carrying through the consolidation. Now, the trustees were met with the fact that that asset would be wiped out, or they could get that consideration for it. What was their duty? It was plain. And what they did was the very best thing for them, for that trust.

Q. Were you informed by Mr. Dillon that he had sworn before the referee that the Denver Pacific stock, if extricated from the trust and applied to the purposes which were intended—that is, to the consolidation—could not produce over \$200,000 or \$300,000?—A. Yes, sir. I do not know whether he swore it, but it would be the fact; and the best evidence is that I sold my own stock at 10 cents. That is equal to \$400,000 for the whole of it.

Q. My question is this: Whether you were informed that Mr. Dillon had sworn that the stock, if extricated from the trust of the mortgage and exchanged for Union Pacific Railway stock, would only produce \$200,000 or \$300,000.—A. I do not know anything about that.

Q. You do not think you were informed of it?—A. No.

Q. Were you informed that the language he used was, that if the stock were extricated from the trust, so that they could do certain things with it, it could not produce over \$200,000 or \$300,000?—A. I do not know anything about that.

Q. Did Mr. Dillon tell you that he had been before the referee?—A. No, sir.

Q. Did you know who the witnesses were before the referee?—A. No, I did not; I did not pay any attention to the details of it, but I only know that it was a wise arrangement for the trust. I am willing to take the responsibility for it that day, or this, or any other.

The Commission then adjourned to Wednesday, May 18, 1887, at 11 a. m.

NO. 10 WALL STREET, NEW YORK,

Wednesday, May 18, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

JAY GOULD, being further examined, testified as follows:

The WITNESS. In answer to a question yesterday, I gave the mileage of the two main lines, their bonded debts, the bonded debt per mile, and the stock per mile. I only spoke at random then. I have now had a carefully-prepared statement made, which I would like to substitute as the answer.

Commissioner ANDERSON. Certainly.

The paper offered by Mr. Gould is marked "Exhibit No. 1, May 18, 1887," and is as follows:

EXHIBIT No. 1, May 18, 1887.

Length of roads at the date of consolidation.

	Miles.
Union Pacific Railroad.....	1,042
Kansas Pacific Railway.....	629
Leavenworth Branch.....	34
Denver Pacific Railway.....	106
Total.....	1,811

Paaid debt, including principal and balance of interest, due to the United States, January 31, 1880.

	Mileage.	Amount.	Per mile.
Union Pacific.....	1,042	\$88,472,391 10	\$84,906 32
Kansas Pacific and Leavenworth Branch.....	673 } 779	35,162,518 50	52,247 43
Danver Pacific, deducting amount owned by the Kansas Pacific Company.....	106 }	581,000 00	5,481 13
Total.....	1,821	124,215,909 60	68,213 02

Capital stock January 31, 1880.

	Mileage.	Amount.	Per mile.
Union Pacific.....	1,042	\$38,762,300 00	\$36,280 51
Kansas Pacific and Leavenworth Branch.....	673 } 779	19,800,350 00	12,592 23
Danver Pacific.....	106 }		
Total.....	1,821	46,571,650 00	25,574 77

*Outstanding, as above.....	\$9,800,350
Kansas Pacific stock in treasury.....	191,750
Danver Pacific stock in Kansas Pacific treasury.....	3,908,900
Total.....	14,000,000

THE WITNESS. I have also had a statement prepared for the Commission, if they desire it, of the official transactions in the stocks of the two roads from the 1st of January to the date of consolidation.

By Commissioner ANDERSON:

Q. The 1st of January, 1880?—A. 1880.

The paper is marked "Exhibit No. 2, May 18, 1887," and is as follows:

Jan. 2, 1880.	Jan. 7, 1880.	Jan. 9—Continued.
Un. Pac. 200 (b. c.)..... 85½	Un. Pac. 200..... 85½	Un. Pac. 100..... 86½
200..... 85½	Kan. Pac. 300..... 88½	100 (b. 3)..... 86½
225..... 85½		Kan. Pac. 600..... 92½
25..... 86	Jan. 8, 1880.	500 (b. c.)..... 92½
Kans. Pac. 300 (b. c.)..... 87		300..... 93
200 (b. 60)..... 88½	Un. Pac. 125 (b. c.)..... 86	100..... 93
20..... 88	700 (b. c.)..... 86	700 (b. c.)..... 93
200..... 87	300 (b. 3)..... 86	100..... 93½
	Kan. Pac. 400..... 91	200..... 92½
Jan. 8, 1880.	200 (b. 60)..... 92	200..... 93½
Un. Pac. 50..... 86½	200..... 91½	100..... 93
100 (b. c.)..... 86	200..... 91½	100..... 93½
30..... 86½	200..... 92	100..... 94
200..... 86½	300..... 92½	100..... 93½
100..... 86½	600..... 93	700..... 96
100..... 85½	200..... 93½	200..... 97½
100..... 85½	200 (b. c.)..... 93	10..... 97
200..... 85	Jan. 8, 1880.	Jan. 10, 1880.
Kan. Pac. 100..... 87	Kan. Pac. 10..... 93½	Un. Pac. 200..... 86½
	50..... 92½	700..... 87
Jan. 5, 1880.	100 (b. 30)..... 94	45..... 87½
Un. Pac. 100 (b. c.)..... 85½	Jan. 9, 1880.	450 (b. c.)..... 87½
50..... 85½		375..... 87½
200..... 85	Un. Pac. 200..... 86	100..... 87½
100..... 84½	100..... 86½	100..... 87½
100 (b. c.)..... 84½	400..... 86½	500..... 87½
100..... 85	5..... 87½	200..... 88
Jan. 6, 1880.	100 (b. c.)..... 86½	50..... 88½
Un. Pac. 100 (b. c.)..... 84½	500..... 86½	100..... 88½
20..... 85½	30..... 86½	300..... 88½
100 (b. c.)..... 85½	20..... 86½	100..... 88½
Kan. Pac. 100 (b. c.)..... 87	300..... 86½	100..... 88
	100 (b. 3)..... 86½	100..... 88½

U. S. PACIFIC RAILWAY COMMISSION.

[illegible]

Jan. 17, 1880—Continued.

Pac. 600	95½
100	95½
2,200	95½
1,000	95½
1,975 (b. 2)	96
a. Pac. 1,000	100
200 (b. c.)	99½
100	99½
100	99½
300 (b. 2)	101
300 (b. 60)	101
500	100
100 (b. 10)	102½
100 (b. 10)	102½
100 (b. 10)	103
100	101
200 (b. 10)	106
100 (b. 3)	106½
100	106
100	106½
100	105½
400	102½
10	103
100	105
100	105½

Jan. 19, 1880.

a. Pac. 1,000	96
600	96½
200	96½
400	96½
200	96½
50 (a. 30)	96
700	97
600	96½
100	96½
100	96½
200	96½
300	96
200	96½
300	96½
300	96½
600	96½
100	96½
300	96½
600	97
500	97½
200	97½
200	97½
200	97½
100	97½
100	97½
200	97½
50	97
600	96½
300	96½
100	96½
600	96½
100	96½
1,070	96½
250	96½
200	96½
415	97
100	96½
200	97½
650	97½
400	97½
200	97
100	96½
200	96½
600	96½
a. Pac. 200	105
400	107
100 (b. c.)	106½
200	105
100	104½

Jan. 19, 1880—Continued.

Kan. Pac. 100 (b. 60)	105½
200	104

Jan. 20, 1880.

Un. Pac. 200	96½
100	96
300	95½
500	95½
700	95½
400	96
200	96½
500	96½
100 (b. c.)	96½
100	96½
300	96
400	95½
100	95½
50	95½
600	96½
200	95
100	94½
700	94½
100	94½
400	94
100	93½
100	93½
900	94
200	93½
100	94½
300	94½
100	94½
200	94½
100	94½
100	94½
40	95½
10	95
500	94½
200 (b. 3)	95
140	94½
100	91½
400	95
220	96½
Kan. Pac. 100	101
100	100
100	99½
400 (b. c.)	98
100	97
100	97
400	100
200 b. 60	102

Jan. 21, 1880.

Un. Pac. 700	96
300	95½
600	95½
350	95½
200 (b. c.)	95½
800	95
100	94½
10	95½
100 (b. 15)	94½
200	94½
100 (b. 3)	95
100	96½
100	95½
100	95½
100	95
100	94½
200	94½
20 (b. c.)	95½
200	95
400	95½
5	95½
25	95½

Jan. 21, 1880—Continued.

Un. Pac. 100	93
700	95½
100	95½
100	95½
Kan. Pac. 100 (b. c.)	96½
100	90
200	96½
200 b. 60	96
200	96

Jan. 22, 1880.

Un. Pac. 100	95½
10 (b. c.)	95
100	94½
400	94½
200 (b. 3)	94½
300	94½
500	94½
100 (a. 3)	94½
100	94½
200	91½
700	94½
30	94½
100	94½
200	94½
100	94½
100	94½

Jan. 23, 1880.

Un. Pac. 500	94
100	93½
300 (b. c.)	93
100	92
400	92½
500	93
200	93½
10 (c.)	93½
125	93½
400	93½
450	98
200	98½
200 (b. c.)	93
200	96
100	96
100 (b. 3)	94
600	94
100	94½
200	94½
100 (b. 3)	93½

Jan. 24, 1880.

Un. Pac. 200	93½
50	93
200	93
100	93
100 (b. c.)	93
200	93½
100	94
600	94½
200	94½
300	94½
200	94
200	93½
100	93½
900	93
300	93½
400	93½
Kana. Pac. 200 (b. c.)	96
100	95
200	96
200	96

Q. I do not quite understand what you mean by the official transactions.—A. The New York Stock Exchange keep what they call the official list, giving all the transactions that occur in that board.

Q. Showing the market rate?—A. Showing all the purchases and sales of each stock during the day.

By Commissioner LITTLER:

Q. Does this embrace all?—A. That embraces all.

Commissioner ANDERSON. I would say that we have ordered the quotations of all stocks for each month, giving the highest and lowest price, from the 1st of January, 1878, to the 1st of July, 1880; but, of course, we will accept that.

The WITNESS. I also prepared another statement, showing the formation of this Kansas Pacific consolidated mortgage, and showing the saving in principal and interest.

The paper offered is marked "Exhibit No. 3, May 18, 1887," and is as follows:

Memorandum showing bonded debt of Kansas Pacific Railway Company, and interest charges when consolidated bond was issued.

[§24,000,000 of consolidated bonds bearing six per cent. interest to retire bond, making a saving as shown below.]

	Debt.	Annual interest.
6 per cent. first mortgage.....	\$6,303,000	\$378,180 00
7 per cent. Leavenworth branch.....	600,000	42,000 00
7 per cent. incomes.....	4,275,350	299,274 50
7 per cent. Denver extension.....	6,379,000	446,530 00
7 per cent. first land grant.....	2,000,000	140,000 00
7 per cent. second land grant.....	1,500,000	105,000 00
10 per cent. funding.....	1,500,000	150,000 00
7 per cent. Arkansas Valley.....	1,125,000	78,750 00
6 per cent. Solomon.....	575,000	34,500 00
7 per cent. Fort Kearney.....	970,000	67,900 00
6 per cent. coupon certificates.....	2,500,000	150,000 00
Total.....	27,727,350	1,892,134 50
	24,000,000	1,440,000 00
	*3,727,350	†452,134 50

Memorandum of Kansas Pacific land grant.

Lands have been sold to date amounting to\$16,056,881 41
Land sales canceled to date.....1,884,999 21

Net sales to date.....14,171,882 20

When consolidated mortgage was issued there were acres unsold about.....5,100,000 00
Bills receivable (exclusive of Denver Pacific).....1,315,000 00

At present Trustees have the following unsold lands, about.....4,000,000 00
Bills receivable.....4,859,768 00
Cash.....800,000 00

Total.....9,659,768 00
Making the land grant realizing about \$18,000,000.

The WITNESS. I believe you called also for a statement of the Kansas Pacific.

Commissioner ANDERSON. Of your purchases of Kansas Pacific stock.

* Difference in principal.

† Difference in annual interest.

The WITNESS. My purchases, and also the bills of sale, where I bought the Saint Louis party out. This, as well as the capital stock of the Kansas Pacific, is stated in detail in the paper I now submit to you.

The accounts offered are marked "Exhibit No. 4, May 18, 1887," and are as follows:

Kansas Pacific pool.

March 7, 1879, to C. S. Greeley.....	\$367,525 42
March 7, 1879, to John D. Perry.....	179,600 62
March 7, 1879, to B. W. Lewis.....	72,932 42
March 8, 1879, to S. M. Edgell.....	107,563 48
March 8, 1879, to Adolphus Meier.....	116,874 19
March 8, 1879, to F. W. Meister.....	45,599 70
March 8, 1879, to Robert E. Carr.....	62,037 70
March 8, 1879, to D. M. Edgerton.....	16,261 42
March 8, 1879, to William Thaw.....	46,219 46
March 8, 1879, to M. K. Morehead.....	17,879 38
March 8, 1879, to H. H. Houston.....	79,076 99
March 10, 1879, to Elias D. Kennedy.....	21,066 35
March 10, 1879, to Henry Martin.....	112,632 48
March 13, 1879, to O. H. Palmer.....	11,371 85
March 20, 1879, to Thomas A. Scott.....	54,184 02
March 10, 1879, to Jay Gould, sundry securities.....	1,254,130 26
December 31, 1879, to capital.....	493,069 25

3,068,024 99

March 17, 1879, by committee, \$439,000 D. E. bonds.....	
March 17, 1879, by committee, 109,978 shares of Kansas Pacific stock.....	
March 17, 1879, by committee, certificates of Kansas Pacific consolidated mortgage.....	3,036,052 49
June 12, 1879, by committee, certificates of Kansas Pacific consolidated mortgage.....	15,722 50
July 31, 1879, by committee.....	6,250 00
	3,058,024 99

ABSTRACT OF JOURNAL ENTRIES CONCERNING THE KANSAS PACIFIC POOL.

March 7, 1879.

Sundries to 4th National Bank.

For purchase of C. S. Greeley, of Saint Louis, Mo., the following securities:

Kansas Pacific stock, 25,891 shares, \$50 each, at 6½.....	\$161,818 75
Unstamped income bonds, \$6,500, at 50 cents.....	3,250 00
Stamped income bonds, \$60,400, at 30 cents.....	18,120 00
Second land-grant bonds, \$155,000, at 50 cents.....	77,500 00
Arkansas Valley bonds, \$35,000, at 50 cents.....	42,500 00
Leavenworth Branch, \$40,000, at 50 cents.....	20,000 00
Denver extension bonds, pool and second land-grant bonds.....	\$42,837 37
Six months' interest at 7 per cent., six months' interest at 3½ per cent.....	1,499 30
	44,336 67

367,525 42

March 7, 1879.

Sundries to 4th National Bank.

For purchase of John D. Perry, of Saint Louis, Mo., the following securities:

Kansas Pacific stock, 11,557½ shares, at 6½.....	\$72,232 34
Stamped income bonds, \$42,900, at 30 cents.....	12,870 00
Second land-grant bonds, \$110,666½, at 50 cents.....	55,333 34
Arkansas Valley bonds, \$35,000, at 50 cents.....	17,500 00
Denver extension bonds pool, cash paid.....	\$20,932 41
Interest, 3½ per cent.....	732 53
	21,664 94

179,600 62

March 8, 1879.

Sundries to 4th National Bank.

Case of Robert E. Carr the following Kansas Pacific securities through C. S.
n, attorney :

as Pacific stock, 6,259 shares, \$50, at 6½	\$30,118 75
umped income bonds, \$7,000, at 50	3,500 00
ped income bonds, \$6,450, at 30	1,935 00
asas Valley bonds, \$20,000, at 50	10,000 00
er Extension pool.....	\$7,230 87
et on same, six months, 3½ per cent	253 08
	<hr/> 7,483 95
	<hr/> 62,037 70

March 8, 1879.

Sundries to 4th National Bank.

Case of D. M. Edgerton the following securities:

as Pacific stock, 768 shares, \$50, at 6½	\$4,800 00
asas Valley bonds, \$19,000, at 50	9,500 00
er Extension pool.....	\$1,895 09
et on same, six months, 3½ per cent	66 33
	<hr/> 1,961 42
	<hr/> 16,261 42

March 8, 1879.

Sundries to 4th National Bank.

Case of William Thaw the following Kansas Pacific securities through D. M.
n, attorney :

as Pacific stock, 3,303 shares, \$50, at 6½	\$20,643 75
asas Valley bonds, \$40,000, at 50	20,000 00
er Extension pool.....	\$5,387 16
et on same 3½ per cent., six months.....	180 55
	<hr/> 5,575 71
	<hr/> 46,219 46

March 8, 1879.

Sundries to 4th National Bank.

Case of M. K. Morehead the following Kansas Pacific securities through D.
n, attorney :

as Pacific stock, 1,234 shares, \$50, at 6½	\$7,712 50
ed income bonds, \$26,700, at 30	8,010 00
er Extension pool.....	\$2,083 95
et on same 3½ per cent., six months.....	74 93
	<hr/> 2,158 88
	<hr/> 17,879 38

March 8, 1879.

Sundries to 4th National Bank.

Case of H. H. Houston the following Kansas Pacific securities through D. M.
n, attorney :

as Pacific stock, 3,926 shares, \$50, at 6½	\$24,637 50
i land-grant bonds, \$50,000, at 50	25,000 00
asas Valley bonds, \$40,000, at 50	20,000 00
er Extension pool paid.....	\$9,216 90
et on same, six months, 3½ per cent	322 59
	<hr/> 9,539 49
	<hr/> 79,076 99

March 10, 1879.

Sundries to 4th National Bank.

For purchase of Elias D. Kennedy the following Kansas Pacific securities through D.

M. Edgerton, attorney:

Kansas Pacific stock, 1,364 shares, \$50, at 6½	\$8,525 00
Second land-grant bonds, \$6,000, at 50	3,000 00
Arkansas Valley bonds, \$10,000, at 50	5,000 00
Leavenworth Branch bonds, \$4,000, at 50	2,000 00
Denver Extension pool	\$2,455 41
Interest on same, six months, 3½ per cent	85 94
	<u>2,541 35</u>
	<u>21,066 35</u>

March 10, 1879.

Sundries to 4th National Bank.

For purchase of Henry Martin the following Kansas Pacific securities:

Kansas Pacific stock, 6,320 shares, \$50, at 6½	\$39,500 00
Stamped income bonds, \$140,150, at 30	42,045 00
Arkansas Valley bonds, \$35,000, at 50	17,500 00
Denver Extension pool	\$13,128 00
Interest on same, six months, at 3½ per cent	459 48
	<u>13,587 48</u>
	<u>112,632 48</u>

March 13, 1879.

Sundries to 4th National Bank.

For purchase of O. H. Palmer the following Kansas Pacific securities:

Kansas Pacific stock	
Unstamped income bonds, \$5,000, at 50	\$2,500 00
Stamped income bonds, \$25,000, at 30	7,500 00
Denver Extension pool	\$1,325 46
Interest on same, six months, 3½ per cent	46 39
	<u>1,371 85</u>
	<u>11,371 85</u>

March 20, 1879.

Sundries to 4th National Bank.

For purchase of Thomas A. Scott through R. D. Barclay the following Kansas Pacific securities:

Kansas Pacific stock, 3,646 shares, at 6½	\$22,787 50
Stamped income bonds, \$66,200, at 30	19,860 00
Arkansas Valley, \$10,000, at 50	5,000 00
Denver extension pool assessment	\$6,315 48
Interest on same, six months, 3½ per cent	221 04
	<u>6,536 52</u>
	<u>54,184 02</u>

March 10, 1879.

Kansas Pacific pool to capital.

For amount of Kansas Pacific securities held as of March 10, 1879, and thrown in the pool with others:

\$784,000 funded bonds, at 80	\$627,200 00
2,142,600 stamped income, at 18	385,668 00
160,000 second land grant, at 18	28,800 00
48,050 unstamped income, at 18	8,649 00
Assessment on valuation, \$1,537,650	203,813 22
	<u>1,254,130 22</u>

December 31, 1879.

Sundries to capital.

transferred as of December 31, 1879:

Pacific reorganization pool \$493,000 25

March 17, 1879.

*Sundries to Kansas Pacific pool.*delivered by the Kansas Pacific pool through committee of S. Dillon,
and H. Villard:

Extension bonds, \$429,000.....	
Pacific stock, 109,978 shares, \$50.....	\$2,500,000 00
of consolidated mortgage.....	250,000 00
March 17.....	15,000 00
April 4.....	35,000 00
April 4.....	235,052 49
	<u>3,035,052 49</u>

June 12, 1879.

certificate consolidated mortgage bonds to Kansas Pacific reorganization pool

received June 12, on account No. 118, M. K. Moorehead. \$15,722 50

July 15, 1879.

certificates of consolidated mortgages to Kansas Pacific reorganization pool.

received July 15, account H. H. Cook \$6,250 00

Kansas Pacific Railroad—capital stock.

	Shares.	
To Reorganization committee	109,978	
To W. E. Connor, lt	1,900	\$18,895 00
To H. Villard, lt	11	308 00
To Leo'd T. Smith	5,000	150,000 00
To K. T. R'y Co	1,264	
To balance transferred		49,793 75
	<u>118,153</u>	<u>248,996 75</u>

By Russell Sage	7,184	
By Sidney Dillon	1,796	
By C. S. Greeley	1,796	
By E. H. Perkins	718	
By G. M. Dodge	359	
By Henry Villard	449	
By Fred. L. Ames	5,398	
By James Buell	1,078	
By Ezra H. Baker	1,078	
By Jas. F. Woodward	718	
By Geo. W. Perkins	718	
By D. M. Edgerton	539	
By De Neuville & Co	1,293	
By Drexel, Morgan & Co	1,627	
By H. Villard	718	
By H. Villard	179	
By F. Gordon Dexter, trustee	2,514	
By Russell Sage	3,592	
By H. Villard	1,078	
By W. E. Connor	100	994 50
By H. Villard	1,167	
By W. E. Connor	200	
By Russell Sage, sale	2,000	
By W. E. Connor	600	
By W. E. Connor	500	
By Union Trust Company	80,764	
	<u>118,153</u>	

*In exchange for 49,252 shares of U. P. R'y Co. stock.

Memorandum showing bonded debt of Kansas Pacific Railway Company, and interest charges when consolidated bond was issued.

[$\$24,000,000$ of consolidated bonds bearing 6 per cent. interest to retire bond, making a saving shown below.]

	Debt.	Annual interest.
6 per cent. first mortgage.....	\$6,303,000	\$378,180 00
7 per cent. Leavenworth branch.....	600,000	42,000 00
7 per cent. incomes.....	4,275,350	299,274 50
7 per cent. Denver extension.....	6,379,000	446,530 50
7 per cent. first land grant.....	2,000,000	140,000 00
7 per cent. second land grant.....	1,500,000	105,000 00
10 per cent. funding.....	1,500,000	150,000 00
7 per cent. Arkansas Valley.....	1,125,000	78,750 00
6 per cent. Solomon.....	575,000	34,500 00
7 per cent. Fort Kearny.....	970,000	67,900 00
6 per cent. coupon certificates.....	2,500,000	150,000 00
Total.....	27,727,350	1,892,134 50
	24,000,000	1,440,000 00
	*3,727,350	†452,134 50

Memorandum of Kansas Pacific land grant.

Lands have been sold to date amounting to\$16,056,881 44
Land sales canceled to date1,884,999 94

Net sales to date14,171,882 20

When consolidated mortgage was issued there were acres unsold,
about.....5,100,000
Bills receivable\$1,315,000

Exclusive of Denver Pacific.

At present trustees have the following:
Unsold lands, about:.....\$4,000,000
Bills receivable.....4,850,768
Cash.....800,000

9,650,768

Making the land grant realizing about \$18,000,000.

KANSAS PACIFIC REORGANIZATION CERTIFICATES.

Q. Will you please explain to us what is referred to in the statement made to us by Mr. Sage, and which, under date of March 18, is described as \$200,000 Kansas Pacific reorganization certificates?—A. My understanding is that those were certificates that were issued in the interim to entitle the holder to draw consolidated bonds, when they were finally ready for issue.

Q. And that they represented the amount in value or in dollars which the holder was entitled to receive in bonds, and that the figure was arrived at by scaling down the securities which he had owned, according to the prices for such scaling stated in the pooling agreement?—A. That is my recollection. In my papers I think you will find a detailed statement of the settlement with Mr. Sage. I do not find the account with Mr. Sage in here.

Commissioner ANDERSON. The explanation is quite sufficient.

The WITNESS. But there seem to be certificates of consolidated mortgage bonds issued up to that date, so that I infer my answer covers it.

Commissioner ANDERSON. The conclusion we derive from your statement is that the sale made by you on the 18th of March to Mr. Sage

* Difference in principal.

† Difference in annual interest.

entitled him to \$200,000 consolidated bonds, when issued; to \$29,000 of the Denver extension bonds; and that out of the consideration that was paid you, to wit, \$200,000, it was the difference between the value of the consolidated bonds and of the \$29,000 of Denver extension bonds that was paid you for 7,185 shares of Kansas Pacific stock. That was all that would be left, you say?

The WITNESS. That is my understanding of it.

REASON FOR EXCHANGE OF DENVER PACIFIC STOCK WITH KANSAS PACIFIC COMPANY.

Q. I wish you would tell me exactly in what respect it was more to the advantage of the consolidated company to make the exchange of Denver Pacific stock with the Kansas Pacific Company rather than to make it with the trustees of the consolidated mortgage?—A. I will explain that to you if you will let me see the map. I can use that. When the roads came to consolidate this was the way it stood: The Kansas Pacific proper ended at Denver. It owned the Denver Pacific Extension to Cheyenne. The Union Pacific went through to Ogden, and it owned its road [indicating on the map].

Q. The Colorado Central branch?—A. The Colorado Central. The question was whether the Union Pacific would consolidate her road in, leaving this as an asset—the Denver Pacific; or whether the Denver Pacific should be consolidated in, leaving this to be owned by the consolidated company as an asset. My position was just this, putting all these legal technicalities to one side, I was the largest owner of the Kansas Pacific bonds. I was also the trustee of them. I naturally wanted this road to come in for this reason—

By Commissioner LITTLE :

Q. When you say this road, you mean what?—A. The Denver Pacific.

By Commissioner ANDERSON :

Q. To go into what?—A. Into the consolidation. The trustees held these bonds, and they also held the bonds of the Boulder Valley road, which ran up there and which was guaranteed by the Denver Pacific. These bonds were a little off color. They had not paid their interest for two years. If the Denver Pacific was included in the consolidation, the effect of the consolidation would be to guarantee those bonds. The absorption of the franchise of the Denver Pacific by the consolidated company operated as a guarantee of the principal and interest of those bonds; and it would have been the duty of the trustees, if we could not have made any better bargain than we did, to have done this. If the proposition had been, simply, to the trustees, "Now, gentlemen, if you will put in your Denver Pacific stock, we will consolidate with that road, and throw the guarantee of this fifty million dollar company around your bonds," it would have been the duty of the trustee to have accepted it. But we got a still better bargain than that. We got the \$500,000 stricken off from the mortgage—that is the whole thing in a nut-shell. Of course, the consolidated company would not make it into new stock and throw it into an outside trust. It would have been better to have made stock which they could just as well have made through the consolidation in another way, and kept it. There was no object in their making this stock and putting it into a trust. I was working to make this trust better, because I was the largest holder of the bonds, and I was the trustee of them. But there was no director

or individual that made a dollar out of the transaction, and I am very glad to have an opportunity to put a final nail in that coffin. I held a million of the Denver Pacific stock, and I put it in at just what it cost me—10 cents on the dollar.

Q. I think I understand your explanation, but it does not answer the question I put, which is: whether the consolidation would not have been equally effective and have attained all the objects proposed by converting directly the Denver Pacific stock with the trustees, and handing to them the new stock of the consolidated company, which, under the consolidation, though held by the trustees, would have been the actual property of the Union Pacific Railway, just as any other property that the trustees held, and would have passed to the Union Pacific Railway under the consolidation with the Kansas Pacific?—A. No, sir; it would not have gone to the new company. If it had gone into the hands of the trustees it would have gone specifically to those bonds of the Kansas Pacific.

Q. As collateral?—A. As collateral.

Q. But the real ownership would have been in the consolidated company?—A. No, sir; it would have been in the trustees. The trustees held the legal title to the security.

Q. True; but after payment of the consolidated bonds the Union Pacific would have derived the entire interest from the equities; is that not so?—A. After the payment of the bonds, many years hence; but that would have been unbusiness-like in the consolidated company, and they would not do it. That would not have been done. That is the point.

Q. I want you to tell me in what respect they would have been at a disadvantage with this new stock in the hands of the trustees instead of putting that new stock into the hands of the Kansas Pacific Company itself?—A. It would have been unjust to the consolidated company. Under what obligations were they? They had benefited themselves enough by the consolidation. Under what obligations were they to make a specific security? Were they under any obligation to deposit \$4,000,000 as additional security to these bonds? The bonds were out; the rights were settled; and they would not have done it. It would not have been done in that way.

Q. That I understand; but I want to know if you can point out in what respect the consolidated company would have had any less property or any less advantage if the securities referred to had been held by the trustees as an additional security for the consolidated bonds, with the obligation and duty to return to the Union Pacific Railway Company any equity that there was left over and above the security for the bonds, accounting to the railway for any dividends on the stock, permitting the trustees to make just the exchange that there was made afterwards, if the court should approve it, and to hold the Saint Joseph bonds which were derived in that trust instead of holding the stock, which was originally converted. In what respect would the consolidated company, if this course had been pursued, have suffered any disadvantage or any loss in money?—A. I do not know that they would have lost any money. The trustees would, of course, have taken care of the stock; but they would have to pay dividends into this trust, and it would have taken so much more of the revenue of the company to pay into this trust. It would have gone to the redemption of bonds. It would have been a voluntary addition to the sinking fund of the company.

Q. Do you not know that the dividends on collateral are usually and customarily paid over to the holder of the equity so long as there is no default?—**A.** That is by agreement of the parties.

Commissioner ANDERSON. It is the custom, unless there is any default. It may be that the holder of the bonds might have impounded the income. That is true?

The WITNESS. But there was another reason. The company did not want to enlarge their stock any more than was necessary; and, to carry out this general arrangement, they required a certain amount of stock, and if they had made this stock and immediately impounded it, they would have had to make as much more to carry out those purposes.

Q. What were those purposes?—**A.** That was to pay off the obligations which the Kansas Pacific had incurred in the purchase of these branch lines.

Q. Exactly. Then the real advantage gained was that by freeing this stock from the obligations of that trust the consolidated company could use it in the discharge of the obligations assumed by the Kansas Pacific in regard to the purchase of the branches?—**A.** Yes, sir.

Q. And those branches were purchased from you?—**A.** Those branches are purchased from me.

Q. So that the effect of the freeing of the stock from the trust of the mortgage was to facilitate carrying out a bargain that had been made with you?—**A.** Yes, sir.

CONCERNING PURCHASE OF MISSOURI PACIFIC.

Commissioner ANDERSON. I wish you would explain to us a little more fully the sketch that you gave us yesterday of your acquiring an interest in the Missouri Pacific, and of the design you had, in connection with the railroad to Loveland Pass, to make a through system of communication to Ogden.

The WITNESS. *There is Loveland Pass through the mountains. [The witness indicates a line in ink on the map, starting from Denver, following the Colorado Central right up through the cañon in the mountains, and thence continuing westward to Salt Lake, and marks it "Loveland Pass Line."] There is the Missouri Pacific as I bought it. It ran from Saint Louis to Kansas City, there it connected with the Kansas Pacific. With the same purchase I got two little roads, which made a link between Kansas City and Atchison, and there connected with the Central Branch.*

By Commissioner LITTLER:

Q. What are the names of those two little roads?—**A.** I do not remember the names. I think one was the Leavenworth and Northwestern, and the other some other name which I do not remember. By taking the Kansas Pacific and running right through, as indicated before, to Salt Lake City, and thence to San Francisco by the Central Pacific, it made the shortest line across the continent. It is undoubtedly the true one, because the Union Pacific, in the construction of it, kept north of the mineral belt; they had not discovered it at that time. The Southern Pacific kept south of it. The mineral belt is the Central line west, and his line extended would go right through it. It would pay largely as a local road.

The CHAIRMAN. There would not have been so much mileage, however?

The WITNESS. It would have been so much shorter than the other line.

The CHAIRMAN. The first line was longer by reason of the route they took, which was probably done to obtain the grant by the Government, per mile?

The WITNESS. Yes, sir; that might have been it.

By Commissioner ANDERSON:

Q. That was the design, as you had it in your mind, when you purchased the Missouri Pacific?—A. No, not when I purchased it. But, after I got it, and my interest changed, and I came to see what its capabilities were, I of course saw what an immense thing I could make by turning my hand over. But after I let that opportunity go the Missouri Pacific took its course off south and southwest. That represents the Missouri Pacific system to-day. When I bought it it was 283 miles, and now it is about 7,000 miles. [Indicating on another map the Missouri Pacific system.]

Q. That is, the net-work through the Iron Mountain and the Kansas Pacific and Texas Pacific and International and Great Northern?—A. Yes, sir.

EFFECT OF DISCLOSURE OF THE FACT OF PURCHASE.

Q. How soon after you had purchased the Missouri Pacific did you disclose the fact to your associates in the Union Pacific?—A. It must have been very soon.

Q. The matter was a public matter, was it not?—A. Yes, sir.

Q. And was noticed in the prints at the time?—A. Yes, sir.

Q. You say the 13th of November was the day of the purchase?—A. Yes, sir.

Q. How soon after that was it that, as you have stated, they became agitated and communicated with you?—A. It must have been within a month of that.

Q. Did they first write letters?—A. I think they came on here.

Q. You do not think there were any letters written?—A. No, sir; I do not remember any.

Q. You have none?—A. No; I write few letters.

Q. I am talking about Mr. Dexter and Mr. Ames.—A. No; I do not think they wrote.

Q. Did they come on more than once?—A. They were on here frequently. I think they may have been here more than once.

Q. That is, Mr. Ames and Mr. Dexter, and what other names of gentlemen do you remember as having come on here?—A. I think Mr. Dexter, Mr. Ames, Mr. Atkinson, probably Mr. Baker, and Mr. Dillon.

Q. Mr. Dillon was here, was he not?—A. Yes, sir; Mr. Dillon was here.

Q. Did he unite with them in this agitation and desire to have you abstain from putting through this Missouri Pacific line?—A. I presume he asked them to come here. I think very likely.

Q. Was he interested with you in the purchase of the Missouri Pacific?—A. No, sir.

Q. Was Mr. Sage interested with you in the purchase of the Missouri Pacific?—A. No, sir. No, I had no partners in it. Mr. Sage was interested, long before I was, in the Missouri Pacific.

Q. And he retained his interest after you obtained yours?—A. He retained his interest; yes, sir.

Q. How many interviews do you remember having with these Boston gentlemen before the interview at which you signed a paper agreeing to the consolidation finally?—A. I do not remember.

Commissioner ANDERSON. And you acquiesced in the request of your Boston friend and Mr. Dillon that the original transaction should be carried out?

The WITNESS. I had been identified with the Union Pacific, and had taken it out of a rut and put it on a dividend basis, and I had been identified with these gentlemen, and, of course, if they wanted the consolidation I felt bound to give it to them. They got alarmed; but if they wanted it, I intended to do it. If they did not want it, I would have let it go the other way. My real interest was to let it go the other way.

THE RIGHTS OF THE UNITED STATES.

Q. In the discharge of your duties as director of the Union Pacific, and in this whole matter, did you ever consider the duty you owed to the United States, as representing its interest as a large creditor?—A. Yes, sir; I thought of that very often.

Q. What would have been the effect of the paralleling of the Union Pacific by the Missouri Pacific system on the security of the United States?—A. It would have wiped it out probably. After the passage of the Thurman bill, and after it was sustained by the Supreme Court, my plan was to build a road from Omaha to Ogden, just outside of the right of way, by the stockholders, and give the Government up their road; and when I found that the directors were not quite up to that, that was one of the reasons on which I made up my mind I would let other people walk a while. The Government was trying to squeeze more out of the turnip than there was in it, and I thought I could build a road for \$15,000,000 from Ogden to Omaha as good as one that was mortgaged for \$75,000,000.

Q. When, then, you say that you considered the rights of the Government as a creditor, I assume that you mean that you merely examined the value of the security, and not that you were a devoted adherent of the Government, and would try and protect it as against all other interests?—A. Yes, sir; I wanted to protect the Government; but I considered their legislation destructive of their own interest.

ALLEGED OFFER TO PAY THE PRESENT WORTH OF THE GOVERNMENT DEBT.

My plan was to pay the Government—and we offered to do that—the present worth of their debt in cash. We could have gone to our own stockholders and asked them to take stock and wipe it all out; but, instead of that, the Government passed the Thurman bill, making exactions, and repudiating their own contract; and, of course, the stockholders were in jeopardy. It was a question whether their interests would not be wiped out.

Q. Do you mean to refer to any proposition which is of record in the proceedings of the Union Pacific Company when you speak of a cash offer to pay its present value?—A. I went before the committee of the Senate, when this matter was up, and I think there was a proposition made.

Q. Do you not know? Was it made by you?—A. I do not know whether it was made by me or by the company.

Q. Was it not simply an offer to pay a certain sum per annum, which you figured out as being the equivalent of the cash value of the debt?—A. No, sir; I offered to pay the present worth of the debt.

Q. In cash?—A. In cash. The whole thing.

as one; it was not interest in the sense of interest on a bond that comes due in six or twelve months.

Commissioner ANDERSON. So I understand; the interest is not due until 1897?

The WITNESS. The interest and principal was all the same, and the 5 per cent. was deducted from that gross sum. To ascertain the present worth of it, you would take what that sum would be at maturity, and figure the present worth of it.

Q. I ask you how much interest had then run which was not then due, and would not become due till 1897? How much was the interest that had accrued in 1878 on the United States loan?—A. I do not know how much it was; the statements will show.

Q. The amount of the interest is \$1,600,000 per annum. Is that not correct?—A. The first mortgage is \$27,000,000, at 6 per cent.

Q. That is \$1,620,000. That interest had been running since about what year?—A. Since the date of the bonds, less the amount paid on it.

Q. They were issued from time to time; the latter issue was out in 1869?—A. Yes, sir.

Q. And the issue began in 1866 or 1865, perhaps, so that there was at least ten years of accrued interest, less the 5 per cent.?—A. Less the 5 per cent., and less the Government transportation, which, on the Union Pacific, was large.

Q. So that this amount, discounted for the period between 1878 and 1897, would represent the then debt for interest?—A. Yes, sir.

Q. And the same computation effected on the \$27,000,000 would represent the then debt for principal?—A. Yes, sir.

Q. And your proposition is that those two sums added together amounted to \$15,000,000 at that time?—A. Somewhere in that neighborhood.

Q. What became of your proposition? Was any action taken on it?—A. No, sir.

Q. Was any notice taken of it by the committee?—A. I do not know what they did with it; I do not think they noticed it.

Q. Do you mean to say they gave no reason for refusing to receive the exact amount that was due the United States at the time?—A. They claimed that as to the interest—I think one claim they made was that that would not be a proper computation. They would not concede that the interest did mature with the bonds, although the Supreme Court had decided that.

Mr. JOHN F. DILLON. I do not think it had been decided at that time.

Commissioner ANDERSON. I think they had decided it.

The WITNESS. They had decided that.

Commissioner ANDERSON. I think the decision is in the 96th U. S. Reports.

The WITNESS. I think they claimed that notwithstanding that decision, it was in the power of Congress to make an earlier maturity and in that way change the decision.

Mr. HOLMES. The decision was in 1876.

THE OCCASION OF THE KANSAS PACIFIC CONSOLIDATION.

Q. Do you remember where you were on the day that all these meetings took place for the purposes of the consolidation?—A. I was in New York.

Pacific bonds (\$1,750,024.23), together with second mortgage bonds of the same company (\$24,700), and the Saint Joseph and Denver City receiver's certificate (\$59,000), which appear from that letter to have been received by the Union Pacific Railway Company from Mr. Gould aggregate the total of \$1,833,724.03, which amount appears to agree with the entry appearing on the minutes of the meeting of the Kansas Pacific of January 24, 1880, indicating the amount of these securities referred to in that resolution. I ask you to compare the transcript from the minutes with Mr. Mink's letter, and state whether those accurately represent the securities actually transferred by you and embraced in that adjustment.

The WITNESS. I presume this is correct.

AFTERNOON SESSION.

JAY GOULD, being further examined, testified as follows :

SAINT JOSEPH AND WESTERN BONDS AND STOCK.

By Commissioner ANDERSON :

Question. Will you please explain why the amount of Saint Joseph bonds stated in the first item contained in the letter, after \$1,750,024.23, differs from the statement you handed to us the other day of the amount of these securities bought by you, and which footed up \$1,562,886.98 ?—

Answer. I presume that difference would be occasioned by some of our friends bringing in bonds to me to make the exchange. For instance, I see that Mr. Perkins had some bonds. He was the president of the Importers' and Traders' Bank. Mr. Buel had some.

Q. Who was Mr. Buel ?—A. James Buel was at that time president of the Importers' and Traders' Bank. Mr. Perkins was then the cashier ; and since Mr. Buel's death he has become the president ; and other lots might have come in in the same way. All the parties that I knew of who had bought them through me, I naturally gave notice to, and they probably sent in the bonds, and I made the exchange. They would not go through my books at all.

Q. Then your recollection is that all the parties who had bought these bonds through you were included in the delivery made to the Union Pacific Railway Company, according to the contract or arrangement made by yourself by which these bonds were to be sold to the Union Pacific Railway Company at par ?—A. Yes, sir.

Q. And the aggregate, as stated by Mr. Mink, you accept as doubtless correct ?—A. Yes, sir.

Q. In Mr. Mink's letter it is stated that the amount of Saint Joseph and Western stock which you turned over to the company, consisted of 15,162 shares which were turned over at 20 ; and in the statement which you had furnished us, it appears that you had purchased in all 8,819 shares of this stock. How do you explain the difference, and from what source did those additional shares come ?—A. I got stock in the consolidation of the Hastings and Grand Island. Would that not account for it ?

Q. I understand you to state that through negotiations relating to the Hastings and Grand Island you obtained a certain amount of this Saint Joseph and Western stock ?—A. Yes, sir.

Q. Was that the stock which you paid any special consideration for, or was it thrown in under other transactions, under this expression,

"Trimmings," which you used?—A. I became the owner of that stock under the construction contract for the road.

Q. That is the Saint Joseph and Western stock?—A. No; Hastings and Grand Island stock. I became the owner of that, and of the \$375,000 of the first mortgage bonds, and the Hall County bonds by reason of the contract for the construction of the road. I built the road for these securities.

Commissioner ANDERSON. The entry that I refer to is a transfer solely of Saint Joseph and Western stock, and not of Hastings and Grand Island stock.

The WITNESS. That was turned into the Hastings and Grand Island on the consolidation, or rather the Saint Joseph and Western. All the stocks were converted into that stock.

Q. Were converted into Saint Joseph and Western?—A. Yes, sir; so that that should show how much I had of all the others. It was all converted into that one.

Q. Did you make this conversion of Saint Joseph and Western stock so as to include stock held by the other parties to whom you had transferred bonds, or who had got bonds through you, and who in like manner got adequate shares for them?—A. Yes, sir; they got just what I did.

Q. And those shares were included also in those you transferred?—A. Yes, sir.

Commissioner ANDERSON. And in this way the total amount was made 15,162 shares of stock transferred at 20, and you are satisfied Mr. Mink's report is correct as to that figure?—A. Yes, sir.

Q. The statement in your account of the amount of receiver's certificates, \$59,000, agrees with Mr. Mink's statement. In the statement that you hand us as to your transactions in Saint Joseph Bridge bonds, you reported the purchase of \$784,000 worth, and a subsequent sale to Mr. Sage and Mr. Dillon of \$150,000. In Mr. Mink's report of the securities turned over we find the amount of the Saint Joseph Bridge bonds to be \$784,000, which appears to include both those that you retained and those that you had conveyed to Mr. Sage and Mr. Dillon.

The WITNESS. Yes, sir.

Q. Do I assume correctly that you turned over both their bonds and your own in this transaction?—A. Yes, sir; I sold them, reserving the right to manage them.

Commissioner ANDERSON. The amount of stock of the Bridge Company is stated both in your report to us and in the letter of Mr. Mink at 4,000 shares; and *that*, therefore, we will assume was the amount of stock which you turned over.

The WITNESS. Yes, sir.

Q. We will take up the Kansas Central now. Have you a statement of the time and manner in which you acquired title to \$479,000 of the Kansas Central bonds?—A. Yes, sir; I bought them of Mr. Garrison at the same time that I bought the Missouri Pacific.

Q. Are the two papers which you now hand me a statement of that transaction?—A. The first statement is a statement of that. The other is of the Central Branch.

Q. The statement you hand me is a statement of the purchases?—A. Yes, sir; the cash cost.

The paper referred to is marked "Exhibit 5, May 18, 1887," and is as follows:

EXHIBIT 5, May 18, 1887.

Kansas Central Railroad stock and bonds.

Nov. 13, 1879. Bought of C. K. Garrison \$385,000 bonds, at .80 and int...	\$310,992 47
Nov. 13, 1879. Bought of C. K. Garrison 2,521 shares of stock.....	45,000 00
Nov. 21, 1879. Bought of L. T. Smith \$44,000 bonds, at .80.....	35,200 00
Jan. 6, 1880. Bought of L. T. Smith, on account, \$50,000 bonds, at .80..	30,000 00
Jan. 27, 1880. Bought of L. T. Smith, balance	10,627 78
	<hr/>
	431,820 25

Total, \$479,000 bonds and 2,521 shares of stock.

Jan. 24, 1880. Surrendered the above bonds and stock in exchange for
4,790 shares of Union Pacific at par..... \$479,000 00

Denver Pacific stock.

Dec. 17, 1879. Bought of Arapahoe County 1,000 shares.....	\$100,000 00
Jan. 24, 1880. Surrendered the above in exchange for \$86,500 Union Pa- cific 6 per cent. bonds; \$13,500 Kansas Pacific 6 per cent. bonds; total, \$100,000.....	100,000 00

Commissioner ANDERSON. We understand from this statement that you bought the bonds of the Kansas Central at 80 and interest; the amount paid for \$385,000 of the bonds being \$310,992.47; the amount paid for \$44,000 of the bonds, also at 80, being \$35,200; the amount paid on \$50,000 of the bonds being \$40,627.78; and there being also paid for 2,521 shares of stock of this Kansas Central Company \$45,000. So that your total purchases aggregate \$431,820.25.

The WITNESS. Yes, sir.

Q. These are the same securities that you turned over to the Union Pacific for \$479,000?—A. Yes, sir; \$479,000 in stock; not cash.

Q. Yes; \$479,000 in stock of the Union Pacific Railroad?—A. Yes, sir; that stock would not produce any more than that.

Q. You say you bought these bonds from Mr. Garrison?—A. Yes, sir; I bought the first purchase of him. The subsequent bonds I bought of others.

Q. Some were bought as late as January 27?—A. Yes, sir. I bought none of Mr. Garrison after the purchase on the 13th of November.

SITUATION OF KANSAS CENTRAL.

Q. Where was the Kansas Central?—A. The Kansas Central was a road that ran from Leavenworth west. I will mark here on the map, in blue. That is the Central Branch, as it existed then. *This* was the Kansas Central, and *that* is the Kansas Pacific. It lay between the Kansas and the Central Branch.

Q. It lay between the Kansas Pacific and the Central Branch of the Union Pacific?—A. Yes, sir.

Q. Was it a completed road?—A. Yes, sir; completed for a certain distance; perhaps 100 miles or so.

Q. Had you ever been over the road?—A. No, sir.

Q. Did you know anything in regard to its condition as to earnings at the time you bought these bonds?—A. No, sir.

Q. Did you know anything in regard to its physical structure, and the manner in which it was built?—A. I knew it was a narrow-gauge road. I have never been particularly in love with narrow-gauge roads.

Q. It had been bought by you as a part of the larger transaction with Mr. Garrison?—A. Yes, sir; Mr. Garrison was building it out as a feeder of the Missouri Pacific.

Commissioner ANDERSON. I find at the foot of this statement relating to Kansas Central, a statement of the purchases made by you from Arapahoe County, of the ten thousand shares of Denver Pacific, from which it appears that you bought this stock on the 17th day of December, 1879, the price paid by you being stated at \$100,000; the same being apparently surrendered in exchange for \$86,500 Union Pacific 6 per cent. bonds, and \$13,500 Kansas Pacific 6 per cent. consolidated bonds.

The WITNESS. Yes, sir; that was just exactly what I paid.

Q. By whom were those bonds delivered to you?—A. I do not know; Mr. Ham, I think.

Q. By what corporation, I mean, were they delivered?—A. By the Union Pacific, after the consolidation.

Q. The stock was exchanged on these terms, on the 24th of January, 1880, as stated here?—A. Yes, sir.

Q. Was this the entire negotiation with Arapahoe County, or were other matters involved?—A. No, sir; the only other matter that was involved, as I explained yesterday, was that the county wanted us to pay something for the stock rather than to foreclose it. They thought their people would feel better towards the company. I asked them how much they thought they ought to have, and they said \$100,000, and I paid it.

Q. Were there not some other bonds included in that transaction?—A. No, sir.

Q. Colorado Central bonds?—A. No, sir.

Q. Before making that purchase did you confer with any officers of the Kansas Pacific road in regard to it?—A. No, sir.

Q. Did the president, Mr. Dillon, know that the negotiation was pending, and know of it when it was carried through?—A. He must have known it after it was carried through, because I generally told him what I was doing; but I bought it as an individual purchase to protect my other interest.

Q. You bought it solely for an individual purpose, and not with reference to the Kansas Pacific Company?—A. Yes, sir.

TERMS OF PURCHASE CENTRAL BRANCH UNION PACIFIC STOCK.

Q. And paid for it individually?—A. Paid for it individually.

Q. Have you a statement of the terms of your purchase of 7,616 shares of the stock of the central branch, Union Pacific Railway Company?—A. Yes, sir; I produce it.

The paper is marked "Exhibit 6, May 18, 1887," and is as follows:

EXHIBIT 6, May 18, 1887.

Central Branch Union Pacific stock.

Nov. 11, 1879.	To Oliver Ames, 475 shares, at 200.....	\$95,000 00
Nov. 12, 1879.	To Oliver Ames, 300 shares, at 200.....	60,000 00
Nov. 19, 1879.	To Oliver Ames, 100 shares, at 200.....	20,000 00
Dec. 9, 1879.	To Oliver Ames, 6,250 shares, at 250.....	1,562,500 00
Dec. 30, 1879.	To Oliver Ames, 125 shares, at 200.....	25,000 00
Dec. 30, 1879.	To Oliver Ames, 366 shares, at 175.....	64,000 00
	<hr/> 7,616	<hr/> 1,826,500 00

Jan. 24, 1880. Surrendered the above in exchange for the following:

\$913,500 Union Pacific 6 per cent. bonds.

913,000 Kansas Pacific 6 per cent. bonds.

Total bonds at par..... \$1,826,500 00

- Q. Is the paper you hand me the original contract?—A. Yes, sir.
- Q. What was Mr. Oliver Ames's relation to any of the other Ameses the time of this purchase?—A. He was outside of them, running on his own hook.
- Q. What relation was he to Mr. Frederick L. Ames?—A. He was a son.
- Q. Had he any interest or connection whatever with the Union Pacific or the Kansas Pacific?—A. No connection with those roads; no.
- Q. Was this negotiation conducted in New York? It is dated New York.—A. It was conducted partly in Kansas and partly in New York. And the Kansas Pacific, and the Kansas Pacific had a branch called Junction City and Fort Kearney. We came together up in the northern part of Kansas. They were building west. I said, "All right; I'll build;" and so we were building two parallel roads. After I got about 20 miles they came on here to see me, and when they came on I bought the road of them.
- Q. Who came on here?—A. Mr. Ames and old Mr. Pomeroy. Mr. Pomeroy was the president. They wanted me to go out and go over the road. I went out, and I was wonderfully impressed with the amount of business. Afterwards it was said that they kept the freight back for a week or ten days, so that it appeared large when we got up there. I saw a freight train "nosing" out at every station, and sometimes we had to wait to get by. But I bought the road.
- Q. You appear to have paid for the 7,616 shares of stock \$1,826,500. Is that correct?—A. Yes, sir.
- Q. From whom were those shares purchased by you?—A. Mr. Oliver Ames. Not the one that was connected with the Union Pacific, but Oliver Ames, the present governor of the State of Massachusetts, acted as the mouth piece of the stockholders. I made the contract with him. Here is the contract [handing a paper to Commissioner Anderson].
- The contract is marked "Exhibit No. 7, May 18, 1887," and is as follows:

AMES AND GOULD CONTRACTS.

Union Pacific Railroad Company. President's office. Sidney Dillon, president, 78 Broadway. Post office box 4167.]

NEW YORK, ———, 187—.

Morandum of agreement, November 7, between Oliver Ames and Jay Gould. Oliver Ames sells and Jay Gould buys sixty-two hundred and fifty shares of the capital stock of one million of dollars of the Central Branch Union Pacific Railroad Company. The price paid is two hundred and fifty dollars per share of one hundred dollars, amounting to one million five hundred and sixty-two thousand five hundred dollars (\$1,562,500), payable one-half in the Union Pacific bonds and one-half in Kansas Pacific consolidated bonds.

Jay Gould is to have the control of the board.

Ames reserves the right to extend from Kerwin to Logan one-half of the profits to Ames and Gould also on same terms from Scandia to State line.

Leased equipment to be paid for at cost by the company.

OLIVER AMES.
JAY GOULD.

Q. Was this amount actually paid by you to Mr. Ames in money?—A. No; I paid him in those securities, I think. Does not the contract say so? I took my pay back in the same securities.

Q. Commissioner ANDERSON. The statement that you hand me, I find, shows some additional purchases besides those indicated in the contract?

A. Yes, WITNESS. Well, they are all in those subsequent contracts that I have handed you.

The witness presents a number of contracts and bills for additional purchases of Union Pacific, Central Branch, stock. They are as follows:

OLIVER AMES, Esq.:

In addition to my purchase of 6,250 shares of Central Branch Union Pacific stock as per contract I will take 1,000 shares at 200 and 1,000 at 175, payable in Kansas Pacific consolidated bonds at par.

November 11, 475 shares at 200, \$95,000.

JAY GOULD.

Jay Gould to Oliver Ames, Dr.

For purchase of 475 shares of the Central Branch of the Union Pacific Railroad Company, at 200..... \$95,000

OLIVER AMES.

NEW YORK, November 11, 1879.

Jay Gould to Oliver Ames, Dr.

For purchase of 300 shares of Central Branch of the Union Pacific Railway Company, at 200..... \$60,000

OLIVER AMES.

NEW YORK, November 12, 1879.

Jay Gould to Oliver Ames.

For purchase of 100 shares of stock of the Central Branch of the Union Pacific Railroad, at 200..... \$20,000

OLIVER AMES.

NEW YORK, November 19, 1879.

NOVEMBER 19, 1879.

OLIVER AMES, Esq.:

I will take of you the remaining 1,620 shares, or any part thereof, at 150, payable in Kansas Pacific consolidated bonds, at par. This option good for thirty days.

JAY GOULD.

NEW YORK, December 30, 1879.

Jay Gould bought of Oliver Ames.

125 shares Central Branch Union Pacific stock, at 200..... \$25,000
366 shares Central Branch Union Pacific stock, at 175..... 64,050

Received Kansas Pacific consolidated bonds..... 89,050

Due me in Kansas Pacific bonds..... 50

OLIVER AMES.

Q. The aggregate of those consists of the figures contained in your statement?—A. Yes, sir.

Q. Were all of these payable, one-half in the Union Pacific bonds, and one-half in the Kansas Pacific consolidated bonds?—A. Yes, sir.

COLLATERAL TRUST BONDS.

Q. What is referred to by the expression "new Union Pacific bonds"?—A. I presume that referred to an issue of the collateral trust bonds, of which I was specifying the securities which I owned.

Q. They were securities that had been issued before that time?—A. Oh, yes, sir; they had been issued, and I owned them.

Q. You identify them as "collateral trust bonds"?—A. Yes, sir.

Q. Then this stock bought by you from Mr. Ames is the same stock which is referred to on the minutes of the meeting of January 24 as having been transferred by you to the Kansas Pacific Company for 1,826,500, to be paid for, one-half in Kansas Pacific consolidated bonds at par, and the other half in Union Pacific collateral trust bonds at par?—A. Yes, sir; at just the price I paid for it. I think I ought to say that in putting in the Central Branch and the Kansas Central, demurred to that, because it would look like robbing the Missouri Pacific; but Mr. Ames was afraid that they would be extended into Union Pacific territory, and we finally compromised by an agreement by which the Missouri Pacific would take the lease of the roads so as to secure the business from them, and the ownership should come into the consolidated company. The Kansas Central was never formally leased, although it is embraced in an agreement. And it was on those terms, subject to that condition, that I sold them.

Q. Were these purchases made by you with any relation to your impending purchase of the Missouri Pacific?—A. No, sir. The Kansas Central was the property of Mr. Garrison; but the purchase of the Central Branch grew out of a fight between the Kansas Pacific and the Central Branch people. I bought that before I bought of Garrison, a few days. I just got the thorn out of my side on the north, when Garrison turned up on the south, and I met him then and bought him out.

Q. You say that this project for a lease to the Missouri Pacific was substantially agreed upon, or was a part of the arrangement that was made between you and these gentlemen from Boston, when the consolidation was finally arranged for?—A. Yes, sir.

Q. And that lease was prepared and ratified at this meeting of January 24?—A. No; I do not think it was. I think it was some time subsequently that that was taken up.

LEASE OF CENTRAL BRANCH UNION PACIFIC.

Commissioner ANDERSON. The minutes state as follows:

A like draft of a proposed continued contract for a lease of the Central Branch Union Pacific Railroad and its leased lines to the Kansas Pacific Railway Company as read, and, on motion of Mr. Cammack, seconded by G. M. Dodge, it was—
Resolved, That the president of this company execute the said contract under the corporate seal of this company, which was then and there done.

So that the first proposition appears to have been a lease of the Central Branch to the Kansas Pacific.

The WITNESS. I do not know about that. I do not remember about

Q. Was that in conformity with your arrangement about a lease to the Missouri Pacific?—A. Yes, sir.

Q. Do you remember the fact that the branch line was first leased to the Kansas Pacific?—A. I do not remember that. I was not at that meeting, I think. That was probably a form gone through in perfecting the consolidation, and then, afterwards, this arrangement with the Missouri Pacific had to be carried out; but I do not know the *modus operandi* about it. I know the fact.

Commissioner ANDERSON. Shortly afterwards it was arranged that the Central Branch should be leased to the Missouri Pacific and operated by it?

The WITNESS. I sold it subject to that right.

Q. And that was carried out?—A. That was carried out.

Q. And the Missouri Pacific has since that time operated the road!—
A. Yes, sir.

Q. The general terms being that the rent to be paid is the entire net earnings of the road!—A. Yes, sir; the entire net earnings of the road.

Q. Do you know whether the Union Branch has ever paid any dividends on its stock!—A. I presume it has. We pay the earnings over in bulk to the Union Pacific. I think we paid them over last year \$200,000 net, over and above the interest.

THE MISSOURI PACIFIC.

Q. Do you know whether the amounts paid over by the Missouri Pacific for the years 1880, 1881, 1882, and 1883 were sufficient to pay the fixed charges and leave anything for dividends!—A. I do not know whether it was or not. The figures will show. I know the earnings, of course, have been increasing.

Q. Before turning that road over to the Union Pacific people at the price named, being about \$239 per share, did you examine into its financial condition closely!—A. Yes, sir; pretty closely.

Q. Did you make up a balance sheet showing the amount of its stock and indebtedness, as compared with the assets!—A. Yes, sir.

Q. Do you remember whether such balance sheet showed its general income account to be deficient by over a million dollars!—A. No; I do not remember that.

Q. In examining such balance sheet, did you cause the indebtedness to the Government and the arrears of interest to be included!—A. I presume so. The Government had no lien except on the first 100 miles. There were 388 miles of road.

Q. The 100 miles in question form an integral part of the railroad, do they not!—A. Yes; they form an integral part of the railroad, and they held the other road, under a lease, for the interest on the bonds. So that, practically, the million dollars of stock of the Central Branch covers nearly 400 miles of road. On the balance of the road the fixed charges are a thousand dollars a mile, and it is leased to the Central Branch for the interest on those bonds. That would make the stock a million dollars, or about twenty-five hundred dollars a mile of stock. It would not look so dear if they had had, as is usual, ten thousand or fifteen thousand dollars a mile of stock, and sold it at a price to produce the same money.

Q. As a matter of fact, have you ever figured whether, if you included the accruing interest on the Government debt, that road has ever earned any dividend on its stock!—A. No; I have not figured that out.

Q. If you take the whole period of time from your sale in 1880 to the present time, have you ever figured whether the aggregate earnings will exceed the fixed charges, including the interest accruing to the Government, or the interest accruing on the Government bonds!—A. Yes, sir; I think I did last year.

Q. My question is whether, if you include the whole period together, it will show any excess!—A. That I don't know. That is a matter of figures. I might have paid too much for it; but, when I came to figure the cost, I did not think I was taken in quite so badly as I might have thought at first. For instance, I paid Mr. Garrison \$750 for his Missouri Pacific stock. You pay more for a ruby than for a diamond, and more for a diamond than for a piece of glass. Price depends on the quality.

DITIONAL OFFER, KANSAS CENTRAL FIRST-MORTGAGE BONDS.

By Commissioner LITTLER:

While on that subject, tell us how many shares you bought from Garrison at that price.—A. I bought 4,000 shares for \$3,000,000.

By Commissioner ANDERSON:

It appears from the first of these meetings that—

was also presented a draft of a conditional offer to this company by Mr. Jay Gould for the sale to this company by said Gould of \$479,000 of the first-mortgage bonds of the Kansas Central Railroad, and of such other bonds as the said Gould may receive from the extension of the road now being built, and for the consideration of sale by him of 2,521 shares of the stock of the said Kansas Central Railroad for the sum of \$479,000.

Is the same transaction in regard to which I have already inquired?—A. Yes, sir.

Did you read it in order to ask you the question whether any other bonds were in fact, received by you, or were transferred to the Union Pacific Kansas Pacific Company?—A. No; I assigned the construction of the road for the further extension of the road. That went with the sale to the Kansas Pacific.

Was anything assigned that to the Kansas Pacific Company?—A. Yes, sir, and whatever subsequent dealings there were were had between the Kansas Pacific Company and the Kansas Central directly?—A. Yes; or the Consolidated Company.

It appears from the minutes that after the proceedings which we have gone over were completed the articles of consolidation were read and signed and the usual resolution passed to close the books of the company, and that thereupon,

the action of Mr. Sage, seconded by Mr. Edgerton, it was—

Resolved, That 6,242 shares of the authorized capital stock of this company remaining unissued and unissued may be issued, and the president and secretary are authorized to execute certificates therefor in payment of the first coupon on consolidated bonds, and for other indebtedness of the company.

When did you first learn that that resolution had been passed?—A. At that moment.

Did you never heard of it before?—A. No, sir.

Did you know what other interest was referred to in that resolution?—A. No, sir.

Did none of that stock was ever transferred to you?—A. No, sir. I think I can answer that question to-morrow.

By Commissioner ANDERSON. It appears from the letter of Mr. Mink that the transactions we have referred to were actually carried into effect on the 16th day of February following, by the delivery to you of 4,000 shares of the consolidated stock.

WITNESS. I presume this is correct.

Was there any corporate action, either by the board or by the executive committee of the consolidated company, relating to these transactions between the 24th day of January, 1880, and the day on which the stock was delivered to you?

Witness. I do not know; none was necessary.

Did you were a director of the company during that period?—A. Yes, the records would show what action was had, if any.

HOW WITNESS WAS PAID.

No action appears to have been taken as far as we can find in the records of the board or in the minutes of the executive committee. Now, the proceedings adopted in regard to this matter, as appears from the following:

P E

the minutes of January 24, of the Kansas Pacific Company, you were to have been paid for some of these securities in consolidated bonds of the Kansas Pacific Company at par, and for some others in Union Pacific collateral trust bonds at par. How was that altered to a liquidation of the obligation to you, in stock of the new company?—A. I do not think it was. I think they gave me the bonds that they agreed to.

Commissioner ANDERSON. It appears from the letter of Mr. Mink that all of the amounts specified in that letter, which cover all of the transactions that we have referred to, that is, cover the Saint Joseph and Denver bonds and stock, the Kansas Central Railroad, the receiver's certificates, the Saint Joseph Bridge bonds, the Saint Joseph and Western stock, and the Hastings and Grand Island bonds, the aggregate of which is \$3,464,168.48, appear to have been liquidated by the delivery to you of 34,641 shares of stock.

The WITNESS. That is correct, I presume.

Q. Can you not state, then, how the terms of payment were altered so that these obligations were liquidated in the new stock, instead of being liquidated in the specific securities mentioned in the resolution passed at the meeting of January 24?—A. I think they were settled just as they were provided, in the meeting of January 24.

Commissioner ANDERSON. Please look at the minutes of January 24, and compare them with the letter of Mr. Mink, and you will find that that was not done. There may be no difference in value.

The WITNESS. Which one do you refer to?

Commissioner ANDERSON. It is at the foot of the page.

The WITNESS. I do not understand that there was any difference.

Commissioner ANDERSON. If you will turn over the page you will find it stated that the payment is to be made half in consolidated bonds, and half in full-paid stock of the Kansas Pacific Company; whereas the fact is that the payment was all made in stock of the Union Pacific Railway.

The WITNESS. Well, there was no Kansas Pacific after the consolidation [reading]:

All of said sums the Kansas Pacific Company had agreed to pay on or before sixty days in the full-paid stock of the Kansas Pacific Railway, or in the consolidated mortgage bonds of the last-named railway company at par.

I can explain that. Of course, when the Kansas Pacific bought this property of me they took the option to pay in their stock, half of it, and half in bonds which they had—their own bonds—and that existed at the time of the consolidation. The consolidated company, of course, had to assume that indebtedness. Afterwards, when they came to carry it out, it was probably more convenient for them to carry it out in their own securities, and I took them.

Q. When you say "their own securities," you mean their stock?—A. I mean their stock and their bonds, if the amounts were changed at all. This seems to have been all paid in stock, instead of half bonds and half stock.

OBLIGATIONS OF CONSTITUENT COMPANIES.

Q. You say that the new company assumed this obligation of the Kansas Pacific. But I call your attention to the fact that in the articles of consolidation it is specially provided that the new company shall not assume the obligations of the constituent companies. I think that the effect is that they do, of course. Can you tell me whether any specific action of the Union Pacific Railway occurred by which they

agreed to deliver to you this stock in payment for these securities?—A. I do not know.

Q. Then, all that you remember to have occurred is the fact that the securities were delivered, and that the officers of the company were satisfied to perform the contract in that way?—A. I presume that the constituent companies, before the consolidation, must have accepted the contract and made the purchase of me. The Kansas Pacific—and the new company, as successor to that—did not need any action. It was to carry out a previous agreement.

Q. Do you claim that the new company was bound to carry out any agreement of the Kansas Pacific, no matter how undesirable or unprofitable?—A. I think that the effect of the consolidation was to merge the franchises of these companies together; and, as a necessary inference, that it assumes the debts and liabilities of the constituent companies.

Q. Still, there were consolidated bonds of the Kansas Pacific mortgage unissued at the time of the consolidation, were there not?—A. Yes, sir.

Q. Why, instead of paying you in those bonds, did they pay you in this stock?—A. I suppose they thought it was better to pay in stock than in bonds.

Q. When you say "they," to whom do you refer?—A. I should say, the company.

Q. To what men do you refer?—A. I do not refer to any. I do not say this is the fact. You asked me for a supposition, or what I thought; but I have no recollection about it.

SETTLEMENT IN STOCK.

Q. What I want to get at is, whether Mr. Sidney Dillon and the other officers of the company came to the conclusion that they would settle with you in stock, and did so, or whether, in some way or other, a declaration of a corporate purpose was reached by which this alteration was made in the manner of carrying out this contract that had been made between you and the Kansas Pacific.—A. I suppose the truth of it was that the consolidated company was more convenient for them. They thought perhaps it was better to keep the bonds; that they were better collateral, and would answer their purpose better; and I was pretty clever, and took the stock.

Commissioner ANDERSON. The stock was not very bad to take?

The WITNESS. The stock was about 93, I think.

Commissioner ANDERSON. I guess it was higher than that after the consolidation?

The WITNESS. Oh, it went up after the consolidation, of course.

Commissioner ANDERSON. This is the 16th of February, the date at which you took that stock?

The WITNESS. I do not know what it was on the 16th of February.

Commissioner ANDERSON. What was it on the 16th of February?

Commissioner LITTLER. About 108; it is quoted, January, 1880, as 108; excuse me, I am quoting Kansas Pacific stock.

The WITNESS. Yes, sir; Kansas was higher; Kansas Pacific sold up to 108 in January.

Commissioner ANDERSON. We are only concerned about Union Pacific.

The WITNESS. I gave you the price of Union Pacific up to the 24th of January in that paper I gave you.

Q. We are interested in the price on the 16th of February when you received the stock. Assuming that it was over par on that day it did not cause you any special disturbance to take stock over par instead of the bonds, did it?—A. No, sir.

Q. And are you unable to give any explanation, other than such as you have given, as to the origin of the authority for substituting this stock in the payment made to you instead of the bonds?—A. No.

Commissioner ANDERSON. In the statement made by you yesterday, referring to the securities of the pool other than Kansas Pacific stock, which were liquidated or exchanged for consolidated bonds, you stated that those securities were exchanged at the same rates as were specified generally for all holders of similar securities.

The WITNESS. That is, they were exchanged for consolidated bonds? Commissioner ANDERSON. Yes.

The WITNESS. Yes, sir.

Commissioner ANDERSON. At the same rates as the rates given to the holders of other similar securities?

The WITNESS. Some other bondholders held off and would not go in, and they ultimately very likely got better terms.

Commissioner ANDERSON. But I refer more particularly to conversions made at the same time that you made yours?

The WITNESS. They all went in at the same price, I think.

Commissioner ANDERSON. So that you stated it specifically that as to your subordinated incomes they were converted at 30?

The WITNESS. Yes, sir; I think so.

POOL SECURITIES.

Q. I call your attention to the statement of this transaction, referring to the pool securities, as to which a special statement is made in the mortgage, at the foot of page 156. You will find the securities themselves specified there, and the statement made that the Kansas Pacific Company has agreed to pay for these securities the sum of \$3,400,000 in consolidated first-mortgage bonds. Have you ever figured the securities themselves at the commutation rates to see what they would amount to?—A. No, sir.

Q. There are included there:

\$754,000 second land-grant bonds, the commutation rate for which was 50, making.....	\$377,000
\$784,000 funded bonds, the commutation rate being par.....	784,000
\$75,000 Leavenworth Branch bonds, the commutation rate 50.....	37,500
\$67,000 unstamped income bonds, the commutation rate being 50.....	33,500
\$2,611,400 of stamped income bonds, the commutation rate 30.....	783,420
454,000 Arkansas Valley first-mortgage bonds, which I state the commutation rate, subject to correction, to be 50.....	227,000

The total amount of these securities computed at the commutation rates being..... 2,242,420

AN EXPLANATION ASKED FOR.

Will you please explain to me how you reconcile the statement that those securities were in fact exchanged at the same rates provided for other persons in Article 23, with the fact that the mortgage states that you were to receive for those securities \$3,400,000, the difference being \$1,160,000?

The WITNESS. I do not understand the question; I get so mixed up.

Commissioner ANDERSON. It is a long question. There is the computation of the securities.

The WITNESS. Are these the securities that I put in myself?

Commissioner ANDERSON. Those are the pool securities and include your own, of course.

A. I think that the accountants of the company can give you this information. I cannot. I can only tell you what I put in, and what I received.

Q. Did you receive your share of that \$3,400,000 of bonds?—A. I do not know whether I received my share of that. I gave you a statement of what I put in and what I received, I think, among those statements.

Commissioner ANDERSON. I think not.

Mr. HOLMES. It has just occurred to me in that reorganization the committee of nine had expended large sums of money, and the committee were paid, and their counsel were paid, and, for all I know, there was included in that an additional amount of consolidated mortgage bonds for the purpose of paying such moneys. I cannot remember what the fact was, but there is one clear inaccuracy here, and that is that the Arkansas Valley, if they were to be taken at the mortgage rates, would have been taken at par. But it seems to me a complete answer to say that that was the contract between each company and the creditors and trustees, and required the trustees to pay this \$3,400,000 upon receiving those securities.

The WITNESS. I think it is safe to say that the lawyers got the difference. I know I did not get it.

Commissioner ANDERSON. Our inquiry is addressed simply to the facts, because you owned substantially all of these unstamped bonds; and the statement made yesterday was that the stamped bonds were converted at 30, and if \$3,400,000 was received for those securities it would make a very different rate. All we want to know is the fact as to what was paid by the company for those securities, and whether it was the amount stated in the mortgage, \$3,400,000.

The WITNESS. I can only speak for myself, and I put my own in at that price, and I never, as a trustee, would consent to take in any of any one else at any different rates than specified in the mortgage.

Commissioner ANDERSON. You were one of the committee that attended to the business of these pool securities?

The WITNESS. I was not one of the pool committee, I think. I was one of the trustees of the mortgage.

Mr. HOLMES. Dillon, Sage, and Villard are named.

The WITNESS. I was one of the trustees of the consolidated mortgage and not of the pool.

Q. Do you know between whom the negotiation was carried on that resulted in the agreement stated in the mortgage to pay \$3,400,000 for these securities?—A. No, sir.

Q. It is contained in your mortgage, and I presume you were aware of it when you became trustee. Do you know anything of that transaction, and how it came about?—A. I suppose Mr. Holmes or Judge Usher could explain it. I never heard before that there was any discrepancy.

Q. Have you any statement showing how the figures, \$3,400,000, were reached?—A. No; I have no statement except of my own interest in the matter, and what consolidated bonds I got.

Q. Have you a statement of the interest which you had, and of the bonds which you got?—A. Yes, sir; I think so. I prepared such a statement. That shows it. There is the statement (handing it to Commissioner Anderson.) The apparent difference that you refer to there probably arose from advances that I made to pay the floating debt of

the Kansas Pacific, that is, to pay the interest on the Denver extension bonds to the United States Trust Company.

Mr. HOLMES. Yes, sir.

The WITNESS. Those bonds were seven per cent., and, in consideration of their getting the interest down to six per cent, we paid them their back interest.

Q. Are you speaking of entries in any book that we can refer to to corroborate your statement, which you say is only probably an explanation?—A. Yes, sir; they should be on the books.

Mr. HOLMES. The decree and the reports show the amount of money which had to be provided for, and which was provided for, out of that consolidation, which must be paid before the road could pass out of the hands of the receiver. On the 6th or 7th day of June that was done.

Commissioner ANDERSON. Can you furnish us with any statement of figures or computation that can be verified, from which we can ascertain why it was that \$3,400,000 was agreed to be paid in consolidated bonds for those securities, and for such other considerations as may have been included?

Mr. HOLMES. I think I personally have no such figures; but if Louis H. Meier, who was the chairman of the bondholders' committee, and Mr. Horace White, who, if I remember right, was its secretary, have preserved their memoranda, they must have the data upon which that agreement was made between the company and the trustees; because the use of that much was determined on the face of the mortgage itself. It was on a basis different from the terms upon which the bonds should otherwise be issued.

GOT NO PREFERENCE.

Commissioner ANDERSON. What we want to ascertain is whether the holders of those securities got a preference.

The WITNESS. I say emphatically they did not.

Q. I call your attention to the fact that by the terms, as stated on the face of the mortgage, they do get a preference amounting to \$1,160,000; or, if we make the correction that Mr. Holmes suggests as to the Arkansas Valley bonds, a preference of about \$933,000; and we ask you to furnish us with anything which will explain that apparent preference.—A. I do not understand that there was any preference at all. I took my bonds in exact accordance with the agreement there, and there is the statement of all my holdings. But I remember, now that Mr. Holmes speaks about it, of making some large cash advances as a part of that reorganization to pay back interest, &c., to get the road out of the receiver's hands, from Mr. Villard, as the receiver.

Commissioner ANDERSON. The advances so made would be a part of its floating debt and a part of its immediate liabilities?

The WITNESS. Yes, sir; that would come under the head of "liabilities."

Commissioner ANDERSON. Those were represented in a separate item as a part of the funding mortgage, and were payable at par. So that those advances could not possibly be included in consolidated bonds specified to be given in exchange for securities, which are also specified.

THE "BABY BONDS."

Mr. HOLMES. There is a special provision for the issue of a large amount of those bonds to take up these back charges, which were the overdue interest upon the bonds, and upon the bond certificates, which

we called "Baby bonds," and the coupons of them. We took up the Denver extension mortgages, for example. The par of the bonds, with the interest added, and the certificate added, made it, if I recollect, \$1,460 per bond. Therefore, on each \$1,000 bond of the six thousand we paid \$460, and took in their back coupons and back certificates. We did the same with their bonds. So that there was a very large amount of overdue debt to be retired. It was not floating debt, because it was secured and there was also the floating debt, for which the funding mortgage bonds were held.

THE WITNESS. The books of the Union Pacific show the whole thing, of course.

Commissioner ANDERSON. I have asked Mr. Mink, and he says they do not show this. Do your books show the consideration received by the Kansas Pacific for the \$3,400,000 of bonds which are specifically referred to in the mortgage at page 156 and 157?

Mr. MINK. Not of a specific transaction. The consideration for the \$3,400,000 in bonds of the Kansas Pacific Company would be the bonds turned into the trust. That is fixed by the terms of the mortgage.

Commissioner ANDERSON. Was that the only consideration for \$3,400,000 of the bonds turned into the trust?

Mr. MINK. That is my understanding of it, and the only consideration that there could have been.

Commissioner ANDERSON. And the only consideration that appears upon the books of the company?

Mr. MINK. That I cannot say; I can give my understanding only.

Commissioner ANDERSON. That consideration exceeds the rates—

Mr. MINK. By the amount you have named; yes, sir.

THE DENVER AND SOUTH PARK.

By Commissioner ANDERSON:

Q. After the consolidation what transactions did you have with the Union Pacific Railway, if any, relating to the acquisition of its branch lines?—**A.** I do not recollect.

Q. Do you remember the purchase of the Denver and South Park?—**A.** Yes, sir.

Q. Had you a part in that, either individually or as an officer of the road?—**A.** I think I had an interest in the construction contract—it was a minority interest—and subsequently I bought the property, the whole thing, for the Union Pacific.

Q. You bought it from whom?—**A.** I bought it from Governor Evans and his association in Denver.

Q. When was this purchase made?—**A.** I do not remember when.

Q. Was the road being constructed shortly after the consolidation?—**A.** Yes, sir.

Q. Between what points does the road extend?—**A.** It was being constructed at the time of the consolidation, I think. It was to extend from Denver to Leadville.

Q. You say you had an interest in the construction company?—**A.** I think I took an interest, either when it started or subsequently.

Q. For whose account was it being built before the consolidation; for its own account?—**A.** For the Denver people. Governor Evans was at the head of them.

Q. What were the general terms of that contract, do you remember? Was it payable in stock and bonds?—**A.** Yes, sir; I think so. I do not remember what the terms of the contract were.

Q. Have you a copy of that contract?—A. No, sir.

Q. Do you remember what the amount of stock and bonds payable per mile was in the contract?—A. No, I do not.

Q. The contract called for the issue of all the stock and bonds in payment of its construction. Is that correct?—A. I think substantially all. They may have given out some stock for local aid, perhaps, or something of that kind.

Q. What was your interest? What proportion was it?—A. I do not remember, without referring to my books. I will furnish you that.

Q. Did you remain interested in the construction contract until the completion of the road?—A. Yes, sir; I remained interested until the final transfer of it to the Union Pacific.

Q. Do you remember how many bonds and how much stock you held, which were derived under your interest in this construction contract?—A. I will furnish you that.

Q. Do you know what that road actually cost to build per mile?—A. No, sir; I do not. There was a large profit on it.

Q. A large profit, as measured in the stocks and bonds?—A. In the securities; yes, sir.

Q. When was it completed?—A. I do not remember. I think the Union Pacific completed it to Leadville after they bought it.

Q. Do you remember how much stock and bonds you bought from Governor Evans?—A. No, sir; I do not.

Q. Can you furnish us with a statement of that?—A. I think so. I turned it into the Union Pacific at just what I paid, and their books would show.

Q. Did you turn over to the Union Pacific your own stock and bonds as well as those bought from Governor Evans?—A. My own went in at the same price that I paid the others.

Q. At the same price you paid Governor Evans for his?—A. Governor Evans had the selling of the whole thing, and I bought the whole thing out from him.

Q. All of the stock and bonds were turned in at the same price?—A. Yes, sir; all at the same price.

Q. Do you remember what that price was?—A. No, I do not now.

Q. Do you remember that it was about \$150 a share?—A. I think it was; I do not know that that was the price.

Q. About that? It is subject to correction.—A. It is a matter of figures to be ascertained.

Q. What knowledge had you of the earning capacity of that road at the time of the sale?—A. I went out to Denver, and went over it, and investigated it. It was earning largely. I was very much impressed with it.

Q. Who made the contract on behalf of the Union Pacific Railway Company?—A. I bought it, and Mr. Dillon afterwards took it for the Union Pacific.

Q. Is there any corporate action relating to it appearing in the minutes of the company?—A. I presume so.

Q. It appears from the reports of the company that the securities of that road consist of \$1,800,000 first mortgage bonds, \$2,812,000 consolidated first mortgage bonds, and \$6,142,800 of stock. Do you remember the price at which the bonds were passed over?—A. No; I thought that my purchase amounted to about \$3,000,000.

Q. Do you remember whether these figures of stock and bonds conform to the condition of things existing when the sale was made to the Union Pacific?—A. No, I think they have been changed since.

You think they have been increased?—A. Yes, sir.

Do you remember how much the stock was when it was sold to Union Pacific?—A. I think the aggregate purchase was about 60,000; but what we got for that I cannot say without getting at books.

Can you furnish that statement from your books?—A. I do not know whether that went through my books or not, but I will look and

But you can furnish the statement showing the amount of bonds and stock obtained by you under the construction contract?—A. Yes,

And the amount purchased from Governor Evans?—A. Yes, sir; possibly the whole transaction.

Commissioner ANDERSON. Mr. Mink, you have not that here?

Mr. MINK. No, sir; I have not.

THE UTAH AND NORTHERN.

Did you have any interest in the bonds and stock of the Utah and Northern?—A. Yes, sir.

How did you acquire that interest?—A. I bought it of Joe Richardson in the first place. And then I went on and constructed the road. When I first bought it it was rather a poor thing, and Mr. Dillon rather despised it, and would not take any interest in it himself, but I liked it along and extended it, and finally it got to be a fine paying property, and then Mr. Dillon came around and said I must turn it over to the Union Pacific. I reminded him that I tried to have him take it, he said I had a large interest in the Union Pacific, and I must turn over at just what I paid; and I did so. I turned over the stock and bonds at just the cash cost of the property.

The cash cost of those bonds and the stock to you was the amount that you had paid to Mr. Richardson for his interest, and the cost of construction from that date?—A. From that date, yes, sir; I think from the prices then there must have been a profit of \$600,000 or \$700,000, which I turned over to the Union Pacific.

Will your books show the amount of payment made to Mr. Richardson and also the cost price of the road to you?—A. Yes, sir.

And you can furnish us with that statement?—A. Yes, sir.

Do you remember whether you had an interest in any of the other branch roads, the title to which was acquired by the Union Pacific?—A. No, sir; I think I had no other interest.

Or in any of the branch roads in which they had a proprietary interest, without operating them?—A. No, sir. I ought to say in relation to this Denver and South Park, that there were two parties after the road. The Denver and Rio Grande were after it, and the Union Pacific. I went up to Denver and stayed there until I made the purchase. The Denver and Rio Grande made a higher offer, really.

Through Mr. Palmer?—A. No, sir; through Mr. Woerishoffer. I did not want the Union Pacific to lose access to that Leadville country, and was very anxious the Union Pacific should control it.

INTEREST IN BRANCH LINES.

Commissioner ANDERSON. I read to you from page 122 of the report of 1886, of the Union Pacific Railroad, the names of these various branches; and if you should be mistaken in your recollection that you

had no interest in any of the other branches, you will please stop me. There is the Omaha and Republican Valley Railroad Company.

The WITNESS. No interest in that.

Commissioner ANDERSON. The Omaha, Niobrara and Black Hills Railroad Company.

The WITNESS. No interest in that.

Commissioner ANDERSON. The Echo and Park City Railroad Company.

The WITNESS. No interest in that.

Commissioner ANDERSON. The Salt Lake and Western Railroad Company.

The WITNESS. Ditto.

Commissioner ANDERSON. The Laramie, North Park and Pacific?

The WITNESS. Ditto.

Commissioner ANDERSON. The Oregon Short line.

The WITNESS. Ditto.

Commissioner ANDERSON. The Utah and Northern Railroad Company.

The WITNESS. That I have explained.

Commissioner ANDERSON. The Montana Railway Company.

The WITNESS. Ditto.

Commissioner ANDERSON. No interest?

The WITNESS. No interest.

Commissioner ANDERSON. The Lawrence and Emporia Railway Company.

The WITNESS. No interest.

Commissioner ANDERSON. The Junction City and Fort Kearney Railway Company.

The WITNESS. No interest.

Commissioner ANDERSON. The Solomon Railway Company.

The WITNESS. No interest.

Commissioner ANDERSON. The Salina and Southwestern Railway Company.

The WITNESS. No interest.

Commissioner ANDERSON. The Kansas Central Railway Company has been explained. The Colorado Central Railroad Company.

The WITNESS. No interest, except I bought a million of the bonds of the company at par, I think, and afterwards converted them into 6 per cent. collateral trust bonds.

Q. Collateral trust bonds of what company?—A. The Union Pacific.

Q. When did that occur?—A. That must have occurred before. I gave you the amount of bonds. I had them at the time of the consolidation.

Q. That transaction appears in your statement?—A. Yes, sir.

Q. Does the statement you have furnished us show the rate at which you bought those bonds?—A. I think I took them at par, 8 per cent., and I converted them into 6 per cent., and gave the company the benefit of the difference.

Commissioner ANDERSON. The Denver, South Park and Pacific Railroad Company?

The WITNESS. That I explained.

Commissioner ANDERSON. The Greeley, Salt Lake and Pacific Railroad?

The WITNESS. No interest.

Commissioner ANDERSON. The Denver and Boulder Valley Railroad Company?

The WITNESS. No interest in that.

Commissioner ANDERSON. The Golden, Boulder and Caribou Railway Company?

The WITNESS. No interest in that.

Commissioner ANDERSON. The Georgetown, Breckenridge and Leadville Railway Company?

The WITNESS. No interest in that.

Commissioner ANDERSON. The Denver and Middle Park Railroad Company?

The WITNESS. No interest in that.

Commissioner ANDERSON. The Manhattan and Blue Valley Railroad Company?

The WITNESS. No interest in that.

Commissioner ANDERSON. The Denver, Marshall and Boulder Railroad Company?

The WITNESS. No interest in that.

Commissioner ANDERSON. The Salina, Lincoln and Western Railroad Company?

The WITNESS. No interest in that.

Commissioner LITLER. Those are about the only roads in the country you are not interested in, are they not?

By the CHAIRMAN:

Q. You mean you never had any interest in those?—A. I never had any interest. I have given you my whole hand.

The CHAIRMAN. It is quite a full hand.

LOANED MONEY TO THE UNION PACIFIC.

By Commissioner ANDERSON:

Q. In the course of all your dealings with the Union Pacific Company have you, from time to time, loaned them money?—A. Yes, sir.

Q. Can you state generally at what rate of interest?—A. Six per cent.; sometimes less.

Q. Will its books show any case where the rate is higher than six?

A. I do not think they will. I think I sometimes paid a little higher for myself, and let them have it at six, because I wanted to keep their credit good.

Q. While you were connected with the company do you know whether there were a class of payments made by the company for which the checks were insufficient?—A. No, sir.

Q. Had you any connection with the disbursements of legal expenses?—A. No, sir; except the ordinary lawyers.

PERSONS EMPLOYED AT WASHINGTON TO WATCH LEGISLATION.

Q. Did you know anything in regard to the employment of persons at Washington for the purpose of watching over the interest of the Union Pacific Company?—A. No, sir; I do not think they ever employed any, except their regular counsel there, Messrs. Shellabarger & Wilson. I never heard of anybody else.

Q. Have you been yourself to Washington on the business of this company?—A. Yes, sir. I paid my own hotel bills, and never put in a check for them.

Commissioner ANDERSON. I think you ought to know better; we argue for ours.

The WITNESS. I was working for my dividends.

Q. I hope you got them. Who were the gentlemen in Washington who represented the Union Pacific?—A. Shellabarger & Wilson.

Q. Any one else?—A. I never heard of any one else.

Q. In what years did they represent the Union Pacific?—A. I think they have been the counsel right along.

Q. Do you recall the employment of any other person sent from other cities to Washington?—A. I think Mr. Poppleton has probably been there at times. He was the regular counsel of the company at Omaha.

Q. And Mr. Holmes?—A. I do not know whether Mr. Holmes has been there or not. Judge Usher used to be there.

Q. Anyone else?

Mr. JOHN F. DILLON. Mr. Holmes went there for the Kansas Pacific. He fought with the Hessians.

A. I do not remember anybody else.

Q. Who represented the Kansas Pacific in Washington?—A. Judge Usher. I do not know that they had any one in Washington.

Q. How often have you been to Washington on this business?—A. I went down to Washington during the pendency of the Thurman bill and the debates, and after the bill was passed I came home, and I have never been there since. Oh, yes, sir; I will take that back. I was down to testify before the investigating committee of the Knights of Labor, but I have not been there since. I got rather disgusted.

LEGAL EXPENSES OF UNION PACIFIC.

Q. Do you know how much the average annual charge was to the Union Pacific Company for legal expenses?—A. No, I do not. It must have been light, I think, compared with other corporations.

Q. Do you know whether any money, stock, security, bonds, or other interests have ever been used in connection with pending legislation at Washington, or for the purpose of influencing legislation, during the period that you have been connected with this road?—A. No, sir.

Q. You know of no such transaction?—A. No, sir.

Q. And you can give us no information which would enable us to detect such transaction, if any such existed?—A. I do not think they exist.

Q. Do you remember Mr. Ordway, of Washington?—A. Yes, sir.

AS TO EMPLOYMENT OF MR. ORDWAY.

Q. Do you remember writing a letter of advice that he be employed in regard to some business to procure advantages for the Kansas Pacific similar to those which have been obtained, or were to be obtained, for the Texas Pacific?—A. No; I do not remember about it.

Commissioner ANDERSON. I read to you from the minutes of the Kansas Pacific board of January 7, 1876, referring to communications read by the president: "Also a letter dated December 26, 1875, of Jay Gould, of New York, in regard to amendments to Texas Pacific bill giving the Kansas Pacific the same benefits for branch intersecting the Texas Pacific, and recommending to employ Mr. Ordway to accomplish this object."

The WITNESS. I have no recollection about it.

Q. You do not remember that transaction at all?—A. No, I do not.

Q. Do you remember Mr. Ordway?—A. I remember Mr. Ordway; sir.

Where did he reside?—A. Mr. Ordway resided in New Hamp-

Q. Was he in Washington occasionally?—A. I think he was Sergeant-at-Arms. Whether or not he was at that time I do not know.

Q. Sergeant-at-Arms of the House of Representatives?—A. Sergeant-at-Arms of the House of Representatives. And I presume, if I wrote my letter, it occurred in this way: The then treasurer of the Union Pacific was from New Hampshire—Senator Rollins—and he was a great friend of Ordway; and, if I wrote any letter, he probably came and asked me to write a letter, and I wrote it at his request, but I have no recollection of it.

Q. You do not know whether anything was subsequently done in regard to this matter?—A. No, sir.

THE CREDIT MOBILIER.

Q. Do you remember a transaction in July, 1875, occurring between you and the board of the Union Pacific with reference to suggested prosecutions for the alleged Credit Mobilier frauds?—A. I remember something about that; yes, sir.

Q. What do you remember about it?—A. I took the ground that the stockholders of the Credit Mobilier ought to turn in their stock to the company, and I saw some of the stockholders, and they said they could do it if the others would, and I think that I pressed on some suits there against those stockholders with the view of making them turn in their stock. They had brought, and were pressing, a claim for a large amount against the Union Pacific Company.

By Commissioner LITTLER:

Q. Is that the stock of the Union Pacific which they received?—A. No; it was in this way: The stockholders of the Credit Mobilier, who built a part of this road, were suing the Union Pacific, alleging that there was a large balance due the Credit Mobilier, and of course the possession of the Credit Mobilier stock by the Union Pacific would carry the claim back into the Treasury. What I was trying to do was to force those stockholders to surrender their stock, and I succeeded in getting a great bulk of it turned over before they finally got a judgment.

By Commissioner ANDERSON:

Q. I will read an extract from your letter, dated July 19, 1875, and addressed to the president and directors of the Union Pacific Railroad Company:

GENTLEMEN: On behalf of myself and other stockholders similarly situated, I hereby request you to institute the requisite legal proceedings in the name of the Union Pacific Railroad Company against the Credit Mobilier of America, and also against the trustees and individual stockholders thereof, for an accounting of all profits made or received by said parties on account of the construction of the Union Pacific Railway, and a recovery and return of the same to the treasury of the company, on the ground that the contract under which they held the same was void, and illegal.

That is the action which you recollect recommending, is it not?—A. Yes, sir; I wanted to put myself in position to bring a suit as a stockholder if the company did not.

Q. Do you remember whether your proposal was opposed by some of the directors of the company?—A. I think that they thought it was a pretty hard pill, for they had had a pretty hard time in the early history of the company, but I think the leading ones came in.

Q. My question is, whether you remember who opposed this proposed action on your part?—A. No; I do not.

Commissioner ANDERSON. I will read to you from the minutes, to refresh your recollection, the fact that it appears that—

On motion of Mr. Dexter,

Resolved, That the committee decline to bring suits, as requested by Mr. Gould.

The WITNESS. Yes, sir.

Q. Do you remember that Mr. Dexter opposed that action?—A. I do not remember it, except as I hear it read there. My impression is that they declined to bring the suits, and I brought them individually.

Q. I now read to you another letter written by you on the 30th of July, also addressed to the officers of the Union Pacific Railroad Company, in which you state:

On behalf of myself and such other stockholders as shall choose to join, I hereby request you to institute the requisite legal proceedings against the trustees of the Oakes Ames and Davis contracts for construction of the Union Pacific road, and also against the individual stockholders thereof, for a full accounting of all profits made by them, or any of them, under certain alleged contracts, and for the return thereof to the treasurer of this company.

Do you remember renewing that suggestion of yours shortly after the first result?—A. That is a different set of contracts altogether. The Credit Mobilier contract extended a certain distance west of Omaha; then the contract referred to there came in, and went still further on; so that these are two separate letters and refer to two separate sets of contracts.

Q. Do you remember the fact that as to both of these transactions a committee was appointed to negotiate and settle?—A. I would have to refresh my memory from the record.

Commissioner ANDERSON. In regard to the first letter, it appears from the minutes that—

On motion of Mr. Dexter,

Resolved, That Messrs. Jay Gould, Samuel M. Mills, and George S. Scott, directors of this company, be, and they hereby are, appointed a committee to negotiate and complete a final settlement of all claims between this company and the Credit Mobilier of America, for the respective stockholders of said corporations, and, if such settlement shall be made, to execute final releases to be interchanged between the parties, and to do all other acts that are necessary to give complete effect to such final settlement, and that the secretary of this company be empowered to set the seal of the company, &c.

I have given you the body of the resolution.

The WITNESS. Yes, sir; I remember that now.

Q. You were a member of that committee?—A. Yes, sir.

Q. In regard to the other suggestion, as to the Davis and Oakes Ames contracts, it was—

Resolved, On motion of Mr. Dexter, that Messrs. Jay Gould, Samuel M. Mills, and George S. Scott, be, and they are hereby appointed a committee to negotiate and complete a final settlement of all claims between this company and the trustees under the Ames and Davis contracts, and, if such settlement shall be made, to execute final release to be interchanged between the parties.

And to do all other acts that might be necessary. Did you serve on those committees?—A. I think that we made settlements under those; that is my impression; we took assignments from them.

Q. It appears from the minutes of September 22, 1875:

Mr. Gould, from the special committee appointed July 20, submitted a form of agreement with the Credit Mobilier of America, which was approved.

A \$4,000,000 NOTE.

What was that agreement?—A. I think that, speaking from memory, was an agreement by which, first, there was a certain amount of assets

I claimed the Union Pacific ought to get. They claimed that they owed to the Credit Mobilier. Then there were these notes that they had. They had a \$4,000,000 note of the Union Pacific, a large claim, my agreement with them was that if they would hand over their stock and release any claim on the securities, we would execute a release to them of any liability on account of those contracts. That is my memory.

Who were the parties to whom that release was given, as far as you remember?—A. I do not remember. The records of the company will show.

Do you remember whether this transaction preceded or followed the decision in the suit brought in pursuance of the report of the Wilcox Committee in the State of Connecticut, in which a demurrer was sustained, and in which the United States Supreme Court decided that the United States of America had no standing, because their debt was not due?—A. No; I never heard of that.

You never heard of that suit?—A. No. This proceeding was brought because I became alarmed at the threatening condition of these affairs, and I took this step as a back fire to protect the company.

Mr. JOHN F. DILLON. I can tell you all about it, as I understand it. I had this in my mind because there are still pending litigations that I have been obliged to look into. As I understand it, and I think there is no doubt about it, the Credit Mobilier had a construction contract with the Union Pacific Railroad Company to construct its road from Omaha, I think, to the 100th meridian, a distance of 247 miles, Mr. Minkins. This contract is in your records. That is old straw threshed out. When that was closed up a note was executed for \$4,000,000, under circumstances that have led to a great deal of litigation, by the Union Pacific Railroad Company to the Credit Mobilier Company. The Credit Mobilier Company claimed, in addition to these \$4,000,000 notes, a balance due for construction of, I think, \$1,000,000 or \$2,000,000 more—not to be precise as to figures. The Credit Mobilier Company instituted a suit at law on this promissory note and account in the State of Massachusetts to recover the amount.

Commissioner ANDERSON. Against the Union Pacific Railroad?

Mr. JOHN F. DILLON. Against the Union Pacific Railroad Company, dealing with interest to \$7,000,000 or \$8,000,000, probably. Mr. Bennett, the counsel to the company there, filed a bill in equity setting aside the contract, and that it was at least fraudulent in law, because the whole set of men represented both parties. That litigation ran along for three or four years.

Commissioner ANDERSON. Three or four years of what?

SUIT AGAINST HAZARD.

Mr. JOHN F. DILLON. Three or four years ago. Meanwhile, as I understand it, on Mr. Gould's accession to power in the Union Pacific Company, and this state of things existing, he introduced these resolutions here to lay the foundation for a stockholders' suit against the Credit Mobilier Company on behalf of the Union Pacific Company; I know that he did bring a suit in Rhode Island against Hazard and character. Perhaps he might have brought others. Now, you will find, when you go to Boston, a paper whereby the largest Credit Mobilier shareholders transferred their Credit Mobilier shares to the Union Pacific Company in consideration of a release from all liabilities to the Union Pacific Company, and, as that paper is in writing, I will

give you merely from my memory the substance of it. That left the suit still pending.

Commissioner ANDERSON. The equity suit?

Mr. JOHN P. DILLON. Yes, sir; on the suit at law for \$4,000,000 or \$6,000,000, and the equity suit to cancel the contract. In that condition of things you will find somewhere on these records a resolution. When the Union Pacific got into the control, through Mr. Gould's efforts, as I take it, of a majority of the Credit Mobilier stock, they proposed to discontinue the suit in Boston on the notes and account; and you will find somewhere on those records a resolution, I think introduced by Mr. Gould, authorizing and directing the discontinuance of that suit. Whereupon Oliver Ames, the same gentleman who has just been mentioned here to-day, and who was a large shareholder of the Credit Mobilier, was appointed, at the instance of Hazard, in the United States circuit court for the district of Pennsylvania, as receiver of the Credit Mobilier. His attorneys went to Boston and got an injunction against the action of the Credit Mobilier Company to discontinue the suit on the \$4,000,000 note, and tied up the matter in that way. The suit in equity to have the note canceled, and to have an account of the illegal profit on the Credit Mobilier contract, progressed its slow length along, and was finally argued before the supreme court of Massachusetts. That court was equally divided. At all events, they ordered a remandment. That took a year or two; and when it was finally argued they decided that the company's bill in equity must fail. That is repeated, I think, in the 135th Massachusetts. The bill in equity was dismissed, which left the Credit Mobilier suit for this \$4,000,000 still pending against the company; and the company, to protect itself against that liability, apparently defenseless—that is a matter of record of the company—had to buy the outstanding Credit Mobilier stock at a low figure. So that I think they own every share, or all but one or two, of it now. This was done as a means of escaping this huge liability on the note and on the balance of account claimed by the Credit Mobilier Company.

Commissioner ANDERSON. You know, of course, that shortly after the report of the Wilson committee a bill in equity was filed by the United States.

Mr. JOHN P. DILLON. I know all about that.

Commissioner ANDERSON. Against the Union Pacific, and a number of persons who had been interested in the Oakes Ames, Davis, and other contracts alleged that there was a very large amount of money—millions of dollars, which ought, in equity, to be repaid to the Union Pacific Railway Company.

Mr. JOHN P. DILLON. Yes, sir.

Commissioner ANDERSON. That is a correct description of the bill?

Mr. JOHN P. DILLON. That is the substance of it; yes, sir.

Commissioner ANDERSON. When was that bill brought; what year?

Mr. JOHN P. DILLON. That bill was brought in consequence of the report of the Wilson committee. I suppose it was brought in the fall of that year or the fall of the next year. I think a decision was reached in the 98th United States—some collection—and probably in 1877 or 1878.

Commissioner ANDERSON. Then the action that we have just quoted in the books, taken by Mr. Gould, by which certain releases were taken while that suit was pending and before it was de-

Mr. JOHN P. DILLON. I do not know of any release, except in connection with the assignment of this stock to the Union Pacific Company is in writing, and you will have it, of course.

the WITNESS. I never heard of any such suit since I have been connected with the company. Probably the suit was before that.

Commissioner ANDERSON. The resolution, as passed, appointing the committee, looks directly to the giving of releases to the persons referred to as being interested in these contracts and making an absolute final settlement, which would put an end to any claim to be made by the Union Pacific Company against them by reason of the contracts referred to.

Mr. JOHN F. DILLON. Of course, that was long before I had anything to do with the Union Pacific. But I have never seen any other releases, except such as may be contained in the instrument whereby these men assigned their stock to the Union Pacific Company.

Commissioner ANDERSON. Do you know whether, as a matter of fact, releases had been executed by the Union Pacific to the same persons who named as defendants in the creditors' bill filed by the United States America?

CONCERNING CREDIT MOBILIER SHAREHOLDERS' ASSIGNMENT TO UNION PACIFIC.

Mr. JOHN F. DILLON. No, sir; I do not. I cannot recall precisely the terms of this agreement, whereby the Credit Mobilier shareholders assigned their shares to the Union Pacific, but I think that in consideration of that they were released. That is my recollection of it.

Mr. HOLMES. The Union Pacific fell heir to their rights.

Mr. JOHN F. DILLON. They got their shares.

Commissioner ANDERSON. I want to draw the distinction between their right in the notes and claims which would pass by the assignment of their stock, and their liability, if any there was, to the Union Pacific in the very large claim alleged to arise out of fraudulent dealings in connection with the contracts. My question is whether the latter claim was released by the action of the Union Pacific Company while the suit in the United States was pending and undecided.

Mr. JOHN F. DILLON. My impression would be, without the dates before me, that these shares were assigned pending that suit.

Mr. HOLMES. Pending the appeal.

Mr. JOHN F. DILLON. Or pending the appeal from it.

Commissioner ANDERSON. The release given to these gentlemen, however they were, would not necessarily appear on the files of this company.

Mr. JOHN F. DILLON. No; that may have been given in separate releases; but I think you will find, when you look at that paper, that it states that whereas release of the Union Pacific makes certain claims against the Credit Mobilier, which they disputed, and whereas they have promised them, now they hereby assign their shares to the Union Pacific Company, in consideration of which the Union Pacific Company releases them from liability. And if the Massachusetts decision is right, it there is no liability, it was a clear gain of so much to the Union Pacific Company.

Commissioner ANDERSON. I am not inquiring about the Massachusetts decision. Will you give me the name of one of the prominent persons named in the Connecticut bill? Was Mr. Bushnell one of them?

Mr. JOHN F. DILLON. Yes, sir; and Mr. Frederick L. Ames, Oakes Ames, Oliver Ames, and Durant.

Commissioner ANDERSON. My question is whether you know, either of your own knowledge or by information derived from your business with this company, whether Mr. Thomas C. Durant has received at any time from the Union Pacific Railroad Company an instrument which would be a bar to a suit, if now instituted by the Union Pacific Railroad Company against him, for the same cause of action contained in the creditors' bill filed by the United States in the circuit court of Connecticut?

Mr. JOHN F. DILLON. There have been several resolutions of the company on this subject. I cannot undertake to recall them. They are all of record. I cannot state now that any such releases have been made. Certainly, since I have had anything to do with the company, everything on that subject is on its records.

By Commissioner ANDERSON:

Q. Mr. Gould, I will ask you the question, has any such release been given to Mr. Thomas C. Durant?—A. I do not know.

Q. Or to Mr. Oakes Ames?—A. I do not remember now to whom we gave releases, but the records will have them. Whatever I did, I reported.

Commissioner ANDERSON. Your report is simply as follows:

Mr. Gould, from the special committee, appointed July 21, submitted a form of agreement with the Credit Mobilier of America, which was approved.

And therefore the records do not disclose whether the releases were given or not?

The WITNESS. That was the agreement which the parties signed, and that was their release. That agreement was the release. The company signed it, and then these different parties, as they surrendered up their stock, signed it.

Commissioner LITTLER. Is that agreement on file at Boston?

Mr. JOHN F. DILLON. Oh, yes, sir.

Commissioner ANDERSON. The only thing is we cannot tell whether there was any other release or not.

The WITNESS. I do not think any other paper was given.

Commissioner ANDERSON. When will it be convenient for you to hand those papers to us that were called for to-day?

The WITNESS. I will let Mr. Mink get them, with my book-keeper. He has access to the books.

Mr. JOHN F. DILLON. I have a few questions to ask him.

Commissioner LITTLER. He had better come back to-morrow. We may want to question him further.

The WITNESS. I would like to finish up, if I could.

Commissioner ANDERSON. There have been some minutes handed me here, and I ought to read them before we close your examination.

The CHAIRMAN. The Commission will adjourn until to-morrow at 11 o'clock, then, Mr. Gould, and you will be on hand at that time.

The WITNESS. Yes, sir.

The Commission then adjourned to Thursday, May 19, 1887, at 11 o'clock.

NO. 10 WALL STREET, NEW YORK,
Thursday, May 19, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

JAY GOULD, being further examined, testified as follows:

THE CONSOLIDATED MORTGAGE.

By Commissioner ANDERSON:

Question. After this consolidated mortgage was made, you became its trustee. Did you make yourself familiar with its contents?—Answer. Yes, sir.

Q. I am going to read to you the 22d article of the mortgage:

ARTICLE 22. Said trustees shall in no case whatever deliver to said company, or permit to pass into its possession or under its control, the bonds secured hereby. Said bonds, after their execution by said company, shall be delivered to and held by said trustees, and said trustees shall not certify said bonds, except as they may be required to be issued under the provisions and restrictions of this and the three following articles, and for the purposes therein mentioned. And it is hereby expressly agreed and declared by said trustees that they hold said bonds upon the express trust, for the due performance of which each and every one of said trustees is individually responsible—anything herein elsewhere contained notwithstanding—that neither they, nor any one of them will certify the same, and deliver the same to said company, except it be either firstly, as to the twenty-four millions in amount of said bonds, in exchange for bonds, coupons, interest warrants, and funded interest certificates secured by the mortgages hereinbefore recited, having priority over the lien of this indenture, in assurance and performance of the contract for conversion between said company and said Dillon, Sage, and Villard, hereinbefore recited.

That refers to the contract for the pool securities which are stated as at the foot of the page 156. Do you recognize the contract that is referred to there?—A. Yes, sir.

Commissioner ANDERSON (continuing reading):

And as to other bonds not comprised in said contract at a rate of exchange not exceeding that in the next article hereinafter specified.

Do you remember that article and that limitation?

The WITNESS. Yes, sir.

Commissioner ANDERSON (continuing reading):

And, secondly, as to \$6,000,000 in amount of said bonds, and as to any surplus that may remain out of said \$24,000,000 after the conversion of all the bonds, coupons, interest warrants, and funded interest certificates lastly referred to in exchange for the first mortgage bonds of other companies of the character and amount in the next article but one hereinafter specified, or for the purpose of providing funds for the construction of extensions and branches of said Kansas Pacific Railway, at the rate and in the manner and under the restrictions in the next article but two hereinafter specified. And in no case shall said trustees issue with said bonds hereby secured any overdue interest warrant thereon, but shall cut off, cancel, and deliver to said company on each 1st of May and 1st of November all interest warrants attached to the unissued bonds then held by them.

Do you recognize the article which I have just read to you?

The WITNESS. Yes, sir.

Q. Have the directions of that article been complied with by the trustees?—A. Yes, sir.

BONDS ISSUED UNDER IT.

Q. Do you mean to say that no bonds have been issued except those provided for by the \$3,400,000 contract in exchange for the bonds referred to in Article 23, at rates other than those specified in Article 23?

—A. That is my understanding. You probably got that mixed up in this way: The Union Pacific afterwards, in various cases, had to pay more for those underlying outstanding bonds. There were certain outsiders that lay back and would not come in, and the Union Pacific would buy up those bonds from time to time and come to the trustees to exchange them under the mortgage. We settled with the Union Pacific in this way: First, we gave them credit for the amount that they were entitled to under the mortgage on the surrender of these bonds in the new bonds. Then, if there was any leeway due to the Union Pacific in bonds, which there always was, they made the settlement and paid the difference. So that in that way you probably got it mixed up.

Q. We will see how far that explanation will carry us through when we compare the entries that are contained in the account of the issue of your bonds. I have before me a statement, handed me by Mr. Mink, of the consolidated mortgage-bond account, commencing January, 1880. The entry was made in January. Whether the bonds were actually issued in January, 1880, does not appear. The item to which I call your attention is the third item, and is as follows:

For income bonds taken in exchange, stamped, \$2,907,450 for \$2,070,431.41. Unstamped, \$137,300 for \$113,314.86. The two last figures make the total of the consolidated bonds \$2,188,746.27. From this it would appear that for \$2,907,450 income bonds \$2,070,431.41 in consolidated bonds were issued, being at the rate of 70 cents.

Can you explain that item?—A. No, I cannot. That is for the Union Pacific. Let them explain their own. I can only speak for the trustees. I did not keep their books.

Commissioner ANDERSON. The trustees issued that amount of bonds. The WITNESS. I do not know about that.

Commissioner ANDERSON. This is your own account.

The WITNESS. My account?

Commissioner ANDERSON. The account of the issue of the consolidated bonds.

The WITNESS. I do not think it is our account. It appears to be a Union Pacific Railroad Company consolidated mortgage bond account.

Q. It is the issue of the consolidated bonds under the Kansas Pacific mortgage. Mr. Mink tells me the first entry is taken from the Kansas Pacific books. Are those not the stamped bonds that were held under the pool agreement for which a special contract was made?—A. I think your true way to get at this is to get the trustees' accounts of how they issued these bonds. Of course I know nothing about this account. I never saw it before. I am very certain that the accounts of the trustees are in accordance with the mortgage.

Q. Who keeps the accounts of the trustees?—A. Mr. Calef, I think, keeps that account.

Q. Where is the account?—A. I think it is here in New York.

Q. Then we will have to go back to Mr. Calef. Can Mr. Calef be got to assist you in these explanations this morning?—A. I think so.

Q. I think it will be very desirable, because the figures are inexplicable as they stand on this account. The next item to which I call your attention is that \$2,000,000 of the consolidated bonds were also issued in January, 1880, the entry being as follows: "For bonds issued to Jay Gould, in settlement of his account." Do you know what that means?

—A. I presume that is the advances I made to the United States Trust Company—out of the court.

Q. Under what provision of the consolidated mortgage were the trustees authorized to permit bonds to be issued in liquidation of that account?

(Mr. Mink shows Commissioner Anderson Article 23.)

Commissioner ANDERSON. It is probably in Article 23, as to \$2,000,000.

Mr. HOLMES. Page 170, the first paragraph on the page:

And upon further trust as to two millions thereof, to employ the same to discharge and liquidate in cash the arrears of interest due on unpaid and unfunded coupons and funded interest certificate coupons, and interest warrants, as hereinbefore recited, and for such purpose said trustees may, and are hereby authorized, with the consent of said company, to sell and dispose of such two millions in amount of said consolidated first-mortgage bonds, for the best price they can obtain, and with the proceeds of said sale or sales to take up such coupons and interest warrants, and hold the same upon the trusts and subject to the provisions of this indenture.

Q. Is your statement this, that these \$2,000,000 in bonds were issued to you in order to refund to you money that had been used to discharge and liquidate arrears of interest on due and unpaid coupons and funded interest certificate coupons and interest warrants?—A. That is my understanding.

Mr. HOLMES. Yes, sir.

Q. Where is a detail of the account that you rendered showing yourself to be entitled to these \$2,000,000?—A. I will have to look it up for you.

Q. Do you know who prepared that account?—A. I do not. I think Mr. Calef.

Q. Do you know whether there was any other overdue interest or any other unpaid coupons or interest certificates outstanding at the time?—A. I think Mr. Holmes can explain that to you.

Q. You personally do not know?—A. No, sir. I only remember to have made the advances, and I think I took the bonds.

Mr. HOLMES. You took the bonds under that agreement, and handed me a certified check which I handed to the United States Trust Company in conformity with the decree.

Q. Who are Maxwell & Graves?—A. They are a firm of brokers.

Q. They were largely interested in getting up some of these bonds, is it I judge from this account?—A. I do not know.

Q. Did they not frequently apply to the trustees for the issue of bonds in exchange for bonds surrendered by them?—A. I do not know. I do not remember.

BONDS ISSUED TO MAXWELL & GRAVES.

Q. The next entry I call your attention to is on the second page, for 93 bonds, numbers 8551 to 8653, issued to Maxwell & Graves, for \$75,000, first land-grant bonds. Why were \$103,000 issued for \$75,000?—A. I suppose that was a settlement with the Union Pacific. The trustees in their account would only charge them at the price mentioned in the mortgage. The difference there would be charged to the Union Pacific in account of bonds which they were entitled to draw; a balance was always due them.

THE UNION PACIFIC ENTITLED TO DRAW BONDS.

Q. Under what provision of this mortgage was the Union Pacific Railway Company entitled to draw any bonds from them?—A. When they bought these underlying securities, sometimes they turned them in for awhile without drawing the bonds; this sum would go to their credit. Then they had another credit; if they did not draw the money for the interest, that would go to their credit. The interest on these

bonds was payable as out of the proceeds of the land grant, but if the company paid that interest out of their own funds, out of their own treasury, they would strictly, with the trustees, get a credit for that amount. I think there is some \$3,000,000 or \$4,000,000 to their credit now.

Q. The entry that I call your attention to is not an entry for bonds issued to the Union Pacific, but an entry for bonds issued to Maxwell & Graves. Do you mean to say that that entry is incorrect?—A. Mr. Dillon probably made that negotiation himself, and probably turned the account in. That seems to be a negotiation made by the Union Pacific. That account is from their books. They probably made that contract with Maxwell & Graves. That is not the account of the trustees. Their account will show entirely differently.

Commissioner ANDERSON. We will certainly have to have Mr. Caley here in order to get any explanation about this.

The WITNESS. I prefer to let those accountants explain their own books, because I have never seen them before.

Q. There is no doubt that the bonds, as stated in this account, are issued and outstanding?—A. I do not know about that. I can only say to you that you will find that the accounts of the trustees will balance with the mortgage.

Q. I presume so; but the question is, the rates at which they parted with their bonds, and what securities were delivered to them when they issued their bonds. There are, then, a number of other entries, amounting to \$400,000 or \$500,000 of bonds in all, wholly issued to Maxwell & Graves, and all for first land-grant bonds, and in every case the number of bonds issued exceeds the number of first land-grant bonds surrendered. Is your explanation the same as to that?—A. Yes, sir; I think Maxwell & Graves were the brokers of a gentleman who lived in Saint Louis, and who had refused to convert his bonds at the rates mentioned in the mortgage, and whether he had commenced litigation or not I do not know, but Mr. Dillon undoubtedly made an agreement with him, and Maxwell & Graves acted as his brokers, and they bought these bonds. But afterwards, when they came to settle with the trustees, we settled with the Union Pacific in accordance with the mortgage, no matter what they had paid Maxwell & Graves for them.

PURCHASE OF BONDS BY UNION PACIFIC.

Q. Then your statement substantially is that the Union Pacific bought these bonds of you, paying for them either in surrendered securities or in cash, or in a charge in their accounts against them, and then delivered the bonds after they acquired title to them?—A. Yes, sir; those were a prior lien, but undoubtedly the Union Pacific bought them in for the best bargain they could make and saved the difference.

Q. I then call your attention to this entry: For 130 bonds, Nos. 9458 to 9587, delivered to Oliver Ames February 18, for 755 shares of Central Branch stock. What was that transaction?—A. I presume that was the payment of the Central Branch stock.

Q. To Mr. Ames?—A. They did not pay it to Mr. Ames.

Q. Under what provision in that mortgage were you authorized to issue bonds in payment for Central Branch stock?—A. Those were bonds that belonged to the Union Pacific.

Q. Acquired in the same way as you have stated before?—A. Yes, sir; when you come to see the accounts of the trustees you will see that their accounts are kept according to the mortgage; but the Union Pa-

\$4,250 income bonds, unsubordinated. Do you recollect that transaction?—A. No, sir.

Commissioner ANDERSON. You and Mr. Sage appear to have been trustees to these bonds.

Mr. HOLMES. They were trustees of the consolidated mortgage.

Commissioner ANDERSON. "Delivered to Gould and Sage, trustees." They would not deliver to themselves. Do you know the meaning of the answer?

The WITNESS. They delivered to us these underlying bonds.

Mr. HOLMES. They delivered to Messrs. Gould and Sage, as trustees of the consolidated mortgage, the bonds signified there and got from Gould and Sage \$160,000 of the consolidated mortgage bonds.

Commissioner ANDERSON. Then it is not correctly expressed in the writing.

Mr. HOLMES. That is very true.

Commissioner ANDERSON. The proper meaning should be, then, that the \$160,000 of new bonds were issued for the bonds here mentioned, which were delivered to Gould and Sage, trustees?

Mr. HOLMES. Yes, sir.

Q. The entry, as stated here, or as explained by Mr. Holmes, is to the effect that 160 of your bonds were issued for \$88,000 of Leavenworth Branch bonds, \$36,000 of Denver Pacific extension bonds, and \$4,250 income bonds, unsubordinated. Are you able to explain, or is the statement already made the only one to explain, why the rates are different from the rates prescribed in the mortgage?—A. Yes, sir. We were keeping an account with them, and of course we credited them for the underlying securities that they surrendered, and when we gave them bonds we always gave them under account; always saw that there was a margin in favor of the trustees.

DEALINGS OF THE TRUSTEES.

Q. Then all your transactions were between the trustees and the Union Pacific Railway?—A. No, sir. If we dealt with a bondholder we dealt with him strictly according to the mortgage, of course; but these bonds went up so high that no one would convert, and finally the Union Pacific Company, in order to get these underlying liens in and get them out of the way at the best terms they could, went into the market and bought them. I refer to Mr. Dillon. From time to time he got them at the best prices he could.

Q. When Mr. Sage received any of these consolidated bonds did he receive them from the trustees or from the Union Pacific Railway Company?—A. The Union Pacific Railway Company.

Q. And when Mr. Gould dealt with these bonds, did he receive them from the trustees or from the Union Pacific Railway Company?—A. From the Union Pacific, according to that account.

Q. According to your personal memory; which was it?—A. I do not remember. My recollection is that I received them from the Union Pacific.

Q. In whose custody would they go; to what officers of the Union Pacific?—A. They would go to the treasurer.

Q. That is, to Mr. Ham?—A. To Mr. Ham.

Commissioner ANDERSON. Who keeps this book, Mr. Mink?

Mr. MINK. It is kept in Boston in my office now.

Commissioner ANDERSON. Who kept it at this time?

Mr. MINK. I think I did.

Q. Who actually handled the bonds?—A. Mr. Ham, as treasurer or assistant treasurer of the Union Pacific; and Mr. Calef represented the trustees. He was the clerk of the trustees.

Q. I find that on the 31st of May, 1880, 42 bonds were delivered to Russell Sage for \$30,000 of Leavenworth Branch bonds. Do you remember that transaction at all?—A. No, sir.

Q. How closely did you keep track of the bonds that were being surrendered, and were coming into your possession, and the bonds that were being issued?—A. I only kept sufficient track of them to see that the trustees did not issue them in excess of the mortgage.

Q. On the 30th of June, 1880, I find that 7 bonds, Nos. 1,173 to 1,179, were delivered to Russell Sage, June 3, 1880, for \$7,000 Leavenworth Branch bonds, being dollar for dollar. Do you remember that transaction?—A. No, sir. That is a transaction he had with the Union Pacific, I suppose.

Q. On the 31st of July, 1880, I find that 767 bonds, Nos. 11,201 to 11,207, and 11,701 to 11,900, and 12,101 to 12,200, were sold, and the proceeds deposited with Messrs. Gould and Sage to pay first land-grant bonds. Do you remember that transaction?—A. No; I do not. I think Gould and Sage that are mentioned there are Gould and Sage, trustees of the first land grant mortgage, and that is a deposit made by the Union Pacific with those trustees to cancel that mortgage or record, probably.

Mr. HOLMES. They took that mortgage up and canceled it of record, I satisfied it?

Q. Who sold the bonds, the Union Pacific Company or the trustees?—A. I do not know. They can explain that.

Q. In a number of the transactions that I have referred to here, you are yourself been named as a party receiving the bonds, as you explained, from the Union Pacific Company. Now, as a matter of fact, you are charged for the bonds that you surrendered the prices stated in the account, as I have read it to you, I presume?—A. Yes, sir.

PRICES RECEIVED BY WITNESS FOR BONDS SURRENDERED.

Q. So that, for these bonds, the un subordinate incomes, branch bonds, and other securities surrendered by you, you actually received prices different from those mentioned in this mortgage from the Union Pacific Company. Is that correct?—A. I do not so understand it.

Q. When you received, for instance, \$2,070,431.41 for \$2,907,454 in bonds unstamped, from the Union Pacific Company, as you explained, that appears on the face to be 70 per cent. of the face value. Is that correct?—A. I do not propose, as I said a little while ago, to alter the Union Pacific accounts. Let them explain their own. I will explain and father my own. I can say to you now that I did not deal in one of those underlying securities myself. I put my own in at the times mentioned there, and I never afterwards dealt in one of them, or made a dollar of profit.

Q. Will your account show the numbers borne by the bonds which were surrendered?—A. My account will show every transaction I had, and I will give it to you with pleasure.

Q. The question is, whether it will show the numbers borne by the bonds which you surrendered.

Commissioner LITTLE. The serial numbers.

A. I do not know whether Mr. Morosini kept the numbers of the bonds. I presume he did, though. He is pretty careful.

Q. By the terms of this mortgage you are required to keep these surrendered bonds in your possession uncanceled?—A. Yes, sir; we were required to keep them surrendered and uncanceled until we got in the entire issue of these bonds. Then we canceled them.

Q. As to quite a number of these bonds referred to, you have not yet got at the entire issue?—A. No, sir; there are some few out.

Q. There are a large number of them out?—A. No; I think they are pretty well in now.

Q. Are there not quite a number of the Denver extension still out?—A. The Denver extension are nearly all out, except as the sinking fund retires them. There are none in the possession of Gould and Sage.

Mr. HOLMES. Yes, sir; you did. You received quite a number of them.

Commissioner ANDERSON. Yes, there are quite a number mentioned in this paper. So there are quite a number of other securities mentioned here which have not been completely retired?

The WITNESS. Yes, sir.

Q. Where do you keep these surrendered bonds?—A. They are kept in the Mercantile Safe Deposit.

Q. In New York?—A. Yes, sir.

Q. All that the trustees have received?—A. I think so.

Q. Can those that came from yourself be identified by numbers?—A. Yes, sir.

Mr. HOLMES. Commissioner Anderson, I can tell you how those accounts stand now. They are made up from the books of the Union Pacific, in view of that account.

Commissioner ANDERSON. My inquiry is mostly directed to these specific items and I cannot inquire intelligently without Mr. Calef's books.

Mr. HOLMES. That is very true.

Commissioner ANDERSON. The mere present balances of the accounts would not give any light.

Mr. HOLMES. Not as to these details.

REQUEST FOR MR. CALEF.

Commissioner ANDERSON. Can you send for Mr. Calef?

Mr. HOLMES. I do not know anything about Mr. Calef's movements.

The CHAIRMAN (to the sergeant-at-arms). Go for Mr. Calef, and ask him to step around here.

Q. Is this account in a large book or is it just a ledger?—A. I think it is large; yes, sir. [To the sergeant-at-arms.] Say to Mr. Calef that Mr. Gould wants him to come down here and bring such accounts or the books of the trustees as will show how these bonds were issued.

Commissioner LITTLER. You had better write a letter to him.

(Mr. Gould then wrote a letter to Mr. Calef, with instructions to come to the rooms of the Commission and bring such books or accounts of the trustees as would show the issue to Mr. Gould and Mr. Sage of the consolidated bonds, in accordance with the terms of the mortgage.)

The WITNESS. I think he has the book showing the issue of these bonds, because we very frequently had to call for the account to see whether the Union Pacific was overrunning the mortgage or not.

Commissioner ANDERSON. Mr. Calef was examined as to the issue of these bonds, and so was Mr. Ham, if I remember right.

INDEBTEDNESS OF UNION PACIFIC, DECEMBER 14, 1879.

By Commissioner LITTLER :

I will ask you some general question for the purpose of concentrating these figures in a shorter space, if possible. Will you be kind enough to tell us, if you know, the amounts of indebtedness of the Union Pacific Railroad Company existing on the 14th day of December, 1879? Describe the several indebtednesses which existed against that company near as you can.

THE WITNESS. You mean the consolidated company?

Commissioner LITTLER. No, sir; I mean the Union Pacific Railway company. I mean before the consolidation.

I had a statement here which I should like to refer to. I had that statement made out.

Commissioner LITTLER. I know you had, but I want to group the debts together.

THE WITNESS. The total indebtedness of the Union Pacific was \$472,391.10.

Commissioner LITTLER. Name the several securities which made up the indebtedness.

THE WITNESS. Those were the various issues of bonds.

Will you please name them?—A. There was the first mortgage.

Mr. HOLMES. The Government lien?

THE WITNESS. The Government lien. There were the sinking-fund bonds, the land-grant bonds, the collateral-trust bonds, the Omaha mortgage; amounting altogether to \$88,472,391.10.

How much was the total outstanding issue of the stock of that company at that time?—A. The stock was \$36,762,300.

That is, in addition to the \$88,000,000 you have spoken of?—A. That was in addition to the \$88,000,000; yes, sir.

INDEBTEDNESS OF KANSAS PACIFIC.

Will you please give us the amount of indebtedness of the Kansas Pacific Railroad Company at that time, and include in your answer all the branches which made up the eight hundred and some odd miles, at which you have testified?—A. The indebtedness of the Kansas Pacific was \$35,162,518.50.

Enumerate the securities which cover that indebtedness, please.—That would be represented by the first-mortgage bonds on the divisions east of the 394th mile, the Government lien on that road; the Denverworth branches, the two issues of land-grant bonds, the Denver division bonds, the income bonds, the funding bonds, and the over-interest.

Have you enumerated the stock of that road?—A. No, sir. The stock of the Kansas Pacific was \$9,809,350.

What was the stock of the Denver Pacific road?—A. The stock of the Denver Pacific was \$1,000,000.

Those were the outstanding securities against that company at the date I mentioned?—A. Yes, sir.

UNION PACIFIC AND KANSAS PACIFIC HOLDINGS IN UNION PACIFIC AND KANSAS PACIFIC AT THAT TIME.

I will ask you again to give the amount of your holdings in Union Pacific security at that time?—A. I had \$27,000 shares of the stock and \$1,000,000 of the bonds.

Q. What issue of bonds?—A. Of the collateral bonds.

Q. The collateral trust bonds?—A. The collateral trust; yes, sir.

Q. You had a controlling interest in the Union Pacific, had you not, at that time?—A. No, sir.

Commissioner ANDERSON. There were 360,000 shares.

Q. What was the total amount of your holdings in the Kansas Pacific securities at that time?—A. I had \$4,000,000 of the stock, par value.

Q. That would be 80,000 shares?—A. Eighty thousand shares.

Q. Half shares?—A. That is very nearly the figure. I had the exact figures here.

Commissioner LITTLER. That is near enough.

The WITNESS. I forget how many of the bonds. I think about \$3,000,000 of the bonds.

OWNED MISSOURI PACIFIC ABSOLUTELY.

Q. Did you own the Missouri Pacific Railway at this time?—A. Yes, sir.

Q. You owned it absolutely?—A. Yes, sir.

Q. Were you a director in each of these three companies at that time?—A. No, sir; I resigned on the 10th of January from the Kansas Pacific and the Union Pacific.

Q. How long had you been in the directory of those corporations prior to the date of your resignation?—A. I had been a director of the Union Pacific since 1874; and in the Kansas Pacific, I think, from about 1877 or 1878. The records will show that.

Q. As I understand you, immediately after this consolidation, which took place on the 24th of January, 1880, you were again elected a director of the new consolidated company?—A. Yes, sir.

DENVER PACIFIC.

Q. I have not got it quite clear in my mind just what took place in relation to this \$4,000,000 of Denver Pacific stock. Do I understand you to say that you bought \$1,000,000 of Arapahoe County for \$100,000?—A. Yes, sir.

Q. Did you turn that \$1,000,000 of stock into the Union Pacific Railway Company—the new company?—A. No, sir.

Q. Was it the old company?—A. No, sir.

Q. What did you do with it?—A. I turned it into the Kansas Pacific Company.

Q. Did I understand you to say that at that time the Kansas Pacific Railway Company owned the balance of that issue, about \$3,000,000?—A. Yes, sir.

Q. Was that \$3,000,000 released from the trust by virtue of the decree of the court here?—A. Yes, sir.

Q. I understand that the trust received a credit in this way: That you made your consolidated mortgage for \$500,000 less than you otherwise would have made it. Is that so?—A. Yes, sir; we reduced the mortgage.

Q. And in that way the trust received the benefit of \$500,000?—A. Yes, sir.

KANSAS PACIFIC CONSOLIDATED BONDS.

Q. And in no other way?—A. Yes.

Q. Will you please state the total amount of Kansas Pacific consolidated bonds issued and now outstanding in pursuance of this mortgage,

as near as you can?—A. Sixteen million four hundred and thirty thousand dollars outstanding.

Commissioner LITTLER. What was the total amount authorized?

Mr. MINK. Thirty million dollars.

Mr. JOHN F. DILLON. Less \$500,000, limited by the decree.

Q. There is a very large amount of those consolidated bonds not issued, as I understand?—A. Yes, sir.

Q. Why did that mortgage provide for so large an issue of bonds? Does that mortgage represent the total amount of indebtedness due from the Kansas Pacific Railway Company to its creditors at that time?—A. The difference is the underlying bonds that have not been taken up. They have not matured. We made provision for them.

Q. When all those underlying bonds have been exchanged you will have paid out as trustee all these consolidated bonds?—A. Yes, sir.

Q. Do I understand that the balance of these \$4,000,000 Denver Pacific stock was transferred to the Union Pacific Railway Company after crediting \$500,000, as you have stated?—A. The cost of that stock would be this: It belonged to the Kansas Pacific, of course, and when they were consolidated with the Union Pacific, the consolidated company took all the assets of all the companies, this among them. So that in that way they became the possessor of the entire \$4,000,000.

Q. Did the consolidated Union Pacific Railway Company issue a like number of shares of its stock for the balance of this \$4,000,000, after it became an asset of the company?—A. I presume they did; yes, sir.

Q. That being true, to whom did that stock belong?—A. It belonged to the consolidated company.

Q. To the Union Pacific Railroad Company?—A. To the Union Pacific Railroad Company.

Q. What did the Union Pacific Railway Company do with that stock?—A. They used a portion of it to pay me.

Q. Please state what portion of it they used to pay you.—A. I had the account here. I think they also got some stock of the Kansas Pacific. There was not quite \$10,000,000 issued, if I remember.

Commissioner LITTLER. Mr. Anderson calls my attention to the exact amount furnished by Mr. Mink, \$3,464,168.48 delivered to Jay Gould in payment of the securities.

The WITNESS. Yes, sir.

DENVER PACIFIC AGAIN.

Q. I see no connection really between this Denver Pacific stock and the stock of the Union Pacific Railway Company. Why could not that company, the Union Pacific, have issued its stock for the purpose of paying yourself and other creditors, independent of this Denver Pacific stock, it having become an asset of the company by virtue of the terms of consolidation?—A. Why, they could just as well.

Q. Just as well?—A. Yes, sir.

Q. Then this Denver Pacific stock ceases to be an important factor in this case, does it not?—A. Certainly. I really wanted that put in, because I wanted to get the guarantee of the consolidated company on these bonds which Sage and Gould held on that road.

Q. The only effect of issuing this stock was to increase the indebtedness of the Union Pacific Railway Company?—A. Yes, sir.

Q. And they could have done that independent of this Denver Pacific stock?—A. Yes, sir.

Commissioner LITTLER. I think I understand that now.

The WITNESS. That is exactly as it was.

Q. At the time you signed this agreement with Mr. Ames and others of Boston, did you have it in your power to transfer this Kansas Pacific Railway, with all its branches, to the Missouri Pacific if you had so desired?—A. Yes, sir.

Q. You owned a controlling interest in it?—A. Yes, sir.
Q. You then had it in your power substantially to dictate the terms of this consolidation between the Union Pacific and Kansas Pacific, had you not?—A. Yes, sir; I suppose I had, as far as those roads were concerned.

COULD HAVE TRANSFERRED KANSAS PACIFIC TO MISSOURI PACIFIC.

Q. You could have transferred the Kansas Pacific to the Missouri Pacific, and have carried out the plan suggested by you yesterday, to have extended the Kansas Pacific to Ogden, in the manner you indicated, and thus have formed a competing line with the Union Pacific Railway Company from Ogden east?—A. Yes, sir.

Q. And it was because of the vantage ground you occupied at that time that you were able to dictate the terms of peace to the Union Pacific people?—A. Well, no sir; not in that sense; because I considered that the Kansas Pacific was the most valuable of the two.

Q. I understand that, but still you had it in your power to do as I described, without regard to values, had you not?—A. Yes, sir; I presume so.

ACTUAL COST OF WITNESS' HOLDINGS OF KANSAS PACIFIC.

Q. Will you be kind enough to state in round numbers the actual cost of all your holdings in Kansas Pacific at the date I have mentioned, including its branches? You have given them by items in your testimony. I would like to group them together.—A. I would have to refer to the account. This account shows \$3,058,024.99.

Q. Tell us what that sum represents.—A. That represents the interest in the stock and in the certificates entitling the holder to consolidated mortgage bonds. Whether that is the whole account, I do not know.

Commissioner LITTLE. I will ask you to take time, and, with the aid of Mr. Calef or Mr. Mink, furnish the information.

Mr. JOHN F. DILLON. He can furnish a statement in answer to that question.

Commissioner ANDERSON. I suppose the question is, the whole cost of those securities which he held.

The CHAIRMAN. We simply want to know, as I understand it, what were your profits in this entire arrangement; that is, as an individual.

The WITNESS. The profits in which?

The CHAIRMAN. The whole transaction, from the time you entered into this arrangement leading up to the purchase of the Denver Pacific and Kansas Pacific, and the final consolidation. What your profit was individually.

Commissioner LITTLE. That is what I was coming to. I want to see whether you lost any money or not.

The WITNESS. I did not lose any money. I did not make any out of the consolidation, because these securities were worth as much before the consolidation as they were after.

INDEBTEDNESS OF UNION PACIFIC AFTER CONSOLIDATION.

By Commissioner LITTLE:

Q. I will ask you to give us the total amount of indebtedness of the Union Pacific Railway Company after the consolidation, both in bonds and stocks.—A. The indebtedness was the combined amount, adding the two together.

Commissioner LITTLE. I want to get at this point.

The WITNESS. The indebtedness was \$124,215,909.60.

Q. How many miles of road did that cover?—A. That is exclusive of stock, and covered 1,821 miles.

Q. That is the bonded indebtedness you are giving?—A. That is the bonded indebtedness.

Q. Now give me the amount of stock.—A. The stock was \$50,762,300, in stock.

Commissioner LITTLE. You have already stated that your purchase of Kansas Pacific, I believe, ran back to about 1874, when they commenced.

The WITNESS. That was the Union Pacific.

Q. When did your purchase of Kansas Pacific begin?—A. I think 1870 or 1878.

Q. As I remember your itemized account, you purchased the stock of the company at about 6 or 6½?—A. No, 12½; they are half shares; it would make 12½.

Q. On the hundred?—A. On the hundred.

Q. You hold that stock as you purchased it, and finally received the stock of the consolidated company, as I understand it?—A. Yes, sir.

Q. Your profits may be fairly ascertained by counting interest on our investments from their date up to the time of the exchange, and retaining the value of the consolidated stock, may it not?—A. That would be my profits, yes, sir.

Q. That would be a measure of your profits?—A. Yes, sir.

Q. We will not take the time to figure and see how much you lost, if anything. By the terms of this Thurman act the Union Pacific Railroad Company was prohibited from issuing any stock under certain circumstances.

Mr. JOHN F. DILLON. Pardon me, that is the act of 1873 that you refer to; it is the Credit Mobilier act.

Mr. HOLMES. Here is the language.

Commissioner LITTLE. I understand what it is in substance.

EFFECT OF CHANGE OF NAME OF UNION PACIFIC FROM RAILROAD TO RAILWAY.

Q. I wish you would explain how the directory of the Union Pacific managed to issue this large amount of stock in the light of that statute unless it was in this way: That in order to avoid the provisions of that act it became necessary to change the name of the Union Pacific Railroad Company to that of the Union Pacific Railway Company.—A. The consolidation was made under the charters under the acts of 1862 and 1864.

Q. I understand. There was nothing in the charter requiring you to change the name of the company, though. In other words, what was the object of the directory in changing the name of the Union Pacific Railroad Company to that of the Union Pacific Railway Company?—A. It was a new child then; they did not want to mix the names up.

Q. I know, but could you not have continued the name of either of the old companies?—A. I do not know whether you could or not; it would have created a mixing of accounts.

Q. Do you remember fairly well the history of the advance in these stocks, the Union Pacific and the Kansas Pacific, commencing with 1878 and running up to February, 1880?—A. Yes, sir.

Q. Did you and your friends associated in these corporations own a controlling interest in the stock of the Kansas Pacific and Union Pacific during all those years?—A. No, sir.

Q. Did you own so large an interest as to be able to control the market value of those stocks during those years?—A. No, sir.

Q. Was there or not any concerted movement on the part of yourself and other large stockholders, acting with you, to advance or to put this stock down from time to time? I see that it fluctuated very much.—A. No, sir.

Q. That was the regular course of the market?—A. Those prices were made by the public that dealt in those securities.

Q. You were not buying or selling either of those stocks, as I remember, for a few months prior to the final consolidation of the Union Pacific with the Kansas Pacific?—A. No, sir.

Q. Your holdings remained about the same?—A. Yes, sir.

THE THURMAN ACT.

Q. By the terms of the Thurman act, a portion of which I will read—

No dividends shall be voted, made, or paid, to any stockholder or stockholders in either of said companies respectively at any time when the said company shall be in default, in respect of the payment of either of the sums required, as aforesaid, to be paid into said sinking fund, or in respect of the payment of the said 5 per cent. of the net earnings, or in respect of interest upon any debt, the lien of which, or of the debt upon which it may accrue, is paramount to that of the United States, and any officer or person who shall vote to declare, &c., shall be punished, &c.

GROSS EARNINGS UNION PACIFIC, 1878-1883.

I wish to call your attention to the condition of this property for six years, commencing with 1878. The gross earnings of the Union Pacific Railroad Company for 1878, as stated in the paper I have before me, was as follows:

For 1878.....	\$12,873,68
For 1879.....	13,205,078
For 1880.....	22,455,134
For 1881.....	24,258,817
For 1882.....	22,823,84
For 1883.....	21,992,541

Making a total in the six years of..... 116,619,02

NET EARNINGS.

The net earnings for these years were as follows:

For 1878.....	\$7,407,072
For 1879.....	7,750,572
For 1880.....	11,910,615
For 1881.....	11,772,674
For 1882.....	12,000,834
For 1883.....	10,354,549

When did the Union Pacific first declare a dividend on its stock?—A. I do not remember.

r. HOLMES. Railway or railroad?

Commissioner LITTLER. Railroad.

he WITNESS. My recollection is that it was 1876. But is a matter of record.

Q. Did it continue to pay dividends from that time forward up to including 1883?—A. I do not know when they stopped dividends. I do not remember; but, generally, I should say they did.

DIVIDENDS AND PAYMENTS OF UNION PACIFIC UNDER THURMAN ACT.

Q. At the time I have mentioned it appears that the Union Pacific Railway Company was in default in the payments provided by the Thurman act, after its passage, and also in default in its payments under the 5 per cent. net earning provision of the first statute. It appears that the Government had paid, up to the 30th day of June, 1878, \$786,896 interest on account of the \$27,000,000 subsidy. During that time the Union Pacific Railway Company paid, under the provisions of the several acts of Congress, \$7,364,364, leaving the balance in its favor, on account of interest paid, of \$9,422,532. That being the condition of the accounts of the Union Pacific Railway Company, I ask you to explain, as a director of the Union Pacific Company, why it was that dividends were declared in the face of those facts.—A. I do not admit the facts, to begin with.

Q. You do not?—A. I claim that we never paid any dividends, except in accordance with the requirements of the charter.

Q. If this company were able to pay dividends, why is it that they ask for extension of time for the payment of this Government subsidy?—A. I am not in the company, and I prefer that they would answer that for themselves.

Commissioner LITTLER. But you were in the company at the time these transactions occurred?

he WITNESS. I know if I were the creditor, instead of the Government, I should not hesitate long about making a settlement, unless they refused to take the road and run it. If they want to go into the business it is a chance.

he CHAIRMAN. It is rather late for that.

THE TELEGRAPH LINE REQUIRED TO BE CONSTRUCTED.

Q. Was the telegraph line constructed, which was required to be constructed under the acts of Congress, by this Union Pacific?—A. I understood that the Western Union constructed the line under a provision in the charter that they should comply with the terms of it, but I was not connected with the company at the time, and I do not know.

Q. Do you understand, then, that the construction of the telegraph line provided by the acts of Congress was by an independent company, and not by the Union Pacific people?—A. I understood that the Western Union—

r. JOHN F. DILLON. I can tell you, if you want the information.

Commissioner LITTLER. I want to know all about it; yes, sir.

r. JOHN F. DILLON. I can state it as I understand it, and then you can verify it afterwards. There was, at the date of the act of Congress, an overland telegraph to the Pacific Ocean, which had been built by private corporations.

Commissioner LITTLER. What do you mean by "overland"?

r. JOHN F. DILLON. Over land.

Mr. HOLMES. That was the title of the company, "The Overland Telegraph Company."

Mr. JOHN F. DILLON. Congress recognized that fact in the nineteenth section of the act of 1862, chartering the Union Pacific road, in this language:

RELATING TO TELEGRAPH COMPANIES.

That the several railroad companies herein named [that is, the Pacific railways] are authorized to enter into an arrangement with the Pacific Telegraph Company, the Overland Telegraph Company, and the California State Telegraph Company, so that the present line of telegraph between the Missouri River and San Francisco may be moved upon or along the line of the said railroad and branches as fast as the said railroad and branches are built; and, if said arrangement should be entered into, and the transfer of the said telegraph line be made in accordance therewith, on the line of the said railroad and branches, such transfer for all purposes in this act shall be held and considered a fulfillment on the part of the railroad companies of the provision of this act in regard to the construction of said line of telegraph; and in case of disagreement said telegraph companies are authorized to remove their line of telegraph along and upon the line of railroad herein contemplated, without prejudice to the said railroad company herein named.

Now, as I understand it, no agreement was made, and the Union Pacific went on and constructed under its franchise under this act of Congress a telegraph line of its own. Under the authority of this nineteenth section, which I have just read, these three telegraph companies, which have an independent line of telegraph from the Missouri River to the Pacific Ocean, also moved their line of telegraph on to the right of way of the Pacific companies, all the way from Omaha through.

Commissioner LITTLER. Do I understand you to say that a part of the funds of the Union Pacific went into the construction of any portion of that line?

Mr. JOHN F. DILLON. Of their own line of telegraph; so that it came to happen that the Union Pacific had one line of poles, as I understand it, on one side of the right of way, and this independent company had another telegraph line on the other side.

Commissioner LITTLER. What was that line owned by the Union Pacific Railroad Company called?

Mr. JOHN F. DILLON. It was a part of its telegraph line; a part of its property. There was no independent name, I suppose.

Commissioner LITTLER. What has become of that telegraph line; does it still belong to the Union Pacific Railway Company, or has it been transferred?

Mr. JOHN F. DILLON. I can tell you that.

Commissioner LITTLER. I should think Mr. Gould, as a director from 1874, ought to be able to tell it.

The WITNESS. I think it was before my time there that that occurred.

Q. It was before your time?—A. Yes, sir.

Commissioner LITTLER. Will you tell it, judge?

Mr. JOHN F. DILLON. This is a complicated subject. Now, when you come to the Kansas Pacific and go into this, you will have to get it from somebody. I can tell you the outline and you can pursue the investigation. In respect to the Kansas Pacific—

Commissioner LITTLER. What has that to do with this?

Mr. JOHN F. DILLON. A very great deal.

The CHAIRMAN. Commissioner Littler wants to know whether the line is there or not.

LITIGATIONS CONNECTED WITH THE TELEGRAPH.

Mr. JOHN F. DILLON. There is a dispute about that, and that came about in this way: On the 2nd day of July, 1864—I am stating it from memory now, I do not see it in that compilation—which is the date I mentioned the act of Congress granting the charter to the Union Pacific, Congress passed a short act referring to the United States Telegraph Company, and gave to the United States Telegraph Company the same rights and privileges which in and by the 19th section of the original act of 1862 (which I have read) it gave to these three overland companies. This has all been in litigation for years, and that is the way to happen to know it. Now, under that, the United States Telegraph Company and the Kansas Pacific—that was in 1864—entered into a contract, which is in the report, whereby, as I recollect it (stating it subject to correction), the United States Telegraph Company built the telegraph line on the Kansas Pacific road under a contract that the telegraph company should have the wires it needed for commercial purposes and the railroad company the wires it needed for railroad purposes. That contract came before the court, and Mr. Justice Miller decided—you will find the case reported in the 1st McCrary's Circuit Court Reports—that that contract was authorized by this act of 1862, and that the railroad company did not have exclusive right or ownership in that line of telegraph. Out of that grew a litigation, which was then pending. There was litigation also in relation to the telegraph line over the Union Pacific, and subsequently with the Western Union, which succeeded to the rights of the original overland telegraph companies on the Union Pacific line, and which also succeeded to the rights of the United States Company on the Kansas Pacific line. Those disputes were settled in the manner stated in a written contract, which I think is now the existing contract between the Western Union and the Union Pacific Railway Company in relation to telegraph lines.

Commissioner LITTLER. What I was coming to is this: I understand the Western Union, either by purchase, or consolidation, on lease, now controls these identical wires.

The WITNESS. The Western Union have a contract with the Union Pacific. To illustrate it, it is something like this: We will take a message from Ogden to Portland, or Ogden to Boston, or Ogden to New York, or anywhere through the entire Western Union system. The Union Pacific, under that contract, draws a certain share of that revenue. Precisely what it is, I do not know.

Q. Of pro rate?—A. It is more than a pro rate, I think.

Q. What is the rental which inures to the benefit of the Union Pacific Railway under this lease?

Mr. JOHN F. DILLON. It is not a lease.

Commissioner LITTLER. Is it a contract?

Mr. JOHN F. DILLON. A contract or working arrangement.

Commissioner LITTLER. For running a wire?

CONTRACT BETWEEN WESTERN UNION AND UNION PACIFIC.

Mr. JOHN F. DILLON. It is like any two telegraph companies would make, one having a line from Omaha west and another east, for a joint working arrangement.

Commissioner LITTLER. Here are what are supposed to be some official figures as to the earnings of this wire: For 1878, \$15,000; 1879, 18,000; 1880, \$39,000. For the first year under the contract—that is

the one you refer to, I suppose—\$82,000; 1882, \$98,000; 1883, \$107,000; 1884, \$105,000; 1885, \$110,000.

Q. Do I understand that under this contract mentioned the Western Union Telegraph Company pays to the Union Pacific Company annually those sums of money, and have they so paid them?—A. I should judge so, from that.

Q. Can you explain how the earnings of this line increased so rapidly from 1878, being an increase from \$15,000 in 1878 to \$110,000 in 1885?—A. I suppose that came from the fact that the Western Union gave them a share of their earnings on their own system, which extends all over the United States.

Q. Can you furnish us with a copy of this contract under which that line is being operated?—A. It is on file in the Union Pacific office.

Mr. JOHN F. DILLON. It is an official publication. Congress has investigated all this, and you will find that contract and all the proceedings. I can give it to you, and I would give you my copy. You will find it in a convenient shape there.

Commissioner LITTLER. I do not care to ask this witness any more questions for the present.

Mr. JOHN F. DILLON. I would like to ask Mr. Gould a few questions.

Commissioner LITTLER. You will have a chance hereafter, sir. It is now ten minutes to 1.

The WITNESS. You will want me after recess.

The CHAIRMAN. Yes, sir; at 2 o'clock.

AFTERNOON SESSION.

JAY GOULD, being further examined, testified as follows:

By Commissioner ANDERSON:

Question. Where will it be convenient for our accountant to go over this book to see what the result is?—Answer. He could go over it with Mr. Calef.

Mr. CALEF. At our office.

REFERRING TO POOL SECURITIES.

Q. Referring back to the pool securities, which are referred to in the mortgage at page 156, it appears from the books kept for yourself and Mr. Sage, as trustees, that about \$3,400,000—the precise figure being \$3,386,269.07—were issued in exchange for the securities which are specified at page 156 of that mortgage, and the book-keeper informed us that no other consideration was received by this trust, as appears in your accounts, for the bonds issued, and you yourself have stated that those bonds were surrendered at the commutation rates prescribed in the mortgage. Can you reconcile that statement with the figures appearing in this account?—A. I do not know that there is any difference.

Q. I gave you the computation yesterday from the commutation rates, and showed you that the amount of bonds you would have been entitled to under the mortgage rates, assuming that the Arkansas Valley should be converted at par, were about \$930,000 less than was actually received. Referring to that computation, I ask you whether there is any explanation to be made of the difference?—A. I do not know of any. I do not remember now about it. Only Mr. Calef can explain it.

Commissioner ANDERSON. The inquiry is whether the gentlemen named in the pool received a preferential rate or not, and the figures be-

as show a preferential rate, unless some other figure was paid for the bonds, which is not disclosed in the account. If there was any such consideration, and if you know of it, we invite you to explain it. The WITNESS. I cannot recall anything now. I suppose they were sold just according to the pool prices.

Q. The next item in the book refers to 333 funding bonds, the par value of which would be \$333,000; 395 bonds unfunded second land grants, of the par value of \$395,000; the Solomon bonds \$185,000, the par value being \$185,000; income bonds stamped, \$108,950; and the statement in your book is that the following additional amount of bonds received from the company are to be exchanged for consolidated first-mortgage bonds at the same rates as taken on pool securities. Will you please explain why it was that those bonds were taken at a different rate from that prescribed in the mortgage?—A. No; I do not understand that.

Q. Is it not clear that the pool securities were converted at a rate different from the mortgage rate, since the rate of the pool securities is referred to in this entry?—A. I do not know. I presume Mr. Caley would explain it; I cannot. I never saw the entry before.

Q. Do you know whose bonds these were that are stated to have been received from the Kansas Pacific Company?—A. They belong, I suppose, to the Consolidated Company.

Commissioner ANDERSON. Do these figures not show?

Mr. CALEF. No; they are company bonds.

Commissioner ANDERSON. Which company bonds?

Mr. CALEF. Kansas Pacific.

Q. The next entry in the book shows a conversion, or an issue, of \$771,000 of these consolidated bonds, of which \$1,413,000 were issued to you for Denver Pacific bonds, and \$358,000 were issued to you for bonds of the Denver and Boulder Valley. Was that your own transaction?—A. Yes, sir; those were bonds that I surrendered, and I took consolidated bonds.

Q. Both of these lots were exchanged at par?—A. Yes, sir; I suppose so.

Q. What was the rule in regard to the conversion of the branch bonds at par? Do you remember the requirements of the mortgage?—A. The mortgage will speak for itself. I do not remember specifically, but I believe those went in at par.

Q. Do you remember that there was a distinction as to branch roads running east or west of a certain meridian?

The WITNESS. As to future construction?

Commissioner ANDERSON. No; also as to existing branches.

A. That is under the 24th article.

Q. That clause provides that there shall be no more consolidated bonds issued on a branch road than \$15,000 per mile, per branches east of a certain meridian, and \$25,000 west of that meridian. Is that not so?—

That clause does not apply to this issue—the Denver Pacific. The Denver Pacific and Boulder Valley went in at par.

THE VALUE OF THE DENVER PACIFIC AND BOULDER VALLEY ROADS.

Q. Under what clause? Please read it.

Mr. HOLMES (reading):

ARTICLE 24. Said trustees shall hold the remaining six millions in amount of said consolidated first-mortgage bonds, and any such surplus as aforesaid, upon trust, to be thereunto requested by said company as aforesaid, to certify and issue the said consolidated first-mortgage bonds secured by this indenture in exchange for any

bonds, payment of the principal and interest of which is guaranteed or assumed by said company, or issued by any other company, the road of which is leased by said company, or of the stock of which company said Kansas Pacific Company owns controlling majority, fully paid up, at not exceeding par, in said consolidated bonds, provided that such lease or such majority of stock shall be duly assigned or transferred to said trustees, and that first-mortgage bonds shall be secured by a first lien on a railroad actually constructed and in operation.

That is the end of that part of the clause relating to the subject-matter under discussion. Then comes the following:

And that the amount of consolidated first-mortgage bonds to be so issued shall not exceed in amount \$15,000 for each mile east of the meridian of Denver, or \$25,000 for each mile west thereof, actually constructed or in operation, of the railroad comprised in the mortgage or deed of trust securing the first-mortgage bonds, in exchange for which said consolidated first-mortgage bonds are issued. Said trustees shall hold the bonds so acquired in exchange upon the trusts in these presents.

Commissioner ANDERSON. The sentence last read by Mr. Holmes is coupled with the preceding part of the sentence by the word "and." I would like to know whether the question as to the limit of bonds which should be taken at \$15,000 or \$25,000 was discussed, in making these exchanges of these Denver and Boulder bonds.—A. The Denver and Boulder bonds were not to exceed \$25,000 a mile.

Q. Were they east or west of the meridian of Denver?—A. They were west.

Q. West of the meridian of Denver?—A. Yes, sir.

Q. Who determined whether the other conditions stated here had been satisfied or not—as to whether these bonds were guaranteed by the company or whether the company had a controlling amount of the stock?—A. Those were conditions that were well known when the mortgage was made, and those are exchanges that were expected to be made. They were provided for in the mortgage. The Kansas Pacific had a majority of the stocks, and held them for a long time, and they guaranteed the principal and interest of the Boulder Valley bonds.

Q. What other branch bonds did you convert besides Boulder Valley?—A. Denver Pacific.

Q. Any others?—A. I think not, except those that were in that pool.

Q. I find at page 12 of your books a transaction in which \$2,000,000 of consolidated bonds appear to have been issued to you for the purpose of adjusting the floating debt of the Kansas Pacific, and that those bonds were issued to you at 75. Who determined the rate of issue?—A. I do not know. The board, I suppose. They were not a salable security at the time.

Q. It is the 30th day of January, 1880. What was their market value at the time, as quoted in the exchange?—A. I think they were not on the exchange. I think that Maxwell & Graves had some litigation or claim in regard to their land grants. They were fighting this issue of bonds.

BOULDERMEN DISSATISFIED.

Q. And at that time you think they were not issued?—A. A good many of the bondholders were dissatisfied with the rates, and they fought this mortgage all they could. A great many of them were influential in the stock exchange, and they fought us there, which put a check on these bonds for a long time.

Q. Can you tell me how this rate was fixed, any more definitely than you have?—A. No, sir.

Q. Can you point to any action of the board of the Union Pacific railway by which it was adjusted?—A. No, sir; I cannot; unless there is something in the minutes about it.

Q. You were at that time both trustee and receiver of the bonds?—
A. Yes, sir.

Q. Did you talk with Mr. Sage about the rate?—A. I presume I did, and made an offer to all the others, but no one would take them.

Q. In regard to this issue of 927 bonds, on the 23d of March, 1880, stated to be issued to you for 7,616 shares of the Union Pacific Central Branch stock, and on account of payment for 10,000 shares of Denver Pacific stock, what is your explanation of that entry?—A. That was in payment for that stock, or in part payment.

Q. Your book-keeper says that those bonds were not in fact intended to be issued to you, except to the Union Pacific Company, and the Union Pacific Company used them in that way. Is that your understanding of it?—A. My recollection is that Mr. Ham brought me those bonds as treasurer of the Union Pacific Company.

Q. If the Union Pacific Company owed you a certain amount of money for the Central Branch, what right had you as trustee of this mortgage to pay that obligation of the Union Pacific in that way?—A. It was not paid direct to me. The bonds were handed over to the Union Pacific.

Q. That is what I supposed. I ask you that?—A. They made the payment to me.

Q. So that the Union Pacific derived title to these bonds by reason of certain exchanges which they themselves had made, and then used them in the settlement with you?—A. Yes, sir.

Q. I find a large amount, exceeding \$2,000,000, charged up in your book as representing discounts on these bonds. Do you know how those discounts came to be allowed?—A. I presume Mr. Calef can explain it.

Q. Do you know that in a number of the negotiations of these bonds they were taken by parties, not at their face value, but that a discount was allowed, as there was to you on the \$2,000,000?—A. I do not remember.

Commissioner ANDERSON. I find a number of entries in which this Mr. Leighton is concerned, who had a litigation, I believe, concerning these bonds?

The WITNESS. Yes, sir.

Q. Were there a number of persons who brought suit?—A. Mr. Calef can tell you. I think there were several.

Q. As a matter of fact is it not true that a great many of these bonds were issued to parties by reason of those suits, or for other reasons at rates different from the rates stated in the mortgage?—A. I think so.

Commissioner ANDERSON. The books show that to be so?

The WITNESS. Yes, sir; but in the account with the Union Pacific they paid that difference. We charged them that difference.

Q. That is to say the account, as kept with the Union Pacific, will show that you are able to comply with all the requirements of the mortgage if all those items are correctly entered in that account?—A. Yes, sir; we acted in all these matters in accordance with the instructions of the officers of the Union Pacific, the trustees taking care that the limit did not exceed the amount of bonds to which they were entitled.

Q. The effect of that would necessarily, or might necessarily, decrease the surplus of bonds that might have been available if the strict mortgage rates had been adhered to? That is clear. If all the outstanding bonds had been retired at 30 and 50, and at par, then you would have had a much larger surplus than has been the result from the actual fact?—A. Yes, sir; the bonds went up in the market, and

parties would buy up those bonds expecting to be bought off, and would annoy the company. Of course the company would carry it on up to a certain point and then make a bargain and buy them out; and then some one else would crop up. But we took care always to see that there was no over issue of the bonds.

NO OVERISSUE OF BONDS.

Q. In order to make your account good with the Union Pacific, is the Union Pacific a debtor to-day to that account?—A. They are a creditor.

Q. The Union Pacific is?—A. Yes, sir.

Commissioner ANDERSON. Mr. Calef, tell me how the balance of the company stands to-day.

Mr. MINK. Mr. Ham has that account, and I do not know.

The WITNESS. It was \$3,000,000 or \$4,000,000, I think.

Mr. CALEF. This account shows that it was about even.

Commissioner ANDERSON. At what date?

Mr. CALEF. The last entries were made in 1886.

Commissioner ANDERSON. Give us the month.

Mr. CALEF. October.

Q. What are the class of credits that you give to the Union Pacific in the account of these bonds? For what do they get credit?—A. They would get credit—

CREDIT FOR SURRENDERED SECURITIES.

Q. For the surrendered securities?—A. (Continued.) In bonds that they surrendered. They also have the right to the proceeds of the lands, to pay the interest on the consolidated bonds, and if they pay it out of their own earnings, and do not call upon the trustees, they would claim that as a credit, for the mortgage provides that the first proceeds of the lands shall be appropriated to pay the interest on the consolidated bonds. The Union Pacific have claimed, and the trustees have not resisted that claim, that where they paid that money out of their own current funds they should have a credit with the trustees for that amount.

Commissioner ANDERSON. Will you refer me, Mr. Holmes, to the section of the mortgage that directs that the proceeds of the lands shall be applied to the interest?

Mr. HOLMES. Yes, sir. [Reading:]

ARTICLE 4. All moneys received by said trustees before the maturity of the bonds hereby secured shall be applied by the trustees from time to time as they shall receive the same, after first paying and deducting thereout all expenses of executing the trusts of these presents. First, to the payment of any interest which may be due upon the said bonds hereby secured; second, in buying in any of the bonds issued by said company into which the bonds hereby secured are intended to be converted at the lowest price for which said bonds can be had, not exceeding rates hereinafter fixed for such conversion; and third, when none of the last mentioned bonds can be obtained at the prescribed rate, then in redeeming or buying the bonds secured by these presents at the lowest price for which said bonds can be had, not exceeding principal and accrued interest.

Commissioner ANDERSON. And your construction is that all moneys, including the proceeds of lands sold in pursuance of your trust, were applicable by you to the payment of the interest on the issue of consolidated bonds, and that if that interest was in fact paid by the Union Pacific Railway Company it was entitled to a credit for that amount as having been paid for your account?

The WITNESS. That is their claim. That is the position taken by the Union Pacific. The trustees have never quite conceded that, and have never taken that into account in the issue of bonds.

Q. In the account as stated, and which resulted in October, 1886, in being about even between the trustees and the company, do they stand credited with the interest accruing on the consolidated bonds?—A. No, sir; that would make the surplus due them, if that was allowed.

Q. Then is there any other item of credit which is given to them, besides the credit for surrendered securities, in the account as stated?—A. Nothing that occurs to me.

Commissioner ANDERSON. I will ask you, Mr. Calef, is there any other item of credit to the Union Pacific Railway Company, in the account, as stated, except the surrendered securities?

Mr. CALEF. No; not in the account stated.

The WITNESS. Mr. Holmes can tell you.

Commissioner ANDERSON. We will ask all around.

Mr. HOLMES. I have always interpreted the mortgage to mean that any interest which the trustees collected on the bonds which they had received in their trust was a part of such bonds, as well as the proceeds of land sales.

Commissioner ANDERSON. I am only asking in regard to the account as kept; and I understand that after crediting nothing but surrendered security, the Union Pacific account appears to be balanced as of date, and that the explanation given of over payment is cured by showing that in theory, at least, the extra issue of bonds was made a credit to which the Union Pacific was entitled; that in that way the trustees would be protected in what otherwise would appear to be a violation of the terms stated in the mortgage. Can you explain the meaning of the account at page 627 of ledger entitled "Kansas Pacific Railway Floating Debt"?

The WITNESS. No; I presume Mr. Calef can explain that; I cannot.

Q. In this negotiation of \$2,000,000 of bonds to you at \$1,500,000, was Mr. Sage ever interested with you?—A. No, sir.

Q. He paid no part of the floating debt?—A. No, sir.

Q. Do you know anything of the transactions in which bonds appear to have been issued to Mr. Sage at a rate different from the mortgage rates?—A. No, sir.

Commissioner ANDERSON. That is all we want to ask now.

The CHAIRMAN. Judge Dillon, did I understand you that you wanted to ask a question?

Mr. JOHN F. DILLON. I wanted to ask a few questions.

The CHAIRMAN. Go ahead.

REFERRING TO CONSOLIDATED MORTGAGE.

By Mr. JOHN F. DILLON:

Q. In reference to the consolidated mortgage, I call your attention to the fact that it puts into it all the railroads and the lands of the company and certain personal property, and provides for an issue of \$30,000,000, of which it sets apart \$24,000,000 for the purpose of paying the underlying liens, for instance, the first mortgage bonds, &c. Then it contains a provision that the company had contracted with Sidney Dillon, Russell Sage, and Henry Villard, holders of certain enumerated bonds, the amounts and character of which are distinctly stated in the instrument, and which it is provided shall be exchanged for a

certain number, \$3,400,000 in amount, of the consolidated first-mortgage bonds. It further provides that certain securities, which are ahead in lien of this \$30,000,000 mortgage, shall be purchased at certain rates, which are specified in Article 23. Now, various questions have been asked you as to the pool rates, and as to the contract rates, for the buying in of these other securities; do you know why the provisions there for the purchase of bonds from Villard, Sage, and Dillon was put in; have you any distinct recollection of that?—A. My recollection is that that was a bargain made between the company, or parties interested in the company, and these trustees. They represented the holders of a large majority of the bonds; it is very desirable to get them committed; that was a special bargain made with them, as I remember it now.

Q. The mortgage sets that out on the face of it?—A. Yes, sir.

Q. So that everybody taking bonds under this mortgage knew that a certain amount of consolidated bonds were to go in payment for, or in exchange for, the enumerated underlying bonds?—A. Yes, sir.

Q. And the trust was administered on that theory, was it not?—A. Oh, yes, sir; certainly.

Q. Now, calling your attention to Article 22, to which Commissioner Anderson has referred, it provides for the issue and certification of these bonds; referring to the contract, in terms, with Dillon, Sage, and Villard, before recited—

And as to other bonds not comprised in the said contract at a rate of exchange not exceeding that in the next article hereinafter specified, and, secondly, as to six millions in amount of said bonds and as to any surplus that may remain out of said twenty-four millions after the conversion of all the bonds, coupon, interest warrants, and funded-interest certificates lastly referred to, in exchange for the first-mortgage bonds of other companies of the character and amount in the next article but one hereinafter specified, or for the purpose of providing funds for the construction or extension of branches.

Then Article 22 provides that "said trustees shall hold so much of said \$24,000,000 of bonds as is not required for exchange," under certain trusts specified in that article. Now, since it is expressly provided that all the said bonds, coupons, interest warrants, and funded-interest certificates shall be exchanged, and then any surplus shall be held for certain other purposes, I presume the construction which you put upon this mortgage was, that if any of the bonds which were recited here, to be taken in at par, were, by the Union Pacific Company, as the successor of the Kansas Pacific, brought to you, you were authorized to exchange at par, although they may have got them for less, and that if some of the other bonds were purchased for that company at above the mortgage rates your construction of the trust was, that if you did not exceed in all the limit here in the twenty-third article, you were authorized to issue the consolidated bonds?—A. Yes, sir; that was our rule.

Q. That, I think, is a sound construction of the instrument itself. What was the scheme of this mortgage? These underlay the issue of consolidated bonds?—A. Yes, sir. We know perfectly well that Judge Usher, Mr. Holmes, and myself knew perfectly well what this mortgage was and what we intended to do. We got it up, and when any question came up, of course I went to them for advice. But I know what the intention was.

NO OVERISSUE OF BONDS.

Q. Under that construction of the mortgage, as you understand it, there has been no overissue of bonds under this mortgage?—A. No, sir.

Q. Do you know, and can you state, whether bonds remained unissued and uncertified sufficient to take care of all the trusts of this mortgage; that is to retire all the outstanding issues, even if they had to be taken in, all of them, at par?

The WITNESS. All the underlying securities?

Mr. JOHN F. DILLON. Yes, sir; all that are outstanding.

A. Yes, sir.

Q. Your attention was called to a detailed list of the twenty-nine branches of the Union Pacific Company, and you were asked whether you now had, or ever had, any interest in their construction or in their securities, and I understood you to answer, with the exception of two, that you had not. Am I right?—A. Yes, sir.

Q. Those two were the South Park and the Utah Northern?—A. Yes, sir.

HOW THE UTAH NORTHERN WAS ACQUIRED.

Q. Will you state briefly the circumstances under which the Utah Northern was acquired? State through whom and why.—A. It was a little spur of a road which ran from Ogden north through a Mormon settlement in Utah, and the Mormons had furnished part of the money, and a gentleman, Mr. Joseph Richardson, had furnished the balance. They had not made much out of the road, and I saw that it was turned towards Montana, which I thought was destined to be a rich mineral country, and I opened negotiations with Richardson. I first proposed the Union Pacific should take that interest, and get a control of it. It did not strike Mr. Dillon favorably, and he rejected it, so I took it up. I bought an interest and began to extend the road. I took the bonds and stock of the company. It gradually began to pay, and it became profitable. Then the directors saw that when it was extended to Montana it would of course become not only a great feeder to the Union Pacific but a source of profit in itself, and they asked me if I would not let the Union Pacific have it. I said, "Yes," and I turned it over to them at just what it cost me. I think I got the bonds at about 40 or 50, and the stock free.

Commissioner LITTLER. Judge Dillon, that road is 460 miles long, as reported now.

The WITNESS. It is now.

Commissioner LITTLER. You extended it?

The WITNESS. I extended it after I bought it.

Q. One of the wondrous revelations of Mr. Pondir to the Commission was that he said that Mr. Richardson had said to him that he had to make a bargain with you personally in order to get rid of the road. Have you anything further to say in explanation of that statement than what you have already stated?—A. No, sir. It was a voluntary sale by him, and it was all that the road was worth at the time I bought it. It was not paying. It was a poor thing. Of course railroads need a master hand and a development to make them pay, and Richardson was too stingy a man himself to develop it.

Q. The point I want to get at is, did you sell it to the Union Pacific at what it cost you?—A. Yes, sir; just what it cost me.

Q. And it has turned out to be a very valuable road, has it not?—A. Yes, sir.

Mr JOHN F. DILLON. The surplus for 1883, I see by their reports, was \$390,000.

By the CHAIRMAN :

Q. Will you just state what you paid Richardson for the road?—A. I do not know whether I paid him 40 or 50 for his bonds.

Q. Either 40 or 50?—A. Well, I might have paid him a little higher, but by building the road on and taking the bonds and stock the price got down, so that when I turned it over to the Union Pacific it was 40 or 50. I might have paid Richardson more than that for his.

By Commissioner ANDERSON :

Q. Did he throw the stock in, or did he set a price for the stock?—A. I think the stock went in; I think in buying of Richardson that was the case.

By Judge DILLON :

Q. Whatever profit was made in the transaction inured to the company and not to yourself?—A. Yes, sir.

Q. The only instance in which you stated you had ever had any interest on any of the branch lines of the Union Pacific was the Denver, South Park and Pacific road. Do you recollect the year that that was purchased?—A. I think in 1880.

PURCHASE OF DENVER, SOUTH PARK AND PACIFIC.

Q. Can you state briefly the history of this purchase by you, and why you purchased it?—A. I had an interest in the construction of the road, a minority interest. The great bulk of it was owned in Denver by Governor Evans and a party of gentlemen there. After they got the road pretty well constructed it became very profitable.

Q. Right in that connection, let me see if this refreshes your mind in a general way. I read from the report of the Union Pacific for the year ending December 31, 1884, at page 31, the net earnings, taxes deducted :

For 1880, on 162 miles	\$996,621 49
For 1881, on 213 miles	309,757 28
For 1882, on 261.2 miles	377,449 60
For 1883, on 312.88 miles	48,748 29
For 1884, deficit, on 320.7 miles	293,993 22

It appears in 1880, from this statement, that the net earnings were, in round numbers, \$1,000,000. That was the year in which this road was purchased, was it not?—A. Yes, sir.

Q. Will you resume your narrative as to the circumstances under which, and the reasons for which, this purchase was made?—A. The amount of business that this road was bringing out to give to some Eastern road was very great. It also furnished a market for a very large amount of the products of Kansas. In the mineral country they have to bring in everything they use. There was another purchaser for this road—the Denver and Rio Grande. I was afraid that if the Union Pacific and the Kansas Pacific, and those interests, were deprived of access to this country, it would shut off a large amount of earnings on their main lines, and I went out to Denver and saw Governor Evans, who represented the Denver and South Park. I found that this sale was very imminent. I staid there and succeeded in buying them out. I paid them par for the stock and took the control of the road. Then I offered it to the Union Pacific. I offered them the first refusal, and they took it.

By Commissioner ANDERSON:

Q. At what price?—A. At the same price.

By Mr. JOHN F. DILLON:

Q. You were cognizant, were you not, more or less, of the negotiations which were had with the Rio Grande people by the Evans party for the sale of this road?—A. Certainly. If we had not taken it at that time we would have lost it.

Q. Was the offer which the Rio Grande people made for this road substantially as great as the price at which you bought it?—A. Yes, sir; the price was the same.

NO PROFIT TO WITNESS.

Q. So that personally, so far as you were concerned, and the interest which you derived through the construction company, there was no personal profit to have the property go to you rather than to have it sold to the Rio Grande people?—A. No, sir; I would have made the same amount if it had gone the other way.

By Commissioner ANDERSON:

Q. Have you brought that statement of the amount of stock and bonds that you received under the construction contract?—A. No, sir; I am having that made up.

Q. It is being made up?—A. Yes, sir; it is being made up.

By Mr. JOHN F. DILLON:

Q. Your motive, therefore, as I understand you, in the purchase of this property, was to prevent its falling into the hands of parties having rival and competitive railroads?—A. Yes, sir.

Q. Does your recollection enable you to verify, in a general way, the profitability of this road for the two or three years after the purchase? Does it coincide with the reports that I read to you from the company's books?—A. Certainly. It is very profitable.

Q. This road was afterwards extended to Leadville by the Union Pacific Company, after its purchase?—A. Yes, sir.

Q. What relation did Leadville sustain at that time to the railway traffic of Colorado?—A. Leadville was the great mining center.

Q. Are you familiar with the famous contest between the Rio Grande and the Atchison companies about that time, for the control of the gateway up to Leadville?—A. Yes, sir; I think I ought to be.

Q. Do you recollect that, at one time, the Atchison Company made a lease of the Rio Grande Company?—A. Yes, sir.

Q. And the courts afterwards declared it to be *ultra vires*. Do you recollect whether that event had then transpired; that is, whether the Rio Grande was then out of the hands of the Atchison Company at the time of the purchase of this South Park property?—A. Yes, sir; it was out of their hands and had been extended. It had been extended to Leadville. I had the control of that, you know, at the time this litigation was settled.

Q. So that, at the time of the purchase of the South Park road, the Rio Grande Company had reached Leadville?—A. Oh, yes, sir; and was doing an enormously profitable business.

Q. And had a monopoly of that business by railway?—A. Yes, sir.

Q. And the South Park was extended towards Leadville, and with a further short extension could reach them. Was this element considered

been equal to the par thereof?—A. Oh, yes, sir; it was a very growing property. Its earnings were increasing all the time, as the business of the country increased.

Q. The transcript of the official sales of the Stock Exchange of January 14 shows large transactions in Union Pacific stock at 92—89 to 92, and in Kansas Pacific at 95 and 96. The contract was that you sold these Saint Joseph bridge bonds at par, the stock thrown in, to be paid in the stock of the Kansas Pacific Company, was it?—A. Yes, sir.

Q. Therefore you realized less than par, by the terms of the contract, for the security?—A. Yes, sir.

PURCHASES OF SAINT JOSEPH AND DENVER RAILROAD FIRST-MORTGAGE BONDS, 1879.

Q. Turning now to the account which you rendered of your purchases of what is headed "Saint Joseph and Denver Railroad first mortgage bonds," which I understand to cover the Saint Joseph and Pacific and the Kansas and Nebraska, with their appurtenances or "trimmings," we find that this account shows that these purchases began on January 14, 1879, and continued through that month, four or five transactions in February, eight or ten more in March, two in April—the 7th of April being the last—which seems to have ended your purchase of these securities, with the exception that on November 3 there is an entry, "William Beldon, settlement, \$113,000 of these bonds;" then showing that you made a sale of minor interest in them to Mr. Sage, Mr. Frederick L. Ames, Mr. Sidney Dillon, Mr. S. H. H. Clarke, Ezra H. Baker, F. Gordon Dexter, and Elisha Atkins—the sales amount to \$617,000 out of \$1,562,000; and that the latest of those sales was, July 2, to Elisha Atkins. Did you have any other transactions in these securities during the year 1879 than those which are here mentioned in this account?—A. No, sir.

Q. It is in evidence here that these securities went up in the market to, I believe, 90 or 95, or in that neighborhood, and there was some testimony tending to show that that price might have been manipulated by somebody. Do you know anything about any fictitious sales, or "washed" sales?—A. No, sir. It leaked out that I was buying, and that was the reason I had to wait until I could get them all in a lump. As soon as it leaked out that I was buying them they began to grab for them, and they carried the price up, but I never made any transactions in them other than those.

Q. And therefore the market price, or whatever they did sell for, was a normal price, so far as any agency of yours was concerned?—A. Yes, sir; it was made by people who were trying to keep company with me, I suppose.

Q. What was the reason why Mr. Sage and these other gentlemen, who were recognized to be large owners in the Union Pacific Company, made a purchase of these subordinate amounts? For instance, Mr. Ames, \$1,000,000; Mr. Dillon, \$200,000; Mr. F. Gordon Dexter, \$30,000, and Mr. Elisha Atkins, \$30,000.—A. After I had made this purchase I said to these gentlemen, knowing that they had large interests in the Union Pacific, that I had made this purchase, and showed them my hand, and told them that they might take what portion of it they wanted and I would take the balance; and they partitioned off such part as they wanted, and I took the balance.

PROTECTING THE UNION PACIFIC FROM THE IOWA POOL LINES.

Q. What were the motives or inducement on your part for taking this large purchase in the securities of this road?—A. I had a large interest in the Union Pacific, and I wanted this outlet to protect the company against the combination of the Iowa pool lines, who were trying to force the Union Pacific down to a pro rata.

Q. How would getting the control of the Saint Joseph and Western enable you to effect that object?—A. You reach the lower system of Eastern roads that were not in that combination—the Hannibal and Saint Joseph and the Wabash line, which centered at Saint Joseph.

Q. Your leading motive, therefore, as I understand it, in the purchase of these securities was to protect your interest in the Union Pacific property?—A. Yes, sir. We had had a contest with the Iowa roads before this purchase, while Mr. Bond was the receiver. They supposed that they had got the thing fixed so that they could force the Union Pacific to prorate. We found it out, and went to Mr. Bond and made a bargain with him for the use of this road. On the day that they were going to force the Union Pacific to prorate we turned the whole traffic right down over this road.

Q. Who actually did that?—A. We actually did that, and of course we saved the company at that time. But I kept my eye on this property as being worth something for just such a protection as that, and at various times said to Mr. Bond, "Whenever your people are tired out there come and see me." Several times he came, and said he thought that was the right time. I made a price, and finally I found whenever I made the price that they put one a little up, so I said, "Now bring me an offer." He brought me 40, and I accepted it. I knew that the property, in looking to its future, was growing, and would become valuable. I could see that every time I went over the road new towns were growing up and immigration was pouring in. That tells the story.

The CHAIRMAN. Still, you had not lost anything in effecting your purchase?

The WITNESS. No, sir. I did not expect to. I knew the property was good.

The CHAIRMAN. You do not want to impress the Commission with the idea that you were at a loss?

The WITNESS. No, sir; I only want to give the motive that governed me and the facts about it. I have nothing to conceal.

By Mr. JOHN F. DILLON:

Q. Perhaps the Commission would like to hear your view concerning the situation of the Union Pacific. How many roads come into Council Bluffs on the Iowa side?—A. There was the Chicago and Northwestern, the Chicago, Burlington and Quincy, the Chicago, Rock Island and Pacific; I think three.

Q. The Wabash?—A. I do not think the Wabash was built at that time.

Mr. JOHN F. DILLON. No; it was not at that time.

A. Then there was the Council Bluffs road.

Q. The Saint Joseph and Council Bluffs?—A. Yes, sir.

Q. In 1879 and 1880, had any of those roads that come in at Council Bluffs, and there, meeting the Union Pacific, deliver to the Union Pacific their traffic, and receive from it its traffic, invaded the Union Pacific Territory in the west, in Nebraska?—A. I think the Chicago, Burlington and Quincy had.

Commissioner ANDERSON. Do you ask in 1880 or 1879?

Mr. JOHN F. DILLON. 1879 or 1880.

The WITNESS. The Chicago, Burlington and Quincy had, and perhaps the Northwest had, a spur on the north.

EMBARRASSMENT FROM HAVING NO CHARTER POWER.

By Mr. JOHN F. DILLON:

Q. Did you ever feel any embarrassment in dealing with the Union Pacific property, by reason of having no charter power to protect its territory from invasion, as you call it, by rival companies?—A. The company was greatly embarrassed by not having the same rights that the other roads had. If they had the rights at that time, and the credit, to have gone ahead and occupied the territory west of the river as I planned, the stock would have been worth 200 to-day, but while they hesitated and lacked the credit to go ahead, these other stronger companies plunged in; and, of course, the building of competing roads at lower rates is what injured the Union Pacific. My plan was that the Union Pacific should go ahead and occupy the whole country west of the river, and bring the business to the roads east.

MANNER OF PROTECTING A ROAD.

Q. How does a railroad manager protect his property when he is threatened with invasion? Does he not try to carry the war into Africa?—A. He has to throw out feeders, to get the start in building lines; for instance, if there is a rich valley that is just developing, if one road does not come in there, another one will; but, if the stronger road comes in and occupies that valley, the others will probably keep out.

Q. That is one way of protecting themselves, by throwing out branches and holding the territory?—A. Yes, sir.

Mr. JOHN F. DILLON. You stated the other day that in November, 1879, when Commodore Garrison was the owner of the Missouri Pacific, he was threatening to extend that road into the territory tributary, as you claimed, to the Kansas Pacific, and that you said to him, "For every mile you build west in my territory, I will cross the Missouri River and build into Missouri, on your territory."

The WITNESS. Yes, sir.

Q. In the present legislation applicable to the Union Pacific, it has not the ordinary faculties and powers of protecting itself that the Missouri Pacific has, for instance, has it?—A. No, sir.

THE UNION PACIFIC HAMPERED.

Q. In other words, when the Chicago and Northwestern proposed to invade Nebraska and the territory naturally tributary to the Union Pacific, the Union Pacific had no means of crossing the river and getting into the territory of the Northwestern, had it?—A. No, sir; it was tied hand and foot, so to speak.

HAS NO PRESENT INTEREST IN THE UNION PACIFIC.

Q. Now, while I am on that subject, there is one of very great importance as connected with the Union Pacific, and especially referred to this

Commission, namely, the system of branches; I will ask you, first, whether you have now any interest in the Union Pacific?—A. No, sir.

Q. No interest?—A. No, sir.

Q. Not as stockholder?—A. No, sir.

Q. Are you a bondholder?—A. No, sir.

Q. No interest whatever?—A. No, sir.

THE BUILDING OF BRANCHES.

Q. Were many of these branches built while you were connected with the company's administration?—A. Yes, sir.

Q. What were your motives for favoring them?—A. My motive was this: I thought that the Union Pacific should occupy the territory tributary to it, and throw out feeders that would bring the business in to the main line, and keep pace with the development of the great West, occupying the country as fast as, or a little faster than, the population went in to sustain it.

Q. Are you familiar with the mode in which these branches were constructed by the Union Pacific?—A. Yes, sir.

Q. There are some twenty of them, more or less; do you know of any construction company ever being organized to build these branches?—A. No, sir.

NO KNOWLEDGE OF INDIVIDUALS PROFITING BY THE BUILDING OF BRANCH ROADS.

Q. Did you ever make, or do you know of any director, making any individual or personal profit out of the building of these branch lines?—A. No, sir.

Q. Or any of them?—A. No, sir.

Q. As far as you know, were they built at the actual cash cost to the company?—A. Yes, sir.

Q. Where did the means come from to build them?—A. The company furnished the means out of its earnings, or, in some cases, it sold bonds.

Q. So far as the means for the construction of these branch lines were furnished out of the company's earnings, it was a voluntary adoption by the directors of the policy of appropriating earnings for this purpose rather than to distributing them in the way of dividend, was it not?—A. Yes, sir.

Q. What, in your judgment as a railroad man, and as familiar with this property, would be the effect of disuniting and dislocating these branches from the company's subsidized or main lines?—A. They would make a great shrinkage in their earnings; probably one-half.

Q. What was, in your judgment, the fair value of the Saint Joseph and Denver first-mortgage bonds in January, 1880, prior to the consolidation?—A. They were worth par in cash.

Q. What do you base that estimate upon?—A. Upon the property itself, and the bonds per mile.

Q. How much was the indebtedness per mile?—A. It was about \$17,000 per mile.

Q. That is a low indebtedness for such a road as that, is it not?—A. Yes, sir. The property had just passed through the ordeal of grief and had got to a point where it was going to grow very rapidly. I saw that. The subsequent result has shown it.

Q. I want to ask you in regard to the Central Branch Union Pacific contract that you introduced here, the original contract with Oakes for the purchase of a majority of the Central Branch stock, is

dated on the 7th day of November, 1879. You produced the original contract, did you not?—A. Yes, sir.

Q. The entry on your books for that purchase is not until December 9. I suppose that is because the stock was not, perhaps, paid for or delivered until that time?—A. Yes, sir; I presume that is so.

Q. Then nearly all the rest was purchased November 11th and November 12th. That is, paid for, although I think the options were at an earlier date. The account rendered here truly represents what you actually paid to Mr. Oliver Ames for this stock, does it not?—A. Yes, sir.

Q. That purchase was made prior to the date when you purchased the Missouri Pacific?—A. Yes, sir.

Commissioner ANDERSON. Is it a purchase or an option, judge?

Mr. JOHN F. DILLON. It is an absolute contract to buy. Mr. Ames sells and Gould buys 6,250 shares at the price of \$250 per share.

MOTIVE FOR PURCHASING.

Q. Will you tell the Commission a little more in detail than you did the motive that led you to make this purchase? Give the reasons for it.—A. The Kansas Pacific had an important branch, the Junction City and Fort Kearney, which I was extending west, trying to get ahead of the Central Branch. But we got neck to neck, and we were both building parallel roads right west.

Q. How near together?—A. Sometimes right close together. Sometimes I think we disputed the right of way. Then we would get a little ways apart. After we had got about 20 miles built they came down to see me, to see if there could not be some settlement made, and they finally proposed that they would sell out. They made this price, and I bought them out.

Q. (Showing a map.) Will you show what it was on this map?—A. That must have been the Junction City and Fort Kearney road.

Q. Where is the beginning?—A. That is Kansas Central.

Q. It does not show it there?—A. No, right there we came together, you see, and went right along at that time.

Q. If the Kansas Central should be extended west towards Denver, what would have been the effect on the value of the Kansas Pacific?—A. It would have hurt it at that time. That was the principal reason that Mr. Ames wanted it included in the consolidation. It was to protect the Union and Central Branch west.

By Commissioner ANDERSON:

Q. Mr. Fred. L. Ames?—A. Mr. Fred. L. Ames.

By Mr. JOHN F. DILLON:

Q. Your purpose then in purchasing this property was primarily to enable you to protect the Kansas Pacific property, was it not?—A. Yes, sir.

Q. I will ask you at this point whether you sold stock at the time of the consolidation at any personal profit to yourself, or whether it was sold to the Kansas Pacific at precisely what it cost you?—A. It was sold at just exactly what it cost me.

Q. Was it sold to the Kansas Pacific at your instance, or by reason of any urgency on your part, or at the instance of others?—A. It was sold at their instance. I wanted to keep the Central Branch and the Kansas Central out. I did not want to put them in. I wanted at least to take those for the Missouri Pacific.

Q. What was the value, in your judgment, of that stock at the date of the consolidation or sale? Was it sold for more than it was worth?—A. I should not have bought it if I had not thought I was making a bargain.

Commissioner ANDERSON. That is hardly an answer to that question. The Witness. I think it was worth the money.

Commissioner ANDERSON. You think it was worth \$250?

The WITNESS. No; \$238, I think it was. There is one thing that has not been mentioned in regard to that. They had lands valued at from 100 to 150 on the stock.

By Mr. JOHN F. DILLON:

Q. They had a land grant?—A. Yes, sir; they had a land grant.

Q. In addition to the railroad?—A. In addition to the railroad.

Q. And in addition to their lease of the property lying beyond the 100 miles it was subsidized by the Government?—A. Yes, sir.

CENTRAL BRANCH AND ENTIRE CENTRAL MORE VALUABLE NOW.

Q. What is the character of that property to-day?—A. It is much more valuable. That is, it has grown all the time.

Q. The net earnings reported by the company for 1884 and 1885 were 15 and 16 percent on the par of the stock, were they not?—A. Yes, sir; it is being cut now by competition considerably, so that hereafter it is likely to be less valuable than it has been. The Rock Island are building on there, and the Atchison, Topeka and Santa Fe, and the Chicago, Burlington and Quincy. It is a pretty rich country.

Q. The only other branch, I think, that you had any interest in, which was disposed of at the time of the consolidation, was the Kansas Central. You turned in the lands and stock of that road, or disposed of them?—A. Yes, sir.

Q. You acquired those of whom?—A. I acquired those of Commodore Garrison.

Q. On December 12, as a part of the Missouri Pacific purchase?—A. Yes, sir.

Q. And the account that you rendered truly states what you gave him for it?—A. Yes, sir; in cash.

Q. That was that you paid him and others \$431,820.25 for the bonds and the 2,521 shares of stock?—A. Yes, sir.

Q. Which was sold to the Kansas Pacific?—A. Yes, sir.

Q. And they surrendered the above bonds and stock in exchange for shares of the Union Pacific at par?—A. Yes, sir.

Q. The cash was that put in?—A. It was put in on the basis of the Kansas Pacific worth as much as stock, with the stock of the Kansas Pacific.

Q. Where was the Union Pacific worth at about that time?—A. About 93.

Q. The cash outlay, without interest, was about \$432,000?—A. Yes, sir.

Q. The cash put in the par of Union Pacific stock, \$479,000?—A. Yes, sir.

Q. You treat it as worth about 93, one account about balances?—A. About balances the other.

Q. Was this put into the Kansas Pacific consolidation?—A. Mr. Garrison was on having those two roads go in—the Central Branch and the Kansas Central.

Your statement, therefore, is that it was not put in at your instance or insistence, but that it was by the insistence of the Boston company?—A. No, sir. I wanted to keep out those two roads. I thought I ought to have a little out for the Missouri Pacific.

Did you regard the Kansas Central stock and bonds at that time as being worth what were got for them?—A. Yes, sir.

WILLING TO TAKE THEM BACK.

You had paid that for them, had you not?—A. Yes, sir; I will take that road at that now.

You will take that road at that now?—A. Yes, sir; certainly, and willingly.

How is it about the Central Branch?—A. I will take the three roads.

The three roads that you put in?—A. Yes, sir; right off; this minute.

By Commissioner ANDERSON:

Which three do you mean?—A. The Saint Joseph and Western, the Central Branch, and the Kansas Central.

Do you make that answer as to the last two? Do you know that Saint Joseph and Western has been sold?—A. I took that into account.

Will you make that answer as to the Central Branch and the Kansas Central?—A. I would as to the Kansas Central, and I am not sure that I would as to the other. But I certainly will take the three.

Commissioner ANDERSON. You know it is impossible to give the three, because you know the Union Pacific has sold the Saint Joseph and Western.

The WITNESS. No, it is not. They could account for it. I would take the whole thing off the hands of the Union Pacific, and they make the loss on it. But I do not think it would be quite fair to give them the sweet and I take the sour.

Commissioner ANDERSON. There was some sour, then.

WILLING TO PAY CASH.

By Mr. JOHN F. DILLON:

That is to say, you will put yourself on record here as saying that the Union Pacific will account for what they have received for the Saint Joseph and Western, having parted with it, you will take the Central Branch and the Kansas Central at what you sold those two roads to them for?—A. Yes, sir; cash.

Commissioner ANDERSON. Perhaps they would want to pay you in Union Pacific stock.

The WITNESS. It would be for me to pay them in Union Pacific stock, because that is what I received.

Commissioner ANDERSON. If you went to pay them in Union Pacific stock you would make a nice turn?

Commissioner LITTLER. He proposes to pay cash.

The WITNESS. I would make it a cash transaction.

By Mr. JOHN F. DILLON:

How long was the Denver and Pacific Railroad?—A. One hundred miles.

Mr. HOLMES. One hundred and six.

The WITNESS. One hundred and six miles, Mr. Holmes says.

Q. Parallel with the Colorado Central?—A. Yes, sir.

Q. Between Denver and Cheyenne?—A. Yes, sir.

Q. How far were those two roads apart?—A. They were from 1 to 6 or 7 miles apart, in some places.

Q. Do you recollect the amount of the mortgage indebtedness on the Denver Pacific per mile?—A. It is \$25,000.

Q. Twenty-four thousand dollars, or \$25,000?—A. Twenty-four thousand dollars; yes, sir.

Mr. JOHN F. DILLON. I think it was \$2,500,000 on 106 miles.

A. Yes, sir.

Q. And the stock was \$4,000,000?—A. Yes, sir.

Q. About \$3,000,000 of this was in the Kansas Pacific trust?—A. Yes, sir.

Q. And the bonds were in it?—A. Yes, sir.

Q. Both the bonds and the stock?—A. Yes, sir.

Q. And there was a million of outside stock?—A. Yes, sir.

Q. Familiar as you are with that road, what intrinsic value had this stock, subject to that mortgage?—A. Not any.

Q. The mortgage was in default? Suppose the trustees had foreclosed it, what would have been the effect on the stock?—A. To wipe it out.

Q. To cut it off utterly?—A. Yes, sir.

SECURITY OF BONDHOLDERS IMPROVED.

Q. What was the effect? Something that was done in some way impaired the security of the bondholders under the consolidated mortgage it seems to be thought here.—A. It improved it.

Q. This consolidation having been made, what effect had it on the bonds of your trust?—A. It made them good; it gave them the guarantee of the consolidated company.

Q. The question was asked you by one of the Commissioners, why the Kansas Pacific, or the consolidated company, could not just as well have arranged to put the proceeds of this stock as security for the consolidated mortgage bonds. What business reason would there be for such an arrangement as that?—A. Not any.

Q. This consolidation was made on the basis of putting in the Denver Pacific, being an asset of the Kansas Pacific, and having been built under the act of 1869, to enable the Kansas Pacific to connect with the Union Pacific at Cheyenne. The consolidation was made on the basis that the Denver Pacific and the Kansas Pacific should go into the consolidation on the basis of \$14,000,000 and the Union Pacific Railroad on the basis of about \$36,000,000 or \$37,000,000. Suppose these \$3,000,000 of stock which were in the trust had not been liberated from it, in what way could the consolidation on that same substantial basis have been effected?—A. We could have called—that is just what we discussed—the stock of the Denver Pacific \$1 or \$10 or \$100 in the consolidation, just as well as to call it \$4,000,000; and we discussed, if I remember, the putting it in first in that shape; and then, of course, additional stock was wanted to carry out these purchases. Finally, as I put in my 10,000 shares so that the company had the whole of it, the consolidation was put through in that shape. But if we had not got the order of the court we would have either foreclosed the road or else the stock would have been called at a nominal price.

Q. It would have been short work to have increased, under the laws of Kansas, the capital stock of the Kansas Pacific to \$14,000,000, would it not?—A. Yes, sir; certainly.

Q. You acquired \$1,000,000 of this same Denver Pacific stock?—A. Yes, sir.

Q. Costing you \$100,000?—A. Yes, sir.

Q. Do you state to this Commission that you sold it to the Kansas Pacific as a part of this transaction at the same price at which you had acquired it?—A. Yes, sir.

Q. Although the value imparted to that stock by the consolidation would have been \$1,000,000, would it not, or in that neighborhood?—A. Yes, sir.

Q. It appears that in October, 1879, a letter was addressed by yourself and others to Messrs. Humphreys and Dodge to consider an equitable basis of consolidation between the Kansas and the Union Pacific Companies. When did they report?—A. They reported in January following.

Q. Their report bears date the 16th day of January, 1880. Do you recollect when you first saw it?—A. No, sir; I do not think I ever saw it until it came out here in the hearings of this Commission.

DID NOT INFLUENCE DODGE AND HUMPHREYS.

Q. Did you influence, or attempt to influence in any way, Messrs. Dodge and Humphreys in the making of that report?—A. No, sir.

Q. I want now to call your attention to this, and ask your judgment respecting the comparative values of the Kansas Pacific, including the Denver Pacific, properties, and the Union Pacific property at the date of the consolidation in January, 1880?—A. The Kansas Pacific properties were the most valuable.

Q. Will you give your reasons?—A. In the first place, the road [referring to a map] is about 50 miles farther east. It begins farther east. That is, it has 50 miles more of the rich agricultural country. You see, when you get out about here [about 300 miles] you get out of agricultural land. To explain that, when you commence at Kansas City and Omaha and go west you gradually climb up. In every mile you pull up about 15 feet, until you get to Cheyenne, and you are then as high as at the top of Mount Washington; and Cheyenne is right at the foot of the Rocky Mountains.

Q. Give the number of feet of elevation.—A. Over 6,000 feet. When I first went over the Union Pacific they stopped me at Columbus, 100 miles west of Omaha, to show me the line between the agricultural country and the great desert. They said there was nothing west of that. No agricultural products would grow. But I had noticed that the original line was moving west about 20 miles a year, so that gradually it was working up. But this country was then already good agricultural land, so much farther east of it. Then this road [the Kansas Pacific] lies about 2,000 feet lower than the Union Pacific, so that it is a better agricultural country all the way up. As the result has shown, the land grant that went with the Kansas Pacific has already netted \$150 on the stock, and when it is all closed up it will have netted \$200, an asset outside of the road. That is one asset. Out between Cheyenne and Denver, if you go through there, you will find it a perfect garden. They raise the finest wheat in the country there. The reason is it lies at the base of the Rocky Mountains, where the snow is constantly melting, and they have those streams with which they irrigate that country. The Union Pacific has nothing of that kind. When

they strike the mountains here [at Cheyenne] it is out of the region of snow and water. The result is that they never got over about 250 miles of agricultural land from their land grant. The Kansas Pacific got a great deal more.

Then, again, the Kansas Pacific country was filling up. Of course I saw, with my knowledge of the Union Pacific, that the day of through business, which had been their golden harvest, was gradually being taken away by other roads south and north, and I saw that it was only a question of time when that, the great element on which the road would live, would disappear, and it would have to come down to local business. I judged these properties by their merits, locally, from the best light I could get. The six or seven years since this amalgamation was made, on the practical tests, will demonstrate whether I was right or wrong.

There was another thing that governed me. The terminal properties of the Kansas Pacific in Kansas City and Denver are perfectly magnificent. I think them worth \$2,000,000 in Kansas City and \$1,000,000 in Denver. The Union Pacific had no such terminals.

Then the Kansas Pacific had these branches. They had been using their earnings and had built these feeders, and had kept the bonds and stock. They had strained themselves to do it, but they had managed to keep the stocks and bonds of these feeders in their treasury, and they passed under the trust that Mr. Sage and I represented. These feeders are very valuable.

Q. You had a statement here of the relative mileage of those roads; have you it with you to-day?—A. Yes, sir.

Q. You refer to this statement for it?—A. Yes, sir.

Mr. HOLMES. It is Exhibit No. 1, May 18, 1887.

KANSAS PACIFIC LAND GRANT.

The WITNESS. I have got a statement here of that land grant of the Kansas Pacific. The lands which have been sold to date amount to \$16,056,881.44, less land sales canceled, \$1,184,999.24, leaving net sales to date \$14,171,882.20, which, you see, is about 150 on the stock. When the consolidated mortgage was issued there were of acres unsold, 5,100,000; bills receivable, \$1,315,000, exclusive of Denver Pacific. At present the trustees have the following unsold lands: Four million acres; bills receivable, \$4,859,768; cash, \$800,000. Total, \$9,659,768, making the land grant realize about \$18,000,000.

Q. Passing the mileage of the companies, which is before the Commission, and the land grant, what was the condition and status of the two companies as respects their bonded indebtedness and the liabilities to the United States?—A. The Union Pacific had a bonded debt of \$45,883.85.

By Commissioner LITTLER:

Q. Do those figures include the subsidy of the Government?—A. Yes, sir.

Mr. JOHN F. DILLON. And the unpaid interest?

The WITNESS. The Union Pacific had \$36,762,400 of stock, being \$35,280.51 a mile; and the Denver Pacific and Kansas Pacific together had 779 miles, \$9,809,350 of stock, or \$12,592 per mile.

By Commissioner ANDERSON:

Q. Those estimates are made on the main line of mileage, exclusive of the branches?—A. Yes, sir; that would bring it still more favorable

o the Kansas Pacific. That would bring the Kansas Pacific down to about \$6,000 per mile of stock.

By Mr. DILLON :

Q. Now, in the consolidation they were put in at the par of their respective stocks ?—A. Yes, sir.

Q. Is it your judgment that the Kansas Pacific property was put in at an undue valuation in this arrangement ?—A. No, sir; it was not.

Q. It appears in evidence that at the date of the consolidation, and for some time prior thereto, the Kansas Pacific stock was selling in the market at a higher rate than the Union Pacific. Did you, or any one to your knowledge, have anything to do with making prices for either of those securities ?—A. No, sir; I did not make a transaction in the stock.

Q. I will ask you whether you made any transaction in the stock market or elsewhere with a view to this consolidation or based upon the fact that it might be accomplished ?—A. Not a share.

CONSOLIDATION UNANIMOUSLY APPROVED.

Q. What was the effect of the consolidation after it was consummated upon the general judgment as to the wisdom of that transaction, as evidenced by the prices of the securities of the company ?—A. It was unanimously approved, and the stocks and bonds all appreciated largely, and the credit of the company assumed a higher claim.

Q. Did you ever hear objection to this consolidation on the part of the company while you were connected with the company's management ?—A. No, sir.

THE EFFECT ON THE GOVERNMENT.

Q. We have seen that the stockholders all ratified it, and everybody connected with the two companies ratified it; that the price in the market enhanced in consequence of it, and everybody was satisfied that had anything to do with it. Looking at it from a standpoint of the Government, what have you to say as to the effect of that consolidation on the security of the Government, which is a secured creditor on these properties ?—A. Whatever improves the other bondholders of course improves the position of the Government, for they are bondholders or, rather, mortgage-holders.

Q. Did it improve the situation ?—A. It puts a stronger corporation behind the Government debt than there was before, because this debt is ahead of the stock, and all these assets that were brought in add to the reliability of the company and its capability to pay the debt.

Q. What is your judgment as a railroad man—it seems so obvious to me that I hardly like to put the question—as to the effect of these two properties being under one control and management in strengthening both, rather than to have them in hostile management or in rival control and interest ?—A. Oh, that is self-evident.

Q. What had been the relations of the Union Pacific and the Kansas Pacific prior to the consolidation ?—A. At first they were at swords' points—they were fighting; finally I began to get an interest there in the Kansas Pacific, and the properties gradually came together. First we made one man president of both of them; we got a good deal of benefit from that; we saved paying out rebates and constant quarreling, and one thing or another.

The CHAIRMAN. You had been working under an agreement for two years prior to the consolidation?

The WITNESS. Yes, sir.

ADVANTAGES OF CONSOLIDATION.

Q. What is the advantage of a consolidation over an agreement?—A. You saved two sets of officers. You can do more work with your equipment. You can concentrate it.

Q. And you tie the properties up so that no change of stock interest can separate them, do you not?—A. Yes, sir; there are a great many advantages that grow out of the combination of a number of smaller roads into one strong company. In the first place, it is a great deal better for the country, because the stronger company can protect and develop its road. It can build a better road, and can run it better, and can run trains more frequently than small roads can; and that builds up the country and draws in population. People would rather settle on a strong road. You will always find lands selling higher along a strong road than along a weak one.

Q. Can you suggest any point of view in which, in any event, or to any extent, this consolidation could injuriously affect the interests of the Government?—A. No, sir.

Q. Suppose the Kansas Pacific had not been consolidated; could it be used, as you suggested yesterday, and was it liable to be used, as a prolongation of roads in the East?—A. If I had not bought the Kansas Pacific it would probably have been through there now, because one of the large Eastern roads would have taken it up. It was only a question of time before that would be done.

Mr. JOHN F. DILLOX. So that the benefits of consolidation, as I understand you, are double. It puts this property in the hands of one united interest. It prevents competition and the hostile relations which had existed between the separate roads, and it prevents one from being used to parallel the other?

The WITNESS. Yes, sir; they combine their strength.

Q. The Kansas Pacific as well as the Union Pacific was a subsidized road, was it not?—A. The Kansas Pacific was subsidized for 394 miles.

Q. If it were true that it were the weaker, and it was put into the consolidation at an undue figure, how would that hurt the Government? It might hurt the Union Pacific stockholder?—A. Yes, sir.

Q. How would that affect the Government?—A. It would not affect the Government then at all.

Q. The Government would have the advantage of having a stronger instead of a weak property, would it not?—A. Yes, sir.

Q. It appears that at the date of this consolidation Mr. Sidney Dillon held about \$4,000,000 Union Pacific stock against \$305,900 of the Kansas Pacific; that Mr. E. H. Baker held \$800,000 of the Union Pacific against \$27,000 of the Kansas Pacific; that Mr. Fred. L. Ames held about \$4,000,000 of Union Pacific as against \$201,000 Kansas Pacific; and that you held about—how much did you hold?—A. I held 3,000 shares of the Union Pacific.

Q. That is, \$2,700,000?—A. Yes, sir; and \$4,000,000 and a fraction Kansas Pacific.

Q. Now, Mr. Dillon, Mr. Baker, Mr. Ames, and Mr. Atkins (whose holding is not given here, but who does not appear to be the holder of any Kansas Pacific stock) were the parties with whom the preliminaries of the consolidation were arranged, were they not?—A. Yes, sir.

Q. In those preliminaries what interest did you understand these gentlemen to represent primarily and principally?—A. I understood they represented the Union Pacific first and all the time.

Q. The interest of these gentlemen in the Kansas Pacific was a drop in the bucket, was it not?—A. Yes, sir.

Q. In making this agreement in regard to the consolidation, you understood that they represented the Union Pacific, and did it to protect their own interest?—A. Yes, sir.

Q. And because they conceived it to be the best for that property?—A. That was their object.

CAREFUL NEVER TO VIOLATE THE LAW.

Q. One other thing, and I believe I have done. There is a provision in the act of 1873, and perhaps referred to in the act of 1878, that the company shall thereafter pay no dividends except out of net earnings. Commissioner Littler called your attention to some figures that came from some source, I do not know what. What is your understanding, as a director of the Union Pacific, as to the company ever having violated that provision of law?—A. My understanding is that we were exceedingly careful never to violate it.

Q. Do you recollect controversies existing between the Government and the company in regard to this matter?—A. Yes, sir.

CONCERNING NET EARNINGS.

Q. Can you state that briefly?—A. It grew out of the question of what net earnings were. That was one of the questions. Then there was another question in regard to mail compensation. The Government claimed to pay the Union Pacific the same rate, per mile, on mail transportation that they paid to ordinary eastern roads; whereas their charter provided a different measure, and we charged our accounts up according to our own construction of the law. That is, we charged the Government for mail transportation in accordance with the terms of the contract that we had with the Government. They, on their part, charged it up at what they said they were willing to pay, and that made the difference—the apparent difference. According to the Government, the net earnings would be one way, and according to the company's accounts they would be another. That went into a litigation, and finally it was decided in our favor. As soon as the balance was adjusted between the Interior Department and the company we paid the difference.

Q. I will recall it to you, and these gentlemen will verify what I say. The sixth section of the act of 1862 provides that the company shall at all times transport the mails, troops, munitions of war, supplies, and public stores on the said railroad for the Government, whenever required to do so, and that the Government shall at all times have the preference in the use of the same for all the purposes aforesaid, at fair and reasonable rates of compensation, not to exceed the amounts paid by private parties for the same kind of services. Do you recollect a suit decided by the Supreme Court of the United States, in which they held that that was a contract binding on the Government, and which Congress had no power to change?—A. Yes, sir.

Q. After that decision was made, you charged for the mail transportation the same amount that you charged for like services to private parties?—A. Yes, sir.

Q. The Government, however, insisted that the Union Pacific should not be allowed for carrying the mail over this sparsely settled region, and over the mountains, any more than they paid the Iowa roads or the New York roads?—A. Yes, sir.

Q. And that was the dispute, was it not?—A. Yes, sir.

Q. Do you recollect a dispute on the subject of new construction and equipment relating to net earnings?

Commissioner ANDERSON. I suggest that all that has been decided by the courts.

The CHAIRMAN. Yes, we have all that.

Mr. JOHN F. DILLON. I only want to get this out. Commissioner Littler, in your absence, asked whether the company had not paid dividends in violation of the act of Congress, at any time when they were under default, under the Thurman act.

Q. Do you recollect whether that question was decided in favor of the company?—A. Yes, sir.

Q. Do you recollect when the balance was ascertained by the judgment of the Supreme Court, that the company, before that judgment was dry, paid the amount?—A. Yes, sir.

Q. And settled the last dollar of difference between it and the United States?—A. Yes, sir.

Mr. JOHN F. DILLON. The Commission understand as to the interest—you read from some statement about accrued interest—that the Supreme Court had decided that this interest is not due until the principal is due.

Commissioner LITTLER. We understand that. You do not dispute but what the company will have to pay it if they are able.

Mr. JOHN F. DILLON. Of course, that and the principal.

WHY HE RETIRED FROM THE UNION PACIFIC RAILROAD.

By the CHAIRMAN:

Q. If the consolidation was such a good thing, why did you retire from the Union Pacific Railroad Company?—A. Because I made up my mind that it was better for this property to have a large scattered ownership. As long as they said—the newspapers and everybody—that it was Jay Gould that controlled it, the property seemed to be handicapped, and I made up my mind it was better to get in a large number of investors, scattered around through the different States—the talk was that they would take care of the property—rather than to have it said that it was owned by one man. I had formed that resolution deliberately, and whenever I saw a market where I could place the stock in investors' hands, I pursued that policy. That was what governed me. I did not like to be in partnership with the Government. It was constant turmoil and quarreling, and the moment you took this property and made a dividend, paying which we did by our hard work, working night and day, then the Government came in and began to attack us. If we had gone to the Government while the property was in the rut we could have made any settlement we pleased. That tired me out. I knew the country was large, and there were plenty of chances. That was my motive. Not that I did not think this property was valuable. I think it is a great and noble property. But, of course, I cannot disguise from myself the fact that it has to meet here now roads that are being built at modern cost. The Government has allowed roads to be built through this territory, where they are building them at \$12,000 a

with steel rails. Yet it comes in and says to the Union Pacific, "It was built at a cost per mile of \$100,000, 'You must pay par and interest.'"

Mr. JOHN F. DILLON. I would like to ask him about the policy.

The CHAIRMAN. I was going to ask him that, generally. What is the policy of the Union Pacific, based upon the measurement of railroads?

The WITNESS. Of course we cannot tell what will happen in the future. But of course we can see what is going on every day. These large roads are taking a race west for the Pacific—for Colorado and the Pacific coast. They are building, in my small way, about six or eight miles a day, going in that way.

The CHAIRMAN. As a competitor with the Union Pacific?

GOULD BUILDING ROADS THROUGH SOUTHERN KANSAS.

A. I am building through to Pueblo. I am building roads through Southern Kansas. I have to do it to take care of my own, for all the other fellows are prodding me. There are four or five large companies, all building. The Chicago and Rock Island, the Burlington and Quincy, the Chicago and Northwestern, the Atchison and Topeka, the Saint Louis and San Francisco. All of them are striving for it. Whenever they find an alley there, all go for it. The one that gets there first gets it.

The Union Pacific has been handicapped. Of course it could not do what I would do. I have large interests, and I strike out for myself, as I see. I go ahead and do what I think ought to be done, and run the risk. I take it myself, if the country does not want it afterwards. The Union Pacific had got to meet that situation. The Government has got to take a second mortgage, and not a first. They have got to make a large concession in that mortgage as to both principal and the interest. It is folly to ask this company now to pay the principal of that debt, if it ever can do it.

By Commissioner ANDERSON:

Q. What is going to become of the stock and the subsequent mortgages?—A. Why, when that debt comes due, stock is subsequent to this debt.

Commissioner LITTLE. Mr. Anderson asks what will become of it?

The WITNESS. I cannot say what will become of it.

Q. According to your judgment, the stock and the subsequent liens are valueless unless the Government yields?—A. I should be afraid of that very much.

COST OF BUILDING THE UNION PACIFIC.

By the CHAIRMAN:

Q. What effect would the future development of the country have? You have spoken of it in relation to other roads, both as to population and growth and change of population.—A. The Union Pacific would be right if it was capitalized on a moderate basis; but when the Union Pacific was built they paid as high as \$5 or \$10 a piece for ties, and the rails, I think, cost \$300 a ton, and men had to take their lives in their hands to go out there. You know the Indians were after them.

By Commissioner LITTLE:

Q. You mean the ties sold for \$5 a piece or \$10 a piece?—A. I think a good many of them did.

By Commissioner ANDERSON:

Q. A piece?—A. Yes, sir. I remember the first time I went over the road, I said to the conductor of the passenger train, "You never see any Indians out here, do you?" And he lifted up his hat and his scalp came to view; he had been scalped. He said that he came in with his train one day and stopped it, and he and the baggageman thought they would go down and catch a few trout, about a quarter of a mile away from the station, and they had just got to fishing when they heard a rustle, and he looked up and there were fifty of these Sioux on horseback, swooping down on them, and one caught him by the hair and another caught the baggageman, and they scalped them as they ran. The baggageman died, but this man lived, and he is running the train there to-day. That illustrates the cost of getting men out to build this road. They had to take their lives in their hands. The Government has received already in advantages more than the advance it made to this road. In the first place, it doubled the value of its own lands, which it sold off, and then the road developed the country, and the very difference in transportation, if you had the figures—I once had them made up—between what it was then costing the Government to do its Indian fighting and what it cost for the Union Pacific, was more than this Government debt.

Commissioner LITTLE. Have you those figures? It is a part of our duty to report on that subject.

Commissioner ANDERSON. I think we have them. They are in the report of 1875.

By the CHAIRMAN:

Q. Have you loaned money at any time to the Union Pacific Railway Company with which to pay dividends?—A. No, sir; I think not.

Q. At no time?—A. I do not remember it.

Q. You would remember it if you had loaned money for that purpose?—A. Yes, sir; if I had loaned it for that purpose I would remember it.

Q. Do you recollect such a circumstance?—A. No, sir.

MONEY ADVANCED FOR KANSAS PACIFIC.

Q. Have you paid the interest on any of the obligations of the Kansas Pacific at any time by advancing money?—A. I advanced this million and a half dollars to pay the bondholders as a condition of their cutting their interest down from 7 to 6 per cent.

Q. Did you make any other advances on account of the interest on any of the obligations of the Kansas Pacific?—A. I do not remember any others.

Q. You were paid in consolidated bonds for the million and a half of dollars?—A. Yes, sir.

The CHAIRMAN. Judge Dillon, have you any further questions?

HOW THE DEBT TO THE GOVERNMENT MIGHT BE PAID.

By Mr. JOHN F. DILLON:

Q. One word in regard to this debt to the Government. It falls due in 1895 or 1896, or along there?—A. Yes, sir.

Q. Of course it cannot be paid, principal and interest, without renewal or extension. What is the usual way in which railroads meet

ge debts at their maturity? How do they do it usually?—A. They course extend them. I have just got a case in hand. The Missouri Pacific had \$7,000,000 6 per cent. bonds coming due, and I went to a banking firm here and they agreed to take the new bonds at 4 per cent. made that arrangement, and just extended them for fifty years. I think the Government ought to take the principal of the debt in about a 3 per cent. bond and throw in the back interest.

By Commissioner LITTLER:

Q. What kind of security could this country give if the Government were to conclude to do that?—A. They could pay it in cash. Other people would take the bonds. I would undertake the negotiation of them.

Commissioner LITTLER. We are glad to know that our lien is worth its face to start on.

The WITNESS. But it is one of the cases where if you try to squeeze more out of the turnip than there is you will risk losing the whole. I think that the Government ought to make a fair and liberal extension with this company for the principal of these bonds, at 3 per cent. interest, and give the company the right to either pay the money or take new bonds. They would probably pay the money.

Q. Are you able to state that such a security as that would bring the cash without discount?—A. Yes, sir.

By the CHAIRMAN:

Q. Have you any other suggestions to offer?—A. No, sir.

Commissioner LITTLER. Are we through with Mr. Gould?

The CHAIRMAN. For the present; yes, sir.

Commissioner ANDERSON. There are some papers to be handed in.

The WITNESS. Those I will get up for you.

JAY GOULD.

The following letter and account were subsequently received:

[The Missouri Pacific Railway Company, 195 Broadway.]

NEW YORK, June 28, 1887.

DEAR SIR: With this I send you Mr. Gould's accounts concerning the Denver, South Park and Pacific Railway construction, also the Denver, South Park and Pacific stock, which I have taken off from his books, and which I trust you may find satisfactory. I have examined Mr. Gould's books as far back as January 1, 1878, and do not find any account concerning the Utah and Northern Railway stock or bonds. I am informed that all the accounts of the Utah and Northern were turned over to the Union Pacific Railway Company, and I have no doubt that Mr. Mink, comptroller of the company in Boston, can furnish you with the facts in regard to those securities.

Yours, truly,

GUY PHILLIPS.

CHARLES P. YOUNG, Esq.,
Secretary, &c., 10 Wall Street, New York.

Denver, South Park & Pacific Railway—drafts for construction.

1879.			
Nov.	To paid during month of November drafts on acc't		
1880.	construction	\$159,911 99	
Apr. 14.	Less cash received.....	68,732 25	
			\$91,179 74

Aug. 11.	To 5,719 shares stock of D. S. P. & P., received from John Evans, on acc construction.	
Dec. 11.	To balance to profit and loss	\$437,229 18
		<u>\$71,000 00</u>

Aug. 11.	By 5,719 shares transferred to D. S. P. & P., credit account, at par	\$71,000 00
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Note.—At the time of the closing of the above account, Mr. David Hall owned 40,000 shares (\$4,000,000) of Union Pacific Railway Company stock.

Denver, South Park & Pacific rail.

1881.		
Aug. 11.	To 5,719 shares, from construction account, at par	\$571,000 00
Nov. 11.	To 25,265 shares, bought of John Evans at par	2,526,265 00
Nov. 11.	To 1,962 shares, bought of E. Sage, at par and int.	196,214 32
		<u>\$3,293,479 32</u>
Aug. 17.	By 1,962 shares sold to E. Sage	196,214 32
	By 20,303 shares sold to U. P. Railway Co., at par	2,030,300 00
		<u>\$2,234,085 68</u>
Dec. 11.	By balance, profit and loss	100,225 00
		<u>\$3,293,479 32</u>

No. 10 WALL STREET, NEW YORK.

Thursday, May 11, 1887.

AMOS H. CALEF, being further examined, testified as follows:

TESTIMONY OF AMOS H. CALEF.

By Commissioner ANDERSON:

Question. What is the book you hand me?—Answer. It is a journal of the trustees' accounts.

Q. By whom is this account kept?—A. By me.

Q. Under whose directions?—A. The trustees.

Q. And the entries show what?—A. They show the issues of the consolidated bonds for other securities.

Q. The entries in the book are in two columns on each page; did you understand that the amount of bonds issued are on the right-hand column and the securities received in exchange on the left-hand column?—A. Yes, sir.

Q. Is this entry under the date of May, 1878, the first entry made in the book?—A. Yes, sir.

Q. What was the amount of the first issue?—A. Three million three hundred and eighty-six thousand two hundred and sixty-nine dollars and seven cents.

Q. In exchange for what securities were those bonds issued?—A. For funding bonds.

Q. Give the figures of each.—A. Seven hundred and eighty-four thousand dollars funding bonds, \$784,000 second land-grant bonds, \$75,000 Leavenworth French bonds, \$67,000 income bonds, unstamped; \$2,611,450 income bonds, stamped; \$454,000 Arkansas Valley Railway bonds.

Q. Are these the same securities that are specially referred to on page 136 of the consolidated mortgage?—A. Yes, sir.

Q. Then this book contains other transactions besides those referring to the consolidated bonds?—A. Well, this land-grant trust was a part of the consolidated trust; it all goes into this book.

Q. The proceeds are simply charged to the trustees as being so much money received by them?—A. Yes, sir; these credits show the different sources where they come from and whether it is fresh sales or notes or interest or what.

A. H. CALEF.

The CHAIRMAN. There will be no further public sessions this week., The Commission then adjourned to meet at the Equitable Building Boston, Mass., on Tuesday, May 24, 1887, at 10 a. m.

CONSOLIDATED BONDS SOLD TO GOULD.

Q. Please explain the entry of \$2,000,000 at page 12; what does it mean?—A. There were issued \$2,000,000 of the consolidated bonds to pay off the floating debt of a million and a half of dollars of the Kansas Pacific and clean it up.

Q. To whom were those bonds issued?—A. The bonds were sold at 75.

Q. To whom were those bonds sold at 75?—A. To Mr. Jay Gould.

Q. Do you know anything about how that sale came to be made at 75; who fixed the terms?—A. I do not recollect.

Q. Are there any entries on page 13, where the transactions differ from the mortgage rates?—A. There are not; no, sir.

Q. Have you any account that would show concisely the precise transactions in which any of these bonds were issued to Mr. Gould, in any capacity, so that we can examine it at our pleasure?—A. All Mr. Gould's securities and most all those of the New York parties went in under this first entry.

Commissioner ANDERSON. But there are other items afterwards?

The WITNESS. Only straggling amounts that came in afterwards.

A. Then the Commission cannot possibly examine these books this afternoon. I will turn over the pages and simply ask you whether any of the items refer to Mr. Gould's transactions. Is there anything on page 14, where Mr. Gould's name appears, or on page 15?—A. No, sir.

Q. Is there on pages 16 or 17?—A. No, sir.

Q. Is there on page 18?—A. Yes, sir.

Q. Please read the item.—A. Nine hundred and twenty-seven thousand dollars consolidated bonds, in payment for 7,616 shares of Union Pacific Central Branch stock, and on account of payment for 10,000 shares of Denver Pacific stock.

Q. Issued to Jay Gould?—A. Yes, sir.

Q. The little figures in the small column on the left refer to what book?—A. The ledger. *That* [referring to the ledger] is the Union Pacific account.

ACCOUNT OF TRUSTEES WITH UNION PACIFIC.

Q. At page 63 of the ledger is found the Union Pacific account?—A. It is the account of the trustees with the Union Pacific.

Q. And this amount of \$927,000 is found charged in this account?—A. They are Union Pacific bonds belonging to the Union Pacific Company.

Q. That is to say, they are charged to the Union Pacific?—A. Yes, sir.

Q. Are you able to state, from your books, against what consideration they were issued to the Union Pacific, if that be the real transaction?—A. I will turn to page 14 of my journal. The Union Pacific had those bonds.

Q. Had what bonds?—A. One million four hundred and thirty-five thousand six hundred and eighty-five dollars of Kansas Pacific consolidated bonds, and this payment of \$927,000 was a part of those bonds.

Q. Why was the Union Pacific entitled to those bonds?—A. Because she surrendered to the trustees \$333,000 of funding bonds, \$395,000 second land-grant bonds.

Q. State the rates.—A. The funding bonds at par; second land-grants at 50; \$185,000 of Solomon bonds at par; \$108,950 income bonds at 30;