

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.*

EQUITABLE BUILDING, BOSTON, MASS.,  
*Tuesday, May 24, 1887.*

Pursuant to adjournment the Commission reconvened as above.  
Present: Commissioner Pattison (chairman) and Commissioner Littler.

OLIVER W. MINK, being further examined, testified as follows:

WITNESS' CONNECTION WITH UNION PACIFIC.

By the CHAIRMAN:

Question. What position do you hold with the Union Pacific Railway Company?—Answer. I am the comptroller.

Q. How long have you been such?—A. Since October, 1885.

Q. What position did you hold prior to that time?—A. I was the assistant secretary and assistant treasurer, having held those positions since the Union Pacific Railway Company was formed, in January, 1880.

Q. And prior to that?—A. I had been the assistant treasurer and assistant secretary of the Union Pacific Railroad Company from 1877 until the date of the consolidation.

Q. Does that cover your connection with the Union Pacific Railroad Company and the Union Pacific Railway Company?—A. No, sir; prior to that time, from December, 1872, I was the general book-keeper in the treasurer's office.

Q. Have you had any other association with the road?—A. No, sir.

DUTIES, AS COMPTROLLER.

Q. What are your duties as comptroller?—A. As comptroller I have charge of the accounting department of the Union Pacific Railway Company and of the various lines composing the Union Pacific system.

Q. What do you mean by having charge of the accounting department? Please explain to the Commission just what your duties are in reference to the accounting department, and what powers you have.—A. The duties of the comptroller are defined by the board. In general terms, he is required to prescribe a uniform method of stating the accounts, and to cause to be made the necessary examinations and verifications of the revenue accounts of the company. He is also required to prescribe the forms for stating the disbursements made by the various departments. Periodical examinations of the securities in the hands of the treasurer, and examinations of his cash, are also made by me. Those are the general duties.

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Q. Then you designate the system of keeping the accounts?—A. Yes, sir.

Q. And the books in which the accounts are kept?—A. Yes, sir; generally.

Q. How generally? Just state.—A. So far as the work at the Boston office is concerned, I may say, with reference to the system, that it is prescribed by me; but on the road, of course, I cannot tell you the number of books that are used in the accounting department all through the service. The general scheme of keeping the accounts is submitted to and approved by me. The auditor at Omaha has direct charge, and he is responsible for the work at the Omaha office, subject, of course, to any orders he may receive from here.

Q. What books do you keep here?—A. We keep the general books of the company here.

Q. What are they?—A. The ledger, journal, and cash book constitute those books.

Q. Are they all the books?—A. Everything is brought to a point, to a focus you might say, in those books.

Q. Before you bring everything to a focus, where do you enter them? Before you get them into the journal, I mean.—A. Everything connected with the operation of the road is reported to us from Omaha.

Q. How are the reports made?—A. Monthly, in a series of reports. There are perhaps twenty-five different reports coming to us during the course of a month. The operations of the railway—that is, the earnings and expenses—come to us in a printed report at the close of every month, about fifty days after the close of the month. The other reports come to us from time to time after that, as rapidly as they can be sent forward.

#### HOW THE BOOKS ARE KEPT IN BOSTON.

Q. What is done with the reports after they are sent into this office?—A. They are passed through our books here. We take the earnings and pass them ultimately to the credit of our income account. The expenses are passed ultimately to the debit of the income account. The expenditures, in the way of improvements, and for new equipment, and the extension of side lines, are charged under appropriate heads, to either new construction, new equipment, or to the extension. But, in brief, everything is summarized in the books at the Boston office, although the detail, so far as the operation and maintenance is concerned, is on file at Omaha.

Q. All the transactions of the Union Pacific Railway Company, as I understand you (and if I misunderstand you I want you to correct me), are entered into the ledger, the journal, and cash book, are they?—A. I do not know that I ought to leave that statement quite so broad. The accounts covering the ordinary earnings—the earnings from transportation of passengers and freight, and the accounts covering the expenses for conducting the business and maintaining the property—those accounts in detail are kept in Omaha; but the summarized results are made in reports to us at Boston, so that everything is crystallized on the Boston books. We have on one side the entire revenues of the company, and on the other side the entire expenses of the company. We are not able to state under the head of maintenance of way the name of every individual to whom we paid money during the year, but we know on what accounts the money has been expended. Our files at Omaha would show the names of the individuals and all the details connected with the transactions. I will show you one of our monthly reports.

By Commissioner LITTLER:

Q. Are these reports which are sent from Omaha here transcribed into the books there? Will we find them there?—A. Oh, yes, sir.

By the CHAIRMAN:

Q. Where are your contracts that are made along the line entered?

The WITNESS. The contracts relating to what, for instance?

The CHAIRMAN. Transactions with different individuals and shippers.—A. Those are filed at Omaha. The copies of more important contracts are generally sent here, and oftentimes, of course, before they are executed. The contracts with shippers would ordinarily be made by our general traffic manager at Omaha.

Mr. HOLMES. Or under his orders.

The WITNESS. Or under his orders.

Q. How do you keep the contracts that are filed here?—A. In our office.

Q. Are they bound in a book?—A. No, sir; they are merely filed.

Q. All the more important contracts along the line are then here?—

A. For the last eighteen months they are here. Prior to that time we had not received them regularly from the road. It is only since I have been comptroller that I had them brought here. This does not include contracts for special rates.

#### POOL SETTLEMENTS KEPT IN BOOKS AT OMAHA.

Q. In what books do you enter your pool settlements?—A. Those are charged against the gross earnings of the road.

By Commissioner LITTLER:

Q. In what book?—A. Those would go on the books of the accounting department at Omaha—the appropriate register, journal, and ledger. The amounts paid on pool balances are always deducted from the gross earnings. In other words, the earnings as reported are the earnings after the pool balances have been deducted. The pool balances nowhere appear in our account as special items.

Q. Then in the books that are here there is no entry of any pool settlement?—A. None, at all.

Q. Will you repeat just how you get it into your books here? You must get it into them somehow.—A. Not as a special item. The earnings of the company are made up by taking the gross amount of revenue, and then adding to that all the sums payable to the company on account of pools; and then, on the other hand, deducting all sums payable by the company on account of pools; and whatever is left is called the "earnings." That sum is reported to us. So that the pool balances, as special items, do not appear upon our books in Boston.

#### ONLY POOL BALANCES IN BOSTON BOOKS.

Mr. HOLMES. Only the balances?

The WITNESS. Only the balances; yes, sir.

Q. I understand only the balances go into your accounts?—A. That is true of all balances on account of pools and subsidies.

Q. The commission can obtain the books with reference to the pools at Omaha?—A. Oh, yes, sir; everything is spread out there.

Q. Where do you enter your rebates allowed to shippers?—A. They are disposed of in exactly the same way; charged against the gross earnings of the company.

Q. So that in the books here no rebate appears anywhere, as such?—  
A. No, sir.

#### CONSTRUCTION ACCOUNTS.

By Commissioner LITTLER:

Q. I would like to ask you where your account of construction is kept?—A. That is kept in detail at Omaha; but under summarized heads it is here. All the accounts under the head of construction are transferred to our books under general heads.

Q. Do you keep your account of construction separate from your account of repairs?—A. Yes, sir; entirely.

Q. Where is the account of repairs kept?—A. That is kept also upon our books here in Boston, under a separate head.

#### WHERE ORIGINAL "REPAIR" ENTRIES ARE KEPT.

Q. But the original entries are at Omaha?—A. At Omaha, yes, sir. I will modify that by saying, the original entries will be in the departments along the line of the road. The Union Pacific system is divided into divisions. Each one of the divisions is in charge of a subordinate superintendent, and in his office the precise detail is kept; but it is reported at great length to our Omaha office.

Q. Where are the headquarters for these several departments?—A. At Omaha, for the Nebraska division; at Laramie, for the Wyoming division; at Pocatello, for the Idaho division; at Kansas City, for the Kansas division; and at Denver, for the Colorado division.

Q. Where are Laramie and Pocatello?—A. Laramie is in Wyoming Territory; Pocatello, in Idaho. The accounts are stated first in the offices of the division superintendents, and then reported at great length to the auditor at Omaha.

Q. And you think we will find a perfect transcript of every important proceeding at Omaha which is contained at these division headquarters?—A. Yes, sir; I am sure you will. I ought to say that those various subordinate superintendents handle, of course, only the operating expense accounts. They have nothing to do with the revenue accounts. Those accounts are handled entirely at Omaha.

#### LOCATION OF HEADS OF SUBORDINATE DEPARTMENTS.

By the CHAIRMAN:

Q. Who is at the head of the department in Omaha in charge of the books? The accountant of the department?—A. Yes; Mr. Erastus Young, the auditor.

Q. Who has charge of the other departments or the divisions that you named?—A. The general superintendents have charge.

Q. Who are they?—A. I will name them, subject to correction. There have been one or two changes very lately. Mr. W. A. Denell has charge, I believe, of the Nebraska division accounts; Mr. J. O. Brinkerhoff has charge of the Kansas division accounts; Mr. Robert Blickensderfer has charge of the Idaho division accounts; Mr. C. E. Wurtele has charge of the Wyoming division accounts, and Mr. J. K. Choate of the Colorado division accounts.

#### CONSTRUCTIVE MILEAGE ACCOUNTS AT OMAHA.

Q. Where is your constructive mileage account entered?—A. That is at Omaha.

Q. Then the account of rebates, constructive mileage, pool settlements—and in that you include terminal settlements—A. Yes, sir.

Q. (Continued.) Are to be found at the offices named by you, and not here?—A. Not here. They are at Omaha.

Q. What other sources of information can you direct the Commission to with reference to your accounts, other than those you have named?—A. So far as the revenues derived from the operation of the road are concerned, to no other source. Everything is concentrated at Omaha. So far as the operations of the land office are concerned, they, too, are kept at Omaha in great detail. The income derived by the company from its investments is detailed, of course, on the books at Boston; reported to me by the treasurer.

By Commissioner LITTLER:

Q. Do these books here contain the original entries of those transactions, or are they mere transcripts from Omaha?

The WITNESS. The investments?

Commissioner LITTLER. Yes.

A. They are both. Very largely they are made up from transcripts sent forward from Omaha, and also from the reports made by the treasurer. The investment account of the Union Pacific Company, you may have noticed by the report, is made up almost altogether from investments in the side lines. Those lines have been built by the construction department of the Union Pacific road, and the money has been drawn from the general treasury of the company at Omaha. The outlays have subsequently been reported to us from time to time in the ordinary way of accounting.

#### WHERE THE VOUCHERS ARE KEPT.

Q. Where are your vouchers kept?—A. Vouchers covering payments made at Omaha are on file there; those covering payments made here are on file in Boston.

Q. What payments are made here?—A. We pay the salaries and expenses of the executive departments. We also pay some legal expenses here and in New York, and the salaries of our attorneys at Washington. These cover, substantially, all the payments for expenses made here.

Q. They cover all the expenses that are made here?—A. Yes, sir.

Q. The legal expenses and your salary roll?—A. The salaries and expenses of the executive departments.

Q. Have you the vouchers of your legal expenses?—A. Yes, sir.

Q. Will you produce them?—A. I am now having a detailed statement of all our legal expenses made, in answer to your recent letter, and I will produce that with the vouchers, if you desire.

Q. We would like to see the vouchers for one year, for instance. How many vouchers will you run for legal expenses for 1881?—A. Very few.

The CHAIRMAN. Then we will take up three or four years, or as long as you can produce them.

Commissioner LITTLER. I should not think they would be much in bulk.

The WITNESS. No; I will take out two or three years, for a specimen—1883, 1884, and 1885.

## MISCELLANEOUS EXPENSE ACCOUNTS.

By the CHAIRMAN:

Q. Have you miscellaneous expenses here?—A. None, except those that are forwarded to Omaha and included among the ordinary expenses of the road, such as the rents of our offices here and in New York, and bills for advertising, and matters of that kind. Relatively, they are very small.

Q. What knowledge have you of the accounts, other than the entries upon the books at Omaha, as to rebates or construction account, or pool account?—A. So far as the pool accounts are concerned, those are always matters of contract. The duties imposed upon the accounting department is merely the settlement of the account in accordance with the terms of the contract. The payments for rebates are also made under what is virtually a contract. My knowledge as to rebates, however, is limited to an inspection of the statements that pass through my hands, intended for the United States Commissioner of Railroads, at Washington.

## RELATIVE TO GROSS EARNINGS.

By Commissioner LITTLER:

Q. Have you any book which contains the gross earnings of this company, including rebates and also pooling rates?—A. No, sir; I do not believe there is any such book.

Q. You never declare a gross earning until the rebates and the pools are settled?—A. No, sir; never. When we publish our earnings, we intend never to have to say that they are thus and so, provided we have to make no deductions. The earnings are the precise amount published. Everything has been deducted.

## ACCOUNTS OF REBATES.

By the CHAIRMAN:

Q. Where can the Commission find the total amount of rebates allowed by the Union Pacific last year?—A. At Omaha.

The CHAIRMAN. And the individuals to whom the allowances were made?

By Commissioner LITTLER:

Q. Are there any other deductions, except rebates and pool settlements, before the gross earnings are ascertained?—A. Overcharged claims. Those are the only ones.

Q. What are they?—A. Those are generally claims made by shippers, or consignees for overcharges on the ground that the classification was wrong, or that the billing agent made a mistake in making out the bills—that the weights were wrong. All claims for damages or losses are charged to the operating expenses.

## NO CONSTRUCTIVE MILEAGE ACCOUNT.

By the CHAIRMAN:

Q. Where will the Commission find the total amount of constructive mileage allowed to the branch roads last year?—A. That could only be ascertained by a most elaborate series of computations.

Q. Do you not ascertain exactly what you are charging through your accounts on the main line?—A. Not on account of constructive mileage; no, sir. The traffic department, which makes the divisions, reports to the accounting department what arrangement has been made with reference to the division of earnings between the Union Pacific, for instance, on one side, and the Utah and Northern on the other. The accounting department at once prepares tables of percentages, and those percentages are used for the division of earnings all the way through until the rates are revised. In order to ascertain what amount has been passed to the credit of one line on a constructive mileage basis as opposed to the amount that would have been passed to the credit of that line on a pro rata basis, new tables would be necessary to cover the shipments during the year.

By Commissioner LITTLER :

Q. Are those statements made monthly, or how do you keep the constructive mileage account?—A. We have no constructive mileage account. The allowances made to the side lines are based upon the constructive mileage. I think Mr. Adams explained the general scheme to you. To state the account would involve a great deal of labor.

Commissioner LITTLER. I did not hear his testimony.

The WITNESS. If the Union Pacific has a haul of 50 miles and the Solomon Railroad has a haul of 50 miles we give the latter a constructive mileage of one and one-half to one. In other words, we call their haul 75 miles. The actual distance, although only 100 miles, is assumed to be 125 miles, of which the Union Pacific gets 50 and the Solomon Railroad 75. If that was divided on a straight mileage basis, they would be 50 and 50.

Commissioner LITTLER. You must state that account somewhere, and you must keep it somewhere?

The WITNESS. It is always stated upon the basis upon which the division is actually made.

Q. In what book is it stated?—A. That would be in the account books of the accounting department at Omaha.

Q. Why do you say to the Commission that account involves so much labor?—A. Because the rates on every single shipment would need to be revised, to ascertain what the exact percentages would be for the distance hauled, and to make a computation based upon that and compare it with what was allowed on the computation that was actually made.

Q. As I understand, you have a general arrangement by which constructive mileage is determined between the main line and the branch?—A. Yes, sir.

Q. Do you not subject the entire business of that line to that general rule of constructive mileage, and is it not condensed in that form?—A. I see your point. It would vary, I think, with nearly every shipment, especially on the main line. In your relations with the Iowa roads we are allowed the same rate, I think, for two or three hundred miles west of the Missouri River as we get for 10 or 15 miles west of the river; so that you can see the earnings per mile on a shipment of 15 miles out are very much larger than on a shipment two or three hundred miles out.

Q. It is graduated, is it?—A. No, sir; it is not.

Q. At all events, such accounts as you have embracing constructive mileage will be found at Omaha?—A. Yes, sir; everything is there. Here is the report of the Government directors for 1882.



**Mr. CHARLES FRANCIS ADAMS.** I referred to this the other day, and it reads as follows. I read from the report of the Government directors:

Under the construction put upon the Thurman act, so called by the Government officers, the 25 per cent. of earnings required to be applied on the debt of the Union Pacific Railroad Company is derived from the main line only, from Council Bluffs to Ogden, and not from the whole system. This being the case we (that is, the Government directors) deemed it important to know definitely what constructive mileage allowances were made to the branch roads of the system, and made inquiry accordingly.

They then specify the constructive mileage allowed in each case. For instance: the Omaha and Republican Valley is allowed  $1\frac{1}{2}$  miles to 1 mile; the Oregon Short Line is allowed  $1\frac{1}{2}$  miles to 1; and so on.

#### BRANCHES ENTITLED TO CONSTRUCTIVE MILEAGE.

**Commissioner LITTLER.** Read all the branches that are entitled to constructive mileage.

**Mr. ADAMS:**

The Omaha and Republican Valley Railroad is allowed  $1\frac{1}{2}$  miles for 1 mile.  
 The Omaha, Niobrara and Black Hills Railroad is allowed  $1\frac{1}{2}$  miles for 1 mile.  
 The Saint Joseph and Western is allowed  $1\frac{1}{2}$  miles for 1 mile.  
 The Echo and Park City is allowed 2 miles for 1 mile.  
 The Greeley, Salt Lake and Pacific is allowed 2 miles for 1 mile.  
 The Julesburg Branch, Colorado Central, is allowed  $1\frac{1}{2}$  miles for 1 mile.  
 The Colorado Central, standard gauge, is allowed  $1\frac{1}{2}$  miles for 1 mile.  
 The Utah and Northern is allowed  $1\frac{1}{2}$  miles for 1 mile.  
 The Oregon Short Line Railway is allowed  $1\frac{1}{2}$  miles for 1 mile.

The directors then add:

We do not find these allowances excessive or unusual, but believe them to be just and equitable and based upon the value of the business brought to the main line by the connecting roads.

That is, our action in that matter was wholly approved by the board of Government directors.

The **CHAIRMAN.** Who made the allowance?

**Mr. ADAMS.** That was before my time. It was undoubtedly made by the Union Pacific Railroad Company and approved by the Government directors.

The **CHAIRMAN.** Why could they not have arbitrarily doubled the amount of constructive mileage?

**Mr. ADAMS.** Because they thought so doing would be improper and unjust.

The **CHAIRMAN.** Why more so than the other?

**Mr. ADAMS.** Because that was uniformly made by all lines, so far as we know, in dealing with their branch systems.

The **CHAIRMAN.** Why could the settlement not have been made with the branch lines just as readily as with other lines, as terminal settlements, instead of by constructive mileage?

**Mr. ADAMS.** Because it is not customary to make it by terminal settlements. We are allowed a constructive mileage at Council Bluffs. It is the basis upon which business is universally done among railroads, so far as we know. We therefore applied the universal rule to our branch system. The Government had the advantage of the rule at Council Bluffs, and the burden of the rule at the other point, in common with ourselves. But the same rule which was applied to us, and from which the Government was benefited, we applied to our branch lines when we came to dealing with them.

Commissioner LITTLE. In stating the net earnings with the Government you take out this extra mileage before you ascertain the net earnings which are to be paid under the Thurman act, or under the five per cent. act, I suppose?

Mr. ADAMS. Yes; where at Council Bluffs we receive the constructive mileage, and it is in our favor, we add it, and the Government has the advantage of it.

Commissioner LITTLE. In other words, you give these branches the benefit of this constructive mileage before you declare what your net earnings are?

Mr. ADAMS. We do.

Commissioner LITTLE. You have to do that.

Mr. ADAMS. We give the branch line the advantage just as the main line receives the advantage at Council Bluffs. The Government profits at Council Bluffs, as the company does. It is 25 per cent. more on account of constructive mileage there, and 25 per cent. less where the same rule applies further on.

Commissioner LITTLE. Does the Government get any benefit on the constructive mileage, except at Council Bluffs?

Mr. ADAMS. That makes up our whole business along the main line. The Government cannot receive more than there is.

The CHAIRMAN. Why is it not as appropriate to be done with other roads, as with the branch lines?

Mr. ADAMS. It is; we pursue it with all other connecting roads. It is nothing unusual.

Commissioner LITTLE. We understand that.

#### METHOD OF FIXING CONSTRUCTIVE MILEAGE.

The CHAIRMAN. How does your board ascertain, when they fix the rate of constructive mileage, as to the ability of the main line to make such an allowance or percentage as one and one-half, or one and one-quarter, or two?

Mr. ADAMS. We do not do it.

The CHAIRMAN. How is it done?

Mr. ADAMS. It is done by reports of our commercial department.

The CHAIRMAN. How do they determine it?

Mr. ADAMS. Just as it is determined on other lines.

The CHAIRMAN. In what way?

Mr. ADAMS. It is a matter of discretion as to what is fair and reasonable.

The CHAIRMAN. How do they reach a conclusion?

Mr. ADAMS. In the same way as you usually reach a conclusion in such matters.

The CHAIRMAN. By what reasoning do they get to the conclusion? Is it by a source of profit, or the ability of the road to bear, or what is it?

Mr. ADAMS. How do we get at it at Council Bluffs in our dealings with other lines that we connect with there? It is a matter of barter.

Commissioner LITTLE. Trade and dicker.

Mr. ADAMS. Trade and dicker. We apply the same rule when we get to our branches. All those receive less, as a rule, than we ourselves are allowed.

The CHAIRMAN. Is it not a just conclusion that the system of constructive mileage is based on dickering?

Mr. ADAMS. It is.



The CHAIRMAN. And therefore, I should conclude, a very unwise or unsafe system of railroading.

Mr. ADAMS. It is the system universally applied; that is all we can say.

Commissioner LITTLER. Whom do we find to dicker with as to the branches?

Mr. ADAMS. Who does the Chicago, Burlington and Quincy find to dicker with as to its branches? We apply the same rule as other railroads do.

The CHAIRMAN. These branch lines are corporations within themselves, I suppose, and have a directory and a management?

Mr. ADAMS. Yes.

The CHAIRMAN. Who deal with you at arms' length in fixing these rates?

Mr. ADAMS. Yes.

The CHAIRMAN. That is the source that you have for fixing these rates on branch lines?

POLICY OF UNION PACIFIC APPROVED BY GOVERNMENT DIRECTORS.

Mr. ADAMS. That is the way. But the point that I wish to bring out is this: I happened to come into the room as Mr. Mink was finishing on this point. I wish to call the attention of the Commissioners to the fact that the Government representatives on our board had had their attention publicly called to this very matter. They were not by any means a friendly board of Government directors. Their attention being called to it, they went into an examination; and Mr. Haven, the chairman of the board, assured me personally, when he went into it, that he thought he was going to uncover a great abuse. Being himself connected with the Chicago, Burlington and Quincy and other roads, and so familiar with the whole subject and with the allowances ordinarily made, he felt compelled to indorse and approve the action of the company. Therefore, the directors of the company have since presumed, and I think not unfairly, that the Government directors on their board having approved, publicly and officially, of their action in this matter, the Government would not go behind the recorded approval of its own representatives. If the official and recorded action of the Government directors in our board will not justify the management of the Union Pacific, so far as the Government is concerned, in adopting a given line of policy, what, I ask, will justify it? What other safeguard can we have? Are we, the stockholders' representatives, to be criticised by the Government for pursuing a course to which the attention of the Government's own representatives was called, which was approved by them, and their approval silently accepted for years by Congress and the whole executive? If this will not justify us, I want to know what will.

Commissioner LITTLER. Is it not true that the directors of the Union Pacific are largely the directory of these branch lines?

Mr. ADAMS. Very largely.

Commissioner LITTLER. Then you find yourselves frequently dealing with yourselves in fixing these arbitrary rates?

Mr. ADAMS. Very frequently; just as the directory of the Chicago, Burlington and Quincy is the directory of the Burlington and Missouri, and fixes it in the same way.

Commissioner LITTLER. Do you find any embarrassment in dealing with yourselves on a question of that kind?

Mr. ADAMS. We have found at times a considerable embarrassment, owing to the fact that it laid us open to this very criticism; and, therefore, we were glad when the Government directors looked into the matter and pronounced it all right.

The CHAIRMAN. Suppose the branch road directors were antagonistic, what would be the result?

Mr. ADAMS. We should then higgie and dicker until we arrived at a conclusion; and if we could not arrive at a conclusion we would submit to arbitration.

The CHAIRMAN. And if not reached by constructive mileage, then by terminal settlements?

Mr. ADAMS. Possibly by terminal settlements, or in some other way. I wish to say that the Northern Pacific, the Northwestern, the Chicago, Burlington and Quincy, the Missouri Pacific, and the Atchison, all, so far as we know, pursue exactly the course we pursue. This is an important matter, about which a great many very unjust accusations have been loosely made, and we are glad of an opportunity to clear it up.

Commissioner LITTLER. We appreciate the importance of it, and can see how, under this constructive mileage, you could annihilate the net earnings.

Mr. ADAMS. We would then at once fall behind the Government directors and say that they were a board not friendly to us who had looked into this matter, and had decided that what we did was not unreasonable.

Commissioner LITTLER. You denied the admission of the Government directors. They are here under protest.

Mr. ADAMS. Never.

#### GOVERNMENT DIRECTORS ADMITTED WITHOUT PROTEST.

The CHAIRMAN. The Government directors made application at the organization of the Union Pacific Railway Company, at the time of the consolidation, and a correspondence arose, after which they were finally admitted to the Union Pacific Railway, and then virtually entered under protest. Judge Dillon, I call your attention to that.

Mr. ADAMS. It was before my time. They have for years been admitted without question.

Mr. JOHN F. DILLON. I think the company ought to be put right on the record there. In the original Union Pacific act, Government directors were confined alone to the Union Pacific road, from Omaha to Ogden. Although the Government subsidized other roads—the Sioux City, and the Central Pacific, and the Kansas Pacific—it provided for no Government directors in any of those companies. The acts of Congress of 1862 and 1864, both provided for the consolidation of any two or more of the Pacific roads into one, and provided that they should form a new organization with new capital; and a new name, and a new board of directors. In other words, it provided for a consolidation; and a consolidation of railroad companies, is, in law, an extinguishment of the original companies and the formation of a new company out of the constituent companies. Now, that was what was done when the consolidation of the Union Pacific, the Kansas Pacific, and the Denver Pacific took place. They made a new company in exact conformity with the act of Congress, with a new capital stock, with a new name, with a new board of directors, and then the question arose, whether the Government directors who were confined alone to the old Union Pacific came

in *de jure* into the new organization. That question arose at the first meeting. It was submitted at once. It was very important—as important to the Government as to the company—to see whether five gentlemen had a right, in law, to sit on the board of the new company. It was just as important to the Government as to the company to ascertain whether, if they were sitting there and voting, it might not vitiate the proceedings. That was promptly submitted to the Attorney-General of the United States, whose opinion is in writing. I think that question was raised by the Government directors themselves.

QUESTION OF RIGHT OF ADMISSION RAISED BY GOVERNMENT DIRECTOR NILES.

Mr. HOLMES. It was raised by Mr. Niles.

The CHAIRMAN. Upon the objection to the admission, yes?

Mr. JOHN F. DILLON. That matter was submitted to the Attorney-General, whose opinion is in the official records of the Government here and since he decided that they had a right, *de jure*, to sit in the board that right has never been questioned from that day to this.

Mr. ADAMS. And they have sat and voted.

Mr. JOHN F. DILLON. And they have not attended under protest from that time to this.

Mr. HOLMES. Since which time the Government directors have been notified to attend the meetings of the board of directors, and no question has been raised.

The CHAIRMAN. I only want to call the attention of Mr. Adams to the fact that the authority of the Government directors was questioned at one time—at the reorganization.

Mr. ADAMS. I will say at once that since I have been a director, and especially since I have been president of the company, the Government directors have regularly attended the meetings. One of them has always been on the executive committee. I wish to say, further, that there have been no more honest and zealous and intelligent supporters of the course the management has pursued than the Government directors. There never has been a suggestion on their part that information was denied them, or that anything was done without their knowledge. I will add, further, that since I have been president I think every single act of the administration has been wholly approved by the board of Government directors.

The CHAIRMAN. You are only speaking, however, of since 1880.

Mr. ADAMS. I only speak of the time since I came in; 1882 and 1883, I think it was.

The CHAIRMAN. There was quite a difference prior to that time among the Government directors?

Mr. ADAMS. That I have nothing to say about. I did not mean to interrupt your proceedings.

The CHAIRMAN. We thank you for interrupting us.

By the CHAIRMAN:

Q. Mr. Mink, will you furnish us with the total amount of allowance to the branch roads, under constructive-mileage, for the several years since you have been connected with the road?

The WITNESS. That is, the amount allowed to these branch lines on a division of joint earnings on a constructive-mileage basis, in excess of the amount that they would have been allowed if the rates had been divided on a pro rata basis?

The CHAIRMAN. Yes. What is your answer? Will you do so?

The WITNESS. That is, for what time?

The CHAIRMAN. For what time can you furnish it?

A. I do not believe that it would be possible for this company to furnish an answer to that question with the force that we have in the accounting department at Omaha—and there are nearly three hundred clerks in that department there—inside of three years; that is, if the clerks are to perform their regular duties at the same time.

Q. Then how do you inform your officers as to the amount that is charged off from the main line of the Union Pacific Railway Company to the several branch roads?—A. We never make any report of that amount. It has never been ascertained.

#### HOW THE CONSTRUCTIVE MILEAGE IS DETERMINED.

Q. How, then, do they determine the basis of the amount of constructive mileage? Is it a guess?—A. No, sir; they determine the allowance by taking into consideration the general features of the property, the amount of its traffic, the population along the line, the cost of operating the line, and various elements of that kind. They are always considered in such connection. For years, the Union Pacific main line was allowed  $1\frac{1}{2}$  miles for 1 on all interchanged business with the Iowa roads, and it is to-day allowed from 1 to 3 miles on that same business from the lines east of the Missouri River.

Q. But surely, as the financial officer, you must determine about how much is passing away from your company annually by this constructive mileage system?—A. No; we have never had any account of it. It would not be possible for me to tell you what it amounts to.

Mr. ADAMS. Nor how much we have received.

The WITNESS. Nor how much we have received.

Q. It is of so little importance?—A. No, sir; I think the principle was recognized as being so fair and equitable that it has never received any further consideration, so far as the amount is concerned.

By Commissioner LITTLER:

Q. Does this same difficulty obtain with reference to these branch lines?—A. Precisely. It would all be in one account. You would want to know what the company had received as well as the amount that it had allowed.

Q. Can you give us the amount the company has allowed its branch lines?—A. I do not think it would be possible for me to do that prior to the time when you are called upon to make your report. I do not think it would be possible.

By the CHAIRMAN:

Q. What do you mean by referring us to constructive-mileage accounts at Omaha?—A. I did not mean to refer you to constructive mileage accounts. I meant to refer you to the accounts of the company at Omaha, from which I said the statements could be prepared, which would show you the amount of those allowances.

Q. Have you any estimate upon which you could base an approximate idea of the charges-off from the main line to the branch lines?—A. No, sir.

Mr. ADAMS. You are in error there. You are now having an account kept under my direction.

The WITNESS. I am in error as to this year. That is very true. I will correct my answer, if I may go back there. For the last two or

in *de jure* into the new organization. That question arose at the first meeting. It was submitted at once. It was very important—as important to the Government as to the company—to see whether five gentlemen had a right, in law, to sit on the board of the new company. It was just as important to the Government as to the company to ascertain whether, if they were sitting there and voting, it might not vitiate the proceedings. That was promptly submitted to the Attorney-General of the United States, whose opinion is in writing. I think that question was raised by the Government directors themselves.

QUESTION OF RIGHT OF ADMISSION RAISED BY GOVERNMENT DIRECTOR NILES.

Mr. HOLMES. It was raised by Mr. Niles.

The CHAIRMAN. Upon the objection to the admission, yes?

Mr. JOHN F. DILLON. That matter was submitted to the Attorney-General, whose opinion is in the official records of the Government here and since he decided that they had a right, *de jure*, to sit in the board that right has never been questioned from that day to this.

Mr. ADAMS. And they have sat and voted.

Mr. JOHN F. DILLON. And they have not attended under protest from that time to this.

Mr. HOLMES. Since which time the Government directors have been notified to attend the meetings of the board of directors, and no question has been raised.

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Mr. ADAMS. That I have nothing to say about. I did not mean to interrupt your proceedings.

The CHAIRMAN. We thank you for interrupting us.

By the CHAIRMAN:

Q. Mr. Mink, will you furnish us to the branch roads, under contract since you have been connected with

The WITNESS. That is, the amount of joint earnings on the amount that they would be divided on a pro rata basis?

The Chairman  
The Witness  
The Chairman  
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Mr. ARNOLD

The Witness

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By the Chairman

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By the Chairman

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three months, I think since the 1st of January, we have been called upon by the United States Commissioner of Railroads to make him a report upon this very subject; but none of the reports have yet been prepared, so I am not able to tell you what the result is.

Mr. ADAMS. Will you permit me again to interrupt?

The CHAIRMAN. Certainly.

CONCERNING NEW SYSTEM OF COMPUTING MILEAGE.

Mr. ADAMS. Prior to the first of January Mr. Mink's answer is correct. In order to give you the information you want it would be necessary to go into, I may say, millions of separate transactions, covering each way-bill, to see how it was made up and how it would have been made up on another system. And that, I may say, is a work too large to be undertaken. When the question was raised in the Railroad Commissioner's report for 1886, and my notice was brought to it, I gave Mr. Mink instructions to cause, in the future, the different way-bills, when they were divided, to be divided on both bases, so that we could see what the difference would be under the two systems. That has been going on since the 1st of January, and would afford a basis by which you could approximately ascertain what the allowances amounted to in past periods. The work is now going on, although we have received no returns from it.

The CHAIRMAN. What have you approximated as to the charges-off, from time to time, under the constructive mileage system?

Mr. ADAMS. I will say we have not yet received any returns.

The CHAIRMAN. It seems to be a very important matter in the financial arrangements. How would a charge-off enter into the financial concerns? Would it be \$100,000 or \$500,000 or \$50,000?

Mr. ADAMS. It would be a very large sum of money that we should receive at Council Bluffs from the lines east of us, and I should say it would be a very considerably smaller sum of money, very materially smaller, which we would pay out to our branch lines west of Omaha. But I should hesitate about putting it into hundreds of thousands or millions of dollars, or any other sum, until I had received information as to the division which had been ordered since the 1st of January.

The CHAIRMAN. Yet it is a large sum of money?

Mr. ADAMS. Undoubtedly. I should say, at a guess, that the amount we have received under the constructive-mileage rule at Omaha would run into millions of dollars. Would it not, Mr. Mink?

The WITNESS. I should think so, easy enough.

Mr. ADAMS. The amount we have received, and of which the Government got 25 per cent., at Omaha, would amount to millions. The amount we have paid out under the same rule would probably be half as much.

The CHAIRMAN. That is, half of millions.

Mr. ADAMS. Half of whatever it would be.

The CHAIRMAN. Then it would still run into millions, that you would charge on your branch lines, under the constructive mileage system?

Mr. ADAMS. It might.

The CHAIRMAN. I regard you as on the witness stand, Mr. Adams.

Mr. ADAMS. I have been there.

The CHAIRMAN. Is there no way by which the Commission can ascertain information that would guide them in reporting to Congress, or to the President, the amount of constructive mileage that was charged-off, from time to time, to the several branches?

Mr. ADAMS. Yes; that can be ascertained when we get the result of the account ordered on the 1st of January to be kept.

The CHAIRMAN. No way prior to the 1st of January?

Mr. ADAMS. I think you would have to approximate, from the 1st of January, over the period anterior to the 1st of January.

The CHAIRMAN. Then there is no account, or system of accounts, or memoranda by which, prior to January, we could estimate the amount charged-off from the main line to the branch lines under constructive mileage?

Mr. ADAMS. The accounts are there, and it could be done, with a sufficiency of labor, by going through all the way-bills of each particular shipment. It would involve an almost incalculable amount of clerical labor; that is, it would be doing over again all the labor that was done in that work through a series of years.

Mr. HOLMES. Restating all the transactions with any branch road or any line?

Mr. ADAMS. Yes.

The CHAIRMAN. There never had been a statement of account under the constructive mileage account?

Mr. ADAMS. Oh, yes; there has always been a constructive mileage account. It has been settled on that basis. Let us take a given case. We will suppose a way-bill on which a joint rate of \$100 is received. We have thousands of such every day. Each shipment has its own way-bill. That passes into the proper office, and is there divided between the main line and the branch line, on a given basis. It might be divided on the mileage basis equally well. But it is divided on the constructive mileage allowance basis and filed away. Therefore, to go back and do it over again would require a reduplication of the original labor. Having once been worked out on the constructive mileage basis it is now to be worked out anew on the mileage basis. It would really mean a doubling of the labor in each year.

#### SETTLEMENTS OF TOTAL AMOUNTS OF DIVISIONS.

The CHAIRMAN. That is because the company has at no time, from month to month, as it seems to me, for the purpose of accurately ascertaining adjustments, made settlements of the total amounts of these divisions.

Mr. ADAMS. They have all been made.

The CHAIRMAN. Where are the totals?

Mr. ADAMS. They have all been made. They are there every year and every month.

The CHAIRMAN. I mean the total monthly or semi-annual settlements.

Mr. ADAMS. That is done every month and every year. ..

The CHAIRMAN. Where are the totals?

Mr. ADAMS. They are in Omaha.

The CHAIRMAN. Then you can furnish the totals charged off to the branch lines under the settlement?

Mr. ADAMS. Oh, yes, sir.

The WITNESS. Or, in other words, the amounts allowed to the branches on interchanged business?

The CHAIRMAN. Yes.

The WITNESS. Yes, I can furnish you a statement of the amount that has been allowed to them, and also a statement of the amount that would have been allowed to them if the earnings had been divided on



a pro rata basis, and you really need that to find out how much is involved in the constructive mileage question.

The CHAIRMAN. You furnish the total amounts charged off from the main line to the several branches under the constructive mileage system.

The WITNESS. Yes, sir.

The CHAIRMAN. That is what we want—from year to year.

Mr. ADAMS. From month to month and year to year.

The WITNESS. Why not explain to the Commission that the question of constructive mileage is not unlike the question of a combination of local rates?

Mr. ADAMS. I did it the other day. It is in my evidence.

Mr. JOHN F. DILLON. To explain that, I think the Commission would want the philosophy, reason, or rationale of constructive mileage as between the Iowa roads and Union Pacific roads and as between the Union Pacific road and its branches.

#### EFFECT OF CONSTRUCTIVE MILEAGE UNDER THURMAN ACT.

Commissioner LITTLER. We understand that this is a system that has grown out of the necessities of traffic. We understand that constructive mileage obtains with all main lines and their branches. That is a general proposition, we understand. And we understand that it is recognized as a custom among railways. But we are trying to get at just how this constructive mileage affects the income to the United States under the Thurman act.

Mr. ADAMS. If you will permit me, I will come down to the root of this difficulty in one minute. There is no question about constructive mileage, and the usage and the custom and propriety of it. It all arises out of the other branch of the subject, which you gentlemen have got to come to. That is, the erroneous attempt, under the Thurman act, but which started with our original charter, through which we were called upon to pay a proportion of our net earnings to the Government instead of a gross sum. If the Government would say to the Union Pacific, "You pay into our Treasury toward this sinking fund so many hundred thousand dollars a year in gross, and manage your own business in your own way," these vexatious questions would never arise. We should then manage our companies like other companies, according to the universal rule of railroads.

#### FAVORS PAYING A GROSS AMOUNT YEARLY.

Commissioner LITTLER. I will get you to state right now in this connection, how much you would agree to pay.

Mr. ADAMS. That is rather a large question. I supposed we would come to it later; I shall then be prepared to go into the subject with the Commissioners, at such length as they desire. I will say that we would cheerfully pay you half a million dollars more a year in a gross sum than we have to pay under the present vexatious arrangement. That is, we would rather submit to a loss of half a million dollars a year than to have these vexatious litigations going on with the Government the whole time. For the year of 1885 we paid the Government \$1,100,000. We would cheerfully have paid \$1,600,000 to the Government in a lump sum, if by so doing we could have been rid of this vexatious and interminable discussion of net earnings.

The CHAIRMAN. Judge Dillon, did you want to ask a question?

Mr. JOHN F. DILLON. Under the intimation of Mr. Littler, I do not care to pursue the subject, except that I want to ask Mr. Adams this question: If the Union Pacific is allowed the benefit of constructive

mileage, on one hand, and you charge against that account what it pays at the other end to its branch lines, can you state whether the company, and the Government through it, is a gainer or a loser?

THE GOVERNMENT A GAINER BY CONSTRUCTIVE MILEAGE RULE.

MR. ADAMS. I stated in my examination before the Commission that, in my opinion, it is a matter of opinion; but to the best of my judgment and belief the Government is a large gainer by the rule of constructive mileage. That is, to use the vulgar adage, we have gone on the principle that "what was sauce for the goose was sauce for the gander." And as the Union Pacific, we will say, was the goose in this case and the branch lines were the gander, they were entitled to their share of the sauce. We have maintained and now maintain that the Union Pacific and the Government, as its partner, got a great deal more sauce than the branch lines.

The CHAIRMAN. To carry the figure out, you cannot determine the quantity of sauce.

MR. ADAMS. No; we cannot say the sauce amounted to so much, without doubling our work.

The CHAIRMAN. How, then, are we to inform the Government as to this question.

MR. ADAMS. You shall have all the light we can give you, but our only answer to your inquiry is what I have given. We can furnish you the information, but only as the result of an amount of clerical labor which would more than consume the whole sum appropriated by the Government for the conduct of your investigation. In my opinion, it would require the labor of a thousand clerks for one year.

The CHAIRMAN. Do you regard the system of accounts that fails to keep such an important statement as a good system?

MR. ADAMS. Every railroad in the country has the same system.

The CHAIRMAN. Do you regard it as a good system?

APPALLING NUMBER OF WAY-BILLS, &c., DAILY.

MR. ADAMS. I do. It is sufficiently good for our purpose in carrying on business. There must be some end to statistics in the management of a large railroad company. I will say now that the Union Pacific is loaded down by the amount of statistical information it is already furnishing, and this would add nearly 50 per cent. more to it. It is appalling to the ordinary mind to contemplate the number of way-bills, papers, and business transactions which daily pass through our offices, covering all our shipments. I cannot myself say whether they should be numbered by the hundred thousand a day, more or less. Each of these has to go through the hands of clerks, and be gone over and divided up. When it came to go over them two or three different times, and doing the sum, for the purpose of information, in two or three different ways, there is such a thing as being buried under the mass of one's information; and we are very near that all the time.

The CHAIRMAN. The millions are coming in under this system and millions going out, according to your statement, and there is no account to show the difference whether there is more that comes in than goes out. It is not of sufficient importance to strike a balance.

MR. ADAMS. It is of sufficient importance to do anything; but all that we can say is, that we have not deemed it necessary for us, in that respect, to do more than other railroads of the higher standard have been in the custom of doing. The only offense that can be charged against

us is, that we have not adopted a system which no railroad in the world has ever adopted.

The CHAIRMAN. Few railroads have had as much help as the Union Pacific.

"NET EARNINGS" THE ORIGINAL SOURCE OF DIFFICULTY.

Mr. ADAMS. We are perfectly willing to meet the Government in that respect, as I said before, and to pay them much more in the way of a lump sum than the amount that they receive out of a percentage of the net earnings. There is the original source of difficulty.

Commissioner LITTLER. Recurring once more to these branch lines, the Union Pacific directory hold arbitrary power to determine the constructive mileage on these branch lines, as I understand you. The directory of the Union Pacific are largely the directory of the branch lines. In other words the branch lines are practically owned by the Union Pacific Railroad Company, so that it has the arbitrary power of determining these rates. Now, I suppose in doing so you have had your mind drawn to the question, how much these branch lines would have to earn in order to pay their fixed charges, have you not?

Mr. ADAMS. Oh, yes.

Commissioner LITTLER. Have you taken that matter into consideration in fixing this constructive mileage account with them?

Mr. ADAMS. No.

Commissioner LITTLER. You have not?

Mr. ADAMS. No.

Commissioner LITTLER. You have fixed this constructive mileage, not with reference to the amount of interest these branch roads would have to pay on their fixed charges at all?

Mr. ADAMS. I have not fixed them at all.

Commissioner LITTLER. I am speaking of the corporation, the Union Pacific.

Mr. ADAMS. It is a matter which never reached me. It is settled by those who are supposed to understand that part of the business, and their advice has uniformly been taken, so far as I know.

Commissioner LITTLER. Is it not true that somewhere in the archives of this Union Pacific Railway there is lumped together, either monthly or semi-monthly, or annually or semi-annually, the gross sums which have been charged off in favor of these branch lines against the main line?

Mr. ADAMS. There never has been any such case; there never has been anything charged off in their favor against the main line. You will no more find that than you would find the amount credited which had been received by the main line from its connections east of Council Bluffs. The two cases are precisely parallel.

The CHAIRMAN. I call your attention to the testimony taken in New York.

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 distance the traffic was carried over the main line. Such a case as I suggest is a thing perfectly easy to be conceived, and it exists on our system in the case of the Echo and Park City Branch.

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. That particular branch is merged with the rest. I cannot say I have made it for that.

Q. Who has charge of the computation?—A. They always go to the comptroller.

Q. Mr. Mink?—A. Mr. Mink has them prepared for me.

Q. And can furnish you with all those statements?—A. Yes.

I understand by that testimony you covered in your explanation before the Commission in New York an account of all the sums under the constructive mileage system that have been charged from the main line to the branch system, and that Mr. Mink can give the Commission such a statement.

Mr. ADAMS. The total amount paid under the constructive mileage system, undoubtedly.

The CHAIRMAN. Will you furnish that to the Commission?

Mr. ADAMS. That undoubtedly will be furnished.

The WITNESS. Yes, sir.

#### ALLOWANCE TO BRANCH LINES.

Mr. JOHN F. DILLON. Has the allowance to any of the branch lines, within your knowledge, information, or belief, ever been fixed with any motive or purpose whatever to diminish the amount of net earnings due to the Government under the Thurman act?

Mr. ADAMS. That never was taken into consideration in the remotest degree. I never heard it even suggested that it would have that effect. In fact, I would say that since I have been president I do not remember a case of constructive mileage to a branch line ever having been presented to me. I think we are proceeding under the old rule which went into effect long ago, and which was examined by the Government directors in 1882. I am not aware that it has been revised since. Certainly the effect on the Government, or its 25 per cent., never was even remotely considered.

The CHAIRMAN. Mr. Mink, can you furnish the Commission with the computation now with reference to constructive mileage?

The WITNESS. No, sir; I doubt very much whether I shall be able to furnish an answer to that question that would be of any use to you before the time when you are called upon to make your report. I will look the field over and do the best I can.

The CHAIRMAN. It is very important for the Commission to know.

The WITNESS. I can undoubtedly give you the figures for the first half of the current year some time within the next few months.

Mr. ADAMS. I do not think Mr. Mink understands you. Let me ask him a question.

The CHAIRMAN. Do so.

Mr. ADAMS. The chairman wants to know the amounts actually paid without regard to the basis.

The WITNESS. The amounts of the revenues of each one of these branch lines?

Mr. ADAMS. As compared with the main line.

The CHAIRMAN. From constructive mileage, yes.

Mr. ADAMS. Including the constructive mileage.

The CHAIRMAN. I want to know what the main line pays to the branch lines under constructive mileage allowances.

The WITNESS. In other words, you want to know what the revenue of the branch lines has been from interchanged business worked up on this constructive mileage basis?

The CHAIRMAN. No; I do not want to mix up other business at all.

The WITNESS. What goes to the branch lines?

The CHAIRMAN. I want to make it clear. The Commission wants the information as to how much has been paid to the branch lines by reason of constructive mileage allowances from year to year.

The WITNESS. That involves the whole question, Mr. Adams, that I presented to the Commission. It would be impossible for me to furnish you with that for months to come.

By the CHAIRMAN :

Q. Where is the computation or information or memoranda that you furnished to Mr. Adams of this information at the first of the year ?—A. I do not think I ever furnished Mr. Adams a memorandum covering all the lines in our system. I am quite sure I never did. I have, however, furnished him occasionally as he has called upon me for them, statements with reference to some particular branch. Those were undoubtedly copied in my letter-book in the form of a letter to the president.

Q. As comptroller, have you ever attempted to ascertain whether more comes in or goes out of the main line account under the constructive mileage system ?—A. I have never attempted to do it. I never heard the question raised until I saw it referred to in the act under which you are now proceeding.

Q. How did you furnish information to your officers to determine the percentage from time to time as to constructive mileage allowed to the several roads ?—A. That was never furnished by me. The elements which were taken into consideration were passed upon by our general traffic manager.

Q. Who furnished it to the Government directors ?

The WITNESS. In 1882 ?

The CHAIRMAN. Yes ; who furnished the rates ?—A. I think it must have been furnished by our general traffic manager. They naturally would go to him with such a question.

Q. Will you please give the Commission the computations referred to by Mr. Adams as furnished to him, in order to ascertain what the branch-line business of the Union Pacific was worth to it ?—A. Yes, sir.

Q. Have you got them now ?—A. I submit, in answer to your question, a statement of the earnings of the Union Pacific Railway Company derived on business turned over to it or interchanged by it with its branch lines for the year 1886.

The statement is marked "Exhibit 1, May 24th," and is as follows :

*Statement of the earnings of the Union Pacific Railway Company on traffic interchanged with its branch lines during the year 1886.*

Name of road.	Freight.	Passenger.	Total.
Omaha and Republican Valley .....	\$527,943 57	\$76,336 99	\$604,280 56
Omaha, Niobrara and Black Hills .....	238,848 36	33,438 65	272,287 01
Echo and Park City .....	198,260 42	17,585 40	215,845 82
Colorado Central .....	750,295 15	206,250 52	956,545 67
Salt Lake and Western .....	69,228 28		69,228 28
Denver, South Park and Pacific .....	70,132 70	*6,837 18	83,295 52
Utah and Northern .....	915,736 51	149,656 26	1,065,392 77
Oregon Short Line .....	789,734 00	304,834 54	1,094,568 54
Greeley, Salt Lake and Pacific .....	79,006 92	12,206 25	91,213 17
Lawrence and Emporia .....	9,529 24	263 17	9,792 41
Laramie, North Park and Pacific .....	1,631 53	15 00	1,646 53
Junction City and Fort Kearney .....	233,276 84	51,335 47	284,612 31
Solomon .....	267,859 49	48,907 79	316,767 28
Salina and Southwestern .....	143,083 86	14,962 54	158,046 40
Denver and Boulder Valley .....	64,878 61	16,451 95	81,330 56
Golden, Boulder and Caribou .....	11,104 53		11,104 53
Georgetown, Breckenridge and Leadville .....	4,327 68	936 09	5,263 77
Kansas Central .....	18,045 69	951 30	18,996 99
Montana .....	83,497 12	3,231 95	86,729 07
Denver and Middle Park .....	1,546 05		1,546 05
Denver, Marshall and Boulder .....	10,804 32	10 10	10,814 42
Marysville and Blue Valley .....	17,996 89	1,403 35	19,400 24
Salina, Lincoln and Western .....	37,565 41	2,181 60	39,747 01
Totals .....	4,544,333 17	934,121 74	5,478,454 91

\* Deficit.



## THE PARENT COMPANY'S PROPORTION OF EARNINGS.

Q. When does your fiscal year end?—A. It ends with the calendar year, December 31.

Q. Please explain to the Commission whether this is the total revenue or the difference of profit charged to the several branch lines, the figures on this statement representing the earnings of the Union Pacific Railway Company.—A. That is the parent company's proportion of the earnings derived from business interchanged by it with its branches; it therefore represents a part only of the earnings of the Union Pacific Railway Company.

By Commissioner LITTLE:

Q. It has nothing to do with its own line, the through business?—A. Nothing at all; it shows the value to the Union Pacific Company of these side or feeding lines. In 1886 the statement shows that the Union Pacific proper earned \$5,478,000 from business turned over to the company by these branches, which, if the branches had not been in existence, we probably should not have earned.

Q. How much was turned over to the branch lines by the main line?—A. This has no connection with that sum; the amount we turned over to them, or the amount allowed to them in the division of rates, is wholly independent of this sum; that is, the sum we did not turn over.

Q. That is only the one side?—A. That is our side.

Q. What is the other side?—A. I cannot tell you what it amounts to.

Q. How do you determine the difference?—A. That is determined by our general traffic manager.

Q. How do you determine whether there is a profit from the branch-line system or not?—A. I take our investment account all the way through. For instance, we earned here last year from this business \$5,478,000. It is estimated that this business is moved on our road at an expense of not over 40 per cent. It leaves us therefore 60 per cent. profit, or \$3,287,000. Independently of that revenue, we received in the way of income from our investments \$1,665,000. Those two sums added together make, in round numbers, \$5,000,000. We call that the revenue or the income from our investments in these branch lines. Those investments represent, in round numbers, \$45,000,000. The investments are therefore paying us about 11 per cent.

## GROSS EARNINGS.

Q. Do you offer that as the net earnings of this branch system?—A. No, sir; I offer that as the gross earnings of the Union Pacific Railway Company, derived by it from business turned over to it by its branch lines, or interchanged by it with its branch lines.

The CHAIRMAN. In other words, \$5,478,454.91 represents the advantages of the branch-line system to the Union Pacific main line. Now, what are the advantages, and to what amount, of the Union Pacific line, under the constructive-mileage system, to the branch lines?

A. I cannot tell you from any statement I have in my possession now.

Q. Would not that be important to determine whether you had this profit, or whether it was an advantage or not, because if the constructive-mileage system charged off amounts to a similar sum there is no advantage; that is the truth, is it not?—A. No, sir; I think not, be-

cause we are the owners of the branch lines. If the sums allowed to the branch lines were unreasonably large, it would come back to us in the way of income upon our investment in these branch lines, in the way of interest on the bonds or dividends on the stocks. So far as the Union Pacific Railway Company is concerned it would make no difference at all.

By Commissioner LITTLER:

Q. You do not own all the bonds of these branch lines, do you?—A. No, sir; we do not.

Q. There would be a part of it distributed to individuals, and, therefore, if this rate was unjust it would deplete the net earnings of the Union Pacific Railway Company?—A. If it were unjust; yes, sir.

By the CHAIRMAN:

Q. Is that the only computation that you furnished Mr. Adams on which he based his idea of constructive mileage for the year 1886?—A. I think that was the statement he had in mind.

The CHAIRMAN. Then that does not give any information at all as to the amounts charged off from the main line to the several branches under the constructive mileage?

The WITNESS. No, sir. As I said before, I never heard that question referred to before.

Q. So that if the gross receipts or benefits—and I understand this to be a gross sum—was equal to \$5,400,000, and the amount charged off under the constructive-mileage system as allowance to the several branches was a similar amount, it would be a just conclusion to say there would be no benefits derived; is that true?—A. No, sir; that is not true.

The CHAIRMAN. Make that clear to me, then.

The WITNESS. Whatever sums were allowed to the branch lines would, of course, form a part of the earnings of those lines. The earnings of these lines are made up, of course, first, of the local business, and next, of the business that we turn over to them. If, on the business we have turned over to them, we have allowed any unreasonable rate, it merely increases their earnings to that extent, and the excess, if any, would come back to us to a large extent either in dividends on the stocks or in interest on the bonds that the Union Pacific owned. So far as the revenue of the Union Pacific Company is concerned, it would not make any appreciable difference.

Q. What would be the case if the branch road reported a deficit?—A. Then, for the moment, we would have to advance them the money to carry on their business.

#### BRANCH ROADS DEFICITS.

Q. Then it is a fact that most of the branch roads during the last year, or the year of 1885, did report a deficit?—A. A number of them did.

Q. Therefore, there was very little profit to the main line?—A. No, sir; in 1886, as I look at it, the parent company made about 11 per cent. upon its investments in these side lines; I will submit, in explanation of my statement, this account:

The statement is marked "Exhibit No. 2, May 24, 1887," and is as follows:

*Memorandum in relation to the Union Pacific Railway Company's investments.*

Investments, bonds, stocks, &c., December 31, 1886, cost.....	\$45,199,858 07
Income from investments, 1886, company.....	1,593,674 65
Income from investments, 1886, trustees Kansas Pacific consolidated mortgage.....	72,300 00
Total equal to 3.68 per cent. on the cost of our investments....	1,665,974 65
To this should be added the net earnings derived by the Union Pacific Railway Company from traffic turned over to or received from its branch lines. The gross earnings on this traffic during the year 1886 amounted to \$5,478,454.91. It is estimated that the expense incident to this transportation is about 40 per cent., leaving 60 per cent. net, or, say .....	
	3,287,972 95
This would make the total net income derived by the Union Pacific from its investments.....	4,953,047 60
Or, on the amount of its investment, 10.95 per cent.	

**EARNINGS, 1886.**

Q. Please explain that.—A. I present this statement, which shows that in 1886 the Union Pacific Company earned on its investments in the bonds and stocks of the branch lines about 11 per cent. I take first the amount of our investments in these lines, including some small outside investments, \$45,200,000. The income received from the investments last year amounted to \$1,666,000. That was the direct income—the amount of the coupons that were collected, or the dividends that they paid to us. That sum was equal to 3.68 per cent. on the investments. That was the direct return.

Independently of that the parent company earned, as I said before, \$5,478,000 on the traffic that those lines had turned over to or interchanged with us. That business, we estimate, can be moved by the parent company for about 40 per cent.; that would leave the remaining 60 per cent. for profit. The profit, therefore, amounts to \$3,287,000. If you add that indirect return or profit to the direct income of \$1,666,000, you have a total of \$4,953,000, which represents the return, direct and indirect, upon our investment of \$45,000,000. If it had not been for these side lines of the Union Pacific the parent company would not have derived this \$4,953,047.60.

Q. How much of the income of the main line was from the investment in branch lines?—A. About \$3,000,000 net.

Q. What was the income derived from the investment in the branch line securities?—A. I cannot answer that without going to the books.

The CHAIRMAN. I wish you would give that amount.

The WITNESS (after examining the books). Seven hundred and three thousand six hundred and fifty-five dollars.

**ENUMERATION OF SECURITIES.**

Q. What are the other securities? You have given those outside of the branch lines and the branch line securities and investments. Now, what were the other?—A. Our investment account is shown on page 91 of our last annual report of 1886, and is made up, first, of the bonds and stocks of other railroad companies, \$32,911,775.95. Then there are bonds and stocks of steamship, coal, and other companies, and county bonds.

Q. What are the other companies? I wish you would give them in detail.—A. Those are detailed on page 95 of the report for 1886. They are made up of our investments in the Pullman's palace cars running



on the road; certain investments in coal lands, township and county bonds; some stock in the Occidental and Oriental Steamship Company, the Pacific Express Company, the Council Bluff Street-railway Company, a few elevator companies. They are all set out at length on that page. The cost to the company was \$2,617,411.75.

Next, the bonds and stocks of railroad and other companies, held by the trustees under the consolidated mortgage. Those are set out in detail at page 98 of that report. They are made up of the Denver and Boulder Valley Railroad Company bonds, \$550,000; Golden, Boulder and Caribou Railway Company bonds, \$60,000; Junction City and Fort Kearney Railway Company bonds, \$970,000; Lawrence and Emporia Railroad Company bonds, \$465,000; Salina and Southwestern Railway Company bonds, \$540,000; Solomon Railroad Company bonds, \$575,000.

Then there are stocks of the Denver and Boulder Valley Railroad Company, \$17,000; Golden, Boulder and Caribou Railway Company, \$60,000; Junction City and Fort Kearney Railway Company, \$720,000; the National Land Company, \$200,000; Solomon Railroad Company, \$1,000,500.

Then there are a number of miscellaneous investments, which I have given you.

Then there are certain advances to our auxiliary companies payable in bonds and stocks. These amount to \$5,697,670.44. I read from page 91 of the report for 1886. That amount represents mainly the amount of advances by the Union Pacific Company to extend these side lines, the branch lines of the system. It will ultimately be paid to us or liquidated in the bonds and stocks to be issued by those companies on their extensions. Our investment account then will be changed from these "Advances to auxiliary companies, payable in bonds and stocks," to the bonds and stocks themselves. The sum of all these investment accounts is \$45,199,858.07. This is the amount with which I start my statement.

Q. More than \$800,000 of the \$1,593,000 is really from other investments than the branch lines; is that not the fact?—A. Yes, sir; I think that is quite true.

#### NET EARNINGS OF BRANCH LINES, 1886.

Q. Then to those investments in the branch lines, the main line contributed under the constructive mileage system in amount millions of dollars towards their income?—A. I cannot answer that question definitely; but the entire net earnings of the branch lines for 1886 were only \$1,472,000.

Q. But the operating expenses had been deducted then, had they not?—A. Precisely. They were deducted.

Q. So that the constructive mileage system would have gone into the gross receipts, and would have appeared there, would it not?—A. Yes, sir. How far the earnings were increased by the constructive mileage allowances I am unable to tell you.

Commissioner LITTLER. While on this subject, please give the names of the several branch lines which are not self-supporting.

The WITNESS. We have that in our report. Shall I read them to you?

Commissioner LITTLER. Yes. We want to know those which do not pay the fixed charges.

Mr. ADAMS. Do you mean which do not pay operating expenses or fixed charges?

Commissioner LITTLER. I mean those which do not pay operating expenses and the fixed charges.

Mr. ADAMS. And the fixed charges, both?

Commissioner LITTLER. Certainly. If they do not pay operating expenses and fixed charges they are not self-supporting.

#### ROADS NOT SELF-SUPPORTING.

The WITNESS. The Denver and Middle Park shows a deficit for 1886.

Q. How much?—A. Two thousand three hundred and thirty-three dollars and forty-two cents. The Denver, South Park and Pacific showed a deficit in 1886 of \$368,081.56; the Echo and Park City Railway showed a deficit of \$35,139.83; the Georgetown, Breckenridge and Leadville Railway Company showed a deficit of \$13,007.72; the Greeley, Salt Lake and Pacific Railroad Company showed a deficit of \$78,239.48; the Junction City and Fort Kearney Railway Company showed a deficit of \$35,223.22; the Kansas Central Railroad Company showed a deficit of \$159,403.62; the Laramie, North Park and Pacific Railway and Telegraph Company a deficit of \$1,158.70; the Lawrence and Emporia Railway Company a deficit of \$44,284.21; the Omaha and Republican Valley Railroad Company a deficit of \$153,546.25; the Omaha, Niobrara and Black Hills Railroad Company a deficit of \$29,382.92; the Oregon Short-Line Railway Company a deficit of \$395,103.71; the Salina and Southwestern Railroad Company a deficit of \$7,094.62; the Salt Lake and Western Railroad Company a deficit of \$35,416.75; the Solomon Railroad Company a deficit of \$6,867.08. Those comprise all the railroads showing a deficit.

Q. Those deficits existed after allowing the benefit of constructive mileage?—A. Yes, sir; and after charging up the interest on all the bonds outstanding. I mean all the interest including that on the bonds of the Oregon Short Line Railroad Company and the Denver, South Park and Pacific Railroad Company. The bonds of these two companies are largely owned by others than the Union Pacific Railway Company.

Q. Please name the several branch lines which may have been self-supporting from the time that you acquired them, or that are self-supporting now.

The WITNESS. Take last year for instance?

#### SELF-SUPPORTING ROADS.

Commissioner LITTLER. Yes, sir; take 1886, and in answering the question give the amount of net earnings, if there are any.—A. The roads self-supporting are the Colorado Central Railroad Company, which showed a surplus in excess of all charges for 1886 of \$78,341.82; the Denver and Boulder Railroad Company showed a surplus of \$15,639.75; the Denver, Marshal and Boulder Railway Company, in operation from August 19 to December 31 last—it was opened in the month of August—showed a surplus of \$6,605.16; the Golden, Boulder and Caribou Railway Company showed a surplus of \$1,664.29; the Manhattan and Blue Valley Railroad Company showed a surplus of \$6,406.63; the Montana Railway Company showed a surplus of \$18,304.40; the Salina, Lincoln and Western Railway Company showed a surplus of \$989.76. The road of this company was in operation only for the last four months of the year. The Utah and Northern Railway Company showed a surplus of \$72,959.54.

**Q.** The figures you have given me in answer to my last question represent the net earnings of those roads after deducting the fixed charges and running expenses, as I understand you?—**A.** Yes, sir; that is right.

**Q.** What have you to say as to the wisdom of the investment in the several roads which have not paid their expenses, according to your answer to the previous question?—**A.** The best answer I can make to that question is to refer you to two statements that I have already submitted to the Commission. They show, in my opinion, the most satisfactory results. They show that on the amount invested, as it stands, we made last year about 11 per cent.

**Mr. LITTLE.** You reached those figures by letting these roads have the benefit of constructive mileage. Chiefly, though, the investment as such, pure and simple, only paid 3 per cent.?

**The WITNESS.** Three and six-tenths per cent.; yes, sir.

**Commissioner LITTLE.** It required the aid of the mother road to this constructive mileage system to figure out the results which you have attained there?

**The WITNESS.** Yes, sir; it did.

**The CHAIRMAN.** In other words, if the deficits amount to \$1,354,275 and the surplus \$200,907, then the net earnings, \$1,154,000, is a deficit? If the constructive mileage system had not been charged over to the branch lines the probabilities are there would have been a deficit upon the entire system?

**The WITNESS.** Upon the entire system of branches?

**The CHAIRMAN.** Yes; under the constructive mileage system.

#### THE BRANCH LINES AS FEEDERS.

**The WITNESS.** That I cannot tell you. I think it is very doubtful. I do not think this question ought to be looked at without taking into consideration the revenues derived by the Union Pacific Company upon the business which these lines turned over to it. That was the real reason for the construction of these lines. It was to feed the main line. Therefore the profits of the Union Pacific Company derived from that business ought always to be taken into account. It is the largest item in the account.

**The CHAIRMAN.** If the net loss, as between the deficits read by you and the surplus, amounts to \$1,154,000, and the constructive mileage charged off to the branches amounts to millions of dollars, there would certainly not have been any profit if the constructive mileage allowances had not been made?

**The WITNESS.** I do not think I get your idea there.

**The CHAIRMAN.** If the net loss, as between the deficits read by you and the surplus, amounts to \$1,154,000, and the constructive mileage charged off to the branches amounts to millions of dollars, there certainly would not have been any profit if the constructive mileage allowance had not been made.?

**The WITNESS.** No, sir; I do not think that is true. I think this statement shows exactly how the case stands: We have earned on the investments during the year a direct return of  $3\frac{1}{2}$  per cent. and an indirect return of about 7 per cent., the two together making between  $10\frac{1}{2}$  and 11 per cent.

**The CHAIRMAN.** You failed to tell the Commission both sides of the story; in other words, whether the main line has been a benefit to the branches or the branches to the main line.

The WITNESS. I think there is no doubt but that the main line has been of some benefit to the branches, but the object of the construction of the branches was to benefit the main line.

BRANCH LINES PAID 11 PER CENT. IN 1886.

By the CHAIRMAN:

Q. That may probably be in the future, but what are they now?—A. For 1886, it appears on the investments we had made in these lines that they paid us about 11 per cent.

Q. With the aid of the main line?—A. With the aid extended by the main line.

Q. And without the main line you cannot calculate any percentage?—A. I cannot; no, sir.

Q. Will you tell me if the calculation upon the branch lines, at the rate allowed under constructive mileage upon the freight per mile, if you have it, would give the amount of the constructive mileage allowed from the main line? Look at this column of freight charges.—A. I do not know that I have made this statement perfectly plain to you. These are not the earnings of the branch lines. These are the earnings of the Union Pacific line on business turned over to it by the branch lines.

Q. And not the amount of freight carried over the branch lines?—A. No, sir.

Q. Have you a table anywhere that shows the amount of freight by weight carried per mile over the branch roads?—A. Yes, sir; that is all detailed in our annual reports. It is not detailed for every branch in our report, but detailed for the more important branches. Here is the Denver, South Park and Pacific. Such statistics in relation to the passenger and freight business as we compiled with reference to that road are set out on page 37 of our report. I do not know whether that gives you what you want.

Q. This is only over the branch road?—A. Yes, sir.

Q. Have you any table showing the distance, as an illustration, which this freight was carried over the main line?—A. No, sir; I have not.

Q. What other table did you hand Mr. Adams to aid him in forming his estimate of the constructive mileage system?—A. I think it must have been this table, or one somewhat like it, that he had in mind.

Q. What aid did they give him?—A. I do not know, I am sure. That is the table that has always been in my mind, I know, when this question of constructive mileage has been under discussion. The advantages derived by the Union Pacific Company from the interchanged business are shown on that statement.

Q. What information would that give as to the estimate of the amounts, under the constructive mileage system, carried off from the main line to the branches?—A. That would give no information.

Q. Is this, then, the only memorandum that you recollect?—A. Yes, sir; that is the only one.

Q. I understand you to say there is no table showing how far you have carried the freight by weight per mile from the branch lines over the main line?—A. No, sir.

Q. Are the charges the same as along the branch lines.

The WITNESS. Are the charges on the main line the same?

The CHAIRMAN. Yes; for the distance carried.—A. No, sir; I presume they are very much less on all business, whether going from the branch or whether originating on the main line itself.



## TRANSCONTINENTAL BUSINESS.

Commissioner LITTLER. Tell us how much the Union Pacific made on its through business.

The WITNESS. In 1886 the earnings from through, that is Pacific coast, business were \$1,334,000 as compared with \$1,798,000 in 1885.

Commissioner LITTLER. Is that the net earnings?

The WITNESS. No, sir; those are the gross earnings.

Commissioner LITTLER. Of the main line, from Ogden?

The WITNESS. No, sir; the earnings of the Union Pacific Railway Company, derived from what we call our Pacific coast business—the transcontinental business.

Commissioner LITTLER. It must have been a great deal more than that.

The WITNESS. That is all, \$1,300,000. It is set out on page 21 of our report.

Commissioner LITTLER. Does that represent the net earnings of the consolidated Union Pacific Railway Company?

The WITNESS. That is of the Union Pacific Railway Company proper.

Commissioner LITTLER. I do not mean the old line; I mean the consolidated Union Pacific Railway, which embraces the Kansas Pacific and the Denver Pacific and the main line from Ogden east.

The WITNESS. That is quite right. The 1,800 miles comprising the Union Pacific Railway Company?

Commissioner LITTLER. Yes.

The WITNESS. The revenue on that business was  $\frac{5}{100}$  of a cent a ton a mile in 1886.

Commissioner LITTLER. How much did it all amount to?

The WITNESS. The tons one mile?

Commissioner LITTLER. No, I mean the aggregate earnings of the line, as described.

## GROSS EARNINGS OF UNION PACIFIC IN 1886.

The WITNESS. The aggregate earnings of the Union Pacific Railway Company in that year were \$15,769,588.87, and of that \$1,334,049.47 was derived from this transcontinental business.

Commissioner LITTLER. Explain how it is that you have the earnings on page 22 of your report at over seventeen millions of dollars.

The WITNESS. Those are the earnings of the Union Pacific system. The earnings which you asked me to confine my statement to were the earnings of the Union Pacific Railway Company.

Commissioner LITTLER. As consolidated in January, 1880.

The WITNESS. That is quite right; yes, sir.

Commissioner LITTLER. According to this, it is seventeen millions of dollars and something, at page 22.

The WITNESS. Oh, I beg pardon; I will give the details of that. That includes all the other items of earnings. The statement on page 22, \$17,806,000, is made to include the transportation of the mails, the express, our rents from buildings, income from miscellaneous sources, and not only the ordinary passenger and freight traffic, which I had in my mind, in giving the figures at page 20.

Commissioner LITTLER. The figures you have already given me, with the several items going to make up that statement there, embrace the total amount of earnings of the Union Pacific Railway system, do they not?

The WITNESS. On this statement, Exhibit 1, of this date?

Commissioner LITTLER. Yes.

The WITNESS. No, sir.

Commissioner LITTLER. What other sources of revenue or income are there?

The WITNESS. This statement, Exhibit No. 1, of this date represents merely the passenger and freight earnings of the Union Pacific Railway Company (that is the line colored in black on the map on the wall), on the business interchanged with, or turned over to it, by its various branch lines.

Commissioner LITTLER. I do not think you comprehend my question. My question is whether this figure, \$17,000,000, added to the total amount of that sheet, does not represent the entire earnings of the railway system? If these two items do not, what else is there?

The WITNESS. No, sir; I will explain that to you again. If you will turn to page 99 of our report for 1886 you will find there a statement of the earnings and expenses for the years 1886 and 1885. The gross earnings of the company were \$17,806,132.59.

Commissioner LITTLER. Those are the same figures we had on page 22.

The WITNESS. Precisely; they are set out there in detail. Included in these earnings, under the head of passenger and freight, are the sums which are shown on my Exhibit No. 1 of this date. They form a part. In other words, while the Union Pacific Railway Company earned \$17,806,000 without the assistance of these branch lines, the earnings would have been \$5,500,000, in round numbers, less, in all probability. That is the reason I submit that statement. It shows the value of the branch lines to the Union Pacific Company, the company on whose roads the Government has a second mortgage.

#### BENEFITS OF BRANCH LINES.

Commissioner LITTLER. If your theory was correct, the acquisition of these branch lines was of great benefit to the main line?

The WITNESS. Yes, sir; I believe it to have been so.

Commissioner LITTLER. And if they turned out to be a burden, it was a mistake to make the investment?

The WITNESS. Yes, sir.

The CHAIRMAN. Have you any way to determine whether they have been a burden or a help? That is what I have been trying to get at for some time as a Commissioner. Can you inform me where I can obtain the figures showing whether they have been a benefit or a loss?

The WITNESS. I think there is no question but that they have been of very great advantage to the parent company.

The CHAIRMAN. Why?

The WITNESS. Because they have contributed such an enormous amount of business to the parent company.

The CHAIRMAN. What does that business amount to?

The WITNESS. Five millions and a half a year.

The CHAIRMAN. What does the company contribute to the branch lines?

Mr. ADAMS. It amounts to \$5,000,000, after deducting the amount paid on constructive mileage.

The CHAIRMAN. The \$5,000,000 is the net amount, after deducting the constructive mileage?

Mr. ADAMS. Yes,

The CHAIRMAN. I understood Mr. Mink to say it was the gross.

The WITNESS. I do not know that I understood you.

Mr. ADAMS. I see where Mr. Mink has been troubled. We will suppose that the amount of joint business is \$100. That is a good sum for illustration. Divided upon a straight mileage basis, \$10 would have gone to the branch lines and \$90 would have gone to the main line. Divided upon the other basis, \$30, on constructive mileage, we will suppose, would go to the branch lines, and \$70 to the main line, instead of \$90 to the main line, as before. Therefore, the constructive mileage represents \$20. After deducting that \$20, and allowing it to the branch lines, there is still \$5,000,000, Mr. Mink says, over all business of the branch lines.

The CHAIRMAN. Is that correct?

#### AMOUNT EARNED ON BRANCH LINE BUSINESS.

The WITNESS. My statement was intended to show this: How much money does the Union Pacific Railway Company earn itself on business that it receives from or interchanges with the branch lines; that is, wholly independent of the amount we allow to the branch lines in the way of constructive mileage. My statement shows our share. After allowing the branch lines their constructive mileage, whatever it may have been, our share of the earnings was \$5,500,000.

The CHAIRMAN. Then how much did you allow to the branch lines through the constructive-mileage system?

Mr. ADAMS. An unknown quantity represented by X. After allowing it, whether it is greater or less, there is \$5,000,000 left over.

By the CHAIRMAN:

Q. Mr. Mink, if you had added into the gross sum, or the net earnings of \$5,000,000, the constructive mileage that you charged off the main line would have had so much greater profit. What would have been that profit?—A. I cannot tell you, I do not believe that it would ever amount in any one year to \$1,000,000. I cannot believe that it does.

Q. Suppose it amounts to \$1,000,000, and you have a deficit already on your branch lines of \$1,500,000, and your profits are only \$200,000, you have a further deficit of \$800,000?—A. That is, after taking in the entire amount of interest on all these bonds. We do not collect all the interest nor charge it all up. We carry over any coupons the amounts of which may not have been fully earned. But, taking the thing just as it stands, we have 11 per cent., in round numbers, from our investment. Now, if the allowances to the branch roads in the way of constructive mileage did amount to as much as \$1,000,000, that sum would have to be deducted from the direct income from the investments.

Q. So that the benefits would be just \$1,000,000 less per annum?—A. If that is the amount of constructive mileage in excess of the straight mileage allowance the direct benefits would have been so much less. But I do not understand on what principle anybody can claim we ought to interchange business on a straight mileage basis.

The CHAIRMAN. We are not arguing as to the system.

Mr. ADAMS. Allow me to interrupt. I have been turning that over in my mind, and I should like to look into the matter with Mr. Mink. I say now fairly, we cannot give you an exact answer to your question about the value of the constructive mileage. I am not clear but that with a little careful thought we could give an approximate answer to it. I think we can, after going over the matter with Mr. Mink. I stated

before it might be millions. Mr. Mink says less than a million. I should really like to see.

The CHAIRMAN. That is what we want.

The WITNESS. I have been hoping the statement would come along for the month of January, which would give us something to base a statement on.

Mr. ADAMS. Whatever it may be, there is still \$5,000,000 profit left over for us.

The CHAIRMAN. If it amounts to \$1,000,000 a year, in five years it would be \$5,000,000. The Government is interested to the extent of millions of dollars, and the Commission simply wants to ascertain where these figures are and what they are.

Mr. ADAMS. Undoubtedly; I should like to see if we cannot state it approximately; if we cannot state it approximately, I should like to see what we received at Council Bluffs.

The CHAIRMAN. When can you give it?

Mr. ADAMS. I should rather think in forty-eight hours.

The CHAIRMAN. That is what we have been after.

Mr. ADAMS. I will certainly do my best; it is an interesting question.

#### CONCERNING AMOUNTS RECEIVED FROM POOL CONTRACTS.

By the CHAIRMAN:

Q. How do you determine the amounts you received from your pool contracts per annum?—A. Those are determined from the contracts themselves, copies of which are always furnished to the accounting department, and settlements are made between the accounting officers of the different roads.

Q. What did they amount to last year?—A. I have no idea.

Q. How can we find out?—A. I am not sure but that I can give you the information here; but you will find out much more satisfactorily at Omaha about that.

Q. Will you give the amounts derived by the Union Pacific Railway Company from the pool contracts during the year 1886 and prior years?—A. I will try to furnish that. Back to the beginning?

The CHAIRMAN. Yes; just as far as you can go.

The WITNESS. Yes, sir; I will endeavor to get that, and furnish it to the Commission.

Q. When will you furnish it?—A. I should think that would take about a month to get ready; I will endeavor to furnish it to you while you are at Omaha.

#### AS TO REBATES.

Q. What was the total amount allowed in rebates during the year 1886 and the several years prior?—A. I cannot tell you here; I would have to refer to our office at Omaha for that.

Q. Does the total amount of rebates for one year appear anywhere in your general accounts?—A. It would always appear in the earnings account; the rebates are charged against the earnings.

Q. Will you give me the amount for the year 1886?—A. Yes, sir; the net rebates, overcharges, and pool balances for the year 1886 amounted to \$879,338.14 for the Union Pacific Railway proper.

Q. Can you determine to whom these rebates were allowed here in the general office at Boston?—A. No, sir; but detailed statements have been sent for a number of months to the United States Commissioner



at Washington; I kept no copies of them, but I presume copies were retained at Omaha.

Q. Where would an application for a rebate be made?

The WITNESS. By a shipper?

The CHAIRMAN. Yes; by the Standard Oil Company, for instance.

A. To our general traffic manager at Omaha.

Q. How would he refer it?—A. He would probably settle it himself, or, if he referred it at all, it would be to the general freight agent, his subordinate.

Q. Would that be the final decision?—A. It would rest with the general traffic manager; yes, sir.

Q. Would it be considered by the board of directors?—A. No, sir.

Q. How would they then determine the amount of rebates allowed from time to time; how would the directors be informed?—A. They are not informed, except as they may watch the current returns of the earnings and accounts of the company.

Q. How do they determine as to the wisdom of the rebates, if they are not familiar with the people that are allowed?—A. That I cannot tell you; that is a question of policy; I presume by conversation.

Q. Who directs that policy?—A. That would be directed by the president.

Q. Who would he inform as to his policy as to that particular line?—

A. The general traffic manager, Mr. Thomas L. Kimball.

Q. Would the applications for rebate be filed with the general traffic manager?—A. Yes, sir.

Q. Can he give the information individually concerning these rebates?

The WITNESS. As to the number of rebates paid?

The CHAIRMAN. Yes; to cattle dealers, or to the Standard Oil Company, over the line of the Union Pacific.

A. Yes, sir; or it could be furnished by the officers of the accounting department, who finally make the settlements. It would most naturally come through the accounting department.

Q. Will you furnish to the Commission an explanation, as Mr. Adams referred the Commission to you, in New York, with reference to your cash payments of \$900,000 to the Government?—A. Yes, sir.

The CHAIRMAN. Or \$283,000?

The WITNESS. I will produce the vouchers.

Mr. ADAMS. The payment was not made by Mr. Mink. The payment was made by Mr. Harris. I sent the bills over by Mr. Harris.

#### PAYMENT BY UNION PACIFIC OF \$916,704.02 TO THE GOVERNMENT.

In explaining the item of \$900,000 of reported payment made by the Union Pacific Railway Company to the United States Government, as testified to by Mr. Adams, president of the road, and by him referred to Mr. Mink, the comptroller, for explanation, the witness produced two original vouchers, amounting to \$916,704.02. These vouchers are as follows:

No. 206.

OFFICE OF ASSISTANT TREASURER OF THE UNITED STATES,  
Boston, Mass., April 16, 1885.

I certify that the Union Pacific Railway Company has this day deposited to the credit of the Treasurer of the United States two hundred and eighty-three thousand one hundred and sixty-two dollars and ninety-nine cents, on account of the credit of

the bond and interest account of the Union Pacific Railroad Company, under terms of the letter of this date of the Hon. Charles F. Adams, jr., president, to the Hon. Secretary of the Treasury, for which I have signed duplicate receipts.

M. P. KENNARD,  
*Assistant Treasurer of the United States.*

\$283,162.99.

Duplicate to be retained by the depositor.

Also the following :

No. 207.

OFFICE OF ASSISTANT TREASURER OF THE UNITED STATES,  
*Boston, Mass., April 16, 1885.*

I certify that the Union Pacific Railway Company has this day deposited to the credit of the Treasurer of the United States six hundred and thirty-three thousand five hundred and forty one dollars and three cents, on account of the credit of the sinking fund of the Union Pacific Railroad Company, under the terms of the letter of this date of the Hon. Charles F. Adams, jr., president, to the Hon. Secretary of the Treasury, for which I have signed duplicate receipts.

M. P. KENNARD,  
*Assistant Treasurer of the United States.*

\$633,541.03.

Duplicate to be retained by the depositor.

The WITNESS. While we are on that question I might refer you to the report of the United States Commissioner of Railroads for 1885, at page 16, where appears a statement of the method upon which the amounts were arrived at, a part for the bond and interest account, and part for the sinking fund.

Commissioner LITTLER. Has there been any controversy about this fact?

The CHAIRMAN. The controversy arises in this way: Mr. Adams, as president of the Union Pacific Railroad Company, communicated to Congress this fact: •

The company was found to be in debt to the Government in the sum of \$916,704.02. It was not until the 16th day of April that the above amount was ascertained in the office of the Railroad Commissioner and notified to the company by telegraph. The message was received at the Boston office at 1 p. m., and before 3 o'clock of the same day the amount of the judgment had been paid into the sub-treasury and a receipt taken therefor. This also notwithstanding the fact that the counsel of the company had advised that an appeal from the decision of the court should be taken.

In a statement furnished by the United States as to the cash payments made by the company no such cash payment appeared. Therefore we called upon Mr. Adams to make an explanation of the fact that no such cash payment appeared in the statement of the Secretary of the Treasury, and this is the explanation that is made.

Mr. ADAMS. That is the way they apportioned the amount; we had nothing to do with it.

The CHAIRMAN. Mr. Mink, what was that explanation you were going to make?

WHY NO SUCH ITEM APPEARS IN THE GOVERNMENT BOOKS.

Mr. JOHN F. DILLON. I will state that. The witness refers to the report of the Commissioner of Railroads for 1885, at page 16. At the foot of that page is the sum \$916,704.02, being the aggregate amount of the two certificates of deposit of the assistant treasurer, above set out. The same page of the Commissioner's report shows the division of this sum, as shown in the said receipts, appropriating \$633,541.03 to the sinking fund, and \$283,162.99 to the bond and interest account. These two sums make the \$916,704.02.

## CONCERNING FLOATING-DEBT ACCOUNT.

By the CHAIRMAN :

Q. There is another question which Mr. Adams referred to you—an explanation of the floating-debt account. Do you recollect the fact that you were to explain to the Commissioners the fuel and supply accounts, which appeared in some years and disappeared in others? I want to follow out this testimony that was referred to you.—A. Yes, sir; I remember his speaking about that. I think that was merely a question of propriety. Mr. Adams believes that the materials on hand are not proper offsets to the gross floating-debt of the company, although, of course, he admits that our liabilities may have been incurred to obtain the supplies—material and stores. I think myself the most conservative way is to leave it out.

Q. And that is your explanation, then, of the difference in the account, as referred to you by Mr. Adams, in his testimony in New York?—A. That is my explanation; yes, sir.

By Commissioner LITTLER :

Q. Can you give the gross amount of floating debt of the company?—A. Yes, sir; we set it out in great detail in the report. On December 31 last the gross amount of our floating debt was \$5,715,133.82. I will say, however, that our resources at that date were \$7,066,323.55. The resources, therefore, exceeded the gross floating debt by \$1,351,189.73.

Q. What do you mean by your resources?—A. Our cash on hand, and the balances due to us from individuals and companies. Those resources amounted to \$7,066,323.55 at that date. So that there was a balance of resources, over and above the amount of our floating liabilities, of \$1,351,189.73.

Q. Were they resources of cash, or the equivalents of cash?—A. Largely cash, or its equivalent. Some part of the bills and accounts receivable we should have to wait for, as do almost all other railroad companies.

Q. Were some of those sums due from other railroad companies on business?—A. Oh, yes; a very large proportion of the amount; and for repairs done to the equipment of other railroad companies; the usual balances of one railroad company against another.

The CHAIRMAN. In New York the question was asked Mr. Adams:

I find in your supplemental 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.

The WITNESS. That is quite right. If we ever get anything on account of that, we shall take it up to the credit of our profit and loss account. But we then looked upon it as so bad that we concluded to write it off.

## THE SYSTEM OF BOOK-KEEPING ON UNION PACIFIC.

By the CHAIRMAN :

Q. When did you change your system of book-keeping?

The WITNESS. With reference to what?

The CHAIRMAN. With reference to your general accounts?

A. There has been no radical change since the consolidation, in 1880; and prior to that time, I may say, there had been no very radical

changes. Changes are being made constantly, as our system increases in extent.

The CHAIRMAN. You do not mean to tell the Commission that your reports prior to 1880 are similar to those made since?

The WITNESS. No, sir; our reports have been changed very radically since 1884. In fact, we are now making a most elaborate report. Prior to that time we made a very meager report. Prior to 1880 we had never published balance sheets.

Q. At whose suggestion was the change in 1884 adopted?—A. The president.

Q. The president, Mr. Adams?—A. Yes, sir.

Q. Did your change of system entail a change of system in the detail of your accounting throughout the whole management?—A. Not to any very great extent. Of course we were obliged to call for somewhat more detailed reports from the road, but there was no very great change made in them. They were amplified.

Q. Then all the information that appears in your report to-day can be found by the Commission in detail in any of your books prior to the year 1884?—A. The greater part of it. Some particulars in relation to the tonnage and passengers carried, and statistical matters of that kind, may not possibly be on hand, but everything with reference to the revenues and expenditures can be found in great detail at Omaha.

#### AFTERNOON SESSION.

OLIVER W. MINK, being further examined, testified as follows:

#### AS TO CHARGES AGAINST UNION PACIFIC BRANCHES.

The CHAIRMAN. You have explained the methods of charges, without giving the amount, under constructive mileage and pooling arrangements. Will you please inform the Commission whether, under any contract or agreement, there are other charges made from the main line to the branches, or other sums received by the main line?

The WITNESS. In the nature of a traffic agreement?

The CHAIRMAN. Yes.

The WITNESS. I know of none, excepting those that grow out of constructive mileage. The rebates are distributed in the accounts against the roads that have received the earnings in the same proportions in which the latter were received, of course.

The CHAIRMAN. You know of no contract or agreement other than a pooling contract or constructive-mileage arrangement?

The WITNESS. That would affect the earnings?

The CHAIRMAN. Yes.

The WITNESS. No, sir; I know of no others. There are two cases or special contracts, one with the Saint Joseph and Grand Island, and the other with the Oregon Short Line, described in the testimony the other day. Those are essentially traffic contracts. I include those under the term of "traffic agreements," or arrangements, and under which constructive-mileage allowances are made.

#### LEGAL EXPENSE ACCOUNT.

By the CHAIRMAN:

Q. Have you the vouchers in the legal expense account?—A. Yes, sir; these are the vouchers for 1883. I produce them also for 1884 and 1885.

(The witness produced the vouchers against the legal-expense account at Boston for the years 1883, 1884, and 1885.)

Commissioner LITTLER. I expect we will find how much they have paid to Judge Dillon.

Mr. HOLMES. I am ashamed of my own, since they went into the economical streak a few years ago.

Commissioner LITTLER. Sidney Bartlett, \$1,000.

The WITNESS. Mr. Bartlett is our general counsel.

Q. Was Mr. S. Bartlett counsel for the road in the year 1883?—A. Yes, sir; he has been our counsel for a great many years.

Q. How is he paid?—A. Now he is paid a fixed compensation.

Q. How was he paid in 1883?—A. There was no fixed compensation then. It was such sum as might be agreed upon from time to time.

Mr. JOHN F. DILLON. My relation is that of general solicitor. All the reports are made to me from the road, and I have the supervisory control of the actual litigation. If you care to have a statement of the general organization of the legal department and the general cost of compensation to counsel, I can give you that.

The CHAIRMAN. I find a voucher here:

HARRISBURG, PENN., June 12, 1883.

*Credit Mobilier of America in account with M. E. Olmstead, Dr.*

To professional services in securing the withdrawal of the company from the list of delinquent corporations whose charter was declared forfeited by the governor of Pennsylvania, and the adjustment of the State taxes, and capital stock, for the years 1879, 1880, 1881, and 1882..... \$100  
Dated JUNE 12, 1883.

The WITNESS. Yes, sir; I presume that sum was expended in connection with the acquisition by our company of the stock of the Credit Mobilier of America. You remember Judge Dillon explained that we had acquired that stock to protect ourselves from the suits that were pending against us on the part of the Credit Mobilier. Judge Dillon can explain the legal aspects of that case better than I can.

Mr. JOHN F. DILLON. I can tell you. I advised that expense. The Union Pacific, to protect itself against claims actually asserted in courts in this State for over \$6,000,000, acquired in the way I stated the other day all or nearly all of the stock of the Credit Mobilier of America. The State of Pennsylvania passed an act, as I recall it, providing that if any corporation of the State failed for a certain length of time to pay its taxes that its charter should be forfeited. They included in this list the Credit Mobilier of America. I had a consultation with Mr. Bartlett, by correspondence or otherwise, as to whether we would suffer if the Credit Mobilier charter—I mean by “we” the Union Pacific—were forfeited or kept alive. The result of the consultation was that we concluded we would suffer by allowing that charter to be forfeited, and I, hence, advised the payment of those taxes, and that expense was incurred in connection with that advice, as I suppose. I do not recall Mr. Olmstead; but I have no doubt that is the explanation. The point of your inquiry is, what interest the Union Pacific had.

The CHAIRMAN. That is the point.

Mr. JOHN F. DILLON. It has the interest of being almost the sole stockholder in that company.

Commissioner LITTLER. Did I understand you to say you approved all these vouchers for legal expenses?

Mr. JOHN F. DILLON. No; I cannot say that I approved all of them. I looked them over this afternoon, and some of them I am not familiar with. They were paid here.



Commissioner LITTLE. Is it a part of your duty to approve all counsel fees?

Mr. JOHN F. DILLON. All services rendered under my direction, or with my knowledge, naturally come to me for approval.

Commissioner LITTLE. You are the general solicitor of the company?

ORGANIZATION OF LAW DEPARTMENT OF UNION PACIFIC.

Mr. JOHN F. DILLON. Perhaps I ought to give you—and if there is no objection I will do so—the general scheme of the company's legal organization. When I was appointed general solicitor I issued an order organizing the law department, or prepared it for the president to issue, by which Mr. Poppleton was appointed the general attorney of the Union Pacific division and Mr. Usher was appointed general attorney of the Kansas division, and all the local attorneys were directed to report to them respectively, and they were required to make semi-annual reports to me of the litigations of the company along their lines and in their respective charges. That arrangement continued until this year, when, finding it led to some confusion and difficulty in having two heads out there, we enlarged Mr. Poppleton's immediate jurisdiction, so as to include the Kansas business, and subordinated Judge Usher's business to him; so that all the local attorneys report now in the first instance to Mr. Poppleton at Omaha, and he makes semi-annual reports to me of the litigations. I have in my hand, for instance, the thirteenth semi-annual report showing a detailed account of all the litigation under his direction, covering 140-odd pages, giving the condition of each particular suit. I believe you were directed to investigate salaries. I receive, and have from the beginning received, the sum of \$10,000 a year. I not only give attention to the supervision of litigations, but they are entitled to ask me for my opinion and for my advice and direction and assistance in respect to any matters occurring in their respective departments, and I am in daily and constant communication with them. I have latterly argued in the Supreme Court all of the cases of the company. For two or three years I did not do that. When I was connected with the college Messrs. Shellabarger & Wilson did that; but latterly I have taken charge of all the appellate business of the company in Washington, and argued it myself.

Commissioner LITTLE. How many attorneys receive more than \$5,000?

Mr. JOHN F. DILLON. Mr. Poppleton's compensation from the beginning has been, I think, \$10,000 a year, until one or two years ago, when, in consequence of our taking on enlarged mileage and additional roads, he complained that it was too little. He had been complaining for several years, and asked really to be relieved, but we considered him to be, and I regard him as being, a most valuable man in every respect.

Commissioner LITTLE. I know him personally.

Mr. JOHN F. DILLON. And we increased his salary to \$12,000, at which it now stands. Judge Usher's salary was \$8,000; Shellabarger & Wilson's originally was \$10,000, but when my appointment was made, as my appointment would relieve them to some extent of the work which they would otherwise do, their salary was cut down to \$5,000 a year, which it is now. Mr. Poppleton has an assistant whose salary I do not now recall—\$4,000 or \$5,000 a year, or something like that. Mr. Usher has an assistant, Mr. A. L. Williams, whose salary has been \$4,000 a year until recently. They all complain that it is too little, of course. When I came here Mr. Holmes had been for years

the attorney of the Kansas Pacific. His salary was cut down to \$4,000, and afterwards, when we felt poor, very much against his protest it was cut down to \$2,000 a year, at which it stands now.

Mr. HOLMES. That is right.

Mr. JOHN F. DILLON. During the entire time that I have been counsel to the company, although I have made trips to Kansas and elsewhere on the important litigations, so far as I recall, I never presented any account for extra compensation except in one instance. The company had a long litigation with the Government involving several millions of dollars, connected with the mail transportation services, and in respect to net earnings under the Thurman act, the record of which covers twelve to fourteen hundred pages of printed testimony, and I was three weeks in Washington trying the case in the Court of Claims, assisted largely in its preparation, and argued it, I think, three times in the Supreme Court, and I think they allowed me \$2,500. Half of that went to my partner, because I had taken my time out of the office and away from the city.

Commissioner LITTLER. Are you allowed to attend to other business?

Mr. JOHN F. DILLON. Yes, sir; but I do not seek it. My firm does, to some extent, do other business, but my first and primary obligation is to the Union Pacific, which everybody else understands. I wish to add, generally, that from my knowledge of what other corporations pay, I do not believe there is a great corporation in the United States where the legal expenses are as low as in this company.

Commissioner LITTLER. You have about 5,000 miles of road in your system, including the Central Branch?

Mr. JOHN F. DILLON. Including our auxiliary lines we have 5,000 miles of road.

Commissioner LITTLER. Is it your duty to approve all the bills for extra legal services at this end of the line?

Mr. JOHN F. DILLON. Yes, sir. I would not say that; either Mr. Holmes or myself.

Commissioner LITTLER. I wish you and Mr. Holmes would look at these several items and explain them.

Mr. JOHN F. DILLON. I have no control over Mr. Bartlett. He is here.

Commissioner LITTLER. Those do not refer to Mr. Bartlett. There is \$1,000 to Sidney Dillon. Do you know what that was for, judge?

Mr. JOHN F. DILLON. No, sir; I do not. Mr. Holmes thinks he knows.

Mr. HOLMES. The answer as to that voucher of March 6, 1884, is this: If my recollection serves me, the payment of \$1,000 was a part of the consideration of the settlement of a lawsuit against the company, in which the attorneys' fees or the counsel fees were required to be paid as a part of the consideration. It was paid through Mr. Sidney Dillon.

Commissioner LITTLER. Do you know what lawsuit that was?

Mr. HOLMES. It was in connection, I think, with some of the Kansas Pacific income bonds.

Commissioner LITTLER. Here in the East?

Mr. HOLMES. In New York.

Commissioner LITTLER. That is a species of blackmail on the company, you think?

Mr. HOLMES. I did not mean to say that. The company settled it for \$20,000. It made no difference whether the principal received \$19,000 and the counsel \$1,000, or whether it was all paid to the principal and he distributed it.

Commissioner LITTLE. Do you know anything about these charges, one in favor of Mr. McDonald and the other Mr. Williams; is that Mr. Williams's salary?

Mr. HOLMES. Yes, sir; that is Mr. Williams's, and is on account of his salary.

Commissioner LITTLE. That is his quarterly stipend. Do you know a Mr. McDonald and what that service was?

Mr. JOHN F. DILLON. I know a Mr. McDonald, of New York. I do not know what that service was. I never saw the voucher before, to my knowledge.

The CHAIRMAN. Can you bring us the vouchers for 1880, 1881, and 1882?

Mr. JOHN F. DILLON. I will suggest that you take those to your room and examine them, and if any particular voucher requires explanation that you call the attention of the appropriate witness to it. I should say, as counsel for the company, that our private affairs should not be put before the whole world.

Commissioner LITTLE. I am willing to shield you all we can.

Mr. ADAMS. We do not require any shielding.

Commissioner LITTLE. There are some things which are proper enough of themselves which the public press have no right to. I do not mean by the use of the word "shield" that you need to be shielded from some illegitimate or improper conduct. That is not what I meant.

Mr. JOHN F. DILLON. The Commission understand that I have advised that you have access to every paper in this office.

Commissioner LITTLE. Yes, sir; we understand that.

The CHAIRMAN. The Commission is charged with investigating the account where it is alleged that there are hundreds of thousands of dollars of unlawful charges and charges that are made for illegitimate purposes by the railroad company, for the purpose of securing legislation, and that those items have gone into your legal expenses; and, in justice to you, we want to ascertain all about it.

Mr. JOHN F. DILLON. I want you to see every one of them, and if you find any evidence of that I want you to bring the voucher here and subject everybody to the most scrutinizing examination.

Mr. ADAMS. I will say to you, governor, that so far as money has been expended in connection with Congressional business for the last three or four years, it has been entirely under my direction, and Judge Dillon has known nothing of it whatever.

The CHAIRMAN. We do not charge that anybody knows anything about it. We want to know who knows.

Mr. ADAMS. The vouchers will be before you. I will account for every dollar. There is not much to account for.

The CHAIRMAN. What vouchers do you refer us to as expenditures in the direction of Congressional interest?

Mr. ADAMS. Where are those filed?

The WITNESS. Those are among the papers that Governor Pattison has in his hands.

The CHAIRMAN. Will you just refer to them?

The WITNESS. The Commissioners have the vouchers for three years before them now, and I will now proceed to get out the vouchers back to 1880.

The CHAIRMAN. The Commission simply wants to satisfy itself in respect to the vouchers, and it is more convenient to do it here than it is to take these vouchers from this office.

Mr. ADAMS. We have heard a great deal about this, and we would like to have you entirely satisfied.

The WITNESS. We are making a detailed statement of all these expenditures.

The CHAIRMAN. The Commission has thought of taking the miscellaneous and legal expense vouchers, and letting those go to the accountants; but those two have been specially referred to us. We will either take them up here, or take them to the hotel. We also wish to prove by your vouchers the total amount of your charge.

Mr. JOHN F. DILLON. I see some items here among these vouchers—one I notice in looking them over—where they charged to legal expenses the amount which the company paid to satisfy a judgment against it. But legal expenses strictly I understand to be the expenses of the law department, and not the satisfaction of claims against the company.

The CHAIRMAN. And therefore we examined them; that is the purpose.

Mr. ADAMS. It is unnecessary for me to say that this room is entirely at your service for what you might call an executive session of your Commission.

The CHAIRMAN. If you will leave these vouchers with us we will not take any more testimony to-day. We do not wish to carry these vouchers to the hotel.

Mr. JOHN F. DILLON. I would like to ask Mr. Mink a question or two on what he went over this morning, if you have no objection.

The CHAIRMAN. None whatever.

#### BRANCH LINES OF WHICH UNION PACIFIC OWNED THE STOCK.

By Mr. JOHN F. DILLON:

Q. You enumerated a list of auxiliary or branch lines, in your testimony this morning, showing those roads in which there was a deficit, and then gave another list in which there was a surplus, or net income. In the first class, namely, where you stated there was a deficit of net income, were those generally roads in which the Union Pacific Company held in its treasury, as an asset, the stock and bonds of the branch lines, speaking generally?—A. They were; yes, sir.

Commissioner LITTLE. In order that I may not have to cross-examine, I would like him to state right there whether the Union Pacific Company owned all the stock and all the bonds of any one of those branches; and, if so, let him name them.

Mr. JOHN F. DILLON. I will let Mr. Mink give that now.

The WITNESS. On page 120 of our report for 1886 is a statement showing the stock issued by each one of these various lines, the amount owned by the Union Pacific Company, and the amount owned by outsiders, or, as we call it, "afloat." Under the head of "operated roads," each one is enumerated there. On the other side, on page 121, is a similar statement in relation to the bonds.

Q. There are very few of them in which you owned the entire issue?—A. No, sir; on the contrary, you see there are a large number. Out of \$44,000,000 of stock we owned \$35,900,000. That leaves about \$8,000,000 afloat, of which \$6,000,000 is on the Oregon Short Line. The balance is made up of small lots in connection with other companies. The other statement on the opposite page, in relation to the bonds issued, shows that out of \$41,198,000 in bonds issued the Union Pacific Company owns \$23,507,000, leaving afloat \$17,691,000. The bulk of that amount is on

account of the Oregon Short Line. That line was built almost entirely by outside money.

Mr. JOHN F. DILLON. Is that an answer to your question?

Commissioner LITTLER. Yes, sir.

Mr. JOHN F. DILLON. Turn to some of the roads where you reported a deficit.

The WITNESS. The Salt Lake and Western is one.

Q. When, therefore, you reported, as for example in the case of the Salt Lake and Western Company, that for the year 1886 there was a deficit of income of \$35,416.75, I will ask you whether that is a deficit which remained after full payment of interest on all of its outstanding bonds?—A. It was.

Commissioner LITTLER. It appears that the company owns the entire issue of stock. It owns the entire property.

Mr. J. F. DILLON. State how much stock and how many of the bonds of that company the Salt Lake and Western, the Union Pacific owns as an asset in its treasury.

Commissioner LITTLER. You will find it on pages 120 and 121.

The WITNESS. Yes, sir; they owned \$1,080,000, or all of the stock issued by that company, and \$1,080,000, or all of the bonds issued by that company.

Q. In the account on page 57 of the Salt Lake and Western, is an item deducted among other things from earnings, entitled, "Interest on bonds, \$64,800." That is interest, as I understand you, on bonds in the company's treasury?—A. In the Union Pacific Company's treasury.

Q. And was not an amount paid out of its treasury to somebody outside?—A. No, sir.

Q. And the only reason there is a deficit is that you have in stating the account which shows such a deficit assumed and treated the bonds as being outstanding?—A. That is right.

Q. In point of fact, not including the item of interest on your bonds what was the state of the account, or what would have been the state of the account?

The WITNESS. The net earnings of all of the auxiliary lines?

Mr. J. F. DILLON. I mean of that particular road. It shows a deficit of \$35,000?—A. In point of fact, so far as that road is concerned, there was a surplus of \$29,383.25, which was not enough, of course, to meet the full year's interest on the bonds issued by that company, but as far as it would go it was applicable to the interest account.

Q. So that the Union Pacific did not have to put its hands into its purse and pay \$35,416.75 out to somebody else?—A. No, sir; on the other hand they received \$29,383.25 from that road.

#### NET EARNINGS OF AUXILIARY LINES, FOR 1886.

Q. Letting that stand as an example, I will ask you whether you can state to this Commission how the account stands as to the deficit and income in respect of all the auxiliary lines of the company for the year 1886?—A. The net earnings of the auxiliary lines for 1886 amounted to \$1,472,471.69.

By Commissioner LITTLER:

Q. What is the deficit of those?—A. Those were the net earnings; the fixed charges against these various properties, so far as the amount went into the hands of or was payable to the public, amounted to \$1,298,399.17; so that there was a balance of nearly \$200,000 remaining in the hands of the company.



By Mr. JOHN F. DILLON:

Q. That is to say, taking all the auxiliary companies together, you had nearly \$200,000 of cash surplus over and above every dollar which you paid out to the outside world?—A. That is quite right; yes, sir.

Commissioner LITTLER. You are trying to demonstrate that while some of these trades were bad, taking them altogether they averaged up?

Mr. JOHN F. DILLON. Yes, sir.

Mr. HOLMES. That is right; that is a fair statement.

#### CONSTRUCTIVE MILEAGE.

The CHAIRMAN. Mr. Adams, will you furnish the statement that would approximate the constructive mileage account as turning over the earnings from the main line to the branch lines, as stated this morning?

Mr. ADAMS. We will endeavor to furnish it. I think it very doubtful whether it will be in my power to furnish it as soon as I thought I might—48 hours—because as I think the thing over I find the problem is an immensely complicated one. We can furnish it for you approximately, I think, by the time you reach Omaha, when you will have all our commercial departments to examine; and then we should be very happy to bring before you any experts in the matter of these divisions and methods of railroads, from other roads or other companies, that you desire.

The CHAIRMAN. Do you leave your railroad agents to determine your principles of railroading?

Mr. ADAMS. The principles of railroading have grown up through a course of fifty years, and we find them already determined and adopt them. I do not think I have been called on until very recently to adopt new principles of railroading. I should as soon think of talking of new principles of banking.

The CHAIRMAN. Will you please explain to me the principles of railroading; I would like to know what are the principles?

Mr. ADAMS. The one we have been discussing, that of constructive mileage?

The CHAIRMAN. It is no principle, because it is not susceptible of proof.

Mr. ADAMS. I think it is susceptible of proof.

The CHAIRMAN. How?

Mr. ADAMS. It is susceptible of proof if we can prove it to you, for instance, from the 1st of January, since we have been keeping our accounts. There is no trouble about that.

The CHAIRMAN. But before that, can you prove it as a principle of railroading?

Mr. ADAMS. Before that, in order to prove it, as I say, it would necessitate going back, with immense labor, and doing all the work of years over again. Then it could be proved.

The CHAIRMAN. Has the principle ever been actually demonstrated by an account of figures?

Mr. ADAMS. What principle?

The CHAIRMAN. Of constructive mileage.

Mr. ADAMS. I do not know whether it has or not. It has been in use throughout the United States.

The CHAIRMAN. Then how do you assert, as a railroad president, representing a large railroad interest, that it is a true principle for the proper conduct of a railroad?

Mr. ADAMS. Because, before I was a railroad president I was a railroad arbitrator; before I was a railroad arbitrator I was a railroad commissioner, and I have been concerned actively in these matters for twenty years, but I have never yet seen the day when constructive mileage was not recognized as a principle between railroads, and I have accepted it as such.

Mr. JOHN F. DILLON. Suppose the Union Pacific was one line, and the Oregon Short Line was another, and they were independent roads, each fixing a tariff of its own, just as the Union Pacific is independent from the eastern railroads, you say to the eastern roads, "We have got to have a mile and a half for a mile on your roads," do you not?

Mr. ADAMS. Yes.

Mr. JOHN F. DILLON. They yield it to you, and you call it constructive mileage, but in point of fact it is you fixing what is a reasonable compensation under the circumstances to yourself, and they fixing what is a reasonable compensation out of the joint earnings to themselves. That is constructive mileage, is it not?

Mr. ADAMS. That is it.

Mr. JOHN F. DILLON. That is all there is of it.

Mr. ADAMS. I have explained it.

The CHAIRMAN. What does it amount to?

Mr. ADAMS. It amounts to a great deal.

The CHAIRMAN. What is the amount in money?

Mr. ADAMS. I explained it in New York the other day. When I first came in contact with this question of constructive mileage I was a railroad commissioner of Massachusetts, many years ago. There it was universally recognized. The branch lines up in the country pick up business or peddle it out in small quantities at many stations; the connecting line went to the terminal point in the city. It was always a custom to say that the road which picked up the business in small quantities and turned it over to the main line should have a constructive mileage allowance made to it. It seemed to be right. It was universally done, and I believe it to be right. I never heard it disputed or denied by any man. Afterwards, as a railroad arbitrator, the same principle always applied. Subsequently, when I became president of a railroad, I came in contact with the same principle, and it was applied to me, and I applied it to others. It was a question for arbitration. Exactly how much it amounted to in any particular case, measured in dollars or cents, I do not think ever was computed. I never heard it computed. We can compute it, if necessary, with a sufficient amount of labor, but the principle or the justice of the thing I never heard disputed. The whole matter has been before the United States Court of Claims.

Mr. JOHN F. DILLON. Let me ask him, if you will allow me, because I think we want these figures —

The CHAIRMAN. That is what we are after.

Mr. JOHN F. DILLON. Mr. Kimball testified in the mail case in regard to this matter as follows. He says:

Our immediate connections were with the Kansas City, Saint Joseph and Council Bluffs, the Chicago, Rock Island and Pacific, the Chicago and Northwestern, the Chicago, Burlington and Quincy, and, through them, with all the roads of the country.

That is correct?

Mr. ADAMS. Certainly.

Mr. JOHN F. DILLON. On this interchange of business he was asked:

What ratio of division was agreed upon and accorded to the Union Pacific, and upon what principle was it accorded?

He answered:

Our connecting roads in the interchange of business known as local business from Council Bluffs to Ogden, from one terminus to another, paid us a rate that was recognized by all the connecting roads as fair and reasonable, which was about twice as much per mile as those roads charged from New York to Omaha. On our interchange business, through tariffs generally, we were allowed the equivalent of a mile and a half to the mile, or 50 per cent. more than they charged.

How does that answer correspond with your understanding of the facts?

Mr. ADAMS. That is what I stated to-day.

Mr. JOHN F. DILLON. Is that allowance, or some substantial allowance of that character, still made by those Eastern roads in favor of the Union Pacific?

Mr. ADAMS. Yes, certainly.

Mr. JOHN F. DILLON. He says further:

Q. Give the principle on which this is done.

The answer was, and I will ask you how far you concur in it:

The principle and primary reason would be that the country through which the Union Pacific trains run was so sparsely settled that it was impossible for us to secure from that country the contributing local business that these roads lying east of us secured from their local territory. I could illustrate that if you cared to hear it. I can do it on the basis of the census of 1870, but it would take some time to look it up. Perhaps that of 1880 would answer your purpose as well. Taking the population by counties in the Territories and the State of Nebraska, through which the Union Pacific Railroad runs, I find that in Nebraska we have a population of 101,275. Upon our line in Colorado, by counties, we have 5,646; in Wyoming, 20,787; Utah, 19,053; total, 146,763, or an average per mile of 142. By comparison with the population of the Eastern States in the same way by counties located on the line of the Missouri Pacific, I find that that road has in the State of Missouri 2,310 to the lineal mile of main line. The Chicago, Burlington and Quincy in Iowa have 804 to the mile. In Illinois the same road has 3,383. The Pittsburgh, Fort Wayne and Chicago, in Ohio, has 3,269 per mile. The New York Central has 5,816 to the mile in the State of New York.

He adds:

I take it for granted that it is generally conceded that the support of the passenger trains is largely dependent upon the local population immediately adjacent to the route through which the trains run, and in fixing upon the rate that will pay a reasonable profit over and above the cost of transportation, that ratio of population is to be considered, and in making rates in connection with these Eastern roads running through a more populous country we have always considered it to be our right, and they have always conceded it, to demand a much greater rate per mile for passenger transportation than they had, and in a division of through rates they have always recognized that principle.

Now, as a railroad expert, what have you to say in regard to the general soundness of that principle?

Mr. ADAMS. I entirely confirm it.

Mr. JOHN F. DILLON. I ask you to explain it. How does that principle apply as between the Union Pacific and one of these branch lines?

Mr. ADAMS. It applies in a way that I described the other day: The branch-line business is the most profitable business a main line can possibly do. All a main line in that case has to do is to hitch a locomotive to a train and pull it over its line, turning it over to the branch line. Then the branch line pulls one car 30, another 40, and another 50 miles, and distributes it, making more or less profit, but it is the most profitable business that a main line does.

The CHAIRMAN. Why should the main line pay for the development of a country?

Mr. ADAMS. Because it derives most of the benefit from it.



The CHAIRMAN. Now?

Mr. ADAMS. Now; yes.

The CHAIRMAN. Then will you give the Commission the amount of money under the constructive mileage system that was charged off from the main line to the branch lines during the year 1885?

Mr. ADAMS. It can only be done as the result of the elaborate work I have described; that is, going through and revising every contract we made for shipments or passengers during that period on a different basis from that upon which it was divided. It can then be done. But the work would be one which would appal me.

The CHAIRMAN. Will you give the Commission an approximate amount?

Mr. ADAMS. It would be little better than a guess.

The CHAIRMAN. Will you give the Commission the benefit of the guess?

Mr. ADAMS. I shall have some basis to go on later. What was the income of our branch lines?

The WITNESS. The gross earnings?

Mr. ADAMS. Yes.

The WITNESS. About \$9,000,000.

Mr. ADAMS. And on the main line how much?

The WITNESS. Eighteen millions of dollars, in round numbers.

Mr. ADAMS. The branch lines, you say, earned \$9,000,000 gross. In that was all their local business, which must be deducted, of which we had no share whatever. Have you any data?

The WITNESS. Not a thing.

Mr. NORRIS. Three million dollars, purely local.

Mr. ADAMS. That has nothing to do with it. This is a different thing. This is the amount on the main line, not what the local lines did. Really, governor, I should be unwilling to guess. I might be perfectly wild in my guess.

The CHAIRMAN. Do you require time to think over it?

Mr. ADAMS. Yes; I should have to get some data on which to base even a guess. For instance, if I were going to reach such a conclusion as you wanted in a short space of time my present impression is that I should take the case of one hundred miscellaneous shipments of a given line, taking the interchange shipments, and strike an average, and suppose that that about represented the whole.

The CHAIRMAN. Will you give us the benefit of that calculation?

Mr. ADAMS. Undoubtedly, when I can make it.

The CHAIRMAN. In what time?

Mr. ADAMS. As I said before, I should think that to get at this matter properly your best course would be to take it up in Omaha, where you would deal with the people who do the business.

The CHAIRMAN. I want your judgment.

Mr. ADAMS. I shall give it to you then. I shall hope to be there at that time; but you must understand that I have never been either a freight agent or passenger agent. I came into railroading from the outside, and was educated in a different school in railroading. These are matters of special knowledge. The way I should reach my conclusion would be by myself examining those who had been accustomed to direct and handle the business for years. I never handled it myself.

The CHAIRMAN. This is an accepted and settled principle of railroading, in your judgment?

Mr. ADAMS. That much I do know.

The CHAIRMAN. And therefore it is not to be left to the freight agents along your line?

Mr. ADAMS. The principle is not, but the working of the principle must be.

The CHAIRMAN. Have you any other question on constructive mileage?

Commissioner LITTLER. Only one.

Mr. ADAMS. I should be most happy to answer any other questions.

Commissioner LITTLER. Is it not possible, under this constructive mileage, to dissipate the earnings of the main line so that the provisions of the Thurman act could be entirely defeated so far as covering any money into the Treasury is concerned?

Mr. ADAMS. It would be possible; but, as I understand it, in the case of the Union Pacific the allowances have never been changed. They are the same now as before the Thurman act went into operation.

Commissioner LITTLER. If an apology is needed for the amount of pertinacity we have exhibited here on this question, it is found in my question. We are trying to find out what the real net earnings of this road are, with a view to see whether the Government has been treated fairly.

The CHAIRMAN. There is one explanation following that. It is estimated that the operating expense would be about 40 per cent. of the freight charges.

Mr. ADAMS. I should say that was very large.

The CHAIRMAN. How do you make up that estimate?

Mr. ADAMS. It was made up by Mr. Mink. You take, for instance, a through train delivering freight to the Oregon Short Line. I suppose it would require three days. The trains would consist of twenty cars. Those cars might average—how much?

The WITNESS. It depends on the freights.

Mr. ADAMS. It would not be very much out of the way to say that a freight train might earn \$5,000. The expense to the Union Pacific would be as follows: A locomotive for three days; that is \$150. A freight crew for three days; that would amount to, we will say, \$100 in round numbers. That total is \$250. The fuel I have allowed for. Then there is the wear and tear of the track, which might amount to \$300 or \$400. That would be \$600 out of \$5,000 freight money, of which the Union Pacific would receive possibly half. That would be \$2,500, and in that case the net to the Union Pacific would be about \$2,000 on a train, with about \$500 expenses, or something of that sort. The most profitable business a railroad can do is that of hauling through trains, not handling the stuff, but delivering it at the end of its line. All I can say is, in that business lies the salvation of the Union Pacific.

#### REBATES.

The CHAIRMAN. In the line of constructive mileage is the system of rebates. I understood Mr. Mink to say this morning that you as president of the railroad, directed the policy of rebates allowed by the road along the line. Is that a fact?

Mr. ADAMS. Under the old system in use before the interstate commerce act a question rarely reached my office. Those questions belonged to the commercial department. I explained this in New York, going over the ground largely. Where we were dealing in something which involved very large shipments, and the concessions which had to be



made—I am now speaking of the old time—seemed to the general traffic manager to be extreme, he would bring the matter to my attention and consult with me. As a rule, the matter never would get to my office at all, or, in fact, beyond the office of the general freight agent. In the practical work of a railroad it amounted to this: You take a point of competition; our people, the agents, going around the street, would meet the agents of the Northern Pacific, or the Chicago, Burlington and Quincy, or the Denver and Rio Grande and Southern Pacific, and they would find them all struggling to get a certain shipment of freight from a manufacturer or what not. Then the manufacturer or the shipper would dicker around among them and get an agreement that so much would be rebated to him. The agent would telegraph to the general freight agent and get his authority to make that contract. The general freight agent would make it without its ever reaching me, just as it would be with the other lines; it never reaches Mr. Perkins or Mr. Harris, or any of the presidents. The goods would then be shipped, and the shipper at the proper time would present a demand for the rebate and receive his money back, or the proportion of it due him. Or suppose the case of some shipper on our line.

The CHAIRMAN. Take the Standard Oil as an illustration. I only use that as an illustration. Do you allow to the Standard Oil a rebate upon their shipments, they being large shippers on your line?

Mr. ADAMS. I have no doubt we do.

Mr. JOHN F. DILLON. You mean before the interstate commerce act?

The CHAIRMAN. Yes, sir.

Mr. ADAMS. I do not doubt we do. The shipments made all were in large volume to California or the other Pacific States, and rebate was made to them. If it was not by us it was by somebody else. I have no doubt they got the rebate.

The CHAIRMAN. Then in allowing the rebate they would present to the company their bill, with the full charge; is that true?

Mr. ADAMS. That would be apt to be the case.

The CHAIRMAN. How would the settlement be made with them?

Mr. ADAMS. The settlement would be made through this agreement with the freight agent who shipped it, that they should be allowed at such and such a rate, and the rebate would go forward and be allowed.

The CHAIRMAN. Paid to them in cash?

Mr. ADAMS. Oh, yes.

Mr. JOHN F. DILLON. They were generally secret?

Mr. ADAMS. They had to be secret. That was the essence of the thing. The roads were fighting against each other for freight.

The CHAIRMAN. With other people engaged in the same business, what rebate would be allowed to them?

Mr. ADAMS. I could not tell you. It would depend upon all sorts of circumstances, the regularity, volume, and time of shipment. Under the old system, the competitive system, it was a fight in the open field for business all the time. And we made the best terms we could and the shipper made the best terms he could.

The CHAIRMAN. The effect was always to drive the small shippers out.

Mr. ADAMS. That is what I always contended. I do not see how it could work otherwise.

The CHAIRMAN. Where can we get all the information in detail?

Mr. ADAMS. Our general traffic department can give it to you. There is a general impression, apparently, that the president of the Union Pacific does all the work of the company. I do not know whether it is

supposed that he lights the fires in the locomotives and collects the fares and all that; but it is not so.

The CHAIRMAN. He does a good deal more than any other railroad president, if he does.

Mr. ADAMS. He tries to do a great deal more than he ought to now. Very few questions reach this office. They are all settled below in their proper departments. When these questions come up, I am very apt to refer them back to the head of the department with an intimation that it is his business and not mine, and unless he can do his business properly I can find some one who can; such questions ought not to reach me. Questions in detail belong, in every well-organized railroad company, to the heads of departments. I should just as soon think of Judge Dillon sending me a legal question to pass upon.

The CHAIRMAN. Under those circumstances, the subordinates virtually direct the policy of the road as to rebates?

Mr. ADAMS. No, they come to me on questions of policy. I lay down a general policy. Then each particular case, as it arises, they will attend to. Judge Dillon will come to me in regard to the policy of the company as to a certain lawsuit. I then state to him what the directors desire to have done; and after that I discharge my mind of the matter; and Judge Dillon executes the policy. That is, he carries out the particular policy that has been indicated. He certainly never sends the legal problems to me.

The CHAIRMAN. I call your attention to the item in the statement of the earnings for the year 1886, page 22, that the operating expenses appear as about 65 per cent. Is that a fair measure of the expenses referred to in the statement submitted by Mr. Mink?

Mr. ADAMS. No, because this is the average business of the whole line. The branch-line business is the most profitable business we do. Our percentage of net earnings is larger on that business than on any other form of business we do.

Commissioner LITTLE. That is local business, is it?

Mr. ADAMS. The business is, in its cost, very largely increased by handling. In that business there we only have one handling. It comes off the branch lines, and is handled in bulk. No, if it was not for the average reduction of cost that was made in doing the branch-line business the percentage would be higher.

I think you will find the constructive-mileage business will come up much more naturally when you get to Omaha and come in contact with our traffic people than here. It is a subject that we never deal with here in detail.

Commissioner LITTLE. I think we had better postpone the further consideration of this constructive-mileage business until we get to Omaha.

The CHAIRMAN. We will postpone it for the present. We will take up the legal-expense account, and not detain these gentlemen further.

Mr. ADAMS. It will not take me five minutes to explain that to-morrow, if you will go over the vouchers now, and then call me in to-morrow.

The CHAIRMAN. Will you bring us the legal vouchers from 1873 down?

The WITNESS. Yes, sir.

OLIVER W. MINK.  
CHARLES F. ADAMS.

Commissioner LITTLE. I move that this Commission adjourn, so far as the public session is concerned. We can examine those vouchers more satisfactorily by ourselves.

The CHAIRMAN. You want, then, to go into executive session?

Commissioner LITTLE. Yes, sir.

The CHAIRMAN (to the reporters). We will be in session to-morrow morning at 10 o'clock, and will now go into executive session.

After executive session, held for the purpose of investigating the legal-expense vouchers of the Union Pacific Railway,

The Commission adjourned to Wednesday, May 25, 1887, at 10 a. m

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EQUITABLE BUILDING, BOSTON, MASS.,  
*Wednesday, May 25, 1887.*

The Commission met pursuant to adjournment, all the Commissioners being present.

FREDERICK L. AMES, being duly sworn and examined, testified as follows :

By Commissioner ANDERSON :

Question. You have been connected with the Union Pacific for a great many years?—Answer. I have been a director of the Union Pacific since 1877—March, 1877.

Q. Were you interested in the road before that time?—A. Yes, sir ; somewhat.

Q. As a stockholder?—A. As a stockholder.

Q. What relation are you, if any, to Mr. Oliver Ames?—A. I am a son of Mr. Oliver Ames.

Q. The present governor?—A. No, I am a cousin of his.

Q. Cousin of the governor and son of Mr. Oliver Ames, who was president of this road?—A. Yes, sir ; president during its construction.

Q. What relation was Mr. Oliver Ames to Mr. Oakes Ames?—A. My father, Mr. Oliver Ames, was Mr. Oakes Ames's brother.

Q. In addition to being a stockholder, had you any other relation to the Union Pacific before 1877?—A. No, sir.

Q. As officer or assistant, in any way?—A. No, sir ; I have had no other relations. I do not know but I might have been trustee of the land-grant bonds. I do not remember about that.

Commissioner ANDERSON. My object is to ascertain how familiar you became, in those years, before 1877, with the road itself and its management.

The WITNESS. I have been out frequently over the road, and knew a good deal about what was going on at the time.

Q. Before 1877?—A. Before 1877.

Q. Were you familiar with the relations at that time existing between the Kansas Pacific and the Union Pacific?—A. Yes, sir.

Q. In what way did you become familiar with that subject?—A. Through my association with my father, who had large interest in the Union Pacific.

Q. Did you personally attend to the management of his affairs as connected with the railroad?—A. Under his direction ; yes, sir.

Q. Were you, during these years, familiar with the general question of the earning capacity of the Union Pacific as compared with the Kansas Pacific?—A. No, sir.

Q. Were you familiar with the earning capacity of the Union Pacific?—A. Yes, sir ; of the Union Pacific.

Q. When did it pay its first dividend?—A. I am sure I do not remember.

Q. It was before 1877, was it not?—A. I think so; yes, sir. In 1875 and 1876, I think.

Q. Do you remember the rate of dividend that was paid on the Union Pacific stock?—A. No, sir.

Q. What knowledge had you at this time of the Kansas Pacific?—A. I had no knowledge, except from hearsay.

Q. Had you been over the road?—A. I had been over the road several times.

Q. Did you know the amount of its bonded debt?—A. Yes, sir; I did.

Q. At that time?—A. Yes.

Q. And you knew at that time, in 1877, that substantially all of its bonded debt was in default on interest?—A. In 1877; yes, sir.

Q. And that the road was in the hands of receivers?—A. Yes, sir.

#### THE KANSAS PACIFIC.

Q. Going back to 1877, what was your then opinion of the Kansas Pacific Railroad as a property?—A. At that time they had the idea that it was not of any very great value; that is, the stock of it at that time. It was in a new country, and the business was very light.

Q. Mr. Henry Villard, one of the receivers, has substantially said to us that at that time the road was earning but little over its operating expenses; that it had been poorly built, badly managed, and was in all respects a forlorn concern. Would you consider that as an exaggerated picture of it?—A. No; I should not.

Q. Do you remember, in the early part of 1878, becoming interested in what we designate as the April pool agreement?—A. Yes, sir.

Q. Have you a copy of that agreement in your possession?—A. No, sir; I believe not.

Q. How did you come to get that interest; how did it come about?—A. There was a movement being made at that time to get in a large amount of these outstanding securities, and in order to purchase some it was necessary to raise some money, and I contributed some money. I think \$100,000 I put in at the time towards it. I think the immediate object of my putting in the money was to furnish the funds to buy some Denver extension bonds.

Q. Do you remember who had given this idea prominent direction, who was interested in it, of getting up these Kansas Pacific securities?—A. Mr. Gould.

Q. Mr. Jay Gould?—A. Yes, sir.

Q. How long had you then been acquainted with him?—A. Since 1874, I think. I never saw Mr. Gould, to have any particular acquaintance with him, until he came into the Union Pacific board, which I think was in 1874.

Q. When were you first apprised that Mr. Gould was interested in buying up these Kansas Pacific securities? How long before the pooling agreement was made?—A. I think it was only a few months.

Q. Was there any special security that you learned Mr. Gould had acquired in large quantities? Were you told that he had bought a large quantity of the unstamped incomes?—A. Yes, sir; and I think he had a large block of what is known as the funding bonds, and a very large amount of the stock.



## THE POOLING AGREEMENT.

Q. What other gentlemen do you remember as being connected with this pooling agreement?

The WITNESS. In what way?

Commissioner ANDERSON. The parties.

The WITNESS. In fact, I knew all the people that were in it, I think.

Commissioner ANDERSON. I am asking who those people were; we have not a copy of the agreement at the moment.

The WITNESS. There was Mr. Sage.

Q. Mr. Russell Sage?—A. Mr. Russell Sage.

Q. Sidney Dillon?—A. Mr. Sidney Dillon.

Q. And all the Saint Louis people?—A. All the Saint Louis people; Mr. Greeley, Mr. Edgerton, and Mr. Perry; I do not remember whether Mr. Meier was in it or not.

Q. Adolphus Meier?—A. Adolphus Meier and Mr. Carr.

Q. Mr. Henry Villard tells us that he had no personal interest in the arrangement; is that your recollection?—A. I never knew what his interest was; I never knew what the respective interests of any of the gentlemen were.

Q. You signed the agreement?—A. I believe so.

Q. I presume you read it before signing it, so as to understand exactly what the idea was?—A. Yes, sir.

Q. What securities did you have that entered into this pool?—A. None.

Q. You had none?—A. No, sir.

Q. What interest had you in the Kansas Pacific securities at the time you signed the pooling agreement?—A. I had none, unless I may have had some of the Kansas Pacific consols; I do not remember about that; but I had nothing that went into the pool; I contributed nothing into the pool, except I paid in some money and took my share of the outcome of the pool.

Q. How much money did you contribute?—A. One hundred thousand dollars.

Q. What did you receive for that \$100,000?—A. I received \$100,000 Kansas Pacific consols.

Commissioner ANDERSON. But at the time you parted with it the consols had not been arranged for until a year later?

The WITNESS. No; I received two certificates of \$50,000 each.

Q. Have you those certificates?—A. Oh, no.

Q. To whom did you surrender them?—A. I do not know; I always supposed that they were sent to New York, and at the time I received my bonds they were given up.

Q. Given up to some people who gave you bonds?—A. I think so; very possibly they went into some trust company; I do not know who distributed them.

Q. Probably the persons who would be responsible for them would be the trustees of the consolidated mortgage who issued the bonds to you or else the company?—A. Yes, sir.

Q. You do not know where those certificates were?—A. No, sir.

Q. Were certificates issued to all the members of the pool?—A. I suppose there were.

Q. Do you remember the form of the certificate?—A. No, sir.

Q. Did it not state what you were entitled to?—A. I could not remember.

Q. Did it bear interest?—A. I do not know; I think it did.



Q. To whom did you pay this \$100,000?—A. My recollection was that I paid it to some trust company in New York. I do not know that I am right. My impression was that it was the Farmers' Loan and Trust Company.

MILLIONS OF DOLLARS IN THE POOL.

Q. Can you tell us how this pool account was kept? The interests were large, were they not, under the pool? I mean the whole interest.

—A. Yes, sir.

Q. They represented millions of dollars?—A. Yes, sir.

Q. Eight or ten gentlemen were interested, and some contributed unstamped income bonds, some contributed funding bonds, some contributed land-grant bonds, some contributed stock, and some contributed money.—A. Yes, sir.

Commissioner ANDERSON. As it is explained to us, the values of these different securities were scaled down at a rate agreed among you gentlemen as being the fair value of what you put in, and then, the real value of each contributor being thus ascertained, certificates were issued to the holder representing his interest in the pool.

The WITNESS. Yes, sir.

Commissioner ANDERSON. We are also told that the parties to the pool had the right to increase their holdings at these same scaled rates from time to time. I ask you if you can tell me how the accounts of that pool were kept, so as to determine what certificates were outstanding, and what each holder, on the liquidation of the pool, would be entitled to receive.

The WITNESS. Do you mean who kept them?

Commissioner ANDERSON. Yes, sir; I do.

The WITNESS. I supposed that they were kept in Mr. Gould's or Mr. Dillon's office. I never had any knowledge of it. I had nothing to do with the keeping of the accounts.

Q. If there were profits made out of the management of this business, so that the holder of a certificate should happen to be entitled to a division of something beyond what the face of his certificates would show, one would naturally suppose that each holder of a certificate would feel an interest in seeing what had been done with those securities and how they had been disposed of or converted. Did you ever ask for the account?—A. No, sir.

Q. Did you ever receive an account?—A. No, sir; I never received any account.

Q. All you received was a certain number of bonds in exchange for your certificates?—A. Yes, sir.

Q. Do you remember how it was determined how many bonds you should receive for your certificates?—A. I do not know how it was determined. I put in so much money and I saw that I received an equal amount in bonds.

Commissioner ANDERSON. Please run your eye over the paper I now show you, and state whether that is a copy of the pooling agreement that you entered into. (Referring to Exhibit 1, May 5, 1887, heretofore printed in this volume.)

The WITNESS. I do not see that I ever signed this paper.

Commissioner ANDERSON. I know that; but you state you were a party to the arrangement, and read it at the time.

The WITNESS. Yes, sir.

Commissioner ANDERSON. So I assume that it represents correctly what occurred; I will ask you that question.

The WITNESS. I see the statement is made here that I contributed 383 funding bonds.

Q. Is that correct?—A. No; I never did.

Q. Did you know that those funding bonds had been contributed to this pool?—A. They never were contributed.

Q. They may have been placed in your name but belonged to some other person?—A. No; they belonged to me and they were never put in.

Q. You did have these bonds?—A. I had these bonds, yes. But I declined to put them in the pool, and they never went in. And I declined to be one of the members of the committee.

Q. Did you never serve on this executive committee?—A. Never.

Q. Who did serve?—A. I think Mr. Sidney Dillon served.

Q. Mr. Sidney Dillon?—A. Yes. It is Exhibit D of this pooling agreement, I think, that says that Mr. Dillon was substituted for me.

Q. Why did you refuse to serve on this executive committee?—A. I was over here in Boston, and it was not convenient for me to be in New York; I had no securities to go into the pool, and so I declined to take any part in it.

Q. You did, however, contribute \$100,000, you say?—A. Afterwards. That was in March, 1879, and this thing was early in May, 1878.

By Commissioner LITTLER:

Q. Do I understand you, that you contributed \$100,000 as early as March, 1878?—A. 1879.

#### THE KANSAS PACIFIC CONSOLIDATED MORTGAGE.

By Commissioner ANDERSON:

Q. Do you remember when the consolidated mortgage scheme was devised—the scheme for the Kansas Pacific consolidated mortgage—for the purpose of retiring these different securities at a scaled rate?—A. I think it was about the time when the mortgage was made. I think that is stated in 1878. I do not remember the date of it.

Q. Were you not interested in that mortgage?

The WITNESS. In what way?

Commissioner ANDERSON. In the fact that it provided a method by which the funding bonds could be liquidated either in money or in bonds to be issued under that mortgage?—A. I held, as you see there, \$383,000 of the funding bonds which were then in default, and I might have been interested in providing a live security to take the place of the one that I held.

Q. Do you remember whether you read that mortgage before it was executed?—A. Oh, yes, sir; undoubtedly.

Q. Please look at the lines of that mortgage, at the foot of page 156 of the Book of Indentures of the Union Pacific Railroad Company, and state whether \$784,000 funding bonds referred to in that quoted section from the mortgage, included your bonds or not.—A. No, sir; they did not.

Q. You know the section I refer to?—A. I know that \$784,000 were the bonds which Mr. Gould put into the pool.

Q. And they did not include yours?—A. They did not include mine. I think the total issue under that mortgage was about between eleven hundred and twelve hundred thousand dollars, and I had all the rest of them.

Commissioner ANDERSON. The total issue was a million and a half, I think, of the funding bonds.

The WITNESS. Was it? Were there as many as that out? My impression was that there was only about twelve hundred thousand dollars of those ever used.

Q. Then I understand that your personal connection with this pool was absolutely limited to the advance of \$100,000 in money in March, 1879?—A. Yes, sir.

Q. And that in no other respect have you any knowledge of its management or its outcome; when I say "its outcome," I mean its liquidation?—A. No, sir.

Q. Do you know how this special provision was incorporated in the mortgage by which the holders of the pool securities were to receive the sum of \$3,400,000 for their securities?—A. I always supposed that that was the footing of the aggregate of the rates at which these bonds and securities were put into the pool.

Q. Do you suppose so to-day?—A. Yes, sir.

Q. Have you never taken the trouble to commute those securities at the mortgage rates and to compare it with the actual amount in consolidated bonds agreed to be paid?—A. No, sir; these securities were not to be put in at the mortgage rates.

Q. But you just said that you supposed that they would foot up the same as though put in at the mortgage rates, did you not?—A. No, sir.

Q. What did you suppose about it?—A. I suppose that they footed up at the rates at which the parties putting them into the pool were allowed for them in the pool; so that practically the people who put these bonds in at the rates which were fixed in the pool, received their pay in Kansas Pacific consols at par.

#### COMPARISON OF RATES IN POOLING AGREEMENT WITH RATES IN CONSOLIDATED MORTGAGE.

Commissioner ANDERSON. Please examine the rates as stated in the pooling agreement, and compare them with the rates as stated in Article 23 of the mortgage and see what difference there is, if any. The rates you will find on the second column of the top page of Exhibit B, and the mortgage rates you will find in Article 23, page 169 of the Book of Indentures. A floating debt is the same thing, as I understand, as the funding bonds.

The WITNESS. Yes, sir.

Commissioner ANDERSON. And that is redeemable at par both in the pooling agreement and in Article 23 of the mortgage?

The WITNESS. Yes, sir; the funding bonds, as I understand it, were issued some time shortly previous to the suspension or failure of the Kansas Pacific road to protect the parties who furnished the money, or to whom the money, which was called the floating debt, was due.

Q. I call your attention to the fact that the rate for payment of the funding bond is the same in the pooling agreement as it is in Article 23 of the mortgage. The next item is unsubordinated income bonds, which in the funding agreement are rated at 50. What are they rated at under Article 23?—A. The unstamped, at 50 cents.

Q. That is, the same rate in both papers?—A. Yes, sir.

Q. The stamped income bonds are rated at 30 in the pooling agreement, are they not?—A. Yes, sir.

Q. What is the rate in the mortgage?—A. That is at 30 cents.

Q. And the second land-grants are rated in the pool agreement at 50 cents. What is the rate in the mortgage?—A. Fifty.

Q. The Arkansas Valley in the pool agreement are rated at 50. What is the rate in the mortgage? You will find some provision in Article 24 that applies to it.—A. They can be taken up at a rate not exceeding par.

Commissioner ANDERSON. With some provisions as to the amount of debt per mile?

The WITNESS. Not exceeding \$15,000 for each mile east of the meridian of Denver.

Q. Did you ever examine the mortgage closely to see whether the terms provided in Article 24 were intended to apply to those Arkansas Valley bonds?—A. No, sir.

Q. As to the Leavenworth Branch, the rate in the pool agreement is 50. What is the rate in the mortgage?—A. Fifty.

Q. So that the mortgage rates and the pooling agreement rates are the same?—A. Apparently, yes, sir.

DID NOT KNOW THAT ANY HOLDERS OF THE SECURITIES GOT A PREFERENTIAL RATE.

Q. I will go back to these securities at page 156, and ask you whether you have ever ascertained whether the rate agreed to be paid to the holders of these securities was a preferential rate, by which they got better terms than the other holders of these securities (such as yourself), or whether the rate was the same.

The WITNESS. Do you mean at that time?

Commissioner ANDERSON. At that time.

A. As I understand it, it was the same.

Q. Have you ever figured to see and apply these very fractions which you have now given me to the same amounts to see whether they would produce the figure \$3,400,000?—A. No, sir.

Q. Then I tell you that, applying these commutation rates to these amounts, the total amount of bonds which these gentlemen would have been entitled to receive is about \$2,150,000 instead of \$3,400,000. I ask you how it came to pass that they received this difference?—A. I do not know anything about that.

Q. At this time you were a director of the road, were you not?—A. Yes, sir.

Q. And were you a director in the Kansas Pacific also?

The WITNESS. At what time?

Commissioner ANDERSON. When this consolidated mortgage was made.

A. I think I was.

Q. You were elected in May, 1878, in the Kansas Pacific, were you not?—A. Yes, sir; I think so.

Q. And as such director you were interested in knowing whether bonds were issued to persons having claims against the company on terms that would exaggerate or increase the indebtedness of the company, were you not?—A. Certainly.

Q. And yet you can give no explanation as to why these gentlemen received a preferential issue, if I may so call it, of over a million dollars?—A. I know at the time that it was thought to be greatly for the interest of the Kansas Pacific to get these bonds in at these prices.

Q. So I presume. But what I ask you is whether it was not a matter of special agreement between these gentlemen representing these securities—Sidney Dillon, Russell Sage, and Henry Villard, acting on behalf of Mr. Gould and the other gentlemen in interest—who said that they



had negotiated this arrangement or originated it and had gathered together these securities, and that therefore they considered they were fairly entitled to a preference, because they had made the consummation of this scheme possible. Is that all news to you, or did some such report as that take place?—A. I have no doubt that there did some such report take place.

Q. I want to know whether you remember anything of the kind.—A. I remember that the thing was discussed very fully at the time, and it was thought that that was a good arrangement for the railroad company to make, to get in this large block of securities.

Q. Was it discussed in the meeting of the board of directors?—A. Yes, sir; and out of it.

Q. Do you remember how this figure \$3,400,000 was reached?—A. No, sir; I do not.

Commissioner ANDERSON. It could not have been reached by drawing blank ballots out of a hat?

The WITNESS. Oh, no; probably not.

Q. There must have been some computation?—A. Probably some computation.

Q. Do you remember whether figures were produced before you and there was a bargain, "We will sell for so much," or "We want so much," and any debate as to what the figures would be?—A. No, sir; I cannot remember it at this time.

Q. Do you consider a transaction of \$3,400,000 a large transaction?—A. Certainly.

Q. Were any other special arrangements made in regard to individual holdings of these securities that you were seeking to retire?

The WITNESS. At this time or later?

Commissioner ANDERSON. At or prior to the making of the consolidated mortgage; at that time, substantially.

A. Not that I remember of.

Q. Were any such arrangements made after that time that you know of?

The WITNESS. In regard to the issue of consolidated bonds?

Commissioner ANDERSON. In regard to the terms on which consolidated bonds were issued, so that some of the persons to whom they were issued got better terms than other people got.

A. The only case I know of is this: Probably you are referring to the exchange of my own bonds.

Commissioner ANDERSON. That is one case I am referring to, and I am referring to a great many cases.

The WITNESS. That is the only one I had any knowledge of.

Q. In regard to the exchange of your own bonds what do you remember?—A. I remember that I gave up my bonds and took the Kansas Pacific consols at par for them, with an agreement on the part of the company that they would guarantee them to be worth par at the end of six months. They had the option of taking them off my hands at par at any time during six months or paying me the difference.

Q. Did they become worth par during that period?—A. No, sir.

Q. Did the company pay you the difference?—A. I think they paid me about 6 per cent. on the bonds. They were worth somewhere about 93 or 94 at the end of six months.

Commissioner ANDERSON. Six per cent. on the principal was what they paid you?

The WITNESS. On the principal.

Commissioner ANDERSON. The interest was regularly paid; of course?



## PREFERENTIAL ISSUE.

The WITNESS. Yes, sir.

Q. While on this subject, is that the only case of the preferential issue of these bonds that you know of? That case and the case specified in the mortgage?—A. Yes, sir; I think it is.

Commissioner ANDERSON. You know of no others?

The WITNESS. I do not remember any other.

Q. Do you not remember the fact that in January or February, 1880, \$2,000,000 of these bonds were issued to Mr. Jay Gould at 75?—A. No, sir.

Q. Were you never consulted in regard to that transaction?—A. I know nothing about it.

Q. Do you know at the time they were so issued the market price was 94?—A. No, sir.

Q. Have you never heard of that transaction before now?—A. I do not remember to have ever heard of it before.

Q. It never was, then, up in the board, to your knowledge, for discussion?—A. It might have been. I cannot remember.

Q. Of course it might have been. But I am asking for your memory. Do you remember whether the board of directors of this company ever agreed that \$2,000,000 of these bonds should be given to Mr. Gould at 75?—A. No, sir; I do not remember.

## GOULD'S KANSAS PACIFIC CONSOLS.

Q. Do you remember any other transactions between Mr. Gould and the Union Pacific Railway in which these consolidated bonds, Kansas Pacific consols, were issued to Mr. Gould either in payment of loans of money where the rate either of the interest on the money or the rate at which the bonds were taken was so arranged as to give him a personal profit?—A. No, sir.

Q. You never heard of any transactions of that character?—A. No, sir.

Q. Do you remember the fact that at or about the time of the consolidation \$2,000,000 of these bonds were issued to Mr. Gould in settlement of his account in addition to the other issues that I have described?

The WITNESS. Is that the same \$2,000,000 that you spoke of before?

Commissioner ANDERSON. No, sir; another two millions, issued a month previous.

A. No, sir; I do not remember.

Q. Have you ever seen that account?—A. I think it is very likely I did at the time.

Commissioner ANDERSON. I refer to Mr. Gould's account, amounting to \$2,000,000.

The WITNESS. I think it very likely I did, but I do not remember.

Q. Do you know how it came to pass that the Kansas Pacific Company owed Mr. Gould two millions of dollars at this time?—A. No, sir; I do not. I did not know that they did owe him.

Commissioner ANDERSON. I show you the entry as it appears in the books of the Union Pacific Railway Company to-day. It is the last item of those entered under January, 1880.

The WITNESS. I do not know about that account. I do not remember it.

## THE KANSAS PACIFIC POOL.

Q. After this pool was formed, do you remember the fact that the Saint Louis people were bought out?—A. Yes, sir.

Q. Did you take any part in that negotiation?—A. No, sir; I had no interest in the pool except as I have stated, the original \$100,000.

Q. At the time of the consolidation were you the holder of any number of shares of the Kansas Pacific stock?—A. Yes, sir.

Q. When had you acquired title to that stock?—A. I bought that stock about a year previous. I think all the stock that I had in the Kansas Pacific came through my interest in this Kansas Pacific pool that you have been speaking of.

Q. Did it not come by buying out these Saint Louis people?—A. No, sir.

Q. How did it come? Tell us how you got the stock.—A. As I told you, I put my \$100,000 into the pool, and I got my proportion of the stock that had been bought up by the pool.

Q. Then the certificate that you got was not all that you got for your \$100,000?—A. No, sir.

Q. There was some stock thrown in?—A. Yes, sir.

Q. How much was the stock?—A. It amounted, I think, to about \$179,000 par value.

Q. About 3,700 or 3,800 shares?—A. Thirty-five hundred shares.

Q. Did that stock cost you anything except as in connection with this certificate that was paid for the \$100,000?—A. No, sir; I got the Kansas Pacific consols and this stock for \$100,000.

Commissioner ANDERSON. I understand. And you also got the difference between the market value of the consols and the par value of the consols from the Union Pacific Company?

The WITNESS. No, sir; not at all. You are confounding two separate transactions. The other transaction applied only to my funding bonds which never went into the pool.

Q. Then, for your contribution to the pool you got the consols and the stock?—A. Yes, sir.

Q. Is that all the stock you ever acquired?—A. That is all the stock that I ever had in it.

Q. Do you not know, as a matter of fact, that that stock was taken out of the pool at the time the Saint Louis people were bought out?—A. No, sir; I do not. I always supposed that the Saint Louis stock was all in the pool.

Commissioner ANDERSON. But, after they were bought out, then Mr. Gould took that stock out of the pool, so that when the pool was liquidated under the mortgage, as you will see, no stock appears.

The WITNESS. The stock never went into the mortgage. The stock was reserved.

Commissioner ANDERSON. The stock was in the pool before the Saint Louis people were bought out? That you have just said.

The WITNESS. Yes, sir.

Commissioner ANDERSON. When the mortgage was made the stock had got out of the pool, for it does not appear in the mortgage. Do you know how it got out of the pool? Do you not know that Mr. Gould took it all?

The WITNESS. Certainly. But I do not understand what the mortgage and the pool had to do with each other.

Commissioner ANDERSON. All the pooling securities were liquidated by a special provision inserted in the mortgage for \$3,400,000.

The WITNESS. No, sir; they were not.

Q. What securities were liquidated and referred to in the mortgage for the \$3,400,000?—A. Those that are named in the mortgage.

Q. Are they not the pool securities?—A. Those are a part of them, I think.

Q. What other securities were there?—A. There were some Denver extension bonds. There were \$400,000 or \$500,000 of those, I think, that went into the pool.

Commissioner ANDERSON. If you will examine the pool you will find that the Denver extensions are not in the pool.

The WITNESS. There were, I think, nearly \$500,000 of the Denver extension bonds, and that is what I always understood the money that was contributed went to purchase.

Commissioner ANDERSON. All I mean to inquire about is the fact that in the pooling agreement, as it stood, there was something like 60,000 or 70,000 shares of Kansas Pacific stock held by the Saint Louis people, and that stock subsequently became the property of Mr. Jay Gould. Do you know how the transfer was effected?

The WITNESS. I always understood that it was done by his buying out the interest of the Kansas Pacific people—the Saint Louis people; the original Kansas Pacific people—in the pool.

Q. And that he thereby became the holder of that stock?—A. Yes, sir.

Q. And that that stock was not afterwards included in the settlement that was made under the mortgage or the \$3,400,000?—A. No, sir. That stock was treated like all the rest of the stock that was in the pool.

Commissioner ANDERSON. That stock was treated like all the rest of the stock in the terms of the consolidation, as I understand it?

The WITNESS. Yes, sir.

Q. What I want to know is, when you got your 3,500 shares of stock? In what month?—A. I think I got it in March, 1879, or April, 1879. I think I paid my money in March.

Q. When did Mr. Gould buy out the Saint Louis people?—A. I do not remember the date. I had nothing to do with that purchase and had no interest in it.

Q. Were you a member of the Union Pacific executive committee?—A. Yes, sir.

Q. Please look at the minutes of the executive committee, May 22, 1878, and state whether the transaction there detailed has any relation to this pool.—A. No, sir; I think not. I think that was simply where Mr. Gould came in and advanced the money to settle a claim which the Vulcan Iron Works had against the Union Pacific.

Q. Then, as I understand it, you acquired your interest in the Kansas Pacific at substantially the same time Mr. Gould bought out these other people?—A. No, sir; I did not say that. I do not know when Mr. Gould bought out these people. I had nothing to do with that, and never knew anything about it except by hearsay.

Q. After you owned the 3,500 shares of Kansas Pacific, which you say was in the spring of 1879, was there much discussion as to the future policy of these two roads to each other among the prominent owners of the securities?—A. Yes, sir; a great deal.

Q. A great deal of discussion?—A. Yes, sir.

Q. Who were the prominent persons who discussed it?—A. Mr. Gould, Mr. Sidney Dillon, Mr. Sage, and myself.

Q. Were those gentlemen all holders of Kansas Pacific stock at the time of these discussions?—A. I think they were.

Q. And all interested in the securities described in this pool, except yourself; that is, Mr. Gould, Mr. Dillon, and Mr. Sage?—A. I think they were. I do not see Mr. Sage's name here as signing in this pool.

Commissioner ANDERSON. He is referred to in Exhibit D.

The WITNESS. I always understood that Mr. Sage was interested in Mr. Gould's share in the pool.

Commissioner ANDERSON. Or he is referred to in the mortgage, I forget which. What other securities of the Kansas Pacific were you interested in, if any, besides the Kansas Pacific that you held, the 3,500 shares of stock and \$383,000 of funding bonds?

#### INTERESTS OF WITNESS IN UNION PACIFIC BRANCH LINES.

The WITNESS. I had \$14,000 Denver extension bonds.

Q. That is, the bonds issued on that portion of the road between mile-post 394 and Denver City?—A. Denver City; yes, sir.

Q. Had you any interest in Denver Pacific stock?—A. Never.

Q. Or Denver Pacific bonds?—A. Never had any.

Q. Had you any interest in any of the branch roads of the Kansas Pacific?—A. No, sir.

Q. Had you had any such interest?—A. Never had any.

Q. You never had any?—A. No, sir.

Q. Had you any interest in any roads that subsequently became branches of the Union Pacific Railway?—A. No, sir; I think not.

Q. Are you quite sure?—A. Yes, sir.

Q. You had no interest whatever down to the time of the consolidation?—A. No, sir; I might have had a few of the first-mortgage bonds of the Colorado Central Railroad.

Commissioner ANDERSON. My question includes the Saint Joseph and Western.

The WITNESS. At what date?

Commissioner ANDERSON. Down to the time of the consolidation, January 24, 1880.

The WITNESS. Yes, sir; I had an interest in the Saint Joseph and Western at that time.

Q. When did you acquire that interest?—A. I acquired that interest in the summer of 1879.

Q. From whom did you acquire that interest?—A. I got that from Mr. Gould.

Q. How many bonds did you get from him?—A. I had \$100,000 of the first-mortgage bonds.

Q. At what price did you get them?—A. About 40.

Q. Was any stock thrown in?—A. About 400 shares of stock thrown in; 450 perhaps. I do not remember the amount.

Commissioner ANDERSON. That is, your own Saint Joseph and Western stock?

The WITNESS. Saint Joseph and Western; yes, sir.

Q. Does that complete the statement of your interests that were in any way affected by the consolidation?—A. Yes, sir.

Q. Had you ever had any interest in the Denver and South Park?—A. Never.

Q. Any interest in the Kansas Central?—A. Never.

Q. Any interest in the Central Branch Union Pacific?—A. Never had any interest in it.

Q. You knew of that road?—A. Oh, yes, sir.

Q. You knew who owned it?—A. Yes, sir.



Q. Did you know of the transfer of that road to Mr. Jay Gould on the 7th of November, 1880?—A. I did.

Q. Had you taken any part in conducting that negotiation?—A. No, sir.

Q. Did you know the price paid by Mr. Gould to Mr. Ames?—A. Yes, sir.

Q. At the time it was paid?—A. Yes, sir.

#### THE LETTER TO DODGE AND HUMPHREYS.

Q. Do you remember a letter that was written to Mr. Solon Humphreys and Mr. Dodge in October, 1879?—A. Yes, sir.

Q. Do you know who prepared that letter?—A. No, sir, I do not remember.

Q. Were you conferred with in regard to it?—A. Yes, sir; I believe I signed the letter.

Q. Who conferred with you about it?—A. Mr. Dillon, and I think it was a matter of discussion among all the Union Pacific people and with Mr. Gould.

Q. But this letter was written after Mr. Gould, Mr. Sage, and Mr. Dillon and yourself had substantially acquired all of the Kansas Pacific securities, and of the Saint Joseph and Western securities which you held at the time of the consolidation, was it not?—A. Yes, sir; probably.

Q. At the time that letter was written, were you an advocate of consolidation?—A. I was; yes, sir.

Q. Who else was an advocate of the consolidation?—A. So far as I remember, all the directors of the Union Pacific were advocates of the consolidation except Mr. Gould.

Q. Do you remember, as a matter of fact, that at the time that letter was written he was opposed to it, or that his position appeared?—A. I think Mr. Gould was opposed to it at that time, on any basis which the Union Pacific were willing to accept.

Q. Was Mr. Sage in favor of it or opposed to it?—A. In favor of it.

Q. Was Mr. Sidney Dillon in favor of it?—A. Yes, sir.

Q. You were in favor of it?—A. Yes, sir.

Q. Was Mr. Dexter in favor of it?—A. Yes, sir.

Mr. JOHN F. DILLON. In favor of what?

Commissioner ANDERSON. At the time the letter was written to Mr. Solon Humphreys and Mr. Dodge, on the 23d of October, 1879.

Q. Was Mr. Atkins in favor of it?—A. I think we were all in favor of it. We were not all agreed on terms.

Q. After that letter was written, did you have interviews with Mr. Solon Humphreys or Mr. Dodge with regard to the examination they were to make?—A. No, sir; not that I remember.

Q. What sort of an examination ought those gentlemen make, to report intelligently on such a subject?—A. I suppose they would look into the accounts of the road and familiarize themselves with the character of the country, and the connections and the amount of business that was likely to be built up on the road in the future.

Q. It was quite an extensive inquiry, was it?—A. Yes, sir.

Q. Perhaps, within its limits, it was as extensive an inquiry as this Commission is to make. Do you know what they did in that regard; how much investigation did they make?—A. My impression is that they went out West and went over the road. I could not say positively as to that. They took considerable time about it.



Q. The matter was one of great importance to both companies. Do you know how closely they investigated the earning capacity of the Kansas Pacific?—A. I have no personal knowledge; no, sir.

#### FINANCIAL CONDITION OF KANSAS PACIFIC.

Q. As matter of fact the Kansas Pacific had never paid a dividend up to that time, had it?—A. No, sir.

Q. As matter of fact, a very large amount of its interest account on the different forms of mortgage securities in October, 1879, was unpaid?—A. All of it I believe was. It was all in default at that time.

Q. There had been some little payments made. As matter of fact, it was only about eighteen months before that you have stated that a description of the road as being a poor forlorn concern was justified by the fact.

The WITNESS. Two or three years before, was it not? I think your question applied to a time before 1877.

Commissioner ANDERSON. We will say two years. All I mean to say is, that a consolidation of this nature, proposed between the Union Pacific and a road which had been so unfortunate as the Kansas Pacific, and taken in connection with the fact that all its coupon indebtedness was still in arrears, and no dividends had ever been paid, would require a very careful scrutiny before it could be intelligently asserted that the consolidation would be of benefit to either or both of these roads.

The WITNESS. Yes, sir.

Commissioner ANDERSON. You were aware of these facts at the time this letter was written, of course?

The WITNESS. Yes, sir.

Q. Did you yourself confer with either Mr. Dodge or Mr. Humphreys at any time in regard to the data which they were getting together?—A. I think it very probable I did. I was seeing them frequently, and naturally would have talked about it.

#### THE REPORT OF DODGE AND HUMPHREYS.

Q. Do you remember the fact that they made a report?—A. Yes, sir; I remember there was a report made, but I do not remember when it was made.

Q. Do you remember seeing the report at the time it was made, whenever it was?—A. I remember hearing it read.

Q. Where did you hear it read?—A. I think at the directors' meeting at which it was submitted.

Q. A meeting of what directors of what company?—A. I think it was submitted at the time that the consolidation was voted. I think that report was submitted at that time.

Q. If the directors were to be guided as to the consolidation by the examination made by Mr. Humphreys and Mr. Dodge, is it not probable that the directors would see this report before actually making the consolidation?—A. I think very likely they had information as to the conclusions that they had arrived at.

Commissioner ANDERSON. The consolidation was voted on the 24th of January, and the report is dated on the 16th of January, and is addressed to yourself, among others.

The WITNESS. Yes, sir.

Q. I ask you, are you not satisfied that you saw that report as soon as it bears date?—A. I could not say as to that. I undoubtedly knew of the report.

Q. Did you not know of the contents of that report, and had you not examined them before you voted for the consolidation?—A. Undoubtedly.

Q. Several days before?—A. I could not say as to that.

#### ACTION OF THE DIRECTORS.

Q. You think, on a matter of that magnitude, you would read a report on one day and vote for the consolidation on the following day?—

A. I think the terms of the consolidation were practically agreed upon by four or five of the directors, previously, a week or ten days previous to the meeting of the directors, at which it was voted.

Q. Previous to the report being made is the question. Was that arrangement made before the report was made?—A. Before the report was made to the directors? I think so.

Q. Before the report was made to you?—A. I could not say as to that. We undoubtedly knew what the recommendations of the committee were at the time the agreement was made with Mr. Gould, and the terms on which the companies could be put together.

Q. How could you know what the committee would report until the committee had made a report?—A. It might be told us that they were going to report.

Q. Did they tell?—A. I could not say that they did or did not. I am very confident that they did.

Q. In what shape; just in the shape of a conversation?—A. I think very likely. I do not think there was any written report, or anything except the actual report, which you have probably seen.

Commissioner ANDERSON. That report bears date the 16th day of January, 1880.

The WITNESS. Yes, sir.

Q. You think, before that time, these gentlemen may have told you that they were going to decide in that way?—A. Yes, sir; I think undoubtedly they did tell us what they thought were the fair terms on which the properties could be put together.

#### GOULD'S PURCHASE OF MISSOURI PACIFIC.

Q. To go back to October. Do you remember, shortly after this letter had been written to these gentlemen, hearing that Mr. Jay Gould had bought the Missouri Pacific?—A. I knew when he did buy it.

Q. When was it?—A. I think it was somewhere near the middle of November.

Q. November, 1879?—A. 1879, I think the 13th or 14th, or somewhere along there.

Q. The Missouri Pacific extends, as I understand, from Saint Louis to Kansas City?—A. Yes, sir.

Q. Was it then completed when bought by Mr. Gould?—A. Yes, sir. It also, I think, ran up to Leavenworth and a branch to Atchison.

Q. Please state what bearing this information had on the negotiations that were pending for the consolidation of the Union Pacific with the Kansas Pacific.—A. It expedited the matter very much, as far as the Union Pacific people were concerned. It made them very uneasy and very much alarmed.

#### ALARM OF UNION PACIFIC PEOPLE.

Q. Why did it alarm them?—A. Because, in the first place, Mr. Gould had acquired a very large interest in the Kansas Pacific; a very much larger interest in that than he had in the Union Pacific; and

when we came to deal with him on the question of putting the properties together, he wanted to put in the Kansas Pacific at a very much larger valuation than we thought it was entitled to come in on. And right here I would say that the opinion I might have had—

Mr. JOHN F. DILLON. There is the memorandum of January 14 [producing the paper].

Commissioner ANDERSON. Mr. Ames, go on.

The WITNESS. The Kansas Pacific had changed a great deal in condition in 1879 from what it was in 1876 or 1877. The country had improved a good deal, and it had filled up with people, and the business had increased very much. In the mean time the road had been in the hands of a receiver for two or three years, and there had been a good deal of money spent upon the property in improving its physical condition. Mr. Gould was very anxious to put the Kansas Pacific and the Union Pacific together, but on terms which we thought were unjust to the Union Pacific.

#### TERMS WANTED BY GOULD.

Q. Will you state those terms right here.—A. I cannot remember what they were. It was a matter of negotiation from time to time.

Q. Can you give us any information on that point, as to what particular securities he wanted a greater advantage in than the Kansas Pacific people ultimately got?—A. It was on the stock, very largely.

Q. Did he ask to have the stock put in at more than the equivalent of the Union Pacific?—A. Yes, sir.

Q. More than the equivalent of Union Pacific?—A. Yes, sir; more than the equivalent of Union Pacific. He took the ground all the time that the Kansas Pacific property was worth a great deal more than the Union Pacific property.

Q. Relatively to his holdings?—A. Relatively to his holdings. He made a great deal of talk about the fact of the Kansas Pacific having a very much smaller capitalization than the Union Pacific had. I do not remember what the exact figures were, but I think from 50 to 75 or 100 per cent. larger—on the capital stock, at any rate. We thought that it was not worth as much, nearly, as he proposed. I think at that time, for the sake of peace and harmony, we would have been willing to put the stock together on the terms on which it went together ultimately. There were litigations going on between the two companies as to the question of their right to enter our road at Cheyenne, and prorate on the overland business, which we were fighting off in the court, and resisting all we could, and which we thought, if they prevailed, would be very injurious to the Union Pacific; and at the same time they were competing with us on the Denver business. There was a great deal of contention and friction between the two companies.

Q. Before you pass from that subject, had not a litigation in regard to through business been adjusted long before this time, so that at this time you had the same superintendent, and substantially the same boards of directors, and the same president, Mr. Sidney Dillon?

The WITNESS. At which time?

Commissioner ANDERSON. At the time the consolidation was made.

A. Yes, sir; they had at that time; but that was only through the fact that Mr. Gould, holding the controlling interest in the stock, had seen fit to put us all in.

Commissioner ANDERSON. I mean that, so far as the question of motives that bore on the votes in favor of consolidation were concerned, this question of there being a litigation pending between the companies

had passed out of being, and no longer existed between October, 1879, and the 24th of January, 1880?

The WITNESS. I do not think it had gone out of existence. The records would show that. I think it was suspended. There was no effort being made to push the suits, but Mr. Gould had it in his power at any time to change the board of direction, and to bring these suits up, and to push them for all they are worth.

Commissioner ANDERSON. I mean to say that it was the power of Mr. Gould then that had its effect, and not the actual pressure of pending litigation being pushed in the court at the time.

The WITNESS. Yes, sir.

Commissioner ANDERSON. Does this remark also apply between the competition to the Denver Pacific and the Colorado Central? Had that ceased to be a pending issue, so that was in the power of the Kansas Pacific to resuscitate and renew this agitation?

The WITNESS. We realized that that power remained in Mr. Gould at any time, if we broke with him.

Commissioner ANDERSON. Please continue your story now.

#### GOULD IRRITATED.

The WITNESS. As I said, Mr. Gould was unwilling to accede to any such terms as we thought we were entitled to on the question of putting the properties together, and he seemed to be a great deal irritated with the Union Pacific people for standing out as we did. This was along, I think, in the fall of 1879. He held up to us his power of building branches and developing the business of the Kansas Pacific, and, as I remember, threatening to build up into Nebraska and cut our business there. Meantime he was negotiating for the Central Branch road, and bought that, I think.

Commissioner ANDERSON. On the 7th of November?

The WITNESS. On the 7th of November.

Commissioner ANDERSON. That is, from Mr. Oliver Ames?

The WITNESS. He bought that from the present Oliver Ames, the governor. Not from my father. My father never had any interest at all in that property. The understanding with Mr. Gould at the time that he bought this property, and also the Saint Joseph and Western, was that in case of a consolidation of the Kansas Pacific and the Union Pacific these properties should be turned into the consolidated company.

Q. When you speak of an understanding, between whom do you mean?

—A. Between the directors. Between myself, for instance, and Mr. Gould. That if we took the Kansas Pacific, this was to be thrown in.

Commissioner ANDERSON. I want to call your attention here to the fact that Mr. Gould states, in respect to that, that no understanding was had as to these branches until the 14th day of January, or until after he had resigned his position in these two companies. You do not so remember it?

#### THE PURCHASES MADE FOR THE PROTECTION OF BOTH PROPERTIES.

The WITNESS. My remembrance of it was that the purchases were being made for the protection of the joint properties, if they went together; that we had the right—I do not think we agreed to take the properties of him, but we had the right, if we elected to do so, to take the properties.

Q. On the terms of the purchase?—A. On the terms of the purchase.

Q. On the terms of the purchase by you, the consolidated company were to take—A. I made no purchase.

Q. On the terms of the purchase by Mr. Gould and the other parties?—A. On the terms of the purchase by Mr. Gould. Mr. Gould made all the purchases himself.

Commissioner ANDERSON. You had included the Saint Joseph and Western, and you had before said that Mr. Gould had passed \$100,000 of the bonds over to you. That was the reason I put the question in the form I did. Please go on with the story.

The WITNESS. Immediately after his purchasing the Central Branch, in November, he purchased the Missouri Pacific road.

Q. From Commodore Garrison?—A. From Commodore Garrison. That immediately seemed to change his position towards the question of consolidation. Having acquired this road from Kansas City to Saint Louis, he then turned around and wanted to keep the Kansas Pacific and all these other roads, and to use them as a part of his Missouri Pacific system. The Union Pacific people immediately became very much alarmed, because they felt that Mr. Gould, with the Missouri Pacific, would come in at once as a strong competitor with them for Colorado business, and would be invading their territory in Nebraska and Wyoming, and would be cutting them to pieces wherever they had any business that would pay him to build a branch to reach it. For that reason we were very anxious to bring about the consolidation of the two properties and to prevent the Kansas Pacific from drifting out of our reach and going in and becoming a part of the Missouri Pacific system. The result of that was the agreement which was made in the early part of January.

#### CONSULTATIONS WITH GOULD.

Q. Before passing to that agreement, state, if you please, whether some of you gentlemen went on to New York, and how often.—A. My recollection was that we spent a greater part of the time there in December and January.

Q. How many of you?—A. I think Mr. Atkins and Mr. Dexter were over there constantly; and I think Mr. Baker was there too.

Q. In very frequent, if not constant, consultation with Mr. Gould?—A. Yes, sir.

Q. And urging upon him that you did not desire him to develop his Missouri Pacific scheme in connection with the Kansas Pacific against your company, but that you desired a consolidation to go into effect between the Kansas Pacific and the Union Pacific?—A. Yes, sir.

Q. Did you substantially tell him that he had, by his action before buying the Missouri Pacific, committed himself to the consolidation?—A. That was the argument. The ground we took with him was that he was bound by his previous conversations to give us the preference, and to let us take the property if we could agree upon the terms.

Q. How many interviews of that kind did you have with him?—A. I could not say; they were numerous.

Q. There was a large number?—A. A large number.

Q. Did he, in those interviews, adhere to his previous figures as to the rate at which the Kansas Pacific stock should figure in the consolidation?—A. No, sir; we modified them. We got him to modify his terms.

Q. When did he consent to that modification as to the Kansas Pacific stock?—A. I think not practically until the day that the thing was



closed at his house in January; one evening at his house, I think about the middle of January.

Q. The final consummation, then, was reached at Mr. Gould's house?  
—A. Yes, sir; one evening.

Q. During the time of his purchase of the Missouri Pacific, and of these negotiations, you knew that Mr. Gould was a director of the Union Pacific road?—A. Yes, sir.

Q. And that he was a member of its finance or executive committee?  
—A. I think he was; I do not remember exactly. He resigned, I think, previous—

Q. (Interposing.) I am coming to that in a moment. During these negotiations, when did the subject of his resigning from the board first come up, if at all?—A. I do not remember that it came up at all.

Q. You do not think it was a subject of discussion at all?—A. It might have been, but I do not remember.

Q. During these negotiations and before the consummation of them, on the 14th of January, was the subject of the terms on which these branch roads should be included the subject of discussion between Mr. Gould and yourself?—A. I do not remember the particular discussion. It was always understood that they would be put in at cost, at which he had paid for them.

#### INFLUENCE OF THE THREATENING ATTITUDE OF THE BURLINGTON AND MISSOURI.

Q. At what he had paid for them?—A. Yes, sir.

Q. Have you explained to us, substantially, all that occurred between the gentlemen representing these different interests up to the time that the paper you refer to was signed at Mr. Gould's house?—A. There was one other point which I have overlooked, and that was that one of the influences which had a great deal of effect on Mr. Gould as well as on ourselves in bringing the thing about was the threatening attitude of the Burlington and Missouri in Nebraska, who were threatening to build branches down into this territory lying between the two companies, the Union Pacific on the north and the Kansas Pacific on the south. And we urged it on Mr. Gould to join the properties together, thinking that together we could, with his help, make a stronger front towards protecting the country against the Burlington and Missouri invasion. Then there was another point which came up at the time of this agreement.

Commissioner ANDERSON. I am coming to the time of the agreement. I am inquiring about everything that occurred before the agreement was made.

#### WHY THE MISSOURI PACIFIC LEASED THE CENTRAL BRANCH AND KANSAS CENTRAL.

The WITNESS. As one of the considerations to that agreement, Mr. Gould objected, after having purchased the Missouri Pacific property, to putting the Central Branch and the Kansas Central stocks into the consolidated company, on the ground that he wanted to keep those out for the Missouri Pacific Company. We naturally were very unwilling that he should do that, because it would put him immediately into the whole length of the State of Kansas, almost, with a line lying in between our two roads, and give him the power to build branches in either direction and cut us all to pieces as he saw fit. So, to induce him to put those into the consolidated company, as had been before understood they

were to be, it was agreed that the lease of the Central Branch and the Kansas Central should be made to the Missouri Pacific, by which, although we retained the ownership, they should have the operation of the road and the benefit of any business which would be derived from that country for the Missouri Pacific, and we were to have the net earnings over and above operating expenses of the Central Branch system and the Kansas Central.

Q. Does that lease not give the Missouri Pacific just the same control over the Kansas business as it would have if it owned those two roads, the Central Branch and the Kansas Central?—A. No, sir; it does not.

Q. Why not?—A. In the first place, we held the ownership of the property so that we would control the building of any branch roads out of that property; and we reserved in the lease the right to terminate it by giving a certain amount of notice. I do not remember exactly what it was.

Q. You refer to both leases of the Central Branch and the Kansas Central?—A. There never was any lease of the Kansas Central.

Q. Is there a provision in the lease of the Central Branch by which you can terminate it at any time?—A. There was; yes, sir.

Q. Is there now?—A. No, sir.

Q. When was it abrogated?—A. I think it was abrogated a year or two ago; a year ago, perhaps. There was a new lease made.

Q. You have referred to the consummation of the terms of consolidation as occurring at Mr. Gould's house. Please tell me whether you went there by invitation of Mr. Gould.—A. Yes, sir.

Q. And the other gentlemen?—A. By appointment.

Q. The other gentlemen by like appointment?—A. Yes, sir.

#### WHO WERE PRESENT AT MR. GOULD'S HOUSE.

Q. Who all were there at that tea party?—A. There was a room full of us. I do not remember who. It included Mr. Sage and Mr. Gould and Mr. Dillon.

Q. Judge Dillon?—A. No, Mr. Sidney Dillon. Mr. Dexter, Mr. Baker, Mr. Akins, and myself. I do not remember who all; there might have been some one else.

Q. All who were there were interested in the subject?—A. I suppose so.

Q. There were no strangers there that you know of?—A. No, they would naturally be excluded.

Q. It was a private meeting to discuss a matter of great importance, was it not?—A. Certainly.

Q. As far as you remember, you have stated the names of all the persons who were there?—A. Yes, sir.

Commissioner ANDERSON. The names of all those appear affixed to the paper January 14, 1880.

The WITNESS. Yes, sir; I think those gentlemen on the part of the Union Pacific were all members of the executive committee of the Union Pacific.

Q. At what o'clock did you meet there; in the evening?—A. In the evening, yes, sir; after dinner.

Q. Did all of you dine there?—A. No, sir.

Q. Or any of them?—A. No, sir; I think not.

Q. Was the interview a long one?—A. I think it was; that is my recollection.

## A PROTRACTED DISCUSSION OF TERMS.

Q. Was it protracted?—A. Yes, sir; I think we staid there until midnight, probably.

Q. Were the terms discussed different at the beginning from what they were at the end; did Mr. Gould ask a higher price at first and then finally come down?—A. I could not remember about that at that meeting. But I think there was a protracted discussion, and I think there undoubtedly was some concession made by Mr. Gould at the time.

Q. In his statement of the interview he says that you would not allow him to go out of the room until he signed a paper. Is that your recollection of how the thing was conducted?—A. I do not remember anybody keeping him in.

Q. Was the paper that was ultimately signed brought there by anybody in your party?—A. No, sir.

Q. Was it prepared there?—A. I think it was written there.

Q. Do you remember in whose handwriting it is [showing the paper to witness]?—A. That is Mr. Dexter's handwriting.

Q. Was more than one copy prepared?—A. Not to my recollection.

Q. Was it ever made public?—A. No, sir; I think not.

Q. Was it ever reported, in the form in which it stands, to the board of the Union Pacific?—A. I think the result of it was reported to the Union Pacific board.

Q. The result of the arrangement was reported to both boards of Union Pacific and the Kansas Pacific?—A. Yes, sir.

Q. Were you present at that meeting?—A. Yes, sir; I think I was.

Q. Is your recollection distinct that it was reported to both boards or only to the Kansas Pacific?—A. I could not say.

Commissioner ANDERSON. I hand you a copy of the minutes of the meeting of the Union Pacific Railway Company on the 24th of January and call your attention to the fact that the subject was not reported to that board.

The WITNESS. I think I am correct in my statement that the result of that agreement was reported to that meeting.

Q. You mean the consolidation?—A. Yes, sir.

Commissioner ANDERSON. But what I mean more especially is the terms on which the branch roads were bought from Mr. Gould were not reported to the Union Pacific board?

The WITNESS. No, sir; the articles of consolidation had been drawn up in accordance with the agreement there and those were submitted.

Commissioner ANDERSON. In regard to the meeting of the board of the Kansas Pacific Company, I show you a copy of those minutes and call your attention to the report made there of the transaction. You see that the purchase of the branch road is there reported.

The WITNESS. Yes, sir; the Kansas Pacific was the only one that bought the branch road.

Q. Do you know why the name of the person from whom those branches had been bought was not made to appear in that report?

A. No, sir; I do not.

WAS AGREEMENT TO BUY OF MR. GOULD THE SAINT JOSEPH AND WESTERN MADE PUBLIC?

Commissioner ANDERSON. As a matter of fact it was not disclosed by the report made by Mr. Dillon to the company?

The WITNESS. It was perfectly well understood.

Q. Among yourselves?—A. Among the board at that time.

Q. My inquiry is, what publicity was given to this matter at the time, in any way or shape, that this company had agreed to buy the Saint Joseph and Western from Mr. Gould at par and at the other prices fixed for the stock; was it made known so that there was no secret about it, or was it kept quiet among the directors?—A. It was a matter well known. It was a matter of public knowledge. There was no secret made of it at the time.

Q. Are you aware of any publication by which these terms were made public at the time?—A. No, except it was a matter of common notoriety in the street. Every one knew that Mr. Gould had been buying these properties.

Q. I dare say; but my question is whether every one knew that the Kansas Pacific consolidation had bought these same properties from Mr. Gould and the terms at which they had been purchased from Mr. Gould?—A. I could not say as to that. There was no attempt made, to my knowledge, to keep the thing secret.

Q. Was there any effort made to make it public that you know?—A. No, sir; no more than on any other action of the board.

Q. Did you not think that this thing was different from any other action of the board; have you not stated that the understanding was up to the time of this interview, or about that time, that those branches, if taken into the consolidation, were to be turned in at cost to Mr. Gould?—A. Yes, sir.

#### BOUGHT AT 40, SOLD AT PAR.

Commissioner ANDERSON. And you know that the cost to Mr. Gould, as he has told us, was 40; and you know that they were turned in at par, payable in stock. Do you not consider that as a somewhat unusual transaction?

The WITNESS. Which one was turned in at par?

Commissioner ANDERSON. The Saint Joseph and Western bonds, of which there were two lots, one known as the Nebraska and Kansas, and the other lot known as the Saint Joseph and Pacific, forming together the Saint Joseph and Western. I am only asking why the terms of this transaction were not made public at the time.

The WITNESS. I do not know anything about that. We were not in the habit of publishing the doings of the board at all, neither then nor since.

#### MR. GOULD RESIGNS.

Q. You notice by those minutes before you that Mr. Gould's resignation was read to the board. Was that resignation a matter of surprise to you when you heard it?—A. I do not remember. Very likely I had been told that he had resigned before it was presented to the board.

Q. Told by whom?—A. Probably Mr. Dillon.

Q. Did you know how long before the meeting he had resigned?—A. No, sir.

Q. Did you know at the time you heard his resignation read, at 1 or 2 o'clock on the 24th day of January, that he was to become a director of the consolidated company within an hour or two?—A. I probably did.

Q. Can you now tell me what, in your judgment, the motive for that resignation was if he was to become a director again immediately afterward?—A. Without any positive recollection about it, I should say that



my impression was that it was done under the advice of counsel at the time.

Q. Because of the fact that dealings were going on between himself and these companies in securities in which he had a personal interest?—A. Yes, sir.

Q. And the resignation was intended to cover the time at which these dealings took place?—A. I suppose, likely.

Q. Do you know whether that resignation was actually written on the 10th of January and handed to Mr. Dillon?—A. No, sir, I do not.

Q. Do you know whether on the 14th of January, when this arrangement was made in regard to the terms of purchase, Mr. Gould then informed you that he had ceased to be a director in these companies?—A. No, sir; I do not remember anything about them.

#### PROPRIETY OF THE INDIVIDUALS ACTING IN DUAL CAPACITY.

Q. During the whole of this discussion at Mr. Gould's house, at which these gentlemen were present, was anything at all said in regard to the propriety or impropriety of fixing the terms for the sale of the Saint Joseph and Western and the other branch roads to the intended consolidated company, arising out of the fact that not only Mr. Gould, but all the other gentlemen whom you have named, were directors of the company?—A. No, sir. Our interest in these properties were so small that we practically had nothing to say as to the terms on which they went in.

Q. Did it occur to you, as the holder of \$100,000 Saint Joseph and Western bonds, which had cost you \$40,000, that it was not proper for you to unite in the making of an arrangement which would give you \$100,000 for the same bonds?—A. No, sir. It did not.

Q. That did not occur to you?—A. No, sir. At the same time I had \$4,000,000 of stock of the Union Pacific, and I thought it was a great deal more important to me, for my Union Pacific stock, to have this thing carried out. What small interest I had in the Saint Joseph and Western or in the Kansas Pacific Companies cut no figure at all in the arrangement. I had \$4,000,000 stock of the Union Pacific at this time, and a million dollars of the Union Pacific bonds; and I had \$180,000 of the stock of the Kansas Pacific, and I had \$100,000 of the bonds of the Saint Joseph and Western.

Q. So that your interest with the Union Pacific largely overbalanced the others?—A. I had \$280,000 against \$5,000,000.

Q. The object of my question is to ascertain whether this subject as to the propriety of acting in a dual capacity was at all discussed at this meeting?—A. No, sir; I do not think it was.

Commissioner ANDERSON. It applies very much more largely to Mr. Gould than to yourself or the other gentlemen?

The WITNESS. The point we take was that our interest in the Union Pacific was so large that we felt bound to get these things together on the best terms we could get out of Mr. Gould, and that paper was the result of what we considered was the best thing we could do with Mr. Gould.

#### AGREEMENT IN MR. DEXTER'S HANDWRITING.

Q. Mr. Dexter, you say, wrote out this for you?—A. Yes, sir; it is in his handwriting.

Q. It is written on Kansas Pacific Company heading, but it was done in Mr. Gould's library or parlors, you say?—A. That is my recollection.



Q. And immediately thereafter the gentlemen in question all signed it?—A. Yes, sir.

#### EXPLANATION OF THE SIGNATURE "R. S."

Q. I see the first signature, "R. S.," is a little enigmatical. Will you explain it?—A. I think the suggestion was made by Mr. Sage that the paper should be signed by initials.

Q. He took the initiative?—A. He seemed to be the only man to have acted on that suggestion.

Q. Those are Mr. Sage's initials?—A. Probably; yes, sir.

Commissioner ANDERSON. The other gentlemen, as follows: J. Gould, Frederick L. Ames, E. H. Baker, F. G. Dexter, Sidney Dillon, E. Atkins?

The WITNESS. Yes, sir.

The paper was then read by Commissioner Anderson. It is as follows:

#### THE CONSOLIDATION AGREEMENT.

KANSAS PACIFIC RAILWAY COMPANY,  
New York, Jan'y 14, 1880.

*Memo. of terms of agreement for consolidation of Union Pacific with Kansas Pacific in which the Denver Pacific, Saint Joe & Western, & Union Pacific, Eastern Division, are included.*

All necessary papers, and any further agreements to be prepared by Judge Dillon on his return. The Union & Kansas Pacific, with all their respective assets and properties and liabilities, are to be put together, at par, of their respective capitals—\$36,762,300 & \$10,000,000, to which is to be added the capital of the Denver Pacific, \$4,000,000, making the capital of the Union Pacific Railway Co., as the new line shall be called, \$51,762,300.

The Denver Pacific capital, now an asset of the K. P., to be used after conversion into U. P. Railway stock to pay for shares and bonds of St. Joe & Western R. R. & St. Joe Bridge, as hereafter stated, & for other purposes.

The St. Joe & Western R. R. 1st mort. Bonds & stocks to the extent of a controlling interest in the same to be bought of parties now owning it, at par, for bonds & \$20 a share for stock—payment to be made in U. P. Railway stock, at par.

The road to be leased to the U. P. Railway Co. for the interest on 1st mort. bonds, or otherwise as may be determined. The Bridge at St. Joseph is to be bought of parties now owning controlling interest in the bonds & shares of the same, at par, for bonds with the shares thrown in, & payment to be made either in shares of U. P. Railway, at par, or K. P. con. mort. bonds, at par.

The Union Pacific, Eastern Division, is to be taken at cost to Mr. Gould, & paid for in same securities that he gave, viz, about one-half in K. P. con. mort. bonds, & one-half in new U. P. 6 per cent. Trust bonds, both at par.

R. S.  
JAY GOULD.  
FREDK. L. AMES.  
E. H. BAKER.  
F. G. DEXTER.  
SIDNEY DILLON.  
E. ATKINS.

#### A MISDESCRIPTION IN THE AGREEMENT.

Q. What is this reference to the Union Pacific, Eastern Division?—A. That is the Central Branch.

Q. It was the proper name for the Kansas Pacific before it was called the Kansas Pacific; is that not so?—A. Oh, I beg pardon; that was—Commissioner ANDERSON. That is true. The answer is correct, I think.

Mr. HOLMES. It is a misdescription.

Q. It is the old name of the Kansas Pacific?—A. Yes, sir; there was another name before that.

Mr. HOLMES. The Leavenworth, Pawnee and Western.

Q. The point is that it was the old name of the Kansas Pacific, and in writing this paper the error was made of using that name instead of using the Union Pacific, Central Branch.

Mr. HOLMES. The other way. The Central Branch Union Pacific.

#### ANOTHER ERROR IN THE PAPER.

Commissioner ANDERSON. There is another error that I may as well call your attention to, and that is the footing of the intended consolidation appears to be given at \$51,000,000 instead of \$50,000,000. It's a mere error, and the intention of the parties was that it should be \$50,000,000?

The WITNESS. Yes, sir; it should have been \$50,000,000 instead of \$51,000,000. I see by that paper that the agreement as to putting the properties in at cost to Mr. Gould applied more particularly to the Central Branch, and I see that the rate was fixed for the Saint Joseph and Western in the agreement.

Q. Is it not a fact that all of the parties who signed this paper were interested in the bonds of the Saint Joseph and Western at the time they signed this paper?—A. I do not know. I had no means of knowing. I can only answer that for myself.

Q. You did subsequently convert your Saint Joseph and Western bonds and receive par in the securities here named for them, did you not?—A. Yes, sir; I think I received Union Pacific stock.

Q. And converted your stock of the Saint Joseph and Western at 20, as provided for here?—A. Yes, sir; and the bonds at par.

Q. At the time this agreement was made, what knowledge had you of the extent of Mr. Gould's holdings?

The WITNESS. In what?

Commissioner ANDERSON. In Kansas Pacific stock and Saint Joseph and Western bonds.

#### GOULD'S HOLDINGS IN KANSAS PACIFIC NEARLY DOUBLE THOSE IN UNION PACIFIC.

A. I think, as I remember, that he had nearly double the amount of Kansas Pacific stock that he had of the Union Pacific stock. I do not know that I knew as to his holdings in Saint Joseph and Western.

Q. Did he not disclose how many of these bonds he was going to put in under this agreement?—A. He probably did at that time.

Q. He *probably* did?—A. Yes, sir.

Q. Is it your recollection that he told you how many bonds he had of Saint Joseph and Western?—A. I do not remember as to that. I think undoubtedly we were told at the time how many bonds he could control.

Q. You mean how many bonds you were going to be required to pay for?—A. Yes, sir.

Q. You knew at the time just what he had paid for these bonds?—A. No, sir; I never knew it.

Q. Did you not get your bonds from him?—A. I got my bonds from him.

Q. Did he not tell you that he turned these bonds over to you at the price he had paid for them?—A. No, sir.

Q. He never said that?—A. No, sir; he never told me that.

Q. Then he reserved that for us. Was that not your belief at the time that you united in that purchase?—A. I did not think he had made a great deal of money out of it.

Q. You do not think so?—A. I knew pretty well what the bonds had been selling for for some time in the market.

Q. Did you not know as to this transaction, when Mr. Gould made it, how it was done? Did you know it was done through a number of guarantee companies in New York?—A. No, sir.

Q. By companies who held the bonds?—A. No, sir.

Q. You never knew about that?—A. I did not know the details.

Q. Did you not know that those bonds had sold as low as 6 and 7 cents on the dollar?—A. I knew they had.

Q. Had you been over the Saint Joseph and Western road?—A. Yes, sir; I believe I had.

Q. Did you know its financial condition?—A. I knew it as it was given out to the public.

Q. Did you know Mr. Bond, the receiver, personally?—A. Yes, sir.

Q. Had you and Mr. Bond talked about the road?—A. I do not think I ever had any conversation with Mr. Bond about it at all. I do not remember any.

Q. When was it you went over the road?—A. It was a long time before I had anything to do with it. Two or three years before.

#### GOULD CONTROLLED KANSAS PACIFIC SECURITIES.

Q. To go back to Mr. Gould's holdings at the time that paper was signed; you knew that he substantially held a controlling interest of the Kansas Pacific securities?—A. Yes, sir.

Q. And that he could use that fact for purposes that would be injurious to the Union Pacific?—A. Yes.

Q. And the other gentlemen who were with you also understood the matter in the same way?—A. Yes, sir; we all had that feeling—that they would be so used, unless we made some arrangement with him.

Q. How long after that paper was signed did the meeting break up?

The WITNESS. At Mr. Gould's house?

Commissioner ANDERSON. Yes.

A. At once, I think. I think that was the result of the evening's work, and we all went home and went to bed.

Q. You were pretty tired, I suppose?—A. Pretty tired, probably.

Q. You thought he might give you a rest. Mr. Dexter kept the paper, did he?—A. I am sure I do not remember about that.

#### THE PAPER MR. DEXTER WROTE RECENTLY FOUND.

Mr. JOHN F. DILLON. I can tell you. I found that paper among my own memoranda, and sent it over to Mr. Dexter to get the history of it. It had passed entirely out of my memory. I suppose I must have had it before me when I drew the articles, because I see I had the same names and the same amounts.

Commissioner ANDERSON. You corrected the errors of addition?

Mr. JOHN F. DILLON. I probably did.

Commissioner ANDERSON. You found it recently among your papers?

Mr. JOHN F. DILLON. Yes, sir.

Commissioner ANDERSON. Since the examination in New York?

Mr. JOHN F. DILLON. I had it. I told you I would like to see whether I had it. I had forgotten about it.

Commissioner ANDERSON. Then Mr. Gould is mistaken in saying that he delivered it to Mr. Dexter at this interview?

Mr. JOHN F. DILLON. Oh, no; I think not. I do not think I got it of Mr. Gould, but I do not know who I got it of.



Q. Did anything occur in regard to this matter between the 14th of January and the 24th of January to alter it in any way?—A. Not that I remember.

Q. Did the Boston gentlemen remain in New York most of this time, do you remember?—A. Probably not. We probably came back to Boston.

Q. Did you have anything to do with the preparation of the articles of consolidation?—A. No, sir; not that I remember.

Q. Did you know that instructions for their preparation were immediately given, after that paper was signed?—A. Yes, sir.

Commissioner ANDERSON. I see by the paper that Judge John F. Dillon was away.

The WITNESS. Yes, sir.

Q. Do you remember how soon he returned?—A. No, sir; I do not.

Q. You know that he prepared them?—A. It has always been my impression and understanding that he prepared them.

#### THE SUIT TO RELEASE DENVER PACIFIC STOCK.

Q. Do you know anything of any events that occurred between the 14th of January and the 24th of January relating to the \$4,000,000 Denver Pacific stock that are referred to in the paper?—A. No, sir; I do not remember anything.

Q. You know nothing about the suit of the Kansas Pacific Company against the trustees, Sage and Gould?—A. I simply remember that there was some proceeding brought there to authorize the trustees to release that stock to the company.

Q. Who told you about that suit at that time?—A. I think I got it either from Mr. Sidney Dillon or Judge Dillon. Probably Mr. Sidney Dillon.

Q. You knew the condition of the stock, that it was held by the trustees of the Kansas Pacific mortgage?—A. Yes, sir.

Q. And that it could not be used for the purposes stated in the agreement of January 14 unless it was extricated from that trust?—A. Yes, sir.

Q. Do you recollect what Mr. Sidney Dillon said to you about that suit?—A. No; only in a general way, that there was some proceeding to be taken to get authority from the court for the trustees to turn over that stock to the railroad company in exchange for some amount of Kansas Pacific consols which would be agreed upon.

Q. Did it strike you as singular that such a proceeding as that could be initiated, carried through, and completed between the 14th of January and the 24th of January?—A. I have no experience at all in New York courts. I do not know what could be done there.

Q. We lawyers of New York profess to be rapid. Then you had no conversation with Mr. Dillon in regard to the rapidity with which those proceedings had to be conducted?—A. No, sir.

Q. Did he tell you that he had been a witness in the case?—A. I do not remember that he did.

Q. Do you remember at all his saying that he had sworn that that security, even though released from the trust and used for the purposes intended, could not be made to be worth more than \$200,000, or \$300,000?—A. No, sir; I do not remember anything about that.

Q. He told you nothing about that?—A. Not that I remember.

Q. Since the consolidation have you made the subject of the earnings of the Union Pacific Railway a study?—A. Yes, sir.

Q. How closely have you examined them; from year to year or from month to month?—A. I have kept myself familiar with the earnings from month to month as they were reported.

#### AFTERNOON SESSION.

FREDERICK L. AMES, being further examined, testified as follows:

By Commissioner ANDERSON:

Question. Have you prepared a statement showing, after the formation of this partnership between the Kansas Pacific system and the Union Pacific system, what amount during the years 1880, 1881, and 1882 these two divisions of the road contributed beyond their operating expenses, and what was left after each one of these divisions has been charged with the amounts required for meeting its fixed charges?—Answer. No, sir; I have not.

Commissioner ANDERSON. Mr. Mink, I understand you to say, can answer those questions better than you can.

The WITNESS. Yes, sir.

#### POOL AGREEMENT OF 1878.

Q. Do you remember the fact that at a meeting held in 1878 an agreement between the Union Pacific Company, the Colorado Central, the Denver Pacific, and the receivers of the Kansas Pacific, dated June 1, 1878, was reported to the direction of the Kansas Pacific for approval?—A. Yes, sir; I remember that agreement. It was a pooling agreement.

Q. Do you remember that at the time that agreement was reported its provisions were considered to represent fairly what the constituent parties would be entitled to receive?—A. Yes, sir.

Q. Please tell us what the percentages, as expressed in that agreement, were.—A. The Union Pacific received 72.858 per cent.

Q. Of what?—A. Of the total gross earnings.

Q. The total gross earnings of the pool?—A. Yes, sir.

Q. Taking charge of its own fixed charges out of that amount?—A. Yes, sir. The Omaha bridge was to draw 2.776 for its proportion; the Colorado Central was to receive 4.673 per cent.; the Kansas Pacific 19.693 per cent.

#### THE BASIS OF APPORTIONMENT.

Commissioner ANDERSON. On the next page I find the basis for this apportionment to have been obtained by a statement of the gross earnings of the respective parties for the preceding year, which are given as follows:

To the Union Pacific .....	\$12, 473, 203
For the Omaha bridge .....	475, 203
For the Denver Pacific .....	800, 000
For the Kansas Pacific .....	3, 371, 301
Making a total of .....	17, 119, 777

I understand that the proposed pool divisions were based on the figures I have just read.

The WITNESS. That is the way I understood it at the time.

Q. The agreement then provides (I will give the substance of it only) that if either of the parties to this pooling arrangement shall earn more



than the distributive share of gross earnings, as fixed above, it is to receive 50 per cent., or half of such excess, or is to be allowed as compensation for the cost of transportation of freight, but not to be allowed for the transportation of passengers. Do you remember that?—A. Yes, sir.

Q. Then it provides at the end of the year for the readjustment of the percentages by arbitration, and provides for the keeping of careful accounts of the earnings of each party to the pool; and by the seventh article it provides that the agreement shall continue operative and controlling for the term of fifty years, and subject to the United States circuit court. Do you remember the fact that that agreement was adopted?—A. Yes, sir.

#### THE POOL OPERATIVE UNTIL CONSOLIDATION.

Q. Did it go into operation?—A. Yes, sir.

Q. Was it ratified by the circuit court, as far as the receivers were concerned?—A. I suppose it was; that was a matter that concerned the receivers.

Q. Did it remain in operation until the consolidation?—A. Until the consolidation, I believe; I think they can give you in the office the way that pool worked out for the Union Pacific; I think we had to pay the Kansas Pacific some money, under that arrangement, every month.

Q. Can Mr. Mink give us that?—A. Yes, sir; Mr. Mink can give you that.

Q. Do you remember a proceeding, in October, 1878, when there was some allegations that Mr. Villard had represented too closely certain interests, and he was charged with having been partial in the discharge of his duties?—A. No; I do not remember that. What was that?

#### CHARGES AGAINST HENRY VILLARD.

Q. That has escaped your memory, has it? It was in the Kansas Pacific meeting. The language is that—

Whereas Henry Villard, the New York receiver, has not been impartial in the discharge of his duties as such receiver, but, on the contrary, has shown a disposition to favor one class of securities at the expense and to the injury of the holders of other securities, and of the stockholders of this company:

Now, therefore, we, the Executive Committee of the Board of Directors of the Kansas Pacific Railway Company, deeming it our duty to see that all interests are impartially and equally protected, do hereby

*Resolve*, That the said Henry Villard has acted for the best interests of the company, and we do hereby ratify and confirm his said action in that behalf.

Q. Do you remember that fact?—A. No; I do not remember that.

Q. Do you remember the fact that one class of securities did complain that Mr. Villard had not treated them fairly?—A. Yes, sir; I remember there was some dissatisfaction. I could not remember now what particular class of securities it was that complained.

Q. He was supposed to represent the German interest, was he not?—A. Yes, sir; he was put in there as the representative of the Dutchmen.

Q. Do you remember that after the Saint Louis people were bought out there were certain changes which occurred in the board of direction?

The WITNESS. By the resignation of some gentlemen?

Commissioner ANDERSON. By resignation?

A. I remember that some of them resigned.

Q. And other people took their places?—A. Yes, sir.

## THE UNION PACIFIC IN CONTROL OF KANSAS PACIFIC.

Q. Substantially, the fact was that the Union Pacific went into the control of the board?

The WITNESS. Yes, sir; I think they were in control before, were they not?

Commissioner ANDERSON. Yes, sir; but I mean by holding positions on the board, and the Saint Louis people withdrawing from the board.

The WITNESS. Yes, sir.

Q. It appears from the minutes that the directors who then withdrew were Messrs. Perry, Meier, Holmes, Carr, Edgell, Tredway, and Oakes Ames, and that Russell Sage, A. Cammack, C. S. Garland, J. P. Usher, G. M. Dodge, James R. Keene, and J. M. Ham became directors, and thereupon Mr. Sidney Dillon was elected president. At that same time Mr. Sidney Dillon was president of the Union Pacific?—A. Yes, sir; he was.

Q. Were all of these gentlemen whose names I have read, who were then elected in the Kansas Pacific, also directors in the Union Pacific?—A. No, sir.

Q. Russell Sage became a director in both companies?—A. Yes, sir; he was a director.

Q. Addison Cammack was a director in both companies?—A. Yes, sir.

Q. C. S. Garland and J. P. Usher?—A. No.

Q. They were not directors in the Union Pacific?—A. No.

Q. Was G. M. Dodge?—A. I think he was at that time.

Q. And James R. Keene?—A. Yes, sir; he was.

Q. And Mr. Ham?—A. He was not.

Q. But he was treasurer of the company?—A. He was assistant treasurer, I think, and assistant secretary.

## GOULD'S LOAN OF \$230,000.

Q. Do you remember a meeting, in July 1879, at which it was agreed to make a note to Mr. Jay Gould for \$230,372.10, with interest payable at 7 per cent. per annum?

The WITNESS. For what?

Commissioner ANDERSON. With a deposit of Kansas Pacific consols as security.

A. No, I do not; but has not that something to do with that transaction of the Vulcan Steel Works where he assumed that debt?

Commissioner ANDERSON. The proceeds to be used for the payment of June and December overdue interest coupons.

The WITNESS. What collateral was there with them?

Commissioner ANDERSON. \$230,000 Kansas Pacific consols.

The WITNESS. No, sir; I do not remember that.

Q. It would appear that in July, 1879, this company had not sufficiently recovered from its financial difficulties to get along without borrowing money in this way. Is that your recollection?—A. Very likely; yes, sir.

## ISSUE OF STOCK TO MEET DEMANDS.

Q. Do you remember this proceeding of October 10, 1879:

On motion of Mr. Sage, seconded by Mr. Dillon, the following resolution was unanimously adopted:

*Resolved*, That for the coupons due November 1, 1879, on the consolidated bonds, issued in exchange for other securities of the Kansas Pacific Railway, and for the

Denver Pacific Railway and Telegraph Company, and Denver and Boulder Valley Railway Company bonds, and for the floating debt of the Kansas Pacific Railway Company, to holders of said coupons entitled thereto, the stock of the company be issued at par in exchange therefor.

Do you remember that any proceeding was taken looking to the satisfaction of those demands by an issue of stock?—A. I had forgotten it. I know we were pretty hard up in those days for money.

Commissioner ANDERSON. That was on the 10th of October, 1879?

The WITNESS. Yes, sir.

Q. Do you remember the fact that at the time at which you describe the company as being pretty hard up its stock was selling at 80 or 90?—A. I think it was; yes, sir.

Q. Do you regard that quotation as being the natural judgment of the public as to the value of the property, or as being largely the result of the accumulation of this stock in a single control, and the eagerness of the public to follow in the lead of a man like Mr. Gould?—A. I think that probably had a great deal to do with it.

Q. The latter explanation?—A. Yes, sir; as I remember it, at the time of the consolidation the Kansas Pacific stock was selling higher than the Union Pacific.

Q. But your judgment is that that would not be a safe guide as to the real values of those two properties compared one with the other?—A. Probably not.

#### STOCK ISSUED TO PAY FIRST COUPONS ON CONSOLIDATED MORTGAGE.

Q. Do you remember at the meeting of the board on the 24th of January, after the consolidation had been effected, and the substantial business of that meeting terminated, that Mr. Sage moved that some 6,000 shares of Kansas Pacific stock, which up to that date had not been issued, be issued and applied to the payment of the first coupons on the consolidated bonds, and for other indebtedness of the company?—A. No, sir; I do not remember that, but that was very likely done.

Q. Do you know whether that stock was issued?—A. I think it was; I think that we issued all the stock that was to make up the full amount of \$10,000,000 authorized stock.

Q. But you do not know to what purposes the proceeds of the stock were applied; whether as directed here or whether it simply went into the treasury of the company?—A. No, sir; I could not say; it is something that will be shown by the accounts.

#### DENVER AND SOUTH PARK ROAD.

Q. I understood you to say that you had no personal interest whatever in the Denver and South Park Railroad Company?—A. No, sir.

Q. Did you have anything to do with the construction of that railroad?—A. Never.

Q. Do you remember in September an agreement being reported at a meeting at which you were present, under which, in consideration of the sale of certain stock to Mr. Jay Gould (that is to say, stock in the Construction and Loan Company, which was engaged in building this Denver and South Park road), it was agreed that neither Mr. Gould, nor the Kansas Pacific Railway, nor the Union Pacific Railroad, should in any way discriminate against the Denver and South Park Company?

The WITNESS. When was that; September, 1879?

Commissioner ANDERSON. No; October 22, 1879?

A. No, sir; I do not remember anything about that.

Q. Do you remember that that Denver and South Park road was constructed after that time, and completed?—A. Yes, sir; I think some part of it was built at that time; I think it was being built.

Q. You remember that the Union Pacific finally acquired a large interest in it?—A. Yes, sir; that was some time after the consolidation, though.

Q. But it would appear from this extract from your minutes that you were informed that Mr. Gould had received portions of that stock under a construction contract?—A. Yes, sir.

Q. Were you at all familiar with the terms of the purchase by the company when the company bought its stock in the Denver and South Park Company?—A. I only remember the fact that we bought it in a lump; I think we bought some \$3,000,000 or more of the stock directly, as I understood, from Governor Evans.

#### PRICE OF DENVER AND SOUTH PARK STOCK.

Q. Do you remember the price that was paid for the stock?—A. I think we paid par for it.

Q. Was it not above par?—A. I think not.

Q. Did you familiarize yourself at all with the road at the time of the purchase and ascertain what its value was?—A. Yes, sir; I had been over it a number of times.

Q. Was there a resolution in the proceedings of the executive committee of the Union Pacific Railway authorizing this purchase?—A. I think there must have been; I have never looked to see.

Q. When was it bought?—A. I think in 1881. Was it the summer of 1881?

Mr. MINK. I think it was in 1881.

Q. From whom was it bought?—A. It was bought from Governor Evans.

Q. Was he the sole seller?—A. He was the only one that, I think, was known in the transaction. I imagine that there was a pooling of all the interest in his hands.

Q. Did you not know, at the time the Union Pacific bought it, that Jay Gould was one of the sellers?—A. No, sir; I did not.

Q. You did not know that he had any interest in the stocks or bonds?—A. I imagine that he may have had some small interest in it, but no large interest in it.

Q. No special inquiry was made on that subject that you recall?—A. Not that I remember.

#### HISTORY OF THE DENVER AND SOUTH PARK.

Q. Do you know the financial history of that road from that day to the present?—A. Yes, sir.

Q. Has it ever earned more than its operating expenses?—A. I think it did the first three or four years that we had it, or two or three years. After that it ran behind.

Q. But you say it earned a surplus for one or two years after you took it?—A. I think for two years, and possibly three.

Q. Have you ever been over the road?—A. A great many times.

Q. Please describe the road; is it a narrow gauge?—A. It is a narrow gauge road, running from Denver up to Leadville, with a branch running over to Gunnison. It is a mountain road; it crosses the sum-

mit, the divide, I think, in three or four places. It think it has the distinction of being the highest railroad in the world. There is one place, one summit it crosses, that is fourteen thousand and three or four hundred feet high, I think.

Q. Can you form an accurate judgment of what its cost would be for construction per mile in money and not in bonds?—A. Well, probably a great deal less now than it was at the time it was built. I should imagine it probably could be built now for \$12,000 or \$15,000 a mile. Perhaps \$15,000.

Q. Is that not a high estimate for a narrow-gauge road?—A. Not for a road of this character. It's a road of very heavy grades; there is a great deal of very heavy work on it; it is a mountain road with some considerable tunnel-work and a great many snow-sheds.

Q. Is there much heavy masonry or bridging, or otherwise?—A. Yes, sir; there is some very heavy bridging and masonry, too; long, heavy trestles, and a great deal of rock excavation.

#### DECREASE IN TRAFFIC.

Q. What change has come over its traffic in the last few years?—A. The traffic has not only decreased very much in amount, but the rates, by competition, have been cut in two. The business has been carried probably for a quarter of what it was when we first bought it.

Q. The Union Pacific Company has recently ceased paying interest on these bonds, has it not?—A. On a portion of them; yes, sir.

Q. On a portion only?—A. Yes, sir.

Q. What portion?—A. That is the first mortgage on the first 150 miles of the road. Those were the bonds which were outstanding at the time we bought the road from Governor Evans. I think there were \$1,400,000 of them.

Mr. JOHN F. DILLON. One million eight hundred thousand dollars.

Q. These bonds which the Union Pacific owned were included in one of your collateral trusts, were they not?—A. They were; yes, sir.

Q. In the trust on which the New England Trust Company had made a loan?—A. No; on which they acted as trustee.

Q. Who made the loan?—A. The public, I suppose; the people who had bought the bonds.

Q. They acted as trustees for the bonds that had been taken up?—A. Yes, sir.

Q. Was there any objection made by the trustee, or did any question arise in regard to that security which it held as a part of its trust?—A. No, sir.

Q. Was any question raised by them when the Denver and South Park represented themselves to be without funds to pay their interest?

The WITNESS. By the Trust Company?

#### THE UNION PACIFIC CEASE PAYING INTEREST ON PART OF DENVER AND SOUTH PARK BONDS.

Commissioner ANDERSON. Was a report made to your board that they were without funds to pay the interest, and did the trustee ask for instructions as to what it should do?

A. No, sir; there was a report made to the board that the Denver, South Park and Pacific Railroad Company would not have any funds to meet its interest. And then we asked the New England Trust Company, trustees under the collateral trust 5 per cent. indenture, to allow



us to substitute other securities, and we withdrew, or arranged to withdraw, the South Park bonds from the collateral trust, as we had a right to do by the terms of the trust instrument, upon the substitution of other bonds for them.

Q. Certainly. But that was an indication that you did not any longer consider these bonds as being the proper security to be held in a trust of that character. Is that not so?—A. Yes, sir. The object of making that substitution was that in case of default on these bonds the trustee might have been put in a position where he would have been required to call upon the Union Pacific to take up those bonds by money or substitution of other bonds, and we preferred to do that ourselves voluntarily, before the question arose with the trustee.

Q. Your action was then equivalent to a vote of want of confidence in these bonds?—A. Yes, sir; it was liable to that construction.

Q. I find in your reports that the total issue of bonds on the Denver and South Park was \$4,725,000, of which the company held \$2,797,000, and there were afloat—the public held—\$1,928,000. On what proportion of the bonded indebtedness of this road was it that the Union Pacific ceased to pay interest?—A. One million eight hundred thousand dollars of the \$1,928,000 that were afloat.

Q. That is, the underlying first mortgage that was on the property when you bought it?—A. Yes, sir; these first mortgages are entirely independent of each other. The \$1,800,000 is on the first 150 miles which we bought, and the other bonds were issued on the extensions of the road which we have built since; and those are all first mortgages, too, on that part of the road.

Q. What proportion of the bonds held by the public are on the 150 miles?—A. The whole \$1,800,000 that were issued.

Q. So the Union Pacific Company owns no portion of that \$1,800,000?—A. No, sir; they owned none of the bonds which were defaulted upon on the 1st of May.

Q. And the Union Pacific Company does continue to pay the interest on the bonds, which are a first lien on the extensions, that being in substance a payment to itself?—A. No interest has matured since the default of May 1st. The interest on the \$1,800,000 in bonds was, I think, all paid up to that time, or had been previously.

Q. It has paid the interest on the bonds which are a lien on the extension regularly, up to the last day?—A. Yes, sir.

Commissioner ANDERSON. I notice that some portion of the bonds on the extension must be held by the public.

The WITNESS. I think there are one hundred and some odd thousand dollars.

Q. One hundred and twenty-eight thousand dollars?—A. I think it likely.

Q. So that the effect of this payment of interest by the Union Pacific is that all the payment of interest on its own bonds comes back to itself?—A. Yes, sir.

Q. But that the payment of interest on the \$128,000 goes to the holders of those bonds?—A. Yes, sir.

Q. Do you know where those bonds are, or who holds them?—A. I do not know who holds them now.

Q. Did you ever know who held them?—A. Yes, sir.

Q. Who did hold them?—A. I think they were issued to the Westinghouse Company for air-brakes that were put upon the South Park equipment.

Q. How long ago did the Westinghouse Company sell them?—A. I do not know that they ever sold them.

Q. They may own them now?—A. They may own them now.

Q. What would the object be of paying interest on those bonds at all, if the money merely goes back to the company, excepting that portion which goes to the Westinghouse Company?—A. I imagine it is more a matter of book-keeping than anything else.

Q. Is it not a matter of about \$7,000 a year if the Company does not earn its interest?

The WITNESS. That which goes to the Westinghouse Company?

Commissioner ANDERSON. Yes, sir.

A. We had not made any default at all on any of the bonds up to that time. We were still paying the interest on the \$1,800,000 bonds.

THE OBJECT OF PAYING INTEREST ON A PORTION OF DENVER AND SOUTH PARK BONDS.

Q. What was the object, or the advantage to the Union Pacific Company, in paying the interest on those \$1,800,000 bonds if the Denver and South Park did not earn it?—A. It was a matter that was discussed a good deal, whether the amount of business which we were able to control in Colorado by the ownership and operation of that road did not give us a benefit in the long haul we got from Denver more than offsetting the loss which we would make in paying this interest. We were paying about \$126,000 a year.

Q. Does it follow, if you ceased to pay interest on the bonds, that parties and business people on the line of the road who desire transportation of articles from the East would not pay their freight on it, and that you would cease to get the benefit of the haul over your own road? What difference would the payment of interest make?—A. The great bulk of the business of the South Park road was Leadville business, which was controlled by a pool between the South Park Company and the Denver and Rio Grande. Of course the interest of the Denver and Rio Grande was to take the whole of it if they could, and if we gave up the control of the South Park road we would practically turn over the whole of the Leadville business to the Denver and Rio Grande, and they, at that time, were working in connection with the Burlington and Missouri River road and the Atchison, Topeka and Santa Fé line. The result would have been that the Union Pacific would have been left out entirely.

Q. If you could not make this road pay under your management how could the Denver and Rio Grande road make it pay any better by operating it for themselves?—A. Because they would have the whole of the business there.

Commissioner LITTLE. They had an independent line.

Q. I understand that; but if the Denver and South Park operated in connection with the Union Pacific, and, receiving its merchandise over your road, was unable to make enough money to pay its interest on its bonds, then I ask how, by merely doing its business in connection with the Denver and Rio Grande, it could earn any more money than it did before?—A. If the Denver and Rio Grande had the whole of the business in their hands to deal with as they pleased they could use that business to get concessions or terms out of the roads connecting with them at Denver, which would pay them a great deal better than we could make it pay operating it independently.

Q. So that, for what might be called ulterior advantages derived out of other connections, it would be worth the while of the Denver and Rio Grande to take this road, even though the road itself did not earn enough to pay the interest on its bonds?—A. Yes, sir; the Denver and Rio Grande could have turned this whole business off the South Park road, which was a very much more expensive road to operate than their road, on to the Denver and Rio Grande road, and practically have done little or no business at all over the South Park line.

Q. How could the Denver and South Park take this road from you if you owned all the bonds on the extension except the trifle that was held by the Westinghouse Company?

The WITNESS. How could they take it from us?

Commissioner ANDERSON. How could they take, under the foreclosure of the \$1,800,000, anything but the first 150 miles?

A. That is all they could take, probably, when we got the thing straightened out; but that 150 miles was the link that connected it with our system.

Q. Please give the exact limits of that 150 miles.—A. It is 150 miles running from Denver to the Arkansas River at Buena Vista. I think that substantially covers it.

#### THE "HIGH LINE."

By Commissioner LITTLE:

Q. What is the length of the High Line from Denver to Leadville? You know what is called the "High Line," turning off there at Como and running over the mountain to Breckenridge?—A. I could not give you the exact figures. It is about 65 miles.

Commissioner LITTLE. My question is how far it is from Leadville to Denver by the High Line?

Mr. MINK. I think that it is about 150 miles.

The WITNESS. There is another line that they call the High Line, by the Colorado Central over to Dillon.

Commissioner LITTLE. I have not been over that.

The WITNESS. Very few have.

By Commissioner ANDERSON:

Q. Then the 150 miles would carry the link that, in your judgment, would operate to the advantage to the Rio Grande road and to the disadvantage of the Union Pacific?—A. Yes, sir.

Q. It is that fact that has kept you paying interest during the past year?—A. Yes, sir.

Q. Is your judgment clear as to the future policy which should be pursued?—A. No, sir.

Q. You are in doubt about it?—A. I am in doubt about it.

Q. I believe I understood you to say that you did not know anything about the subject of the stock that Mr. Gould acquired under the Construction Company, or what his interest was?—A. No, sir; I never knew; on inquiry I find that the Denver, South Park and Pacific Railroad Company has not paid all the interest due on the bonds issued on the extensions; that company has had no funds with which to pay the coupons, and the Union Pacific Company has not deemed it wise to surrender its coupons and receive merely a credit for them on book account; my previous answers should, therefore, be modified to this extent.

Q. Do you know of any other of these branch roads on which the Union Pacific has been paying interest, and where the roads have not

themselves earned the interest so paid?—A. No, sir; I do not know of any others; this is the only branch road of the Union Pacific where the securities, to any extent, are outside of the Union Pacific treasury.

#### UNION PACIFIC PAYS INTEREST ON KANSAS CENTRAL BONDS.

Q. Take the Kansas Central; that does not earn its interest, does it?—A. No.

Q. And the Union Pacific still pays it?—A. Yes, sir; but I had forgotten the Kansas Central when I spoke; there are but \$186,000 of the Kansas Central bonds out in the hands of the public, out of \$1,348,000 issued.

Q. How much has that company run behind in earning its interest; take the gross deficit up to 1886?—A. I could not say.

Q. You have it in the report of 1886, have you not?—A. That balance of \$867,000 is made up by charging the interest, as I understand it, on the bonds which are held by the company to that account.

Commissioner ANDERSON. The balance-sheet does declare that the amount by which this company has failed to earn the interest on all of its bonds, including those in the hands of the Union Pacific Company, is \$867,000?

The WITNESS. Yes, sir; while actually the money paid out is only the annual interest of the \$186,000.

Q. What is the object of continuing payment of interest on the bonds of the Kansas Central?

The WITNESS. On the \$186,000?

Commissioner ANDERSON. On any of their bonds; is not the only effect to pay the holder of \$186,000 of bonds interest on his bonds?—A. Yes, sir; I should say that the reason was that it was thought better policy to keep the road in hand than to allow it to go to foreclosure.

Q. If you hold four-fifths or seven-tenths of the bonds, what danger does the Union Pacific Railway anticipate from a foreclosure?—A. No particular danger, I should imagine.

Q. Do you know who holds that \$186,000 bonds?—A. No, sir.

Q. You do not know to whom that interest was paid?—A. No, sir.

Q. Have you ever known?—A. I have never known. I imagine that those bonds were outstanding at the time we purchased the property.

Q. Do you know of any other of these branches on which the interest was being paid, which is not being earned?—A. The Oregon Short Line, I think, fell somewhat short last year.

Q. In the case of the Oregon Short Line, the company's interest is very small in the bonds, is it not?—A. No interest, I think, in the bonds.

Q. The bonds are substantially in the hands of the public?—A. Yes, sir.

Q. So that in that case a failure to pay the interest would lead to a loss of the road?—A. That would probably be the result of it.

#### POOR PROSPECTS OF KANSAS CENTRAL.

Q. It is a question of the policy or advantage of that road, as a connection with the Pacific Ocean, to the Union Pacific? I mean, it does not present the same question as is presented by the last two cases.—A. No, in regard to the Kansas Central, I would say that we have always been in hopes every year that the road would get on its feet, and show better earnings, and that there would be a change there which would enable the road to take care of itself.



Q. Is there anything to indicate a likelihood that that result is coming, in the financial history of the company, as contained in your book?—A. I think if we could keep the other railroads from building into that territory, we would very soon bring it about; but they are cutting it all to pieces now with new lines, and the chances look rather dubious.

Q. It never has had a good year's work since you got it, has it?—A. No, sir; when we first bought it we had practically to spend a great deal of money upon it in rebuilding the bridges. They had an extraordinary freshet on it, as I remember, the first summer, that swept away all the bridges on the road. We have spent a great deal of money on the property, looking towards the widening of the gauge at some future time, which has made the net earnings show very much less.

Q. The Kansas Central is one of the roads that was inherited from Mr. Gould on the 14th of January, I believe?—A. Yes, sir.

Q. It is mentioned in that paper, is it not?—A. Yes, sir.

#### THE UNION PACIFIC SELLS STOCK TO EXTINGUISH FLOATING DEBT.

Q. We find that on the 15th of December, 1880, the Union Pacific passed a resolution authorizing the company to sell, at its market value, the stock of the Union Pacific Railway Company, which is still the property of the company, for the extinction of the company's floating debt. During that year your company was paying dividends, and we desire you to explain how you reconcile the propriety of declaring dividends with the condition of finances which would require the sale of stock for the purpose of extinguishing the floating debt.

Commissioner LITTLE. And thereby increasing the liabilities of the company.

A. I do not directly see what connection the two things have with each other. The declaration of dividends is made upon the statement of the net earnings for the period covered by the dividends. And we might very well have earned the dividend several times over, and at the same time have been building roads and borrowing money and using our funds for other purposes, in addition to the property, which would not interfere with our rights to declare dividends, and pay them.

Q. Would you limit that explanation to the floating debt actually incurred in construction during the same year, and for which you could show the construction as the offset to the issue of stock; or would it be your judgment that, if a company earns in any given year enough to declare a dividend, it is proper to declare such dividend without reference to the condition of the floating debt, as created by the transactions of prior years? Suppose a company has a floating debt of \$10,000,000, incurred no matter how, in the year 1883. It has net earnings, after deducting operating expenses and fixed charges, which leave a surplus of two millions of dollars. In your judgment would it be proper to declare a dividend out of that \$2,000,000, without regard to the fact that at the commencement of the year you had a floating debt of \$10,000,000?—A. That would depend, I think, entirely on what the floating debt was made from, or what was the cause of the floating debt. If the floating debt was the result of the expenditure of money to add to the property of the concern, for which we received additional roads, and we had that property to show for it, to be used to pay for the debt, I do not see any objection to paying a dividend if we have earned it. My idea is that it would be improper to pay a dividend where we had not earned the money, and had to run in debt to get the money to pay the dividend.



PROPRIETY OF DECLARING DIVIDENDS NOTWITHSTANDING A FLOATING DEBT EXISTED.

Q. The theory of the question is that you had earned the money, but that, upon prior transactions, you owed it; and I understand your explanation to be that if the floating debt was actually represented by property, either in the shape of construction or in the shape of legitimate purchases, in that case you consider it would be a proper thing to declare a dividend out of the earnings?—A. Yes, sir.

Q. Would it not be usual, if the floating debt had been created in the way you have described, to have it form a part of either a construction or investment account?—A. That is a matter of book-keeping.

Q. Is it not more than a matter of book-keeping? Is it not a fact, that when you spend money derived from earnings or otherwise for construction, that it immediately increases the construction account, and it is charged to construction?—A. I was speaking more particularly about, not the construction of the Union Pacific road itself, but money that was expended in building branches and extensions outside the Union Pacific.

MONEY EXPENDED IN BUILDING BRANCHES.

Commissioner ANDERSON. When you spend money in building branches outside of the Union Pacific you receive pay for them in all cases, as I understand it, by the stocks and the bonds of the roads constructed?

The WITNESS. Yes, sir.

Q. In such case is not the money that is used and spent in building the branch charged to investment account and taken out of your floating debt?—A. I do not know how it is charged; in fact, if we borrowed the money and had not paid it, it would still remain the floating debt.

Q. Then is it your judgment that this floating debt referred to when you declared this dividend, or during the year when you did declare dividends, in December, 1880, did represent actual expenditures for property and for value?—A. That is my understanding of it; yes, sir.

Q. And it was not the result of liabilities for temporary indebtedness or borrowed money?—A. I do not know that I understand the distinction. We borrowed the money to pay for this construction of these branch lines, the bonds and stocks representing which went into the treasury of the company. The acquisition of those bonds and stocks led to the creation of the floating debt.

Q. Your statement, then, is that for the floating debt there was an equivalent of property to show?—A. Yes, sir; I see that in the report for 1880 we constructed 279 miles of branch lines, which undoubtedly was paid for out of the \$10,000,000 which you used for your illustration.

GOVERNMENT SUIT TO RECOVER MONEY.

Q. Do you recollect in 1876 that there was a suit pending against this company, instituted by the United States, under the bill that was passed on the report of the Wilson committee, with the avowed purpose of recovering moneys that were alleged to have been improperly taken from the company through the Credit Mobilier?—A. I remember there was such a suit; yes, sir.

Q. Do you remember the fate of that suit—what became of it?—A. I do not remember exactly. I remember that the suit was decided, as I

understood, in favor of the company, or of the stockholders, as against the Government.

Q. Do you remember the names of the prominent people who were threatened by that suit?—A. It included every one who had any interest in the Union Pacific.

Q. Do you remember the fact that while that suit was pending motions were made in the board of the Union Pacific by Mr. Jay Gould, ostensibly, that the company should itself institute proceedings against these same persons, and that Mr. Gould's motion was voted down? Do you recall something of that kind?—A. That I do not remember. I was not a member of the board until 1877.

Q. Still you say you were quite familiar with the affairs of the company?—A. Yes, sir.

Q. Do you not remember that it was then arranged through Mr. Gould, and on motion, I think, of Mr. Dexter, that a settlement should be made with all those people?—A. I remember there was a settlement made with all those people.

Q. What did you hear of that settlement when it was made? I do not mean mere rumors, but by conversation either with Dr. Dexter or with any of the parties to the settlement?

The WITNESS. As to what the settlement was?

Commissioner ANDERSON. Yes.

#### UNION PACIFIC AND CREDIT MOBILIER SETTLEMENT.

A. As I remember the settlement, there were certain claims of these people who were the stockholders in the Credit Mobilier. They had large claims against the Union Pacific Railroad Company, and these people gave up their stock. On the other hand, there were suits threatened by Mr. Gould as against these people, in behalf of the railroad company, and the result of the arrangement was that these people all surrendered their stock to the Union Pacific Railroad, and exchanged releases. There was no money paid, as I understand, to any one.

Q. Is it your understanding that the Union Pacific Company released to all these people the claims which the United States was then alleging in its bill against them, and demanding that they should pay back to the Union Pacific Railroad Company?—A. No, sir; my impression was that that settlement was made after the decision of the suit.

Q. That appears not to be so. But the question I ask you is, whether your understanding is that these same claims were described in the bill as arising out of the Credit Mobilier transactions, and representing a large mass of fraudulent payments, whereby many millions of dollars were taken away from the Union Pacific Company, and whereby these different persons were enriched; and that in that bill the prayer was that those persons should be required to account to the Union Pacific Railway Company and refund all amounts improperly taken?—A. I remember there was such an allegation and such a suit.

Q. The question I put to you is, whether the release that was obtained from the Union Pacific Railroad Company, through this action of Mr. Gould and Mr. Dexter, was a release of these very claims?—A. I think it was.

Q. So that, as you understand matters to-day, if the United States should ask the Union Pacific Railway Company to assign such claims to it for prosecution it would be unable to do so?—A. That is my understanding of it.

Q. Is it your personal belief that Mr. Gould intended seriously to bring such a suit?—A. I never believed that he did.

Mr. JOHN F. DILLON. How?

The WITNESS. I never believed that he did.

Commissioner ANDERSON. He did bring a suit, but nothing came of it.

The WITNESS. My idea at the time was that it was to bring about just such a settlement as was accomplished.

By Commissioner LITTLER:

Q. You have already stated that on the 14th of December, 1879, Mr. Gould owned a controlling interest in the Kansas Pacific, and he owned the Missouri Pacific. How much did he own in the Union Pacific? What was his holding in the Union Pacific Company?—A. It is my impression that it was somewhere between \$2,000,000 and \$2,500,000.

#### MEETING AT GOULD'S HOUSE ON JANUARY 14.

Q. When you gentlemen met at Mr. Gould's house on the 14th of January, and this paper was the result of your negotiations that night, would the directory of the Union Pacific have acceded to the terms contained in that paper if they could have avoided the transfer of the Kansas Pacific to the Missouri Pacific system, as threatened by Mr. Gould? Would you, as a director, have consented to those terms?—A. I think I should have staid out to try to get better terms, probably. But we did not think it was safe to wait.

Commissioner ANDERSON. Undoubtedly, from what you have said, the directory of the Union Pacific were largely controlled, in the signing of this paper, by reason of Mr. Gould having you cornered in that way.

The WITNESS. Yes, sir.

#### THE CONSOLIDATION A "GOOD TRADE."

Q. I want your opinion after this length of time as to whether that transaction was a wise one or not for the Union Pacific Railway Company.—A. I think it was eminently a wise one.

Q. You think it has proved to be so?—A. It has proved to be.

Q. Then you think that, notwithstanding Mr. Gould had you cornered, and compelled you to do what you did do, it has resulted beneficially to the Union Pacific Railroad?—A. I think it has resulted in a very good trade, indeed, for us.

Q. You would not take it back if you had a chance?—A. No, sir.

Q. You think this, notwithstanding the large increase in the capital stock of the consolidated company, and the large increase of fixed charges following the consolidation?—A. Yes, sir; I think so. The result of the consolidation was to diminish our fixed charges per mile very considerably.

#### REDUCED RATES THE CAUSE OF DECREASED EARNINGS.

Q. Can you explain how it is that the gross as well as the net earnings of the consolidated system have decreased in the last two or three years?—A. In the reduction of rates. There has been a very large increase in tonnage all the time, and the amount of business has increased very much.

Q. Why have you been compelled to reduce your rates under the line of competition?—A. Under the competition of the roads in the adjoining country.

understood, in favor of the company, or of the stockholders, as against the Government.

Q. Do you remember the names of the prominent people who were threatened by that suit?—A. It included every one who had any interest in the Union Pacific.

Q. Do you remember the fact that while that suit was pending motions were made in the board of the Union Pacific by Mr. Jay Gould, ostensibly, that the company should itself institute proceedings against these same persons, and that Mr. Gould's motion was voted down? Do you recall something of that kind?—A. That I do not remember. I was not a member of the board until 1877.

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Q. The question I put to you was whether the release was given from the Union Pacific Railroad Company to the Credit Mobilier stockholders by Mr. Gould and Mr. Dexter, or whether it was given by the Government?—A. It was given by the Government.

Q. So that, as you say, the Government should ask the Union Pacific Company to it for prosecuting the suit, and for its understanding of it?



Q. Is it your personal belief that Mr. Gould intended seriously to bring such a suit?—A. I never believed that he did.

Mr. JOHN F. DILLON. How?

The WITNESS. I never believed that he did.

Commissioner ANDERSON. He did bring a suit, something came of it.

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By Commissioner LITTLE:

Q. You have already stated that on the 14th of December, 1878, Mr. Gould owned a controlling interest in the Kansas Pacific, and he owned the Missouri Pacific. How much did he own in the Union Pacific? What was his holding in the Union Pacific Company?—A. It is my impression that it was somewhere between \$2,000,000 and \$3,000,000.

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Commissioner ANDERSON. Undoubtedly, from what you have said, the directory of the Union Pacific was largely composed of the directors of this paper, by reason of Mr. Gould having your company.

The WITNESS. Yes, sir.

THE CONSOLIDATION A "WISDOM" TRANSACTION.

Q. I want your opinion after this long transaction was a wise one or not for the Union Pacific Company.—A. I think it was eminently a wise one.

Q. You think it has proved to be so?

Q. Then you think that, notwithstanding the fact that it was a consolidation and compelled you to do what you did, it was a good thing for the Union Pacific Railroad?—A. Yes, sir, it was a good trade, indeed, for us.

Q. You would not take it back at the time?

Q. You think this consolidation was the first and best thing that has happened to the Union Pacific Railroad?—A. Yes, sir.

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Q. Do you know how much you made as an individual by this consolidation? I mean on your holdings?—A. I do not think I made anything.

Commissioner LITTLER. You are like Mr. Gould; you just came out even.

WITNESS' PROFITS FROM THE CONSOLIDATION.

The WITNESS. I got \$180,000 par value of Kansas Pacific stock, which, at the time of the consolidation, stood in the market at a higher value than the Union Pacific stock, in which it was converted.

Q. Considering the fact that you did not give anything for that stock, you cleared \$180,000 somewhere in the deal, did you not?—A. I did not clear it out of the consolidation.

Q. You cleared it in the deal, did you not?—A. No; I never sold the stock. I have got it yet.

Commissioner LITTLER. I guess you held on too long.

The WITNESS. I should not wonder.

MR. GOULD'S PROFITS FROM THE CONSOLIDATION.

Q. Assuming that Mr. Gould's holdings of stock in the Kansas Pacific cost him  $6\frac{1}{2}$  cents a share, I wish you would state to this Commission his profits growing out of that transaction?—A. I do not know what his interest was.

Commissioner LITTLER. He had 79,000 shares.

Commissioner ANDERSON. That is 40,000 full shares.

The WITNESS. What did he pay for it?

Commissioner LITTLER.  $6\frac{1}{2}$ .

The WITNESS. What did he sell it for?

Commissioner LITTLER. He turned it into Union Pacific stock at par.

The WITNESS. They cost him \$500,000 at that rate, and if he got \$4,000,000 he made three and a half millions of dollars.

The CHAIRMAN. Have you any suggestion to offer the Commission?

The WITNESS. No; I would like to say one thing. The question of my exchange of the funding bonds was brought up. I wanted to say in regard to those bonds that they were considered at the time that I put them in—they drew 10 per cent. interest, and I was asked to exchange them for the consols which drew 6 per cent., and I was unwilling to put them in because I thought they were worth a great deal more than the consols were. They were considered a bond that was perfectly good. Finally, in order to let the thing go through, I consented to put them in with this guarantee that they should be made up equal to par at the end of six months.

Mr. JOHN F. DILLON. I should like to ask a question or two, without going into too much detail.

The CHAIRMAN. Certainly.

NO DIVIDENDS EXCEPT FROM EARNINGS.

By Mr. JOHN F. DILLON:

Q. The act of Congress provides, in terms, in this language, applicable to the old Union Pacific Company: "No dividend shall hereafter be made by the said company but from the actual earnings thereof." State whether or not you understand that the Union Pacific Company, after the year 1873, made, declared, or paid any dividend that it had not

earned.—A. No, sir; it did not. We were always very particular about that, because there was a clause in that act which made it for our interest.

Q. It made it penal?—A. It made it penal.

Q. Take the year in respect to which Mr. Anderson interrogated you, namely, 1880. I call your attention to page 4 of the company's report of that year, in which it is stated that after the payment of all the operating expenses, after the payment of its fixed charges, and after the payment of the dividends of that year, there was a surplus remaining of \$2,656,078.92. I now ask you whether you understood in 1880 the fact to be that there was a considerable surplus of earnings, after the payment of this dividend?—A. Yes, sir; I understood it as it was shown in the report.

Q. And, so far as you know, such was the fact, and is the fact?—A. Yes, sir.

Q. Is that general statement true as to the other years in which you paid dividends?—A. Equally so as to every dividend that was paid.

#### WITNESS' INTEREST IN UNION PACIFIC.

Q. I think it important here for you to state to this Commission, if you can with accuracy, just what interest you had in the Kansas Pacific Company, and its interest, and what interest you had in the Union Pacific Company and its securities at the date of its consolidation?—A. In the Union Pacific, January 24, I had 38,612 shares of stock.

Q. Give the par value in money.—A. Three million eight hundred and sixty-one thousand two hundred dollars. I had \$969,000 of the Union Pacific bonds; mostly in sinking-fund bonds.

Q. Is that all of the Union Pacific securities you had?—A. That was what I had in the Union Pacific.

Q. Amounting together in par value to what?—A. Four million eight hundred and thirty thousand dollars.

Mr. JOHN F. DILLON. Now give your interest in the Kansas Pacific.

#### WITNESS' INTEREST IN KANSAS PACIFIC.

The WITNESS. I had \$179,600 in Kansas Pacific stock at par. I had \$635,000 of Kansas Pacific consols, and \$14,000 of Denver extensions.

Q. Amounting to how much, par value?—A. Eight hundred and twenty-eight thousand six hundred dollars.

Q. Your total interest, therefore, in Union Pacific was about \$4,830,000, against \$828,000 in Kansas Pacific, at the date of the consolidation?—A. Yes, sir.

Q. Will you state when and under what circumstances you acquired your interest in the Kansas Pacific security?—A. Three hundred and eighty-three thousand dollars of the \$635,000 of consols I took in exchange for an equal amount of funding bonds.

Q. Where did you get the funding bonds?—A. The funding bonds were some bonds which we had as collateral for money loaned the Kansas Pacific road, and which we took in settlement of the debt or of their notes. We surrendered their notes and took the bonds.

Q. In what year?—A. I think in 1878.

Q. That was a transaction wholly irrespective of any consolidation?—A. Entirely; nothing was thought or dreamed of, of that kind, at that time.

Q. Where and when did you get your other interest in Kansas Pacific securities?—A. I think that I bought the bonds in the market.

Q. How early? When did you buy them?—A. I could not tell without looking at my books. I think along in 1878 and in 1879; in 1879, probably.

Q. Does this statement include your interest in the Saint Joseph and Western?—A. No, sir.

Q. You had how much of the securities of the Saint Joseph and Western?—A. I had \$100,000 of the first-mortgage bonds and 475 shares.

Q. You stated 450 before; which was it?—A. Four hundred and seventy-five shares of stock.

Q. When did you acquire that?—A. I got that May 2, 1879.

Q. It was wholly irrespective of the consolidation.—A. Entirely so; long before it was thought of.

Q. Did you acquire any of these securities with any reference to the consolidation which was effected in January, 1880?—A. None of them at all; not a dollar.

Q. Did you, as an individual, purchase or sell any shares or securities on the market or in any way make any transaction, with a view to profit or otherwise, based upon the fact that a consolidation would or might be made?—A. I never bought a share or sold a share of stock or a bond.

#### HIS PRESENT INTEREST IN UNION PACIFIC.

Q. What is your interest now in the Union Pacific Company?—A. About 40,000 shares.

Q. You never sold any of your interest?—A. No, sir.

Q. You have held it through good report and ill report, have you?—A. Yes, sir; and got left.

Q. How high did the stock go after the consolidation?—A. I think it went up to somewhere between 135 and 140.

Q. When it turned, how low did it go?—A. It went out of sight.

Commissioner ANDERSON. Thirty-nine.

Mr. JOHN F. DILLON. I want to get it on the record.

The WITNESS. Somewhere about 30, I think.

Q. What is it now, about?—A. About 62, I think.

Q. How does the interest which you have in the Union Pacific at this time compare in amount with the interest which you had in 1880, at the date of the consolidation?—A. It is larger.

Q. You are now one of the largest shareholders, I suppose, in the Union Pacific Company?—A. I think so.

#### THE GOOD FAITH OF THE PARTIES IN FORMING THE CONSOLIDATION.

Q. As far as I can see, the point of these specific inquiries in regard to the consolidation which this Commission is making in obedience to some requirements of the act of Congress, seems to be directed to the good faith of the parties who, on the part of the Union Pacific, entered into that arrangement. It appears from your statement, as you had only about \$800,000 Kansas Pacific securities against \$5,000,000 of Union Pacific securities, that any bad bargain you made would hurt yourself. I now want to ask you more particularly as to the good faith with which, as an individual, you entered into this arrangement, and I would like to have you state somewhat in detail the motives and considerations which actuated you in acceding to this arrangement.—A. I do not think that in making this arrangement the fact ever occurred to

any of the parties interested in the Union Pacific road, or that it cut any figure in influencing their minds, that they had a small interest in the Kansas Pacific stock, which was the only security which would be affected at all by the consolidation. As I said before, the fact was that at that time the Kansas Pacific stock was selling higher in Wall street than the Union Pacific stock. We felt at the time that if we allowed this opportunity to go by to put the two properties together and allowed Mr. Gould to retain the Kansas Pacific and use it in connection with his Missouri Pacific system, it would, practically, be fatal to our interests in the Union Pacific; that he would be competing with us all along on our line, cutting up our local business, and that we should have to go to the wall. We all felt it was a matter of life and death to the Union Pacific Company to secure this consolidation and to prevent the Kansas Pacific from going into and forming a part of the Missouri Pacific system.

Q. I will not ask you in detail as to the relative interest of Mr. Baker, who also signed this agreement, and of Mr. Dexter and Mr. Atkins and Mr. Dillon. As they have been or will be examined, and have spoken or can speak for themselves. I ask, generally, your understanding as to their respective interests in the two companies at the date of the consolidation.—A. It was understood at the time that their interests were all very small in the Kansas Pacific Company.

Q. In comparison with what they had in the Union Pacific?—A. In comparison with what they had in the Union Pacific, and I am sure we all worked in the interest of the Union Pacific Company as strongly as we could.

#### THE MEETING ON JANUARY 14 AT GOULD'S HOUSE.

Mr. JOHN F. DILLON. When you met, on the evening of the 14th of January, at the house of Mr. Gould, there seemed to have been present, among the gentlemen who subscribed the agreement, Russell Sage, Jay Gould, yourself, Mr. Baker, Mr. Dexter, Mr. Sidney Dillon, and Mr. Atkins. Practically that was a negotiation, as I understand it, between Mr. Sage and Mr. Gould on one hand, and the other gentlemen, including yourself, on the other hand; the latter as representatives of the Union Pacific Company?

The WITNESS. That is the way we understood it at the time.

Mr. JOHN F. DILLON. You were there face to face, at arm's length, each struggling for the assertion of your rights, and to make the best bargain you could?

The WITNESS. Yes, sir.

Q. I want to ask you directly whether the fact that you held at that time about \$800,000 of the securities of the Kansas Pacific Company against about \$5,000,000 of the other had any influence in your mind or in your judgment in determining you to assent to this arrangement embodied in the paper?—A. Not the slightest. Because we all felt that whatever happened, if the thing drifted apart, very likely the Kansas Pacific securities, both the bonds and the stock, would be worth more to us who held them, with Mr. Gould managing the roads as an independent system, than possibly they might be if merged into the consolidated company.

Q. At that time, as the stock of the Kansas Pacific in the market was worth the most, so far as your interest represented in the stock was concerned, there was no prospect of profit by converting one into the other?—A. No, sir.

## THE SITUATION OF AFFAIRS IN 1880.

Q. At that time, namely, in January, 1880, the situation was this, was it not, as you understood it and as you now understand it: That Mr. Gould had the control of the Missouri Pacific absolutely in his hands?—

A. Yes, sir.

Q. That he had absolute dominion over the Central Branch?—A. Yes, sir.

Q. Also over the Kansas Central?—A. The Kansas Central, I think, was included in his purchase of the Missouri Pacific.

Q. So he states and so it is. He had also the control of the Saint Joseph and Western?—A. Yes, sir.

Q. Let us suppose that the other event had happened, namely, that you had separated at that meeting and war had come, the Union Pacific remaining in the hands of yourself and your friends, the Missouri Pacific and the Kansas Pacific, the Central Branch, the Saint Joseph and Western, and the Kansas Central remaining in the hands of Mr. Gould and his friends, the latter being managed with a view to its possibilities and to its interest. What did you fear then, and what do you believe now, would have been the result of the failure to agree on some plan of unification and identity of interest with respect to these properties?—A. I believe it would have been very disastrous to the Union Pacific. Of course I could not undertake to say what would have happened, but what probably would have happened was very unpleasant for us to consider at the time.

## POSSIBLE RESULTS IF CONSOLIDATION HAD NOT TAKEN PLACE.

Q. Let us look at it; suppose the Central branch had been extended on the natural line west, it lying between the Union Pacific on the north and the Kansas Pacific on the south, and running nearly parallel to the Kansas Pacific, and in a direct line to Denver; how would the extension of that road have affected the values of the Union Pacific property?—A. It would have damaged the Union Pacific very seriously. It would have drawn away a great deal of business which we now get, and it would have put that whole territory into occupation by Mr. Gould, and we should have had to cut our rates and our income would have been very materially impaired.

Q. On the other hand, there was the Saint Joseph and Western; how would that, in the hands of a rival and hostile interest, able to hold it and to push it for what it was worth, have been used injuriously to affect the values of the Union Pacific property?—A. It could have been used to cover the country that was tributary to the Union Pacific division, and would have drawn off a great quantity of business which we got and carried it down to the Missouri Pacific system, and we should have lost it. It would have made a great difference in our earnings.

## THE SAINT JOSEPH AND HASTINGS AS CHECKMATE TO IOWA ROADS.

Q. Mr. Gould stated in his testimony that one reason which operated with him as a motive for acquiring the Saint Joseph and Western property, and its extension from Hastings to Grand Island, was to enable you to have a counter-check on the Iowa roads, so as to have an eastern outlet in that way in case they attempted to deprive you of the constructive mileage which they had always theretofore awarded, namely, one and one-half or two to one; do you recollect that?—A. Yes, sir;



all the roads with whom we connected at Omaha united in what was called the Omaha pool, and they were disposed at times to sit down on the Union Pacific very hard, and to cut down the allowance which we had about constructive mileage; and as a means of protecting ourselves against that, and making ourselves independent of them, it was thought very important that we should have this line, which would give us connections outside the Iowa pool and make us independent.

Q. The Union Pacific people (neither you nor any other director) had no interest in the acquisition of the Central Branch by Mr. Gould?—A. No, sir; never.

Q. You were not interested as a seller, were you?—A. Not at all.

Q. Not a cent?—A. No, nor in buying.

Q. Nor were you interested in the purchase which Mr. Gould made?—A. Not a cent in any way.

Q. He has testified, and I believe it is not now disputed, that he turned it over to the consolidated company at just what it cost; that is your understanding?—A. Yes, sir.

Q. I will ask you now, as that is an element here, whether the turning over of the Central branch and the Kansas Central to the Union Pacific were the terms which Mr. Gould insisted on?—A. No, sir.

Q. Or whether they were the terms that the Union Pacific wanted made?—A. The Union Pacific insisted on their coming into the trade and being covered by the preliminary consolidation agreement.

#### AGREEMENTS CONCERNING KANSAS CENTRAL AND CENTRAL BRANCH.

Q. In that connection I will ask you what that is [handing paper to the witness].—A. This is an agreement for the operation of the Central Branch and the Kansas Central.

Q. This is an agreement, or purporting to be, between the Kansas Central Company, party of the first part, the Central Branch of the Union Pacific Railway Company, party of the second part, and the Missouri Pacific Railway Company, party of the third part. It is dated the 6th day of December, 1880, and is signed by the Kansas Central Railroad Company, by Sidney Dillon, president; the Central Branch Union Pacific Company, by Sidney Dillon, president; and by the Missouri Pacific Railway Company, by Jay Gould, president. It was not reduced to form?—A. No. This was included in the agreement of January, 1880.

Q. It recites, among other things, that it was understood at the time the Union Pacific obtained the control of the parties of the first and second parts—that is, of the Kansas Central and the Central Branch—that an equitable arrangement between the parties hereto of the general nature embodied in this contract should be made. That, I understand, is a true recital according to your recollection?—A. Yes, sir.

#### CONSTRUCTIVE MILEAGE.

Q. It provides that it shall be operated in the most economical manner, and in such manner as to yield to the parties of the first part the largest practical amount of revenue. Then follows this clause:

It is expressly understood by the parties hereto that all the business done by said roads of the first and second parties [that is, the Central Branch and the Kansas Central] and taken from said roads and delivered to the Missouri Pacific, shall be adjusted and settled for on the same basis as the Iowa roads in respect to the local business of the Union Pacific Railway.

What did you understand that clause to mean?—A. That was to give us constructive mileage.

Q. That is to say, you stipulated for the same advantage in the way of what is very inaptly termed, I think, constructive mileage, that you got from the Eastern roads on the Union Pacific proper?—A. Yes, sir.

Q. Then is contained a provision that it is understood that this agreement may be terminated by either of the parties on six months' notice, but if terminated it is also understood and agreed that some other equitable arrangement shall be made, and that in any other arrangement that may be made or contemplated the business from said road shall be given to the Missouri Pacific Railway on equitable terms and conditions to be agreed upon. How long did this agreement, as respects the Central Branch, remain in force?—A. Until about a year ago.

NEW LEASE OF CENTRAL BRANCH MADE A YEAR AGO.

Q. Then what happened?—A. Then we made a new lease (I do not remember the number of years) for the balance of the term of this, I think.

Q. There are no specific terms in there. You made a new lease, which appears and is in writing?—A. Yes, sir; twenty-five years, I think.

Q. That was done in pursuance of the original understanding?—A. Yes, sir.

Q. The result of which is, if I understand it, namely, that the Union Pacific gets the net earnings of this road?—A. Yes, sir.

Q. They own the stock and therefore can control the extensions, and prevent its being extended as to invade territory which, if invaded, would result in an injury to your other property?—A. Yes, sir; they own about 86 per cent. of the stock.

Q. It would appear from the testimony here that the Kansas Central is not operated by the Missouri Pacific. Can you give the reason why?—A. This agreement was made and signed here by Mr. Sidney Dillon, as president of the Kansas Pacific; and when the Missouri Pacific undertook to act upon that, they discovered that Mr. Dillon was not the president of the Kansas Central road; neither did the Union Pacific own a controlling interest in the securities. So, naturally, the agreement, as far as the Kansas Central was concerned, fell through.

Q. The only effect of which is that, instead of being operated by the Missouri Pacific, it is operated as one of the associated or allied lines of the Union Pacific system?—A. Yes, sir.

Mr. JOHN F. DILLON. I offer that agreement in evidence.

It is marked "Exhibit No. 1, May 25, 1887," and is as follows:

Agreement between the Kansas Central Railroad Company, party of the first part, and the Central Branch of the Union Pacific Railway Company, party of the second part, and the Missouri Pacific Railway Company, party of the third part, witnesseth:

Whereas the road of the party of the first part and the road of the party of the second part connect with the road of the party of the third part; and

Whereas the Union Pacific Railway Company is the beneficial owner and controller of the party of the first part and the party of the second part; and

Whereas it is deemed desirable by the parties in interest to make an arrangement so as to secure the economical operation of the road of the party of the first part, and the road of the party of the second part; and

Whereas it was understood at the time the Union Pacific Railway Company obtained the control of the parties of the first and second parts that an equitable arrangement between the parties hereto of the general nature embodied in this contract should be made; and

Whereas it is believed that the arrangement embodied in this contract, whereby the party of the third part will agree to operate the road of the party of the first part and the road of the party of the second, will, if properly carried out, result to the advantage of the parties concerned:

Now, it is hereby agreed by the party of the first part for itself, and the party of the second part for itself, that their respective roads may be run and operated by the party of the third part until this agreement is terminated as herein provided.

The Missouri Pacific Railway Company is to operate the said roads during the continuance of this agreement in the most economical manner practicable, and in such manner as shall yield to the party of the first part and the party of the second part the largest practicable amount of revenue.

It is expressly understood by the parties hereto that all the business done by said roads of the first and second parties, and taken from said roads, and delivered to the Missouri Pacific, shall be adjusted and settled for on the same basis as the Iowa roads in respect to the local business of the Union Pacific Railway.

It is understood that the purpose of this agreement is to secure the harmonious and beneficial operation and use of the said roads in the interest of all the parties concerned. The said party of the third part is not to operate the said road of the first and second parties to their detriment, or that of the Union Pacific Railway Company, but fairly and equitably to all parties concerned. All business taken from the said roads that would be competitive business, if this agreement were not made, shall be pooled wherever practicable.

It is understood that this agreement may be terminated by either of the parties on six months' notice, but if terminated it is also understood and agreed that some other equitable arrangement shall be made, and that in any other arrangement that may be made or contemplated, the business from said roads shall be given to the Missouri Pacific Railway on equitable terms and conditions to be agreed upon.

It is hereby expressly agreed that any dispute that may arise under this agreement shall be referred to the president of the party of the third part and to the president of the Union Pacific Railway Company for settlement.

The said party of the third part hereby agrees to pay over respectively to the parties of the first and second parts all the net earnings of their respective roads, and to render to them respectively regular monthly accounts of the earnings and expenses.

In witness whereof the said parties have executed this contract this 6th day of December, 1880.

KANSAS CENTRAL RAILROAD COMPANY,  
By SIDNEY DILLON, *President*.

[SEAL.] CENTRAL BRANCH UNION PACIFIC RAILROAD COMPANY,  
By SIDNEY DILLON, *President*.

Attest:  
A. H. CALEF, *Assistant Secretary*.

[SEAL.] THE MISSOURI PACIFIC RAILWAY COMPANY,  
By JAY GOULD, *President*.  
A. H. CALEF, *Secretary*.

DIRECTOR SINCE MARCH, 1887.

Q. How long have you been a director in the Union Pacific?—A. Since March, 1877; ten years.

Q. Giving how much attention to its general affairs?—A. I have given a good deal of attention to them. I am in and out here every day, and keep myself posted.

Q. Are you in the habit of going over the road every year?—A. Yes, sir.

Q. How long have you been a member of the executive committee?—A. Since I have been a director, ten years.

#### METHOD OF ACQUIRING BRANCH LINES.

Q. During the ten years it appears from the facts already before the Commission that nearly all the branch and associated lines of this sys-

tem have been acquired. I wish you to state the manner—I do not want you to go into detail, but I want to show, if I can, the good faith and integrity of the management of the company—in which these branches and additional lines have been acquired.—A. All the branch lines of the Union Pacific road, with the exception of the Oregon Short Line, have been built by the company for cash, and all the securities, both stock and bonds, that have ever been issued on them, have gone into the treasury of the company.

#### NO IMPROPER PROFITS TO DIRECTORS OR OFFICERS.

Q. During the period of your connection with the company as a director and as a member of its executive committee, and as one fully cognizant of its affairs, I want to ask you, in the broadest possible manner, whether you ever made any personal profit, or whether any other member of the board of direction or other officer of the company, within your knowledge, has been interested in any contract for the purchase of materials or the building or extension of roads or acquiring of the securities by which these roads have been added to the system?—A. As far as I am concerned I would say that I have never made a cent out of the construction of any branch of the Union Pacific road, and I never had any interest in any concern or company that made any money out of them in any way, and I do not believe or know of any director or officer of the company who has ever done so.

Q. Has it, on the other hand, rather been your pride since your connection with the company to keep it in all respects clean and beyond unfair criticism?

Commissioner LITTLER. Do you not think your interrogatories are a little leading?

The WITNESS. I think so.

Mr. JOHN F. DILLON. That is not any objection with a fair witness. I want that question to go on the record. I do not see any point to this investigation on this subject, except as intended to impeach these gentlemen.

A. We have always prided ourselves on it. We have never allowed any one to have an opportunity to make any money out of the company. We have tried, as far as we could, to keep its record clean, and we believe it is clean.

#### THE SOUTH PARK ROAD.

Q. A word or two about the South Park road. Do you recollect the purchase of that road and the investment of the company in other securities, being specifically submitted to the shareholders of your company, and if so, what action did they take thereon?—A. My recollection is that at one of the stockholders' meetings a list of those securities was submitted, or the transactions resulting in the purchase of those securities was submitted and a vote of the stockholders was had ratifying and approving it.

Mr. JOHN F. DILLON. I will ask you to have the vote you refer to annexed to your answer as a part of your testimony.

The CHAIRMAN. There is no objection to that.

It is as follows:

## EXTRACT FROM MINUTES OF MARCH 7, 1883.

Extract from the records of the proceedings of the stockholders of the Union Pacific Railway Company at their meeting held at the office of the company, No. 195 Broadway, New York, on March 7, 1883.

No. 2. Whereas investments of the earnings and means of this company have heretofore been made from time to time in the stocks and bonds of other companies, as follows:

*Statement of stocks and bonds owned by the Union Pacific Railway Company, held in the consolidated mortgage trust, December 31, 1882.*

	Stocks.	Bonds.
Junction City and Fort Kearney Railway Company.....	\$720,000	\$970,000
Golden, Boulder and Caribou Railroad Company.....	60,000	60,000
Solomon Railroad Company.....	1,000,500	575,000
Denver and Boulder Valley Railroad Company.....		546,000
Lawrence and Emporia Railroad Company.....		465,000
Salina and Southwestern Railroad Company.....		540,000
National Land Company.....	94,800	
Totals.....	1,875,300	3,156,000

*Statement of stocks and bonds owned by the Union Pacific Railway Company, December 31, 1882.*

	Stocks.	Bonds.
Omaha, Niobrara and Black Hills Railroad Company.....	\$977,000 00	\$977,000 00
Omaha and Republican Valley Railroad Company.....	926,900 00	1,851,000 00
Marysville and Blue Valley Railroad Company.....	64,000 00	128,000 00
Echo and Park City Railway Company.....	480,000 00	480,000 00
Utah and Northern Railway Company.....	4,816,400 00	4,968,000 00
Colorado Central Railroad Company.....	6,229,000 00	4,697,000 00
Colorado Central Railroad Company of Wyoming Territory.....	130,000 00	
Lawrence and Emporia Railroad Company.....	465,000 00	
Salina and Southwestern Railroad Company.....	231,700 00	
Saint Joseph Bridge Building Company.....	500,000 00	784,000 00
Central Branch Union Pacific Railroad Company.....	858,700 00	
Atchison, Colorado and Pacific Railroad Company.....	150,000 00	508,000 00
Kansas Central Railroad Company.....	1,313,400 00	1,162,000 00
Utah and Nevada Railroad Company.....	438,500 00	
Manhattan, Alma and Burlingame Railroad Company.....	400,000 00	339,000 00
Nevada Central Railway Company.....	959,500 00	250,000 00
Denver, South Park and Pacific Railroad Company.....	5,192,500 00	1,489,000 00
Wasatch and Jordan Valley Railroad Company.....		10,000 00
Manhattan and Blue Valley Railroad Company.....	44,341 98	
Saint Joseph and Western Railway Company.....	1,536,200 00	
Saint Joseph and Pacific Railroad Company, first mortgage.....		1,303,369 00
Kansas and Nebraska Railroad Company, first mortgage.....		1,114,661 40
Kansas and Nebraska Railroad Company second mortgage.....		24,700 00
Saint Joseph and Denver City Railroad, receivers' certificates.....		113,000 00
Hastings and Grand Island Railroad Company.....		375,000 00
Utah Central Railway Company.....	1,886,900 00	
Utah Southern Railroad Extension.....		982,000 00
Saint Louis, Council Bluffs and Omaha Railroad Company.....		19,500 00
Denver, Western and Pacific Railroad Company.....	762,500 00	694,000 00
Loveland Pass Mining and Railroad Tunnel Company.....	4,400 00	400,000 00
Salt Lake and Western Railroad Company.....	1,080,000 00	1,080,000 00
Grays Peak, Snake River and Leadville Railroad Company.....	6,000 00	
Colorado Western Railroad Company.....	8,100 00	
Totals.....	29,462,041 98	23,749,230 40



*Statement of miscellaneous stocks and bonds owned by the Union Pacific Railway Company  
December 31, 1882.*

	Stocks.	Bonds.
Elk Township, Cloud County, Kansas, bonds.....		\$11,650
Lawrence Township, Cloud County, Kansas, bonds.....		10,200
Lincoln Township, Cloud County, Kansas, bonds.....		17,300
Clyde City, Cloud County, Kansas, bonds.....		500
McPherson Township, McPherson County, bonds.....		5,000
McPherson City, McPherson County, bonds.....		2,000
National Mining and Industrial Association, Colorado.....		10,000
Occidental and Oriental Steamship Company.....	\$150,000	
Kansas Central Elevator Company.....	25,000	
Union Depot Company, Kansas City.....	1,000	
Saint Joseph Union Depot Company.....	1,000	
Kansas Carbon Company.....	250,000	
Welch Coal Mining Company.....	100,000	
Topeka Iron Company.....	55,000	
Denver and South Park Railroad Construction and Land Company.....	12,000	
Bakerville and Leadville Toll Road Company.....	32,000	
National Land Company.....	8,500	
Saint Louis and Mississippi Valley Transportation Company.....	100,000	
Union Elevator Company, Omaha.....	76,500	
Other small investments.....	10,300	
<b>Totals.....</b>	<b>\$22,300</b>	<b>56,550</b>

*Statement of stocks and bonds of the company owned by the Union Pacific Railway Company,  
December 31, 1882.*

	Stocks.	Bonds.
Union Pacific Railroad Company, Omaha bridge bonds.....		\$5,000
Kansas Pacific Railroad Company consolidated mortgage bonds.....		1,892,000
Union Pacific Railway Company stock.....	\$50	
Union Pacific Railroad Company stock.....	150,600	
Kansas Pacific Railway Company stock.....	200	
Denver Pacific and Telegraph Company stock.....	300	
<b>Totals.....</b>	<b>100,150</b>	<b>1,897,000</b>

Now, therefore, resolved, that the stockholders sanction and approve each of the said investments, and the policy and purpose of the directors and executive officers of the company in making the same; and the said investments, and each of the same, are hereby ratified and confirmed as the lawful corporate act of said company.

**WHEN UNION PACIFIC ACQUIRED THE SOUTH PARK ROAD.**

**Q.** There seems to have been a little uncertainty in your mind as to when the South Park road was acquired. I read from the Report of the Union Pacific Company for 1884, at page 30, in which it states that the South Park Company came into the control of the Union Pacific Company January, 1881, by the purchase of stock, and that it completed the line. Your memory thus being refreshed, what would you say as to the time when the South Park road was acquired; was it in 1881 or before?—**A.** In 1881.

**Mr. JOHN F. DILLON.** It says it came into its control January, 1881. The **WITNESS.** It was my impression that we took it in 1881.

**Mr. JOHN F. DILLON.** It must have been before, for it says that you came into the control of it in January, 1881. Would it not be in 1880, rather than 1881, if this statement is right; did you acquire the control of it January 1, 1881?

**The WITNESS.** Well, I do not know. I should have supposed, naturally, that we would not have come into the control of it until we had purchased the stock.

Q. In 1880 it is reported that there were 162 miles operated, and in 1881, December 31, 213 miles; who made the extension there, as you understand it?—A. The Union Pacific Company. At the time we took the road there was a large amount of construction under way. The road over to Gunnison was under construction, and I think some part of it, perhaps, had been completed, so that it was being operated.

Q. Do you recollect the amount of stock on the road at the time you purchased it?—A. I think it was a little over \$3,000,000 of stock.

Q. The official report is that in the year 1880 the South Park road earned *net* \$996,000; was it your understanding at the time you made this purchase that it was a large dividend-earning property?—A. Yes, sir.

#### DENVER AND RIO GRANDE'S OFFER TO BUY SOUTH PARK ROAD.

Q. And was not that the fact?—A. Yes, sir; at the time we bought it we considered it was going to be a very profitable piece of property. I would say here that immediately after we made the purchase the Denver and Rio Grande people came to us—General Palmer, who was then managing it—and offered us \$500,000 bonus.

Commissioner ANDERSON. We heard it was \$50,000.

The WITNESS. Five hundred thousand dollars; it was not \$50,000.

Commissioner LITTLER. Who made the offer?

The WITNESS. General Palmer came to me in New York one day and said if I would get our people to surrender and give us that trade, he would reimburse us for all we had paid and give us \$500,000 bonus.

Q. Who was General Palmer?—A. He was the president and manager of the Denver and Rio Grande Railroad.

Q. He was a power in the Denver and Rio Grande?—A. Yes, sir.

Q. Do you know anything about the negotiation which he had carried on with Governor Evans for the purchase of this road in behalf of the Rio Grande?—A. Yes, sir; I know at the time that the purchase was made by Mr. Gould from Governor Evans that Governor Evans represented that Palmer was making him large offers for the property, as he was very anxious to get control of it. Governor Evans and General Palmer were at swords' points personally. They had had a very bitter personal quarrel, and he told them that he preferred to give Mr. Gould the preference.

Q. Did this purchase of the South Park property have the sanction of your own judgment, when it was made?—A. It did, at the time; yes, sir.

Q. Was the fact, if fact it be, that Mr. Gould had some interest in the South Park securities, any element that controlled the result?—A. None at all. I do not think it was ever considered in the trade.

Q. What did you say to this offer of an advance of half a million dollars on what you had given for the road? Did you accept it?—A. That only confirmed our judgment that we had got a very good trade.

Q. So far as you know, that transaction was one of entire good faith on the part of the Union Pacific directors?—A. Entirely in good faith.

Q. And it was made in the interest of their property?—A. Made in what we believed at that time to be the interest of the whole property.

Q. What changed the fortunes of that road?

Commissioner LITTLER. He has gone over that.

Mr. JOHN F. DILLON. Well, I want to ask him that.

Commissioner ANDERSON. The lapse of the mineral interests there.

The WITNESS. The collapse of Colorado, I think.

Mr. JOHN F. DILLON. I wanted to show the good faith of these men, which has been inquired into. That is all, I believe.

#### RELATIONS OF CENTRAL PACIFIC AND UNION PACIFIC.

By Commissioner ANDERSON:

Q. Have you much information on the subject of the relations between the Central Pacific road and this road?—A. No, sir; only in a general way. That is a matter that comes entirely in the charge of the traffic department at Omaha.

Q. Have you any information to give as to what may happen, in your judgment, in case the Central Pacific people so manage their road as to divert all its traffic to the Southern Pacific system, and as to what the Union Pacific would have to do in order to preserve its direct outlet to San Francisco over the Central Pacific?—A. I do not know. They would either have to buy the Central Pacific or build a line of their own if they thought the business was worth it.

Q. Has the subject received any special consideration from your board or yourself?—A. Yes, sir; it has been a matter of consultation and discussion a great many times.

Q. Who, in your board, has given most attention to that matter?—A. Well, I think, perhaps Mr. Adams has.

#### DIVERSIONS BY CENTRAL PACIFIC TO SOUTHERN PACIFIC.

Q. It is your opinion that the management of the Central Pacific is, in fact, diverting what would naturally be your traffic to the Southern system?—A. Yes; we believe so.

Q. To an extent that imperils the maintenance of the Central Pacific as an operative road?—A. I could not say as to that. The value of that transcontinental business has grown to be so small, at such low rates, from competition, that it is a matter that has cut a very small figure in the earnings capacity of our transcontinental road.

Q. Its main feature is that it affects you not by threat of discontinuance of that road, but by decreasing the through business that you would naturally be able to do if they sent none over the southern road?—

A. Certainly.

#### THE PACIFIC MAIL SUBSIDY.

Q. Do you know anything about the Pacific Mail subsidy?—A. There is none, is there?

Q. We are not investigating simply as of to-day. Do you know anything about it?—A. I knew about it at the time it was being paid.

Q. Is it a subject that you have given attention to?—A. Yes, sir.

Q. So that you are able to explain to us what difference in the earnings of the Union Pacific resulted from the payment of the subsidy?—A. I do not think I can give you any figure; only a general impression that I have that the money which we paid to them was a great deal more than was returned to us by the increased earnings which we were able to make.

Q. That is your judgment?—A. Yes, sir.

Q. But it is not based on any examination of figures?—A. I think there have been some statements made.

Q. I mean an examination made by you personally?—A. No, sir.

Mr. JOHN F. DILLON. I would like to have Mr. Ames, when he is prepared to do so, submit his judgment as to the wise and proper and just

course which should be pursued in the future relations between the Government and the company. I will ask to have him state that here after if he forms any definite notions on that subject.

Commissioner ANDERSON. I suggest that the proper way to state that would be in writing. It is a formal matter, and it would be a great deal better to have it in writing.

Mr. JOHN F. DILLON. The witness may then state that in writing.

Commissioner ANDERSON. Yes, sir.

Mr. JOHN F. DILLON. All the directors are here and would like to be examined.

The CHAIRMAN. We will finish with the directors to-morrow.

By the CHAIRMAN:

Q. I want to ask you one question. How did you acquire your interest in the Union Pacific?—A. Largely by inheritance.

Q. From whom?—A. From my father.

Q. What was his name?—A. Oliver Ames.

The CHAIRMAN. We are obliged to you. Have you anything more to suggest?

The WITNESS. Oh, no; but I am at your service.

FRED'K L. AMES.

The Commission then adjourned to Thursday, May 26, 1887, at 11 a. m.

EQUITABLE BUILDING, BOSTON, MASS.,

Thursday, May 26, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

F. GORDON DEXTER, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. You are to-day one of the directors of the Union Pacific?—

Answer. I am.

DIRECTOR FOR TWENTY YEARS.

Q. How long have you been such director?—A. About twenty years, at different times; not entirely consecutive.

Q. You have always been familiar with its affairs?—A. More or less.

Q. You heard the testimony of Mr. Ames yesterday, I believe?—A. I did; the whole of it.

Q. In regard to the relations existing between the Kansas Pacific and the Union Pacific prior to 1877 and during a part of 1877, you heard Mr. Ames's testimony, and I ask you whether that is also your view of the situation, or whether you desire to add anything to what he said?—A. I do not remember that special date, 1877. What was that?

Commissioner ANDERSON. It was prior to the attempt to unite the Kansas Pacific and Union Pacific managements.

The WITNESS. That was three years later, was it not?

HOSTILE RELATIONS OF KANSAS PACIFIC AND UNION PACIFIC PRIOR TO POOL.

Q. No; it was May, 1878. Probably it will take less time to ask you the question: Before the pooling agreement of 1878, between the years

1873 or 1874 and 1878, what were the relations existing between the Kansas Pacific people and the Union Pacific?—A. I do not think I heard Mr. Ames's testimony about that.

Q. I ask you whether they were hostile?—A. Hostile, of course.

Q. And competing for control and for prorating and advantage against each other?—A. Yes, sir; certainly.

Q. What, generally, down to the year 1878, was the financial condition of the Kansas Pacific?—A. Very bad, I believe.

Q. You heard Mr. Ames's testimony as to that?—A. Yes, sir.

Q. And that is your own view, substantially?—A. Yes, sir.

#### THE POOL OF 1878.

Q. To come right down to the pooling agreement of April, 1878, please look at the agreement, and state whether you are one of the parties named in it. I believe you were not a party to the pooling agreement.—A. I think not.

Q. Did you have any interest in it through any other name?—A. No.

Q. Do you know anything of the management of that pool?—A. No, sir; I was not familiar with that at all.

#### WITNESS' INTEREST IN KANSAS PACIFIC.

Q. Please tell me what, in October, 1879, were the interests which you held in the Kansas Pacific or any of its securities.—A. In April, 1879, I had an interest of \$25,000 in the purchase made of \$70,000 Kansas Pacific consols; \$10,000 Denver extension bonds, and 2,514 shares of Kansas Pacific Railway stock. I had five-fourteenths of that.

Q. From whom was that stock obtained?—A. I do not know. It was a purchase made by three gentlemen here, and I took five-fourteenths interest. I do not know how it came about.

Q. Who were the three gentlemen?—A. Mr. Elisha Atkins and Mr. John R. Brewer.

Q. And yourself?—A. I had five-fourteenths.

Q. Have you the price which that stock cost?—A. I put my five-fourteenths down as costing \$25,000. It was \$70,000, apparently.

Q. Seventy thousand dollars for the whole purchase for the three?—A. Yes, sir.

Q. Do you mean 2,514 full shares, or shares as they were?—A. Shares as they were; half shares.

Q. The stock cost you about \$20 a share, then, or it cost you 20 per cent., I should say?—A. It depends on what you put the bonds at.

Q. If the stock was worth \$50, and you had 2,500 shares, is not 20 per cent. correct about the cost of the stock to you?—A. Altogether, the bonds and all. There were \$70,000 Kansas Pacific consols, \$10,000 Denver extensions, and 2,514 shares.

Q. The stock and bonds were all purchased together?—A. This was all purchased together.

Q. Do I understand that your five-fourteenths of the stock and bonds cost \$25,000?—A. They all cost \$25,000.

Q. You cannot ascertain the amount paid for the stock without separating the cost of the bonds?—A. No, sir.

Q. Who conducted that purchase?—A. My talk was with Mr. Atkins.

Q. I mean who effected the purchase? You say you do not know from whom the purchase was made.—A. There is no memorandum on my books at all, and I do not know. I talked with Mr. Atkins about



it, to buy this, and I do not remember from whom we bought it. He and I consulted together, and whether we bought it from one or another I do not know. Perhaps he may know.

Q. Do your books not show from whom the purchase was made?—A. No; it was put in the bank together, and the books do not show.

Q. Was your payment made by one check?—A. We borrowed the money; these were pledged there; we gave a joint note.

Q. The money must have been paid to the person who held these securities before you got them?—A. Yes, sir; that I did not conduct; Mr. Atkins did.

Q. Mr. Atkins made the payment to the seller?—A. Yes, sir; I do not know about that, but that is my remembrance.

Q. And his memory or his check will tell us who it was?—A. Yes, sir.

Q. Did you keep this 2,514 shares of stock down to the date of the consolidation?—A. Yes, sir.

Q. Did you acquire any other interest in Kansas Pacific securities between the dates you have given and the consolidation?—A. Yes, sir; I bought in October, 1879, \$50,000 of Kansas Pacific consols, and in December, 1879, \$53,000.

Q. Were these obtained by purchase or by conversion of other securities?—A. Those were obtained by purchase.

Q. What further interest, if any, did you acquire?—A. That is all.

#### WITNESS' INTEREST IN ST. JOSEPH AND WESTERN.

Q. Did you during the year 1879 obtain any interest in the Saint Joseph and Western securities?—A. I did.

Q. Please state such interest.—A. I had 142 shares, \$12,400 first-mortgage bonds, \$17,600 Kansas and Nebraska bonds; that is, \$30,000 bonds of the two classes of bonds, and 142 shares. They cost \$12,238. Those were converted into 329 shares of the Union Pacific Railway, which I now hold.

Q. From whom did you acquire that interest in the Saint Joseph and Western?

Mr. JOHN F. DILLON. What was the cost?

Commissioner ANDERSON. Forty per cent.

A. I had that, as I understand it, to be in the same proportion and same relation in the pool that Mr. Ames talked of yesterday. He had \$100,000

Commissioner ANDERSON. He says his securities were assigned to him by Mr. Gould at 40 per cent. of the bonds, the stock being thrown in?

The WITNESS. Yes, sir; that seems to be about it. There is a fraction here more on my part, but it is the same transaction. He has \$100,000 interest, and I had the quantity I stated.

Q. What was the date on which you acquired the securities?—A. June, 1879.

Q. Who talked to you about that operation of taking those securities in the Saint Joseph and Western?—A. Mr. Ames; I fancy. I do not remember much about it.

Q. Do you remember seeing Mr. Gould in reference to it?—A. I do not think I ever exchanged a word with Mr. Gould about that.

Q. But you knew the securities came from him?—A. Yes, sir.

Q. Was it suggested between you and Mr. Ames, or between you and any other of the persons in interest, why it was that Mr. Gould wanted

all of the directors apparently to have an interest in the Saint Joseph and Western?—A. No; I do not remember that it was. When Mr. Ames had an interest, I was very apt to have, and some of the other directors also smaller interests in the same thing.

Q. Your status on the Kansas Pacific side, when the matter of consolidation came up, was, then, that you were the holder of 2,415 shares of Kansas Pacific stock. Will you recapitulate them?—A. Yes, sir; \$70,000 consols, \$104,000 in another lot.

Commissioner ANDERSON. I want the aggregate amount.

The WITNESS. One hundred and four thousand dollars and \$70,000, making \$174,000.

Q. Give the Saint Joseph and Western, please?—A. Thirty thousand dollars of the two classes of bonds, and 142 shares.

#### WITNESS' INTEREST IN UNION PACIFIC.

Q. Please state what securities of the Union Pacific you held at the time of the consolidation.—A. I had 6,376 shares on my books, and I have an impression that there was something more in another account, but that I am not sure of.

Q. Did you have any of its bonds?—A. I have not got the amount here.

Commissioner ANDERSON. We will postpone the answer. You probably would like to put them in yourself, to make the picture complete?

The WITNESS. Yes, sir. I had them at the time, but I have not the amount here.

Q. How did you stand during this fall of 1879 on the subject of consolidation?—A. I was very anxious to consolidate with the Kansas Pacific, if we could do it on terms that I thought fair.

Q. Was there much discussion in October and November as to the question of these terms?—A. A great deal.

#### GOULD'S TERMS FOR KANSAS PACIFIC THOUGHT UNREASONABLE.

Q. Tell us what you remember to have been said and done between the parties in interest.—A. Very much what Mr. Ames testified to yesterday. I remember very well being in New York at a meeting at which it was discussed, and we thought Mr. Gould's terms for Kansas Pacific were unreasonable, and we could not concede them.

Q. What were the terms he asked?—A. I do not remember. I know that he valued Kansas Pacific, compared with Union Pacific, very much higher than I did, or than the rest of the directors did, and we could not and would not accede to his terms.

Q. What I want to get at is whether he valued it higher than it was finally put in the articles, or whether you came up to his valuation finally?—A. He changed his valuations. I can tell you that.

Q. Is it your memory that he considered the Kansas Pacific stock as worth twice as much as the Union Pacific stock?—A. I should hardly have thought anybody did so. No, sir; I do not remember that. I do not know that he did.

Commissioner ANDERSON. I want to get at the limits of your recollection.

The WITNESS. I do not remember it.

Q. But you are quite positive that he did think that the Kansas Pacific stock should go on terms into the pool which would make one full share of Kansas Pacific stock equal to more than one full share of

Union Pacific Railroad stock?—A. I did not mean to imply that. I meant to say that, relatively, they were higher. I do not remember what the figures were.

Commissioner ANDERSON. These were terms of consolidation, and not market prices, that I am speaking of.

The WITNESS. Yes, sir; terms of consolidation.

Commissioner ANDERSON. You are positive that he claimed that the Kansas Pacific should be represented by more in value than the Union Pacific, for equal amounts, in the consolidation?

The WITNESS. No, sir; that is not what I mean to say. I mean to say that he put the relative value of Kansas Pacific, as compared with Union Pacific, too high, in our judgment.

Q. As to the terms of consolidation which he proposed and which you thought unreasonable, in what respect can you specify that he claimed something relating to terms of consolidation which was unreasonable?—A. I do not remember the figures at all, but if, for instance, he said Union Pacific would go in at \$100, and Kansas Pacific at \$125, that is the kind of thing that I should have thought was unreasonable. Whether he put those figures before us, I do not remember. But the relative comparative values were not what I thought right.

#### GOULD'S CLAIMS AS TO KANSAS PACIFIC IN THE CONSOLIDATION.

Commissioner ANDERSON. In answer to the prior question I put to you, you said that you do not wish to be understood as saying that Mr. Gould claimed that the Kansas Pacific stock should be put in relatively higher than the Union Pacific, and yet you now say, as I understand you, that is precisely what he did claim?

The WITNESS. I did not say that. I do not quite understand whether you want the precise figures, which I say I am unable to give.

Q. I want to know whether it was in relation to the Kansas Pacific stock, and the adjustment of the terms of consolidation, that the claim that the Kansas Pacific should be entered on terms which should recognize it as the superior of the Union Pacific?

Commissioner LITTLER. In other words, what did Mr. Gould claim a dollar of Kansas Pacific stock was worth, as compared with a dollar of Union Pacific?

A. That is what I cannot give you.

Q. I ask you whether he claimed that a dollar of Kansas Pacific should be worth more than a dollar of Union Pacific in the consolidation, without specifying how much?—A. You are asking me figures again. That is what I do not know.

Q. I do not ask you figures. I only ask you whether he claimed it should be worth something more, no matter how much?—A. Supposing I thought it was worth three quarters per cent. of Union Pacific, and he claimed it was 90 per cent. That is what I do not want to give, because I do not remember.

Q. Then as I understand it, you simply have a general recollection that during the discussion that preceded the consolidation Mr. Gould claimed more than you were willing to concede?—A. That is it exactly.

Q. Without being able to be any more precise than that?—A. Exactly.

#### THE MEETING ENDED IN DISAGREEMENT.

Q. How long did this state of affairs continue; I mean these discussions?—A. We broke up that meeting, and the meeting came to an end.

in a disagreement. Mr. Gould showed some irritation in the matter, and I remember his saying to us, "Gentlemen, you are making a great mistake." Mr. Atkins, Mr. Ames, and I think Mr. Dillon, were on what I called the Union Pacific side, and Mr. Gould represented the Kansas Pacific. Then, after that, Mr. Gould said he was going to Kansas, and I thought he had his war paint on and his trunk in hand. He started for Kansas to see his property. I was a great deal disturbed about it, because I recognized Mr. Gould's energy and ability; and with him as an enemy with the Kansas Pacific to fight us with, it was a serious matter. That was in the fall; I do not know the exact date.

Q. It was just before Mr. Gould went to Kansas?—A. Yes, sir; he said he was going to Kansas, I remember; and remember the fact that he went.

Q. Do you remember whether it was just before or after he had purchased the Missouri Pacific?—A. Before; I am pretty sure. I think that was in November.

Q. The purchase was the 13th of November?—A. Yes, sir; that is my recollection. But I do not remember particularly.

#### LETTER OF DODGE AND HUMPHREYS.

Q. Do you remember whether this interview was before or after the letter that was written to Mr. Dodge and Mr. Humphreys, of which I show you a copy?—A. I could not say whether he went to Kansas before or after that date.

Q. Do you remember that letter that you are looking at?—A. I remember the fact.

Commissioner ANDERSON. That is the whole letter on the first page. It is just a few lines.

The WITNESS. Yes, sir; I recollect that.

Q. Did Mr. Gould sign that letter with you? The names of the writers are at the top and the answer is addressed to the writers.—A. I suppose he did; I do not remember the fact.

Q. Do you remember whether it was the fact that at the time this inquiry was made of Messrs. Dodge and Humphreys the negotiations between you, called the Union Pacific people and Mr. Gould had made some progress and were under way?—A. It has been discussed several times, but this meeting that I have referred to seemed to rather bring it to a head. I cannot remember whether it was before or after that date.

Q. The object of this letter was the very purpose of obtaining a report as to what would be a fair scheme, was it not?—A. Yes, sir.

Q. So that the subject had certainly been seriously discussed before the letter was written?—A. Oh, yes, sir.

Q. Do you remember how long Mr. Gould remained away in Kansas?—A. No; I do not. I remember that he was home before we went to his house that evening, January 14.

Q. Did you see him between the interview you have referred to and the interview of January 14?—A. I probably saw him passing in and out of the office, but I remember no conversation with him at all.

Q. There was no formal discussion of this subject again?—A. No; not to my recollection.

Q. How did this meeting of January 14 come about?—A. I was informed here that the Burlington and Missouri or the Chicago, Burlington and Quincy in Nebraska were about building pretty extensively, and it seemed to me that it had so much bearing on our interest there that I wrote to Mr. Dillon that I was satisfied they were going in largely.

and it seemed to be a pity that the Union Pacific and Kansas Pacific should have a fight, and have a third party coming in too, and we probably ought to do something, and I asked him to show my letter to Mr. Gould. I wrote that. I have no copy of that letter. I have not got the telegram, but my impression is very strong that the next morning I had a telegram, from Mr. Dillon saying that Mr. Gould wished we would all come over. I showed it to gentlemen here. Mr. Atkins, Mr. Ames, Mr. Baker, and myself did go over, and in the evening we saw Mr. Gould in his house.

#### THE MEETING AT GOULD'S HOUSE.

Q. Do you know whether they received similar telegrams, or did you communicate with them?—A. I communicated with them.

Q. Did you all go together to his house?—A. Yes, sir; the only difference between my recollection of that interview and Mr. Ames's—it will shorten matters to state that—is that I had more familiarity with the Burlington and Missouri than he had. I had been a stockholder in it for a good while, and I probably had less thought about the Missouri Pacific properties. He was rather more impressed with the Missouri Pacific, but I was impressed with the idea that Mr. Gould was quite alive to the disadvantage of having a third party come in there where I thought they were tied, and he seemed to fully appreciate the advantage of having both hands loose in going into that fight with the Chicago, Burlington and Quincy.

Q. All the Boston directors, then, were substantially disquieted, if not alarmed, by the facts before them?—A. I confess I was very much so, and I think all the rest were.

Q. How long did this interview last at Mr. Gould's house?—A. I do not remember exactly; I should suppose about a couple of hours.

Q. Will you state the discussion, as you remember it, or the substance of it?—A. The strong impression on my mind is that Mr. Gould was in an entirely different state of mind from when we discussed it in the Union Pacific office and when we could not agree on terms. I think he had changed his mind very much about the necessity. What seemed to me was that he appreciated the necessity of putting those roads together.

Q. State what difference in terms he made?—A. I cannot do it. I do not remember.

#### WHAT CONCESSIONS WERE MADE BY GOULD.

Q. Did he make any difference in the terms that he had asked in October?—A. Yes, sir. Every one of us felt at that time that we could not accept them, and every one of us felt at this time that we were very glad to get the offer.

Q. But you say you had all realized that there was a danger threatening, and my question to you is whether you conceded Mr. Gould's terms just exactly as made by him in October?—A. No, sir.

Q. Please indicate in some direction what concessions were made?—A. The first proposition that he made, of course, was compared in my mind with the way we talked before, and I found it so much more favorable that I was greatly relieved.

Q. Can you state in what respect it was more favorable? The arrangement as made is not regarded by many persons outside of the Union Pacific as being a favorable arrangement, and it is a little difficult to



understand what more he could have asked than he did get.—A. It depends upon the point of view. We knew it.

Q. It depends upon the man who is asking it, somewhat, perhaps. Can you specify in what respect Mr. Gould was gracious and made concessions from his former demands?—A. No, sir. Then I should be undertaking to say what he offered before and what he offered now. I have not seen that paper which was drawn up in my handwriting from that day until a few days ago. It seems to me a very reasonable thing that a person may have a general impression, without his mind being full of figures, of a thing that happened ten years ago.

Q. Can you give any more of the discussions?—A. Yes, sir; there is another matter. This Missouri Pacific purchase had been made since that. There was every reason why we should wish to consolidate. We all thought we made very good terms.

Q. But my inquiry is, what was said and done between the parties in Mr. Gould's house before the paper was signed?—A. He made a general proposition, what he considered fair; and one point after another was discussed a little. I cannot remember precisely what the points were. I have forgotten entirely what they were. The impression left on my mind was that he was more open to reason, as I called it; more amenable to reason. In the first place, he was in pleasanter frame of mind, I thought. He was rather irritated before. Here he met every suggestion pleasantly, and I think generally yielded to suggestions.

Q. Can you state in particular in regard to the price at which the various stocks were to be represented, or in regard to any terms whatever embraced in the consolidation, as to which he yielded anything during this interview?—A. No, sir.

Q. Can you state any particular in which the statement made by him at the beginning of the interview differed from the statement as prepared by you and signed by you and your associates?—A. I cannot. My knowledge is limited to that paper.

#### THE AGREEMENT THAT WITNESS WROTE.

Q. After considerable discussion you sat down and wrote this paper?—A. Yes, sir.

Q. The parties having substantially agreed that they would do this thing?—A. Yes, sir; I remember the interview very well. We discussed it, one after another, and some one remarked, "Well, I do not see but the child is born." That is the phrase somebody used to imply the conclusion was arrived at. And then Mr. Sage suggested, "Supposing you put it down and we will put our initials to it."

Commissioner ANDERSON. Mr. Sage, I assume, was a little shrinking and a little nervous, in the usual way.

The WITNESS. He generally agreed, as he does, with Mr. Gould. I sat down by Mr. Gould and he pushed the paper over, and I observed that it had the Kansas Pacific heading. He pushed the paper over and said, "Suppose you put it down." I wrote that hastily and read it over for suggestions or alterations. I do not think a great many were made. They said it was all right, and Mr. Sage put his initials on, as you see, and the other gentlemen signed it.

#### A BLUNDER IN A ROAD.

Q. How did you come to write the name of the Central Branch Company as the Union Pacific, Eastern Division?—A. The same way in

which I added it up and made it \$51,000,000—a pure blunder. That is all I can say. It was written in a hurry, and I added it up \$51,000,000 and wrote the wrong description of the road. That is all I can suggest.

Q. Then the parties immediately separated after the paper was signed?—A. Yes, sir.

Q. Did you take it?—A. I think I took it.

Q. Was there any copy used or prepared?—A. No; my impression is I gave it to Mr. Sidney Dillon the next morning.

Q. This paper itself was never reported to your board, as I understand?—A. I do not remember that it was; no.

Q. It was never made public in any way?—A. No, sir.

Q. Nor any information given?—A. No, sir.

#### THE GOVERNMENT NOT INFORMED.

Q. The Government of the United States was never informed of the details of the transaction or how it had been brought about, was it?—

A. Not that I know of. Those would be in the records of the Union Pacific, I suppose.

Q. What disposition did you make of this paper after it was signed?—

A. I think I put it in my pocket that night and went to a hotel and the next morning took it to the Union Pacific office and gave it to the president of the road.

Q. Mr. Sidney Dillon?—A. Sidney Dillon.

Q. And the next you heard of it was when it was produced on this examination?—A. I had not heard of it or seen it since. I did not know it was in existence.

#### THE PAPER LOST AND FOUND.

Commissioner ANDERSON. Judge Dillon, I think you told us it was found among your papers?

Mr. JOHN F. DILLON. Yes, sir.

Commissioner ANDERSON. Can you put here your recollection of where it was gotten?

Mr. JOHN F. DILLON. I cannot. I think Mr. Dexter's statement is entirely probable, that I got it from Mr. Sidney Dillon, but I have no recollection about it whatever.

Q. You have referred to some of these other gentlemen as being interested in the general purchase of the Saint Joseph and Western securities. Did you know at the time that you took those that Mr. Ames also had some?—A. Yes, sir.

Q. And Mr. Baker had some?—A. I probably did. I am not sure about that.

Q. And that Mr. Sidney Dillon had some?—A. Yes, sir.

Q. And Mr. Atkins?—A. I should rather say with him as with Mr. Baker, that I was not sure that he had. Probably yes, sir.

Q. Was the subject of the propriety of putting in these securities at par, when you gentlemen all knew that they had cost you 40, discussed at all at this meeting?—A. I do not remember that it was.

#### WITNESS' INTEREST IN SAINT JOSEPH AND WESTERN.

Q. You say that you received stock for your interest in the Saint Joseph and Western; was that obtained personally by a delivery of

our own securities and the issue of the stock, or was it done through Mr. Gould?—A. I do not remember. The only memorandum—I have been looking in my books—is, "Converted into 329 shares of Union Pacific Railway," which I now hold.

Q. Do you remember that you had personally possession of the Saint Joseph and Western securities?—A. No, I do not remember.

Q. Or whether they were left with the party who had the whole lot of them?—A. I do not recollect at all.

Q. What personal knowledge had you of the Saint Joseph and Western road at that time?—A. I do not remember much about it. I was here as a director, and probably knew more or less about it.

Q. Do you know whether you had been over the road?—A. No, I never was over it.

Q. After this interview the meetings of January 24th were held, and you voted for the consolidation, as I remember it?—A. Yes, sir.

#### THE KANSAS PACIFIC.

Q. How closely had you examined the history of the Kansas Pacific, as to its earning power, in order to form your judgment as to whether it was prudent to increase the capital stock of the new corporation \$14,000,000, based upon the new road which was brought in, and with reference to the question whether that new road would earn as much in proportion to such new stock as the Union Pacific did in proportion to its stock?—A. That is a very general question. I can only say that my interests in the Union Pacific were what I have given. They were very much larger than anything else. I was perfectly well satisfied that the acquiring of the Kansas Pacific was a very valuable and a very important thing for the Union Pacific.

Q. The question is, how far you had examined its financial history and its earning power? Had you read its reports?—A. Oh, yes, sir; I was generally familiar.

Q. Familiar with the Kansas Pacific reports?—A. Yes, sir.

Q. Had you examined its books?—A. I do not think I had examined the books. A director does not, often.

Q. Could you tell what the Kansas Pacific earned for the year 1878?—A. No, sir.

Q. You could not give its gross earnings for 1878?—A. No, sir; nor the Union Pacific either.

Q. I am talking of whether you could have stated them at the time you voted for the consolidation.—A. I am sure I do not know; I do not remember. I considered that I had sufficient knowledge to vote intelligently.

Q. Could you have stated the gross earnings of the Kansas Pacific for 1879 when you voted for the consolidation?—A. I do not know whether I could or not.

Q. Could you have stated its operating expenses?—A. Probably not.

Q. Could you have stated the percentage of the operating expenses?—A. I do not know; probably not.

Q. Could you have stated the amount of the bonded debt?—A. I might then; I do not know now.

Q. Did you know that all of its bonded debt was in default?—A. Certainly I knew that.

Question. Is it your present judgment that the Kansas Pacific, including the Denver Pacific, has earned as much in net earnings in relation to its length as the Union Pacific Railroad (the old road) has in

relation to its length since the consolidation?—A. I do not know. That is not the whole bearing of the thing.

Q. I do not say it is. I will ask the other general question afterwards; but I ask this one for information first.—A. No, sir; I do not know. I could not tell what any one of the branch properties of the Union Pacific earned.

#### THE CONSOLIDATION A BENEFIT TO UNION PACIFIC.

Q. Is it your best judgment to-day, after reviewing the financial history of these roads for the past six or seven years, that the consolidation was an advantage to the Union Pacific?—A. Beyond a doubt.

Q. That question you are quite ready to answer?—A. Yes, sir.

Q. Is it also your judgment that the consolidation was an advantage to the Kansas Pacific?—A. Certainly.

Q. Is it also your judgment that the consolidation was an advantage to Mr. Gould?—A. No; I am not sure of that. His Missouri Pacific system came in there that I had nothing to do with.

Q. Is it your judgment that Mr. Gould received more for the Kansas Pacific securities which he held through the consolidation than they had cost him?—A. I suppose so, of course.

Q. Have you any knowledge how much more?—A. No; I do not know at all about the figures.

Q. That advantage was at least a specific advantage, whereas the advantage of combining with the Missouri Pacific was a speculative and future advantage; is that not so?—A. Yes, sir; to a certain extent.

Q. Have you given us all the information you have to show your financial status with reference to both these roads at the time the consolidation was voted for?—A. Yes, sir; I have given all that I had; I may want to add some Union Pacific bonds that I may have held; I have not got them down; I do not remember.

#### THE PART TAKEN BY GOVERNMENT DIRECTORS AS TO CONSOLIDATION

By the CHAIRMAN:

Q. What part did the Government directors take in the consolidation that you recall?—A. I must say I do not remember; I do not recollect what they did; the records will show.

Q. Was there any discussion in the board of directors with them?—A. I do not recollect anything about it.

Q. Did they have any notice of the agreement that you made at Mr. Gould's house?—A. Probably not; I do not think that was official.

Q. They were never given any information concerning that transaction at all?—A. I should rather turn to the record.

Q. You do not recall anything about that?—A. I do not recall.

Q. Do you recollect any expression of opinion on the part of the Government directors concerning the consolidation?—A. I was trying to think who they were.

Commissioner ANDERSON. Mr. Chadwick, Mr. Buckland, and Mr. Niles, the magnificent. You certainly remember him.

The WITNESS. I do not remember.

Commissioner ANDERSON. To see him is to admire him.

The WITNESS. They generally acquiesced in what was considered the policy of the road.

Q. This was a very important change in the road, and I want to know whether you recall any part they took in the consolidation?—A. No, sir; I do not remember anything about it.

Q. The Government then had its principal, \$27,000,000, and its interest accumulated and a great change was to take place, and it seems to me an important fact to know whether the representatives of the Government took part. Do you recall any part that they took?—A. I do not; I recall no objection that they made, or discussion.

By Commissioner ANDERSON:

Q. Mr. Chadwick voted against it. Do you remember that fact?—A. I did not. I had forgotten it.

Mr. HOLMES. Somebody did not vote.

Commissioner ANDERSON. Mr. Buckland did not vote.

The WITNESS. The Government directors in this, then did not take any active part?

Q. The fact that Mr. Chadwick voted against it, and was the only one who voted against it, I should judge, made some impression upon the minds of those present?—A. I do not know that they ever even voted for a dividend. They seemed to be non-committal and afraid to take any action whatever about it. They hung back always.

By the CHAIRMAN:

Q. Was that due to a lack of interest, or to a lack of encouragement on the part of the railroad directors?—A. Not at all that last. Lack of interest, I think. One of them was offered his choice of being a post-master at New London or a Government director of the Union Pacific, and he stated, and always told me about it, that he had made a mistake, for he did not make so much money out of it.

Q. That was the measure of the interest of the Government directors, as you observed?—A. It seems to me so. I should not like to leave an impression, while I am on this subject, that there was any concealment or anything of the kind from the Government directors. But they did not as a rule, and I sat with a great many of them in the changes made, take a great deal of interest. They generally sat by themselves, and generally refused to vote on a dividend, and hung back. We did not expect them to take any active interest, or express any decided opinion, but in order to be safe they would vote no against anything, when they knew they were going to be entirely voted down. That was about the attitude they took.

#### THE UNION PACIFIC AND CREDIT MOBILIER SETTLEMENT.

By Commissioner ANDERSON:

Q. Do you remember the transaction that occurred in December, 1875 (and I think there was further action in the same direction later), in reference to a motion made by Mr. Gould for the institution of suits against certain persons against whom it was alleged that the Union Pacific Railroad Company had claims, and who also, through their ownership of stock in the Credit Mobilier, claimed to be interested, on their side, in claims in favor of the Credit Mobilier, and against the Union Pacific Railroad Company? Do you recollect motions made by Mr. Gould in regard to the institution of such a suit?—A. I do not.

Q. Do you not recollect that you moved that Mr. Gould be authorized to effect a settlement with the persons holding stock of the Credit Mobilier?—A. I do not remember the motion; no, sir,



Commissioner ANDERSON. I think, for an understanding of this matter, there may as well be placed on our minutes just what occurred. I will read an extract from the minutes, and put them in our record, and ask whether you remember them. The first reference to this matter appears from your minutes of March 6th, 1873, page 195 :

**EXTRACT FROM MINUTES OF MARCH 6, 1873.**

Mr. James F. Wilson submitted a preamble and resolution, which were adopted as follows:

Whereas a committee of the House of Representatives of the Congress of the United States, known as Credit Mobilier No. 2, of which Hon. J. M. Wilson was chairman, embraced in its report the following paragraph, viz: The committee deem it proper here to direct attention specifically and separately to the following transactions in disbursement of portions of the assets of this road, which seem to the committee to have been wrongful, and to demand the immediate and grave consideration of the present directors of the Union Pacific Railroad Company, and of whatever authority may be charged with the duty of securing the recovery of the property of the company from those who are responsible for or the recipients of these illegal disbursements. \$126,000 were paid to C. S. Bushnell on the 9th day of March, A. D. 1871, and denominated "special legal expenses," which was disposed of as follows:

(1) To G. M. Dodge, for services in procuring the passage of the act of March 3, 1871, in relation to transportation by said company for the Government.

(2) \$19,000 were paid by C. S. Bushnell to Thomas A. Scott on private account.

\$82,000 were retained by Bushnell on his own account.

\$50,000 were paid to Governor John A. Dix as a purchase by the railroad company of its own stock.

(3) \$25,000 were paid to a Government commissioner to secure the acceptance of a portion of the road, as completed.

(4) \$435,754.21, designated as "suspense account," were allowed to T. C. Durant, vice-president of the company, which appear from the evidence to have been disbursed in connection with the passage of the amendatory act of July, 1864, of the particulars of which disbursements the committee have been unable to obtain satisfactory account.

For disbursement of such moneys, so far as ascertained, the committee refer to the evidence herewith reported, as they do also as to the disposition of the other moneys above named: Therefore,

*Resolved*, That the subjects embodied in the recitals of the foregoing preamble be referred to the president, for him to consider what action should be had in regard thereto, and that he report his conclusions to the board at the next meeting thereof.

**EXTRACT FROM MINUTES OF JUNE 25, 1873.**

At page 205 it further appears from the minutes of June 25, 1873, that, on motion of Mr. Dillon, it was

*Resolved*, That in relation to the pending suit of the United States against this corporation and others, although the company has not been requested by any of its shareholders to investigate the alleged wrongs done to the company as set forth in that suit, and to redress the same, nor has any appeal been made to this board on the subject-matter of said suit, so that they might examine and act thereon, yet as the United States has deemed itself authorized and justified in bringing said suit, this board does not deem it proper to direct that the suit be defended in behalf of the company.

**EXTRACT FROM MINUTES OF OCTOBER 15, 1873:**

At page 212 it further appears that at the meeting of October 15, 1873, Mr. Duff submitted the following report, which, on motion of Mr. Ames, was adopted :

The undersigned, upon whom, by the decease of the president—

Who was the president?

Mr. MINK. Mr. Horace F. Clark, I think, in 1873. John Duff was the vice-president.

## Commissioner ANDERSON (continuing the reading):

is devolved, under the by-laws, the duties of president, finds on the record of the directors a resolution passed on the 6th day of March last referring to certain paragraphs contained in a report made by a committee of the House of Representatives of the United States, of which the Hon. Jeremiah M. Wilson was chairman, to the president of this company, with instructions to consider what action should be had in regard thereto, and that he report his conclusions to the board. Assuming, as he does, that the duty thus imposed upon the late president remains to be discharged by him, the undersigned submits the following report:

Since the passage of the resolution of this board (pages 195 and 196) there has been filed by the Attorney-General of the United States, in its name and behalf, in the circuit court of the United States for the district of Connecticut, a bill in equity against the company and numerous others, its present and past stockholders and officers, in which bill the United States seeks to investigate and redress most, if not all, the supposed wrongs to the company referred to in the paragraph from the report of said committee thus referred to the president. If any part of said supposed wrongs should be found not to be embraced in said suit, it is to be assumed that further investigation has satisfied the Attorney-General that they are got sufficiently well founded to warrant action in relation to the same. Under these circumstances the undersigned is of opinion that it is proper for this company to forbear to take any action in relation to the subject, at least until the suit by the Government shall have terminated and the result be known.

It also appears from the minutes that you were present at the meeting of March 6; also present at the meeting of June 25, 1873; and also at the meeting of October 15, 1873, when Mr. Duff's report was read. Have you a general recollection of the subject-matter referred to?—A. Not much.

Q. Do you remember that there was such a suit brought by the United States—the Credit Mobilier suit?—A. There have been so many suits brought, I do not think I could distinguish one from another.

Q. Do you not remember that there was an enormous suit, with everybody in the world, almost, as defendants in it, in which it was alleged that through the Credit Mobilier many of these defendants had inflicted very great injuries on the Union Pacific, aggregating millions of dollars; and that such a suit was pressed for a long while?—A. I thought that was the Credit Mobilier, and not the Union Pacific.

Q. Do you not remember that the Union Pacific was a party defendant in that suit, and that you were yourself a party defendant?—A. Yes, sir; I remember generally about that.

## EXTRACT FROM MINUTES OF DECEMBER 18, 1873.

Q. In connection with this same subject, I read to you from the minutes of December 18, 1873, at which meeting you were present, at page 224:

On motion of Mr. Bushnell,

*Resolved*, That the committee of this board, no one of whom is a holder of the stock of the Credit Mobilier of America, shall be appointed by the president to examine carefully the accounts and find the sum, if any, due from this company to the said first-named company. And, in case a balance is found to be legally and justly due, to report the same to the board for action at the next meeting.

Q. Do you remember that motion?—A. No, sir.

Q. Then,

Then, on motion of Mr. Wilson,

*Resolved*, That Elisha Atkins be directed, with the consent of the Credit Mobilier of America, to surrender to the treasurer of this company for cancellation, the note of this company now held by him in trust for \$2,000,000, alleged to be due to the said Credit Mobilier of America.

Q. Do you recollect that?—A. I remember the fact of the note; I do not remember the passage of that vote; no.

Q. Do you know whether anything was done under that resolution; I mean whether Mr. Atkins tried to get the consent of the Credit Mobilier?—A. I do not remember.

EXTRACT FROM MINUTES OF SEPTEMBER 22, 1875.

Q. I now read to you from the minutes of September 22, 1875, at page 267, at which meeting you appear to have been present:

On motion of Mr. Gould, the following preambles and resolution were adopted:  
Whereas there are in the hands of Mr. Oliver Ames, one of the trustees under the Ames and Davis contracts, so called, certain securities and property and claims belonging to said trusts:

And whereas this company has large claims against said trustees which ought to be satisfied out of the property and claims so in the hands of Mr. Ames;

*Resolved*, That he be notified not to deliver up, or otherwise appropriate, said property and claim until a final adjustment of the claims of this company; and, if he will consent to hold the same accordingly, the treasurer is hereby authorized, in the name of the company, to indemnify him for so doing.

LETTER OF JAY GOULD, FROM MINUTES OF JUNE 3, 1876.

I now read to you from the minutes of June 3, 1876, at page 287, at which meeting you appear to have been present, the following letter:

BOSTON, June 1st, 1876.

*To the President and Directors of the Union Pacific R. R. Co.:*

GENTLEMEN: Some time since I made a written request to your body to bring suits against all parties who had received the profits or proceeds of the Oakes Ames and J. W. Davis contracts, upon the ground that said contracts were illegal and void as against the corporation, and that said profits or proceeds ought to be refunded to the company. The executive committee, by vote, refused to comply with my request. Since that period the corporation have entered into arrangements with some of the beneficiaries under those trusts, by which they have agreed, for a proper consideration, to release the claims of the company against them. I now renew my request that the company will forthwith institute suits against all parties with whom they have not made such arrangements, in order that they may be compelled to refund to the company the money and property which they ought not to be allowed to retain.

JAY GOULD.

On motion of Mr. Ames, the board declined to bring suits, as requested by Mr. Gould.

Do you remember that action?—A. In a general way; yes, sir.

Q. Did you vote against bringing that suit?—A. Probably; I do not remember.

Q. Is it your judgment that Mr. Gould, in writing that letter, seriously intended to bring and prosecute such an action?—A. I do not remember. It was all very complicated. This happened a dozen or fifteen years ago. I would rather go by the record. I cannot pretend to remember every motion. It was Mr. Oliver Ames who made that motion, I suppose.

Commissioner ANDERSON. I suppose so. That was doubtless so.

Mr. JOHN F. DILLON. Yes, sir; the father.

The WITNESS. He had a very large interest, and was familiar with the matter, and I probably should have voted with him without fully going into the matter.

Q. You have no doubt that the judgment of his son in regard to his intention in that matter, as given yesterday, is correct?—A. I have no doubt. I do not remember about it personally.

Mr. JOHN F. DILLON. I think Mr. Gould brought such suit, in point of fact. The records will show.

## EXTRACT FROM MINUTES OF JULY 21, 1875.

Q. It appears from the minutes of the executive committee, at page 315, July 21, 1875, that a letter from Jay Gould, already substantially read, and referring to the institution of a suit to recover, in relation to these same matters, was moved in the executive committee, and that, on motion of Mr. Dexter, it was

*Resolved*, That the committee decline to bring suits, as requested by Mr. Gould.

And thereupon,

On motion of Mr. Dexter,

*Resolved*, That Messrs. Jay Gould, Samuel M. Mills, and George S. Scott, directors of this company, be, and they are hereby, appointed a committee to negotiate and complete a final settlement of all claims between this company and the Credit Mobilier of America, or 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 to all written releases or other papers which shall be executed by the above committee in pursuance of their powers.

Q. Do you remember moving the appointment of such committee?—

A. I do not remember, specially, that act of moving it; no.

Q. You know that negotiations did proceed for the purpose of making this adjustment and bringing about a release?—A. Yes, sir.

Q. It appears from the minutes of the executive committee of September 22, 1875, at page 325, that Mr. Gould, from the special committee appointed July 21, submitted a form of agreement with the Credit Mobilier of America, which was approved. Please look at the paper I now show you and tell whether that is the copy of the form of settlement that was finally agreed upon?—A. I presume it was.

The paper is marked "Exhibit No. 1, May 26, 1887," and is as follows:

## AGREEMENT WITH CREDIT MOBILIER.

This indenture, made and executed this 31st day of December, 1875, by and between the Union Pacific Railroad Company of the first part, and such shareholders of the corporation known as the Credit Mobilier of America, whose hands and seals are hereto set, of the second part, witnesseth:

*First*. That a claim has been made that the contract heretofore entered into between the Union Pacific Railroad Company and one H. M. Hoxie, which contract was assigned to the Credit Mobilier of America, was voidable by said Union Pacific Railroad Company, and that the Union Pacific Railroad Company were and are entitled to recover from the shareholders of the Credit Mobilier of America all sums by them derived, by way of dividend or otherwise, under said contract of said Hoxie so assigned to said Credit Mobilier of America, as well as all sums paid by said Union Pacific Railroad Company to said Credit Mobilier of America, in any way connected with the construction of the road of the party of the first part, which claims are wholly denied by the several parties of the second part, but, by way of compromise of any or all possible claims of such character, it has been agreed between the parties hereto as follows:

*First*. That the parties of the second part shall and do hereby assign, transfer, and set over to the said Union Pacific Railroad Company, all their respective shares in and to the capital stock of said Credit Mobilier of America, and agree that such transfer shall be formally carried into effect by indorsement on the back of the certificates held by them, respectively, and the delivery of the same to said corporation.

*Second*. In consideration of the premises, said Union Pacific Railroad Company agrees to, and does hereby, forever discharge and release the several parties of the second part whose hands and seals are hereto set, from all and all possible claims in the premises which it might or could in any way, directly or indirectly, have against them, or either of them; that is to say, from all and all possible claims of the charter hereinbefore set forth: Provided, however, that the foregoing release shall not be deemed or construed to impair, alter, or discharge the rights of the party of the first part to use or rely upon by way of defence or suit its aforesaid claim or rights against

the said Credit Mobilier of America, nor against any of its shareholders who shall not become parties hereto within the period of ninety days, and that if by law it shall be held otherwise, then this contract is to be void, and said shares to be returned to the respective parties of the second part.

In testimony whereof, the parties of the second part have hereto set their hands and seals, and the party of the first part has caused its corporate seal to be hereto affixed, and the same to be executed in its name by its treasurer thereto duly authorized.

THE UNION PACIFIC RAILROAD COMPANY, [SEAL.]  
(By E. H. Rollins, its treasurer.)

OLIVER AMES.	[SEAL.]	C. C. WAITE.	[SEAL.]
S. HOOPER & Co.	[SEAL.]	WM. H. MACY,	[SEAL.]
E. H. BAKER.	[SEAL.]	E. H. TROWBRIDGE.	[SEAL.]
ELISHA ATKINS.	[SEAL.]	ELIZABETH S. GRIMES,	[SEAL.]
R. C. ROBBINS.	[SEAL.]	(By Elizabeth S. Grimes, executors	
E. H. BAKER, Jr.	[SEAL.]	of the estate of J. W. Grimes, of	
F. NICKERSON.	[SEAL.]	Burlington, Iowa. All by Sidney	
HORATIO GILBERT.	[SEAL.]	Dillon.)	
HORATIO J. GILBERT.	[SEAL.]	LYMAN COOK.	[SEAL.]
GAML. BRADFORD.	[SEAL.]	GEO. C. LANMAN.	[SEAL.]
BENJ. E. BATES.	[SEAL.]	GEO. J. MARSH,	[SEAL.]
E. W. GILMORE.	[SEAL.]	Admr. of estate of Benj. K. Hough.)	
WM. B. STEVENS, trustee.	[SEAL.]	GEORGE OPDYKE.	[SEAL.]
ISAAC THACHER.	[SEAL.]	JOHN R. DUFF.	[SEAL.]
AARON HOBART, Jr.	[SEAL.]	C. H. MCCORMICK.	[SEAL.]
C. S. BUSHNELL,	[SEAL.]	A. A. LOW.	[SEAL.]
JOHN B. ALLEY.	[SEAL.]	J. A. B. JOHNSTON.	[SEAL.]
O. S. CHAPMAN.	[SEAL.]	DAVID JONES.	[SEAL.]
S. H. FESSENDEN.	[SEAL.]	S. M. BEARD.	[SEAL.]
J. RICHARDSON.	[SEAL.]	E. C. MOORE.	[SEAL.]
NATHAN PECK.	[SEAL.]	ANNIE DODGE.	[SEAL.]
H. TROWBRIDGE.	[SEAL.]	CHAS. H. NEILSON.	[SEAL.]
SIDNEY DILLON.	[SEAL.]	H. B. CLAFIN & Co.	[SEAL.]
OLIVER W. BARNES.	[SEAL.]	GARD. G. HOWLAND.	[SEAL.]
HENRY L. HOTCHKISS,	[SEAL.]	HENRY BLOOD.	[SEAL.]
Executor of will of Henry Hotchkiss.		JANE M. CHARLICK,	
WM. B. BRISTOL.	[SEAL.]	(Executrix of estate of Oliver Charlick, deceased, by Wm. M. Reynolds.)	
PIERREPONT B. FOSTER.	[SEAL.]	H. C. CRANE.	
W. A. CUMMINGS.	[SEAL.]	JOSIAH HEDDEN,	
H. A. ROBBINS,	[SEAL.]	Per J. C. Babcock.	
(By D. F. Appleton, att'y.)			
ELI BEARD.	[SEAL.]		

#### WHAT DIRECTORS SIGNED THE AGREEMENT.

Q. Are you a party to that agreement?—A. I am; yes, sir.

Q. And you signed it?—A. I did.

Q. Are all the persons who were directors of the Union Pacific Railroad Company at the time this agreement was signed parties to this agreement?—A. That is more than I can say, without examination.

Q. We will read you the list: Oliver Ames?—A. Yes, sir.

Q. Elisha Atkins?—A. Yes, sir.

Q. F. Gordon Dexter?—A. Yes, sir.

Q. Benjamin E. Bates?—A. Yes, sir.

Q. Oliver Ames second; is that another gentleman?—A. That is the way they designate royalty.

Mr. JOHN F. DILLON. He did not sign it; he stood out. There is a long story about that.

Q. Ezra H. Baker?—A. Yes, sir.

Q. Sidney Dillon?—A. Yes, sir.

Q. Jay Gould? No; he is not there. He was not in the suit.

Mr. JOHN F. DILLON. He was on the other side.

Q. Jay Gould does not sign?—A. No, sir.



Q. Charles J. Osborn?—A. He was a Gould man. I suppose not; I do not see his name here.

Commissioner ANDERSON. He was not a Credit Mobilier man; that is the point.

The WITNESS. Why?

Commissioner ANDERSON. There was nothing to release. There could not be a claim against Osborn?

The WITNESS. For some reason, Gould's agent here, Osborn, was not.

Q. George S. Scott?—A. He was one of the same. I do not see his name here.

Q. Samuel M. Mills?—A. I think he was another.

Q. James G. Smith?—A. I do not think so; I do not see him.

Q. Joe Richardson; that is the Mormon?

Mr. JOHN F. DILLON. He built the Mormon road.

A. I do not see his name here.

Q. Granville M. Dodge?—A. I do not see it.

Commissioner ANDERSON. I think he is there.

The WITNESS. No; no Dodge.

Mr. JOHN F. DILLON. Annie Dodge, who I presume is his wife, is there.

The WITNESS. I do not know who she is, or anything about her.

Q. His signature does not appear there?—A. I do not see it; no.

Q. John Sharp?—A. He was a Mormon. I do not see his name there.

Q. When the resolution approving that form of settlement was read in the executive committee, the minutes show no dissent from it. Do you remember whether there was any?—A. No; I do not remember.

Commissioner ANDERSON. The directors present were Messrs. Dillon, Atkins, Ames, Bates, Dexter, Gould, and Wilson. Does not this transaction appear reported at a meeting of the board?

Mr. JOHN F. DILLON. The custom is to approve, I believe, the executive committee meetings by the board.

#### WHAT SIGNING DIRECTORS WERE DEFENDANTS.

Q. Of the parties who signed the agreement which I have read, and who were directors in the board of the company, which of them were defendants in the suit which is referred to and which was then pending?—A. I should have to ask the lawyers.

Q. You know you were a defendant, yourself?—A. Yes.

Q. Do you not know that Mr. Dillon was a defendant?—A. I should only have to presume that he was. No; I do not know it.

Q. What was your practice about approving executive committee minutes?

The WITNESS. By the board?

Commissioner ANDERSON. Yes.

A. Never approved them.

Q. They were simply read for the information of the board?—A. We did not approve. The board does not approve.

Commissioner ANDERSON. Will you give us an answer to that question, so that we can have it all together. Which of these gentlemen were defendants? There are four pages of names there. I will read the names.

Mr. JOHN F. DILLON. I presume they all were.

Commissioner ANDERSON. No; they were not all; only those who signed the agreement. I will call the names. Was Oliver Ames a defendant?

Mr. JOHN F. DILLON. Oliver Ames was a defendant, I believe. Commissioner ANDERSON. Was Elisha Atkins a defendant?

Mr. JOHN F. DILLON. Yes.

Commissioner ANDERSON. F. Gordon Dexter says for himself.

Mr. JOHN F. DILLON. Yes, sir.

Commissioner ANDERSON. Benjamin E. Bates?

Mr. HOLMES. Yes, sir.

Commissioner ANDERSON. Oliver Ames, second, was not, I understand.

Mr. JOHN F. DILLON. Oliver Ames, second, as executor of Oakes Ames, deceased, was.

Commissioner ANDERSON. But in his own capacity he was not a defendant? Is that so?—A. No; it was only that he was not a party to the agreement.

Mr. JOHN F. DILLON. I presume not, as an individual.

Commissioner ANDERSON. The question is whether he was a party to the suit.

Mr. JOHN F. DILLON. Oliver Ames, second, individually, was not; as an executor of his father, I think he was.

Commissioner ANDERSON. Was Ezra Baker a party defendant?

Mr. HOLMES. Yes, sir.

Commissioner ANDERSON. Sidney Dillon?

Mr. JOHN F. DILLON. Yes, sir.

Commissioner ANDERSON. Jay Gould is not?

Mr. HOLMES. No.

Commissioner ANDERSON. Charles J. Osborn is not?

Mr. JOHN F. DILLON. No.

Commissioner ANDERSON. George S. Scott?

Mr. JOHN F. DILLON. No.

Commissioner ANDERSON. Samuel M. Mills?

Mr. JOHN F. DILLON. No.

Commissioner ANDERSON. James D. Smith?

Mr. JOHN F. DILLON. No.

Commissioner ANDERSON. Joseph Richardson?

Mr. JOHN F. DILLON. No.

Commissioner ANDERSON. Granville M. Dodge?

Mr. JOHN F. DILLON. Yes, sir.

Commissioner ANDERSON. John Sharp?

Mr. JOHN F. DILLON. No.

#### EXTRACT FROM MINUTES OF JUNE 14, 1876.

Q. It appears, then, that all of the directors who were defendants in the suit of the United States were also parties to the agreement of release. I read to you from page 353, from the minutes of a meeting of the executive committee on the 14th of June, 1876:

On motion of Mr. Ames,

*Resolved*, That the time for the execution of a certain indenture, bearing date December 31, 1875, between this company and the shareholders of the corporation known as the Credit Mobilier of America, having, by the terms thereof, expired, and also the time for the execution of a certain other indenture, bearing date February 8, 1876, between this company, the trustees under what are known as the Ames and Davis contracts, and the parties beneficiaries under said contracts and trusts, having, by the terms thereof, expired, this company does hereby consent that the time for the execution of both said indentures be enlarged and extended to the 14th day of September next.

Have you ever seen a copy, or the original, of the other indenture referred to, bearing date February 8, 1876?—A. I do not remember it.

Commissioner ANDERSON. Have you that, Judge Dillon?

Mr. JOHN F. DILLON. We have it whenever you want it.

Commissioner ANDERSON. We would like to see that in connection with this matter now.

The following is a copy of the paper referred to:

**AGREEMENT BETWEEN CREDIT MOBILIER AND UNION PACIFIC.**

Whereas certain contracts heretofore made by the Union Pacific Railroad Company with Oakes Ames, and also with James W. Davis, for the construction of portions of the road of said company, were assigned to Thomas C. Durant, Oliver Ames, John B. Alley, Sidney Dillon, Cornelius S. Bushnell, Henry S. McComb, and Benj. E. Bates, in trust to execute the same, and divide and distribute the profits thereof to and among the several parties named or described in said assignments, and thereafterwards John Duff duly succeeded to John B. Alley as such trustee;

And whereas, under said assignments, said trustees have proceeded in the construction of said road, and claim to have completed the same, and further claim that there still remains due them from said corporation an unsettled balance of account, which claim is denied by said corporation, which asserts that a large sum of money is due to it from said trustees;

And whereas doubts have been suggested whether said contracts so made for said construction are not in law or in equity voidable as against said corporation, in which event a claim would exist in behalf of said corporation against said trustees for the amount of all profits derived from said assignments and the execution of said contracts, and also against the several parties who shall have received any share of said profits from said trustees, under a distribution thereof, pursuant to said assignments, all which possible claims are wholly denied by said trustees and said other parties to exist;

And whereas there are now held by said trustees certain securities enumerated in the schedule hereto annexed, and also claims to a large amount against parties for the non-fulfillment of their contracts made with said trustees;

And whereas it has been agreed, by way of compromise, that said corporation will, upon the conveyance and assignment to it in the manner hereinafter set forth, by the several parties other than said trustees (and excepting R. G. Hazard who is not to be allowed to become party hereto unless by the consent of the party of the first part after his dispute with the company shall have been adjusted) who have received from said trustees any dividends or profits paid to them as aforesaid, and who shall execute this indenture within ninety days from the date thereof, of all their respective interests in said property and claims so now held by said trustees, release said parties severally and jointly from all right to claim of them, either in law or equity, the payment or restoration to it of the sums so received by the parties respectively, and has further agreed to and with said trustees and said Alley that it will hereafter, on the performance by them of the terms, condition, and release hereinafter set forth, also release said trustees and said Alley from all claim to recover from them any of the sums which shall have been paid over to them under said contracts and assignments and from all other claims whatsoever against them as such trustees:

Now this indenture, by and between the said Union Pacific Railroad Company of the first part, the several parties other than said trustees, and said Hazard, who shall have received from said trustees said dividends and said profits as aforesaid of the second part, and the said trustees, including said Alley, trustees as aforesaid, of the third part, witnesseth:

*First.* That the parties of the second part do hereby severally transfer, assign, and set over to said party of the first part all their rights, present or future, in and to the property, rights of action, and claims now held by the present trustees under said respective trusts, subject, however, to the release hereinafter contained, of all and all possible claims that they may respectively have against said trustees, or either of them, arising out of their past acts or omissions in any way connected with said trusts or the execution thereof; and the said parties of the second part do hereby release said present trustees and the said Alley from all the aforesaid claims or possible claims; and the said party of the first part, in consideration of the premises, does hereby release said several parties of the second part from all claims it may or might in any way have against them or either of them to account or pay over to said party of the first part the sums of money by them received by way of dividends or profits as aforesaid or in any other manner under and by virtue of said trusts.

*Second.* Said party of the first part does hereby covenant and agree to and with the said present trustees and the said Alley that if within two years from the date hereof, and either before or after said trustees shall have adjusted by suit, compromise, or release, which they are hereby authorized to conduct and make upon such

terms as they may think proper, all the claims now held by them under contracts with various parties hereinbefore referred to, they shall transfer and assign to said corporation all stocks, bonds, or notes described in said schedule hereto annexed, and also said claims not then collected or adjusted as aforesaid, and all money received from the enforcement of said claims, first indemnifying themselves from out of said property and moneys for all such payments as they may be compelled to make for existing liabilities and for costs and expenses; and if said trustees shall, at the time of such transfer and assignment, by a valid instrument, release all and all possible claims that they, the said trustees, may or can have as such against said party of the first part, and the said Alley shall also assign all his rights in and to said trust property, then and thereupon the said party of the first part will execute and deliver to the said trustees, including said Alley, a complete release of all and all possible right or claim it may or might have to require the payment to it of any sums received by said trustees in their said capacity from it under said contracts or otherwise, and from any profits which shall have been realized by them as trustees, or as individuals, arising out of the execution of said contracts with said Ames and Davis, and from all other claims of any description whatever against them as such trustees.

*Third.* This indenture is to be deemed perfect and effectual between the parties of the first and second parts, and also between the parties of the second and third parts so far as the release by said parties of the second part to the parties of the third part is concerned, although the same shall not be executed by all the parties of the third part.

*Provided, however,* That this indenture, nor any part thereof, shall be deemed or construed to impair, alter, or discharge the rights of the party of the first part against any party who may have received from said trustees any profits or dividends under the Ames and Davis contracts, except the said parties who shall execute this instrument, nor its rights or claims against said trustees or said Alley, or either of them, except to the extent which those claims may be diminished in amount by the release of the parties of the second part hereinbefore contained, until the execution and delivery to the corporation of valid assignments and releases to it hereinbefore provided, and which it is in their election to make or not; and that if by law it shall be held otherwise, then this indenture shall be wholly void and of no effect.

In testimony whereof the said party of the first part has hereto set its corporate seal and caused the same to be executed by its treasurer thereto duly authorized; and the said parties of the second part and of the third part and said Alley have hereto set their respective hands and seals this eighth day of February, in the year of our Lord one thousand eight hundred and seventy-six.

THE UNION PACIFIC RAILROAD COMPANY, [SEAL.]  
(By E. H. Rollins, its treasurer.)

*Signatures of parties of the second part.*

ELISHA ATKINS.	GEO. J. MARSH,
F. NICKERSON.	(Administrator of the estate of Benj.
ESTATE OF EZRA H. BAKER,	K. Hough.)
(By Ezra H. Baker, adm'r.)	O. S. CHAPMAN.
EZRA H. BAKER, Jr.	S. H. FESSENDEN.
S. HOOPER & Co.	J. RICHARDSON.
F. W. ANDREWS.	NATHAN PECK.
GAMALIEL BRADFORD.	PIERREPONT B. FOSTER.
HORATIO GILBERT.	H. TROWBRIDGE.
HORATIO J. GILBERT.	HENRY L. HOTCHKISS,
ROYAL E. ROBBINS.	(Executor of will of Henry Hotchkiss.)
E. W. GILMORE.	WM. B. BRISTOL.
WM. B. STEVENS, Trustee.	W. A. CUMMINGS.
ISAAC THACHER.	H. A. ROBBINS,
AARON HOBART, Jr.	(By D. F. Appleton, Att'y.)
C. C. WAITE.	JOHN B. ALLEY.
ELIZABETH S. GRIMES,	ELI BEARD.
(By Elizabeth S. Grimes.)	E. H. TROWBRIDGE.
LYMAN COOK,	GEORGE OPDYKE.
GEO. C. LANMAN,	JOHN R. DUFF.
(Executors of the estate of J. W.	
Grimes, of Burlington, Iowa, all by	
Sidney Dillon.)	

*Signatures of parties of the third part and of J. B. Alley.*

OLIVER AMES.	SIDNEY DILLON.
BENJ. E. BATES.	JOHN DUFF.
C. S. BUSHNELL.	JOHN B. ALLEY.

*Schedule referred to in the foregoing indenture.*

[Schedule.—Memorandum, assets of the trustees, July 27, 1875.]

1,546 shares Union Pacific stock, at 75 .....	115,950
\$27,000 Union Pacific land-grant bonds, at 99 .....	26,730
13,000 Union Pacific first mortg. bonds, at 100 .....	13,000
1,000 Union Pacific sinking-fund bonds, at 96½ .....	965
	<hr/>
	156,685

Q. I think you said you did not recollect this paper?—A. No, sir; I do not remember it.

#### DIRECTORS WHO SIGNED THE AGREEMENT.

Commissioner ANDERSON. Judge Dillon, I will ask you to name the directors of the company who appear to have signed this paper.

Judge JOHN F. DILLON. I do not know the directors. I will tell you, if you will read them, who are on this paper.

Mr. NORRIS. There were elected in March, 1876, the following directors: Oliver Ames.

Mr. JOHN F. DILLON. He signed it as trustee.

Mr. NORRIS. Elisha Atkins?

Mr. JOHN F. DILLON. He signed it as a party of the second part.

Mr. NORRIS. Sidney Dillon?

Mr. JOHN F. DILLON. He signed it as trustee.

Mr. NORRIS. F. Gordon Dexter?

Mr. JOHN F. DILLON. He does not appear to have signed it.

Commissioner ANDERSON. Is it your recollection that you did not sign it?

The WITNESS. Perhaps my firm signed it.

Mr. JOHN F. DILLON. What was your firm?

The WITNESS. S. Hooper & Co.

Mr. NORRIS. Benjamin E. Bates?

Mr. JOHN F. DILLON. He signed it as trustee.

Mr. NORRIS. Oliver Ames, second?

Mr. JOHN F. DILLON. He did not sign it.

Mr. NORRIS. James D. Smith?

Mr. JOHN F. DILLON. He did not sign it.

Mr. NORRIS. Charles J. Osborn?

Mr. JOHN F. DILLON. He did not sign it.

Mr. NORRIS. Samuel M. Mills?

Mr. JOHN F. DILLON. He did not sign it.

Mr. NORRIS. Jay Gould?

Mr. JOHN F. DILLON. He did not sign it.

Mr. NORRIS. Ezra H. Baker?

Mr. JOHN F. DILLON. Ezra H. Baker, administrator, signed it; Ezra H. Baker, jr., signed it.

Mr. NORRIS. S. H. H. Clark?

Mr. JOHN F. DILLON. He did not sign it.

Mr. NORRIS. Joseph Richardson?

Mr. JOHN F. DILLON. He did not sign it.

Mr. NORRIS. John Sharp?

Mr. JOHN F. DILLON. He did not sign it.

Mr. NORRIS. G. M. Dodge?

Mr. JOHN F. DILLON. He did not sign it.



## EXTRACT FROM MINUTES OF JANUARY 26, 1881.

Commissioner ANDERSON. I read, in connection with this subject, from the minutes of the executive committee of January 26, 1881, page 46:

On motion of Mr. Ames, it was

*Resolved*, That for and on behalf of this company and in its name and on behalf of the Union Pacific Railroad Company, as its predecessor, in interest, any and every of the officers of this company be, and they hereby, are authorized to execute and deliver to Henry S. McComb such releases, compromises, and covenants relating to the claims of this company, or of its predecessor company, against said McComb, severally or jointly with others, as may be approved by counsel acting for this company.

Mr. JOHN F. DILLON. I recollect a long negotiation with Mr. McComb in 1881, in which I acted, in connection with Mr. Bartlett, for the company. McComb had his own counsel, I think Mr. Bangs of New York, and after a long negotiation, the details of which I do not recall, I should say mutual releases were executed between McComb and the company. I think they ought to be on the files of the company.

(A copy of these releases will be found printed in this record as part of the testimony of Mr. John F. Dillon, given in Boston on the 1st of June, 1887.)

## EXTRACT FROM MINUTES OF MARCH 29, 1886.

Commissioner ANDERSON. I read to you this extract from the minutes of the executive committee, March 29, 1886, at page 313:

On motion of Mr. Baker, the following preamble and vote were unanimously adopted:

Whereas there has been pending, since July 19, 1875, an action against this company upon a note for \$2,000,000, dated August 4th, 1869, upon which interest would be due from July 19, 1875, and upon other claims in behalf of the Credit Mobilier of America, and subsequent to the bringing of said suit a bill in equity was brought by this company against said Credit Mobilier of America to procure a decree declaring the contract out of which all said claims originated, and on account of which said note is alleged to have been given to the Credit Mobilier, voidable; which bill was adjudged by the court not to be maintainable; and pending this litigation, and to meet the possible contingency of the plaintiff's recovery in said action, it was deemed advisable by this company to procure the transfer to it of as many shares of stock of the said Credit Mobilier as could be obtained, for the purpose of protecting itself against the result, in case of the success of said suit; and

Whereas Oliver Ames and the other trustees under the Oakes Ames and Davis contracts, being individually stockholders in said Credit Mobilier of America, have heretofore, in effect, without consideration, transferred to this company their shares of stock in said Credit Mobilier Company, amounting to 11,256 shares in the aggregate; and

Whereas said trustees have assisted this company at its request in obtaining from other holders of the shares of said Credit Mobilier the transfer of the same to this company; and

Whereas certain suits are now pending and are threatened against said trustees and some of their successors and personal representatives, concerning their management of said trusts and the disposition of the trust property, which, if they can be maintained, would entitle the Credit Mobilier of America, or the shareholders of said Credit Mobilier, to share in the fruits of said suits, which benefits said trustees will have lost by the transfer of their said stock to this company:

Now, therefore, in consideration of the premises and of said services rendered by said trustees to this company, it is

*Voted*, That if in any suit or suits now pending, or any of which may hereafter be brought, of the character aforesaid, any damages shall be recovered against the said trustees, or either of them, or their respective administrators or executors, which recovery would inure to the benefit of this company as the holder of the Credit Mobilier shares aforesaid, this company does hereby release and transfer to the said trustees, and each of them, all of such damages or sums of money or other recovery in the event aforesaid, to which this company would be entitled as the owner of Credit Mobilier shares, without recourse, however, to this company for any purpose or in any event.

*Also voted*, That, notwithstanding the foregoing as to recourse to the company, if this company shall sell or transfer said Credit Mobilier shares, or any of them, it will provide, in such sale or transfer, for the indemnity hereinbefore secured to said trustees, their successors and representatives.

*And voted*, That the president of this company is authorized and directed, in its name and under its corporate seal, to execute all proper instruments, in such form as counsel shall advise, to carry out the purposes of the foregoing votes.

And I will read this also :

On motion of Mr. Baker, the following preamble and vote were unanimously adopted :

Whereas on August 19, 1881, a certain settlement was made by the counsel of this company, and in its behalf, with the trustees under the Ames and Davis contracts, which settlement is contained in a resolution of said trustees of said date, a counter-foil copy of which is spread upon the books of this company, to which reference is made, the details of which are shown by the accounts to which reference is thus made, and under which there was transferred to this company a claim of said trustees against the Credit Mobilier of America for \$685,550.74, upon which suit has been instituted by this company and is now pending; and

Whereas under said settlement said trustees were entitled to certain releases, and to have the settlement confirmed by this company: Now it is

*Voted*, That said settlement be ratified and confirmed, and that the president of the company be and he hereby is authorized and directed to execute, in the name of this company, and under its corporate seal, all proper instruments to release said trustees, as provided in said resolution, and to carry out the purposes of the foregoing vote.

#### EXTRACT FROM MINUTES OF MARCH 31, 1886.

I read the following extract from the minutes of the directors' meeting of March 31, 1886, at page 136:

Present, Messrs. Adams, Ames, Baker, Dexter, Spaulding, Green, Hoyt, Dodge, and Government directors Alexander, Savage, and Hanna.

\* \* \* \* \*

On motion of Mr. Baker it was

*Resolved*, That the action of the executive committee at its meeting, held on the 29th current, releasing and transferring to the trustees, under the Ames and Davis contracts, all damages or sums of money which may, by any possibility, be recovered as therein stated, to which this company would be entitled as the owner of Credit Mobilier shares, be and the same is hereby, ratified and confirmed.

On the passage of the above resolution Mr. Ames and Mr. Dexter did not vote.

Q. What was the reason you did not vote?—A. We were trustees.

Q. You were interested?

The WITNESS. Was not that the reason that we did not vote?

Mr. JOHN F. DILLON. You were interested in the matter.

A. We were interested; yes, sir.

Commissioner ANDERSON. I also read from the same minutes:

On motion of Mr. Baker, it was

*Voted*, That the action of the executive committee, at their meeting held on the 29th current, ratifying the settlement heretofore made by the counsel of the company, and in its behalf, with the trustees under the Ames and Davis contracts, be and the same is hereby ratified and confirmed.

On the passage of the above Mr. Ames and Mr. Dexter did not vote.

Q. That was for the same reason, I presume?

The WITNESS. Yes, sir.

#### AFTERNOON SESSION.

F. GORDON DEXTER, being further examined, testified as follows:

#### WITNESS' INTEREST IN BRANCH ROADS.

By Commissioner ANDERSON:

Question. Have you been personally interested in any of the branch roads of the Union Pacific system?—Answer. Except the Oregon Short Line.

Q. You have had no bonds or stocks in any of the other companies?—  
A. The Utah and Northern, I had forgotten. I should have to refer to find out. I had not thought of that.

Commissioner ANDERSON. I refer more especially to bonds and stocks which subsequently were transferred to the company itself.

The WITNESS. Do you mean with the construction contracts?

Commissioner ANDERSON. The bonds and stocks which you at one time owned and acquired, either under construction contracts or by purchase, and which subsequently were sold by you to the Union Pacific Railroad.

The WITNESS. No, sir.

Q. There are none?—A. Nothing of that kind.

Q. Do you know anything of the construction of the Utah and Northern?—A. No, I do not.

#### UNION PACIFIC POLICY AS TO BRANCH LINES.

Q. Do you know anything of the manner in which Mr. Gould purchased the interest of Mr. Richardson?—A. No, sir; nothing whatever.

Q. Will you give us your judgment as to the result of the policy pursued since 1875 by the Union Pacific Company, in connection with the construction of branch lines and the investments made by it in branch roads?—A. That there had been mistakes made in judgment is very possible. The Denver and South Park road disappointed us. But, as a whole, as I have uniformly voted for them, and aided to bring them about, I thought at the time, of course, that they were to the advantage of the Union Pacific. That has been my whole interest. I think so now as to the wisdom of the branch-line system, although we have made here and there a mistake. There is no question about the general policy being good.

Q. Would you advocate the pursuit of the same policy in the future?—  
A. Certainly.

Q. The reason being, I suppose, the one which was given by other directors, that a properly selected branch line, even though it does not entirely support itself, gives you the benefit of the haul between the point of junction and the origin of the road?—A. Undoubtedly. The Oregon Short Line is a very good example of it, giving us a haul over the whole length of the road.

#### THE BRANCHES WHICH CAUSE LOSS TO UNION PACIFIC.

Q. As to which of these branch lines which you have at present is it your judgment that they, on the whole, produce a loss to the company?—A. I think the Denver and South Park. That is the one prominent in my mind.

Q. And the Kansas Central?—A. Well, I suppose it is. We always have been expecting, for some reason or other, better results there. I think it is, but I would rather refer to Mr. Mink for figures.

#### VALUE TO UNION PACIFIC OF THE CENTRAL BRANCH.

Q. As to the Central Branch, while I believe the account shows has occasioned no loss, is it your judgment, on a review of the past years, that the price paid for it, \$239 a share, was a reasonable price?—A. I think it was worth that to us, to have the control of the extension of the branches, &c. The Union Pacific was in rather a critical position,

between the Kansas Pacific, the Central Branch, the Missouri Pacific, and the Chicago Burlington and Quincy invasions into that territory, and we had to look, not altogether in every case at whether any particular step was going to be profitable, but whether we could protect our main line.

Q. But regarded simply by itself, as an investment of money, is it your judgment that the road was worth \$239 per share, without reference to these other questions?—A. I could not answer that without the figures. That was for a small part of the road, controlling these other extensions and branches, and although it seems a high price, it was comparatively a very few miles of the Central Branch itself.

Q. Do you know anything of the circumstances connected with the transaction between Mr. Gould and Oliver Ames?—A. No, I do not; I heard from time to time that Mr. Oliver Ames was buying. I knew that fact. I do not know anything about the circumstances of the transfer.

Q. Was buying it from other stockholders?—A. Yes, sir.

Q. Before he sold it to Mr. Gould?—A. Yes, sir; he and Pomeroy.

Q. Was not the sale to Mr. Gould all accomplished in one transaction?—A. That I do not know.

Q. Do you know anything of the prices that Mr. Pomeroy and Mr. Ames paid to the stockholders?—A. I undoubtedly heard occasionally, but they do not exist in my mind now.

Q. Do you know that some of these stockholders have brought suits against Mr. Ames, alleging that they had cause of action against him arising out of the sale by them to him and the sale by him to Mr. Gould?—A. I have heard it. It was mere talk.

Q. Can you give us the names of any of those stockholders?—A. Oh, no; I do not know them at all. I heard there was a Mr. Stewart, of New York, through whom he bought a large lot; but if you ask as to the discontented stockholders, I do not know.

Q. What Mr. Stewart?—A. I do not know; I heard a talk of a large purchase he made through Mr. Stewart, but whether he was a discontented stockholder, I do not know. I do not think I quite understand your question.

#### THE PACIFIC MAIL SUBSIDY.

Q. What is your judgment as to the effect of the payment of the Pacific Mail subsidy?—A. I think there can be no doubt at all that it was beneficial to the Union Pacific road.

Q. Please explain in what way it was beneficial with reference to what the Pacific Mail Steamship Company could have done, if the subsidy had been refused?—A. A general cutting of rates, &c.; whereas we controlled rates and sent such things by water as had better go by water, and took such things by rail as we could afford to.

Q. Did you make any examination of the kind of freight that could profitably be taken by water, the time of transportation being something like twenty-five or thirty days, as against the freight routes, which would not be over fifteen?—A. No, sir; that was not a matter discussed in the board. I often saw Mr. Knowland, the freight agent, in New York, and have often heard it discussed, and by letter; but that made no impression.

Q. Then it was a mere surmise that the Pacific Mail competition would depress the rates?—A. Yes, sir.

Q. Do you know to what extent that has been verified by the experience of the past year, during which there has been no subsidy?—A.

I do not. My information is rather antiquated—before so many

through lines were in existence. It was rather when we were a monopoly—the Central Pacific and ourselves. I do not know so much about it of late years.

#### DIVERSIONS TO SOUTHERN PACIFIC.

Q. In regard to the present connection with the Central Pacific, is it your judgment that the direction of the Central Pacific has favored the transportation of freight and passengers over the Southern Pacific road, to the detriment of the Union Pacific?—A. If you ask me if it is my impression, it is.

Q. Is it your judgment?—A. I should rather say, "My impression." I have hardly looked into it enough to have a deliberate judgment; but that is my impression.

#### THE OREGON SHORT LINE.

Q. Is it your judgment that the outlet that you have over the Oregon Short Line would suffice to protect the through traffic, without regard to the Central Pacific?—A. I regard it in this way: That that was in such a doubtful position that it was very good policy in us to have this outlet—the Oregon Short Line.

#### KNOWS OF NO USE OF FUNDS FOR INFLUENCING LEGISLATION.

Q. Have you any personal knowledge or information in regard to the subject of using funds of the company for the purpose of influencing legislation at any time?

The WITNESS. In regard to the Union Pacific matters?

Commissioner ANDERSON. In regard to the Union Pacific matters, yes.

A. Not the slightest.

The CHAIRMAN. Or any other matter?

Commissioner ANDERSON. In connection with any of the subsidized roads?

The WITNESS. Nothing, except I cannot be ignorant, of course, of the old talk about money that was used with the Credit Mobilier twenty years ago, but I do not know anything about that. I do not want to ignore the question entirely, when everybody must know it.

Q. Except what is contained in the Wilson report, you have no knowledge whatever?—A. No; none whatever.

#### OR TO INFLUENCE VOTES.

Q. Or of any other use of funds for the purpose of advancing the interest of the company by influencing the votes of any person?—A. Absolutely none.

Q. What examination have you personally made, before voting for dividends, in relation to the question whether the company had actually, and within the terms of the law, earned enough money to justify the declaration of a dividend?—A. From the accounts presented by the proper officers, showing the net earnings up to that time, within the period for which we declared the dividend. The preceding three months, we will say.

#### NET EARNINGS.

Q. In regard to the principle which had been applied for the purpose of reaching the net earnings, did you investigate that personally, or ac-



cept the result reached in the office?—A. That there had been more or less dispute arising between the Government and the company as to what constituted net earnings, of course I was aware, and I am not quite sure, but I presume we made it up as we claimed. My impression is that we have always been right.

Q. But you always accept it as made up by the proper officer of the company?—A. Yes, sir; I think they always were right as to the Government.

Q. Can you tell us what was the nature of the items in dispute between the Government and the company on that subject?

Mr. JOHN F. DILLON. I think Mr. Mink can explain that, or I can.

A. It always must arise as long as there is such a phrase as "net earnings." No two men, with the most honest intentions in the world, could agree on what they were.

Q. Have you paid any special attention to the question of the public land, and of their disposition?—A. No, sir; nothing more than pertains to me as a director of the company. It has been brought before us.

Q. But you would not be able to state the general gross amount of proceeds from the sale of lands, or the purposes to which the proceeds were applied?—A. No; Mr. Ames being a trustee of the land-grant bonds, we always supposed that he had more information on that point than any of us.

#### CONSOLIDATED MORTGAGE TRUSTEES' ACCOUNTS.

Q. Have you made any examination of the accounts of the trustees of the consolidated mortgage?

The WITNESS. The Kansas Pacific?

Commissioner ANDERSON. Yes.

A. No, sir.

Q. Have you heard that the terms on which those mortgages were issued to different persons varied from the terms prescribed in the mortgage itself?—A. No.

Q. Did you know that \$2,000,000 of these bonds were issued to Mr. Gould at 75 cents on the dollar?—A. I never heard of it until you asked Mr. Ames the question yesterday.

Q. So far as you know, the issue at that rate was not authorized by any corporate action?—A. Not that I know of.

Q. And you had never heard that large quantities of mortgage bonds issued by those trustees had been issued and exchanged at much higher rates than those prescribed in the mortgage?—A. No.

Q. You know of no corporate action permitting such exchanges?—A. I know of none.

#### WITNESS' INTEREST IN OTHER ROADS.

Q. Have you been interested in any other companies than the Union Pacific in which other directors of the Union Pacific were also interested?—A. Yes, sir.

Q. Please name what other companies.—A. I have been interested in Iowa railroads, in which the Ames family have a large interest.

Q. Any others?—A. Oh, yes, sir; I think so. And I am very apt to act with Mr. Ames. I do not remember at this moment.

Q. But you recall no corporations whose interest would be either in common with or hostile to the Union Pacific?—A. Certainly nothing hostile to the Union Pacific.

**Q.** For instance, the Pacific Mail?—**A.** No. I never had a dollar's interest in the Pacific Mail.

**Q.** Or in the Central Pacific?—**A.** Or in the Central Pacific, or in the Southern Pacific.

#### BUSINESS INTERESTS OF DIRECTORS.

By the CHAIRMAN:

**Q.** Or in mining companies, or express companies, or telegraph companies?—**A.** I have had an interest in one or two telegraph companies, but never anything that was inimical to the Union Pacific. No mining company or railroad company, in fact, having anything to do with the Union Pacific. The American Union Telegraph Company I was a director of.

#### SUIT OF THE UNITED STATES VS. UNION PACIFIC.

By Commissioner LITTLER:

**Q.** I want to ask you one question. In this case of the United States against the Union Pacific Railway Company and others the Supreme Court of the United States grouped the allegations against the directory of the Union Pacific in these words:

The substance of the charge in all these cases is that the board of directors of the railway company made contracts for the building of the roads, and for running the Pullman cars on them, and for the mining of its coal lands and the purchase of the coal so mined, which were a fraud upon the company whose directors they were; that these contracts allowed exorbitant prices for the work done and materials furnished for the use of the railroad company; that otherwise they were very advantageous to the parties contracting with the company and injurious to the company; that in all these contracts the directors of the corporation, or a controlling majority of them, were interested, and that interest being against the company; that, in fact, the directors were, in the name of the company, making contracts with themselves as the other parties. In short, it may be taken for granted that if these allegations are true, as they must be held to be on demurrer, more unmitigated frauds were never perpetrated on a helpless corporation by its managing directors than are set forth in this bill.

How much truth is there in the allegation which I have just read to you? Do you know of any of the directory of this company who have used their powers as directors in the manner indicated in this paragraph of the decision of the Supreme Court?—**A.** No, sir.

**Q.** You do not?—**A.** No, sir.

Commissioner ANDERSON. You know that refers to a period anterior to 1875?

The WITNESS. Of the Union Pacific.

Commissioner ANDERSON. Your answer stands good, then, back to 1869, back to the Credit Mobilier?

The WITNESS. I never knew of any member of the board of directors of the Union Pacific. You are speaking of the Union Pacific, and not of the Credit Mobilier board of directors?

Commissioner ANDERSON. The decision is speaking of directors who were stockholders in the Credit Mobilier, but who were also directors of the Union Pacific.

The WITNESS. I should have to answer for myself only, there.

Commissioner ANDERSON. That makes quite a difference in your judgment.

**Q.** Do you know of any director who is now, or has heretofore been, interested in any contract between the railway company and third parties?

The WITNESS. Going back to the time of Credit Mobilier, and the building of the road?

Commissioner LITTLER. You need not go back to that time. I do not want you to take into account anything which is covered by the Wilson committee report.

The WITNESS. I do not know exactly what that is. Do you mean during the construction of the road? As far back as that?

Commissioner LITTLER. After the road was completed. After 1873, if you please.

Mr. JOHN F. DILLON. The road was finished in 1869.

A. No, sir; I do not.

#### CONCERNING OUTSIDE BUSINESS INTERESTS OF DIRECTORS.

Q. Do you know of any director of the Union Pacific who is interested in this Pullman contract?—A. I do not.

Q. Do you know of any director who is interested in any contract subsequent to the Wilson committee report, 1873?—A. No sir; I do not.

Q. Do you know of any director or officer of this company who has made money out of his position as director, or other officer, illegitimately in any manner whatever?

The WITNESS. Since the road was built in 1873?

Commissioner LITTLER. Yes.

A. No, sir; I do not.

Q. Can you give us a list of the several companies or corporations in which officers of the Union Pacific Railway have interest? It is charged that the officers of this company have interests in coal mines, and in silver mines, and in flouring-mills, and I do not know what else.

The WITNESS. At present?

Commissioner LITTLER. Yes.

A. I have not the slightest idea of it; no, sir.

Q. You give them all a clean sheet do you, as to that?—A. Absolutely, as far as my knowledge goes.

Commissioner LITTLER. I am glad to be able to hear you say so.

The WITNESS. I am rather surprised at the question, if you will allow me to say so. I had not heard of it.

Commissioner LITTLER. It is made a part of our duty, by the very terms of this act, to investigate all these matters.

The WITNESS. I do not know what they are aiming at; I do not know anything about it.

The CHAIRMAN. The Commission ought to say to these gentlemen that we expect to accept the findings of the Wilson committee, and that is why we have omitted the question as to this road. That is why, as I understand it, we do not go beyond 1873. It is just to say that to you, gentlemen, in explanation of why we do not question you beyond that period.

Mr. JOHN F. DILLON. You draw the line at 1873?

Commissioner ANDERSON. We will have that evidence before us.

Commissioner LITTLER. We do not propose to thrash old straw.

#### ARRANGEMENTS BETWEEN UNION PACIFIC AND PULLMAN COMPANY.

By Mr. JOHN F. DILLON:

Q. Do you know the present arrangement between the Union Pacific and the Pullman Company?—A. I do not know the details of it; no.

Q. I understand the Union Pacific owns three-fourths interest in the plant; is that so?—A. Yes; we had the option, and we availed ourselves of it, as I remember.

Q. State your recollection.—A. Just about that. Pullman submits his contracts to the companies, with an option to take what interest they like. As I remember it, it was one-quarter, two-quarters, or three-quarters. I did not understand that it differed from those of the other companies. We thought it to our advantage to take three-quarters, and we took it.

Q. That is to say, the present arrangement is, that the Union Pacific owns three-quarters of the plant, and gets three-quarters of the profit, with the Pullman Company, and that arrangement is in writing, is it not?—A. So I understand. It came up before us, and we discussed it, and thought it was for the interest of the company to take a three-quarter interest.

#### THE WARDELL CONTRACT.

Q. The coal company to which Commissioner Littler referred was the one known as the Wardell contract, was it not?—A. That is old history.

Mr. JOHN F. DILLON. I want to show that that arrangement is terminated.

The WITNESS. Oh, yes, sir; that is long ago.

Mr. JOHN F. DILLON. They did not know that, and I want to show it.

The WITNESS. That was an original thing, made when we first went out. This man Wardell knew more about coal than anybody else, and he took charge of the coal companies.

Mr. JOHN F. DILLON. And that arrangement is at an end.

The CHAIRMAN. It is all reported in the Government reports.

#### NO DIRECTORS INTERESTED IN COAL OPERATIONS FOR PRIVATE PROFIT.

Q. I understand you to say that no director or officer of the Union Pacific is interested, to your knowledge, in any coal operations of the company for any private profit?—A. Certainly not.

Q. You are not?—A. Never have been.

Q. And no one is, to your knowledge?—A. I have been under the impression that Mr. Oliver Ames, when he was president of the company, in a public-spirited sort of way, put some money in to develop a coal mine, and he lost some money in it; he is the only officer I ever knew to have any interest in a coal mine; I never had any.

#### HOW THE BRANCH LINES WERE BUILT.

Q. How have these branch lines been built and acquired?—A. They have been built by the company; they paid the money and took the securities.

Q. Built at the lowest practicable cost, as you understood?—A. Yes, sir; entirely so.

Q. And not through the intervention of construction companies?—A. No, sir.

Q. Those branch lines have been built or acquired at the lowest practicable price?—A. The cheapest way we could get them built, with men in whom we had confidence; and we paid the money and took the securities.

Commissioner LITTLER. We had all that yesterday.

Mr. JOHN F. DILLON. You go over it with each director, and I want to show the details with each.

Q. Have you had, or has any director of the company ever had, any personal interest or derived any personal profits in that direction?—A. Not one dollar.

#### PRESENT INTEREST IN UNION PACIFIC.

Q. What is your present interest in the Union Pacific stock?—A. I think rather more than I had at the time of this showing; I stated that I had 6,376 shares; it has not varied much from that; substantially, it is the same; I have held on to my stock, in other words.

Q. You kept identified in interest with the company?—A. Yes, sir.

#### INTEREST AT TIME OF CONSOLIDATION IN KANSAS PACIFIC AND SAINT JOSEPH SECURITIES.

Q. You have stated that at the date of the consolidation you held, in round numbers, including Kansas Pacific consols and Saint Joseph securities and stock, about \$200,000 in interest?—A. I cannot make it cost more than \$125,000.

Q. You had at that time Kansas Pacific securities which cost you about \$215,000; you had at that time, par value, in Union Pacific stock, \$637,600?—A. Yes, sir; I think you have got the Kansas Pacific rather high now; but the idea is, the comparison between the two?

Q. Yes; now let me ask you what influence, if any, the comparatively insignificant holding of Kansas Pacific securities relative to Union Pacific had on your judgment in assenting to the terms of consolidation, as finally agreed to?—A. Of course, none; I had five or six times as much Union Pacific as I had of the other.

#### EFFECT ON UNION PACIFIC IF CONSOLIDATION HAD NOT TAKEN PLACE.

Q. As a practical man, and known to be such, supposing that consolidation had not been made, and supposing the Central Branch had remained in control of Mr. Gould, with the Kansas Central in his control, the Kansas Pacific and the Missouri Pacific in his control, and that the development of that interest had been actively made in the direction in which, in your judgment, it lay, what would have been the result by this time on the Union Pacific property?—A. Oh, I think it would have been killed beyond question.

Q. Why so?—A. These properties were all cheaper. The Union Pacific cost a great deal to build, and with a man of the activity and enterprise, means and ability of Mr. Gould actively fighting us with these weapons at so much less cost, the result would have been fatal to the Union Pacific.

Q. Supposing the Missouri Pacific and the Kansas Pacific to be controlled by one party looking toward its development in the natural way, in what direction would the roads and branches have been building, and how would that have affected the Union Pacific proper?—A. They would have had an independent line to California at once, and the Union Pacific would have been left out entirely.

Q. Would that have passed through Utah and affected your Utah business?—A. Yes, sir. The best line would have been to have gone through Utah. I think it would have been ruin to the Union Pacific.



**Q.** What about the extension of lateral lines?—**A.** He had every advantage in the world to do that. The Union Pacific could not have built any lateral lines to compete with them.

#### WHAT INFLUENCED WITNESS IN FAVOR OF CONSOLIDATION.

**Q.** Looking at this matter as a practical man, what was it that influenced your own judgment in favor of the policy of consolidation, and consolidation on the terms which were finally agreed to?—**A.** It is perfectly evidenced to my mind that a man of Mr. Gould's ability—for he is the first man of the country on that subject—with such a weapon as the Kansas Pacific, let alone his Missouri Pacific, could have built branches and cut rates and cut us all to pieces. I never felt more despondent about the Union Pacific outlook in my life than I did when we came back, having unsuccessfully treated about the consolidation. I made up my mind for a big fight, and the cutting of rates and everything that that involved.

#### DESTRUCTIVE POWER OF KANSAS PACIFIC.

**Q.** You have been interrogated by the Commission in respect to whether you, at that time, had made a careful study of the earning power of the Kansas Pacific. I wish to ask you whether in your judgment that is the controlling factor or element in the case, necessarily the earning power of that company?—**A.** I knew more about its destructive powers than I did about its earnings. I knew it would be a death to us.

**Q.** Look at it retrospectively. Seven years have elapsed since then. What is your judgment to-day as to the wisdom of the resolution to which you then came?—**A.** There cannot be two questions about that to anybody who intelligently looks at the subject.

#### THE GOVERNMENT NOT INJURED BY THE CONSOLIDATION.

**Q.** Will you state to this Commission any ground or reason that occurs to you why this consolidation could, in any manner, and, if so, in what manner, injuriously affect the interest of the United States?—**A.** Nothing occurs to me. But that is a subject I should not feel as familiar with as I do about the traffic, &c. I know of no reason at all. If you look upon the prosperity of the Union Pacific as increasing the security of the United States it is a foregone conclusion that it is strengthened. It cannot be otherwise.

**Q.** The Kansas Pacific was aided in the same way as the Union Pacific, was it not?—**A.** Yes, sir.

**Q.** And the debt is running along, and interest accumulating, in the same way?—**A.** Certainly.

**MR. JOHN F. DILLON.** Except that, as respects the Union Pacific, the Government gets 25 per cent. of net earnings, which tends to reduce the debt on that road, but it does not get a corresponding reduction on the Kansas Pacific.

**THE WITNESS.** The only reason I hesitated at all before making any answer to your question was that something of that kind might be and it might not occur to me. Of course there can be no question that it is for the better security of the debt if the Union Pacific prospers; and that the consolidation with the Kansas Pacific road led to the advantage of the Union Pacific, no reasonable man can for one moment hesitate in believing.

## NO EFFORT BY DIRECTORS TO INJURE THE GOVERNMENT'S RIGHTS.

Q. I want to ask you directly whether, in taking this action, or in the acquisition and building of branch lines, or in the arrangement for the division of earnings on the branch lines, any action has been taken ever on your part or on the part of any of the other directors which was intended to injure or impair the rights of the Government?—A. Never.

Commissioner ANDERSON. You make your answer cover Mr. Gould's transaction.

The WITNESS. He asked me as any action on my part.

Commissioner ANDERSON. No, it covered more.

The WITNESS. I cannot answer for other directors. Never, as far as I myself am concerned.

By Mr. JOHN F. DILLON:

Q. Or by other directors, to your knowledge?—A. Yes, sir. That is too general a question. Whether any other directors did anything I cannot tell.

Q. Has any other director to your knowledge ever been actuated in any action that he has taken to injure the Government?—A. Never that I appreciated, or that I know of.

Q. Do you know of any efforts on the part of the Missouri Pacific to purchase the Central Branch of the Union Pacific?—A. I do not know that I know of any efforts to purchase. It has always been a little unsettled question between Mr. Gould and ourselves.

Q. You cannot speak as to any negotiations or offers in that respect?—A. No, I have always had the impression that he would be very glad to take it.

By Commissioner ANDERSON:

Q. At what price?—A. It did not get as far as that. I think it was for his advantage to own it. I think it is to our advantage to own it.

By Mr. JOHN F. DILLON:

Q. That is your present judgment?—A. Yes, sir.

Mr. JOHN F. DILLON. You have put in your minutes the various records touching the Credit Mobilier litigation through this witness. I do not interrogate him about these legal proceedings, because I do not think he could give us any light. But I would like, at some time, if you desire it, as this matter is to be pursued, to refresh my recollection, and state the history of these various litigations.

Commissioner ANDERSON. We would like it very much indeed.

Mr. JOHN F. DILLON. I will do that in connection with the records you have introduced.

Mr. HOLMES. We want to put in the records that are now here.

Mr. JOHN F. DILLON. It is a very complicated story, and involves the suits in Rhode Island, Massachusetts, New York, Pennsylvania, Iowa, and Nebraska.

## RELATIVE VALUES OF WITNESS' HOLDINGS IN KANSAS PACIFIC AND UNION PACIFIC.

By Commissioner LITTLER:

Q. I want to see if I cannot explode Judge Dillon's theory on the question of the interest of this witness. Judge Dillon has assumed in your examination that because you owned only \$200,000 interest in the

Kansas Pacific, and you owned \$600,000 in the Union Pacific, that therefore your interest was necessarily with the Union Pacific, and not with the Kansas Pacific, in this consolidation discussion. I ask you now, is it not true that if, by that consolidation, your interest in the Union Pacific would have remained *in statu quo*, and your interests in the Kansas Pacific would have advanced materially through consolidation, whether your interest would not then have been with the consolidation of the Kansas Pacific, and not otherwise?—A. In answer to that, my largest interests in the Kansas Pacific were in bonds that I bought, without regard to anything else. I find here this purchase of 104 bonds, of which I have given you the details, bought in October and December, 1879, before the consolidation, apparently because they were a cheap investment. I hold them to-day.

By Mr. JOHN F. DILLON:

Q. What did you give for them?—A. I gave 75 cents.

Q. Bought them in the market?—A. Bought them in the market.

By Commissioner LITTLER:

Q. How many shares of stock did you have?—A. Nothing of that purchase. It was simply a—

Q. How many shares of the Kansas Pacific stock did you own at the time, and before the consolidation?—A. Whatever five-fourteenths of 2,514 shares is.

Q. If it is true that those shares of stock would have been enhanced in value by the consolidation, and your Union Pacific had remained *in statu quo*, then, as a matter of fact, your interest lay in the direction of consolidation, notwithstanding your large holding in Union Pacific. Is that not true?—A. It might be that I derived a slight advantage from the consolidation, in that way, but that was not the prevailing idea. It was fear of a depreciation of the large interest in the Union Pacific.

Commissioner LITTLER. I am not questioning your motives. I am only exploding Judge Dillon's theory that because a man may hold largely in the Union Pacific, and less in the Kansas Pacific, therefore, his interest lies where his largest holdings are.

The WITNESS. Are you not forgetting that the depreciation would have been very large in the large interests that I held in the Union Pacific if this consolidation did not take place?

Commissioner LITTLER. I am putting a hypothetical case. As a matter of fact the Union Pacific did not depreciate, I believe.

The WITNESS. Because we got the consolidation. But supposing we had failed in that, my belief is that the Union Pacific would have depreciated very largely, too. That is what I was fighting for.

#### "WITNESS' OPINION OF GOULD'S COURSE.

By the CHAIRMAN:

Q. Do you regard Mr. Gould's course at the time of the consolidation, as a director of the Union Pacific, one of good faith to the United States Government?—A. I do not know.

Q. He was a director of the Union Pacific; how do you regard his course?—A. Mr. Gould's ideas about the duties of a director are sometimes peculiar. I do not see exactly why he affected the interests of the Government.

Q. He was a director, and the Government had \$27,000,000 accumu-

lated interest in the road ; he acted as director and trustee ; do you regard his course in the matter of the consolidation as one of good faith ?

Commissioner ANDERSON. And in threatening the Union Pacific with ruin if they did not come to his terms.

The WITNESS. Well, I—

The CHAIRMAN. You certainly have an opinion.

The WITNESS. What is the use of asking ? Yes ; that is my opinion.

Q. What is your judgment ?—A. That is not the duty of a director, of course.

Q. What is not ?—A. To plan to build a rival road ; that does not come within his duties ; of course not.

Commissioner ANDERSON. Is it not a violation of his duties, as you understand it ?

The WITNESS. Yes, sir ; certainly.

#### THE NUMBER OF TRANSCONTINENTAL LINES.

By the CHAIRMAN :

Q. Then he was not acting in good faith, in the interest of the Government, at that time ?—A. No.

Q. How many roads now cross the continent ?—A. There is the Atchison ; I do not know whether there is a San Francisco road, as an independent outlet, or not.

Mr. JOHN F. DILLON. It has a line from San Francisco, as I understand it.

The WITNESS. There are four or five.

Q. How many have been built since this threat of Mr. Gould to build a competing line ?—A. All of them have been built since then.

Q. How have they affected the business of the Union Pacific ?—A. It has lowered the rate very much by competition.

Q. Have they lowered it to such an extent as to bring about the results that you contemplated the competing line you thought Mr. Gould was going to build would have ?—A. Ever since that time it has become more and more apparent, and it has been developed here, that a large part of the earnings of the Union Pacific are not in the transcontinental business. Perhaps at that time we overrated the importance of that through business. It has been developed more and more since then that the larger part of the earnings of the Union Pacific road are not from transcontinental business.

Q. So that the results that you expected at that time have not followed, or have not been so serious as you thought they would be ?—A. To some extent ; yes, sir.

#### ABILITY OF UNION PACIFIC TO PAY DEBT TO GOVERNMENT.

Q. Yet you have five roads as against, at that time, one road competing. What is the ability of the Union Pacific Railway to pay the debt of the United States with interest ? I ask your judgment as a director.—A. Any other railroad, if it were not harassed by the Government, its credit being good, would pay its first-mortgage debt by an extension easily and readily at a lower rate of interest than it pays now. The earnings of the Union Pacific are amply sufficient for that. The whole thing that the Union Pacific suffers under is the uncertainty attending it in its relations to the Government.

Q. Growing out of what ?—A. Well, growing out, in my honest opinion, of Wall street very largely.

**Q.** You do not call that the Government?—**A.** We do not call that the Government, no. There do not seem to be any fair attempts to settle the question with the Government with a fair extension of time and to put it on a proper footing with the Government. Of course, I believe that the Union Pacific is acting right, because I am a part of it and vote for it, and all that. That is most decidedly my opinion.

#### THE GOVERNMENT'S TREATMENT OF UNION PACIFIC.

**Q.** How has the Government harassed the Union Pacific Railway?—**A.** There are endless suits, which have almost always been decided in our favor. I think we have made very few claims that have not been sustained. I am no lawyer, but as to the justice of the Thurman 25 per cent., I never believed in it, and do not to-day.

**Q.** That bill was passed in 1878, was it not?—**A.** I do not remember.  
**Mr. HOLMES.** Yes, sir.

Is it not the fact the Union Pacific stocks and bonds have appreciated in value since that day?—**A.** I dare say they may have.

**Q.** Then it was not the effect of legislation that depreciated the stocks and bonds of the Union Pacific?—**A.** I did not mean to intimate that. As long as you ask my opinion about that, it is fair to say that I think that was a case of oppression against the road. You asked me how it affected the road.

#### HOPING FOR GOOD RESULTS FROM THIS INVESTIGATION.

**The CHAIRMAN.** I asked you later how the road had been affected by legislation.

**A.** I do not doubt that some very favorable results may come from this Commission and inquiry, but my impression was that this was originally started in Congress because of the proposition made to extend the debt, &c.; and it was a way to kill that proposition for that session. I hope for some good results. I am pleased with the result of having the investigation, and all that. As we have always said, and always shown, the books are open, and we are thankful for the investigation on every and any point. I hope a good result will come from this, because there are other matters included in your powers; but I believe, at the beginning of this thing, that because there was a proposition to settle with the Government, this was an easy way to kill it and go on.

**Q.** But it is a fact, I think I can assume, that since the legislation of 1878 the stocks and bonds and the valuables of the company have appreciated very much during the period when there was very little legislation and there was seemingly no annoyance arising on the part of the Government, the stocks depreciated very much, so that it could not be from any annoyance on the part of the Government.—**A.** At one time or another—I do not mean to trace it to that—there have been panics and speculations in the stocks that have depreciated them. It was not any action on the part of the Government, that I remember now, that drove the stock down to 30, a fall of \$100 a share. But that the stock suffers continuously, and always from being under the direction of the Government, I think nobody doubts.

#### NET EARNINGS.

By **Mr. JOHN F. DILLON:**

**Q.** The original acts required an account of net earnings to be kept



without undertaking to define what net earnings consisted of, and required 5 per cent. of that to be paid the Government, to be applied on the bond and interest account. That 5 per cent. provision remains in force, notwithstanding the Thurman act, to this day, and is the only requirement as applicable to the Kansas Pacific. In 1878 came the Thurman act, which required the company, including the 5 per cent., to pay 25 per cent. of its net earnings to the Government. Why does such an arrangement necessitate disputes with the Government; we have had a great many; now why is it?—A. What constitutes net earnings is the question. No two men, honestly trying to get at that, will agree as to what constituted net earnings. It has never been clearly defined.

Q. It is a question what expenditures should be charged to operating and what ought to go to construction accounts?—A. Certainly.

Q. And their is no fixed line to divide them, is there?—A. No, sir.

Q. In the case of a dispute of that kind between two companies is it easier of adjustment—and if so why—than a dispute with the Government?—A. The companies have a right to compromise a little, and they all do. The Government is brought up by law, and it cannot. There is nobody who has power to do it.

Q. So that every dispute with the Government must end in a law suit?—A. It must. That is our situation all the time, and I have the impression that we prevail in almost all differences of opinion with the Government.

#### LITIGATION AS TO NET EARNINGS.

Mr. JOHN F. DILLON. There have been three litigations with the United States that are reported in the Supreme Court of the United States, on the subject of net earnings—two in respect of 5 per cent. and one in respect of the Thurman act—in all of which cases the company has been sustained by the courts.

Commissioner ANDERSON. Not on the Thurman act.

Mr. JOHN F. DILLON. Yes, sir.

Commissioner ANDERSON. The court claimed that the Thurman act was not constitutional.

#### THE "MAIL" CASE.

Mr. JOHN F. DILLON. But in the mail case, and all the others, the Government retained \$600,000 or \$700,000 from the company on its construction of the net earnings, under the Thurman act, and the courts decided that the Government was wrong.

#### PLAN OF SETTLEMENT.

By Commissioner LITTLER:

Q. I want to ask you one more question. Do you agree with the president of this company that it is for the interest of the company, as well as of the Government, that the law should be so changed as to require the payment of a gross sum instead of the payment on this net-earnings basis?—A. Certainly.

Q. You do?—A. It is very important.

Q. Would such a modification of the law avoid all the litigation and difficulty?—A. That is the object. We are having continual disputes.

Q. If you knew just how much money you had to pay every year, you think it would be better?—A. I believe we could do everything. It is something like that tariff question. We could accommodate ourselves to it, if we know what would be.

By the CHAIRMAN :

Q. How much can you pay ?—A. If we could have a fixed, sure thing, it would be very easy to find out.

Q. You would not be willing to make a guess ?—A. Oh, its too big a sum to guess about ; when you come to talk about that, I think that Thurman act was a simple outrage.

The CHAIRMAN. If you have any further information that you desire to give us, you can do so.

The WITNESS. No, I think you have got all the information I can give. I hardly like to have such liberty as that given, without expressing my opinion that this company is being treated very badly by the Government, and, more than that, that it is for the interest of the Government, just as well as it is for this company's interest, to settle all this matter, and take it out of the courts, by a fixed payment, and the extension of the debt to a proper time on easy terms of payment. I never before heard of a creditor who hounded his debtor as we have been hounded, and I cannot, for the life of me, see the sense of it. It is true we are not treated by the Government, and never have been treated, as one man should be treated by another. I never could see the sense of that.

By Commissioner ANDERSON :

Q. Are you in favor, in case you could get such a settlement of your difficulties with the Government, of adding to your security out of a portion of your property and investments, which are claimed to be free from the Government lien, so as to increase the security of the Government ?—A. Yes, sir ; I should advocate giving any amount of security to the Government. Anything looking like abandoning this road to the Government, which some people talk about, is the sheerest nonsense in the world. We believe we have a good property, and we stand by it. Mr Ames stated yesterday that he had five millions before, and he has got it now. If we are going to desert the ship, like rats desert a sinking ship, it is something I do not know of.

The CHAIRMAN. Have you anything further to say ?

The WITNESS. No, sir ; I have not.

F. GORDON DEXTER.

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EQUITABLE BUILDING, BOSTON, MASS.,

*Thursday, May 26, 1887.*

EZRA H. BAKER, being duly sworn and examined, testified as follows :

By Commissioner ANDERSON :

Question. You are a director of the Union Pacific Company ?—Answer. Yes, sir.

Q. How many years have you been such director ?—A. I have been director since March, 1876.

A DIRECTOR OF THE UNION PACIFIC COMPANY.

Q. On what committees have you served ?—A. I have been on the finance committee, and possibly on one or two other committees, the executive committee principally.

Q. You have heard the testimony of the other witnesses in regard to the relations existing between the Kansas Pacific and the Union Pacific before the attempted adjustment. I do not mean the consolidation, but before the attempted adjustment that was made under the pooling contract for pooling all their business together.—A. Yes, sir.

Q. Does the statement that you have heard made by the other witnesses agree with your own judgment?—A. The pool as between the roads escaped my mind altogether. I see nothing to object to in that. You do not refer to the purchase of the securities?

SEES NOTHING TO OBJECT TO IN THE POOL.

Commissioner ANDERSON. No; I refer to the general question that their relations were hostile from 1874 until 1877 or 1878.

The WITNESS. Yes, sir.

Commissioner ANDERSON. And that after that period there was more or less unity of interest arising out of the purchase of the securities of both roads by the officers of both roads, and so that they began to come together?

The WITNESS. Yes, sir.

Q. We do not want to spend any more time over that story, if it has been correctly told.

The WITNESS. Yes, sir; I agree with them in that.

Q. What was your interest in Union Pacific in 1879?—A. I have referred to my books in reference to this to see what I had at the time of the consolidation, and it was practically the same at the time of the consolidation that perhaps it was six months before, according to my best recollection. On the 1st of February, 1880, I held 3,037 shares of Union Pacific stock.

Mr. JOHN F. DILLON. The par value was what?

The WITNESS. \$100 a share.

Q. During the year 1879 what interest, if any, did you acquire in the securities of the Kansas Pacific?—A. I had a half interest in a subscription of \$30,000. My firm held it, and I had one-half interest. I will give you my interest, if you please.

Commissioner ANDERSON. Do so.

The WITNESS. Fifteen thousand dollars, which I acquired and paid for, apparently, on the 27th of March, 1879.

Q. Interest in what?—A. In the Kansas Pacific.

Q. Stock or bonds, or what securities?—A. I got for that probably a certificate. I do not remember now, but ultimately for that certificate and for that \$15,000 I received \$15,000 consolidated bonds; \$2,000 Denver extension bonds, \$175 in coupon certificates, and 548 shares of Kansas Pacific stock.

Q. Do you know how that stock came in, or from whom it was derived?—A. I always understood that Mr. Gould got the securities together, and I suppose that my interest came out of that. Probably in connection with Mr. Ames and Mr. Dexter.

Q. Did you hear at this time of the existence of this pooling agreement for scaling the securities down?—A. I presume I did.

Q. Then this interest which you acquired was doubtless an interest in that pool, not directly, but that you would take such a proportion as that amount of money would entitle you to receive?—A. Yes, sir.

Q. Then the stock that you received cost you nothing outside of this subscription of \$15,000?—A. No, sir.

## ACQUIRED AN INTEREST IN SAINT JOSEPH AND WESTERN IN 1879.

Q. Had you acquired, in the year 1879, any interest in the securities of the Saint Joseph and Western?—A. Yes, sir; I acquired \$20,000 bonds and 95 shares of stock on the 27th of June, 1879.

Q. What was the price paid for the bonds?—A. I paid 40 for the bonds, and I had the stock thrown in.

Q. How did that transaction come about?—A. I bought the bonds from Mr. Gould personally.

Q. Can you tell us a little more how it was developed, and how you came to know that he had them for sale?—A. Mr. Ames, I think it was, according to the best of my recollection, told me of his having some—of Mr. Gould having made a purchase of that whole thing—and I bought it the same as I would buy anything else in the market.

Q. What I want to get at is whether Mr. Gould suggested that he would like to have the directors take an interest in this purchase, or whether they went to him?—A. My impression is that in this case I suggested that he had better let me have some of those bonds.

Q. You suggested he had better let you have some?—A. That is my recollection.

Q. Do you think you suggested the price also?—A. It was understood that it was to be at what he paid for them.

Q. Why should you suggest to him that he should let you have the bonds at the same price that he had paid?—A. Only that the others seemed to have some, and there did not seem to be any reason why he should not let me in as long as the rest were in.

Q. Do you remember the facts connected with the writing of the letter to Mr. Humphreys and Mr. Dodge in regard to an examination of the roads?—A. Since I have seen that letter my memory has been refreshed a little in connection with it. In a general way I recollect it.

## CONSOLIDATION DISCUSSED.

Q. At that period the question of a possible consolidation was a matter of discussion among the parties in interest, was it?—A. Yes, sir; it had been at the time that letter was written.

Q. Did you have discussions with Mr. Gould on this subject in October, 1879?—A. I have no recollection of any particular conversation. I presume that, in connection with the others, we had general discussions about it.

Q. What is your recollection of his attitude in October, 1879, before he bought the Missouri Pacific, at the time this letter was written, in which he joined with the other gentlemen?—A. According to the best of my recollection the matter of consolidation had begun to be talked about. The road was earning more money, and there was apparently a better reason for consolidation.

Q. When you say "the road," you mean the Kansas Pacific?—A. I refer to the Kansas Pacific; and that letter was the outcome of it, looking to consolidation if the terms could be made satisfactory.

Q. The question is, what your recollection is of Mr. Gould's attitude at that precise period?—A. I have no definite remembrance, as far as that goes. It is only general, that he was disposed to consolidate.

## GOULD DISPOSED TO CONSOLIDATE.

Q. He was disposed to consolidate on certain terms?—A. Yes, sir.

Q. Do you recollect anything about the terms that he first insisted upon or suggested?—A. No, sir; I have none in my mind.

Q. Do you remember that at any time Mr. Gould ever suggested that the Kansas Pacific stock should be represented in the consolidation on more favorable terms than the Union Pacific stock?—A. No, sir.

Q. Do you remember the fact that Mr. Gould bought the Missouri Pacific in November?—A. Yes, sir.

Q. Did any change in his attitude to the Union Pacific follow that purchase?—A. I think it did.

Q. Please describe what occurred, and what effect it had on the Boston people.—A. I had very few conversations with Mr. Gould personally in reference to the matter. Most of my information came through Mr. Ames or Mr. Dillon or Mr. Dexter, who had the ear of Mr. Gould more than I. I was influenced largely by their judgment in all these matters.

Q. Do you remember, as a matter of fact, that a great deal of alarm was the result of Mr. Gould's position after the purchase of the Missouri Pacific?—A. Yes, sir; I felt that way.

Q. And you gentlemen all went on to New York?—A. Yes, sir.

Q. More than once?—A. We must have gone on several times. That interview at which Mr. Dexter drew up the memorandum was the only one in which I was present at Mr. Gould's house.

Q. These visits to New York, then, were all between the time when you heard of the purchase of the Missouri Pacific and of Mr. Gould's intimation that he might extend it in connection with the Kansas Pacific, and the period of the 14th of January?—A. I do not recall any visits to New York except this. The probability is that our information may have come through the office in the regular way, or perhaps through one of our directors going on there and having a conversation.

Q. The only visit you recall making yourself is the visit of January 14?—A. Yes, sir.

Q. How did you come to go on?—A. I presume at the invitation of my associates.

Q. My question is, mainly, whether Mr. Gould sent you an invitation?—A. I think not.

Q. You all went on together and went to Mr. Gould's house?—A. Yes.

Q. Please describe that interview, as you recollect it, in the order of events.—A. I have no order in my mind further than we went over and had the matter under discussion. There is no order that lies in my mind in connection with it. Mr. Gould acquiesced finally in the justice of the arrangement, and the paper was drawn up.

Q. Do you remember whether at first Mr. Gould asked one price for his Kansas Pacific stock in the consolidation, and subsequently changed his price?—A. As it lies in my mind, it was a question of consolidation or not. It was as to whether he should connect it with his other system, or connect it with ours. I have no recollection of any difference in the terms demanded.

Q. You have no recollection, then, of any change or concession on the part of Mr. Gould at any time from October to January, meaning by that a concession of price in the terms which he asked for the Kansas Pacific?—A. I have not.

Q. Then, after Mr. Gould had finally conceded that the consolidation should go through, your recollection is that Mr. Dexter prepared the paper, and it was signed just as these gentlemen have signed?—A. Yes, sir.



Q. Did you at the time this meeting was held know anything about the circumstances under which Mr. Gould had acquired title to the Central Branch?—A. I heard of it at the time of the purchase; I presume I knew it.

Q. Did you at that time have any personal knowledge of the Central Branch road itself?—A. I never went over it.

#### EARNINGS OF CENTRAL BRANCH.

Q. You did not know what its earnings were?—A. Only as I heard it from the parties in interest, that they were very large. Governor Ames, I know, told me at that time that they were earning very large amounts of money, and he had a very high opinion of the stock.

Q. But at the time this paper was signed you had only general information in relation to it?—A. Excepting I knew that the purchase had been made.

Q. In regard to knowing that the purchase had been made, you knew that from whom?—A. It was common talk. I could not mention the person who told me.

Q. The price paid was what?—A. The price paid I understood at the time.

Q. Was it \$239 a share?—A. Whatever it was, I understood at the time.

Q. That was a very unusual price for a railroad out West, was it not?—A. It was considered a round price.

Q. We want to be told how far, before agreeing to give Mr. Gould such a price as the price named, you had examined to see whether it would be a paying purchase or not?—A. In addition to the earning capacity of the road there was the other feature—the fact that they were building west and threatening to go to Denver. That was another very potent element that came in connection with our movement in the matter.

Q. In that point in view, the price, as forced upon you, had no relation to the actual value of the purchase, but was in the nature of a dictation of terms by rivals in business, was it not?—A. The road was actually earning a great deal of money at that time. It was stated, I know. Mr. Ames' feeling was that it was worth what he was getting for it.

#### THREATENED LINE TO DENVER.

Q. I am talking now of the reason assigned by you for conceding this price to Mr. Gould, that in addition to its earning capacity your language was, I believe, that there was the other consideration, that they threatened to extend the road and make a through line to Denver. In regard to that position of the matter, it was in the nature of compulsory terms forced upon you by rivals in business?—A. That element entered into it, in that respect.

Q. In regard to the Kansas Central, which appears to have been covered by this agreement, what knowledge had you at that time?—A. I had no personal knowledge whatever.

Q. In regard to the St. Joseph and Western, you were the owner of some bonds. How far had you examined or looked into the road?

The WITNESS. At the time I made the purchase?

Commissioner ANDERSON. Yes.

A. Not at all.

Commissioner ANDERSON. I mean at the time you signed, on the 14th of January, 1880.

The WITNESS. I have no recollection now of having any statement of earnings.

Q. Do you remember whether the subject of what Mr. Gould, who, I believe, was known to be the owner of the controlling interest at that time in the Saint Joseph and Western, should receive for these bonds was discussed at that meeting?—A. I think not. No, I think there was no discussion upon it.

Q. Who fixed the price? Who said that part ought to be paid for these bonds?—A. According to the best of my recollection, it was about the market price at that time, and it was a part of the whole trade, as it were, the whole consolidation.

Q. Yes, sir; but as \$239 was fixed for Central Branch, somebody must have fixed some price or other for Saint Joseph. Was it not Mr. Gould who said he wanted par for these bonds?—A. Very likely it was.

#### NO PROTRACTED DISCUSSIONS.

Q. You do not think there was any very protracted discussion on that point in the arrangement, do you?—A. I should think not. No, sir, I have no recollection of it.

Q. As a matter of fact, was not Mr. Gould's position during that interview such that if he conceded the consolidation the directors felt that they could not discuss the question whether par for the Saint Joseph bonds was a proper price or not?—A. They would not have lost the consolidation for a matter of 10 or 20 per cent. in the value of the Saint Joseph bonds.

Commissioner ANDERSON. Whether it was a million or half a million dollars.

The WITNESS. I think I recall, in regard to the stock, that the value of the Saint Joseph and Denver stock, which was put in at 20, was actually worth some 35 or 40 in the market. That is my recollection of it. So that there was a concession, as far as that is concerned.

Q. When you say it was worth 35 or 40 in the market, do you refer to any sales of which you have any knowledge?—A. Only as it was quoted in the market. My impression is that it was quoted in the market, on the stock exchange, at that price.

Q. Do you know it was not a listed security?—A. I was not aware that it was not.

Q. Do you know how a quotation of an unlisted security is made in New York?—A. I am well aware that quotations can be arranged, if the parties are disposed to do so.

Q. Do you know the difference between the quotation of the listed security and the quotation of an unlisted security? Do you know how the newspapers obtain the one, and how they obtain the other?—A. I presume from the record of actual sales.

Q. Did you know that the quotation of a listed security is obtained from an actual sale, publicly made in the stock exchange, whereas the quotation of an unlisted security is obtained by merely going from office to office and being informed by brokers of their best judgment of the bids and offers for the unlisted securities?—A. Undoubtedly the market price can be fixed as well in one case as in the other. It is not necessary to have a stock exchange in order to fix values for stock or to fix negotiations for stocks.

## ARE QUOTATIONS OF UNLISTED SECURITIES RELIABLE?

Q. In your judgment, is the quotation of an unlisted security, dealt in only from office to office, as reliable an evidence of value as the quotation of a security frequently dealt in and sold at public auction in a large exchange?—A. I think it may be.

Q. When you signed this paper had you any information about this Denver Pacific stock?

The WITNESS. Do you mean as to the market value of it?

Mr. ANDERSON. As to how it was held.

A. I cannot say that I had much.

Q. Did you know it was included in the schedule of securities assigned to the trustees of the Kansas Pacific consolidated mortgage?

The WITNESS. The Denver Pacific stock?

Commissioner ANDERSON. Yes.

A. I heard about that stock at the time, and about the effort being made to take it from the trust by order of the court.

Q. From whom did you hear of that?—A. From some of our directors. I cannot say.

Q. My prior question was, when you signed this agreement did you know that that stock was held by the trustees?—A. Oh, no, sir; I do not recall any special reference to that stock at that time.

Q. All you know of the proceedings by which it was taken out is such information as you heard from others?—A. Yes, sir.

Q. Did you ever hear Mr. Dillon speak of it?—A. I think very likely.

Q. Did he ever tell you that he had been a witness?—A. The only means of information I had was from some of our own people.

Q. Did Mr. Dillon ever tell you he had been a witness in the proceeding instituted for this purpose?—A. I have no recollection.

## THE KANSAS PACIFIC CONSOLIDATION.

Q. You voted for the consolidation on the 24th of January?—A. Yes, sir.

Q. Do you remember Mr. Chadwick, a Government director, being present?—A. Not specifically.

Q. Do you remember the fact that he voted against the consolidation?—A. It has been called to my mind since.

Q. Does that recall the fact to your mind?—A. Not specially.

Q. I mean you do not remember that he made any opposition to it?—A. I do not recollect any opposition whatever on the part of any Government directors at that time.

Q. Have you given the subject of these branch roads any special attention?—A. Yes, sir; I have in common with the other directors.

## WITNESS' INTEREST IN BRANCH ROADS.

Q. Have you had any interest in the bonds or stocks of any of the branch roads?—A. I believe I am a holder in the stock of the Utah and Northern; I think that is the only one; I think I have got a little stock in that road. I also have some stock in the Oregon Short Line. Perhaps two hundred shares in the Utah and Northern.

## THOSE BRANCHES WHICH RESULT IN LOSS TO UNION PACIFIC.

Q. Which of these branches have, in your judgment, resulted in a loss to the Union Pacific?—A. I think the Denver and South Park there is no question about; it has resulted in a loss.

Q. Has the Kansas Central?—A. The Kansas Central also. The question is whether the loss there has not been offset by the prevention of some other line going in there that might have hurt us still more; that is problematical.

Q. Do not a large number of these branches show deficiencies?—A. Yes, sir; they do, some of them, as appears from the books.

Q. But these two are the only ones that you can recall by name?—A. The Oregon Short Line did not earn its interest last year. The Union Pacific was obliged to pay the interest, as appears from the books; but unquestionably the amount of business that the Oregon Short Line gave to the Union Pacific would offset any deficiency in that respect.

#### SAINT JOSEPH AND GRAND ISLAND ROAD.

Q. How did the Saint Joseph and Western or Saint Joseph and Grand Island operate between 1880 and 1884?—A. It was nominally a drag upon the road; but, in reality, I believe the Union Pacific got enough out of it to offset any deficiency.

Q. Do you know how it got the return out of it that it did; was it by sale of bonds?—A. No; I refer now to business entirely.

Q. You think the earnings of the road itself, without reference to the reorganization, resulted in a balance which was in favor of the company?—A. At least in not a very heavy loss. I only state it as a matter of opinion, without any figures to warrant it.

Q. Do you include in that estimate interest on the price paid for the bonds; do you think that on charging up interest and operating expenses there was no loss?—A. It is possible there was a loss, when you come to charge all the interest up.

Q. Do you know anything about a negotiation that was made of the bonds of that road, after the reorganization, or the guarantee given by the company on the bond?—A. That was done year before last.

Q. It went through Kidder, Peabody & Co., did it?—A. Yes, sir; that was done year before last; it is a matter of record on the books.

Q. Do you know, as a matter of fact, that the Union Pacific has guaranteed the interest, I believe, on the whole issue of \$7,000,000?—A. Yes, sir.

Q. Was it, in your judgment, through such guarantee that it was enabled to sell the portion of its own bonds that it did sell?—A. I do not think they could possibly have sold the bonds at 105, which was the price we got for them, without the Union Pacific guarantee, at that time.

Q. The Union Pacific to-day owns none of these bonds, does it?—A. None; they were all sold.

Q. Do you know anything about the earnings of the road within the last year or six months?—A. I understand its earnings were more than its interest. Its earnings were enough to pay interest upon some of the junior securities.

Q. Do you know how their earnings have compared within the last two months, as compared with a year ago?—A. I have not seen a statement.

#### BUSINESS INTERESTS OF DIRECTORS.

Q. I ask you this question, taken from the act: are you now or have you been, directly or indirectly, interested, and to what extent, in any other railroad, steamship, telegraph, express, mining, construction or other business company or corporation, with which any agreements undertaken

or leases have been made or entered into? I presume the question is intended to be limited to companies which could by possibility be affected either favorably or unfavorably by the operation of the Union Pacific.—A. I have never been interested in any construction company whatever, whereby I have ever made a dollar, to the best of my knowledge and belief, out of the Union Pacific company.

Q. Will you make that broader than "construction company"?—A. It is intended to cover the question that you have gone over. If you will repeat it, I will answer more fully: "Construction or other company," you can add to that.

#### HOLDINGS IN UNION PACIFIC AT PRESENT.

By JOHN F. DILLON:

Q. How much stock have you, or your firm or family through interest with you, in the Union Pacific at this time?—A. The stock that I represent, including my partner and my family, is over 10,000 shares.

Q. How much par value is that?—A. A million of dollars.

Q. What was the amount of the same interest at the time of the consolidation in 1880? You have stated that your own was what?—A. 3,037 shares, I think I said I owned at that time.

Q. How much did you represent?—A. I should say we had a little more than we have now; 2,000 or 3,000 shares, perhaps.

Q. That is to say you had at the date of the consolidation, or represented, about a million dollars in the par value of the stock of the Union Pacific Company?—A. Yes, sir.

Q. You had 548 shares of Kansas Pacific stock, amounting, at the par value of \$50 a share, as you have stated it, to \$27,400; is that right?—A. That gave me 274 shares Union Pacific.

Q. It would be double that?—A. Yes, sir.

Q. So that you had \$27,400 Kansas Pacific against a million dollars of Union Pacific?—A. Yes, sir.

#### HOLDINGS IN UNION PACIFIC ON JANUARY 14.

Q. Now, when you and Mr. Ames and Mr. Atkins and the others who signed the agreement, or memorandum, rather, of January 14th, at that interview, what interest did you represent at that time?—A. The amount I have just stated, upwards of 10,000 shares, according to the best of my recollection.

Q. Did you understand yourselves to be there as the representatives of the Union Pacific interest?—A. Entirely so. We were doing what we thought best for the Union Pacific's interest.

Q. Did you get the best terms you thought were practicable?—A. Yes, sir; we did the best we could.

Q. Of course your judgment approved the arrangement at that time, did it?—A. Yes, sir.

Q. Was that arrangement, as you understood it, forced upon you by Mr. Gould, or otherwise? I want your understanding of that.—A. No, sir; it was not forced upon us by Mr. Gould.

#### ALL GLAD TO CONSOLIDATE.

Q. State whether or not you regarded it as a hard bargain at the time for the Union Pacific, under the circumstances.—A. I think we were all glad to make the trade at that time, on the terms upon which we



did make it. If it had been nine months earlier it would have been a different matter. I do not think we should have felt so at all.

Q. Looking back at it now, over the lapse of seven years during which you remained connected with the road and its management, what is your present judgment as to whether it would have been wiser to have declined the consolidation, or to have made it?—A. I think it was wiser that we made it.

#### THE CENTRAL BRANCH.

Q. Have you any doubt on that subject?—A. Not the slightest.

Q. This memoranda states that the Central Branch was to be put into the arrangement at what it had cost Mr. Gould. Do you know whether that arrangement was carried out. Is that your understanding?—A. I understand the company bought the stock of Mr. Gould at what he paid for it.

Q. Will you state to the Commission whether that was one of the terms which was insisted on by Mr. Gould, that you should take that off his hands, or what was the fact in that regard?—A. Either at that time or earlier, my impression is that Mr. Gould preferred to retain the Central Branch for himself, but our people thought it would not be advisable to have him do so.

Q. He had only bought it the November previous?—A. Yes, sir.

Q. Mr. Ames testified that it was the Union Pacific party that wanted the Central Branch put in. I ask you for your own recollection. Is your answer second before the last your present recollection?—A. Yes, sir.

Q. Is the same true as to the Kansas Central?—A. I do not remember.

#### NO DIRECTOR INTERESTED IN CONSTRUCTION OR OTHER CONTRACTS.

Q. Since 1873, excluding the Credit Mobilier matter from review, as that is the line that has been drawn here, do you know of any director being interested in the construction or other contract, so as to make a personal profit at the company's expense?—A. No, sir.

Q. State whether you have any reason to suppose any such thing?—A. No, sir; I have no reason to suppose any director has.

Q. I will inquire whether you held any of the bonds of the Union Pacific at the date of the consolidation?—A. Yes, sir.

Q. How much and what?—A. I owned 134 sinking-fund bonds.

Q. One hundred and thirty-four thousand dollars?—A. Yes, sir.

Q. Is that all?—A. Yes, sir.

Mr. JOHN F. DILLON. That is all, unless you have something that you think material to state here.

#### DENIAL THAT LEGISLATION HAS BEEN INFLUENCED BY UNION PACIFIC.

By the CHAIRMAN:

Q. Do you know of any money being paid by the Union Pacific Railway Company to influence legislation?—A. No, sir.

Q. Did you ever hear of such a charge?—A. No, sir.

Q. You never heard of such a charge?—A. Oh, I do not say that I never read of such charge, because we have been charged with almost every crime that there is on the calendar.

Q. Would you, as a director, be in a position to have a knowledge of such a fact if it existed?—A. If there was any considerable amount paid I think I should be very likely to hear something about it.

## VIEWS CONCERNING GOULD'S CONDUCT.

Q. How did you regard Mr. Gould's conduct at the time of the consolidation; as that of a friend to the Union Pacific Railroad Company?—

A. I look at the matter from a little different point of view from what Mr. Dexter did. I think that his conduct at that time as a Union Pacific man was very proper indeed, because I feel that the rest of us were trying to bring about exactly what we persuaded him to do. Therefore I think he did right.

Q. Do you recall his invitation to the directors in 1878, after the passage of the Thurman act, to go outside of the Government line and build a competing line?—A. I do not remember that. But I know that he said to me once that he had a great mind to build a competing line outside of the Government line.

Q. What would you regard such conduct on the part of a director or trustee of so large an interest as the Government has?—A. He probably did not regard himself as a trustee of the Government.

Q. Was he not a trustee of the Government at that time? I am speaking of a trustee synonymously now, as a director.—A. Of course, a director is bound to look out for the best interests of his company. There can be no question about that.

Q. Do you think he was looking out for the best interest of the Government at that time, when he made that threat, or made the suggestion?—A. I doubt very much if he had that in mind.

Q. Was it in the best interests of the company?—A. No, sir.

## INTEREST TAKEN BY GOVERNMENT DIRECTORS.

Q. Did you attend all the meetings of the board of directors during the time of the consolidation, and subsequently have you been a regular attendant of the board meetings?—A. I think so; yes, sir.

Q. Have the Government directors attended the meetings?—A. We have had, and almost always whenever we could get them, a representative of the Government attend the meetings.

Q. What interest did they take in questions that were brought before the board?—A. Of course, in the executive meetings we only have one. So far as I recollect them, they have taken a good deal of interest.

Q. What interest did they take in the discussion of the question of the consolidation in 1879, in the fall?—A. It is only an impression that lies in my mind, and that was that they approved of the general plan at the time.

Q. Were they informed beforehand of the thought of the board to make some sort of an agreement or consolidation?—A. I have no specific knowledge of their having been informed.

Q. Was any discussion had with them in which they took part?—A. I have no recollection other than they had the same discussion that the other directors of the company did. I have no recollection of the directors of the company having a separate meeting; that is, a meeting outside of the Government directors. That is what I mean. I think they had a fair chance to understand the whole business that was being done.

By Mr. JOHN F. DILLON:

Q. What is your business?—A. I am the president of a trust company.

Q. Give the name of it?—A. The American Loan and Trust Company.

Q. Do you recollect whether Mr. Gould was a director on January 14, 1880, of the Union Pacific Company?

The WITNESS. On that particular day?

Mr. JOHN F. DILLON. Yes, sir.

A. I should have said he was until the question of his resignation came up.

Q. You did not know that he had resigned, so far as you can recall, a few days before?

The CHAIRMAN. On that morning.

Commissioner ANDERSON. It was dated on the 10th, but the parties all agreed that it was not made public until the meeting of January 24, so far as has been testified.

Mr. JOHN F. DILLON. I am asking whether he knows about it.

A. Yes, sir; I remember his resigning; but it lies in my mind that he resigned and came back into the board again.

#### NO DESIGN TO ABANDON UNION PACIFIC TO THE GOVERNMENT.

Q. There has been some statement that I have seen in the press of a design on the part of the directors of this company to abandon the road to the Government. Has there ever been any such discussion, to your knowledge, or thought in the minds of the directors?—A. No, sir; it has been the desire of the directors of this company since I have been connected with it, and, in fact, I think I may say from the commencement (because my father was a director before I was, and I have some of the traditions of the company in my mind) that they always wanted to fulfill all the honest obligations of the road, and I believe they have done so to this time.

#### WITNESS' INTEREST IN THE UNION PACIFIC PARTLY INHERITED.

By the CHAIRMAN:

Q. Did you come into the possession of your interest in the road through your father?—A. Partly.

Mr. JOHN F. DILLON. Do you want to ask him anything about his judgment, as a director, as to the proper method of dealing with this subject? I think the company ought, perhaps, to formulate their views at some state of this investigation. I have no objection to asking him, or to your asking him.

The CHAIRMAN. Yes; we would simply like to know your judgment as to the ability of the company to meet the demands of the Government.

#### ABILITY OF UNION PACIFIC TO PAY GOVERNMENT LIEN.

The WITNESS. I think it is only fair for the Government to encourage the road. I know it has been the desire of the directors here in Boston—I say "here" because we have been, perhaps, more directly identified with the road since its formation than they have in New York—that every honest obligation of the road should be paid. Of course it is a matter of history that we have been harassed, from one cause and another, owing to the relations that we have had with the Government; and it seems to me only right that some arrangement should be made so that we should have a few years of comparative ease and comfort.

Commissioner ANDERSON. I think the question was addressed to you more with reference to the ability of the road than to its willingness. The financial power to pay.

WITHOUT CHANGE OF TREATMENT, OTHER MANAGERS NECESSARY.

The WITNESS. I am coming to that. If matters were to go on as they have for the last five years, I think they would have to find some other managers than these here, because I think I can speak for several in saying that they are tired of the burden. We have been carrying the stock without getting any dividends for a long time, and if the ownership is thrown into Wall street, and left for wreckers to take possession of, I cannot see that the Government's interest would be good for much. It seems to me that the road wants to be encouraged, and a reasonable bill prepared so that we can pay the Government its entire debt in time. I believe we can do it. I do not see any reason why we cannot.

A GROSS PAYMENT RATHER THAN PERCENTAGE OF NET EARNINGS.

By Commissioner LITTLER:

Q. In that connection, do you favor, as do Mr. Adams and Mr. Atkins, a modification of the law requiring the payment of a gross sum instead of payment of net earnings?—A. I should say, yes, sir. I think a stipulated sum each year on a long time would be the proper method.

Q. Would such a law necessarily get the company out of this rut of litigation?—A. I think it would. I think the feeling now is that perhaps not the Government, strictly speaking, that is harrassing us; that is, the representatives particularly of the Government. I do not think they have harassed so much. I think it is this constant introduction of troublesome bills in Congress that has the effect to keep the matter in constant agitation in the minds of the public, so that a great many people will not touch the securities of the Union Pacific for that very reason. They say, "We do not know what Congress is going to do next winter," and every winter, as certain as winter comes, somebody introduces some bill for the regulation of the Union Pacific, and it must be investigated. I think we are all glad that you have come to investigate this thing to the bottom. We have all said that the road has been honestly managed, and we believe you will find it has been, before you get through.

The CHAIRMAN. Have you any other suggestion?

The WITNESS. No, sir.

EZRA H. BAKER.

Mr. JOHN F. DILLON. I would like to ask Mr. Ames, with your concurrence, to formulate his views and submit them, and perhaps these other directors may have liberty to join in them.

Commissioner ANDERSON. Of course.

Commissioner LITTLER. We would be glad to have the directory present their views in one paper.

Commissioner ANDERSON. We will give them a chance to be heard by counsel, if they wish.

The Commission then adjourned to Friday, May 27, 1887, at 10 a. m.

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EQUITABLE BUILDING, BOSTON, MASS.,  
*Friday, May 27, 1887.*

The Commission met pursuant to adjournment, all the Commissioners being present.

ELISHA ATKINS, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. You are one of the directors of the Union Pacific Railroad at present?—Answer. Yes, sir.

## DIRECTOR SINCE 1869.

Q. How long have you been such director?—A. I was elected in 1869.

Q. Have you been a director ever since?—A. Ever since. I assumed the office of vice-president in 1874.

Q. What committees have you served on?—A. Principally on the finance and executive committees.

Q. Were you familiar with the financial affairs immediately after entering on your duties in 1869?—A. I had occasion to be.

Q. Have you been closely identified with the company ever since?—A. Ever since.

Q. When was the road completed?—A. In 1869.

Q. Did you go with the expedition that celebrated the event?—A. I did not.

Q. How soon after that did you go over the road?—A. I think I did not go over the road until 1873, and then only over a portion of it.

## TIME GENERALLY DEVOTED TO FINANCES.

Q. During these years your business was confined to meetings with the directors and with the committees in New York or in Boston; in New York at that time, was it not?—A. Yes, sir. Most of my time was given to the finances, and I took the office of vice-president with the stipulation that I was not to be called upon to look into the details of the business. I was chairman of the finance committee, and it took about all the time I wanted to give to it.

Q. Had the whole amount of the United States subsidized bonds been issued when you were elected a director?—A. I think so.

Q. They had been issued?—A. As the work progressed, I presume they were all issued.

Q. Can you tell us how the road stood at that time? What was its bonded indebtedness?—A. The first-mortgage bonds were \$27,000,000; the same as the Government's. The other bonds were the land grants, at that time, and later than that were the sinking fund bonds.

Q. Did you ever at that time examine into the construction accounts of the road to ascertain what it had cost to build it?—A. Only generally. The accounts were made up.

## FORM OF CONSTRUCTION ACCOUNT.

Q. The ultimate form of most of the construction account finally took the shape of an issue of bonds and stock in payment of the construction of the road at so much a mile. You never, then, examined or went back at these accounts to ascertain what the actual cost in money was to the parties who really built the road?—A. No, sir; it was impossible to do that. It would cost more time than I could give to it. You can only look at the results and you know what the cost is in the end. You know at that time it was an enormously expensive thing to build a road with the war prices existing.

## CONSTRUCTION ENORMOUSLY EXPENSIVE.

Q. When you say that the cost was enormously expensive, how much of the expense do you charge to its being paid in paper, and how much to the fact that it was done under war prices?—A. We had only paper money, and it sold at 150 or 200 per cent premium all the time. The expenses were all kept in currency.



Q. What I refer to is the distinction between the cost of the road payable in its bonds and stock taken at par and what the cost of the road would have been, payable in what was then currency.—A. That I cannot say. It is impossible to state.

STEEL RAILS \$100 A TON; TIES \$3 EACH.

Q. You have made no estimate at all?—A. No, sir. When steel rails, or, rather, iron rails, were costing \$100 a ton, and cotton-wood ties \$3 a piece, you may imagine the cost ran up pretty fast. The roads built subsequently, of course, cost very much less money, and they have the advantage of us in every way.

Q. How much attention during these early years did you give to the earnings of the road?—A. Not much. We took the accounts as they were made up periodically. As I tell you, my time was almost entirely occupied in financial matters, and keeping the road out of bankruptcy, if I could.

FINANCIALLY EMBARRASSED IN 1873.

Q. At that time was its financial condition somewhat embarrassed?—A. Yes, sir. In 1873 particularly.

Q. You were then compelled to borrow money in order to meet the accruing interest, if I remember right?—A. Continually; from that time to this, very nearly. Not particularly to meet the interest, but to meet our obligations.

Q. Is it your judgment that during the years 1871, 1872, and 1873 the net earnings of the road were sufficient to meet the fixed charges?—A. No doubt of it.

Q. You have no doubt of it?—A. I have no doubt of it.

Q. When did they pay their first dividend?—A. I do not remember. Mr. Mink can tell.

Commissioner ANDERSON. When was the first dividend paid?

Mr. MINK. In 1875.

Commissioner ANDERSON. I am speaking of 1871, 1872, and 1873.

The WITNESS. The road was then taking care of itself. It paid the fixed charges.

Q. Did it not borrow the money to pay them with?—A. The money was borrowed. I did not trace the money to see where it went. The money was paid into the Treasury, to see that the obligations of the company were all paid.

Q. I will put it differently. Is it not true that the net earnings for the years 1871, 1872, and 1873 were less than the amount of fixed charges?—A. I cannot answer that question now. I do not know whether it was or not. We were doing all we could.

Q. Do you know when Mr. Gould became a director of the road?—A. No, sir; I shall have to refer you again to Mr. Mink.

Q. Was it in 1874?—A. It was about that time. Was it 1874?

Q. Were you acquainted with Mr. Gould about the time he became a director?—A. I knew Mr. Gould very well. I had no particular acquaintance with him. He was a public man and everybody knew him, or knew of him.

STOCKHOLDER OF CREDIT MOBILIER.

Q. Were you a stockholder of the Credit Mobilier?—A. Yes, sir; I was.

Q. How much stock did you hold?—A. My impression is I had 620 shares. I think it was exactly 620 shares.

Q. What was the total capital of the Credit Mobilier?—A. You are asking me questions that I cannot be supposed to remember. It is all a matter of record. Mr. Mink will have the kindness to help me.

Mr. JOHN F. DILLON. \$3,750,000.

Commissioner LITTLER. What were the shares?

The WITNESS. \$100 shares.

Mr. JOHN F. DILLON. Yes, sir; originally 2,500,000, and increased.

Commissioner ANDERSON. Increased when?

Mr. JOHN F. DILLON. I do not know. It appears in the Wilson report.

Q. When Mr. Gould became a director, were you aware that he had purchased a large block of stock?—A. Yes, sir.

#### GOULD A VALUABLE DIRECTOR.

Q. To what extent did Mr. Gould assume the general direction of the affairs of the company after he entered the board?—A. He took a pretty active part, and we considered him a valuable director. I think he was. I thought he was working in the interest of the road, up to a certain time; up to, perhaps, when this consolidation scheme came up we had no fault to find with Mr. Gould. I think he worked earnestly for the advantage of the road.

Commissioner ANDERSON. His holdings finally reached the amount of 200,000 shares of stock, I believe.

The WITNESS. I think it was something like that.

#### GOULD'S MAJORITY INTEREST.

Commissioner ANDERSON. So that he held a majority of all the stock in the road?

The WITNESS. Would that be a majority?

Commissioner ANDERSON. Yes; it was 364,000 shares.

The WITNESS. I know he put away 100,000 shares, which he said he did not particularly need.

By the CHAIRMAN:

Q. When was that?—A. Immediately after he came into the road. I signed the certificates, and he put them into his safe, and he said: "They are going to lie there so long as I live. They are going to my wife." But I think after that he owned another hundred thousand. I think he bought it in good faith, and intended to stand by the company, and he did. He was a valuable director. He assisted the road financially, when he was requested to.

#### KANSAS PACIFIC CONSOLIDATION.

By Commissioner ANDERSON:

Q. When was this subject of the relations between the Kansas Pacific and the Union Pacific first seriously discussed, with reference to the consolidation?—A. I think it was not seriously discussed much before the thing took place. That was in 1880, was it not? Perhaps in 1879.

Q. It took place on the 24th of January, 1880. But, as early as 1878, in the spring, a pooling arrangement was made by which all of the gross income of all the roads that were parties to that pooling arrangement

was apportioned according to certain rates between the Union Pacific, the Kansas Pacific, the Denver Pacific, and the Colorado Central. Do you remember that pooling arrangement?—A. No, sir; I do not.

Q. What was the first you heard of the idea of consolidation? Was it in 1879?—A. I cannot tell you that. I suppose 1878 and 1879. It was always a bugbear, this Kansas Pacific. As you know, the very worst competition we can have is with a road that does not pay any interest. They were cutting the business all to pieces, and were attempting to get a bill through Congress obliging us to prorate at very low rates; in other words, to oblige us to haul their freight over the mountains at the same price as they hauled it over the plains. We got alarmed at that, and the only way was to get control of the company. What particular time that was, I do not know. I think it was 1879.

#### GOULD'S CONTROL OF KANSAS PACIFIC.

Q. Did Mr. Gould, from the start, take an active interest in getting control of the Kansas Pacific?—A. I presume he did. He had a large interest. I could not say positively. He was in favor of the consolidation.

Q. You were yourself not a party to the pooling arrangement by which it was first arranged to scale the securities of the Kansas Pacific and bring them into the pool, were you?—A. No, sir; I was not.

Q. Did you know that such a pool existed?—A. Yes, sir. Those matters were done generally in New York, by Mr. Dillon, the president, and Mr. Gould, and, of course, when a thing of that kind was started it was talked over here, and Mr. Ames was requested to go and look after it.

Q. Still you knew that such an operation was going on?—A. Yes, sir; we knew it.

#### OFFICIALS COMMON TO UNION PACIFIC AND KANSAS PACIFIC.

Q. You knew that Mr. Dillon had become the president of both companies as early as the spring of 1878, did you not?—A. Yes, sir; I suppose I did, if that is the fact.

Commissioner ANDERSON. From the time when he became president of both companies this contention as to rates and this rivalry must have ceased?

The WITNESS. Yes, sir; it was not so prominent then.

Commissioner ANDERSON. You had the same superintendent?

The WITNESS. Of both companies.

Commissioner ANDERSON. Who was it?

The WITNESS. Was it Sickles?

Commissioner ANDERSON. Mr. Bromley, do you know who was the superintendent of both the Kansas Pacific and the Union Pacific after Mr. Dillon became president of both roads?

Mr. BROMLEY. No, sir; I do not.

The WITNESS. Was it Sickles?

Mr. MINK. I think there was the same general manager, Mr. S. H. H. Clark.

#### WITNESS' UNION PACIFIC HOLDINGS IN 1879.

Q. What were your interests in the Union Pacific during the year 1879, at the time of the consolidation?

The WITNESS. January 24, 1880?

Commissioner ANDERSON. Yes.

A. I held, then, of Union Pacific stock 2,937 shares, \$513,000 of bonds, both at par, amounting to \$806,700. The market value was considerably more; \$100,000 more, perhaps. About \$900,000.

Q. What bonds were they?—A. I think principally land grants and sinking funds.

Q. Had you held those securities through the year 1879?—A. I suppose I had, and more.

#### HOLDINGS IN KANSAS PACIFIC IN 1879.

Q. What had you in the Kansas Pacific?—A. I had 912 shares of the Kansas Pacific, which I afterwards exchanged for 456 shares of Union Pacific at par.

Q. What other Kansas Pacific securities had you?—A. I had an interest in some with Mr. Dexter. I had an interest in some in October, 1879, with Mr. Dexter.

Commissioner LITTLE. Mr. Dexter testified that he owned five-fourteenths of 2,514 shares.

The WITNESS. I had the same interest that Mr. Dexter had; five-fourteenths of \$70,000, including \$70,000 Kansas Pacific consolidated bonds, a thousand dollars Denver extension bonds, and \$45,600 in Kansas Pacific stock.

Q. When had you acquired your Kansas Pacific stock?—A. I do not know how long I had owned it, but it seems I had it on the 24th of January. I had that 912 shares, but when I bought it I could not tell you. I could state by looking at the books.

Mr. J. F. DILLON. It is stated October, 1879.

The WITNESS. That is the date, then.

Q. From whom did you buy it?—A. Not all of this, because I had some Kansas Pacific stock before the consolidation was talked of.

Q. From whom did you buy the stock that you refer to in the Kansas Pacific?—A. I cannot tell you now.

Q. Did you buy it on the market, or did you buy it in connection with Mr. Ames and Mr. Dexter?—A. This stock that I speak of now, in connection with Mr. Dexter, he bought, and I took an interest with him.

Q. It came from the same source that his stock did?—A. I suppose so.

Q. Did he conduct the operation?—A. Yes, sir.

#### THE HUMPHREYS AND DODGE REPORT.

Q. Do you remember the letter that was written to Messrs. Humphreys and Dodge to report on what would be a proper basis of consolidation between the three companies?—A. I remember such a letter. I could not tell the contents of it. It was referred to them, I believe, for their opinion.

Q. Please look at the letter, of which I show you a copy, and see if you recognize it as a letter in which you joined. The answer is addressed to you.—A. I have no doubt that I knew all about this at the time. I cannot say positively. These things are always brought up in the committee at the meetings.

Q. At the time that letter was written, I assume that the subject of consolidation had received some considerable attention from the directors and had been discussed?—A. Yes, sir.

Q. Do you remember, when that letter was written, what Mr. Gould's attitude was on the subject?—A. It seemed to be very friendly at this date, so long ago as January, 1880, and I have no doubt it was.

Q. The letter is dated October 23, 1879. The inquiry was made, as appears from the letter by the directors, at the end of October, 1879, asking Mr. Humphreys and Mr. Dodge to look into the matter and report what would be fair terms for consolidation. What we want to get from you is, as far as you can give it, a recollection of the events beginning in October, 1879, and culminating with the consolidation. Can you give that?—A. I cannot tell the particulars of that. I have always been a pretty busy man, and have given as much time to the affairs of this corporation as it was necessary to do, and many of these things I only heard of in discussion in the committee, and they did not impress themselves particularly on my mind.

#### GOULD'S CHANGE OF ATTITUDE.

Q. Do you recollect the fact that Mr. Gould's attitude towards this question underwent a change between the writing of that letter and the consolidation?—A. No doubt it did. When he bought the Missouri Pacific his interest was entirely different.

Q. I ask you now whether you remember what his attitude was before he bought the Missouri Pacific?—A. The same as I said, very friendly.

Q. Very friendly to the consolidation?—A. Friendly to the Union Pacific.

Q. I refer more especially to the question of consolidation. Do you remember whether there was any warm discussion before he bought the Missouri Pacific between Mr. Gould and the Boston Union Pacific directors relating to the terms on which the consolidation should go into effect?—A. I do not recollect anything warm. I think there was a general discussion. It was a matter that troubled the directors a great deal, this competition with the Kansas Pacific, and they were ready to make some bargain. It was talked of, generally.

Q. I want to know particularly whether you remember that, in discussing the term of consolidation, differences arose as to the representative value that should be allowed to the stock of the Kansas Pacific as compared with the stock of the Union Pacific in the proposed consolidation?—A. Yes, sir; I remember the first terms submitted by Mr. Gould were not satisfactory. Afterwards he modified his terms.

Q. Is it not true that in the first part of the discussion the Union Pacific people thought that the Kansas Pacific stock ought to come in at a lower figure than the Union Pacific?—A. I think probably lower than the Union Pacific.

Commissioner ANDERSON. Yes.

A. (Continued.) Oh, yes; I have no doubt of it.

Q. Was it for the reason that the Union Pacific was a dividend paying road and the Kansas Pacific was just emerging from apparent bankruptcy?—A. Yes, sir. Scarcely emerged.

Q. And that proposition Mr. Gould would not accept?—A. The proposition came from him.

Q. The counter suggestion that the Kansas Pacific stock should have a less representative value than the Union Pacific stock he contested and would not yield to?—A. I cannot say that of my own knowledge. I only know what the gentlemen said when they came back, that he insisted on terms that they would not agree to; and they very properly left him and came home.



## GOULD BUYS THE MISSOURI PACIFIC.

Q. And after that you remember that he went to Kansas?—A. Yes, sir; at least they told me he had gone to Kansas.

Q. Was that before he had bought the Missouri Pacific?—A. I think it was.

Q. When did you first hear, in relation of events, and not what day of the month, that he had bought the Missouri Pacific?—A. The information came to us from New York. I was not myself very frequently in New York. Mr. Ames was frequently there; Mr. Dexter occasionally. We got our information mostly from those gentlemen.

Q. Did you hear at the same time that he bought the Missouri Pacific that he meditated an extension in connection with his Kansas Pacific road so as to construct a rival to the Union Pacific?—A. That was always his scheme, I think, in connection with the Central Branch. The idea was to extend it and make a rival line.

## GOULD'S "SCHEME."

Q. When you say it was always his "scheme," do you mean that it was his scheme when he accumulated his interest in the Kansas Pacific?—A. I do not know about that. We always understood that it was his very ardent wish to buy the Central Branch. He said so, and he would give a high price for it. And we knew, of course, that his object was to extend that line on to Denver, which would have been a very serious loss to us.

Q. So that, as soon as you heard that he had bought the Missouri Pacific, the danger of this competing branch was apparent to you all here?—A. Yes, sir; it loomed up then in large proportions—what we had to contend with.

Q. Did you thereupon go to New York before the day when the arrangement was finally made?—A. I presume I did. I had occasion to go over there whenever I was called. I do not remember.

Q. I mean, do you remember seeing Mr. Gould on any occasion before the evening of January 14, 1880, and after he bought the Missouri Pacific?—A. I cannot say exactly. I presume I did, but I cannot say positively that I did. I was not always in New York when the others were there. When I was there I was obliged to make my visits as short as possible in order to get home.

Q. What I want to get at is whether you remember any discussions with Mr. Gould upon this subject which occurred before the meeting of January 14?—A. No, sir; only general discussions.

## WITNESS' HOLDINGS OF SAINT JOSEPH AND WESTERN.

Q. At this time had you acquired any interest in the securities of the Saint Joseph and Western?—A. I think so. I seemed to have had on the 30th of June, 1879, \$13,000 of Saint Joseph and Pacific bonds, and 142 shares of the same stock purchased the 30th of June, and afterwards converted them into 308 shares. I had at that time \$17,000 Kansas and Nebraska bonds, \$13,000 Saint Joseph and Pacific bonds, and 142 shares of Saint Joseph and Western stock, purchased the 20th of June. Afterwards, on the 14th of February, 1880, I received 328 shares of the Union Pacific Railway Company stock for the lot. The bonds at par, the stock at \$20 a share.

Q. What was the cost of your purchase? Was it \$12,000?—A. I do not know, I am sure.

Q. You do not know the cost?—A. I can tell by my books. I have not got them here.

Q. Was the cost the same to you as it was to Mr. Baker?—A. \$12,273.67 was the cost. Mr. Baker and I were jointly interested. Mr. Dexter managed it, I suppose.

Q. And you bought it at the same time Mr. Baker bought his and under the same circumstances?—A. Yes, sir.

Q. His statement, let me say, is that he found that all the directors were being interested in this purchase, and that he said to Mr. Gould he thought he might as well have such a share as he desired of the purchase, and that he took this amount.

The CHAIRMAN. That he might as well be let in.

Commissioner ANDERSON. Was that his expression?

The CHAIRMAN. Yes, sir.

The WITNESS. That is outside of this pool. Do you mean to say that he bought it himself to put it into this pool?

Commissioner ANDERSON. So I understand Mr. Baker to have said, and it was the same amount that you have, 30,000 bonds and 142 shares of stock, for which he paid \$12,000.

The WITNESS. He may have given Mr. Dexter a check. I do not know where he got them. Mr. Dexter kept the account.

Q. You understood that the bonds you had were sold at 40 and the Saint Joseph stock thrown in—forty for the bonds and the stock thrown in. Is that your understanding after conferring with the gentleman?—A. I cannot tell you. I suppose I paid whatever Mr. Baker did. What he says it cost him it cost me.

#### INTERVIEW OF JANUARY 14, 1880, AT GOULD'S HOUSE.

Q. To come to the interview of January 14, 1880. How did you happen to go to New York to attend that symposium?—A. If I went there I was called.

Q. Do you remember receiving a dispatch from Mr. Gould or any one on his behalf?—A. Yes, sir; Mr. Dexter had such a dispatch asking us all to come on. My recollection is not clear about that interview. I presume I must have been there, as Mr. Dexter says I was; but I do not recollect the details.

Mr. JOHN F. DILLON. There is the paper that was signed that evening.

The WITNESS. You see here that my name is last on that, and my impression is that that paper was brought home, and this arrangement was made with Mr. Dexter and Mr. Ames there, and was brought home for me to sign afterwards. That is my recollection of it.

Q. You do not recollect being at this meeting at Mr. Gould's house?—A. Oh, yes, sir; I attended several meetings there.

Q. I mean the meeting at which that paper was signed?—A. No, I do not think I was personally present at this time. This is Mr. Dexter's handwriting. My impression is that this was agreed upon when I was not present, and brought to me to sign, as you see my name is the last. Not but that I was in accord with it fully and very glad to know that the arrangement was made.

Q. You say you remember being on several occasions at Mr. Gould's house?—A. Yes, sir.

## WHEN TERMS OF CONSOLIDATION WERE DISCUSSED.

Q. Do you refer to occasions when this subject was discussed?—

A. No, not particularly, but on a great many occasions on financial matters.

Q. You do not remember ever being at Mr. Gould's house in company with these other directors, on the occasion at which the terms of consolidation were discussed?

The WITNESS. When the terms of consolidation were closed?

Commissioner ANDERSON. No; my question is, when were they discussed?

A. Oh, yes, sir; I was present at the general discussion, but not where the value of the securities were fixed.

Q. Am I to understand that these discussions quite frequently took place at Mr. Gould's house?—A. Not very frequently; occasionally.

Q. Was that after he had bought the Missouri Pacific?—A. I do not remember.

Q. But it was during the fall of this year; during the period that led up to the actual fact?—A. It was about that time. I do not know. I cannot tell you whether it was before or after that. It was probably after that, because we were alarmed at the changed position of Mr. Gould, and we then became very anxious to get the control of the Kansas Pacific at the best possible terms we could, and as to taking these securities I do not think there was a gentleman in the board that would have altered his vote if he had not owned a dollar of the Kansas Pacific securities. They were all impressed with the great importance of getting control of that road, either by consolidation or in some other way. It was looked upon as vital to the interest of the Union Pacific, and I think it was.

## THE CENTRAL BRANCH.

Q. When this letter was presented to you for signature what knowledge had you of the Central Branch? Did you know how much its bonded debt was?—A. No; I do not remember now.

Q. Did you know how much its earnings were?—A. We knew generally the earnings were very large.

Q. Did you know how much its debt to the Government was?—A. I suppose I knew, but I cannot tell now.

Q. Did you know, critically, anything about the Central Branch, so as to be able to determine whether the fair price for its shares would be \$50 a share or \$250 a share?—A. I only knew from Mr. Ames. I knew what he sold his shares for, and we considered it a valuable property.

Q. Did you know enough about the Central Branch to guide you if it had been an individual transaction of yours, entirely disconnected from consolidation, and that property had been offered to you when this paper was offered to you at \$239 a share; would you have been prepared to say that was a fair purchase, and would you take it?—A. No; I do not, because I had not looked into the matter. I had great confidence in my associates. If they said it was worth that, I have no doubt it was right at that price. It was a very cheap purchase from Mr. Gould.

Q. You thought that was a cheap purchase?—A. It was, even at that high price, a cheap purchase.

Q. On what do you base that assertion when you say you did not know enough to have bought it on your own account, without any reference to questions of consolidation, and on its own merits?—A. You asked me if I knew enough about it to make negotiations myself, on my



own private interest. I am free to say that I did not, and I did not consider it in my province to do so. It was in the hands of Mr. Dexter and Mr. Ames and the other gentlemen who were fully competent to decide those questions, and I was willing to abide by their judgment.

Q. They all, however, inform us that they had not sufficient knowledge of the Central Branch to determine its value, but that they considered that they were bound to take it in connection with the consolidation without reference to the question whether it was fully worth that money or not. I understand your answer to be that you were guided by them largely in accepting these terms?—A. Yes, sir; I had not the personal knowledge that I should have if that was my own individual transaction.

#### THE KANSAS CENTRAL.

Q. In regard to the Kansas Central, had you any personal knowledge of the financial condition of that property?—A. No, sir; only generally.

Q. So that you would not have been able to determine in the transaction, either for yourself or for an associate in business, whether it was a prudent thing to give \$479,000 for the securities mentioned in this paper or not?—A. You must bear in mind that we were very anxious to get it. We were under menace, and wanted to get it; and the price of the stock we did not take into consideration very much. When Mr. Ames came back and said the road could be had for so and so, we all agreed to it. We had no means of knowing, but we must have the road, and must have the assets of the road. It would not have altered the transaction at all if he had asked more than that. We should have been obliged to take it.

Q. We want to find out whether you were bulldozed, or whether you were buying something that you thought you were getting cheap?—A. No; I do not think we were bulldozed. You can easily see that those securities were worth more to the Union Pacific than they were to anybody else. We could put value into them that nobody else could. If they were worked against us, of course it would have been a very serious misfortune.

#### THE SAINT JOSEPH AND WESTERN.

Q. In regard to the Saint Joseph and Western securities, what knowledge had you of the condition of that road?—A. No more than I had of the others.

Q. Who presented that paper to you?—A. I do not know. I said I presume Mr. Dexter did. I cannot say that he did.

Q. When it was presented to you for signature was there any discussion between you and the persons presenting it as to the propriety of putting those securities into the consolidation by the directors at par, when you all knew that you had acquired your respective interest, including Mr. Gould, at 40?

The WITNESS. Was there any discussion about it, do you ask me?

Commissioner ANDERSON. Yes.

A. We talked the matter over every day when we met together.

Mr. JOHN F. DILLON. I doubt whether he understood the exact question.

Q. When it was presented to you for signature was there any discussion between you and the persons presenting it as to the propriety of putting those securities into the consolidation by the directors, at par, when you all knew you had acquired your respective interest, including

Mr. Gould, at 40?—A. I do not remember that it was. It probably was not, because the committee that was empowered to make the trade had made it, and we all agreed to it. Then it was, I say, we should have taken the property even at a higher price, because we were obliged to. It was to the interest of the company, and more particularly to the interest of the Government that we should take that property.

Q. Why were you obliged to take par for your securities?—A. We were not obliged to take it unless we chose.

Q. You could have put them in at 40 if you had chosen to do so?—A. I think we put them in at 20.

Q. I am speaking of the bonds. I ask you why you say you were obliged to put them in at par?—A. The circumstances of the company were such as to oblige us to get possession of the property.

Q. The owners of the bonds could have put them in at 40 if they had wished to do so and declined to receive par. And I only ask an explanation of what you say, that you were obliged to take par for them.—A. I did not mean to be understood in that way, that we were obliged to take par for them, because we could have held them if we chose.

Q. You mean the Union Pacific was obliged to pay par for them in order to get them?—A. Yes, sir; I suppose so. I never had but one opinion of it, that it was a very excellent purchase. I think so to-day. It was almost vital to get control of the road and of those securities.

#### THE ATTITUDE OF GOULD AFTER ACQUIRING MISSOURI PACIFIC.

Q. In regard to the attitude of Mr. Gould between the purchase of the Missouri Pacific and the time when this paper was signed by all of you, you have said that there was a change in his interest. Please describe that a little more fully, and what position he took in regard to the matter.—A. I do not know what I can say in answer to that, only I knew the fact that he had bought the Missouri Pacific, and it was antagonistic to the Union Pacific, and that alarmed us very much.

Q. You say you saw him several times. What did he say his intentions were?—A. I had no definite consultations with Mr. Gould; I was not commissioned to treat with him.

#### GOULD'S SCHEME OF EXTENDING MISSOURI PACIFIC.

Q. Did he never talk to you about his scheme of extending it through Loveland Pass and carrying the road to Denver?—A. Not with me; he did with others. My business with Mr. Gould was more particularly in regard to the finances of the company.

Q. You subsequently attended the meeting of January 24th, when the consolidation was voted, and voted in favor of it?—A. I have no doubt I did; I do not remember it; the records will show. I certainly would have voted in favor of it if I had the chance.

Q. In regard to the matter of branch lines: Have you ever had any interest in any of these branch roads, personally?—A. Some; yes, sir. I have some 170 odd shares of the Utah and Northern.

Mr. JOHN F. DILLON. 173 was the number.

The WITNESS. 173, I believe, is the exact number.

Q. Had you any interest in the Denver and South Park?—A. No, sir.

Q. Or in the Colorado Central?—A. No, I had no interest, and none of us had any interest in the purchase, except in a few instances. The Oregon Short Line some had an interest in, and also in the Utah and Northern. We took it because other people did not want it; we took



it to enable them to build the road. With that exception I do not remember any other interest that any had in these branch lines.

#### VALUE OF BRANCH LINES TO UNION PACIFIC.

Q. In regard to these branch lines and their connections with the main line, have you made it a subject of study as to whether it would be an advantage to the company; and, if so, how much?—A. There would be no sort of question about that. The road to-day would be in bankruptcy if we did not have the branch lines.

Q. On what do you base that statement; is it on figures or on general judgment?—A. These branches do not, all of them, immediately pay, but in the aggregate they do. They bring a large amount of business to the line, and they secure us territory as far as they can. The Government restricted us from building these branch lines, but we had to do it under pressure, and wherever we could get the money, and on their bonds and stocks. They must be built. The Rock Island, the Chicago, Burlington and Quincy, and Northwestern are ready to come into our territory and take our business away. We have protected our interest there to the best of our ability. In fact not as much as we ought to. We ought to have to-day, instead of having the branch lines we have, a thousand miles more, which we should have had if the Government had taken its foot off us; and, undoubtedly, if we had done that the road would have been a dividend-paying road.

By the CHAIRMAN:

Q. You have not regarded that the Government should have built the branch lines?—A. My dear sir, it is for the benefit of the Union Pacific as well as for the Government. If we had lost our business the Government would not have got their debt. We have gone on as much as we dared to, and have put our hands in our pockets and raised the money to build these branch lines, but not to half the extent we ought to have done if we had the means; and we should have done it if the Government had allowed us.

#### BRANCHES BUILT ECONOMICALLY, AND THEIR SECURITIES HELD BY UNION PACIFIC.

By Commissioner ANDERSON:

Q. Does not your statement as to the branch lines still depend on the accuracy of judgment with which they were selected and the amount of money which you paid for them?—A. We built the roads as cheaply as we could, at cost, and the bonds and stocks are in the treasury of the Union Pacific.

Q. Did you build the Denver and South Park at cost?—A. No, sir; we bought that.

#### SOME BRANCH LINES WERE MISTAKES.

Q. Have you not built several branch lines, the operations of which are utterly disappointing?—A. It would be a little singular if we had not made some mistakes. In the early history of this road it was almost an unknown country. We used the best judgment to put the lines where the country would soon grow up to them. We made, possibly, some mistakes. The Northern Utah road was a large paying road for awhile, until we had competitors. We spent some money on it and

now it does not pay dividends. It would be a little singular if we had not made some mistakes. We might have put roads where they, perhaps, would have done us more good. Look at the Atchison and Topeka and the Chicago, Burlington and Quincy roads. They are continually building branches all over the country; and I suppose they make some mistakes. They build sometimes in advance of the wants of the country. We have made some mistakes, but generally we have not. It is the most important element of the Union Pacific.

Q. The solution of the question whether the branch lines are a benefit or a detriment to the road, then, depends upon the question whether the mistakes you made do or do not overbalance the judicious investments you have made?—A. You can see by the statement of the earnings of our branch lines that it will answer your question.

Commissioner ANDERSON. That is exactly what we are very anxious to see.

The WITNESS. That has been published and printed. Mr. Mink can tell you what are the earnings of our branch lines.

Commissioner ANDERSON. We will go over that with Mr. Mink. My only object was to find whether you based your assertion merely on a general feeling or conclusion that it was a good thing, or whether you had made it a subject of sufficient study to give the figures accurately?—A. No, I have not. Of course, we, none of us, could go into the figures and say exactly what these roads were earning after they were built. They were built for the extension of business, and it was a very wise thing to do.

#### EFFECT OF SOUTHERN PACIFIC'S LEASE OF CENTRAL PACIFIC.

Q. In relation to the Central Pacific, have you any knowledge of the effect on the through business of the leasing of the Central Pacific to the Southern Pacific?—A. I think it is very detrimental to the interest of the Union Pacific. We all thought so at the time, and I have no doubt that it has been a very serious damage to us in the through business.

Q. Have you kept track of the rise and fall of the through business?—A. We know our through business does not amount to much.

Q. At one time it was considered the very best, was it?—A. When the road was built it was considered the very best thing. My impression is that our earnings last year on through business were only about 9 per cent. Am I right, Mr. Mink?

Mr. MINK. I do not remember. It is not far from that.

The WITNESS. The transcontinental business is cut all to pieces. It was somewhere about 9 per cent.

Q. It was the attempt to protect this through business that, in a large measure, induced this rivalry between yourselves and the Kansas Pacific, was it not?

The WITNESS. The attempt to protect the through business.

Commissioner ANDERSON. It was that that was involved more than the local business?

A. No, sir; by no means. The principal revenue of the road is derived from local business, and our branch lines were built to maintain that local business.

#### THREATENING ATTITUDE OF KANSAS PACIFIC.

Q. I am speaking of Mr. Gould's project with reference to the Kansas Pacific question. I ask you whether that project threatened your

through business more than your local business?—A. It threatened both.

Q. Between what points of your local business did the Kansas Pacific affect you?—A. Wherever they came near us. But he, no doubt, would have built his branches right down through our territory and taken away our local business.

Q. The map is right behind you, and shows very clearly. Your own idea was that this Kansas Pacific, after building through to Denver and Ogden, would have been furnished with encroaching branches that would have drained the territory between the Kansas Pacific and the Union Pacific?—A. Undoubtedly. That was a business that was worth cultivating much more than the through business.

#### PACIFIC MAIL SUBSIDY.

Q. Do you know anything in regard to the Pacific Mail subsidy?—A. Yes, sir.

Q. What have been the approximate amounts paid per annum to the Pacific Mail?—A. If you want the details I cannot give them.

Q. That was about \$80,000 a month?—A. You want to know the proportion we paid? We paid, I think, about half of that.

Q. Your proportion varied?—A. Yes, sir; it varied with the receipts.

Q. It varied also with the number of members in the pool as they came in?

The WITNESS. In the transcontinental roads?

Commissioner ANDERSON. Yes.

A. Yes, sir. My impression is that our proportion was somewhere about \$40,000.

Q. Forty thousand dollars a month?—A. I cannot say exactly what it was. You will have an opportunity to see that.

Mr. MINK. I have promised to make a statement and give that.

Q. Can you tell me what class of business was protected by the payment of this subsidy?—A. They put the steamers on, and took any freight that they could get.

#### THE FREIGHT WHICH SEEKS WATER ROUTES.

Q. Could the steamers get every class of freight?—A. Perhaps not. They would not compete so actively for the high class of freight, but it was the coarser freight; and they would take that at any price they chose, and they would fix the price we would have to take.

Q. Can you designate any more particularly articles that would seek the water way?—A. It might be grind-stones, or something else; but it was a mixed quality of coarse freight, that they could take cheaper than we could.

Q. What are the main articles exported from California to the East?—

A. Canned articles. Largely fruit.

Q. Canned fish?—A. I suppose salmon. They manage to get a good deal together.

Q. Does sugar come that way?—A. Yes, sir; unfortunately, it will. I believe the Southern Pacific have been taking sugars from California and delivering them in Saint Paul at the same price they take them from New York to Saint Paul, and consequently it takes that market all away from the East. They are refining sugar there free from duty, and we are paying 100 per cent.

Q. One hundred per cent.?—A. Yes, sir; 100 per cent.; whereas California gets its sugars for nothing.

Q. What does the Southern Pacific take?—A. I do not know the exact quantity, but thousands of barrels of sugar.

Q. They carry that by what route?—A. Generally over the California Southern road.

Q. How does it get up to Saint Paul?—A. I do not know by what route. Perhaps they get it over the Canadian Pacific, or some other way. They are delivering a very large quantity of those sugars at Saint Paul.

By Mr. JOHN F. DILLON:

Q. How does it get there over the Southern Pacific?—A. The Southern Pacific sends sugar to Saint Louis at about the same price we can send it from the East to these points; the same price of freight.

#### NORMAL ROUTE FOR SUGAR FROM PACIFIC COAST.

By Commissioner ANDERSON:

Q. The normal route for that sugar, if it were not for this combination between the Central Pacific and the Southern Pacific, would be over the Central Pacific and the Union Pacific?—A. The Union Pacific would get a large share of it. As it is, I do not think we get much.

Q. In regard to the influence of the Pacific Mail route on the freight you have spoken of, you have enumerated fruit, canned salmon, sugars, and I suppose I may add wine?—A. Yes, sir; I think wine generally comes around by water in quantities.

Q. Which of the articles that you have enumerated could come, or would naturally seek the water route?—A. Wool, for instance; that is a very large item; a large quantity comes that way.

Q. Would sugar or fruit or canned salmon?—A. They would come by the route that would bring them the cheapest.

Q. Would that come by the Pacific Mail route in preference to the Union Pacific route if the Pacific Mail offered them cheaper terms?—A. They would come by the cheapest route. If the Pacific Mail could do as they have done, make rates that the railroads could not compete with, they would get it all. They are putting on steamers all the time.

Q. Do you know, as a matter of fact, whether any of those articles have come around by the Pacific Mail route?—A. Oh, yes, sir; large quantities of wool come that way.

Q. Has any fruit come around that way?—A. I do not know.

Q. Has any sugar come around?—A. I have not heard, but they find freight enough to load the ships. The misfortune is that it establishes rates which the railroads have got to take or quit the business; that is the idea—we tried it a while—to cut off the subsidy. We could not stand it. We could not afford it. They were taking freight for nothing; that is, nothing so far as any profits are concerned.

By Mr. JOHN F. DILLON:

Q. What year was that that you cut off the mail subsidy but had to renew it?—A. Two years ago.

Q. Did you renew it afterwards?—A. We renewed it afterwards.

Commissioner ANDERSON. Then it was cut off again by the interstate-commerce bill?

The WITNESS. Yes, sir; we had to do that in order to save any business for the road. They carried it all off. All of the ships, to my knowledge, went out full.

By Mr. JOHN F. DILLON :

Q. You went out empty ?—A. It was not empty, I suppose. I suppose you mean comparatively empty.

By Commissioner ANDERSON :

Q. What I am anxious to get at is, some factor of the rivalry of these two lines. I have been told that a single year of the persistent refusal to pay the subsidy would drive the Pacific Mail Steamship Company out of the business. Is that your judgment ?—A. No, sir ; it is not.

Q. You think they would get enough freight to continue the competition ?—A. Oh, yes, sir ; they have the steamers running and the finest steamers afloat ; not only that, but they would carry passengers.

#### PERCENTAGE OF PASSENGERS BY PACIFIC MAIL.

Q. What is your judgment as to the percentage of passengers that they would take away from the transcontinental land routes ?—A. They would take a large proportion of our emigrant passengers. Very few first-class people would go that way, if time was of any value to them ; but they would take away steerage passengers.

Q. What rates did they offer for steerage passengers ?—A. I do not know. It was very cheap. They at one time, after our Postmaster-General cut the subsidy off, took it at any price they could get. He was economizing, and saved \$800,000 to the Government, and it cost about \$2,000,000.

Q. Do you give those figures as actual approximation ?—A. No ; it cost them a great deal of money. He was obliged to send his mails by foreign steamers which were heavily subsidized, and the English steamers would take our mails for nothing, in order to get our steamers off, and that is why it was taken off.

#### REPORTS EXAMINED BEFORE VOTING FOR DIVIDENDS.

Q. Before voting for dividends declared by the Union Pacific, how closely did you examine the question whether the earnings applicable to dividends had, in fact, been earned during the year for which the dividends were declared ?—A. Always examined them. Monthly statements.

Q. You would take, substantially, the reports made to you by the officers of the road ?—A. I have no doubt of their correctness.

#### NET EARNINGS.

Q. What examination did you make as to the correctness of the principle on which the net earnings were reached ? I mean as to the nature of the items deducted from the gross earnings.—A. I suppose the net earnings mean actual expenses deducted from the gross earnings, but that question has never been settled by anybody, I believe. It is still an open question what the net earnings are.

Q. For the purpose of declaring a dividend you determined to ascertain whether there were sufficient net earnings ?—A. Yes, sir.

Q. Was it not necessary for you to familiarize yourself with the nature of the items deducted from the gross earnings ?—A. That was done in connection with the Government. They came to some tacit understanding what they were, and our accounts were made up in that way. We had to pay our percentage on the net earnings.



Q. You did not declare your dividends on the same basis of the net earnings, as you paid the 25 per cent. to the Government?—A. I suppose it was arrived at on some principle. The amount of subsidy from the Government is always taken out of the gross earnings.

Q. The amount of payment to the Government was ascertained on a basis of a certain percentage of the net earnings?—A. Yes.

Commissioner ANDERSON. It is taken out of the gross earnings, because everything is; but it is not predicated on the gross earnings. The payment to the Government is a percentage of the net earnings!

Mr. JOHN F. DILLON. On the subsidized road.

Q. My question to you is, do the words "net earnings," as used by you in connection with the ascertainment of the amount due to the Government, mean the same quantity which was used by you in determining whether it was proper to declare a dividend?—A. I have no doubt it was properly done.

Q. In determining net earnings for one purpose, you must, for instance, deduct certain items of equipment—certain items of permanent repairs and betterments. Would you make the same deductions in order to ascertain whether you had a fund on hand applicable to dividends as you would make in ascertaining the quantity of net earnings that would form a basis for the computation of the amount payable to the Government?—A. As you are aware, that question of net earnings never has been settled. Even the Supreme Court has always avoided giving an answer to it. Nobody knows what net earnings are. They are what you choose to call them. It would be "what is left after paying expenses" is my definition.

#### WHAT ARE "EXPENSES."

Q. What are the expenses?—A. Whatever they are, having been paid first.

Q. The expenses are what?—A. The running of the road.

Q. Operating expenses?—A. Operating expenses and interest on the bonds and everything else.

Q. You would include interest?—A. All fixed charges.

Q. Would you include all fixed charges?—A. I do not know what I should do if I were the comptroller and made up these accounts. I should probably be governed by circumstances. I cannot tell you what has been done. All that information you can get better from the comptroller than you can from me.

Q. I know that, and my only inquiry was whether you used the same test for determining the question of dividend as you used for determining the question of the amount to be paid to the Government?—A. I suppose so.

Q. Or whether you used a different one?—A. We used the same test. Our object was to ascertain what the net earnings were, as we understand them.

#### CONCERNING BUSINESS INTERESTS OF DIRECTORS.

Q. Will you please tell me whether you have ever been interested, directly or indirectly, in any other railroad, steamship, telegraph, express, mining, construction, or other business corporation—

The WITNESS. You had better put in sugar.

Q. (Continuing)—or other business corporation, with which any agreements, or undertakings, or leases have been entered into by the Union Pacific?

**The WITNESS.** I do not fully understand your question. Whether I have been interested in anything detrimental to the interests of the Union Pacific, do you mean?

**Commissioner ANDERSON.** Interested in any companies of the character described, with which leases have been made or contracts made between such companies and the Union Pacific.—A. No, sir; I have not. I can answer that question clearly.

**Q.** The question is asked without reference to whether the lease was injurious or unjust to the Union Pacific.—A. There has been no lease made to the Union Pacific, to my knowledge or belief, but what was solely in the interest of the Union Pacific and in the interest of the Government.

**Q.** The question is whether you had any interest in any such companies, and have contracts been made between the companies in which you had an interest and the Union Pacific?—A. No, sir; I have not. I can answer that question very distinctly and clearly.

**Q.** Contracts would, of course, include loans of money. Have you been interested in companies which have loaned money to the Union Pacific?—A. I may have been. I cannot answer that question offhand. I do not know. I know I was very glad to get money wherever I could. Wherever I knew I could get money I would be very apt to go for it. Yes, sir; I am interested in a trust company.

**Q.** Please give us the name of the trust company?—A. The American Loan and Trust Company, here.

**Q.** Have they lent money to the Union Pacific?—A. Yes, sir.

**Q.** Is there now money due from the Union Pacific to that trust company?—A. I do not think there is. We paid up all our debts a while ago, and made a new line of them, to be sure. But I made no arrangement with them. In fact, I have not taken a very active part lately. I have not been very well. I do not think we owe the trust company anything.

#### NEGOTIATED MOST OF THE LOANS FOR UNION PACIFIC.

**Q.** Have you yourself negotiated many of the loans of the Union Pacific?—A. Yes, sir; very many of them. A large proportion of them. You may say all of them.

**Q.** Do you mean to say all?—A. I do not mean all the negotiations of the bonds, but they generally have passed through me. That has been my province.

**Q.** On what terms have these negotiations, conducted by you, been effected?

**The WITNESS.** What terms of interest?

**Commissioner ANDERSON.** The terms of personal compensation to yourself.—A. Nothing. Not a cent. I think it would be a matter of interest for you and I would like you to examine what rates of interest have been paid through all the hard times. You will find that the highest was 6 per cent. I think this company has raised money as cheap as any other company in existence.

**Q.** Please enumerate a few of the larger transactions that you have been a party to in respect to these loans.—A. From 1869; for the last fifteen or twenty years.

**Q.** There have been some large ones; collateral trusts and others running into the millions?—A. We have had large negotiations with Kidder, Peabody & Co., with Blake Brothers & Co., principally in sterling exchange, and a large portion of the negotiations were made with

banks in Boston. We would take money wherever we could get it at a fair, moderate price.

Q. Did you conduct the negotiation of the Saint Joseph and Grand Island through Kidder, Peabody & Co.?—A. That was done by the committee, Mr. Adams, Mr. Ames, and myself. I introduced Mr. Adams to them. I told Mr. Kidder what we wanted and Mr. Kidder did it. He gave us sterling exchange for it.

Q. That negotiation was brought about by a guarantee of the interest, I believe; is that not so?

The WITNESS. The negotiation with Kidder, Peabody & Co.?

Commissioner ANDERSON. The sale of the bonds that was brought about.

A. We did not guarantee the interest.

Q. You did not?—A. Not on the Saint Joseph.

Mr. JOHN F. DILLON. He means on the Saint Joseph and Grand Island bonds.

The WITNESS. What we negotiated with them was, we gave our own individual credit and put these bonds in as collateral to protect ourselves.

#### GUARANTY BY UNION PACIFIC OF SAINT JOSEPH AND GRAND ISLAND BONDS.

Q. The question is whether the Union Pacific did not guarantee the payment of all the interest on the \$7,000,000 bonds before the sale of the bonds.

The WITNESS. Guarantee it on the bonds?

Commissioner ANDERSON. Yes.

A. Some did and some did not, I suppose.

Q. Did the Union Pacific not guarantee payment of the interest on all of the \$7,000,000 bonds?—A. Because they promised it generally. They had to guarantee it. We did not sell those bonds, but we had those bonds to use as collateral security. When the company paid the notes the bonds came back again to the Union Pacific Company.

Q. The company does not own these bonds to-day?—A. Some of them have been sold.

Q. Have they not all been sold?

The WITNESS. What?

Commissioner ANDERSON. All the Saint Joseph and Grand Island bonds.

A. Oh, yes, sir; that is a different thing. I spoke of all the bonds in the treasury.

Q. I am only talking in reference to the issue of \$7,000,000 Saint Joseph and Grand Island bonds, of which about \$3,500,000 were owned by the Union Pacific Railway Company. My question is whether, before the sale of all these bonds, which were the property of the Union Pacific Railway Company, the Union Pacific Railway Company did not guarantee the payment of the interest on the whole issue?—A. I presume they did; I do not know. I presume they did guarantee the interest on them. They were their own property. They could not negotiate them unless they did guarantee the interest. You speak of this arrangement with Mr. Kidder which Mr. Adams and I did. We put in our individual credit and took sterling exchange for it, and when that was due we sold the bonds and paid Kidder off. That is the usual way of doing it.

Q. What do you know of the condition of the Saint Joseph and Grand Island bonds?—A. Nothing.

Q. Do you know what its earnings are?—A. No, sir.

Q. So that the success of that operation will depend on the question whether you are called upon to make good the guarantee of the interest on the \$7,000,000 bonds? If that road should not earn its fixed charges you may loose a great deal of money by that guarantee?—A. We should not lose the money now that the bonds are sold.

Q. If you have guaranteed the payment of the interest on those bonds and the road does not earn its fixed charges, will you not be obliged to pay the interest?—A. If we guaranteed the interest we should.

Q. If the road does not meet its fixed charges the transaction may result in a loss to the Union Pacific?—A. It is possible.

#### PLAN OF SETTLEMENT.

Q. Will you tell us what your judgment and views may be in regard to the best future policy between the Government of the United States and your company?—A. My idea is that the Government should treat the corporation in the same way that merchants do their business among themselves. If one merchant owes another money, the best policy in the world is to put him in the way of earning money enough to pay his debts. The Government instead of doing that has tried to embarrass us in every possible way; not intentionally, perhaps, but that is the effect of all the legislation. It has kept us in courts. From these, when they get through, we have to appeal. We cannot compromise, but we have to appeal at once to the United States Supreme Court, and that in every instance has said we were right, except in that unfortunate Thurman act, which it decided against us to the astonishment of almost everybody I know. With that exception I believe the Supreme Court has sustained us in every dispute we had with the Government. Is that not true?

Mr. JOHN F. DILLON. We failed with our claim on the mail.

The WITNESS. They did not give us the full amount that we claimed, so far as that is concerned. But we got a portion of it, as much as was due. Now you ask me about the policy the Government ought to pursue.

Commissioner ANDERSON. Both the Government and the company.

The WITNESS. It is the same thing. We want to pay the debt to the Government, and we mean to.

Q. You mean the whole debt, principal and interest?—A. Anything that we are obliged to pay.

Commissioner ANDERSON. That is a different proposition.

The WITNESS. If the Government should say we need not pay the interest on these bonds, we should say we are very much obliged to you, gentlemen. But we are legally bound to pay it, and we expect to pay it, but we want time to do it. If the Government would find the present value of the debt and give us an extension of 100 years at 3 per cent., the interest payable, if you like, semi-annually, we could pay the debt in installments. Then, still further than that, we have got lying in the hands of the United States over \$7,000,000 which is bringing substantially no income to-day. It is doing nobody any good. It is not helping the Government at all. The first thing to be done is to allow us to sell those Government bonds, which are bringing a very high premium, and put them into some other securities, say, for instance, the first mortgage bonds of the Union Pacific, which are the best possible security a second mortgage can have, and let our sinking fund be invested in that as it is paid in. That is, reduce the first mortgage



that is paying interest, and increase the Government security all the time. There is no earthly reason why this \$7,000,000 or \$8,000,000 should accumulate all the time and should lie there without interest. The Government is getting nothing for it. The explanation of what I have said that our sinking fund is bringing in no income is, if you choose to put it down, that the bonds cost us a very high premium; they were selling at 120.

Q. They bring 4 per cent. on the par?—A. Yes, sir.

Q. And that would reduce the actual income to about 2 per cent. or  $1\frac{3}{4}$  per cent.?—A. What are we getting for them then, if they lie there? We are only getting the premium. Interest on the bonds does not begin to cover the premium, and if they should lie there, as they do, all the premium is lost, about 20 to 25 per cent., and that is no possible good to the Government. You are aware, of course, that the only investment we can get is in Government bonds. There are no three per cents to be bought. They are all four per cents. They are all called.

Q. Do you wish to say anything further in regard to this subject of policy as between the Government and the railroad?

The WITNESS. The financial policy?

Mr. JOHN F. DILLON. The future adjustment of the relations.

#### WANTS GOVERNMENT TO STOP PERSECUTION.

The WITNESS. What we want is for the Government to stop the persecution—I cannot give any other term of it—and allow us to do business like any other railroad in the country—to secure our own territory against all comers. As it is now, we are cut to pieces by all our large rivals. That should be stopped. We cannot help it. We should have authority to build branch lines.

Q. What is your judgment as to the security which the Government would hold if it adopted this policy of annual payments of fixed amounts? Suppose you failed in your annual payment. What is their security?—A. They have the security of the second mortgage, the same as now. That mortgage would still be in existence until it was paid.

Q. The mortgage is not due until 1897?—A. It would be due if we should make default.

Q. Default in what?—A. Default in the interest. They could foreclose by paying off the first mortgage. They could not get possession unless they paid off the first mortgage.

Q. How could they foreclose for default in the annual payment unless the principal was due by the terms of the mortgage?—A. That is a legal question.

#### FAVORS ENLARGING THE SECURITY TO THE GOVERNMENT.

By Commissioner ANDERSON:

Q. I will not pursue that if you have not discussed it with the counsel of the company. I may say that it seems to me a very difficult question in connection with this subject of fixing annual payments, even if you should agree that the failure to pay would default the whole amount, because you cannot bind your junior securities by such an agreement, I suppose. Are you in favor of extending the security of the Government, in the event that such an arrangement is made, by adding to it from the properties which you hold by way of investment?—A. Yes, sir; I should say that was a very proper way to do.



Let us go on and build these branch lines, and turn in these securities as we get them, and put them in escrow as security to them to a certain extent.

#### FAVORS EXTENDING DEBT 150 YEARS.

By Commissioner LITTLE :

Q. Why do you ask the Government to extend this debt one hundred years?—A. I would rather have it one hundred and fifty.

Q. I suppose so. Do you undertake to say that it is necessary to extend this debt one hundred years in order to enable this company to pay it?—A. Yes, sir.

Q. You do?—A. Oh, perhaps not absolutely necessary, because there are other ways. Perhaps we could raise the money. For instance, as I see Mr. Gould suggested to you the other day, if you take off the interest, the Government could let us place another first mortgage bond, and we could place that on the market immediately and pay it off.

Q. Could you not as it is?—A. It would be too large a sum.

Q. You have not carefully considered the question as to just how much of an extension this company ought to have in order to enable it to pay this debt, have you?—A. No, sir; I suggested the hundred years. I got that as a cue in Washington. I got it from the Comptroller of the Treasury, who said, we do not care; we do not want you to pay the money now."

Q. Suppose the Government should finally conclude to give the extension for one hundred years, what kind of security could you give?—A. The second mortgage they have now.

Q. That would be all you could give?—A. Mr. Anderson suggested we could give security on our branch lines. We could take that into consideration. I am not authorized to speak on that.

#### ADDITIONAL SECURITY ON NEW BRANCH LINES AMPLE FOR GOVERNMENT LIEN.

Q. Would you consider the additional security which these branch lines furnish ample security for the debt?—A. Yes, sir; ample, so far as they went.

Q. Would they be ample security for the entire debt?—A. That would depend on how much there is of them. If we should build 1,000 miles of road, and give you the first mortgage on the road, it would be very good security.

Q. All these lines are covered by first mortgages already?—A. They are mortgaged to us. We have the bonds in our treasury.

Q. In other words, you could give the Government a first mortgage on the thousand miles of branch lines?—A. If you took too much of it it would be rather embarrassing.

Q. It would be in your power, as I understand it?—A. Yes, sir; we have the first mortgage bonds in the treasury, and if the Government insisted upon it it could make the claim.

Q. That would help the security very much?—A. I am not authorized to make any such offer. We are so anxious to get a settlement with the Government that we should submit to almost any fair terms.

By Commissioner ANDERSON :

Q. Are you quite accurate in your statement; are not a large portion of the bonds that you refer to already involved in the collateral trust

mortgage and others?—A. A good many of them are. But I am speaking of the roads now to be built—the branch roads to be built.

Q. Those could only be built out of earnings. You have not the means on hand to build the thousand miles of the road to-day, have you?—A. We should not go any further than our means would allow.

Q. The only means you refer to are prospective earnings?—A. Yes, sir; prospective earnings. We could not, of course, give you all the securities we have got, because we want something to do business with. But we could turn in first mortgage bonds, I suppose, if the Government should ask it, on our branch lines, to a moderate, limited extent.

#### LAND GRANT TO UNION PACIFIC.

By the CHAIRMAN:

Q. The Government has granted to the Union Pacific and Kansas Pacific Railroads forty-eight millions in lands.

Commissioner LITTLE. Dollars or acres?

Q. (Continued.) Estimated in dollars; and \$49,000,000 in bonds, including the principal, \$27,000,000, and the interest due to date, making a total estimate, approximately, of \$97,000,000, to which extent the Government has aided the Union Pacific Railway Company with the assurance that it would be paid in thirty years. Now, if an extension is granted, of one hundred years, what assurance has the Government that you will then be in any better position to pay it than you will be in 1897 to pay the \$97,000,000?—A. We consider the country is in very much better condition than it was when this road was built. The country is developing very rapidly, and there is no doubt by building these branch lines it would develop along the line of our road much faster than it has done.

By Mr. JOHN F. DILLON:

Q. When you say one hundred years, you mean within that period you would liquidate the whole debt?

The WITNESS. I consider that we should pay it in installments.

#### DEBT TO GOVERNMENT NATURALLY EXPECTED TO BE RENEWED.

By the CHAIRMAN:

Q. The Government made this gift or grant of land, and this appropriation of money, and the interest during thirty years, with the understanding that, at the end of thirty years, the railroad company would meet its obligations and settle with the Government. Now, the railroad company asks an extension of one hundred years. What assurance can they give, any better than they gave thirty years ago, that they would settle at maturity?—A. I should hardly think the Government expected it to be settled up at maturity fully. With a large amount of bonds coming due it would naturally be expected to be renewed.

The CHAIRMAN. There was no question at the time when the money was loaned that the company would settle it at maturity.

The WITNESS. I do not know that the question was raised; 30 years was a good while then; it is running off pretty fast now. In the first place, the Government does not want the money; and why not have our securities in the Treasury just as well as dead capital; our 3 per cent. bonds might be made bankable, why not, to take the place of the 3 percents that are being paid off; how will that strike you?

The CHAIRMAN. We are here to hear any proposition.



The WITNESS. That is no proposition; I made that as a suggestion to see how it struck you.

Commissioner ANDERSON. It is all a question of amount, payment, and security; I do not think it is a question of time.

The CHAIRMAN. I only want to know whether you mean to pay it at all. When you fix it at 100 years, or 150 years, it is like a lease of 99 years.

Commissioner ANDERSON. Suppose we adjourn 100 years, and then ask Mr. Atkins over again when they will pay.

The WITNESS. We cannot get rid of that second mortgage. In the mean time we might be investing in the first mortgage, and, getting the benefit of that all the time, whatever we put into the sinking fund, invest that in the first-mortgage bonds. The company will continue to pay the interest on those bonds at 6 per cent., and that is added to the principal all the time; so you see, every day in the week, and every month in the year, your security is being increased. Now what will it amount to in 100 years, is a matter of mathematics and figures. You are getting more and more security every month in the year.

Q. I ask the question with reference to the hundred-year basis, upon the calculations that were made 30 years ago, as to the growth in the population of the country, and the value of the lands, with reference to the business meeting the debt when due. It is conceded that with the increased valuables the road would be able to meet these obligations, and the term was fixed at 30 years. I am only looking at the future; I want to know what you are basing your proposition upon.—A. As to that, I do not know whether anybody gave assurance of its all being paid in 30 years; you know how difficult it was to get people to go into it when it was built. Boston put in her money freely. Mr. Oakes Ames told me himself that Mr. Lincoln said, "Ames, take hold of that; and if that is not enough to build the road, ask double and you shall have it." He said, "That road must be built, and you are the only man to do it; and you take hold of it yourself." That is what Mr. Ames told me himself. Under those circumstances, I hardly think Mr. Ames said we would pay off everything at maturity. If it was only \$27,000,000, I suppose we could pay it off next next month. We could raise that amount with the Government agreeing. The property will be worth a good deal more 10 or 20 or 30 years hence than it is now, I suppose.

#### WANTS THE "PERSECUTION" STOPPED.

The CHAIRMAN. Have you any other suggestion to offer with reference to the road?

The WITNESS. No; except the general suggestion that we want the Government to stop the persecution of us, and let us do business like every other railroad in the country. Our rivals are very wealthy, and have all the money they want, and all the credit they need, and do not have to go to the Government for anything, and we have to contend against that in order to hold our business and protect our own territory. We have got to have the means.

The CHAIRMAN. Judge Dillon, have you any questions?

Mr. JOHN F. DILLON. Only a few. The great practical object of this Commission, I take it, will be to report some plan, which commends itself to the judgment of the Commissioners, of adjusting the debt and fixing the future relations between the Government and the company. I have asked the permission of the Commission, which they have given

in the case of Mr. Ames and the other directors who have been examined before you, to have the directors, after they have fully considered the subject of the debt and the relations of the company to the Government, and after having formulated it to present it; and I will not trouble you further on that subject. That is a good idea. I ask the Commission if Mr. Atkins may join in it also?

The CHAIRMAN. Certainly.

#### WITNESS' INTEREST IN UNION PACIFIC.

By Mr. JOHN F. DILLON:

Q. I want to ask a few questions as to other matters. Do you know what your interest is in the Union Pacific to-day?—A. I hold to-day 9,324 shares of Union Pacific stock. That is my holding to-day. Two hundred and ninety-two thousand dollars of Union Pacific and Kansas Pacific bonds; about \$50,000 of them are Kansas Pacific.

Q. That is, you hold 9,324 shares of Union Pacific stock now against 2,937 shares which you held at the date of the consolidation in 1880?—

A. Yes, sir.

Q. So that your holdings have very considerably increased in the meanwhile?—A. Yes, sir; largely increased.

Commissioner ANDERSON. He took advantage of the drop.

Q. Was that stock bought at various times since that time?—A. Various times. A large portion of that 2,900 shares cost me \$130, and I have held it, and have seen it go down to 15 or 20, or to 30.

#### "STOOD BY THE SHIP."

Q. You stood by the ship?—A. I stood by the ship.

Commissioner ANDERSON. You are "bearing" the market very much. Twenty-eight is the lowest.

The WITNESS. We have it back again to 60 odd, and I hope when we get a liberal report from you gentlemen it will go to par. It ought to be at par to-day.

Q. Do you consider that with such legislation as experience has shown to be essential to your protection and development, the Union Pacific and its associated properties are valuable?—A. I do consider them very valuable properties.

#### UNION PACIFIC FAVORABLY LOCATED.

Q. Is there any transcontinental road, all things considered, to the Pacific Ocean, that lies so favorably situated, in your judgment, as the Union Pacific?—A. With us the line is quite as favorably situated as any other road. Its local business is increasing rapidly all the time. The coal business is an enormous business. The consumption of that is, of course, increasing very fast.

Q. Kansas is understood to be one of the most prosperous States in the Union?—A. I should judge so the way they are building railroads. They are spreading them all over.

Q. And Nebraska?—A. Nebraska.

Q. Wyoming?—A. Yes, sir.

Q. And the Western region, generally?—A. Yes, sir; it is being developed very rapidly and will continue to be developed.

## LOANS OF THE UNION PACIFIC.

Q. You have spoken of loans which have been, from time to time, made by the Union Pacific. I suppose this company, like every other railroad company, has to make loans more or less in order to conduct their business?—A. Yes, sir; and a great many of them.

Q. And you have been on the finance committee?—A. Yes, sir.

Q. You have had a good deal to do with that branch of the company's work?—A. Yes, sir.

Q. Please state to the Commission whether or not the company in any instance within your knowledge, has paid to anybody any more than the legal or any more than the market rates for money, or any more than they could at the time have secured it for.—A. No, sir; to my knowledge they never have.

Q. What is your belief on that subject?—A. I have reason to know that they have not, unless you reckon brokerages. Sometimes we paid brokerages.

## NO IMPROPER PERSONAL BENEFITS DERIVED FROM UNION PACIFIC.

Q. I want to know whether you have sacrificed, or whether anybody else has sacrificed, to your knowledge, the interests of the company, for your personal benefit or for the personal benefit of any company in which you were interested.—A. No, sir; I never have and I do not think one of our directors has ever done it, or ever profited by any financial transaction that they made, excepting cases where we have been called upon to borrow upon our private securities, and then we were paid for it. I do not know what the instances are, but there are some such cases as that.

Q. When was that?—A. This instance of Kidder, Peabody & Company's that you were asking me about was one of them.

Q. Those transactions are all on the books?—A. All on the books.

Commissioner ANDERSON. I do not quite understand what the witness says about that.

The WITNESS. About what?

Commissioner ANDERSON. When you had to borrow money on your private securities for the use of the company, whether any special charges were made against the company?

The WITNESS. No; only in those cases where we got sterling exchange, such as I was speaking of, as in the instance with Kidder, Peabody & Company, where we put up our private credits or securities. It was in order to pay for those.

By Commissioner ANDERSON:

Q. Do I understand that in those cases you made a personal charge against the company or got some personal compensation for it?—A. In some instances we have.

## ONLY MARKET RATES OF INTEREST PAID.

Q. To what extent?—A. I do not know. It would be the market rate of interest, whatever it was. For instance, we pay a banker half per cent. We do not know what the interest costs us until we remit for that exchange, you understand. Then there have been some instances where, perhaps, the parties have become individually responsible for it at the regular market rates of interest, at 8 per cent. or something like that.



Q. Will the books show that amount?—A. The books will show it.

Mr. JOHN F. DILLON. I will ask you to produce any entries on your books on that subject. Furnish them as soon as you can.

The WITNESS. They are not on my books.

Mr. JOHN F. DILLON. The company's books show them?

The WITNESS. Yes, sir.

Mr. JOHN F. DILLON. I will ask Mr. Mink to state them, as he says the company's books show them.

Mr. MINK. I will furnish the information.

#### DIVIDENDS.

By Mr. JOHN F. DILLON:

Q. You were interrogated in relation to dividends. The act of Congress forbids this company making any dividend except out of its net earnings. State whether or not you have ever voted to declare or pay any dividends in violation of that provision, so far as you know.—A. Never. If there was anything of that kind done I should have known it.

The CHAIRMAN. Include in your question the point as to the borrowing of money to pay dividends.

Q. In voting for dividends, state whether or not you acted in the *bona fide* belief that the amount out of which it might be paid had been realized in the way of net earnings.—A. The question of dividends has never been entertained by our Boston directors except when we knew we had earned it. They would not have entertained any such proposition.

#### MONEY NEVER BORROWED TO PAY DIVIDENDS.

Q. Have you ever borrowed money, or has the company ever borrowed money, in order to enable them to make or to pay a dividend, such borrowing being with a view to meet a deficit in net earnings, so as to enable you to pay the dividend?—A. No, sir; we never borrowed the money for the specific purpose of paying dividends.

Q. State whether you borrowed it to meet deficits in your net earnings and thus enabled you to pay dividends.—A. No, sir; we did not. The dividends have only been made when they were made out of the net earnings. We have borrowed money; but whether that money went to pay dividends I cannot state, after it got into the treasury.

Mr. JOHN F. DILLON. There is no provision in the act of Congress that you shall not borrow money?

The WITNESS. No, sir.

Q. What is your age?—A. Seventy-four.

#### THE MEETING AT GOULD'S HOUSE.

Q. I see your name attached to the memorandum of the 14th of January, 1880. Are you distinct in your recollection as to whether you were at that meeting or not?—A. No; I stated that my memory was not distinct as to that. My impression is that I was in Boston. We knew what was to be proposed, and my impression is that Mr. Dexter brought to Boston for my signature that paper after everybody else had signed it. You see my name is last.

Q. You do not recall being at Mr. Gould's house on the evening of the 14th of January, 1880, which resulted in the writing and execution of that paper; you do not recollect it?—A. I do not recall that I was there at that time when that paper was drawn up. I think if I had been present, I would have remembered it. Mr. Dexter wrote it out.

Q. Therefore you do not recall the fact that Mr. Dexter wrote it?—  
A. I see that is his handwriting.

Q. And you do not recall the fact of its having been written by him, nor what occurred there, and from the further fact that your name appears at the bottom your impression now is that this was afterwards brought to you and you signed it?—A. Yes, sir; but we generally understood what was to be done.

Q. When you signed it you understood what was in it?—A. Yes, sir.

Q. And it met your approval, did it?—A. Heartily.

#### THE CONSOLIDATION APPROVED.

Q. What was your understanding then, and what is it now, as to whether these Central Branch and the Kansas Central roads were included under terms which Mr. Gould dictated to the parties representing the Union Pacific, or whether the party representing the Union Pacific felt it to be essential to the interest of the Union Pacific that those roads should come to the Union Pacific Company in this arrangement?—A. We unanimously thought it was very much for the interest of the company to get those securities and to make this consolidation. As to the price of these different securities, I do not suppose any of us knew what they were worth. As to the Central Branch, I do not suppose that would have sold for very much, nor would the Kansas Central; but the arrangement was made, as I understand, and was talked over in different interviews with Mr. Ames and Mr. Dillon, and then prices were agreed upon and submitted to us and these prices were made. I do not know what these bonds would have sold for on the market. They would not have brought much, perhaps, but in the control of the Union Pacific we knew that they would be made very valuable.

Q. Standing for the Union Pacific, and in making this arrangement, you made what you deemed to be the best interest for the company, did you not?—A. Yes, sir; and the Government.

Q. What is your judgment now, looking back at it over eight years? If it were to be done again under the same exigencies, looking at the interest of the company and the Government, would you vote for the consolidation or not?—A. Most decidedly I should. If that was running eight years without the consolidation, the road to-day would not have been worth a great deal of money.

#### THE ISSUE OF K. P. CONSOLS TO GOULD UNDER MARKET RATES.

By Commissioner ANDERSON:

Q. Were you aware that in January, 1880, after the consolidation, there were issued out of the trust of the K. P. consols to Mr. Jay Gould two millions of dollars of the bonds held in the trust at the rate of 75 cents on the dollar, when the market price was 94?—A. No, sir; I do not seem to recollect that. The records will show whether that was done, but it was not done clandestinely. It was done by the committee as a part of the agreement, I suppose. Mr. Ames is not a man that would do anything of that kind and cover it up.

Commissioner ANDERSON. I do not think Mr. Ames had anything to do with it.

The WITNESS. Mr. Dexter and Mr. Ames particularly conducted the negotiations. If Mr. Gould had said we were to give him 94 as a part of the contract, we would have said yes.

Q. As a part of what contract?—A. A part of the consolidation scheme.

Q. It is not a part of the consolidation scheme as the scheme has been described to us by yourself, Mr. Ames, Mr. Dexter, Mr. Gould himself, Mr. Dillon, and all the other gentlemen. I asked you the question with reference to your statement, just made, that no director of this road, to your knowledge, has ever obtained an advantage amounting to anything from a negotiation of any of its securities or loans. Were you aware of the fact that \$2,000,000 of these bonds had been issued to Mr. Gould at 75?—A. I cannot tell.

By Mr. JOHN F. DILLON:

Q. You do not now recollect it?—A. I do not now recollect it.

By Commissioner ANDERSON:

Q. When you made that statement, that no director had received any such advantage, you did know the fact that those \$2,000,000 of bonds had been so issued?—A. I think your question only refers to loans; in borrowing money, whether anybody had been paid; and my answer to that was, the statement as to this matter of Kidder, Peabody & Co.'s in the sterling exchange. I do not think your question covered any sale of bonds.

Q. It was Judge Dillon's question. I am asking you whether you know that any of the directors of this company had derived any personal advantage from the issue of its securities to them at rates that gave them an advantage?—A. No; I do not think we ever had any advantage. We have bought them at what they were worth. Mr. Ames bought them—a great many of them—and he paid a fair price; all they were worth.

#### \$3,400,000 BONDS ISSUED UNDER MARKET RATES.

Q. Did you know that \$3,400,000 of these bonds were issued to the holders of certain securities, which had been in this Saint Louis pool arrangement, at rates differing from the rates at which these bonds were issued to the public?

The WITNESS. That was a private arrangement of Mr. Gould's, was it not?

Commissioner ANDERSON. Yes, sir.

The WITNESS. He bought out the Saint Louis people.

Q. It was a private arrangement of Mr. Gould's?—A. So I understand; yes, sir.

Q. I compare it with your answer just made, that no securities of this company have been issued to any of the directors at rates which gave them a personal advantage. How can you reconcile those answers?—A. What would consider a personal advantage? We considered a fair price a fair price.

Q. Is it considered a personal advantage if the bonds were issued to a director at 75 and issued to the public at 94?

The WITNESS. At the same time?

Commissioner ANDERSON. At the same time.

A. Well, it would depend on circumstances. It might not perhaps have been worth 75. Mr. Gould probably made that stipulation, "I will take that lot of bonds at 75." I have no knowledge of that.

Q. Are you not a little rash in saying that there are no cases in which the securities of this company were issued to directors at such rates as



to give them a personal advantage?—A. That may be an exception. I do not know whether it is or not. Generally, I should say, there has not been.

Q. That is an exception that involves \$500,000, and if there is one exception may there not be five or six?—A. I guess not. How did we know that those bonds were worth more than 75 when they were issued to Mr. Gould?

Commissioner ANDERSON. I am only stating that we had the market price for that month.

Mr. JOHN F. DILLON. Mr. Dexter testified yesterday that he bought K. P. consols as late as December in the market for 75.

Commissioner ANDERSON. The highest price at which the bonds sold in February, after the consolidation, which was on the 24th of January, the issue being afterwards, was 97½, and the lowest price, 96¾. Of course, it may be said that \$2,000,000 of them might not have sold at that price, being a large amount.

The WITNESS. Is it not possible that Mr. Gould, after getting control, put them on the market? In that case he gave an equivalent for that price.

Q. Then, I understand, you knew nothing of this transaction, personally?—A. No.

Q. Did you know that you referred to the fact that \$3,400,000 was paid for the Saint Louis pool securities, as being a transaction of Mr. Gould's?—A. That, I suppose, was a transaction of Mr. Gould's.

#### WAS THE RATE TO GOULD PREFERENTIAL?

Q. But that did give him a preferential rate, did it not?—A. He had a right to buy his securities in the market at any price he could.

Commissioner ANDERSON. But the question I that am asking is about the sale to the Union Pacific of the securities. He sold them at a rate exceeding the rate prevailing for these same securities in the public market.

The WITNESS. Well, I do not suppose that is an exceptional case with Mr. Gould, is it? Mr. Gould does his business to make money. If he buys \$2,000,000 in bonds, he would probably buy them with the understanding that he should put the market up.

Commissioner ANDERSON. I do not think you catch my point. I am not speaking of his purchase. I am speaking of a sale to a company in which he was a director, and it is in reference to your assertion that in no cases have directors made money out of the Union Pacific.

The WITNESS. That is a pretty broad question that no person made money.

Q. Out of the Union Pacific?—A. That is what I mean. I think as to Mr. Gould's doing, I do not know what he does.

Q. Do you mean to exclude Mr. Gould in your statement that none of the directors have made money out of the Union Pacific?—A. No, sir; I do not mean to exclude anybody. I will say generally that I do not know anything about it and I do not recollect about it. I have no doubt it was done honestly in the interest of the Union Pacific, whatever was done.

Q. No matter what he did?—A. No matter what was done with him, with the sanction of Mr. Ames and those gentlemen. I have no doubt it was honorably done.

Q. Do we understand you as approving of a bargain by which Mr. Gould should purchase from the Union Pacific these securities at bet.

ter rates than could be got in the open market?—A. Yes, sir. It might be because of the very fact that the settlement with Mr. Gould would put the price up. If Mr. Gould had them he probably did it with the understanding that he would take the bonds at the price agreed, and he would put the price up.

Q. Do we understand you to be approving of a bargain of this nature to be made between the company and its directors, where the directors, who are to take these securities participate in the conclusion which is reached, and vote upon it?—A. As a general rule, no; but there have been no such instances in the Union Pacific, that I know of.

Q. You know that Mr. Gould was a trustee of this very mortgage, do you not?—A. Yes, sir; he is now.

#### CONCERNING THE BONDS ISSUED TO SAGE.

Q. Did you know that many of these bonds were issued to Mr. Russell Sage at rates differing from the rates prescribed in the mortgage, and at better rates to him?—A. I do not remember.

Q. You do not know that?—A. I cannot say; I did not know; perhaps I did; I do not remember it.

Q. If such were the fact would you still adhere to the proposition that Mr. Sage, being a director, did not obtain from the company securities at prices which were a personal advantage to him?—A. I should think that whatever was done was done in the interest of the company. If Mr. Gould and Mr. Sage had not bought those bonds the price, probably, would not have been 94; would not have been above 75. I think it was to the interest of the company to give them a chance to buy those bonds below the market price, with the understanding that they would put the price up.

Q. If the terms of the mortgage forbid the issue of the bonds at the rate at which they were issued, would you consider it a proper discharge of the duties of the trustees of that mortgage to issue to themselves bonds at a more favorable rate than the rates prescribed in the mortgage, simply because, by so doing, there would be a better market made for the bonds?—A. Well, those gentlemen would ask you how you knew those bonds could be sold in the market above 75. I do not know that they could at that time.

Commissioner ANDERSON. If they asked me that I would say, "Gentlemen, you being the trustees, you cannot buy them, and if they sell for a lower price, that is the misfortune of the company; but it is not honest for you to buy them and fix your own rate."

The WITNESS. They were only one party to the transaction; the other people fixed the rates and they agreed to the terms, I suppose.

By Mr. JOHN F. DILLON:

Q. You have no personal knowledge, have you, of the alleged sale of bonds to Mr. Gould, or the prices of them?—A. No, sir.

Q. You have no knowledge of it?—A. I have no knowledge.

Q. What you said here is speculation as to the possible circumstances?—A. Yes, sir.

#### WITNESS' TRANSACTIONS IN SAINT JOSEPH BONDS.

By Commissioner ANDERSON:

One thing more as to one of your own transactions. Did you not *advantage* from the Union Pacific Company when you sold the



Saint Jo bonds, which cost you 40, to the company for its new stock, at par?—A. They bought my bonds as they bought any other in the market.

Q. I am talking about when you sold them to the company; did you not get a personal advantage for them from the company?—A. I sold them at the same price as anybody else that had the same bonds.

Q. Did you not personally make the difference between the 40, which the bonds cost you, and the value of the stock which you got?—A. Yes, sir; and lost the interest. The value of the stock I have got now, it is not worth what I took it for. The stock I bought and intended to hold, and am holding it now. That stock I took at par, and I have not seen many days since that I could have got over 60 or 70 for it.

Q. I ask you whether, when you made that exchange, the stock being worth 95 cents in the market, you did not make the difference between what you had paid for the bonds at 40 and what the stock was worth when you got the stock?—A. I suppose I did.

Q. And did you not sign a paper, which was equivalent to a vote, in favor of that transaction, which paper has been produced here, and which you say was brought to you and signed after it was drawn up?—A. Yes, sir; I answered that question two or three times, I believe.

By the CHAIRMAN:

Q. How do you answer it now?—A. I say I signed it, and it was equivalent to a vote in favor of it, if that is what you want. There was no difference of opinion among us. We were all of us glad to do it. If I turned my stock in at par or held it, it was a matter of no great consequence to the public. The stock could not be sold at par.

#### HOW THE GOVERNMENT WAS BENEFITED BY THE PACIFIC ROADS.

Q. Have you anything else to add?

The WITNESS. In regard to settling with the Government, and why we should be liberally settled with, I think you will agree with me. We have already paid to the Government an equivalent of fully \$3 for \$1 for everything that was advanced to us. Equivalent for cash to that amount. I get at it in this way: The Government gave us lands that were not worth a cent an acre without a railroad. They put their lands in the market at \$2.50 an acre, and they realized on the advanced value of land probably the full amount of the subsidy of \$27,000,000. I do not know how much. They have not got through with it yet. That is one advantage.

The next is the Government saving in the cost of transportation, which was cash. It saved them so much cash. It saved enough on that transportation to have paid every dollar of the subsidy. That is twice it was paid.

By Commissioner ANDERSON:

Q. Why do you call that a payment made by you?—A. It is a saving directly by the Government.

Q. You call it a payment?—A. Call it what you like. It is a saving the Government got. They got it in the reduced expense. I think they have saved more than that.

The third advantage is that the building the Union Pacific Railroad annihilated all the Indian wars. We have not had an Indian war since. Not one. No troops on the plains. That saved more than the whole amount of that subsidy. I say, with any fair-minded man, there is no reason why the Government should be hard on this company as to settlement. They ought to make liberal terms.

ter rates than could be got in the open market?—A. Yes, sir. It might be because of the very fact that the settlement with Mr. Gould would put the price up. If Mr. Gould had them he probably did it with the understanding that he would take the bonds at the price agreed, and he would put the price up.

Q. Do we understand you to be approving of a bargain of this nature to be made between the company and its directors, where the directors, who are to take these securities participate in the conclusion which is reached, and vote upon it?—A. As a general rule, no; but there have been no such instances in the Union Pacific, that I know of.

Q. You know that Mr. Gould was a trustee of this very mortgage, do you not?—A. Yes, sir; he is now.

#### CONCERNING THE BONDS ISSUED TO SAGE.

Q. Did you know that many of these bonds were issued to Mr. Russell Sage at rates differing from the rates prescribed in the mortgage, and at better rates to him?—A. I do not remember.

Q. You do not know that?—A. I cannot say; I did not know; perhaps I did; I do not remember it.

Q. If such were the fact would you still adhere to the proposition that Mr. Sage, being a director, did not obtain from the company securities at prices which were a personal advantage to him?—A. I should think that whatever was done was done in the interest of the company. If Mr. Gould and Mr. Sage had not bought those bonds the price, probably, would not have been 94; would not have been above 75. I think it was to the interest of the company to give them a chance to buy those bonds below the market price, with the understanding that they would put the price up.

Q. If the terms of the mortgage forbid the issue of the bonds at the rate at which they were issued, would you consider it a proper discharge of the duties of the trustees of that mortgage to issue to themselves bonds at a more favorable rate than the rates prescribed in the mortgage, simply because, by so doing, there would be a better market made for the bonds?—A. Well, those gentlemen would ask you how you knew those bonds could be sold in the market above 75. I do not know that they could at that time.

Commissioner ANDERSON. If they asked me that I would say, "Gentlemen, you being the trustees, you cannot buy them, and if they sell for a lower price, that is the misfortune of the company; but it is not honest for you to buy them and fix your own rate."

The WITNESS. They were only one party to the transaction; the other people fixed the rates and they agreed to the terms, I suppose.

By Mr. JOHN F. DILLON:

Q. You have no personal knowledge, have you, of the alleged sale of bonds to Mr. Gould, or the prices of them?—A. No, sir.

Q. You have no knowledge of it?—A. I have no knowledge.

Q. What you said here is speculation as to the possible circumstances?—A. Yes, sir.

#### WITNESS' TRANSACTIONS IN SAINT JOSEPH BONDS.

By Commissioner ANDERSON:

Q. One thing more as to one of your own transactions. Did you not obtain advantage from the Union Pacific Company when you sold the



Saint Jo bonds, which cost you 40, to the company for its new stock, at par?—A. They bought my bonds as they bought any other in the market.

Q. I am talking about when you sold them to the company; did you not get a personal advantage for them from the company?—A. I sold them at the same price as anybody else that had the same bonds.

Q. Did you not personally make the difference between the 40, which the bonds cost you, and the value of the stock which you got?—A. Yes, sir; and lost the interest. The value of the stock I have got now, it is not worth what I took it for. The stock I bought and intended to hold, and am holding it now. That stock I took at par, and I have not seen many days since that I could have got over 60 or 70 for it.

Q. I ask you whether, when you made that exchange, the stock being worth 95 cents in the market, you did not make the difference between what you had paid for the bonds at 40 and what the stock was worth when you got the stock?—A. I suppose I did.

Q. And did you not sign a paper, which was equivalent to a vote, in favor of that transaction, which paper has been produced here, and which you say was brought to you and signed after it was drawn up?—A. Yes, sir; I answered that question two or three times, I believe.

By the CHAIRMAN:

Q. How do you answer it now?—A. I say I signed it, and it was equivalent to a vote in favor of it, if that is what you want. There was no difference of opinion among us. We were all of us glad to do it. If I turned my stock in at par or held it, it was a matter of no great consequence to the public. The stock could not be sold at par.

#### HOW THE GOVERNMENT WAS BENEFITED BY THE PACIFIC ROADS.

Q. Have you anything else to add?

The WITNESS. In regard to settling with the Government, and why we should be liberally settled with, I think you will agree with me. We have already paid to the Government an equivalent of fully \$3 for \$1 for everything that was advanced to us. Equivalent for cash to that amount. I get at it in this way: The Government gave us lands that were not worth a cent an acre without a railroad. They put their lands in the market at \$2.50 an acre, and they realized on the advanced value of land probably the full amount of the subsidy of \$27,000,000. I do not know how much. They have not got through with it yet. That is one advantage.

The next is the Government saving in the cost of transportation, which was cash. It saved them so much cash. It saved enough on that transportation to have paid every dollar of the subsidy. That is twice it was paid.

By Commissioner ANDERSON:

Q. Why do you call that a payment made by you?—A. It is a saving directly by the Government.

Q. You call it a payment?—A. Call it what you like. It is a saving the Government got. They got it in the reduced expense. I think they have saved more than that.

The third advantage is that the building the Union Pacific Railroad annihilated all the Indian wars. We have not had an Indian war since. Not one. No troops on the plains. That saved more than the whole amount of that subsidy. I say, with any fair-minded man, there is no reason why the Government should be hard on this company as to settlement. They ought to make liberal terms.

light for engine houses and shops; oil, tallow, and waste; rent of locomotives, and repairs to locomotives; repairs of engine houses; turntables and machine shops; repairs of tools, machinery and of machine shops; repairs and expenses of fuel stations and of water stations; superintendence, watchmen and wipers. That is all under that head.

#### MAINTENANCE OF CARS.

Third. Maintenance of cars, \$84,090.37. Under this head are included books, printing and stationery for the car department; fuel and light for car shops; repairs of car shops and sheds; repairs of freight, caboose, baggage, mail, and express cars; repairs of sleeping cars; repairs of tools and machinery in the car shops; repairs to air brakes; superintendence and watchmen.

#### MAINTENANCE OF WAY.

Fourth. Maintenance of way, \$328,440.44. This includes ballast, books, printing and stationery for the maintenance of way department, engineering (when not chargeable to construction); frogs and switches; labor on the track; protection of river banks, where streams are near the track; renewal of cross ties; renewal of rails; repairs of bridges, fences, crossings and cattle guards; repairs of snow sheds and fences; repairs of telegraph; repairs of working cars and tools, and of section houses; removing snow and ice; spikes and fastenings; rent of track; superintendence and watchmen.

#### RENEWAL OF RAILS.

By Commissioner ANDERSON:

Q. Under the head of renewal of rails, is it your practice, when you substitute steel rails for iron, to charge the difference between the cost of the two to Construction Account?—A. No, sir; it is not our practice to do that.

Q. You charge it all as a part of the expenses?—A. The operating expenses? Yes, sir.

Commissioner ANDERSON. A good many roads pursue the other course?

The WITNESS. I know it. We have never done it on the Union Pacific. To a slight extent it was done on the Utah and Northern. At first, as it was constructed, it was built with 30-pound iron, which is too light for the work of to-day. Some part of the expense of renewal there was charged to construction; but never on any of our other lines.

#### GENERAL EXPENSES AND TAXES.

Fifth. General expenses and taxes, \$140,216.87. This includes books, printing, and stationery used in the general offices of the company; the salaries of the clerks in the general offices; any expenses incident to the general offices; and miscellaneous payments on the general expense accounts not properly chargeable under any other head, such as legal expenses.

Q. That includes it?—A. Yes, sir; that includes legal expenses, salaries, and expenses of general officers, and taxes.

By the CHAIRMAN:

Q. On what?—A. On the roadway; not including the taxes on the lands granted by the United States.

## CONSTRUCTION EXPENSES.

Sixth. Construction expenses, \$189,481.62. This covers the construction of new shops and new station buildings, and the payments made for additional equipment. Those are the principal items that enter under that head.

By Commissioner LITTLER:

Q. It does not include the cost of extending the road?—A. No, sir; it does not.

Q. Do you call that construction account?—A. We call that construction. We call that, usually, the construction of an extension, as distinguished from construction expenditures made in the way of improvements.

By Commissioner ANDERSON:

Q. That item, as that account is kept, does not go to increase the construction account?—A. Yes, sir; it does. Under the ruling of the court that item was admitted as an expense, whether it was charged in the operating expenses of the company or not. If the earnings were sufficiently large to pay it, it was to be deducted.

The above item, in so far as it represents construction, is entered in the construction account, and does increase the balance of the construction account which appears in our balance sheet. It is balanced on the other side of the account by the fact that the balance of surplus earnings appears to be larger by the same amount than it would be if this item had been charged against earnings in the balance sheet, and not charged to construction; but it is not, I believe, balanced by any increase in the issue of bonds, stock, or other liabilities of the company.

Q. The figures you have given, then, leave the net earnings for the year ending November 1, 1869, at \$580,384.46, 5 per cent. of which is \$29,019.22; and this we understand to be the amount accepted by the Court of Claims in the adjustment made by Case No. 12,515?—A. Yes, sir.

## GROSS AND NET EARNINGS, KANSAS PACIFIC, FOR 1870.

Q. Give the same item for the next year.—A. For the next year, ending November 1, 1870, the gross earnings were as follows:

1. Commercial freight.....	\$1,557,069 43
2. United States freight.....	106,737 81
3. Commercial passenger.....	551,369 76
4. United States passenger.....	73,660 13
5. Express.....	34,369 94
6. Mail.....	52,137 85
7. Miscellaneous.....	19,680 73
Total.....	<u>2,395,025 65</u>

The expenses were:

For conducting transportation.....	424,034 07
Motive power.....	565,700 67
Maintenance of cars.....	143,559 92
Maintenance of way.....	373,187 28
General expenses and taxes.....	163,563 31
Construction expenses.....	934,322 68

Total..... 2,604,447 93

In that year there were no net earnings. The expenses exceeded the earnings.



## CONSTRUCTION EXPENSES.

By the CHAIRMAN:

Q. What explanation do you make as to the item of \$934,322.68 in the year 1870?—A. It was made up very largely of masonry, new machine shops, new car-shops, new stations and warehouses, new section and tool houses, new fuel and water stations, and new equipment; \$440,353.56, representing new equipment.

By Commissioner ANDERSON:

Q. Do you suppose the vouchers at Omaha will show whether that was all actually expended during that year?—A. Yes, sir; I have no doubt they will.

Q. If you had not charged up that construction matter you would have had \$700,000 of net earnings, on which the Government would have had 5 per cent. ?—A. That is right.

## ITS BEARING ON GOVERNMENT 5 PER CENT.

By the CHAIRMAN:

Q. Who is the loser there, on that system?—A. The Government has lost 5 per cent., because under that law, there were no net earnings that year. I will explain that briefly. I will tell you how this account was stated. In the beginning, the Union Pacific Railroad Company brought suit for its half of transportation withheld by the United States under the act of 1873. The United States filed a set-off, under which they made a claim for 5 per cent. of the net earnings of the Union Pacific Railroad Company. At the same time, I think, they brought suits against the Kansas Pacific; but they were never advanced. Finally, when the conclusion was reached with the Union Pacific Company, the account of the Kansas Pacific was stated under that ruling of the court, although it was not stated until 1881 or 1882, when the mail controversy and net earnings controversy, under the Thurman act, arose. So that this account, while made out under the rule laid down by the court in the case of the Union Pacific Railroad Company in 1875, was not passed upon by the courts until they made a ruling on the net earnings under the Thurman act. This account, I want to impress upon your minds, was before the courts for four or five years after the original definition of the term "net earnings" had been made by the Supreme Court; and nearly all the questions you have suggested, I remember, were then suggested in the courts.

## GROSS AND NET EARNINGS FOR YEARS SUBSEQUENT TO 1870.

By Commissioner ANDERSON:

Q. Give us just the net earnings, as they appear, and the 5 per cent. for the subsequent years. We had better get these figures in the account stated, and not take them all down now.—A. For the year ending November 1, 1871, the net earnings were \$13,942.99; but, as they were insufficient that year for the payment of interest on the first mortgage bonds, the United States became entitled to nothing in the way of 5 per cent.

By the CHAIRMAN:

Q. What was your total gross receipts that year?—A. \$1,918,289.52. The operating and construction expenses were \$1,904,346.53.

Q. What was your item for construction that year?—A. \$375,727.26.

For 1872:

Gross earnings.....	\$2,202,704 60
Operating and other expenses .....	1,446,004 85
Net earnings.....	756,699 75
Five per cent.....	37,834 99

In 1873:

Gross earnings.....	2,212,842 80
Expenses .....	1,441,614 52
Net earnings.....	771,228 28
Five per cent.....	38,561 41

Q. What were the construction expenses?—A. The construction item was \$61,222.08.

In 1874:

Gross earnings.....	\$1,979,401 77
Expenses .....	1,114,019 66
Net earnings.....	865,382 11
Five per cent .....	43,269 11

Q. What was the construction item?—A. Construc tion, \$26,612.72.

In 1875:

Gross earnings.....	\$1,987,323 86
Expenses .....	1,147,287 74
Net earnings.....	840,036 12
Five per cent .....	42,001 81
Construction expenses.....	4,998 12

In 1876:

Gross earnings.....	1,858,749 48
Expenses .....	1,178,605 24
Net earnings.....	680,144 24
Five per cent.....	34,007 21
Construction expenses .....	2,658 09

In 1877:

Gross earnings.....	2,287,947 55
Expenses .....	1,339,456 81
Net earnings.....	948,490 74
Five per cent .....	47,424 54
Construction expenditures.....	1 30

In 1878:

Gross earnings.....	2,799,914 48
Expenses .....	1,587,521 25
Net earnings.....	1,212,393 23
Five per cent.....	60,619 66
Construction expenditures.....	59,011 87

In 1879:

Gross earnings.....	3,385,885 00
Expenses .....	2,268,217 67
Net earnings.....	1,117,667 33
Five per cent.....	55,883 37
Construction expenditures .....	312,330 80

For the year ending November 1, 1880 :

Gross earnings.....	\$3,661,197 45
Expenses .....	2,227,784 61
Net earnings.....	1,433,412 84
Five per cent.....	71,670 64
Construction expenditures .....	282,701 25

In the next settlement we covered the period extending from November 2, 1880, down to the end of the calendar year ending December 31, 1881, a little more than a full year.

From November 2, 1880, to December 31, 1881 :

Gross earnings.....	\$4,409,463 36
Expenses .....	2,855,638 77
Net earnings.....	1,553,824 59
Five per cent.....	77,691 23
Construction expenditures .....	91,462 77

For the calendar year ending December 31, 1882:

Gross earnings.....	3,162,351 34
Expenses .....	1,944,666 42
Net earnings.....	1,217,684 92
Five per cent.....	60,884 25
Construction expenditures .....	56,473 78

That comes down to the time of the judgment.

Q. Can you continue them ?—A. If you would like to have me do so; yes, sir. We have paid the Government every dollar they have demanded down to date, excepting \$43.

#### THE MANNER OF STATING THE ACCOUNT WITH THE GOVERNMENT.

Q. That is, assuming that your declaration of net earnings is on a correct basis?—A. The accounts to and including 1882 have been adjudicated. We did make a contest over 1885, but the Secretary of the Interior ruled against us, and we let it go. In all the figures which I have been reading I have been giving you the earnings on the 394 miles. I will have to make an equation to do it after this. The way the account is stated it gives the earnings of the whole line, and after the net earnings are struck the equation is made on the net. Last year we furnished the Commissioner of Railroads an account, and asked him if he would lay down a rule for ascertaining the actual earnings east of the 394th mile-post as distinguished from the earnings west. We came to no conclusion. The account was finally stated by taking the distances actually hauled. The earnings were distributed between the sections of road in proportion to the distance hauled east or west of the dividing line, at the 394th mile-post, on a pro rata basis. The Kansas Pacific, running out from Kansas City, has, in Missouri, about one mile of non-subsidized road. Then comes the State line, from which the subsidized line extends for  $393\frac{1}{2}$  miles. There is, I believe, nothing at the point to mark it. Then for nearly 245 miles, to Denver, it is non-aided. The business coming east naturally goes to Kansas City, and to give the seven-tenths of a mile in Missouri a prorate on earnings would be to give it nothing at all; while on the other hand the expenses incident to that seven-tenths of a mile are enormous.

By Commissioner LITTLE :

Q. That seven-tenths of a mile embraces all your sidings and terminal facilities ?—A. Yes, sir; the taxes alone are more on that piece of road

than it would earn on a pro rata basis, and I confess I do not know how to divide the earnings except on a constructive mileage basis. We apportioned the earnings in the way I have indicated and paid the commissioner the amount claimed by him. We separated all the local earnings on the road east of the 394th mile-post, and gave the United States credit for them. All the business that passed over the line was divided in proportion to the distances actually hauled on a straight mileage basis, and a further credit was given for that. Then we stated the expense account, by including all the expenses that belonged to the section of the road east of the 394th mile-post, and divided the expenses that were general on a car or train mileage basis. The expenses on that basis were then deducted from the earnings.

Commissioner ANDERSON. Of course the entire terminal facilities of Kansas City are not included in the subsidized road.

#### THE OMAHA BRIDGE.

The WITNESS. We did include them in the account to which I have referred. We made no distinction in making our report as to that seven-tenths of a mile. We assumed it to be subsidized, and paid the United States whatever was earned on it. We allowed everything that was earned east of the 394th mile-post, although technically we ought not to have paid anything on that seven-tenths of a mile. The same question has arisen with reference to our Omaha bridge. The Union Pacific main line is subsidized from Omaha west. There is no subsidy on the bridge. The last subsidy bond was issued to our company in 1869; the bridge was not commenced until 1871; yet last year the Commissioner called on the company for 25 per cent. of the net earnings of the bridge, and the amount was paid, though under protest.

By the CHAIRMAN:

Q. Did the courts not put that bridge in as a part of the road?—A. Yes, sir; they did. I do not think the question was then understood. At all events the question was not then raised.

The CHAIRMAN. The question was raised in this way: Whether the transportation across the bridge should be at the usual rate of transportation across any other part of the railroad, or whether the company was entitled to charge according to its special rates, considering the bridge as something different from the rest of the roads.

The WITNESS. That was right. That was one question; but we had not raised nor thought of raising the question about the bridge being subject to the Government lien. The company did not want to make a further distribution of its accounts. It appeared to be unnecessary. It costs us eight or ten thousand dollars a year to apportion them, I presume. It would have been better to have paid the Government that eight or ten thousand dollars on the bond and interest account than to pay it for clerk hire. We therefore never raised the question as to the bridge. But the instant the Commissioner of Railroads made a demand upon us for a restatement of the accounts of the Kansas Pacific division, we proposed that we should exclude the bridge. Our proposition was rejected, the Commissioner's ruling confirmed by the Secretary, and we have had to pay under it, although under protest. We have now filed a petition in the Court of Claims to get it back. I would like to explain this right here. I think a restatement of the earnings on the Kansas Pacific would give the Government about \$20,000 a year more than they get on a mileage basis. On the other hand, I think if we throw out the bridge

on the Union Pacific, it would represent about \$75,000. I think, therefore, that the request of the United States to separate the aided from the non-aided road would, if carried out, save us about \$50,000 a year.

Commissioner LITTLER. You cannot separate the earnings of this road, you say?

The WITNESS. After 1882, the figures I am going to read to you are from the report of the Commissioner of Railroads. From this time the equation was made against the net only. I can make an equation in a few minutes for the gross and operating expenses, and net.

Commissioner LITTLER. Give it as you have it.

#### GROSS AND NET EARNINGS FOR 1883 AND 1884.

##### The WITNESS.

For 1883 the gross earnings of the entire line from from Kansas City to Denver (639 miles) were .....	\$4,543,317 30
Expenses, including construction and equipment.....	2,939,393 66
Surplus.....	1,603,923 64
$\frac{3}{4}$ of that amounts to.....	988,960 74
Deducting now the new construction and new equipment expenditures on the aided road.....	20,812 17
And it leaves the net earnings on the aided road.....	968,148 57
Five per cent. of this is.....	48,407 43
For 1884, the gross earnings of the entire line from Kansas City to Denver were .....	4,427,491 90
The expenses.....	2,511,035 83
The surplus.....	1,916,456 07
$\frac{3}{4}$ of that amount is.....	1,181,664 62
Deducting the new construction and new equipment expenditures....	32,789 05
Leaves the net earnings .....	1,148,875 57
Five per cent. of that is.....	57,443.78

Q. Your construction item is equated also, I suppose?—A. No, sir; the improvements on the roadway, construction proper, are apportioned as the expenditures are made on the line. But the new equipment is equated on a mileage basis. In 1885 the gross earnings of the line from Kansas City were made up on the other basis.

#### GROSS AND NET EARNINGS FOR 1885.

Q. What basis was that?—A. It was by location, and not wholly on an equation.

The earnings of the aided part of the road from Kansas City to the 394th mile-post were.....	\$3,815,287 22
The expenses.....	1,891,711 83
The surplus earnings.....	1,923,575 39
The new construction and new equipment expenditures were.....	39,837 61
The net earnings.....	1,883,737 78
Five per cent. of which was.....	94,186 89



The CHAIRMAN. Will you please to furnish to me, as a Commissioner, the balance received by the Union Pacific Company in pool settlements, and added to gross receipts, before the deduction of operating expenses?

Commissioner LITTLER. Will you also please let this statement show the amounts the Union Pacific Railway Company have paid to other companies in pursuance of the pool contract?

The WITNESS. We will furnish you with everything you ask for.

OLIVER W. MINK.

The Commission then adjourned to Saturday, May 28th, 1887, at 10 a. m.

EQUITABLE BUILDING,  
Boston, Mass., Saturday, May 28, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

OLIVER W. MINK, being further examined, testified as follows:

GROSS AND NET EARNINGS FOR 1886.

The WITNESS. The figures for 1886 as to the Kansas Pacific Railway Company have never been acted upon by the Government. They appear as follows on our books:

The gross earnings of the whole line from Kansas City to Denver are..	\$4,878,312 05
Expenses and taxes .....	2,799,237 68
Surplus .....	2,079,074 37
The $\frac{2}{3}$ is .....	1,274,502 80
Deduct new construction and new equipment .....	188,149 38
Net earnings aided line .....	1,086,353 42
5 per cent .....	54,317 67

By Commissioner ANDERSON:

Q. Is that computation made by the old system?—A. That is made by the old system; yes, sir.

Q. And straight mileage?—A. Straight mileage; in order to protect ourselves, and not be obliged to write off any deficiency on this account when we come to make a settlement with the United States Railroad Commissioner, we had added, in a special entry, \$35,000 in the way of contingent liability to our obligations for the year.

Q. To cover any additional charge that he might make?—A. Yes, sir.

By Commissioner LITTLER:

Q. That who might make?—A. The United States Railroad Commissioner.

By Commissioner ANDERSON:

Q. It does not profess to be accurate?—A. No; it is merely approximate, and entered now so that in case any further amount is hereafter found to be due from the company we will have charged off in our current account \$35,000 of the amount; we did not want to inflate the expense account of some subsequent year by including items properly chargeable to a preceding year.

By Commissioner LITTLE :

Q. If any additional charges are made by the Railroad Commissioner in stating this account, that sum is held in reserve to meet those charges and any balance remaining will be covered back into the treasury?—A. Into our income; yes, sir.

#### METHOD OF KEEPING ACCOUNTS OF BRANCH LINES.

By Commissioner ANDERSON :

Q. How are the different accounts of these different branches kept?—A. Each one of the various companies has its own set of account books, showing its stock, its debt, and, on the other hand, its resources. The earnings of these various lines are ascertained at Omaha in the accounting office of the Union Pacific Railway Company.

Q. Then the different station agents and freight agents make their daily reports directly to Omaha?—A. Omaha; yes, sir; all the lines are operated as if they were members of one great system of railroads, and the distinction between the ownership is scarcely known on the line of the road.

Q. I want to ask you if we should take from the books just referred to the freight and passenger business of the Echo and Park City Railway, for instance, for one year (it appearing by your tables that that company is allowed a constructive mileage of two for one both on passenger and freight), could we not, taking a statement of that business for the whole year, apply to it such correction as would inform us how much those gross earnings would have been if computed on a straight mileage?—A. Yes, sir.

Q. The result would be an approximation, but if applied to the gross earnings of each month it would be reasonably accurate, would it?—A. Yes, sir; we have the monthly system of accounts.

#### STATEMENT OF FREE TRANSPORTATION.

The WITNESS. The chairman asked me to introduce a statement showing our free transportation in 1886, and I will submit the following table:

The paper referred to is marked "Exhibit No. 1, May 28, 1887," and is as follows:

#### EXHIBIT No. 1.

[The Union Pacific Railway Company, Office of Auditor of Passenger Accounts.]

OMAHA, NEBR., March 29, 1887.

*Comparative statement of free transportation furnished during the years 1885 and 1886, on trip, time, and annual exchange passes.*

#### TRIP PASSES.

Account.	1886.				1885.			
	Passes.	Fares.	Amount.	Mileage.	Passes.	Fares.	Amount.	Mileage.
President's office:								
Complimentary .....	112	172	\$4, 878 54	157, 372	.....	.....	.....	.....
Press .....	2	2	63 98	2, 064	.....	.....	.....	.....
Employees .....	3	3	57 26	1, 847	.....	.....	.....	.....
Foreign roads .....	64	98	3, 029 83	97, 737	.....	.....	.....	.....
Unreported .....	.....	.....	1, 724 18	55, 262	.....	.....	\$7, 511 73	220, 934
Total .....	181	275	9, 753 79	314, 282	.....	.....	7, 511 73	220, 934
Increase .....	.....	.....	2, 242 06	93, 348	.....	.....	.....	.....

## Comparative statement of free transportation, &amp;c.—Continued.

## TRIP PASSES—Continued.

Account.	1886.				1885.			
	Passes.	Fares.	Amount.	Mileage.	Passes.	Fares.	Amount.	Mileage.
<b>General manager's office:</b>								
Complimentary .....	688	1,511	\$23,206 99	745,090	763	1,689	\$23,360 03	687,059
Press .....	88	288	3,151 03	101,108	59	131	1,527 10	44,914
Legal .....	431	937	9,806 16	314,873	271	570	7,660 61	225,312
Employees .....	1,677	3,537	29,471 14	943,832	1,662	3,408	31,279 89	919,997
Employees' family .....	415	944	9,173 75	293,512	388	919	8,938 81	262,907
Eating houses .....	23	62	1,169 19	37,716	44	91	1,388 50	40,838
Foreign roads .....	1,565	3,585	71,171 84	2,280,894	1,549	3,646	74,564 75	2,183,052
Traffic .....	171	352	5,029 50	159,971	257	651	10,143 37	298,835
Stock .....	16	43	574 20	18,290	61	110	1,859 84	54,701
News agents .....	15	20	290 66	9,561	9	16	235 86	6,037
<b>Total .....</b>	<b>5,089</b>	<b>11,279</b>	<b>153,053 46</b>	<b>4,904,947</b>	<b>5,065</b>	<b>11,231</b>	<b>160,958 76</b>	<b>4,734,052</b>
Increase .....	24	48		170,895				
Decrease .....			7,905 30					
<b>General traffic manager's office:</b>								
Complimentary .....	84	205	2,996 58	96,463	108	235	3,249 18	95,565
Press .....	649	1,339	11,867 34	380,393	442	1,445	31,496 22	926,360
Legal .....	3	4	28 45	9 8				
Employees .....	296	661	5,887 11	188,928	217	563	5,937 22	174,823
Employees' family .....	114	279	4,422 47	142,516	78	186	2,753 80	80,965
Eating houses .....	2	4	9 60	310	7	14	359 21	10,565
Foreign roads .....	1,478	3,524	57,025 22	1,828,310	1,268	2,950	50,967 15	1,499,933
Traffic .....	1,314	3,015	28,981 30	928,279	762	2,102	20,765 91	610,762
Stock .....	1,305	2,244	29,642 34	951,957	1,018	1,780	34,965 89	1,028,408
News agents .....	1	2	63 98	2,064				
<b>Total .....</b>	<b>5,276</b>	<b>11,277</b>	<b>140,924 39</b>	<b>4,520,138</b>	<b>3,900</b>	<b>9,275</b>	<b>150,493 58</b>	<b>4,426,281</b>
Increase .....	1,376	2,002		93,857				
Decrease .....			9,569 19					
<b>Generals superintendent's office:</b>								
Complimentary .....	680	2,509	17,309 52	553,987	721	1,752	15,766 62	463,724
Press .....	15	38	521 36	16,752	8	17	67 66	1,990
Legal .....	107	267	1,713 25	54,972	51	108	1,046 72	30,785
Employees .....	1,064	5,051	65,671 79	2,114,040	855	2,108	25,796 55	758,724
Employees' family .....	461	1,069	14,935 02	480,814	894	1,939	16,998 00	499,941
Eating houses .....	317	417	8,180 53	260,387	308	444	8,836 89	259,908
Foreign roads .....	568	1,433	15,374 64	493,883	585	1,594	15,641 00	460,050
Traffic .....	144	331	3,064 74	97,545	121	299	2,877 29	84,626
Stock .....	24	51	766 84	24,242	28	40	448 90	13,203
News agents .....	3	4	24 34	785	3	4	42 88	1,261
<b>Total .....</b>	<b>3,973</b>	<b>11,230</b>	<b>127,562 03</b>	<b>4,097,407</b>	<b>3,574</b>	<b>8,305</b>	<b>87,522 51</b>	<b>2,574,192</b>
Increase .....	399	2,925	40,039 52	1,523,215				
<b>Assistant general superintendent's office:</b>								
Legal .....		2	36 57	1,180	5	10	99 41	2,924
Employees .....	990	3,021	53,048 95	1,704,498	2,329	5,546	43,398 22	1,276,418
Employees' family .....	295	557	10,733 43	345,343	982	2,018	22,235 61	653,989
Eating houses .....	45	71	801 01	25,797	67	116	1,084 67	31,902
Foreign roads .....	2	3	59 43	1,917				
News agents .....	1	1	17 64	569				
<b>Total .....</b>	<b>1,333</b>	<b>3,655</b>	<b>64,717 03</b>	<b>2,079,304</b>	<b>3,383</b>	<b>7,690</b>	<b>66,817 91</b>	<b>1,965,233</b>
Increase .....				114,071				
Decrease .....	2,050	4,035	2,109 88					
<b>Superintendent Nebraska division:</b>								
Complimentary .....	1	1	2 17	70	3	3	56 34	1,657
Employees .....	2,500	5,379	17,674 94	565,143	1,911	3,844	15,347 68	451,403
Employees' family .....	870	1,913	7,962 62	255,431	194	458	1,939 61	57,018
Eating houses .....	13	16	152 98	4,013	7	9	64 19	1,888
Traffic .....	3	4	16 43	590				
Stock .....					7	8	26 05	766
Loop City Exc .....			497 61	16,052				
<b>Total .....</b>	<b>3,387</b>	<b>7,313</b>	<b>26,306 75</b>	<b>842,139</b>	<b>2,122</b>	<b>4,322</b>	<b>17,433 90</b>	<b>512,762</b>
Increase .....	1,265	2,991	8,872 85	329,377				

## Comparative statement of free transportation furnished &amp;c.—Continued.

## TRIP PASSES—Continued.

Account.	1886.				1885.			
	Passes.	Fares.	Amount.	Mileage.	Passes.	Fares.	Amount.	Mileage.
<b>Superintendent Kansas division:</b>								
Complimentary.....	5	12	\$15 25	492				
Legal.....	4	9	20 80	655	6	11	\$64 03	1,883
Employés.....	945	2,061	11,198 71	356,896	1,150	2,234	13,669 84	492,041
Employés' family.....	430	976	4,959 81	159,297	451	979	4,006 63	176,065
Eating houses.....	86	178	1,866 89	43,676	99	181	1,312 28	38,596
Foreign roads.....	2	13	25 76	831				
Traffic.....	2	2	2 86	76	1	2	14 14	416
<b>Total.....</b>	<b>1,474</b>	<b>3,251</b>	<b>17,558 58</b>	<b>561,923</b>	<b>1,708</b>	<b>3,407</b>	<b>21,066 41</b>	<b>419,801</b>
Decrease.....	234	156	3,507 83	57 678				
<b>Superintendent Colorado division:</b>								
Employés.....	1,251	3,468	9,018 78	289,882	411	750	1,902 72	55,963
Employés' family.....	290	692	1,489 66	47,986	15	25	56 27	1,465
Eating houses.....	57	97	272 54	8,766	1	6	11 22	330
Foreign roads.....	9	10	46 66	1,480				
News agents.....	6	8	26 80	848				
<b>Total.....</b>	<b>1,613</b>	<b>4,275</b>	<b>10,853 94</b>	<b>348,402</b>	<b>427</b>	<b>781</b>	<b>1,970 21</b>	<b>57,548</b>
Increase.....	1,186	3,494	8,883 73	290,514				
<b>Superintendent Wyoming division:</b>								
Complimentary.....					1	2	9 25	272
Employés.....	784	1,745	7,807 47	233,781	898	1,830	5,491 43	161,218
Employés' family.....	240	489	1,518 17	48,890	72	147	416 79	12,258
Eating houses.....	100	143	743 48	23,582	58	104	488 86	14,878
Foreign roads.....	12	22	44 31	1,394				
Traffic.....					1	2	3 60	106
News agents.....	5	9	94 95	3,063				
<b>Total.....</b>	<b>1,141</b>	<b>2,408</b>	<b>9,708 38</b>	<b>310,710</b>	<b>1,040</b>	<b>2,085</b>	<b>6,409 93</b>	<b>183,232</b>
Increase.....	101	323	3,298 45	122,478				
<b>Superintendent Idaho division:</b>								
Complimentary.....	8	13	37 81	1,112	3	17	50 12	1,474
Legal.....	2	4	83 46	984				
Employés.....	1,015	2,826	16,211 19	520,083	1,550	3,192	19,304 74	567,787
Employés' family.....	850	710	3,891 80	125,010	107	192	1,310 62	38,313
Eating houses.....	39	67	277 40	8,908	55	87	452 64	18,313
Foreign roads.....	8	12	128 21	4,096	1	2	4 96	146
Traffic.....	2	4	9 47	300				
News agents.....					2	2	11 15	328
<b>Total.....</b>	<b>1,424</b>	<b>3,636</b>	<b>20,589 34</b>	<b>660,493</b>	<b>1,718</b>	<b>3,492</b>	<b>21,143 23</b>	<b>621,860</b>
Increase.....		144		38,633				
Decrease.....	294		553 80					
<b>Superintendent S. L. &amp; W. division:</b>								
Press.....	2	4	6 88	222				
Legal.....	1	2	3 35	108	1	2	3 60	106
Employés.....					126	244	269 75	7,937
Employés' family.....	2	6	9 80	316	8	12	19 95	584
Foreign roads.....	7	14	23 44	756				
Traffic.....	7	22	36 43	1,188				
<b>Total.....</b>	<b>19</b>	<b>48</b>	<b>80 30</b>	<b>2,590</b>	<b>135</b>	<b>258</b>	<b>293 30</b>	<b>8,627</b>
Decrease.....	116	210	213 00	6,037				
<b>Superintendent of machinery:</b>								
Employés.....	100	148	2,154 27	68,624	304	603	7,696 90	226,382
Decrease.....	294	455	5,542 72	157,758				
<b>Superintendent of telegraph:</b>								
Employés.....	196	264	2,261 27	73,041	315	491	4,425 20	130,155
Decrease.....	199	227	2,161 02	57,114				

*Comparative statement of free transportation furnished, &c.—Continued.*

## TRIP PASSES—Continued.

Account.	1886.				1885.			
	Passes.	Fares.	Amount.	Mileage.	Passes.	Fares.	Amount.	Mileage.
Resident engineer:								
Employés.....	41	74	\$1,551 27	48,139	125	219	\$3,249 59	95,576
Decrease.....	84	145	1,718 32	47,437				
Agent Council Bluffs:								
Stock.....	545	572	3,710 46	119,479	991	1,067	9,835 83	289,289
Decrease.....	446	495	6,125 37	169,810				
Agent Omaha:								
Stock.....	523	548	5,331 42	171,256	498	505	5,741 60	168,871
Increase.....	25	43	2,385					
Decrease.....			410 18					
Agent Kansas City:								
Stock.....	2,022	2,023	11,527 82	363,699	1,896	1,896	11,063 77	351,876
Increase.....	126	127	16,823					
Decrease.....			435 95					
Agent Leavenworth:								
Stock.....	185	193	692 61	22,195	297	313	924 44	27,190
Decrease.....	112	120	231 83	4,905				
Agent Denver:								
Stock.....	162	163	2,229 20	71,611	122	124	2,006 94	59,027
Increase.....	40	39	222 26	12 584				
Agent South Omaha:								
Stock.....	251	257	1,481 11	47 778				
Increase.....	251	257	1,481 11	47,778				

## SUMMARY OF TRIP PASSES.

President's office .....			1,724 18	55,262			7,511 73	220,934
Complimentary .....	1,578	4,483	48,446 86	1,554,586	1,599	3,698	42,491 54	1,249,751
Press.....	756	1,671	15,610 59	500,539	509	1,593	33,090 98	973,264
Legal.....	548	1,225	11,641 54	373,690	334	701	8,874 36	261,010
Employés.....	11,462	28,238	221,467 15	7,108,234	11,943	25,032	177,769 41	5,228,224
Employés' family.....	3,467	7,635	59,116 53	1,899,115	3,190	6,875	60,684 12	1,784,824
Eating houses.....	682	1,055	12,973 12	414,055	656	1,052	13,998 46	411,718
Foreign roads.....	3,705	8,714	146,929 34	4,711,298	3,403	8,192	141,177 80	4,152,261
Traffic.....	1,673	3,730	37,140 63	1,187,889	1,142	3,056	33,804 31	904,245
Stock.....	5,633	6,094	55,956 00	1,795,697	4,920	5,843	67,773 26	1,993,331
News agents.....	31	44	526 87	16,890	14	22	289 89	8,526
Long City Exchange .....			497 61	16,052				
Total .....	28,935	62,889	612,030 42	19,633,217	27,710	56,064	587,465 92	17,278,088
Increase .....	1,225	6,825	24,564 50	2,365,129				



## Comparative statement of free transportation furnished, &amp;c.—Continued.

## TIME PASSES.

Account.	1886.		1885.	
	Amount.	Mileage.	Amount.	Mileage.
<b>Annual exchange, (Form A):</b>				
Complimentary .....	\$571 36	17,634	\$1,081 00	31,794
Press .....	483 20	14,790	468 69	13,785
Legal .....			611 90	17,967
Employés .....	1,245 06	39,366	4,490 75	132,081
Employés, family .....	165 33	4,536	17 34	519
Foreign roads .....	34,688 69	1,118,199	26,752 76	786,846
Traffic .....	635 32	19,697	1,075 80	31,641
<b>Total (Form A) .....</b>	<b>37,788 96</b>	<b>1,214,216</b>	<b>34,498 24</b>	<b>1,014,654</b>
<b>Miscellaneous (Form B):</b>				
Complimentary .....	31,454 87	1,013,180		
Press .....	2,283 10	72,155		
Legal .....	39,540 38	1,274,003		
Employés .....	36,136 99	1,164,216		
Employés' family .....	1,892 84	59,566		
Eating-houses .....	875 35	26,744		
Foreign roads .....	4,618 23	147,482		
Traffic .....	11,395 05	366,089		
News agents .....	866 86	26,470		
<b>Total (Form B) .....</b>	<b>129,063 67</b>	<b>4,149,905</b>	<b>139,837 54</b>	<b>4,112,869</b>
<b>Form D:</b>				
Employés .....	257,971 34	8,269,882	203,847 88	5,995,526
<b>Commercial (Form L):</b>				
Complimentary .....	461 31	13,335		
Press .....	140 91	3,001		
Employés .....	2,211 22	69,785		
Foreign roads .....	4,493 96	143,422		
Traffic .....	20,111 30	647,207		
Stock .....	63,208 36	2,037,435		
<b>Total (Form L) .....</b>	<b>90,627 06</b>	<b>2,914,185</b>	<b>91,972 35</b>	<b>2,705,069</b>
<b>Form P:</b>				
Editorial .....	35,315 14	1,134,168	27,655 39	813,393
<b>Form L—314:</b>				
News agents .....	50,455 08	1,614,599	50,016 47	1,471,072
<b>Total, annual and time .....</b>	<b>601,221 25</b>	<b>19,296,955</b>	<b>547,827 87</b>	<b>16,112,564</b>

## RECAPITULATION.

Complimentary .....	\$80,934 40	2,598,735	43,572 54	1,281,545
Press .....	53,832 94	1,724,653	61,215 06	1,800,442
Legal .....	51,181 92	1,647,693	9,486 26	279,697
Foreign roads .....	190,730 22	7,120,395	167,980 62	4,939,167
Traffic .....	63,779 91	2,236,934	126,852 46	3,739,855
Stock .....	119,164 36	3,833,042	67,773 26	1,993,321
<b>Total .....</b>	<b>565,623 75</b>	<b>18,161,452</b>	<b>476,830 20</b>	<b>14,024,987</b>
Employés .....	519,031 76	16,651,483	386,108 04	11,355,321
Employés' family .....	61,174 70	1,963,217	60,701 46	1,785,334
Eating-houses .....	13,848 47	440,799	13,998 46	411,718
News agents .....	51,848 81	1,637,959	50,306 26	1,479,569
<b>Total .....</b>	<b>645,903 74</b>	<b>20,713,458</b>	<b>511,114 32</b>	<b>15,032,482</b>
President's office .....	1,724 18	55,262	7,511 73	229,934
Miscellaneous, Form B .....			139,837 54	4,112,869
<b>Total .....</b>	<b>1,724 18</b>	<b>55,262</b>	<b>147,349 27</b>	<b>4,333,803</b>
<b>Grand total .....</b>	<b>1,213,251 67</b>	<b>38,930,172</b>	<b>1,135,293 79</b>	<b>33,390,672</b>
<b>Increase .....</b>	<b>77,957 88</b>	<b>5,539,500</b>		

The WITNESS. I also produce a table showing the rates of constructive mileage allowed for the various branches and parts of the road.

The paper is marked "Exhibit No. 2, May 28, 1887," and is as follows:

[The Union Pacific Railway Company, comptroller's office.]

*Statement of constructive mileage allowances, October 11, 1886.*

Road.	Mileage allowance.	
	Passen- ger.	Freight.
	<i>Cents.</i>	
* Union Division:		
Bridge.....	50	\$4 per car and 8 cts. per 10 wt.
East of Cheyenne .....	1	1
West of Cheyenne .....	1½	1½
Kansas Division.....	1	1
Leavenworth Branch .....	1	1
Denver Pacific Division .....	1½	1½
Omaha and Republican Valley R. R. ....	1½	1½
Omaha, Niobrara and Black Hills R. R. ....	1½	1½
Colorado Central R. R., Julesburg Branch .....	1½	1½
Echo and Park City Rwy .....	2	2
Colorado Central R. R.:		
Broad Gauge .....	1½	1½
Narrow Gauge .....	Local	Local
Salt Lake and Western R. R. ....	Local	2
Denver, South Park and Pacific R. R.:		
East .....	Local	-----
West .....	2	Local
* Utah and Northern Rwy .....	1½	1½
* Oregon Short Line Rwy .....	1½	1½
Greeley, Salt Lake and Pacific Rwy:		
Broad Gauge .....	-----	2
Narrow Gauge .....	1½	Local
Lawrence and Emporia Rwy .....	1½	1½
Laramie, North Park and Pacific Rwy .....	Local	1½
Junction City and Fort Kearney R. R. ....	1½	1½
Solomon R. R. ....	1½	1½
Salina and Southwestern Rwy .....	1½	1½
Denver and Boulder Valley R. R. ....	1½	1½
Golden, Boulder and Caribou Rwy .....	Local	Local
Georgetown, Breckenridge and Leadville Rwy .....	Local	Local
Kansas Central R. R. ....	Local	Local
Montana Rwy .....	1½	1½
Denver and Middle Park R. R. ....	Local	1½

NOTE.—The earnings on business passing between points on the Union Pacific east of Granger and points on the Utah and Northern north of Pocatello, when routed via the Oregon Short Line, are divided as follows:

The Oregon Short Line is allowed half a cent per ton per mile, the estimated cost of doing the work. This represents, on the distance from Granger, via the Oregon Short Line, to Pocatello, 214 miles, \$1.07.

The distance between Granger and Pocatello, via Ogden, is 310 miles. There is, therefore, as opposed to the direct route, a loss of 96 miles. At half a cent a ton a mile the use of the straight route would result in a saving of 43 cents.

This saving, in addition to the rate of half a cent a ton a mile on the actual haul, is allowed to the Oregon Short Line Company, making, in all, \$1.55, or .0072 +, or, say, ¾ of a cent per ton per mile.

This amount is allowed to the Oregon Short Line Company as an arbitrary. The balance of the through rate is divided between the Utah and Northern on a basis of two miles for one of the Union Pacific on a straight mileage basis.

Q. Have you a printed list of your rates of fare and freight charged?—

A. Yes, sir. The printed lists are at Omaha. I will procure and deliver them to the Commission if you would like to have me do so.

Commissioner ANDERSON. No; we are going there and we can get them there.

#### AFTERNOON SESSION.

OLIVER W. MINK, being further examined, testified as follows:

By Commissioner ANDERSON:

Question. Please continue your statement. You start with the Union Pacific in what year?—Answer. From the 5th day of November, 1869, the day when the Union Pacific was found to have been completed.

Q. At that time the United States was entitled to 5 per cent. of the net earnings, and to retain only one-half?—A. Yes; from that day down to the date when the Thurman act became operative.

#### COMMENCEMENT OF OPERATION OF 5 PER CENT. RULE.

By Commissioner LITTLE:

Q. At what time did the Supreme Court judicially determine the Union Pacific road completed for the purpose of computing the 5 per cent.?—A. November 5, 1869. The road was opened from Omaha to Ogden on May 10, 1869.

#### GROSS AND NET EARNINGS OF UNION PACIFIC FOR 1870.

By Commissioner ANDERSON:

Q. Please give us the net earnings as they appear each year.—A. For the year from November 6, 1869, to November 5, 1870, gross earnings:

Commercial passenger, representing the earnings derived from the transportation of all passengers excepting officers and employes of the United States .....	\$3,643,228 01
United States passengers, representing the transportation of United States troops, &c. ....	271,811 24
United States mail .....	271,352 04
Express earnings .....	284,841 71
Commercial freight, representing the revenue derived from the transportation of all freights, excepting United States and company freights .....	2,668,143 60
United States freight .....	236,047 98
Company freight .....	482,387 43
This latter represents the charge made by the company for the transportation of its own supplies. The rate at that time was probably three-quarters of a cent per ton per mile—either three-quarters or one cent per ton per mile. The amount is added to the cost of the material at the point at which it is laid down for use, and the expenses are increased to the same extent.	
Telegraph earnings .....	9,380 01
Ferry earnings .....	65,347 61
This latter represents the earnings of the ferry between Omaha and Council Bluffs prior to the construction of the bridge.	
Car service earnings .....	58,243 38
This represents the amounts received by the company from other roads for the use by them of this company's cars.	
Miscellaneous earnings .....	116,300 14
Rent of buildings .....	18,129 25
<b>Total earnings .....</b>	<b>8,125,212 40</b>
The operating expenses were as follows:	
Conducting transportation .....	\$829,771 15
Motive power .....	1,778,601 44
Maintenance of cars .....	608,622 90
Maintenance of way .....	1,403,090 28
General expenses, including taxes .....	445,119 88
This includes only the taxes on the lands in use by the railroad company in the conduct of its business; it does not cover taxes on lands granted by the Government.	
Ferry expenses .....	54,714 88
Deficiency in fuel and material accounts .....	75,577 54
This latter item represents the deficiency in our "material on hand" account as disclosed by the annual inventory. It is due to the fact that larger quantities of material were used during the	

lar than had been theretofore estimated and charged. In other words I see that the inventory disclosed a surplus. That was the only deficiency we had for a number of years.

Legal expenses.....	\$2,544 1/2
U. S. revenue stamps.....	2,022 7/8
Salary account.....	12,123 3/4
Government directors.....	4,221 3/4
Government commissioners.....	4,362 1/2
Expenses account.....	44,882 1/2
Expenditures for station buildings, shops, equipment, &c.....	44,471 3/4
<b>Total expenses.....</b>	<b>7,423 22 3/8</b>
<b>Net earnings.....</b>	<b>1,462,150 21</b>

Now, as the net earnings were insufficient in amount to meet the first mortgage gold interest in that year, nothing was found to be due to the United States on account of 5 per cent.

By Commissioner LITTLE :

Q. How did you provide for the deficit of interest ?—A. The net earnings were almost sufficient, I see, for the payment of the interest ; the balance must have been provided by the sale of securities, or through the creation of a floating debt, or paid from the earnings of subsequent years—it is not disclosed here.

#### ROSS AND NET EARNINGS OF UNION PACIFIC FROM 1871 TO 1886.

or the year ending November 5, 1871 :

Gross earnings.....	\$7,563,006 59
Operating expenses.....	3,764,164 65
<b>Net earnings.....</b>	<b>3,798,841 94</b>
<b>Five per cent.....</b>	<b>189,942 09</b>

or the year ending November 5, 1872 :

Gross earnings.....	\$2,659,031 66
Operating expenses.....	5,399,023 34
<b>Net earnings.....</b>	<b>3,260,008 32</b>
<b>Five per cent.....</b>	<b>163,000 32</b>

or the year ending November 5, 1873 :

Gross earnings.....	\$10,666,117 48
Expenses.....	5,481,727 56
<b>Net earnings.....</b>	<b>5,184,389 70</b>
<b>Five per cent.....</b>	<b>259,219 49</b>

or the year ending November 5, 1874 :

Gross earnings.....	\$10,834,651 49
Expenses.....	5,392,825 63
<b>Net earnings.....</b>	<b>5,441,825 86</b>
<b>Five per cent.....</b>	<b>272,091 29</b>

or the year ending November 5, 1875 :

Gross earnings.....	\$12,481,204 48
Operating expenses.....	5,099,621 47
<b>Net earnings.....</b>	<b>6,481,683 01</b>
<b>Five per cent.....</b>	<b>324,084 15</b>

or the year ending November 5, 1876 :

Gross earnings.....	\$12,072,457 27
Operating expenses.....	5,526,020 35
<b>Net earnings.....</b>	<b>7,146,427 02</b>
<b>Five per cent.....</b>	<b>357,321 40</b>

For the year ending November 5, 1877:

Gross earnings .....	\$12,890,420 84
Expenses .....	5,721,222 76
Net earnings.....	7,169,198 08
Five per cent .....	358,459 90

The next period was from November 6, 1877, to June 30, 1878, the date when the Thurman act became operative—eight months:

Gross earnings for that period.....	\$7,782,839 95
Operating expenses .....	3,692,262 06
Net earnings.....	3,890,577 89
Five per cent .....	194,528 89

Under the Thurman act, the account for the period from July 1 to December 31, 1878, stood as follows:

Gross earnings.....	\$7,013,880 74
Operating expenses, including construction and interest on the first mortgage bonds .....	3,495,887 87
Net earnings.....	3,517,992 87
Twenty-five per cent.....	879,498 22

For the year ending December 31, 1879:

Gross earnings.....	\$12,983,155 74
Operating expenses, including \$101,456.92 for construction.....	7,213,520 35
Net earnings.....	5,769,635 39
Twenty-five per cent.....	1,442,408 86

For the year ending December 31, 1880:

Gross earnings.....	\$15,755,526 36
Operating expenses, including \$762,440.87 for construction and equipment.....	9,248,436 03
Net earnings.....	6,507,090 33
Twenty-five per cent.....	1,626,772 58

For that year we paid the United States, in addition to the amount required on the business of the year, 5 per cent. of \$65,408.47, being an additional allowance for the transportation of United States mails from February 14, 1876, to June 30, 1878, \$3,270.42, making total payments \$1,630,043.

For the year ending December 31, 1881:

Gross earnings.....	\$17,144,860 49
Operating expenses, including \$1,409,817.27, construction and equipment.....	11,249,497 83
Net earnings.....	5,895,362 66
Twenty-five per cent.....	1,473,840 67

For the year ending December 31, 1882:

Gross earnings.....	\$16,980,783 70
Operating expenses, including \$352,230.82 for construction and equipment.....	9,233,768 33
Net earnings.....	7,747,015 37
Twenty-five per cent.....	1,936,753 84

For the year ending December 31, 1883:

Gross earnings.....	\$15,660,899 81
Operating expenses, including \$203,048.12 for construction and equipment.....	8,626,115 94
Net earnings.....	7,034,783 87
Twenty-five per cent.....	1,758,695 97



For the year ending December 31, 1884 :

Gross earnings .....	\$12,575,093 44
Expenses, including \$374,546.46 for new construction and new equipment.....	8,034,212 82
Net earnings.....	4,540,880 62
Twenty-five per cent.....	1,135,220 16

For the year ending December 31, 1885 :

Gross earnings as claimed by the Commissioner.....	12,215,484 71
Operating expenses, including \$137,471.20 for construction and equipment.....	7,761,605 61
Net earnings.....	4,453,879 10
Twenty-five per cent.....	1,113,469 78

For the year ending December 31, 1886 :

Gross earnings, including earnings of the Omaha bridge .....	12,072,204 18
Expenses, including \$988,006.23 for new construction and equipment .....	9,476,598 39
Net earnings.....	2,595,605 79
Less the net earnings applicable to the Omaha bridge .....	326,190 05
Net earnings aided road.....	2,269,415 74
Twenty-five per cent .....	567,353 93

In stating our income account for the year we added to our annual obligations to the United States, for any contingent liability on this account, \$111,000.

OLIVER W. MINK.

The Commission then adjourned to Tuesday, May 31, 1887, at 10 a. m.

EQUITABLE BUILDING,  
Boston, Mass., Tuesday, May 31, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

OLIVER AMES, being duly sworn and examined, testified as follows :

WITNESS INTERESTED IN UNION PACIFIC CENTRAL BRANCH.

By Commissioner ANDERSON :

Question. In the fall of 1879 we are informed that you were the owner of a large interest in the stock and bonds of the Union Pacific Central Branch. Is that true?—Answer. Yes, sir.

Q. Will you please tell us what that road then consisted of?—A. I cannot remember the number of miles we had at that time. I went into the Central Branch originally when it had 100 miles of road.

Q. Beginning at what point?—A. Waterville.

By Commissioner LITTLER :

Q. In what State?—A. In Kansas—Atchison to Waterville.

By Commissioner ANDERSON :

Q. Atchison being the point on the Missouri River?—A. Yes, sir.

Q. Extending westward to Waterville?—A. To Waterville, Kans.

Q. Was there an extension of that road which was finally consolidated?—A. Yes, sir; we first made an extension of 20 miles to Washington, Kans., from Waterville. Then, afterward we commenced at a point, I think, called Greenleaf, on the extension, and we built altogether, I should say, some 200 miles more. My impression is we had 388 miles when we sold out, but I am not sure.

Mr. JOHN F. DILLON. I cannot say exactly.

#### THE ATCHISON, COLORADO AND PACIFIC ROAD.

Q. Did this extension bear the same name as the other part of the road?—A. No. We consolidated all our extensions, and called it the Atchison, Colorado and Pacific.

Q. Can you give the extreme points of that consolidated road, which began at Waterville and ended where?—A. One branch ended at Washington, one branch at Bull City, one at Kerwin, one at Scandia, and one we called the Atchison, Jewell County and Western went to Burr Oak, I think.

Q. You spread out like the roots of a tree, did you?—A. Yes, sir.

By Commissioner LITTLE :

Q. Is this Burr Oak, Iowa?—A. No, sir; all Kansas.

By Commissioner ANDERSON:

Q. How much of this was narrow gauge?—A. None of it.

Q. Do the branches you have described include the Atchison, Jewell County and Western Railroad?—A. Yes, sir.

Q. Were you connected with the Central Branch at its inception and during its construction?—A. No, sir.

Q. When did your connection with that road commence?—A. My father—

Q. (Interposing.) Mr. Oakes Ames?—A. Yes, sir—owned a sixteenth interest, I think. He had 666 shares of the stock and left it as part of his estate, and 27 of the bonds.

Q. Which you inherited?—A. Yes, sir.

#### HISTORY OF WITNESS' INTEREST IN CENTRAL BRANCH.

Q. Was that the inception of your interest?—A. Yes, sir.

Q. What was the capital stock of the Central Branch?—A. A million dollars.

Q. At the time of the consolidation with the Waterville road what was the bonded debt of the Central Branch?—A. It was \$1,600,000.

Mr. JOHN F. DILLON. The Central Branch was not consolidated with the others. The extensions were all made one.

The WITNESS. When I took hold of the road it was in arrears of coupons for some five years. We had not paid coupons for five years.

Q. Was that the Central Branch?—A. Yes, sir.

Q. In what year was that that you took hold of it?—A. I should say about 1877. I am not sure.

Q. Was the Atchison, Colorado and Pacific then in existence as a consolidation of the branches?—A. No, sir; it had not been built. That was all built since then.

Q. It was all built after you took hold of it?—A. Yes, sir.

Q. How were the extensions constructed; by construction companies?—A. We had a subscription. It was through a construction company, yes, sir.

Q. Who were the prominent persons interested in that?—A. Mr. R. M. Pomeroy, Mr. A. S. Barnes, Mr. C. S. Parsons, Mr. W. C. Wetmore, I think it was, and myself were the principal subscribers.

Q. After the consolidation into the Atchison, Colorado and Pacific Railroad was the ownership in that railroad evidenced by separate shares of stock?—A. Yes, sir.

Q. It was not held, then, under the interest which the stockholders of the Central Branch had?—A. No, sir.

Q. Can you tell us about what was the cost of construction of the various branches that composed the Atchison, Colorado and Pacific road?—A. My impression is that it was about \$8,000 a mile, net, to us.

Q. And the total mileage of that road was about 280 miles, I think you said?—A. I think so. We had help from the towns which reduced the cost of the road to us.

Q. Are you giving the cost net, after deducting that?—A. The net cost to us; yes, sir.

Q. What was the connection between the Central Branch and this consolidated road?—A. The Central Branch when we took it was of no value. It did not earn expenses. We built these roads as feeders, so as to make the property worth something. We first tried the experiment with what we call the Waterville and Washington Branch, and we found we increased our earnings enough to pay the interest on the bonds for that branch; a little more. Then we found that in the country beyond, where the land was pre-empted by homesteaders, there was a very large population waiting for a railroad, much larger than we had on the Central Branch, and so we kept building little pieces out, and trying that plan, and we found it worked well. The more road we built the better off the Central Branch was.

Q. At what date was the consolidation effected of the Atchison, Colorado and Pacific Railroad?—A. I think it was 1878 or 1879; in the summer. I cannot remember exactly.

#### LEASES OF ROADS TO CENTRAL BRANCH.

Q. My question as to the relation between the two roads is intended to obtain information as to the financial arrangements which were made between the two roads; whether one was leased to the other?—A. Yes, sir; the Atchison, Colorado and Pacific and all the branches were leased to the Central Branch.

Q. At what date?—A. As we built them.

Q. Are copies of the leases, do you know, in the possession of the Union Pacific Railway Company?—A. I think so.

Q. Do you remember the general terms of the lease or leases?—A. We had a guarantee from the Central Branch that they should pay the principal of our bonds at maturity, and a rental of \$1,000 per mile annually until the bonds matured. That was all we had; all the rest went to the Central Branch. Any earnings above that went to the Central Branch.

Q. That substantially took all the ownership in the stock of the Atchison, Colorado and Pacific and transferred it to the Central Branch?—A. Yes, sir; and for 25 years.

Q. That was the term of the lease?—A. Yes, sir.

Q. It expires when?—A. I cannot tell you.

Q. About 1904, is it not?—A. I think so. The records tell. I cannot tell.

Q. Is there any provision for a renewal?—A. No, sir.

Mr. JOHN F. DILLON. There is a compilation made by Mr. Nichols, which, I think, sets out all the leases and consolidation. I have it in my office.

Commissioner ANDERSON. Do you mean the book entitled "Indentures" ?

Mr. JOHN F. DILLON. No, sir; you never saw it. It contains the Central Branch charters, leases, and consolidation. I think the company must have a copy of it here somewhere.

The WITNESS. Poor's Manual states it correctly.

Q. Do I understand that at the end of the lease the branches are at liberty to ask new terms so as to provide a fund for the payment of dividends on the stock ?—A. I should suppose so.

Q. And the stock of those branches is outstanding still, is it ?—A. The majority of it is in the hands of the Union Pacific.

By Mr. JOHN F. DILLON :

Q. Was the majority of the stock an asset in the treasury of the Central Branch ?—A. Yes, sir; when I sold it.

By Commissioner ANDERSON :

Q. Do you now own any of the stock ?—A. I have got 162 shares of the Atchison, Colorado and Pacific.

Q. After starting in this work, did you increase your interest as a stockholder in the Central Branch ?—A. Yes, sir; When I took hold of the Central Branch the stock had no market value; it was sold at auction as low as half a dollar a share, in Boston.

Q. In 1877 ?—A. About that time.

#### HOW WITNESS INCREASED HIS HOLDINGS.

Q. Please tell us how your interest increased, and when ?—A. In the first place, I got the 666 shares that belonged to my father's estate into my hands, and as we went on building the roads I found that our object was being attained to make the Central Branch valuable, and I commenced buying all the stock I could buy. I think that was in 1878. I bought 333 shares at \$50 a share. I bought considerable stock at \$50 a share.

Q. The par value of the stock being \$100 ?—A. Yes, sir; and I was the only purchaser in the market. I saw the future, and I began to buy the stock. I paid 60, 70, 80, 100 and 125 for it; and the day before I sold to Mr. Gould I bought 100 shares at 160. All this was at private sale; there were no public sales at all.

Q. Most of these purchases, then, occurred at the end of 1878 and through the year 1879 ?—A. Yes, sir.

Q. Who was interested in these purchases besides yourself ?—A. Nobody.

Commissioner ANDERSON. The reason I ask is that I have been informed Mr. Pomeroy was interested ?

The WITNESS. It was after the sale. After I sold to Mr. Gould I bought other stock and Mr. Pomeroy had an interest in that.

Q. Other stock in this same company ?—A. Yes, sir.

#### NEGOTIATIONS TO SELL TO GOULD.

Q. When was it that any negotiations whatever occurred, relating to this road, between yourself and Mr. Gould ?—A. I should say we commenced our negotiations about the last of September or the 1st of October, 1879.

Q. Were they all oral or were they partly carried on by correspondence?—A. All oral.

Q. Have you no letters received from Mr. Gould relating to the matter?—A. No, sir.

Q. Is there any letter in your letter-press book addressed to Mr. Gould?—A. Not on this subject.

Q. Are you quite positive? Have you examined?—A. No.

Q. Will you oblige us by looking to see if there is any letter to Mr. Gould relating to this matter in your letter-press book?—A. I will; but I am very sure there is none.

Q. Did he generally go to Boston or did you go to New York?—A. I went to New York.

#### BUILDING RIVAL ROADS "WITHIN A STONE'S THROW."

Q. How was the initial movement between you brought about?—A. It was brought about in this way: We were building our road in Kansas, and Mr. Gould in the mean time had got control of the Kansas Pacific road, and you know he always claims all the territory there is within 1,000 miles of his road, and so he claimed we were in his territory, and he commenced building a road right alongside of us. He built 20 miles almost within a stone's throw by the side of us. At this time I had a very large subscription back of me, somewhere about \$2,800,000, on my paper. I could have taken \$5,000,000 as well as \$2,800,000, because people had confidence in my management at that time, and they were crying for a chance to subscribe.

Mr. JOHN F. DILLON. There was not enough to go around.

The WITNESS. There was not enough to go around. I did not want to dilute it too much.

Q. That is, in your scheme for the extension of this road?—A. Yes, sir; we had made up our minds we would go to Denver, and Mr. Gould saw we were going there pretty fast.

#### WHAT LED TO NEGOTIATIONS TO SELL TO GOULD.

Q. Were there any publications in the public press at the time relating to this matter that you recall?—A. No, sir. The Boston directors of the Union Pacific did not like to see their friends engaged in what they called a foolish expenditure of money, building two roads along side by side, in Kansas, and they desired me to see Mr. Gould, to see if we could not stop this business and come to some arrangement. Meantime we were building our road as fast as we could, having plenty of means to build, and Mr. Gould was building alongside of us. I went and saw Mr. Gould. Said he, "I would like to know about your road," and I gave him all the papers I had, showing what the road was doing, what our earnings had been in the past, and what we were doing then, and how much road we were building. I gave him a statement of our lands, our land notes, and the profits of the railroad—I mean the earning profits—that is, the net earnings. I left those papers with him.

Q. What was that statement made up from?—A. It was made up in the office at Atchison. They kept me posted all the time as to what was going on.

Q. By whom was the statement prepared?—A. By the clerks in the office at Atchison.

Q. Who was the principal director of it; what is the name of the person to whom we can refer for information as to details of the state-



ment?—A. There was no principal director. I was as near it as anybody. Mr. Pomeroy is dead. He cannot testify.

Q. In whose handwriting was the statement?—A. I could not tell you. It was made up in the office at Atchison. I could not tell you the man's name.

Q. Did you revise it or look over it before it was handed to Mr. Gould?—A. No, sir.

Mr. JOHN F. DILLON. You looked over it, did you not?

The WITNESS. I looked over it, of course; but I did not revise at all. I gave it just as I received it from the office.

Q. Will the books now contain just the same information?—A. They would not contain it in that form.

Q. Where are the books that it was made from?—A. I do not know. I suppose they are in the office.

Q. The office of the Central Branch, Union Pacific?—A. At Atchison; yes, sir.

Q. Did you keep a copy of the statement handed to Mr. Gould?—A. No. I had them at the time, but I have not got them now.

Q. You had copies at the time?—A. Yes, sir.

Q. Have you ever seen the statement that Mr. Gould received since you delivered it to him?—A. No, sir.

Commissioner ANDERSON. Do you know whether Mr. Gould has it, Judge Dillon?

Mr. JOHN F. DILLON. No; I do not.

Commissioner ANDERSON. Will you continue the story now. Come to the point where you said you delivered the statement to Mr. Gould.

#### WITNESS "WILLING TO HOLD THE FORT."

The WITNESS. Yes, sir. He said he would look it over. In the mean time I was conducting negotiations with the Chicago, Burlington and Quincy and a little with Mr. Garrison, and we also had some talk through Mr. Pomeroy with the Rock Island; so that I had three or four strings to my bow. Finally I went on to New York; I think it was the 5th or 6th of November, 1879, and there I had an interview with Mr. Gould, Mr. Dillon, and Russell Sage. They began to speak in very disparaging terms of my road, and Mr. Gould said he did not think much of agricultural roads. I told him I saw he did not, but I noticed he was building all the time. Said he, "I build them as feeders and not as main lines." Mr. Sage had the impudence to say to me if I would sell him the road he would give me back the land assets in payment. The result of it all was, we came to no conclusion that night, and I said to Mr. Gould that I was willing to hold the fort; that I did not come there on my own motion, but because his and my friends in Boston wanted me to see him and they wanted us to stop the fight; that I was ready to go on with the road, and meant to go to Denver as soon as possible. I said to him also, "I do not suppose you want to talk any more with me on this subject?" "Well," he said, "I will talk with Mr. Dillon and Mr. Sage, as I go up in the cars to-night, and you come and see me to-morrow morning at 10 o'clock and I will tell you." So I went in and called on Mr. Gould the next morning at 10 o'clock, and he said he had talked the matter all over with Mr. Dillon and Mr. Sage, and he thought Mr. Sage would consent to pay me \$200 a share for the stock. I had been asking \$300 for it. I said to Mr. Gould that would not do at all. "But," I said, "I have in my board some very old men as directors, and I have told them what an awful man you are to fright and how you threw away a million of dollars in Colorado in building a road alongside of the

Denver and Pacific road, and that you were throwing money away by the side of us, and," said I, "those men are getting old and they do not want to fight. Now, I think I can induce them to put in their stock to you at \$250 a share," and finally I said I would agree to give him five-eighths of the stock at \$250 a share. Said I, "I do not know that Mr. Pomeroy will turn in his; he claims his is worth \$500, but I will give it to you." Said Mr. Gould, "It's a bargain." Then Mr. Gould sat down and wrote this paper.

Mr. JOHN F. DILLON. I never saw it.

The CHAIRMAN. Read it.

#### MEMORANDUM OF AGREEMENT BETWEEN GOULD AND AMES.

The WITNESS (reading):

Memorandum of agreement, November 7, between Oliver Ames and Jay Gould. Oliver Ames sells and Jay Gould buys 6,250 shares of the total capital stock of \$1,000,000 of the Central Branch, Union Pacific Railroad Company. The price paid is \$250 per share of \$100, amounting to \$1,562,500, payable one-half in the new Union Pacific collateral trust bonds, and one-half in Kansas Pacific consolidated bonds.

Jay Gould is to have control of the board. Ames reserves the right to extend from Cornell to Logan; one-half profits to each, Ames and Gould. Also on same terms from Scandia to State line. All leased equipment to be paid for at cost by the company.

(Signed)

JAY GOULD.

(Signed)

OLIVER AMES.

You see, at this time there were a few of us who owned the equipment on the road, and that is what is referred to. We furnished the money to buy the equipment; the Central Branch was not able to buy its equipment.

By Commissioner LITTLE :

Q. Did you do that as an equipment company or as individuals?—

A. As individuals. The moment we signed those papers Mr. Gould said to me, "Mr. Ames, you have undertaken a big bargain; let me give you some advice. You go to every man that has agreed to give you this stock and make him sign a paper to-day, so that you can get it." Said he, "They may go back on you."

By Commissioner ANDERSON :

Q. You had not secured all of this stock, then?—A. No, sir; at that time I had 2,890 shares of the stock.

Q. What was the entire capital stock of the company?—A. Ten thousand shares.

Commissioner ANDERSON. In whose handwriting is that paper?

A. That is in Mr. Gould's handwriting.

Q. The whole of it?—A. Yes, sir; all but my signature.

Mr. JOHN F. DILLON. That is all his handwriting except this; that is yours, I think.

The WITNESS. No; that is his, I guess—"at cost."

Commissioner ANDERSON. You see where the words "Jay Gould" come in it looks as if there had been a blank left, and as if he himself had written his name in the body of the instrument.

The WITNESS. Oh, yes, sir; that is the same handwriting; I saw him write it.

Mr. DILLON. Oh, yes; that is the same.

Commissioner ANDERSON. I suppose the fact is that his custom in writing his signature was to write it differently from the body of the writing?

The WITNESS. Yes, sir; he wrote that himself.

DID NOT KNOW GOULD'S OBJECT IN PURCHASING CENTRAL BRANCH.

Q. During all these negotiations, was it stated to you that Mr. Gould was making this purchase for himself, or did he describe for what account he purchased it?—A. He did not say anything about it. I know he was in consultation with Mr. Sage and Mr. Dillon about it, and it was the Union Pacific people here in Boston who asked me to go on and see him.

Q. Was there any other negotiation that Mr. Gould was interested in at the same time that was under way between yourself and him?—A. Immediately after this he bought some more stock of me.

Q. Stock of this company?—A. Yes, sir.

Q. But was there any other negotiation on foot referring in any way to any other companies or roads?—A. Not with me. But at this time he was negotiating with Mr. Garrison for the Missouri Pacific.

Q. When this purchase was made was that fact alluded to or disclosed in the conversation?—A. No, sir.

Q. But you knew the fact that he was then negotiating with Mr. Garrison?—A. Mr. Garrison told me so.

Q. Did Mr. Gould or Mr. Sage or Mr. Dillon give you to understand that this purchase was being made in connection with his prospective ownership of the Missouri Pacific?—A. No, sir.

Q. Was it your understanding that that was the object of the purchase?—A. No, sir.

Q. What, besides this stock at this time, did you agree to sell him? Any of the bonds?—A. No bonds. He gave me an option to turn in some more stock to him at other prices. Here are the options he gave me.

#### GOULD OPTIONS TO WITNESS.

Q. Give us the date of them.—A. November 11, 1879.

Q. You saw him again in New York?—A. Yes, sir.

OLIVER AMES, Esq. :

DEAR SIR: 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 shares at 175, payable in Kansas Pacific consolidated bonds at par.

JAY GOULD.

On the 19th of November, 1879, he says:

OLIVER AMES, Esq. :

DEAR SIR: 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 30 days.

JAY GOULD.

#### GOULD VERY "CHIPPER."

I will say that I was in the office frequently about this time, and Mr. Gould was a very happy man. He was very "chipper." But I never saw a more unhappy set of fellows in my life than the Union Pacific directors immediately after this sale, about a week or ten days after, when Mr. Gould got possession of the Missouri Pacific road.

Q. When the last option was taken by Mr. Gould you knew that he had obtained control of the Missouri Pacific?—A. Yes, sir.

Q. Is it not substantially your understanding that at this time, about the 15th to the 20th of November, when Mr. Gould tells us that he had concluded to oppose the consolidation, his plan was to utilize this purchase

of the Central Branch in connection with his Missouri Pacific project?—A. I should judge so from what I saw. He did not tell me so. I know I saw Sidney Dillon and Dexter and Fred Ames as gloomy and unhappy a set of men as I ever saw. Mr. Gould had them in his power. They supposed at the time, I think, that he was going to take the Kansas Pacific and this road and use it with the Missouri Pacific, and cut off the Union Pacific.

#### RANGE OF PRICES PAID BY WITNESS.

Q. Without some such project the price agreed to be paid was very much beyond anything that you had ever paid for the stock?—A. Oh, yes, indeed; but it was growing valuable all the time. The fact that I paid a dollar a share for my first, and then paid 50, 60, 80, 125, and up to 160, showed what I thought of it, and I was the only man in the crowd that had the courage to buy it.

Q. How much did you buy at 100?—A. I bought 100 shares at 160.

Q. That was after your negotiations with Mr. Gould?—A. No; it was before.

Q. I think you said it was just before the sale in November?—A. It was the very day before I closed negotiations; before I sold.

Q. It was after the negotiations commenced in September?—A. Yes, sir.

Q. So that the price may have been influenced by other considerations than questions of pure value?—A. No, sir; I believed in the property.

Q. You knew that Mr. Gould wanted it?—A. No, I did not; I never believed I was going to sell it to Mr. Gould until the morning I sold it.

#### ADDITIONAL SECURITIES TURNED OVER TO GOULD.

Q. What interest in either the Central Branch or in the Atchison, Colorado and Pacific did you pass over to Mr. Gould or to the Union Pacific in addition to this stock?—A. I made an oral agreement with Mr. Gould, in addition to that, at the time, that I would turn over with the Central Branch stock a majority of all the stock of the Atchison, Colorado and Pacific, and of the Atchison, Jewell County and Western.

Q. You then controlled that stock at the same time?—A. No, sir; there was a part of it in the treasury of the Central Branch and a part of it was in the hands of individuals.

Q. How much of it did you actually transfer?—A. I transferred over a majority of it. I cannot remember the number of shares, but over a majority of it.

Q. Can you state the cost of the stock which was not in the treasury of the Central Branch, and which you had to acquire from individuals?—A. I made these parties who furnished me the stock at 250 make a contribution from their own stock and I contributed from my own stock. I know Mr. Pomery said, "You have not agreed in that writing to give a majority of the stock, and they can't hold you." Said I, "I agreed to it verbally, and they have got to have it," and I made him contribute, finally, a part of his.

Q. Are these options also in Mr. Gould's handwriting?—A. Yes, sir; those are the ones.

Commissioner ANDERSON. They are in blue ink, as usual.

The WITNESS. I delivered to Mr. Gould altogether 8,443 shares of stock.

Q. Can you state specifically the prices at which the respective deliveries were made?—A. 6,250 shares were at \$250 a share; the whole amount was \$1,938,989.51.

By Mr. JOHN F. DILLON :

Q. For how many shares?—A. That was for 8,443 shares altogether.

By Commissioner ANDERSON :

Q. But you cannot separate the shares delivered under these options so as to state the prices of the respective deliveries?—A. No, sir; part of it was delivered at 200 and part at 175 and part at 250 and part at 150, the last I turned in.

Q. You would not know whether Mr. Gould passed the entire purchase over to the Union Pacific, would you?—A. No, sir; I think he did. I think some of the stock delivered by me to Mr. Gould was delivered subsequent to January 24, 1880.

Commissioner ANDERSON. Judge Dillon, can you tell me whether the subsequent purchases were passed to the Union Pacific or not?

Mr. JOHN F. DILLON. No, I cannot; Mr. Mink can.

Commissioner ANDERSON. Mr. Mink, was there any subsequent purchases of Central Pacific stock, bought by Mr. Gould, passed to the Union Pacific?

Mr. MINK. I think there was; I will look and see.

By Mr. JOHN F. DILLON :

Q. The subsequent transactions in this stock were with Mr. Gould?—A. All with Mr. Gould. Mr. Ham turned the bonds over to me by Mr. Gould's order on my turning in the stock.

#### FURTHER OPTIONS FROM GOULD TO WITNESS.

By Commissioner ANDERSON :

Q. These options, I notice, were your options?—A. My options; yes, sir.

Q. Do I understand you exercised them in full?—A. No, sir; I did not get it all.

Q. Please look at the second page of the option of November 11, and see if it does not contain a memorandum of stock delivered under that option.—A. Yes, sir; I had not noticed that before.

Q. Will you dictate it to the stenographer?—A. There were 475 shares at 200; that was November 11; 300 at 200 on November 12, 1879; 200 on the 19th at the same price; 125 on December 30 at the same price. That made a thousand shares. On December 30, 1879, I turned in 366 shares at \$175 a share.

Q. That makes a total so far specifically accounted for of 6,250 and 1,366?—A. That makes 7,616.

Commissioner ANDERSON. That is the figure in the minutes?

The WITNESS. Yes, sir. Then it appears I turned in to him 827 shares afterwards. I do not know what the price was.

Q. You have not the date?—A. No, sir.

Q. Can you ascertain the date and prices?—A. I think I can; yes, sir.

#### HOW GOULD WAS "FOOLED."

Q. Did that terminate your transactions with Mr. Gould?—A. Yes, sir. I noticed the other day that Mr. Gould said that we fooled him in



regard to the trains on the road. I want to say that Mr. Gould never went onto the road to my knowledge until after I sold it to him. So he was not fooled by me in that respect; but I did hear Mr. Pomeroy tell after he came home, after Mr. Gould was out there, that he had the trains held back a day, so as to make it look lively. He wanted to make Gould feel good. We earned that year, according to my calculation, 20 per cent. on our stock. That was my figure.

Q. What do you base those figures on?—A. On net earnings.

Q. On what books or what report?—A. On the accounts given to me by the superintendent of the road of the earnings and expenses. I figured it myself.

Q. Have you the computations that you made or any material upon which we could revise them?—A. No, sir; I have not. I have not got the figures.

Q. Do you know whether this road produced for 1880, 1881, 1882, or 1883, anything beyond the amount required for its fixed charges?—A. No, sir; it did not. There was a drought out there and things did not look very well for them.

Q. Were not the years 1880 and 1881 two of the best railroad years in the United States?—A. They might have been, and still it might have been poor for that part of Kansas.

Commissioner ANDERSON. We should very much like to see any figures of this road which would indicate any earnings at any time prior to 1884, exceeding fixed charges, including therein the amount of the interest on the Government subsidy.

The WITNESS. I know that for two or three years after we sold the road it did not earn much of anything, but it did first rate for us.

#### CERTAIN INTERESTS RETAINED BY WITNESS.

Q. What was the nature of this retained interest in the one or two of the extensions in reference to which you and Mr. Gould were to divide profits? You made some allusion to it.—A. I had already made contracts to build extensions to the road, and the contracts would have belonged to our construction company if we had built them, and Mr. Gould said that with the road on hand we had no right to go on and build those; he should object to our building them. We finally compromised by our going on, as we agreed, the purchaser having half the profits and we having half the profits. We furnished the money and the roads were built.

Q. What were those extensions; how large were they?—A. We had some 40 to 50 miles to build at that time.

Q. When was that completed?—A. In 1880.

Commissioner ANDERSON. In this connection, Mr. Chairman, I would hand in a memorandum, furnished to me by Mr. Mink, to complete the statement of the interest of the Union Pacific in the Central Branch, of subsequent purchases made by the Union Pacific Railway of the stock of the Central Branch, containing the number of shares, date of purchase, and price paid.

**ADDITIONAL STATEMENT OF UNION PACIFIC INTEREST IN CENTRAL  
BRANCH.**

The paper is marked Exhibit No. 1, May 31, 1887, and is as follows:

1880.		
January 31, Jay Gould,	7,616 shares for.....	\$1,826,500
February 28, Oliver Ames,	634 shares at \$175.....	110,950
February 28, Oliver Ames,	121 shares at \$150.....	18,150
May 31, (?)	75 shares at \$110.....	8,250
July 31, Chas. W. Gould,	9 shares at \$100.....	900
October 9, Wood & Davis,	35 shares at \$100.....	3,500
October 12, Wood & Davis,	44 shares at \$100.....	4,400
1881.		
January 31, Thos. S. Thorp,	3 shares at \$100.....	300
February 28, James Potter,	50 shares at \$100.....	5,000
1887.		
January 22, Baldwin & Weeks,	1 share at \$100.....	100
	<hr/> 8,588	<hr/> 1,876,100

Q. Please examine that and see if the items stated to have been bought from you agree with your recollection?—A. That agrees with my recollection. I know I turned in the last stock at \$150.

Q. We will now return to where we left off. What did these profits amount to in the roads you retained?—A. I turned over to the Union Pacific Railroad 110 Atchison, Colorado and Pacific bonds as their share of the profits. We agreed to divide the profits.

Q. The construction contracts were payable in bonds, I suppose?—A. Bonds and stock.

Q. You turned over to the Union Pacific its share of the profits and bonds and stocks?—A. Yes, sir.

Q. Did that complete the transaction?—A. Yes, sir; as far as I was concerned.

Q. During these negotiations did you see a great deal of the Boston directors?—A. Oh, yes, sir.

Q. What is your recollection of the status of this impending question of consolidation, as represented by the gentlemen you met in Boston before the transaction occurred in regard to Central Branch and before Mr. Gould had acquired the Missouri Pacific?—A. At that time they had substantially got control of the Kansas Pacific—Mr. Gould and his allies. Mr. Gould was the controlling spirit. He managed things there about as he had a mind to. As I said before, he claimed we were in his territory, and he was building along side of us. We built 20 miles within a stone's throw, almost, of each other.

**UNDERSTOOD CONSOLIDATION WAS IMPENDING.**

Q. I am now inquiring in regard to what occurred within your knowledge between the directors of the Union Pacific, with reference to the interests of their road, and Mr. Gould, as representing the Kansas Pacific, during this period before he had acquired the control of the Missouri Pacific. Did you understand from them that steps were pending looking toward a consolidation?—A. Yes; that was my understanding.

Q. Did you ever, at that time, understand what it was that Mr. Gould was asking for the Kansas Pacific road, and understand that the Union Pacific directory in Boston considered his terms extravagant, and that they would not accede to them?—A. I know that a few months before the consolidation I got the understanding from Mr. Gould and from Mr. Dillon and my cousin Fred, that they were going to foreclose the stock

of the Kansas Pacific; that it was not worth anything at that time, and for that reason I did not buy any of it.

Q. Did you ever hear the terms mentioned before Mr. Gould acquired the Missouri Pacific as to his proposition in regard to the representation that the Kansas Pacific stock ought to receive in the consolidation, if it took effect?—A. No, sir.

#### THE BOSTON DIRECTORS UNHAPPY.

Q. You say that after the fact that Mr. Gould had acquired title to the Missouri Pacific was known these gentlemen in Boston appeared to be very unhappy and very uncomfortable. What reason did they assign for their dejection?—A. They found Mr. Gould in control of the Kansas Pacific and the Missouri Pacific and the Central Branch, with a disposition probably to retain them all for the Missouri Pacific, and they knew it would be ruin to the Union Pacific to have that done.

Q. Do you know whether any complaints were made of such action on the part of Mr. Gould while he was a director of the Union Pacific?—A. No; I used to see more than I heard.

Q. Have you any personal knowledge of the transactions that occurred afterward between the Boston gentlemen and Mr. Gould?—A. No, sir.

Q. Have you told us substantially all you know of this transaction between yourself and Mr. Gould?—A. Yes, sir.

Q. All in relation to the Central Branch?—A. Yes, sir.

Q. And all that you know or have heard from any of the parties in interest relating to the consolidation as it took place between the Union Pacific and the Kansas Pacific?—A. Oh, yes; I have told all I know about it. I was not a director, and I did not know anything about it only what I heard outside.

By the CHAIRMAN:

Q. When did you dispose of your interest in the Union Pacific?—A. I have not disposed of it.

Q. You still have your interest?—A. I have still got a small interest; yes, sir, unfortunately.

Q. Have you any other suggestion to make to the Commission with reference to the consolidation, or any information to give?—A. No.

The CHAIRMAN. You can ask him any question, Judge Dillon.

Mr. DILLON. His statement is so full that I have not very much to ask him.

#### DECLINED TO PUT CREDIT MOBILIER STOCK IN UNION PACIFIC TREASURY.

By Mr. JOHN F. DILLON:

Q. Were you at one time a director of the Union Pacific?—A. Yes, sir.

Q. Have you any objection to stating when you ceased to be such, and why?—A. I cannot tell why I ceased, but I always suspected—

Q. What year was it?—A. I think it was 1876. My father's estate owned about 3,500 shares of Credit Mobilier stock, and Mr. Gould and some of the directors were very anxious to have that stock put in the treasury of the Union Pacific. He advised the owners of that stock to invest in Union Pacific, so that they would have as big an interest in the Union Pacific as in the Credit Mobilier. Then they would turn in

the stock without any loss to them. But, unfortunately, my father's estate lost its Union Pacific stock in the panic, and we had nothing but the Credit Mobilier stock. They tried to have me turn that in free, and I declined to do it. Mr. Gould said, "You are a trustee of the Union Pacific." Said I, "Yes, sir; I am a trustee of the Oakes Ames estate, too, and I shall not allow one trusteeship to interfere with the other." They tried very hard to get that stock, but they did not succeed. At the next election I was left out of the board. I did not know whether he had anything to do with it or not. I always suspected it had.

Commissioner LITTLER. You were dropped out?

The WITNESS. Yes, sir.

By the CHAIRMAN:

Q. That was in 1876?—A. 1876, I think.

Mr. JOHN F. DILLON. They wanted you to sign a paper which other Credit Mobilier shareholders had signed, dated, I think, in 1875, to the effect that if they turned in their shares of the Credit Mobilier to the Union Pacific the Union Pacific would release them for alleged illegal or unfair profits?

The WITNESS. Yes, sir.

Q. A great many shareholders of the Credit Mobilier did that?—A. Yes, sir.

Q. You refused to do it?—A. I refused to do it; yes, sir.

Q. Mr. Gould urged you to do it?—A. Yes, sir.

Q. And your supposition is that because you refused to do that you were dropped from the board?—A. That is what I thought at the time. I had the satisfaction of making them pay me for it afterwards.

By Commissioner ANDERSON:

Q. Pay you for the Credit Mobilier stock?—A. Yes, sir.

#### APPOINTED RECEIVER OF CREDIT MOBILIER IN PENNSYLVANIA.

By Mr. JOHN F. DILLON:

Q. You were appointed receiver of the Credit Mobilier in Pennsylvania?—A. Yes, sir.

Q. By the circuit court of the United States?—A. Yes, sir.

Q. After your refusal to turn in your stock, and after you had been appointed receiver of the Credit Mobilier, do you recollect some direction of Mr. Gould to discontinue a certain suit here?—A. Yes, sir.

Q. State to the Commission what you know about that, in short.—A. The Credit Mobilier brought a suit against the Union Pacific to collect a two-million dollar note it had.

Q. And a balance of account?—A. And a balance of account.

Q. Brought here in Massachusetts?—A. Yes, sir. In the mean time Mr. Gould got elected president of the Credit Mobilier, and his confidential clerk, Mr. Morosini, and William Beldon, were also made directors, and they were constituted the executive committee. While this suit was going on I went to Russell & Putnam, the attorneys of the Credit Mobilier, and asked to intervene, so that I could pay a part of the expense of fighting this suit against the Union Pacific. They told me there was no necessity for it; that they were fighting it in good faith, and if they ever had any reason to doubt the good faith of the Credit Mobilier in fighting that suit they would notify me. So one day they sent me word that they had received orders from Mr. Gould to discontinue that suit for the collection of the note. This was on Saturday.

On Monday morning I appeared in court and asked for an injunction against it, and it was granted. Then I went to Philadelphia and asked that a receiver be appointed of the Credit Mobilier, and I suggested the name of John P. Guest.

By Commissioner ANDERSON:

Q. Was that application opposed?—A. It was not opposed; but they asked to have somebody else appointed. Mr. Gould wanted a friend of his in Philadelphia, and I asked to have John P. Guest; and finally Mr. Gould telegraphed to Philadelphia that they had better appoint Oliver Ames, that both parties would be satisfied with me. I was appointed and took charge of that litigation.

#### CONTEST BETWEEN CREDIT MOBILIER AND UNION PACIFIC.

By Mr. DILLON:

Q. As I understand it, prior to the time when the Union Pacific got control of the Credit Mobilier, the Credit Mobilier had instituted a suit to collect this two-million dollar note and this balance of account?—A. Yes, sir.

Q. And the Union Pacific was fighting it?—A. Yes, sir.

Q. It was resisting it. Under the arrangements of 1875, when the Union Pacific came into a majority of the shares of the Credit Mobilier, it undertook to direct the dismissal of this suit against the Union Pacific Company. Is that right?—A. Yes, sir.

Q. You, as a minority shareholder, and others, resisted that?—A. Yes, sir.

Q. And it was in aid of such resistance that you got an injunction here from the supreme court of Massachusetts to prevent the Credit Mobilier from dismissing that suit?—A. Yes, sir.

Q. And you went to Philadelphia and had the receiver appointed?—A. Yes, sir.

Commissioner ANDERSON. He was himself appointed.

Q. You were yourself appointed?—A. Yes, sir.

Q. Can you state to the Commission, briefly, what became of those litigations. I think I stated it, but we would rather have it from you?—A. I think the litigation is still pending.

Q. I will ask you whether you know enough about the technical features of this suit by the Credit Mobilier against the Union Pacific to say whether it was what we call a suit at law on the note and account?—A. Yes, sir.

Q. Do you know anything about the institution of a bill in equity alleging that the Credit Mobilier contract was either actually or constructively fraudulent, and asking for an accounting of profits and to have any such profits set off against the note?—A. I know that was done.

Q. Do you know what was the result of that suit?—A. No.

Commissioner ANDERSON. We know.

#### ANOTHER SUIT AGAINST CREDIT MOBILIER BY UNION PACIFIC.

Q. Very well. After that suit was decided, do you recollect about a suit in New York by the Union Pacific Company against the Credit Mobilier to recover about \$685,000 and interest, amounting to about a million dollars, principal and interest, on an account which the trustees of the Oakes-Ames and Davis contracts assigned to the Union Pacific



Railway Company?—A. My recollection is that there was a suit of that kind brought in New York and it was allowed to go by default.

Q. By the Credit Mobilier?—A. By the Credit Mobilier. Mr. Gould had the notice and put it in a pigeon-hole, and that was all the attention he gave to it, I think.

Q. Then the Union Pacific, as the assignee of that account, took a judgment by default against the Credit Mobilier for the amount and interest?—A. Yes, sir; and I got that set aside.

Q. What did you do in your capacity as a Credit Mobilier receiver?—

A. I went on to New York and got it set aside as receiver.

By Commissioner ANDERSON:

Q. After you were appointed receiver or before?—A. After I was appointed receiver.

By Mr. JOHN F. DILLON:

Q. As receiver and shareholder? Other shareholders united with you in that matter, did they not?—A. Yes, sir.

Commissioner ANDERSON. In what court was that?

Mr. JOHN F. DILLON. The supreme court. And the judgment was set aside.

Commissioner ANDERSON. On what date?

Mr. JOHN F. DILLON. I can give that exactly.

The WITNESS. I was the receiver at the time, and the first I knew of the suit was, I saw the judgment in the New York papers. The papers were served on Mr. Gould, instead of on me.

Commissioner LITTLER. As president of the company.

The WITNESS. As president of the corporation; yes, sir.

#### STILL ANOTHER SUIT BETWEEN SAME PARTIES.

Mr. JOHN F. DILLON. Under the settlement of 1881, between the trustees of the Oakes-Ames contract and the Union Pacific, which is before you, the trustees in the Oakes-Ames contract assigned an account against the Credit Mobilier for \$685,550.74, and the Union Pacific Company brought suit in the supreme court, in October of 1882, against the Credit Mobilier to recover that amount, with interest, and obtained a judgment by default soon afterwards for \$1,292,347.

Commissioner ANDERSON. That does not cover the question when it was set aside.

Q. I will ask you that. Can you state when; was it within a year?—A. I cannot. But I saw the notice in the paper, the first I knew of it, after I was receiver. I saw an account of this judgment, and I immediately went to New York and looked into it.

By Commissioner ANDERSON:

Q. Who were your attorneys?—A. George F. Betts, I think, in New York, for this thing.

Q. Who appeared for the Union Pacific Railway Company?—A. I do not know. Judge Dillon, I think.

Judge DILLON. Mr. Holmes and myself.

#### THE LARGE STOCKHOLDERS IN CREDIT MOBILIER.

By Mr. DILLON:

Q. I will ask you this: The capital stock of the Credit Mobilier Company is how many shares?—A. \$3,750,000.

Q. Thirty-seven thousand five hundred shares. The Union Pacific held how many at this time?—A. They held pretty nearly 24,000 shares.

Q. Who held the other 12,000 or 13,000 shares?—A. I had about 3,300 belonging to the estate, and I guess about 1,200 that I owned in part and in whole. Then there was the New York Security Company, or something of that kind, which had about 1,300 shares; and Brayton Ives had about 3,500 shares, which stood in the name of one of their clerks.

Q. These parties united, did they not, with you in an application to vacate this judgment by default?—A. Yes, sir.

Q. And you were represented by Mr. Betts? I recollect that.—A. Yes, sir.

Q. And Mr. A. H. Holmes and myself represented the Union Pacific Company. Do you recollect filing affidavits on that matter and counter-affidavits being filed?—A. Yes, sir.

Q. You were not at the argument, were you?—A. No, sir.

Mr. DILLON. I will state that it came before Mr. Justice Daniels, of the Supreme Court—I cannot state the date—but within a year after October, 1882, when the judgment was rendered, I should say; and Judge Daniels decided against the Union Pacific Company, and entered an order that the judgment by default be set aside, allowing Oliver Ames and other shareholders to answer the complaint of the Union Pacific against the Credit Mobilier, and in its name, within 30 days from that time. I thought perhaps you might want to know about that. That suit is still there.

Commissioner ANDERSON. It never has been tried?

Mr. DILLON. It never has been tried; no.

Q. The minority shareholders sold out, did they not?—A. Yes, sir. The Union Pacific, after that, under the advice of counsel, bought these minority shareholders' interest, as the best means of defending against this suit and other liabilities.

#### THE MINORITY STOCKHOLDERS OF CREDIT MOBILIER SOLD OUT.

Q. Will you state what you know about that?—A. The first thing I knew most of my clients sold out the Credit Mobilier. They sold out their stock to the Union Pacific and left me pretty nearly alone. Then I sold my stock to the Union Pacific.

By Commissioner ANDERSON:

Q. At what price were these sales made?—A. At \$20 a share.

By Mr. JOHN F. DILLON:

Q. Supposing the notes and accounts should be valid and all interest thereon, in connection with the other assets of the Credit Mobilier, what, in that event, did you ever estimate was the value of this stock?—A. I regarded it worth \$75 a share or 75 per cent.

Q. But you sold it for about \$20 to the company?—A. Yes, sir.

By Commissioner ANDERSON:

Q. Was there not another consideration paid?—A. No, sir.

Q. Did they not get released, or at least did not all the parties who had been shareholders of the Credit Mobilier during the time of the construction of the Union Pacific get released, from any liabilities there might have been?—A. No, sir; not at that time. They did not consider that they were in any danger. I never considered it a serious matter at all.

By Mr. JOHN F. DILLON:

Q. In these last dealings, you were all at arms-length?—A. Yes, sir. If you had seen these Union Pacific directors, as I did, just about the time this consolidation took place, you would have pitied them.

Commissioner LITTLER. It is pretty clear that Mr. Gould had them cornered.

The WITNESS. He had. I was an outsider, and could see it all and enjoy it all.

OLIVER AMES.

EQUITABLE BUILDING,  
Boston, Mass., Tuesday, May 31, 1887.

MAHLON D. SPAULDING, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. You are at present a director of the Union Pacific?—Answer. I am.

Q. When were you elected?—A. I was elected first in March, 1885, I think.

Q. How closely have you examined into its financial affairs?—A. I have not been on the executive committee. I have been on the committee of finance. I have not been led to examine the transactions as closely as I would have, perhaps, if I had been on the executive committee; but still I have tried to give it my serious attention and thought.

Q. Have you been over the road?—A. I never have.

Q. Or over any of its branches?—A. No, sir.

Q. What is your interest in the road? How many shares of stock have you?—A. My interest is very small at the present time; I have but 500 shares in the road; I had 2,000 when I was elected.

Q. Have you examined into the question of its earnings and its earning capacity?—A. I have, so far as I was capable.

#### RELATIONS OF UNION PACIFIC TO THE GOVERNMENT.

Q. Have you examined into the relation which this company holds to the Government in reference to the amount and prospective amount of its liability to the Government?—A. I have.

Q. Have you any fixed ideas as to the policy that ought to prevail, with reference to this subject, between the Government and this railroad?—A. I do not think other than any business man would have. It has never seemed to me anything specially intricate. The principles are, I think, simple, and such as I should apply to my own business I could apply to this.

Q. Is the relation not different from any relation that you ever had or have known to exist in your own business in the point that the Government claim, being a large one, with interest not maturing for 30 years after its date, presents different questions from those that would generally arise between creditor and debtor?—A. It would seem to me that the principles you would apply would be the same. It seems to me it would be the same in regard to this matter that it would be in almost any other business interest. Of course the circumstances are quite different from anything that I have ever met in my business experience.

Q. Please answer this question in your own way. I will put the question in two branches: First, how complete do you consider the security of the Government for its debt to be; and, secondly, what are your views in regard to the best possible plan for adjusting the relations between the Government and the company, so as to secure independence of action to the railroad and absolute security to the Government for its ultimate payment?—A. I will answer it as far as I can.

Q. Do you remember the division I have made? First, in regard to the quantity of security, and, secondly, in regard to the plan?—A. And what I would do?

#### THE NATURE OF THE GOVERNMENT'S SECURITY.

Q. The first question is in regard to the nature of the security. How far do you think it is sufficient?—A. I think the security depends very much upon the management. If I had a debt that I was in any doubt about—if you will allow me to explain it in my own way—I should examine first into the affairs of my debtor, and see what the assets consisted of, and see what his financial condition was. I should go still further. I should then try to ascertain what the man's character was, what his ability was, what his integrity was, and it seems to me that I should have as much confidence, and rest my claim as much upon the capacity of the man, his integrity, and his ability, as upon his assets; but if I found that he had good and sufficient assets without the ability and integrity I should not want to trust him; I should want to take what I could get, and close it up. But, if I found that he had integrity and ability to manage the affairs better than I could, better than I believed any one else could, I should leave it for him to manage, giving him all the assistance and encouragement that I could. That would be the course that I should take. It would depend, first, upon the ability and next upon the integrity of the creditor.

By the CHAIRMAN:

Q. Applying that to the Pacific Railroad, what do you regard the Government security to be?—A. I believe that the Union Pacific Railway, so far as I can judge from the investigation that I have made, and from what I know of its earning capacity, is abundantly able to pay the Government every cent that is due to it, and I believe they will do so if they are left to manage their own affairs, and to do their business in their own way, and be placed in a position equally favorable to their competitors. Without that I should have my doubt. I do believe if they are hampered and interfered with and troubled and harassed they will get discouraged after a time. It seems to me so, and I think such proceedings will weaken instead of adding to their strength. But I know there is a disposition on the part of the management to pay the Government every dollar that is justly due it. I think they desire to do that, and I think they are able to do it, and I think they ought to do it, and I think, what is more, they will do it.

#### PLAN OF SETTLEMENT.

Q. How can they do it—in what way? What suggestions have you as to the method?—A. This debt matures in 1895, 1896, and 1897, and it is a very large indebtedness, and I do not believe they can pay it at maturity. I think they have got to have some extension in some way. I believe it is an utter impossibility for them to pay it without an ex-

tension. It is barely possible that they might do it by sacrificing everything. I have no opinion to give as to the result of any such extreme measure.

By Commissioner ANDERSON:

Q. Have you figured how much extension you think they would require?—A. Only that it would seem to me that the Government should not consider entirely what they could be forced to do. I believe the Union Pacific debt to the Government is perfectly safe. It does not seem to me that it is a matter of vital consequence to the Government when it receives its pay, so long as the Government shall not lose anything. I do not think the matter of five or ten years is of any great consequence to the Government, and I do think it would be of very great value to the company in the management of its business. If I were in the place of the Government, I would not seek the maximum amount that I could force out of the company, but I would see the minimum that I could get safely. I would give all the aid and encouragement that I could possibly give with prudence to the management of this company.

If you allow me to say so, I think the only way that danger to the Government security will be prevented will be to put this company in a position so that its stockholders can receive something. I do not think it is for the interest of the Government to get all, even if they can, because it would discourage the management, if it has an honest one. If it has not an honest management you had better get rid of it.

#### WRECKERS LIKE A NON-DIVIDEND STOCK.

Q. Please tell me why you consider that that fact, if the stockholders do or do not receive dividends on their stock, so long as there are large interests in the shape of bondholders, who are interested in the regular receipt of their interest, has any material bearing on the question of the honest or efficient management of the company?—A. A non-dividend paying stock is the stock that wreckers and speculators are looking for, and it is the stock that they deal in. They have dealt in the Union Pacific when it was a non-dividend paying stock. They bought it at 20 or 30 or 40 cents on the dollar, put it on a dividend-paying basis, and then sold out. They did not want to hold the stock after it was on a dividend-paying basis. The stock then became scattered all over the country. I do not remember now, exactly, but I think there are eight or nine thousand stockholders at the present time. I believe it is for the interest of the Government, and for the security of good management in this road, that its stock should be in the hands of investors and not in the hands of speculators. If allowed to pay dividends, it is almost certain to be kept out of the hands of speculators. It gives the stock a permanent value, and that is what the speculator does not want. You do not find speculation in the Chicago, Burlington and Quincy Road, or in the Rock Island Road. Both roads are competitors of the Union Pacific.

Q. Do you not think the management of the Northern Pacific is a good, prudent, and conservative management?—A. I am not familiar with the Northern Pacific; no doubt it may be.

Q. Do you not think the present management of the Erie Railway is a prudent and conservative management?—A. I have not heard anything against it. I have no doubt it may be. I do not say that the non-dividend paying stock may not be prudently and carefully managed, but I



say the tendency of a non-dividend paying stock is to get into the hands of speculators. With a dividend-paying stock I do not think there are the same inducements.

. By the CHAIRMAN:

Q. When did you acquire your interest in the Union Pacific?—A. I acquired my interest, I should think, in 1884 and 1885. I paid par and above par for some of the stock that I bought then, and I have paid less since. I do not remember now the exact prices that I paid for the different lots of stock. I bought it at different times. I should say I bought some as low as 70.

Q. Do you attend the meetings of the board of directors of the road?—A. I do.

#### GOVERNMENT DIRECTORS.

Q. Do you meet the Government directors there?—A. I do.

Q. Do they ever participate in the discussions?—A. They do. The present Government directors in the road are intelligent and as pleasant and agreeable and valuable men as there are in the board. I think they are more valuable than I am. I have had some experience before in railroad boards where there were two sets of directors—the Government and the road directors. As a rule, I do not think that two managements work well together. I think that the present board of directors in the Union Pacific are an exception. I was for a long time in the Boston and Albany Railroad. I was there as a State director. The State owned a very large interest in the road, and out of the thirteen directors I think the State elected five. It never, as a rule, worked well in that board, and finally I exerted what influence I had to have the State exchange its stock for bonds, leaving the stockholders of the road free to manage their property as their competitors managed their property.

Q. You think, therefore, such a course with the Union Pacific would have a wise result?—A. I have no doubt of it. I think the present Government directors are good and valuable men. I think either of them is, perhaps, of more value to the road than I am, and I should be very happy, in case that was done, to resign my position as a director in the Union Pacific to either of the Government directors that are there.

Q. If the Union Pacific were prepared to hand over to the United States Government a check, and you were to settle with it, and the Government was perfectly willing to have the Government directors retire, would it thereby increase the happiness of the management?—A. I do not think there is any question about what any railroad would do. I do not think they would invite a second board of supervisors in. I do not think that admits of discussion. It seems to me it does not. It seems to me that in order that the Union Pacific Railway may do its best it has got to manage its affairs in its own way, and become wholly responsible for its acts.

Commissioner ANDERSON. Its own road, do you mean?

The WITNESS. No; but the management, I think, cannot be divided. If the Union Pacific has bad managers they ought to be thrown out. If they are dishonest they ought to be removed. If the Union Pacific at the present time has an honest management and a competent board of directors I believe it is going to inherit a good management. "Birds of a feather flock together." In the directories of almost all corporations the vacancies are filled through the influence of the remaining directors. If you have an honest board, and there is a vacancy to fill,

I do not think it is natural for an honest board of directors to invite in any bad element. On the contrary, if it is a bad board I do not think they will fill it with good and honest men.

The CHAIRMAN. Have you any other suggestion to offer?

The WITNESS. I have no suggestion to offer. I do not feel that I am competent.

The CHAIRMAN. Judge Dillon, will you ask any questions?

Mr. JOHN F. DILLON. I have nothing to ask.

MAHLON D. SPAULDING.

#### AFTERNOON SESSION.

JOHN F. DILLON, being further examined, testified as follows:

#### LITIGATIONS BETWEEN THE GOVERNMENT AND UNION PACIFIC.

By the CHAIRMAN:

Question. Will you make a statement of the more important litigations between the company and the Government growing out of the legislation applicable to the companies?—Answer. I had nothing to do with the litigations of the company prior to the fall of 1879, and what I shall say respecting litigations prior to that time is derived wholly from records, to which I will refer.

By Commissioner ANDERSON:

Q. Had you not a good deal of personal connection with some of the litigations between the Kansas Pacific and the Union Pacific in your official capacity as a circuit judge of the United States?—A. No; I think not. I believe that the prorate question was argued in 1878 or 1879 before the circuit bench when I was on it, as was also Judge Dundy; but my recollection is that I declined to take any part in the decision. I think that is of record. I recollect very well that was argued. Judge Usher was there and made an argument in favor of the Kansas Pacific view of that question, and it was argued on the other side by Mr. Poppleton and other gentlemen.

#### REFUSAL TO SIT AS JUDGE IN SUCH LITIGATIONS.

Q. Your refusal was based on your relationship to Mr. Sidney Dillon?—A. Yes, sir; I think I preferred not to sit in the decision of that cause for that reason. I did not know whether the reason was assigned of record. Undoubtedly that was the reason that operated in my own mind.

Recurring now to the question put to me, I will state that some of the important litigations between the Government and the company have grown out of the sixth section of the act of 1862, as modified by the fifth section of the act of 1864. The sixth section of the act of 1862 imposes on the company the duty of transmitting dispatches at all times, transporting mails, troops, munitions of war, supplies, &c., for the Government—

#### ACT OF 1862, SIXTH SECTION.

Whenever required to do so by any department thereof, 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); and all compensation for services rendered for the Government shall be applied to the payment of the said bonds and interest until the whole amount is fully paid. And after said road is completed, until said bonds and interest are paid, at least 5 per centum of the net earnings of the said road shall be annually applied to the payment thereof.

In the amendatory act of 1864, section 5, section 6 of the act of 1862 was amended as follows:

ACT OF 1864, SECTION 5.

And that only *one-half* of the compensation for services rendered for the Government by said companies shall be required to be applied to the payment of the bonds issued by the Government in aid of the construction of said roads.

The Supreme Court of the United States, in the case of the Union Pacific Railroad Company, appellants, against the United States, at the October term of 1878 (99 U. S., page 402), decided that the Union Pacific road was completed on the 6th day of November, 1869. The Supreme Court had previously decided, at the October term of 1875, in the case of the United States against the Union Pacific Railroad Company (reported in 91 U. S., page 72), that it was not the intention of Congress, in the acts of 1862 and 1864, to require the company to pay the interest before the maturity of the principal of the bonds, and that the legislation implied an obligation on the part of the company to pay both principal and interest when the bonds shall become due, and did not imply an obligation to pay the interest as it semi-annually accrued.

On the 3d day of March, 1871 (16th statutes, 525), in the appropriation act for that year, Section 9, Congress enacted as follows:

ACT OF 1871, SECTION 9.

That, in accordance with the 5th section of the act approved July 2d, 1864 [giving its title, amendatory of the act of July 1, 1862], the Secretary of the Treasury is hereby directed to pay over in money to the Pacific Railroad companies mentioned in said act, performing services for the United States, one-half of the compensation at the rate provided by law for such services, heretofore or hereafter rendered: *Provided*, That this section shall not be construed to affect the legal rights of the Government or the obligations of the company, except as herein specifically provided.

Disputes arose between the Government and the company, which were considered by the Court in the Interest Case, above referred to (91 U. S., 72 A. D. 1875); and the Supreme Court in that case expressly decides, as you will see by reference to the opinion, that the act of 1864 imposed an obligation on the Government to pay the companies *in cash* for one-half of the transportation services. In the course of its judgment the Supreme Court said, giving the reason for this conclusion:

FROM SUPREME COURT DECISION.

If the Government consents to diminish its security so that only one-half of the money due for services is to be applied to the payment of the interest or principal, what is to become of the other half? There is no implication that the Government shall keep it; and, if not, who is to get it? Assuredly, the companies who have earned it.

Then the following sentence is instructive, as showing the course of practice of the United States under the legislation:

The practice [says the Supreme Court in ~~that~~ case] for a series of years was in conformity with the views we have taken of the effect of the charter, until the Secretary of the Treasury withheld the payment of the money earned by the companies for services rendered the Government. His action brought the subject to the attention of Congress, and the act of March 3rd, 1871 [16 Statutes, page 525, sec. 9, which I have above quoted], was passed, directing that one-half of the money due the Pacific railroad companies for services rendered either heretofore or hereafter be paid them, leaving open the question of ultimate right for legal decisions.

The next act relating to the Governmental business of the company, and the relations between the Government and the company, is the act

of 1873, which has been very prolific of litigation, and, as I view it, and as I think you will agree, this act was very unjust to the company in its relation to the Government. I read from the 17th Statutes, 508, Acts of March 3, 1873, as follows:

ACT OF 1873, SECTION 2.

SEC. 2. That the Secretary of the Treasury is directed to withhold *all* payments to any railroad company and its assigns, on account of freight or transportation over their respective roads, of any kind, to the amount of payments made by the United States for interest upon bonds of the United States issued to any such company, and which shall not have been reimbursed, together with the 5 per cent. of net earnings due and unapplied as provided by law; and any such company may bring suit in the Court of Claims to recover the price of such freight and transportation; and in such suit the right of such company to recover the same upon the law and facts of the case shall be determined, and the rights of the United States upon the merits of all the points presented by it in answer thereto by them, and either party to such suit may appeal to the Supreme Court, and both said courts shall give such cause or causes precedence of all other business.

FAILURE OF GOVERNMENT TO PAY CONTRACT RATES FOR TRANSPORTATION.

Now, I state, subject to correction by reference to the records of the company and of the Government, that it is my understanding that, with very trifling exceptions, since the act of 1873, the Government has never paid to the Union Pacific Company the half transportation money which by the terms of the contract is due from the Government to the company for Government services. And this is true not only prior to 1875, when it was expressly adjudged by the Supreme Court of the United States that this amount was due to the company in cash, but it is equally true since that time, and that decision has been not only disregarded but defied, as I take it, and desire to state it, by the officers of the Government from that time to this. In stating this I am not intending to criticise the motives or actions of the officers of the Government, but to state the fact as I understand it to exist, and, as I think, the records show.

Q. Are you not satisfied, however, that the amounts so due for this half compensation, payable in cash, have been applied to the liquidation of actual liabilities accruing from the company to the United States, which were also not paid in cash?—A. I understand that while the company insisted on their right to have the half services paid in cash, yet when that right was denied, they did afterwards consent that the Government might apply this sum towards the amounts that became due to the Government under the Thurman act, and that it was so applied.

Q. And also to the 5 per cent. due before the Thurman act?—A. Yes, sir; and it was applied. But we did not get our money as we earned it, and as we claimed we were entitled to it. The Government insisted on keeping it, and applied it on the subsequently accruing obligations of the company to the Government. Nor is that all, nor is it the worst. Not only did the United States claim to withhold all the Government transportation from the subsidized road, but also all the compensation of the unsubsidized road, and all the compensation of the branch roads or the auxiliary roads or any roads which were controlled or operated by the Union Pacific Company. Accordingly, contesting this right, which had no sort of basis to rest on, the Union Pacific Company brought two or three actions, one to recover compensation for mail and other Gov-

ernment service on the Kansas Pacific road, which you recall is subsidized to the extent of 394 miles, and the rest of it is unsubsidized; and it also caused an action to be brought by the Central Branch, which is subsidized to the extent of 100 miles, but which has a mileage of three or four hundred miles, the subsidized line controlling the others by way of lease. Those suits were tried in the Court of Claims.

#### SUIT TO RECOVER FULL COMPENSATION.

Q. Will you give us the numbers, if you have them?—A. I cannot give them. That suit was tried in the Court of Claims, which rendered its judgment and opinion, which will be found in the 16th volume, Court of Claims Reports, pages 353–361, in which that court decided all the points in issue in favor of the companies. That is to say, that neither under the original legislation nor as a result of the consolidation of the Kansas Pacific, Denver Pacific, and Union Pacific, was the Government entitled to retain anything but pay for half transportation on the subsidized lines; that the company was entitled to be paid in cash the other half for transportation on the subsidized lines, and to be paid in cash for the full amount for transportation on the non-subsidized lines, as well as full compensation for all services on the branch or auxiliary lines (16 Court of Claims Rep., 359; 20 *ib.*, 102). The Attorney-General of the United States took an appeal from this judgment to the Supreme Court. The cause or causes were on the docket for some time, and my recollection is that just before they would have been reached by regular order the Attorney-General dismissed the appeals.

#### FAILURE OF THE DEPARTMENTS TO RECOGNIZE DECISION.

Q. Who was the Attorney-General?—A. I think it was Judge Devens. Meanwhile the Departments did not recognize the decision of the Court of Claims as binding upon them, and retained from the company *all* transportation of all kinds. Afterwards, on making application to the Treasury for some relief, the matter was referred, or came in some regular way, before the First Comptroller of the Treasury, the Hon. William Lawrence, in the case, as I recollect it, of the application of the Utah Northern to be paid for services rendered to the Government, all of which was withheld by the Departments on account of its relation, or supposed relation, to the Union Pacific Company. That matter was argued. I recollect going to Washington and arguing the matter before the Comptroller, who considered it, and, following the decision of the Court of Claims, and, as he interpreted it, of the Supreme Court of the United States, in the Net Earnings Cases, he decided that the Government had no right to retain the earnings for Government services of the Utah and Northern Railroad Company, which decision you will find in one of the volumes of his published reports (4th volume Lawrence's Decisions, pp. 188, 214). After that decision by the Comptroller, or as I understand it—and I state it subject to correction—it made no difference; we did not get any money, and never got any; they never would pay any. That is only important as showing the nature of the relations between the company and the Government, since, afterwards, by an arrangement between the Utah Northern and the Union Pacific, the Union Pacific settled with the Utah Northern for that claim, and, having so settled it, consented to its application to the payment of its own cash obligations to the Government. A year ago last month, I think it was—it was one of the last cases argued before the Supreme Court prior



to their adjournment for that year (the Central Pacific meanwhile having brought actions against the Government to recover for transportation on their non-aided lines and on their leased lines, and the Court of Claims having given judgment in favor of the company)—the matter came on for argument in the Supreme Court, and, as the Union Pacific had a common interest in the question, I was asked to assist in the argument, which I did. Ex-Senator McDonald was the leading counsel for the Central Pacific Company in that matter. The Supreme Court of the United States decided that the Government had no right to retain any but the half transportation on the subsidized lines, and the other half and all other transportation it must pay for in money. That decision will be found in 118 U. S. Reports, p. 235.

Q. That was within a year or two?—A. Last year. After the decision of the Supreme Court in the Interest case (91 U. S., 72), and after the act of March 3, 1871, above alluded to, and the act of March 3, 1873, above mentioned, Congress passed an act, approved April 30, 1878 (I think it is in the appropriation act of that year), in which there was a proviso as follows, namely:

#### ACT OF 1878.

*That no part of this sum [that is, sums appropriated for Government uses], shall be paid to any railroad company or to its assigns on account of freights or transportation over their respective roads unless there be an excess due such companies after charging the amount of payments made by the United States for interest upon bonds of the United States issued to any such company; but the sum shall be paid to the Secretary of the Treasury, to be by him withheld as directed by existing law.*

That is to say, that notwithstanding the Supreme Court of the United States had decided in the Interest Case (91 U. S., 72), at the October term, 1875, that the company was not indebted in respect of this interest, and was under no obligation to pay it until the maturity of the bonds, and notwithstanding the Supreme Court, in the same decision, held that for half transportation the Government was under an obligation to pay the companies *in cash*, the Congress of the United States in this act said that the Government should not keep its contract, should not pay any cash, but should withhold *all*—in direct violation of the letter of the act and of the meaning of the act as it had at that time been authoritatively interpreted by the Supreme Court.

Q. How do you make that out to be a violation of any duty that Congress owed to the road?—A. In this way, namely, the Supreme Court of the United States, in the cases above referred to, as well as subsequently (104 U. S., 662), held distinctly that the provisions of the sixth section of the act of 1862 constituted a contract between the Government and the company, which could not be altered without the consent of the company.

Commissioner ANDERSON. You have answered it in full, if that is correct.

The WITNESS. That contract was that the Government should retain one-half of these services, and apply it on their bonds and interest account, and pay the other half in money. The act of 1878 says, "We will keep it all."

Commissioner LITTLE. You are deducing an argument, as I understand it, to show either the bad faith of Congress or the unconstitutionality of the act that you are commenting on.

The WITNESS. I do not impute any bad faith to Congress. I do not call names.

Commissioner LITTLE. Is there any other deduction to be drawn?

## THE COMPANY HAS KEPT ITS OBLIGATIONS.

**The WITNESS.** Suppose Congress either did not consider the thing carefully at all, or were not duly regardful of the rights of the company and the contract obligations of the United States? I am stating this to show what I feel convinced of, that in the relations between the Government and the company, ever since the completion of the road, the company has kept its obligations, and that whatever criticism may be offered is one, I think, justly imputable to the conduct of the Government towards the company, rather than any defaults or delinquencies of the company to the Government.

**Commissioner ANDERSON.** Did not the Supreme Court of the United States decide that the alteration effected by the Thurman act, whereby the *entire* transportation was to be held and applied as security for the debt, was a permissible exercise of the legislative power, and was not an impairment of the contract you refer to under section 6?

## THE THURMAN ACT.

**The WITNESS.** I do not understand that the Supreme Court held that the Thurman act undertook, in any respect, to change the contract contained in section 6 of the act of 1862. On the contrary, the court, as I recollect it, said that the contract could not be changed, and that the Thurman act did not undertake to change it; and if the Thurman act is carefully examined you will perceive, I think, Mr. Commissioner, that it does not undertake to change the contract as to the Government transportation and the 5 per cent. as it existed under the acts of 1862 and 1864, but preserving that and providing that these sums shall be still paid in and still be applied on bond and interest account, makes a further exaction or requirement of the company to pay in addition to that such sum as shall amount to 25 per cent. of their net earnings, and the other half of that is to be carried to a sinking fund newly created by that act.

**Commissioner ANDERSON.** I call your attention to the first four lines of section 2 of the Thurman act, and ask you to compare it with section 5 of the act of 1864, and then state whether you can possibly assert that the court has not decided that the Government has power to increase the amount to be retained by the Government out of the earnings of the company.

**The WITNESS.** The Thurman act, in sections 2, 3, and 4, does provide, indeed, that the whole amount of compensation which may from time to time be due to the several railroad companies for services rendered to the Government, shall be retained by the United States, one-half thereof to be applied presently to the liquidation of the interest paid and to be paid by the United States upon the bonds so issued by it as aforesaid. That is precisely like the acts of 1862 and 1864. So that the Supreme Court regarded this as not changing the contract up to that point, but affirming it and providing for its being carried into effect. Then, as to the other half, the provision is:

The other half thereof to be turned into the sinking fund hereinafter provided for the uses therein mentioned.

## SUPREME COURT DECISION ON THURMAN ACT.

The Supreme Court held—and that was the only point in the Thurman Act Case as I now recall it from memory—that it was competent for Congress, either by reason of its ordinary legislative power or by reason of the reserved right to alter, amend, or repeal, to provide, as they did in the Thurman act, that a company situated as this one was might be re-

quired by the Government to establish and create a sinking fund for the ultimate payment of its debts, the court saying at the same time, "This does not change the contract, if it did it could not be done."

Commissioner ANDERSON. The point with me is this, whether you call it a change of contract or not is not material, whether you concede, if we should report to Congress a scheme for the retention of 50 per cent. of net earnings, if we deemed that necessary, to make the United States secure, that that is within the powers of Congress and would not be an impairment or alteration of what you call the original contract? If you conceded the 25 per cent. why not as to 50?

The WITNESS. I answer that question in this wise: I should probably find it difficult myself to discover any ground—if it is competent for Congress to provide, without its being a violation of the contract, that the Government may require this company to pay 25 per cent. of its net earnings—on which an act requiring the company to pay 50 per cent. was unconstitutional; but whether the court might not deem one to be reasonable and lawful and the other not, I cannot say.

Commissioner LITTLE. Is all this discussion with a view of attacking the constitutionality of the Thurman act and the act of 1873?

The WITNESS. No; so far I state what I have simply to show the practical operation of the existing legislation, thinking it might afford to the Commission some useful light in the suggestions which they will have to make as to the adjustment of the relations between the company and the Government in the future. I think that is fair.

Now, there is a matter connected with the Thurman act which I think, in any adjustment of the debtor and creditor relations between the Government and the company, on equitable principles, should be regarded by this Commission; and as it is appropriate in this connection, I will state it.

#### SENATOR THURMAN'S SPEECH.

When the Thurman act was under discussion, Senator Thurman introduced it into the Senate with an elaborate and evidently a very carefully-prepared speech in its favor. You will notice that one provision of the act is that the money which the company is compelled to pay into the sinking fund, arising out of the 25 per cent., is to be invested in a certain restricted line of Government securities. The investment is restricted to that. I have before me the debates on the subject of the Thurman act; and in Mr. Thurman's speech, which has the weight of almost an official commentary on the act, for it was not in substance and in very few instances not even literally changed, he said, speaking of this investment feature, after stating that the Government debt bears 6 per cent., and runs twenty-three years:

The companies have to pay 6 per cent. interest, but mark it, there are no rests. Twenty-three years from now they will have to pay the accumulated 6 per cent. interest, but there are no rests. If any one will make a computation he will find that money at 5 per cent., compounded semi-annually, as it is here provided it shall be compounded, will produce in the time we have to consider a larger sum than 6 per cent. upon the same amount of money not compounded.

That is, the Government should get it at 6 per cent.

It is obvious [he continues] that the amount of accretion of this sinking fund—that is, the interest upon it—ought to be sufficient to meet the interest which the companies will have to pay for the same period of time upon the Government loan. The 5 per cent. bonds, even if purchased at a premium of 10 per cent., will produce that interest, owing to the compounding of interest as I stated. The provision of the bill, therefore, in this respect is perfectly fair to the companies, as it is just to the Government. Section 4 provides that there shall be carried to the credit of the said funds on the 1st of January, &c.

Quoting it as it was subsequently enacted.

## DEDUCTIONS DRAWN.

I read that to show that so far as the author of this act was concerned, and I suppose, so far as the Congress of the United States was concerned, they did not mean that that act should operate with any injustice to the company or to the Government. They said, in substance, The Government has to pay 6 per cent. We require this, we compulsorily require it, to create this sinking fund; but under such circumstances as that it is no injustice to the companies, since they will get fully 6 per cent. for their money. Now, it has turned out that so far from the company getting 6 per cent. for this money, which they were compelled by this act to turn into the sinking fund, that money has practically lain idle, like the foolish man's talent, wrapped in a napkin. What I say is, that in adjusting the equitable relations, what is right between man and man as a matter of equity and conscience, under an act which we were compelled to accept, which was imposed upon us by the superior power of the Government, which has deprived us practically of all revenues from seven or eight millions of dollars, which I believe that fund now amounts to—you will get the figures from the Comptroller, but I think the net interest over and above the premiums is very little, if anything—that that constitutes, in any fair scheme of adjustment, an element which gives us a strong, equitable ground to have it considered, not only in respect of the future, but in respect of the past. Certainly any chancellor would say that if one man, the creditor, should take advantage of the power which he has to make a fund unprofitable in his hands, he should account for the loss. That is just what the Government did. I do not impute any bad faith. They intended it to operate justly, but they could not foresee the future, and no man can foresee it very far.

## SUPREME COURT DECISION AS TO NET EARNINGS.

By Commissioner LITTLER :

Q. Have you any more cases ?—A. The Supreme Court of the United States, in the cases reported in 99 U. S., 402, 455, and 460, decided at the October term, 1878, and which were pending when the Thurman act was under discussion and was adopted, decided very clearly what was the basis of ascertaining *net earnings* under the original acts of 1862 and 1864. Now, after the Thurman act came into effect, which in some respects defined, in a very general way, though, the test by which to determine net earnings, immediately disputes arose between the Government and the company as to what were net earnings.

## THE COMPANY'S CLAIM AS TO NET EARNINGS.

To make this short, the companies claim, in substance, that if, by reason of the growth of the traffic on the road, or from any other legitimate causes, it became necessary to construct new sidings or necessary to construct new station-houses or necessary to sink new wells, to build new tanks, to do anything, in short, needful to accommodate the enlarged wants and the increased traffic of the company, the cost might be deducted from the gross earnings as a legitimate charge against the earnings, in order to ascertain the net earnings. The Department disputed that; they disputed it in the face of the decisions of the Supreme Court in these cases; and every February they came down upon us with a demand for the payment of the amount of the cash requirements under the Thurman act, based on their construction of it. My advice was

to the company (and my understanding is that it was done) to pay to the Department, to the Commissioner of Railroads, or into the Treasury, promptly every dollar which we owed under our construction of the act. I believe it was done; but it was not the full amount which they claimed under their construction of the act. Besides which, we had a suit pending in the Supreme Court for several years—I think it was pending at the time; the original institution of it was prior, perhaps, to the Thurman act; I am quite sure it was—for compensation for the carrying of the mails, based on the charter contract embodied in the sixth section of the act of 1862, which was in substance that we were to be paid for Government service at fair and reasonable rates, not exceeding what was paid by private parties for the same kind of service. That is almost literally the language of the contract. When we brought our action in the Court of Claims the Government came in and said, We will not allow your claim; the Postmaster-General has fixed what is a fair and reasonable compensation for carrying the mail; we will allow you that, and we will allow you no more. That was the same compensation, may it please this Commission, which was paid by the Government for the transportation of mail in thickly-settled States, as in Iowa, in Illinois, in Pennsylvania, where they had thousands of population to a mile where we had not hundreds. We had to carry our mail with doubled engines over the mountain, as you will see when you get there. You will see that that was not enough. That was the issue in that case.

#### DECISION THAT SIXTH SECTION WAS A CONTRACT.

The Court of Claims decided that the Government was right, and we carried that case by appeal to the Supreme Court of the United States, and it came before the court in 104 U. S., 662, and they decided that our company was right, and that the sixth section of the act of 1862 was a contract. (See, on this point, p. 664.)

By Commissioner ANDERSON:

Q. Do I understand that they decided that the company was entitled to its mail-rate claims?—A. They decided in that case that the sixth section—and you will see, as a lawyer, that I am accurate, when you look at it—of the act of 1862, constituted, between the Government and the company, a contract in relation to the price which was to be paid, just as much as if it had been written out and signed between private parties. That contract was “reasonable compensation, at not exceeding the rates which private parties paid to the company for like services.” We claimed that we were not getting enough. After that decision by the Supreme Court, when the record was remanded to the Court of Claims—well, I am not going into that.

It took 1,400 printed pages to go into that in the courts. The Court of Claims made a finding, in general terms, that the amount which the Government allowed us “was fair and reasonable, “not exceeding the amount paid by private parties for the same kind of services;” refused to make any more specific findings of fact, and practically, in that way, cut off any appeal to the Supreme Court of the United States on that point (20 Court of Claims Reports, p. 102; 116 U. S., 403). I make not the slightest reflection on anybody or on any tribunal—for judicial tribunals are actuated generally by nothing but the purest motives—but the result under the forms of law, was the grossest injustice to this company, because—and I will submit that to your fair sense of justice when you go over this line—here was a road, necessarily constructed at



an enormous expense, running through a thinly-populated region, with a service in the mountainous portions of extraordinary expense, with a practical result that this company should not get any more for carrying the mails than the Government pays anywhere else in the United States. No judgment can sanction that result in conscience. It is wrong. A thousand judgments would not make it right. Because we could get no specific findings of fact as to the mail service, we got only the rates paid by the United States in the thickly settled parts of the United States (116 U. S., 403; 117 U. S., 355.)

#### DISCRIMINATION BY GOVERNMENT AGAINST UNION PACIFIC.

It appeared incidentally in that case—and that is another matter proved in that case—that the Department, although recognizing the fact that we were a large debtor to the Government, had actually discriminated in many instances against this road, preferring to send the fast-mail service and other services to other roads, which could have been given as well, if not better, to this road.

Commissioner ANDERSON. Please name the roads.

The WITNESS. I cannot recall them; that fact was proved in that case; Mr. Mink can give it, probably.

Mr. MINK. The Burlington and Missouri.

The WITNESS. The Burlington and Missouri, the comptroller states.

By the CHAIRMAN:

Q. Do you recall any other road?—A. I do not; I happened to meet that in that case.

Mr. MINK. The Milwaukee and St. Paul, and the Chicago, Burlington and Quincy.

#### VEXATIOUS DISPUTES AND INVESTIGATIONS.

The WITNESS. This is important for you to understand. In the Mail and Net Earnings Case, to which I have been referring, the company have had many unavoidable and very vexatious disputes with the Government. Vexatious, I say, not because an ordinary honest business dispute, such as existed between the company and the Government, is particularly vexatious—that may be expected always—but it was vexatious, because at every session of Congress some one gets up and says, "I move an investigation; here is a company in default." It is used as terrible engine of oppression—the mere fact that there is litigation, especially when a great corporation like the Union Pacific is a party to it. Those litigations in that way have been a source of more injury to the company than the simple annoyance of having a litigation on their hands. In order to terminate our disputes with the Government and bring everything down to the 31st day of December, 1882, the pleadings on both sides of this case were so constructed as to put everything at issue between the company and the Government down to the 31st day of December, 1882, so that from that time on we would have had a clean sheet, whatever might be the result. The matter went to judgment.

By Commissioner LITTLE:

Q. That is the case where you paid the judgment?—A. Yes, sir; it went to judgment, and they decided against us on the question whether we were entitled to any more compensation for carrying the mail than

had been paid. They decided in our favor on the subject of new construction or net earnings, making a difference in the account in our favor of some \$800,000.

WHAT CAN BE DEDUCTED BEFORE DECLARING NET EARNINGS.

Q. They adopted your construction, namely, that you had a right, before declaring net earnings, to take out the cost of betterments, including construction?—A. I would not like to answer it just that way.

Q. Will you tell us what they did decide?—A. I will tell you what they did decide. You will notice that the Thurman act provides, section 1, "That the net earnings shall be ascertained by deducting from the gross amount of their earnings respectively the necessary expenses actually paid within the year in operating the same"—that is, the road—"and keeping the same in a state of repair." The contention of the Government in that case was that this act impliedly recognized the distinction so prevalent among railroad experts and accountants, of expenses which should be charged to *operation* and other expenses which ought properly to be charged to *construction*; and therefore the making of a new station or the sinking of a new well, or the like, would be a construction as distinguished from an operating expense. Hence we were all wrong.

We contended, in the first place, that the line which divided operating expenses from construction expenses was vague and indefinite, and that this act intended to ignore that, and to allow us to deduct from gross earnings any sum which we actually paid out of earnings within the year necessary to enable the company to maintain the physical condition of the road and enable it to accommodate its traffic.

Q. Even if that involved the construction of side-tracks and new buildings, station-houses, wells, &c.?—A. Certainly, and the court sustained us (20 Court of Claims, Rep., 102.) Therefore, you see that we were justified in not meeting these demands of the Commissioner of Railroads every 1st day of February, because, if we had paid them or met them as he made the demand, we would have paid between 1879, when the Thurman act went into effect, and 1882, when this adjudication was made, \$800,000 more than the court said we were legally bound to pay. And yet, because we did not do it, we were subjected to criticism in every session of Congress. That is the practical lesson, I think, you will derive from that.

ALL QUESTIONS ADJUDICATED DOWN TO DECEMBER 31, 1882.

The whole account, therefore, down to the 31st day of December, 1882, was adjusted, and it is, as you lawyers would call it, between the company and Government, *res adjudicata*. I see there is a direction here, in this act under which you meet, to look into the question whether there had not been arrears or mistakes in the account. We have no objection to that. We do not think there have been any. And if there have been, we do not stand on the conclusiveness of that judgment if it is not conclusive as against the United States; that is, I suppose the company would not. That litigation was well fought. The Government was represented by a very able attorney, a gentleman who impressed me professionally with his ability and his zeal.

Commissioner ANDERSON. Give us a precise reference to the record of the case which, in your judgment, adjudicated all questions up to the 31st of December, 1882.

The WITNESS. I refer you to the pleadings in the Court of Claims case. (20 Court of Claims, Rep., p. 102; same case on appeal in Supreme Court, 116 U. S., 402; 117 U. S., 355.)

Commissioner LITTLER. The case was affirmed by the Supreme Court, as I understand it.

The WITNESS. Yes, sir; there were three of those cases in the Court of Claims, Nos. 11,901, 12,515, and 14,389. (20 Court of Claims, p. 102.)

Commissioner LITTLER. Those cases were consolidated and argued together in the Supreme Court?

The WITNESS. Yes, sir.

Commissioner LITTLER. And there was one opinion?

The WITNESS. One opinion and one judgment.

Commissioner ANDERSON. Can you give us a reference to the decision of the Supreme Court?

The WITNESS. Yes, sir. (117 U. S., p. 355.) The court found in that case that the claimant, the Union Pacific Railroad Company, was entitled in the aggregate in respect of all its claims, including the Denver Pacific and Kansas Pacific, for the period in suit ending December 31, 1882, to \$2,910,124.08. That the Government on its counter-claim, which embraced 5 per cent. net earnings of the Union Pacific from November 6, 1875, to November 5, 1876, and from November 6, 1876, to November 5, 1877, and from November 6, 1877, to June 30, 1878 (that was when the Thurman act went into effect), and 5 per cent. of the net earnings of the aided portion of the Kansas Pacific, from November, 1868, to December 31, 1882, and cash payments due on the Union Pacific (the Thurman act only applying to that) from July 1, 1878 (that is when it took effect), down to December 31, 1878, and for the years 1879, 1880, 1881, and 1882, to the sum of \$4,487,807.39.

#### THE JUDGMENT PAID PROMPTLY.

Judgment was entered as follows: "The defendants"—that is, the Government—"are entitled to judgment for the difference, amounting to \$1,577,683.31," *which judgment*—I want to put it on this record as evidence of the good faith of this company—*was paid as soon as it was signed*, reserving simply the right that that payment should not prejudice the company's proposed appeal.

Commissioner ANDERSON. That is not quite accurate.

The WITNESS. Why is it not?

Commissioner ANDERSON. Because there was a further accounting with the Railroad Commissioner, and the amount ascertained was substantially, in pursuance of that settlement, \$916,000 instead of \$1,500,000.

The WITNESS. It only increases the equity of this company.

Commissioner ANDERSON. You paid it on the 16th of April, 1885?

Commissioner LITTLER. You paid a part of it into the sinking fund?

The WITNESS. I want to put it on the record, that just as soon as the Commissioner would tell us what we owed, we paid it. We paid of that sum over \$900,000 in cash. The balance, making up this million and a half, was money which the Government had had in its hands for an indefinite time arising out of the transportation over the non-aided portion of the road and the branches, which they had kept by force. The equity of the company is just as strong as, if not stronger than, if they had paid the whole amount in cash.

Commissioner LITTLER. Do you understand that the bill of particulars filed by the company against the Government in this suit you have been commenting upon included all the claims you had against the

Government for transportation on the non-aided portions of your road, including all its branch lines, up to that time?

The WITNESS. No; that claim is limited to the Union Pacific Railway Company. The bill of particulars of the claims sued on show that the claims sued on were for services rendered by the consolidated company, to wit, the old Union Pacific, the Kansas Pacific, and the Denver Pacific. The *Union Pacific* could not sue the Government on the other claims, in favor of the branch lines, for the reason that if there had been a regular assignment of these claims to the Union Pacific, there is a statute of the United States which forbids any assignee of a claim against the Government from suing the Government upon it. So that this suit did not involve at all the amounts due for branch-line service, or for any service, except services on the consolidated railway.

Commissioner LITTLER. Then you still have such a claim?

Commissioner ANDERSON. No; that is what reduced the million and a half to \$900,000.

The WITNESS. They owed us on account of branch-line service, in round numbers, enough, with the \$900,000 which we paid in cash, to make the payment of this judgment a payment in full to December 31, 1882.

Commissioner LITTLER. Then the payment of the judgment in full, in the manner which you have described the payment, canceled all your claims against the United States up to that time for all services, both on the consolidated line and on all its branches.

The WITNESS. I so understand it, distinctly. That is the way I understand it.

Commissioner ANDERSON. Welcome the day, December 31, 1882. We have one reckoning point. I am obliged to you for discovering that day, Mr. Littler.

Commissioner LITTLER. We have made the landing on that.

The WITNESS. We have another dispute, and I suppose it is embraced within the scope of your inquiry. I do not know why it is not. It is this never-ending question of *net earnings*.

Commissioner LITTLER. You have said all you desire to in regard to the Government case?

The WITNESS. Yes, sir; I think so, unless you want to ask some question.

#### PENDING ISSUES BETWEEN UNION PACIFIC AND THE GOVERNMENT.

By Commissioner ANDERSON:

Q. Will you please state, in a short form, the different questions on which there is now an issue between the Government and the Union Pacific Railway system?—A. We claim still that for mail services rendered since December 31, 1882, we are entitled to the contract rate, and that the amount allowed by the Department is inadequate and unjustly small; but we have no suit involving that issue. The only suit that occurs to me as now pending between the Government and the company, growing out of existing legislation, is one now pending in the Court of Claims in respect of the *Omaha Bridge*, and our relations to the *Pullman Palace Car Company*.

#### THE OMAHA BRIDGE.

The dispute in relation to the bridge is this: It is twofold. The first is, whether the bridge is a part of the subsidized line of road. The second is, if it is, then the disallowance by the Government of the net

essary expenses which we incurred in enlarging and putting it in a state of repair and safety, was erroneous. It is, comparatively, as I understand, a matter of indifference to the company, under its view of the act, whether or not the bridge is subject to the Thurman act in respect to net earnings.

The facts about that bridge are these, as I understand them: The bridge and its approaches are  $3\frac{1}{10}$  miles long. The bridge was commenced, as the proofs show, in 1869. All that was gone into in the case in the Court of Claims, and also in the case of *Hall vs. The Union Pacific*, known as the *Terminus* case. It proved to be a very expensive thing to bridge the Missouri River. They had to go a very great depth, not only below the water, to the bed; but the bed itself was mud that had been deposited there for ages, and they had to go a great depth to find a rock foundation for the piers. It proved to be a very expensive undertaking. That matter was referred to Congress, and on the 3d of March, 1871, they passed what is known as the Omaha bridge act, authorizing the company to build a combined railroad and ordinary travel bridge, and to issue two millions and a half of dollars in bonds. Note the date: 1871. This road had been completed in 1869. The act authorized President Lincoln to fix the initial point of the road on the Iowa shore.

By Commissioner ANDERSON:

Q. By the act of 1862?—A. That was by the act of 1862. Mr. Lincoln fixed it, and that is a matter of record. It was at a point on the Iowa shore some distance above the location of the present bridge. The road was commenced to be constructed from the Omaha side of the river westward, and it was accepted on that construction clear through to Ogden, and subsidy bonds were drawn, the last subsidy bonds being drawn in 1869. Therefore the subsidy account between the company and the Government was closed in 1869.

By Commissioner LITTLE:

Q. In other words, you had spent all your money before you got to the bridge?—A. Yes, sir, before we built the bridge. We never drew any money in respect of mileage from the Iowa shore. Do you understand that? That is a point. Then came the bridge act. This was after this road was completed and the subsidy bonds all issued. In this act the Congress of the United States says to this company: For the more perfect connection with the roads on the Iowa shore—that is, for the public good—you may build this bridge. That was a mere gratuitous grant of authority, as the Supreme Court held we had the power under the acts of 1862 and 1864. And you may, said Congress in 1871, for that purpose issue \$2,500,000 of your bonds. They were accordingly issued. Now the question is, legally, did the Congress of the United States perpetrate a practical fraud on the public, or provide for the issue of an illusory security by saying, Yes, you may issue these bonds for the purpose of selling them in the market, and getting investor's money, to the end that you may build the bridge; but they are subject to the \$27,000,000 and accumulated interest which this Government has on the road of your company? If that is the true view, then this bridge is subsidized, and the Government is entitled to 25 per cent. of its net earnings. That is the way it strikes me.

DOES THE GOVERNMENT LIEN INCLUDE THE OMAHA BRIDGE?

Q. Do you understand the lien of the Government for the \$27,000,000 extends to and includes the Omaha bridge?—A. If it does not, then the Government is not entitled to 25 per cent. of its net earnings.



By Commissioner ANDERSON:

Q. Might it not be in equity subordinated to the \$2,000,000 which were issued by its authority, and yet, as against the company, be entitled to a lien?—A. If that is the view—that the Government had a second lien—then the difficulty is that the Supreme Court of the United States has decided in the Net Earnings cases, 99 U. S., 402, U. P. case, but particularly in the K. P. case, 99 U. S., 455, and more notably in the Denver Pacific case, 99 U. S., 460, that the lien of the Government was strictly limited to those portions of the road in respect of which—or, in the language of the act and of the Supreme Court, in *consideration of which*—the subsidy bonds were issued. Hence, the Government has no lien on the Kansas Pacific beyond the 394th mile. Hence, it has no lien whatever on the Denver Pacific. Hence, the Government, on the Kansas Pacific, is only entitled to 5 per cent. net earnings on the 394 miles. Inasmuch, therefore, as in respect of the 3.97 miles, the length of the present bridge and its approaches, the Government never issued any bonds whatever, the analogy of this decision, if not its indubitable legal effect, is, that the Government has no lien on this 3.97 miles. That is another answer to your suggestion. I am giving no definite opinion about that; it would not have any weight if I did. If, however, that view is right, then the Government is not entitled to call on this company for 25 per cent. or 5 per cent. or any other part of its net earnings on the bridge. That is one dispute. It is only one of an indeterminate and interminable number of disputes that will always exist, since it is not within the wit of man to devise an act to prevent, as long as you keep on foot a scheme which requires you or requires the Government to have an account of the net earnings each year. That is not all this dispute. There is another phase of it.

The other phase is this: That bridge was built in 1871. It was finished, say, about 1872. The world does not stand still. At that time—I cannot give your figures—the tonnage was comparatively small. In 1871, I will venture to say, Nebraska had not 150,000 people. There are more people in this city of Boston to-day than there were in 1871, probably, in the State of Nebraska, in the Territory of Wyoming, and in all the region between the Missouri River and Ogden. Very well. The locomotives were light, the tonnage was light, and the bridge at that time was adequate to all the wants of the road and all the wants of the public. Now we are using locomotives that weigh—well, you will see a picture of one of them there on the wall. It is colossal in its proportions. It is in the interest of cheaper transportation. The company is availing itself of the experience by which the price of transportation has been reduced ten-fold almost since it was organized. We find that that bridge, to be safe—absolutely safe—and to meet this changed condition of affairs, has to be substantially rebuilt. The company is doing it in good faith, and as cheaply as it can.

By Commissioner LITTLER:

Q. You are doing it now?—A. Yes, sir; we are doing it now. And when the Government made up its account against us, and did not allow us anything for expenditures made in making this bridge safe and adequate, which I say is the same question which the Supreme Court decided, in principle, in the case which we have just got through with—

By Commissioner ANDERSON:

Q. (Interposing.) You mean the new construction case?—A. Yes, sir; that is, the dispute about the bridge.

## THE PULLMAN CAR INTEREST.

The other dispute is somewhat like unto it. We had a contract for a great many years between the Pullman Company and ourselves in regard to passenger transportation on the Union Pacific road. Originally the contract was, I think (such as Pullman has with many roads), that he should supply the cars and the equipment of the cars; that we should keep them in order; that he should have all extra tolls paid by the passengers for the sleeping-car accommodations, and that we simply receive the ordinary fare. As you will see, when you come to go over the road there, a journey that contemplates four or five days more or less—for a great part of the traffic is overland—that is a very important thing. I know I said once or twice to the president of the company when we were having our disputes with Pullman, "Why do you not shake him off?" He said, "Well, you do not know as much about this as I do. Pullman's cars have a great reputation." They are on the Northern Pacific line, are they not?

Mr. MINK. Yes, sir; I think so.

The WITNESS. "They are on the lines of our rivals, and it will not do for us, as a business matter, if we can avoid it, to allow our rivals to run cars with the reputation of Pullman's cars, and we have our own or some other companies' cars." The result was, and I think you will find it in the report, that our arrangement with Pullman was criticised by men that did not know as much about it as we did. Finally, we did this: We bought a three-fourths interest of Mr. Pullman in every car—all the Pullman plant—on our road, and gave him our notes for it (which we afterwards paid), so that we share in all the proceeds of that arrangement in the proportion of three-fourths to one-fourth. This has turned out to be a very advantageous arrangement for the company, as I understand. The figures will show you whether that understanding is correct or not, but I think there is no doubt about that.

Now, the other existing dispute between the company and the Government is this: The Government says, "You have got to account to us for 25 per cent. of the net earnings of the Pullman cars." I think there was some suggestion at one time by the company that the Pullman earnings were no part of the earnings of the company. I do not believe there is any such thing as that. I think we are bound to account for this, and I do not think the company seriously denies it. But we say that we have a right to deduct the original cost of this plant, paid to Pullman from our gross earnings, before we are to account for 25 per cent. of net earnings; and, strange as it may seem, the Government contests that point. That is to say, they say, "You must account for the 25 per cent. of all your net earnings from the Pullman cars, but we will not allow you to deduct from your gross earnings what you paid Pullman in order to get the plant that yields the earnings," notwithstanding the Supreme Court and the Court of Claims have decided that for ordinary equipment—for that is one of the issues in the cases—we can deduct the cost of the equipment.

By Commissioner ANDERSON:

Q. Was it paid for by an issue of bonds or securities?—A. No, sir; it was paid out of earnings.

By Commissioner LITTLER:

Q. Has the Government a second lien on it?—A. Certainly; your lien extends to the Pullman cars, or to our interest in them, undoubtedly.

## THE POWER TO CONSOLIDATE.

A few words as to the power to consolidate:

The consolidation was made chiefly under the 16th section of the act of 1864, and, among other litigations, you will find that this act has been thus construed by the Supreme Court of the United States in the *quo warranto* case brought by the State of Kansas; that this act would authorize the consolidation, irrespective of the legislation of Kansas.

Q. Let me see if I understand that suit. That was a suit brought by the attorney-general of the State of Kansas, was it not?—A. Yes, sir.

Q. To inquire into the right of this Kansas Pacific Railway to consolidate with somebody else?—A. That is correct.

Q. The result of that was that in the court below they were defeated and they appealed to the Supreme Court of the United States?—A. No; that is not quite right.

## THE SUITS BROUGHT BY THE STATE OF KANSAS.

Q. Will you let us have that just as it was?—A. The legislature of the State of Kansas, about five years after the consolidation, passed a resolution directing the attorney-general of the State to bring an action of *quo warranto* against the Union Pacific Railroad Company, and against the directors, based on the idea that the Kansas Pacific was chartered as a *State* corporation, or, rather, as Territorial corporation.

Commissioner LITTLER. Yes, and could not be merged.

The WITNESS. And that it could not be merged or lose its autonomy or identity by virtue of anything it might do without the consent of its creator—the State of Kansas. Two suits were brought, one against the Union Pacific Railway, to know by what authority it operated the Kansas Pacific, and one against the directors of the Union Pacific, to know by what authority they exercised their powers to manage the Kansas Pacific. Those suits were brought in the supreme court of the State of Kansas. I prepared a petition to remove the causes to the Federal court, on the ground, chiefly, that the company had a defense arising under the law of the United States, and the supreme court of the State, I believe, made no order, but they approved our bond. We filed the record in the Federal court; whereupon the attorney-general of the State moved to remand it to the State court, and Judge McCrary, the circuit judge, and the district judge sitting together, sustained it, and made an order remanding the cause to the State court. The act of 1875 gives an appeal or writ of error in such case to the Supreme Court of the United States, which we promptly took. The case was very largely argued—and was a very interesting case—in the Supreme Court, and they reversed that order to remand. (111 U. S., 449.)

Q. That was all there was in that case?—A. That was all there was in that case. But they decided that point, evidently, like the Supreme Court often does, giving fully its reasons so as to prevent litigation in the future. You will see, when you read the opinion of the Chief Justice in that case (111 U. S., pp. 449, 462), that he says that the act of Congress gave the right to consolidate, and therefore this is a case arising under the laws of the United States, their contention being that Congress could not give the right in respect of a *State* corporation. There was a great deal more about it than this. I showed in the argument that the Kansas legislature had asked that this very thing should be done; but the court do not refer to that, I believe, in their opinion.

Commissioner ANDERSON. You were explaining the validity of the issue?

The WITNESS. I was switched off the track there by the question put to me by one of the commissioners. This 16th section of the act of 1864, a similar but not quite as broad a provision being in the 16th section of the act of 1862, provides—

ACT OF 1864, SECTION 16.

That any two or more of the companies authorized to participate in the benefits of this act *are hereby authorized 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 or adopt such corporate name and style as they may agree upon [hence our change of name from railroad to railway], with a capital stock not to exceed the actual cost of the road so to be consolidated, and shall file a copy of such consolidation in the Department of the Interior.*

INCREASE IN KANSAS PACIFIC STOCK.

The Kansas Pacific had a stock capital of only \$10,000,000. The report of the Commissioner of Railroads shows that it cost \$30,000,000, or in that neighborhood. Hence the authority distinctly conferred by this act to increase the capital, a right reserved in the very articles of consolidation, as you may recollect, to any amount "not exceeding," in the language of this act, "the actual cost of the roads to be consolidated." That stock was issued for cash pay. It was paid in cash. The auditor of railroads was notified. His answer was received that, under the circumstances and for the purposes for which that capital was proposed to be issued, "this office sees no objection to it." That is all I want to say on that.

Commissioner ANDERSON. Were \$10,000,000 actually received for it?

Mr. MINK. Nearly—within a few hundred dollars. I have a full account.

The WITNESS. I want to say one other word. You will see—I do not know whether you consider that you have the question of the legal power to consolidate referred to you or not?

Commissioner LITTLER. Not necessarily, I presume.

Commissioner ANDERSON. Only to report the facts.

MANNER OF CONSOLIDATION DEFINED.

The WITNESS. You will see that this act of Congress says they may consolidate "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 roads of such companies may be." You will find that we not only complied with the provisions of this act, but we held consolidated meetings in Nebraska and Colorado and Kansas and assimilated the proceedings in those States to proceedings in like cases under consolidations made by State corporations under their laws.

By Commissioner ANDERSON:

Q. What other issues are there between the railroad and the Government?—A. I see some question made here in this act creating this Commission, as to our power to issue the collateral trust mortgages and guarantees. Counsel have written an opinion on that subject, which is

already before you, and I do not care to restate the argument, unless you desire it.

Commissioner ANDERSON. We only want our attention called to the disputes.

POWER OF COMPANY TO CREATE DEBTS.

The WITNESS. You will notice that in the act of 1873 there is no limitation on the power of the company to create debts. The only limitation is, You shall not make any mortgage or pledge on your property or earnings without the consent of Congress. That provision we have never violated; for in the contract by which we guarantee the Oregon short-line bonds, and in the contract by which we guaranteed the Saint Joseph bonds, we put an express clause, which you will find there, that nothing in this contract shall be construed as being any mortgage or pledge of the earnings or property of this company. Every lawyer knows, I take it, that a mere personal guarantee would not, in law, amount to a mortgage or pledge of the earnings or property of the company. But there seems to be a sort of popular impression that every time we have done that we have violated an act of Congress—a view which no lawyer entertains.

Commissioner LITTLER. Where is the precise form of that guarantee? I suppose the guarantee is stamped on each of those bonds.

FORM OF GUARANTEE OF INTEREST ON OREGON SHORT LINE BONDS.

The WITNESS. Yes, sir. The guarantee of interest by the Union Pacific Railway Company of the Oregon Short Line bonds is in the following form, stamped on each bond, to wit:

The Oregon Short Line Company, the obligor herein, having guaranteed to the Union Pacific Railway Company certain perpetual rights, privileges, and easements, and having also entered into a perpetual agreement with it for the interchange of business, dated the 12th day of January, A. D. 1882, and the Union Pacific Railway Company, in consideration thereof, having agreed, as therein provided, to such division of joint earnings as shall be sufficient, with the other net earnings of the Oregon Short Line Railway Company, to provide for the payment of the interest as it becomes due on this series of bonds.

Now, in consideration thereof, and of one dollar to it in hand paid by the said obligor, the Union Pacific Railway Company hereby guarantees for the holder thereof, for the time being, that the obligor herein will pay each of the coupons attached to these bonds when it falls due.

In witness whereof, &c.

That is signed by the Union Pacific Railway Company. It is not a guarantee of the principal, but of the interest.

Commissioner ANDERSON. The point is that it does not purport to pledge or guarantee either the property or the future earnings.

The WITNESS. Not at all; but such guarantee is expressly excluded by the terms of the contract referred to by the indorsement on the bonds. The contract itself distinctly provides that it shall not be construed as pledging the earnings, or creating any lien on the property of the company.

By Commissioner LITTLER:

Q. Is that contract on record anywhere?—A. It is referred to in the guarantee, and hence everybody is bound to notice it. It has been reported to the Department of the Interior and is there. It is the same as to the Saint Joe guarantee. The contract itself says that if we ever lose possession of these roads our guarantee ceases. So that if anybody gets the road out of our possession we are not any longer bound by our guarantee.



Commissioner LITTLER. Is that all you wanted to say?

The WITNESS. That is all I think of; I have some general notions, as the result of my general experience in undertaking to conduct the legal affairs of the company, as to the Government with reference to the adjustment of relations, but I do not know that a lawyer's opinion is worth much.

Commissioner LITTLER. Suppose you make any suggestion that may occur to you.

#### PLAN OF SETTLEMENT.

The WITNESS. I will make it very briefly. It seems to me that it is desirable, both for the Government and the company, which have, after all, a common interest, that, whatever may be done, it is wise to avoid, if you can, perpetuating any relation that requires an account of net earnings to be kept. If that were not so intrinsically difficult, it might perhaps be fairer, in the long run, than to have a fixed sum; since it makes the ability of the company to pay in any year to be measured by its success in that year. But, on the other hand, the difficulties of such an arrangement are so numerous as to overcome any advantages it may have in that respect. As I said before, and as the long history I have given tends to illustrate and emphasize, it is not within the wit of man to avoid these disputes if you have a state of affairs existing which requires an examination every year as to net earnings. If you undertake to go into great detail and to enumerate everything, then you run against the difficulty which a legislature would have in trying to make a code or a system of statutory law to meet every possible case that might arise. If you deal in general terms, then you have differences of opinion, and as the opposite parties in the controversies the Government, with no power to compromise. Hence there is inevitably a lawsuit. Every difference of opinion eventuates, of necessity, in a lawsuit. The Secretary of the Interior will say, "I cannot sit down with you as two men might do, and say 'this trivial matter is not worth a dispute and we will settle it.'" He cannot do it. If you have an account of a million dollars and you have a dispute as to ten dollars the whole thing is tied up, unless the company yields. The company cannot always yield. There is no one authorized to bind the Government. I do not make that as a complaint. It would be dangerous for the Government to invest its officers with any discretion. This difficulty is inevitable. That being the case, it is desirable, if you can, to substitute a fixed sum in the place of keeping an account. It would be more satisfactory for both parties. That is one suggestion I have to make.

#### A NATIONAL ENTERPRISE BORN OF NATIONAL NECESSITY.

Another suggestion is this: I love to picture a government as the highest embodiment of equity and justice. The condition of affairs here between this company and the Government is extraordinary, and, in some respects, anomalous. If you turn to the judgment of the Supreme Court of the United States in the "Interest Case," delivered by Mr. Justice Davis, you will see graphically portrayed the condition of affairs which the older among us recollect very well, especially those who, like some of us, lived in the West, which existed in 1862, when this legislation originated. I will not go over it, except so far as it bears on an equitable adjustment here; but it has a very great bearing in some respects. The courts say in that case, and they only affirm history

in saying it, that this was a great national enterprise originating in national necessity. The War of the Rebellion was flagrant then. We dreaded, night and day, foreign interference. It was a dread not without its foundation. Our Pacific coast possessions, a part of them acquired by Mr. Jefferson and a part of them acquired as the result of the war with Mexico, were in peril. Deserts and mountains intervened between the settled portions of this country and the Pacific coast, and all parties, with one voice and one acclaim, said, "We must have a road to the Pacific." In the State of Iowa to-day, with a population of two millions of people, or nearly that, no road had penetrated farther from the Mississippi than, I think, about 50 or 75 miles. In the great State of Missouri, with all the aid which the State of Missouri had been able to give to the Missouri Pacific—and it amounted to millions—I think it was not beyond Sedalia at the time of the rebellion. There was but one road, as I recollect it, to the Missouri River, and that was the Hannibal and Saint Joseph. If you have the report of the debates which are published in this form under the act of 1862, you will be very much instructed by recurring to them. Why, this whole country at that time was an unexplored wilderness. The lands were not surveyed, except for a little way.

Commissioner LITTLER. The lands of Kansas and Nebraska were, I think.

The WITNESS. A little ways.

Commissioner LITTLER. The homestead of Kansas, I think, was surveyed at that time.

#### THE INITIAL DIFFICULTIES.

The WITNESS. I doubt it; it may be, but not so with Nebraska. Hence, when Congress came to fix the initial point of this road, they could not do it except in the most general language. Now comes in a great equity. The Government said at first we will take a first lien; we will give you so many bonds, and we will give you so much land; that is the act of 1862. Capital would not build the road. They had to enlarge the grant of lands. I think it was doubled, and they subordinated their lien to the first mortgage, and then, for the first time, they got capital ready to venture. It looks like a simple thing now, but some of the ablest men in Congress said "You will never succeed; you cannot build the road; you cannot operate it over those mountains; it will be snowed under in the winter; they are inaccessible;" and they voted against the project on that ground, as impracticable. It was agreed finally that the Government would make these advances on a second mortgage. It was agreed that the interest was not to become due or payable, neither due nor payable, until the principal should become due. It was agreed that the only sinking fund, or anything in the nature of a sinking fund, which was required to meet this interest was 5 per cent. of the net earnings, and originally the Government said "*all* of our transportation," but finally they said "*half*." I will concede that it was supposed at that time that it would be much greater than it has proved to be, because if you will look at what it cost the Government to transport their mails and to transport their munitions of war, and, supposing that the railroad service would have any sort of approach in amount to what the Government had to pay, one-half the transportation and 5 per cent. of the net earnings of this road would have kept down the interest. But the result was that when you got this road through there the amount for mail transportation, certainly on the basis on which it was finally settled, came to a comparatively small sum. Somebody here

will give you the figures. The large expense which the War Department had been compelled to incur year after year, almost constantly, in order to fight the Indians, was, by the beneficent effect of building this road, entirely removed. Hence, this road, as the very result of its construction, has removed the necessity of any Government transportation. Hence, the amount does not equal the annual accumulations of interest. But that is the contract. In one respect it has perhaps been unfortunate for the company that this contract was made in this form. But the point I want to emphasize is this: The Government says:

We will advance you this money, and you need not pay the interest until the principal is due, and in the way of a sinking fund you shall only be required to pay 5 per cent. of your net earnings and one-half of the Government transportation.

That was the contract clearly. The iron for this road had to be got over the Missouri, and had to be taken up by steamboats and transported and transferred, and it cost \$150 a ton. Ties cost two or three dollars apiece. There was not any timber in this region.

#### THE "PAPER COST" OF THE ROAD.

Commissioner ANDERSON. You do not deny that the paper cost of this road was at least twice its actual cost?

The WITNESS. The Wilson committee made a report on that.

Commissioner ANDERSON. So has Mr. Adams.

The WITNESS. That may be.

Commissioner ANDERSON. That is where the whole trouble came in.

The WITNESS. Is there a road in the United States that has any different record?

Commissioner ANDERSON. But they all get into trouble when they do that.

The WITNESS. No, sir.

Commissioner LITTLER. Confine yourself to the suggestions and please go on.

The WITNESS. I am coming to that. Now, it necessarily cost what a road would cost to be built when gold was at a large premium and wages were high. Scores of men were killed by hostile Indians during the progress of building this road. It was necessarily capitalized at enormous cost, to say nothing about paper cost. Now, in order to get this road—for, as the Supreme Court says, this act of Congress is in the nature of a proposal to capitalists to come in and advance their capital—the Government agreed to pay for it and agreed that it should cost this sum and to take their pay in this way. They could not foresee that within the thirty years when this debt would fall due you could get steel rails, which will last four times as long as the iron rails, for one-quarter the cost of the iron rails that went into this road. Congress did not believe, as you will see by the debates, that there would ever be any other road. The only speeches made in favor of this road were to this effect by the sanguine men: This road will carry the silks and teas of China and the Orient. But no man, no American statesman, foresaw that what he supposed was the great American desert, as well as these mountains, would yield a local business. That never was pictured, never thought of. Hence, you see no provision in this charter for building branches. They were glad enough to get a main line. They did not make any other provisions.

When a government of Europe puts its money into a road it says: "No other road shall come within so many miles of it," and protects it.

We are handicapped. We have no express charter or power to build branches and to protect ourselves, no power to issue stock, no power to take a lease, yet our rivals can go in there, with all the elastic and plenary power conferred by the States, and build right alongside of us at a cost of fifteen or twenty thousand dollars a mile. And they do it.

#### THE PRESENT SITUATION A LEGITIMATE OUTGROWTH.

I say that the existing condition of things, the size of this debt, and everything has legitimately grown out of this legislation, and the Government must do just as Mr. Spaulding said this morning: Instead of seeking to cripple its debtor, it must support and sustain him. It has a common interest with him. If you will allow me to say it, if I were the Government, or if any private individual had the Government's power and the Government's interest in this matter, the Government need never lose a dollar of its debt. On the other hand, with hostile legislation handicapping this company, its rivals being free, there might be danger. This company could be crowded to the wall, so that the future of the company depends upon the character of legislation. In many instances in the last six or seven years there have been railroad companies which have had debts falling due in large amounts—millions of dollars. The companies do not pay, except by way of renewal. Congress must have intended that this debt should be renewed. Here were \$27,000,000 and accumulated interest, it might be, and there was no provision for a sinking fund, you see, to wipe out the principal. What did they mean? They meant either we will renew it or we will deal with it when we have to. That is all. They must have intended that the debt should be renewed.

All I have to suggest, in addition to what I have said, is this: Make provision for an extension and renewal of this debt, or of such portion of it as you can see the company will not be able to pay when it is due. Mr. Spaulding made a most sensible observation when he said: You should see not how much you can get out of the company, because it may have hard years, you may have revulsions, and you may have periods of depression for five or ten years; but how much can the company surely pay each year and live? How much can it certainly pay?

Commissioner LITTLER. Pay it in gross?

The WITNESS. Fix the amount. Do just as is arranged in any other railway mortgage. I have drawn scores of them. If you do not pay as agreed after the lapse of six months or a year, or on a certain demand, it will all fall due and be foreclosed.

#### LET THE COMPANY DISCHARGE ITS DEBT.

Then comes another point. You want your money. Every creditor wants his money. This is a grand and noble property, and you will find it to be so. It is beyond all odds the best route to the Pacific. It is the Broadway to the Pacific. It is the natural way. A company owning this property will be stronger if its relations with the Government are defined and set on a basis that the public can see there is no danger of insolvency arising from the enormous amount that it owes to the Government in any one year; and the easier those terms are the stronger the credit of the company. That is plain. If the Government cannot foreclose on us, if we pay \$500,000 every year, we are certainly stronger than if we have to pay \$2,000,000, and the investment public

knows it. Therefore the more secure those relations are the better the credit of the company. This extension ought to be accompanied with a provision that whenever we pay so much money we may make a mortgage. The money we are to pay may be the present worth of the Government debt, if you please, or whatever the sum may be; and it should be every cent the company is able to pay. I cannot state what that is; it may be the whole debt or less; but whenever the company is prepared to pay the present worth of that it may make a mortgage and pay the Government its whole debt. You ought rather to encourage the company to do it, and take the money. Then, when we come to an easy money market, such as we have had within the last five or six years, we can raise money at 4 per cent. or 5 per cent., and pay the Government off. The problem is simple, to my mind, very simple, as to what ought to be done. I understand the Illinois Central is now liquidating a 7 per cent. loan with money negotiated at  $3\frac{1}{2}$ .

LET THE COMPANY HAVE ITS AUTONOMY.

By Commissioner LITTLE :

Q. Have you any suggestion to make as to legislation with reference to the increased powers as to the acquisition or construction of more branches?—A. I see the difficulty. The power to build branches, like every other power, may be abused. At the same time to deny a power is to stifle a railroad. If you change the basis from net earnings to a fixed sum, with power to declare your debt due, if we do not pay as agreed, let the company have its autonomy and manage its own business in its own way. Then, if it makes a mistake it suffers for it. I should say this: That the Union Pacific, if it is to flourish, ought to have all the powers in the several States that its rivals have. That would be my general conclusion. Here is the Missouri, Kansas and Texas, that Commissioner Anderson knows about, for we have been fighting over it on different sides. Its consolidated mortgage is \$40,000,000 or \$50,000,000. It owes as many dollars as the Union Pacific per mile, or with reference to the value of its property; but its bondholders do not come in and say, "We have got to have a representation on your directory; you have got to keep an account with us, and keep an account of every dollar you spend." They stand on their rights. They say, "We will stand on our rights. If you do not pay as agreed we will foreclose and take the property." The Government is not a creditor whose situation is different from every other mortgage creditor in the land. I mean railway-mortgage creditor.

Q. Assuming that some of these suggestions should be adopted by Congress, does it lie in the mouth of any of the lien-holders to object to such radical changes?—A. There are no junior lien holders who can complain. It does not occur to me that they can complain. You can extend a first mortgage, but the second mortgage cannot complain of that. That, I think, is well settled law. They would have no ground to complain of an arrangement that reduced the amount of charges from what they were when they took their liens.

JOHN F. DILLON.

The Commission then adjourned to Wednesday, June 1, 1887, at 10 a. m.,



EQUITABLE BUILDING,  
*Boston, Mass., Wednesday, June 1, 1887.*

The Commission met pursuant to adjournment, all the Commissioners being present.

EDWARD PORTER ALEXANDER, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. You have been a Government director of the Union Pacific, I believe?—Answer. I was, from the summer of 1885 until February, I think, of this year.

By Commissioner LITTLER:

Q. Where do you reside?—A. I reside in Savannah, Ga. I am president of the Central Railroad and Banking Company, of Georgia.

By Commissioner ANDERSON:

Q. How much attention have you given to the affairs of the company?—A. I made three trips over the road during the time I was on the board, and I attended all of the meetings of the full board of directors, and most of the meetings of the executive committee.

By Commissioner LITTLER:

Q. What committees were you on?—A. I was on the executive committee. I do not remember that I was on any other.

By Commissioner ANDERSON:

Q. Have you been over the branch roads as well as the main line?—A. Not all of them. I have been over some of them.

Q. Which?—A. I have been over the road up to Georgetown (the Oregon Short Line); the road up to Butte City.

Q. That is the Utah Northern, is it not?—A. The Utah Northern; and down to Salt Lake.

Q. That is the Utah Southern?—A. Yes, sir; and then from Denver up to Cheyenne. I was on one or two of those roads along there.

Q. The Denver Pacific?—A. Yes, sir.

Q. Have you been over the Colorado Central?—A. I forget.

Q. It is from Denver to Cheyenne, but a roundabout way?—A. Yes, sir.

Q. You have not been over the other route?—A. I have been there twice, and I think once by each route. That is my recollection.

Q. Have you been to Leadville?—A. No, sir.

Q. What investigation have you made of the earning power of the Union Pacific Railway itself, I will ask you first?—A. The investigations that I made are given in the annual reports of the Government directors for the last two years. I cannot carry figures in my head.

Q. I am only asking how far you personally have examined the question, and how far you have merely received the reports of the officers of the company.—A. Of course I have not looked at original papers and bills of lading; I have accepted the annual statements of the company as representing the results of its operations.

Q. And those you have examined with some care?—A. Yes, sir; quite fully, and studied them, to arrive at what you express, or what I would call, the earning power of the company. I made a very full and careful study of that, and analyzed the condition of the loan upon the

company more fully than I have ever seen published before. It is in the first annual report which I made as chairman.

Q. It is all reduced, if I remember right, to a mile unit?—A. Yes, sir; to a mile unit.

By Commissioner LITTLER :

Q. Where is that report?—A. You have it; it is dated late in 1885, or early in 1886.

Commissioner ANDERSON. We have plenty of copies.

The WITNESS. I had before the general impression that the load upon the company was a very heavy one, something like \$100,000 a mile, and I was quite surprised to find, when analyzed, and taking credit for its assets, what it really was,—a very small amount.

By Commissioner ANDERSON :

Q. You refer us to your statements in the report of 1886 as containing a complete and accurate statement?—A. Yes, sir; both reports,—1885 and 1886. The first is the fullest.

#### RELATIONS OF BRANCHES TO MAIN LINE.

Q. Have you examined particularly the relations held by the branch lines to the financial affairs of the Union Pacific Railway?—A. Not an exhaustive examination of each one, but an examination as to the results of the whole, and have inquired into their relations, and the manner in which they were working, and as to how the earnings were divided.

Q. When you say that you made an examination of the whole system of branch lines, do you mean an examination based upon general considerations relating to the advantages of a branch-line system, or do you mean an actual examination based upon the statements of the actual business done by those particular branch lines, and of the advantages of the haul of such business, to the parent line?—A. I mean an examination as to the amount derived by the main stem from these lines as feeders.

Q. When did you make that examination? On what years was it based?—A. Both 1885 and 1886.

Q. Did you reduce your conclusions to writing?—A. Yes, sir; I forget exactly how fully, but I think both of those reports make reference to it, and give some condensed figures on the subject.

Commissioner ANDERSON. I would like to look at the report, to refresh my memory.

Mr. JOHN F. DILLON. I have not the Government directors' report of 1886.

Commissioner LITTLER. Is it in the annual report of the Union Pacific?

The WITNESS. It is in the annual report of the Union Pacific.

Mr. JOHN F. DILLON. Here is one dated Boston, November 22d, 1886.

#### NET EARNINGS FROM BRANCH LINE SYSTEM.

The WITNESS [reading from the Report of 1886] :

The earnings of the system from traffic interchanged with its branch-line system have been kept for twelve months, and were in gross \$5,220,938, or about 30 per cent. of the total earnings of the parent company.

As this traffic is done at less average cost than its other business the net earnings from it are estimated at over \$3,000,000, or 50 per cent. of the total net earnings.

This is page 152 of the Report of 1886. You will see two or three little paragraphs of the report on it.

Q. As to this sentence, "The earnings of the system from traffic interchanged with its branch-line system have been kept for twelve months." Was that conclusion reached by you from information which the officers gave you, or from an examination of any book?—A. From information gathered here. The records are here. Mr. Adams told me shortly after I came on the road that there had never been separate statistics made of the earnings of the main stem from the branch lines; that he was just having it done.

Q. I ask you whether your conclusions, that the amount of these earnings were \$5,220,938, were figures that you received from Mr. Adams, or that you took from a book?—A. Those are figures that I received from the comptroller, Mr. Mink.

Q. So that we cannot get any more force on the question of their accuracy by examining you than we could from Mr. Mink?—A. Oh, no, sir. Of course those are all made up from the details of the ten thousand way-bills.

Q. When you come to examine the principle by which they are made up, so as to see whether in very truth the existence of the branches are a benefit to the parent line, and, if so, of how much benefit, we want to know how closely the person making that statement bases it on a full appreciation and comprehension of the principle of division which has obtained in stating these accounts?—A. From my knowledge of the way in which railroad accounts are kept I feel entirely confident that that thing is correct to a cent, or else that the comptroller is not to be relied on to make a plain statement, for every way-bill that comes in representing a certain amount of freight, for instance, that has gone from Omaha, we would say, to Georgetown, will show the division of the total earnings between the main stem and the Georgetown branch. That is made up of the sum total of all divisions of the rate, and either it is correct to a cent, and that is the way the money was divided, or else the comptroller has deliberately made false reports.

Q. That we do not assume. Your understanding is that this sum, as stated, and which is designated as "traffic interchange," is the gross amount of traffic going in both directions, and passing partly over the parent line and partly over one of the branch lines?—A. Not the gross amount but the gross amount received by the main stem of freight that was exchanged. The earnings of the Georgetown branch, for instance, would not be in that. The statement is, "Earning of the system from traffic interchange with the branch lines." "This is in addition to the net earnings of the branch lines themselves," which you see in a later paragraph.

Q. I take your correction; you are perfectly accurate; the statement is that this sum of \$5,220,938 represents the payment to the parent line?—A. Yes, sir.

Q. For its proportion of the interchanged business, and the interchanged business refers to all the business which passes partly on the parent line and partly on the branch line?—A. Yes, sir; both ways, I understand it.

#### METHOD OF DIVISION BETWEEN BRANCHES AND MAIN LINE.

Q. Do you understand in what manner the separation has been effected in order to determine what proportion of this interchanged traffic belongs to the parent line, as being its share of the earnings?—

**A.** The system adopted on the Union Pacific, which is a common one on all roads, is to give to the branch line a mileage, either actual or constructive, depending upon the circumstances of the case. When that mileage is once determined on or arrived at, then there is a basis for dividing the through freight. Suppose it was a thousand miles to Georgetown and 150 miles for the branch; that 150 miles, either actual or constructive mileage, as the case might be, is agreed upon, and then, when freight comes in, the comptroller will divide it. He will assign to the Georgetown branch, we will say,  $\frac{150}{1150}$  and to the main stem  $\frac{1000}{1150}$ , making the total amount.

**Q.** So that for the purpose of applying what is considered a just and proper division as between the parent stem and the branch, the mileage of the parent stem is taken straight, the mileage of the branch is fixed by consent of the parties at a number in excess of the actual mileage, and bearing the relation of  $1\frac{1}{2}$ ,  $1\frac{1}{2}$ , or 2, or  $2\frac{1}{2}$  to the actual mileage, then the original straight mileage of the parent stem is added to the constructive mileage of the branch for the denominator, and the actual mileage of the parent stem is used as one numerator, and the constructive mileage of the branch line is used as the other numerator?—**A.** Yes, sir.

**Q.** And these are the factors which are employed for the freight that is to be divided?—**A.** Yes, sir; that is the common way among railroads that work together of dividing business and of putting in anything of that sort to save a separate tariff sheet with what we call "arbitrariness" upon it. As an illustration of this sort of thing, a gentleman was stating to me yesterday the East Tennessee, Virginia and Georgia line receives its freight at Norfolk, and there is a transfer from boat to rail there. That transfer is put in as being 15 miles constructive mileage. Now, as to any freight going, we will say, from New York to Lynchburg, Va., the water line has a constructive mileage of, say, 200 miles. That is given to the carriage by water. It might be probably 500 more or less, actual distance, but it would be called (as water carriage is cheaper than the other) a constructive mileage to two-fifths, or half.

By Commissioner LITTLE :

**Q.** Of the actual distance?—**A.** Yes, sir; because that is water and is cheaper. Then comes the wharf and transfer, and that is put in as 15 miles.

**Q.** As a matter of fact it may be a mile or less?—**A.** Yes, sir; or possibly a hundred yards. Then comes the actual rail mileage.

#### PRINCIPLES OF CONSTRUCTIVE MILEAGE.

By Commissioner ANDERSON :

**Q.** In order to determine whether the application of this principle is a just one or not, what elements should you consider in regard to the interest existing between the branch line and the parent line?—**A.** In the first place I would consider the length of the branch line; because a very short road cannot pro-rate strictly with a long road. As, for instance, two or three years ago, or a few years ago, I helped a railroad down in Georgia, or helped a town in Georgia, to build an 8-mile branch to strike the main line running from Augusta to Atlanta, at about 100 miles from Augusta. This little branch was 8 miles long. They wanted to make through rates for them, and they could not afford to pro-rate on 8 miles. I put them in, I think it was, at 25 miles. This

saved printing any new tariff sheet; freights to that place (Monroe) were charged 125 miles, and it was divided in the proportion 100 to main line and 25 to the branch. That is an illustration of a road where large constructive mileage was given on account of the shortness of the road. Sometimes you will give it to a local road simply because it is a local road, and a local road is entitled to a little higher rate because it can control the freight. Sometimes it will be given on account of heavy grades and trouble and greater expense in working. I think it was on that principle that all the roads east of Omaha gave constructive mileage to the Union Pacific from the very beginning.

Q. What other considerations occur to you as bearing on the question whether the constructive factor is a just and fair one or not? I call your attention to the possible complications that may arise where the interest of the branch corporation and of the parent corporation are so intermingled that, for any reason whatever, the parent corporation desires either that the branch road shall receive less than its due share, or that it shall receive more than its due share.—A. I have mentioned, I think, the only consideration, or the usual considerations, that call for and require the constructive mileage, or that suggest constructive mileage, as the simplest and the plainest way to keep a division of earnings between a road and its branch, and give the branch what the particular circumstances require. If there are any other considerations than those of length and grade, and the fact that the branch road may have very little business, and that you must give it enough to sustain it, they do not occur to me.

#### HOW CONSTRUCTIVE MILEAGE COULD BECOME AN ABUSE.

Commissioner ANDERSON. I will give you an illustration. For instance, it is said that the direction of the Missouri Pacific, in order to give advantage to and benefit the Missouri Pacific in its dealings with the branches of that road, or the extensions of that road—that is to say, the Missouri, Kansas and Texas, and the International and Great Northern, and, in former years, the Texas Pacific—so directed the formation of the constructive factors that in applying them to interchanged traffic a very much larger proportion of the amount earned was forced into the credit of the Missouri Pacific at the cost of the branches, for the purpose of promoting the interests and increasing the value of the Missouri Pacific stock. I do not say that this is true, but I suggest it to you as an illustration of what I mean.

The WITNESS. I still do not see exactly what I am to answer.

Q. I ask whether these considerations of mutual interests, apart from arithmetical considerations, such as you have given, may not lead to the establishment of unjust factors of constructive mileage?—A. Oh, it might, of course. The management of a road which managed also the branch road, and was therefore on both sides of the bargain, could make any bargain. Where the board of directors were on both sides, they could make any bargain they chose. I was simply speaking of the way in which those bargains are generally arranged among railroads, where they are fairly managed. It is a difficult thing sometimes to say exactly what is fair.

Q. Even assuming that the directors are entirely honest, if there is a motive to throw a larger proportion of the earnings into the branches than they would be entitled to receive, then, in your judgment, is it entirely safe to leave to a direction which has the adjustment of both sides of the question the determination of these factors? That is, as



saying them to be perfectly straightforward men.—A. If there is a motive to do what was not fair, of course it would be better to leave it to some other tribunal, if there was any other tribunal in existence.

#### BEARING OF CONSTRUCTIVE MILEAGE ON GOVERNMENT'S 25 PER CENT.

\* Q. As applied to the precise branch lines of the Union Pacific Railway, did you ever examine the question with the realization that there might be a motive to induce the directors—even on the assumption that they meant to be perfectly fair—to exaggerate the earnings of the branch lines, by reason of the effect that might have on the requisition that might become due to the United States on the 25 per cent. of net earnings?—A. I often saw that charge in the papers, and from all that I have ever seen and known of the divisions that are made, I have considered it entirely unfounded.

Commissioner ANDERSON. That is exactly what I wanted to get from you.

The WITNESS. The constructive mileages that are allowed seem to me to be not at all too liberal to the branch lines, if as liberal as they ought to be in many cases—such as the mountain roads that have heavy curves and grades, and where the expenses are very great and the earnings are small. The fact of the matter is, in adjusting those things, it is a hard thing to do until you try it on and see how it will work. A fair adjustment would be shown, would prove itself—the proof of the pudding being in the eating—in the branch lines making a good showing at the end of the year. According to the proof of this pudding, they have given them hardly enough. The constructive mileage allowed is not enough, because none of the branch lines show excessive earnings, and a great many of them show a great deficiency; and I think if they were owned by outside stockholders, the outside stockholders might very well object, in many cases, and go to the Union Pacific board and say they wanted a larger constructive mileage, because the business did not pay their expenses.

Q. In making the assertion that the branch lines make a poor return of earnings, do you refer to mileage earnings, or to earnings as based on the bonds and stock issued in the construction of the branch roads?—A. I refer to their net earnings, as compared with the fixed charges upon them.

Q. You do not refer to mileage earnings? That would be a better test, because there might be an overissue of stock or bonds?—A. Yes, sir; there might be. I speak of it more with reference to what their fixed charges are. A road ought to meet its fixed charges.

Commissioner ANDERSON. Unless its fixed charges are exorbitant?

The WITNESS. Unless they are exorbitant, and I do not know that they are on any of these systems.

#### REASONABLENESS OF CONSTRUCTIVE MILEAGE ALLOWANCES.

Q. However, I understand it is the result of all the examinations you have made, that the factors allowed to these branch roads are quite reasonable, and that in no case do they give any evidence of a design to divert the earnings so as to escape the burden of the United States 25 per cent.?—A. No, sir; from my knowledge of the way in which this constructive mileage is applied in railroads all over the country—and I have been a practical railroad man, and have been familiar with it for many years, and with the constructive mileages given—I think the injustice, if anywhere, is toward the branch lines.

## NON-SUPPORTING BRANCHES OF UNION PACIFIC.

Q. In regard to the physical characteristics and the financial management of these branch lines in detail, are there any of them that you can refer to as being either undesirable or not self-supporting?—A. I cannot recall now the names, but there are some. I think particularly the Leadville line.

Q. The Denver and South Park?—A. The Denver and South Park. That was perhaps a particularly poor one.

Q. That is the blackest of all black sheep? Do you know anything of the Kansas Central?—A. I do not remember anything about that. It was my general recollection that that was a poor one.

Mr. JOHN F. DILLON. That is a narrow-gauge road running out from Leavenworth.

Mr. ADAMS. It is not a branch at all. It is a competing line.

The WITNESS. I do not know about that one.

Commissioner ANDERSON. You would not call it a competing line now, would you?

Mr. ADAMS. Yes, sir; it competes with our main line.

Commissioner ANDERSON. It is not a feeder?

Mr. ADAMS. No; it is not a feeder.

## NECESSITY FOR BRANCH LINES TO UNION PACIFIC.

By Commissioner ANDERSON:

Q. Please give us your views, based on what you know of the territory occupied by the Union Pacific, and of the adjoining territory, and of the tributary valleys, which have led you to such conclusions as you have formed in regard to the necessity for the existing branch system, and in regard to any policy which should be pursued in respect to the same subject in the future.—A. Briefly, I think there can be no question on the part of any railroad man who examines the country and the system of the Union Pacific, and who sees the sources from which it now derives its revenue, and appreciates the competition for territory that is going on among the other systems that are stretching out there to the west, that the existing system of branch lines (the subject of criticism, perhaps, as parts of it are) has been the actual salvation of the road, and that it is of the utmost importance to its future prosperity that that system should be promptly and very considerably expanded; that it should occupy the territory that is naturally tributary to it, and it should do so promptly before other lines do.

## NEW BRANCHES SUGGESTED.

Q. Can you be more specific in regard to the particular places where, in your judgment, business is threatened, and where the branch lines would be of service?—A. Yes, sir; I think I mentioned one or two in the last report. The road from the crossing of the North Platte. Is that Rawlins, Mr. Adams?

Mr. ADAMS. You mean from Fort Steele down.

The WITNESS: From Fort Steele south, into that coking coal territory, I think, a road there of very great importance.

Mr. ADAMS. Will you point that out on the map?

The WITNESS (Indicating on the map). From Fort Steele practically to Dillon, with some branches, one or more, to the coking-coal and anthracite deposits.

**Q.** Is Fort Steele the same as Rawlins?—**A.** No, sir.

**Commissioner ANDERSON.** Fort Steele is a point on the Union Pacific in Wyoming, near the intersection of the north branch of the Platte River, and the branch indicated runs a little east of south to Dillon, which is on the branch line of the Gunnison, South Park and Pacific Railway.

**The WITNESS.** With one or more branches to coking-coal, anthracite, and mineral deposits.

**By Commissioner LITTLER :**

**Q.** Do you refer now to the coal deposits on the Grand River?—**A.** I think it is on one of the tributaries of the Grand River.

**Q.** Is Glenwood Springs the point at which they are building this standard gauge across from Leadville to Aspen?—**A.** Yes, sir.

**Mr. ADAMS.** The anthracite coal fields are right there, near the northern boundary of Colorado. In occupying that territory and getting in there, often there would not be more than one or two available gaps to reach some of these deposits and valleys, and it is of great importance, I think, to the Union Pacific to get to them before other lines do.

**By Commissioner ANDERSON :**

**Q.** What would be the cost of constructing such a road?—**A.** That would be impossible for me to say without investigation.

**Q.** Without going over the country closely, you could not say?—**A.** No, sir.

**Mr. ADAMS.** We have the exact estimates, if you ever want them.

**The WITNESS.** There are some branch roads, too, in Oregon and Idaho that should be put in.

**Mr. ADAMS.** I have estimates of the cost of such branch roads, and I will put them in.

**By Commissioner LITTLER :**

**Q.** What is the length of that proposed line?—**A.** About 400 miles.

**Commissioner ANDERSON.** Now, you may proceed with your description.

#### DESIRABLENESS OF ADDITIONAL LINES SUGGESTED IN REPORT TO GOVERNMENT.

**The WITNESS.** My last report refers to these lines as follows :

A number of additional lines should be undertaken at an early day in order to reserve to the main line its due proportion of territory. Among them perhaps the most important is a line from Fort Steele south to Aspen, and to a connection with the Colorado division at Dillon. This road would bring together the ores of Colorado and Wyoming Territories with the best coking coals of the west and the anthracite coal of Crested Butte.

The ores of those two Territories work very well together and act as fluxes for each other.

In Idaho surveys have been made with a view of connecting the tracks of the Oregon Short Line with those of the Oregon Railway and Navigation Company at or near Lewiston. In this case the proposed line will follow the course of the Weiser and Little Salmon and Salmon Rivers. A line has already been constructed from Cheyenne north connecting the central portions of Wyoming with the capital of the Territory.

(The witness indicates a location on the map extending from Cheyenne, in Wyoming Territory, in a northwesterly direction, reaching to and following the Platte River.)

**Q.** Have you ever examined the contrast afforded by the Central Pacific with the Union Pacific in relation to the different results att

by reason of the fact that there are no branches to the Central Pacific, and that there is a branch system to the Union Pacific?—A. No, sir; I have never made that contrast. It never occurred to me to draw a parallel before.

Q. Are you at all familiar with the administration of the affairs of the Central Pacific as bearing on the Union Pacific?—A. No, sir; this is what you refer to, I suppose—I know generally that the Central Pacific is said to be interested, or has a large interest, in the Southern Pacific.

Commissioner ANDERSON. That is, the directors of the Central Pacific are said to have a large interest in the Southern Pacific?

The WITNESS. Yes, sir; I believe that is a more correct statement, and that the traffic managers, or the managers of the Union Pacific, have always felt a little jealous or feared that they might not get an exceedingly cordial co-operation of the Central Pacific in competing for freight that could go the other way, although I have never known of any direct accusation made that the Central Pacific was not doing fairly. Yet the Union Pacific people have always been a little suspicious on the subject.

Commissioner ANDERSON. Mr. Atkins has been much more plain spoken than you have been in regard to it. His views are that the Central Pacific management are diverting to or are preferring the Southern Pacific system for transportation as against the Union Pacific.

The WITNESS. My general idea was that while it was something they could hardly prove, yet they believed it.

#### PLAN OF SETTLEMENT.

Q. In regard to the best adjustment of relations between the United States and the Union Pacific, with reference to the future, have you any suggestion to make?—A. I do not know that I could say anything stronger as to what I think is the necessity for it and the desirability of it than was said in our last report, now before you, and which it is not necessary to read. It does seem to me the plainest and simplest proposition that could be laid before a business man that the present situation is one that is damaging to the Union Pacific and damaging, therefore, to the Government, its creditor, and that nothing would be simpler and easier than to adjust the matters to the great benefit of both.

Q. The first step to be taken, in your judgment, is to pass from an annual payment, based on any percentage of any kind of earnings, to a fixed sum, payable annually?—A. Yes, sir; I think that is the first. If you would allow me, I would like to read in that connection what is in that report.

Mr. JOHN F. DILLON. Nobody reads those reports, and I would like to have you read it over.

Commissioner ANDERSON. You flatter us very much.

Mr. JOHN F. DILLON. I mean in a general way.

#### SUGGESTIONS IN REPORT TO GOVERNMENT.

The WITNESS. Page 154:

It is admitted upon all sides that existing legislation is insufficient and has utterly failed in several respects.

First. It does not provide an annual sum large enough even to prevent an annual increase of the debt.

The average amount of increase for some years past has been over a half million per annum.

Second. Existing legislation makes no provision whatever for the large amount of principal and accrued interest which will become due, at the maturity of the debt, in about ten years.

Third. Existing legislation locks up even the annual amounts which it does provide in such manner that they do not earn 2 per cent. per annum, benefiting no one by this low rate, but delaying the Government in the receipt of its dues, and causing serious and permanent loss to the railway company. The present amount thus locked up is about \$6,500,000, and the annual loss to the company from the low rate of interest which it earns is over \$200,000.

Fourth: The method of determining the annual amount to be reserved by the company for meeting its debt is vague and uncertain. Differences of opinion constantly arise between the representatives of the Government and those of the company, which create friction, and can only be authoritatively settled in the courts after protracted and expensive litigation. New officers of the Government possess and exercise the right of reviewing the methods and rulings of their predecessors in office, and reopening the accounts and settlements of former years. The Government, in short, is made a quasi partner of the company, with an interest in every detail of its business—an unnecessary relationship and vexatious to both.

#### ADDITIONAL SECURITY TO THE GOVERNMENT.

Q. In applying these suggestions, I see that in your report you refer to the point of additional security to the Government, and state that it does not simply comprise the stocks and bonds of the branch lines, many of which, standing alone, may possess but little value, but it is the absolute lien upon the entire system, main line and feeders. By what process of legislation or of contract would you suggest that the Government could obtain a lien, holding its present relative position, which should apply to the whole system?—A. By making the company deposit, or put up, as collateral security for its debt, the stocks and bonds that represent these branch lines.

Q. So then it would have a lien on the ownership of the Union Pacific Railway as to the branch lines and its present lien as to the main line?—A. Yes, sir; let it just have everything the company had.

Q. How far do you understand the direction of the Union Pacific to be willing to make that suggestion to the Government as to the increase of its security?—A. I have always understood that they were desirous to give the Government everything they had as security, and would hold back nothing; that, as they expected to pay the debt, they would make no bargain as to withholding any portion of what they had, but were simply willing to give everything they had; let the Government take everything they had as security for the debt.

Q. You know, of course, that a large portion of these branch lines securities are pledged for the collateral trust loans?—A. Yes, sir.

Q. So that all they could give the Government would be the remaining equities?—A. The remaining equities; yes, sir.

By Commissioner LITTLE :

Q. I do not understand that all these securities are pledged. Are they?—A. Not all; the books show.

By Commissioner ANDERSON :

Q. Would not that arrangement rather interfere with your suggestion of the use of the funds that those bonds represent for the purpose of constructing other branch lines? If so tied up, what would be available to the company for that purpose, except its earnings?—A. Its credit would be available. It could build new branch lines generally, I suppose, by issuing bonds upon them and indorsing them. That is about the way it has been done heretofore.



## A FIXED ANNUAL PAYMENT SUGGESTED.

Q. To pursue this plan, your first point, as stated on this examination, is that a fixed annual payment be reached, instead of a fluctuating payment?—A. Yes, sir.

Q. Have you examined at all the question of the amount or present value of the debt and interest, with reference to the question of determining what that annual payment ought to be in order to effect a complete liquidation of the Government debt?—A. Yes, sir.

Commissioner LITTLER. Within a reasonable time?

The WITNESS. Yes, sir.

Commissioner ANDERSON. Of course the period will change the amount of the annual payment?

The WITNESS. Yes, sir.

Q. What have you to say with regard to the period of the extension?—A. The period of the extension would be simply what the company could do. You want to estimate what the company can do?

Commissioner ANDERSON. Yes.

The WITNESS. I should consider it exactly as if one had a shoemaker, some man in small business, who owed him some money that he could not pay right off, but had a business that would enable him to pay. I would size up his business, and see what he could do and live. Our report last year gives the sort of "sizing up" that I made of it. I think that the Union Pacific Company could afford to pay the Government in the neighborhood of \$1,800,000 per annum now.

## PRESENT VALUE OF THE DEBT ABOUT \$53,000,000.

The first step in arriving at a settlement would be to determine the present value of the debt. Any actuary could do that. There is no trouble in arriving at the present value of the debt, bringing into that value and giving the company credit for the sinking fund that it has on hand, and arriving at it by ordinary actuarial calculations. Then the question is, to pay it. Now, suppose you make the payment \$1,800,000 per annum. That present value of the debt, I think, would come to something in the neighborhood of \$53,000,000, if it could be brought to a single cash payment, discounted at 3 per cent. interest.

Q. That is, you mean the whole amount of the debt to the United States, adding interest to the debt itself at 6 per cent. up to 1897, so as to obtain, theoretically, the whole amount that would then come due. Then, reducing that to its present value, at what rate per cent.?—A. The figure that I calculated on was about 3 per cent.; discounting at 3 per cent. interest.

Q. To ascertain the present value?—A. The present value; yes, sir; what it would cost the Government to borrow such an amount.

Q. That would give the present value of the indebtedness?—A. Yes, sir.

Q. And that figure obtained in that way you think was about \$53,000,000?—A. About \$53,000,000; yes, sir.

Q. For the debt of both the Union Pacific and the Kansas Pacific?—A. Yes, sir; that is my recollection—both the Union Pacific and the Kansas Pacific.

Q. You mean the Union Pacific Railway Company?—A. Yes, sir.

Q. That \$53,000,000 is supposed to bear interest at what rate?—A. Three per cent.—what the Government would have to pay.

## PERIOD OF EXTENSION SUGGESTED.

Q. The payment of that amount, with the interest accruing, would be effected by how many annual payments of \$1,800,000 each?—A. Equal payments of \$1,800,000 would pay that off in about seventy years. I have thought that possibly a system of increasing payments, gradually increasing, could be arranged that would pay it off to the advantage of both the Government and of the road in a smaller number of years; for \$1,800,000 would be much harder for them to pay now than \$2,500,000 probably would be ten or fifteen years from now.

## POSSIBILITY OF INCREASED ANNUAL PAYMENTS.

Q. What special circumstances will occur in the course of eight or ten years which clearly would enable the company to increase its annual payment?—A. The general growth of the country, and the fact that they have a number of bonds out at 6 per cent. and 7 per cent. that will fall due that can probably be renewed at much lower rates of interest.

Q. What is the amount of bonds so maturing?—A. I could not tell you that off-hand.

By Commissioner LITTLER:

Q. They are a first mortgage loan?—A. They are a first mortgage loan. Roughly, there are nearly \$16,000,000 8 per cent. bonds, and \$2,000,000 of 7 per cent. bonds, which, by 1897, will be wiped out entirely by the land grant assets and sales of lands. You see there is a very large saving of interest.

Q. What is the interest?—A. About a million and a half of dollars.

Q. Saving in interest?—A. Yes, sir; per annum. Then there are \$40,000,000 of 6's that will fall due about 1897, which can be refunded. If the Government choose to lend its credit, it might be refunded at 3 per cent. or 2½ per cent., probably. It seems to me, as a business proposition, that that is what I would do. If my shoemaker owed me some money, and somebody had a prior lien to whom he was paying 10 per cent. interest, and my credit would get him 6 per cent. interest, that I would lend him my credit and take that 4 per cent., and let that 4 per cent. saving go towards my security. But, under any circumstances, the company will doubtless be able to refund that \$40,000,000 at 4 per cent. by the time it falls due. There will be a saving then of \$800,000 more.

By Commissioner ANDERSON:

Q. The \$40,000,000 you refer to includes the mortgages which are prior to the United States lien?—A. The \$40,000,000; yes, sir.

Q. And also those that are subsequent?

The WITNESS. I do not know that there are any subsequent, are there?

Commissioner ANDERSON. Oh, yes, sir.

Mr. MINK. They are small. I did not include those. These are all prior to the Government lien.

Commissioner ANDERSON. There cannot be over \$30,000,000 prior to the Government bonds.

The WITNESS. It includes the amount of the prior lien, and also the liens on such portion of the system as are not subsidized.

Q. So that these reductions of interest that you refer to would reduce the fixed charges of the system by about two millions of dollars per annum?—A. Yes, sir; over two million dollars per annum.

## CONSEQUENCES ARISING UPON FAILURE TO PAY.

Q. What examination have you made of the feasibility of this plan with reference to the legal consequences which may be affixed to a failure to comply with the agreement in making the fixed annual payment?—A. My understanding is that the arrangement would be such that if the company fail to make a single payment when it fell due, the Government could at once enter upon the property and take possession of the whole of it, as a whole; not of detached parts, but simply as a whole; that that would practically wipe out the stock altogether, and as it is the stock that represents the company, the management, that penalty practically would be death to the management if they did not make their payment. A management, of course, represents stock. Bondholders have their bonds, and have trustees to look after them, and some sort of security, but the president represents the stockholder, who has no other security but his management.

Q. So that any enforcement of this new arrangement could be made binding, in your opinion, on the stock? Have you examined to see whether it could be made binding on any of the mortgages which are subsequent to the lien of the United States, or on the branch lines?—A. I do not know that it could, but, as these mortgages fall due, doubtless arrangement could be made by which the Government could take up those mortgages that fall due, and then acquire the whole lien. I do not think there is any difficulty at all in working out the practical details of such an arrangement.

## THE MANAGEMENT OF THE ROAD SHOULD BE UNTRAMMELED.

Q. Have you any further suggestions to make in regard to the future policy? Under your suggestions, I presume, you mean that the management of the road would, on its part, be left entirely free to pursue its own policy, with reference to branches?—A. Yes, sir; I think that is an exceedingly important part of any arrangement that should be made. I thought the bills that were introduced in Congress did not go far enough in that way; but being a practical railroad manager myself, and knowing the importance of prompt action and freedom to operate where you are in competition with other and stronger competitors, and are occupying certain territory, it seemed to me that the Government could not do better for itself and for the company and for the country than to simply take all the securities for its debt, and then turn them absolutely loose to operate their road, and *to be a railroad*, as free as the Rock Island, Chicago, Burlington and Quincy, and any other road, to do what they pleased in that territory and with their credit.

By Commissioner LITTLER:

Q. Assuming that the Government accepts your suggestion, what have you to say about continuing the Government board of directors?—A. I do not think it would be a matter of great consequence. There really would be no practical use for them, but it might give the Government, as it were, an insight into everything that was going on to have a representative of the Government there to have an insight into it all.

Commissioner LITTLER. We do not want to legislate you out.

The WITNESS. I am out already, so that I can speak entirely indifferently.

THE COMPANY MUST OCCUPY ITS TERRITORY, TO BE SUCCESSFUL.

Q. Have you anything further to suggest?—A. No, sir; nothing occurs to me further than what we said in our report, except that that does not emphasize the importance, perhaps, as much as it might, as I said, of having the company free to acquire by lease or contract or purchase, or in any other way, a branch line to protect itself. It has got to occupy that territory if it wants to make a success of the system.

Commissioner LITTLE. Judge Dillon, did you want to ask any questions?

Mr. JOHN F. DILLON. Mr. Adams does, I believe.

Mr. ADAMS. With the permission of the Commission, I will ask one or two questions.

By Mr. ADAMS:

Q. You have had long experience, I know, in all these questions. Will you state what your experience has been?

The WITNESS. My railroad experience?

Mr. ADAMS. Yes.

#### RAILROAD EXPERIENCE OF WITNESS.

A. I was superintendent of the Charlotte, Columbia and Augusta Railroad in 1871 and 1872. Then I was president of the Savannah and Memphis, it was called, in Alabama, from 1873 to 1875. I was president of the Western Railroad of Alabama, from 1875 to 1878; of the Georgia Railroad and Banking Company, from 1878 to 1880; vice-president of the Louisville and Nashville, from 1880 to 1882; and I am now president of the Central Railroad and Banking Company of Georgia, since January last.

Q. How many miles of road and what amount of steamship property have you in the organization of which you are now president?—A. We control about 2,200 miles of railroad, and three steamship lines running from Savannah to Boston, New York, and Philadelphia.

Q. As a railroad man, you have long been thoroughly conversant with the principle and practice of constructive mileage allowance, have you not?—A. Yes, sir.

#### CONSTRUCTIVE MILEAGE.

Q. I call your attention to the report of the Government directors for the year 1882; it is at page 193 of the reprint of the Government directors' report. Will you examine those mileage allowances?—A. That is a low scale of allowance.

Q. The scale of allowance there specified is a low one?—A. Yes, sir.

Q. In making an allowance between the ordinary main line and the ordinary branch, how is the allowance of one and one-half to one in favor of the branch considered?—A. One and one-half to one would be a very low scale of allowance, particularly where the main line is a very long line in proportion to the other one.

Q. Then, on a haul-of, we will take the Echo and Park City, in the scale before you, that is what allowance?—A. That is 2 miles for 1.

#### ECHO AND PARK CITY ALLOWANCE RIDICULOUSLY SMALL.

Q. The Echo and Park City is 30 miles long, and is 1,000 miles from the terminus of the Union Pacific. How would such an allowance in such a case strike you?—A. It would strike me really as ridiculously

small. They get 60 miles out of 1,060, which is less than 10 per cent.; about 6 per cent. That road, too, is a difficult road to operate.

Mr. ADAMS. I think you stated that in your own practical experience a single ferriage of a mile or so counted as 15 miles?

The WITNESS. Yes, sir; less than a mile. The simple transfer from the Old Dominion steamers to the rail is so estimated, as I was told by Mr. Henry Fink, a few days ago; but it illustrates, perhaps, the reason for adopting that sort of allowance. The object to be accomplished is to give the branch lines more than a prorate. You can give it to it by one of two ways—an arbitrary or constructive mileage. Those are the two ways adopted by railroads. The steamers that I control, running to Savannah, give an "arbitrary" allowance. It is, say, 3 or 5 cents a hundred, and so on. Mr. Fink came to me and complained that the arbitrary way was too hard on cheap freights, and wanted me to adopt or to take a constructive mileage, instead of an arbitrary one, so that when freights went down very low it would go in proportion. You see, mileage will go down with cheap freights, but an arbitrary rate stays the same. Another instance of constructive mileage is with our steamers from New York to Savannah. It is about 750 miles of water transportation, and we give that a constructive mileage of one-third only. There it works the other way.

Commissioner LITTLER. You mentioned Mr. Fink. Just tell who he is, and what his relation is to the railway system of the United States?

Mr. ADAMS. That is Henry, and not Albert Fink.

The WITNESS. Mr. Henry Fink is vice-president and general manager now of the Richmond and Danville and East Tennessee, Virginia and Georgia system.

Mr. ADAMS. I would like to say that if the Commission would like to hear Mr. Albert Fink, we would be pleased to produce him. He is the highest expert in the country.

Commissioner ANDERSON. We will hear him when we come back.

#### INJUSTICE OF ALLOWANCE TO THE DENVER AND SOUTH PARK.

Q. Tell me if you find the Denver, South Park and Pacific in the list of allowances there.—A. No, sir; that is not in this list, I believe.

Q. You are acquainted with the grades, &c., of the Denver and South Park Road, are you not?—A. I do not recall the exact figures, but I know they are exceedingly heavy.

Q. Four per cent. is the grade. In that case the Union Pacific, as you may or may not remember, has a haul of 620 miles for delivery to the Denver and South Park. On a haul of 620 miles, with 150 miles or 200 miles of the branch line, with 200 per cent. grade, would you consider one and a half to one an extraordinary allowance?—A. No, sir; I should consider it exceedingly unjust to the branch line. If I were a minority stockholder of that branch line, I would think I was being imposed upon. A hundred and fifty would give it at one-half, 225 miles out of 825 miles; about 25 per cent. The freight of that road is local to that road; whereas the freight that the main line has on it is competitive. They could haul it by a different line, provided it could go there. I have no doubt any other line reaching it would be glad to make a contract with it and give it a higher constructive mileage.

Q. I will take one more case. Tell me what the constructive mileage allowance to the Utah and Northern is in the list before you?—A. One and three-quarters.

Q. To one?—A. Yes, sir.



## ALLOWANCE TO UTAH NORTHERN NOT EXTRAORDINARY.

Q. The Utah and Northern (I may refresh your recollection in that respect) is a narrow-gauge road?—A. Yes, sir.

Q. Running north from Ogden on grades as high as 175 feet to the mile in Beaver Cañon. Should you consider, in such a case, the Union Pacific having a 1,000-mile haul on that business, that one and three-quarters was an extraordinary allowance?—A. No, sir; not at all. That road is a difficult road to operate, especially when its coal supply—I happen to know—has to be brought some distance to it. I think it has none on its own line. I do not think that allowance is at all an unfair one.

Q. Leaving that subject, you have referred to your knowledge of the Union Pacific country. I believe you went through that country before the railroad was constructed?—A. Yes, sir; I marched across the country in 1858 at the time of the Mormon war. I was in the old Army and went out with a re-enforcement to Albert Sidney Johnston in 1858.

Q. Therefore you have some familiarity with the topography of the road?—A. Yes, sir.

Q. Do the views you have expressed represent also the views of the other members of the board of Government directors?—A. I think so; entirely. We were all exceedingly unanimous upon it; and, as an illustration of the conclusion, the last few lines of our last report were written by Mr. MacVeagh on the special suggestion of the other members, while I wrote up the earlier part of it. I refer to the last few paragraphs of the report on "Physical Condition and Management."

## FAVORABLE VIEWS OF GOVERNMENT DIRECTORS.

Q. Then, as I understand you, as respects all of these questions, the views as to what was desirable in the management and policy, as the course that should be pursued towards the company by the Government, and as to what was a reasonable basis of settlement, your board of directors were entirely of one mind, as expressed in that report?—A. Entirely so; yes, sir.

By Commissioner LITTLE:

Q. When was this report written? Did the last Congress have the benefit of this report?—A. Yes, sir; it was sent in on the 22nd of November. It was finished that day, and sent to Washington.

## CONSTRUCTIVE MILEAGE IN GENERAL USE.

By Mr. JOHN F. DILLON:

Q. I want to ask you one or two questions: Since the Union Pacific is subsidized for a portion of its line, and since it has a branch system of two miles or more to one of subsidized line, it occurred to the framers of this act to suggest this as among the subjects of inquiry by this Commission—among other things—whether the system of constructive mileage is usual. What can you say in regard to the system of constructive mileage, as confined to some roads, or whether it is in general use among railways having branches?—A. It is in very general use. It is one of two ways of adjusting this thing, and this is the more usual way—to have constructive mileage rather than arbitraries.

Commissioner ANDERSON. He has been all over this.

Mr. JOHN F. DILLON. The framers of this act did not seem to understand it. They thought this was some special way of cheating the Government.

The WITNESS. It is not universal, but it is a very common practice.

NO ATTEMPT APPARENT TO REDUCE NET EARNINGS ON MAIN LINE.

Q. I want to ask you to state whether or not, in your experience as a Government director, in respect to these allowances, you ever discovered any evidence of a disposition to fix or adjust them with reference to reducing the net earnings of the main line.—A. No, sir; it is plainly stamped upon the face of it that there never has been any such idea, I think, in the minds of the gentlemen fixing them.

Q. On their face they show no such effects, but negatively, as I understand your judgment?—A. Yes, sir.

By Mr. ADAMS:

Q. I will ask you one other question: Have you at any period of your life had any interest of a pecuniary nature in the roads the other side of the Mississippi?—A. No, sir; I have never had any pecuniary interest, direct or indirect, in any railroad west of the Mississippi River, except once I did have a few Texas Pacific bonds, a long time ago, but only temporarily. That is the only time I have ever been interested at all in any of these roads.

Q. Your interest has been entirely in the Southeastern system?—A. Yes, sir.

E. P. ALEXANDER.

EQUITABLE BUILDING,  
*Boston, Mass., Wednesday, June 1, 1887.*

JOHN F. DILLON, being further examined, testified as follows:

Commissioner LITTLE. I understand you have something else to add to your testimony. Will you proceed with your statement?

A QUESTION AS TO EXISTING DEBTS, BETWEEN GOVERNMENT AND COMPANY.

The WITNESS. You asked me yesterday as to the existing debts between the Government and the company. I forgot to mention one that has arisen under the very act which creates this Commission, namely, the fifth section of it, as to the investment of the sinking fund. Two questions have arisen under that already. That section provides—

That the sinking funds which are or may be held in the Treasury for the security of the indebtedness [of the company] 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, &c.

The question immediately arose after the enactment of this act whether it only applied to the \$70,000 or \$80,000, more or less, of cash uninvested in the Treasury, or whether it applied to the \$6,000,000 or \$7,000,000 of Government bonds; and the further question, whether the Union Pacific, for example, could purchase the first-mortgage bonds of any other company than its own.

That matter was presented to the Attorney-General, in behalf of our construction of that section, by Mr. Story, Mr. Bartlett, and myself

We thought it was very plain, but the Attorney-General has given an opinion ruling both those points against the company. I do not know whether you want to put his opinion on the record, but it is a very important matter.

Commissioner LITTLE. I think it is an important document.

The witness produced a paper, which is marked "Exhibit No. 1, June 1, 1887," and is as follows:

#### OPINION OF ATTORNEY-GENERAL.

DEPARTMENT OF JUSTICE,  
*Washington, D. C., March 31, 1887.*

The SECRETARY OF THE TREASURY:

SIR: Your letter of the 16th of March, 1887, submits for my opinion—

First. Whether the provisions of section 5 of the act of the 3d of March, 1887, may be construed as applying to moneys now in the funds uninvested, and moneys hereafter paid in to be invested; or whether United States bonds in which the funds are now invested could be sold and the proceeds reinvested in the first-mortgage bonds of the companies.

Second. Whether investments can be made in the first-mortgage bonds of any of the companies, or only in the first-mortgage bonds of the company for which the investment is made.

The fifth section referred to is:

"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."

The sinking funds referred to in this section were established by the act of the 7th of May, 1878 (20 U. S., page 56), known as the Thurman act. The investments authorized by law, the officer by whom they are to be made, the source whence the fund is to be derived, its administration and final distribution, are all fixed by the same act. The action referred to in yours is concerning the same subject-matter, and is substantially an amendment of the prior act. The two are to be construed together as one, and as a whole they must be viewed in connection, so as to make all the parts harmonious, if practicable. The whole law, as thus considered, received an authoritative interpretation in the sinking-fund cases (99 U. S., 725), by which certain principles were announced which will aid in the determination of the questions submitted. It is there settled the fund is a fund of the Union and Central Pacific Railroads, established by law, intended for the security and payment of certain of their several debts at maturity; that the United States Treasury is the depository, and the Secretary of the Treasury is the agent charged with the administration of the fund. The power of the Secretary of the Treasury as an agent over the fund is not enlarged by the section referred to in yours, except that he is empowered, "in addition to the investment now authorized by law," to invest in certain other securities not before authorized. His power is a special one, fixed by law, and must be strictly followed. We cannot enter into the inquiry as to whether the power is too limited or too extensive; whether the interest of the corporations and their creditors would have been better subserved had the Secretary been allowed to make other investments, or to buy and sell bonds, as to him would seem best, or not. That question has been already passed upon by Congress, and we are limited to determining whether Congress empowered him to sell the bonds in which the fund has been invested, and with the proceeds to buy others. If that power exists now, it will continue as long as the law remains unchanged. The bonds which might be bought with the proceeds of those sold to-day might to-morrow, by a change in the market, appear to be profitable to sell and reinvest. Each change in the market might be made an occasion for sale and reinvestment. A general power to deal in the bonds referred to in the act and amendment would be the result of such a construction. Whether a good or bad investment of the fund might be the result of the exercise of such a power would largely depend upon the agent's knowledge of the market and his judgment in the application of that knowledge. An error in a sale or purchase might result in a loss. During the course of such dealing the interest on the fund must be suspended. The

law contemplated no uncertainty on this subject. A certain steady gain, and not speculative profits, is shown to be the intent; for the third section of the act provides that—

"The semi-annual income thereon shall be, in like manner, from time to time, invested, and the same shall accumulate and be disposed of as hereinafter mentioned."

This semi-annual income clearly refers to the interest on the bonds purchased, and does not contemplate the uncertain quantity of profit or loss. The "same shall accumulate" leaves no discretion in the agent to subject the fund to a possible loss. The gain was intended to be a fixed and certain accumulation. The law authorizes the secretary to invest the fund established in bonds. This is equivalent to saying "with the money paid in you shall buy bonds." It does not say "with the bonds in the depository you shall buy bonds." Does the power to buy the bonds or the whole scope of the law imply the power to sell them? The language of the section just quoted says, "The semi-annual income shall be, from time to time, invested." If it had been the intention of the lawmakers to allow the investment, from time to time, of the principal from which the income was derived, such from-time-to-time investment would not have been limited to the income only. The inclusion of one is the exclusion of the other. The power of an agent to buy does not imply the power to sell. The subject is considered in Story on Agency, sec. 88, and the conclusion stated in the following language:

"So that we here see it laid down in positive terms that the agent to buy has no implied authority to sell, and an agent employed to sell has no implied authority to buy."

Without a conversion or sale of the bonds now in the Treasury until their maturity there can be no reinvestment. The section referred to in your letter only authorizes the investment of "the sinking funds which are or may be held in the Treasury." The ordinary signification of the word "funds" is "cash on hand." (Bouvier's Law Dictionary, vol. 1, page 701.) As a means of purchase this is the only signification the word could have in this connection, and this is the sense in which it is here used. This is shown by reference to the third section of the prior act, of which this is an amendment, the first clause of which is:

"That there shall be established in the Treasury of the United States a sinking fund, which shall be invested," &c.

It is clear the lawmakers did not contemplate that the Secretary of the Treasury should buy bonds with anything but cash on hand. The law says he is to buy them with the funds established. Another clause in the same section states:

"All the bonds belonging to said fund shall, as fast as they shall be obtained, be so stamped as to show that they belong to the said fund, and that they are not good in the hands of other holders than the Secretary of the Treasury, until they shall have been indorsed by him and publicly disposed of pursuant to this act."

Here the bonds are not spoken of as constituting part of the fund, but as investments of, or as property, of which the fund personified is spoken of as the owner, indicating a distinction between the money with which the property is bought and the property purchased therewith. The investment is shown to be intended as permanent, for the property thus obtained must be stamped and rendered valueless, except in the hands of the agent of the "fund," until by him indorsed and publicly disposed of pursuant to the act." This is the only authority to sell the bonds. The act provides the funds; directs its investment; directs the investment from time to time of the semi-annual income, and authorizes nothing further with reference to the fund, as a fund, until the final distribution is provided for in the seventh and eighth sections of the act of the 7th of May, 1878. The seventh section of that act is:

"That the said sinking fund so established and accumulated shall, at the maturity of the said bond so respectively issued by the United States, be applied to the payment and satisfaction thereof according to the interest and proportion of each of said companies in said fund, and of all interest paid by the United States thereon, and not reimbursed, subject to the provisions of the next section."

Until action is to be taken in pursuance of this section, the law authorizes no use of the bonds, nor further disposition of them by the agent. After the investment is made, the first step required to be taken with reference thereto, pursuant to law, is the sale for the purpose of the application to the payment of the debts for which it was accumulated. The time when this step is to be taken is at the maturity of the bonds. The bonds whose maturity is referred to in this section are the United States railroad subsidy bonds issued on account of the Union Pacific and Central Pacific Railroads. Until those bonds mature, the power to dispose of the United States bonds purchased in pursuance of the act does not take effect. Therefore, in answer to your first inquiry, you are not authorized to sell the United States bonds in which the funds are now invested for the purpose of reinvesting in the first-mortgage bond of the company.

In reply to your second inquiry, the 5th section of the act of the 3d of March, 1867, authorizes the fund.

"In addition to the investments now authorized by law (to) 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 road and franchises, which by 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."

The second section of the same act defines the words "all said railroads" to mean "all the railroads that have received aid from the Government in bonds." The railroads which have received aid from the Government in bonds are set forth in the act of the 1st day of July, 1862, and the amendment thereto of the 2d day of July, 1864, and any of the United States railroad subsidy bonds issued in pursuance of such act as amended are a legitimate security in which to invest the fund under the first clause of the quotation under consideration. In the second clause "or in any of the first mortgage bonds of *either* of said companies" the word "either" is substituted instead of the phrase "either or all of said companies" in the former clause. This substitution of "either" for "either or all" is intended to limit the investment in mortgage bonds of the roads to fewer roads than are included in the expression "either or all." "Either" is generally used as signifying "one or the other of two." It is thus used here. The two roads in either of whose first mortgage bonds the investment may be made as referred to by the word "either" is to be determined by reference to the act of the 1st of July, 1862, with its amendments of the 2d of July, 1864, and the 7th of May, 1878. By reference to these acts it will be found the Union Pacific and the Central Pacific Companies composed the main line and central object of the legislation; that they, and they alone, pay in the money which constitutes the fund. They are the sole corporation embraced in the provisions of the Thurman act, in which they are frequently grouped under the word "either." Hence it is concluded they are the railroads embraced in the term "either" in the clause under consideration; and investments of the fund may be made in the first mortgage bonds of either the Union or Central Pacific Railroads. You may, then, invest any money paid into the sinking fund in pursuance of the act of the 7th of May, 1878, now in the Treasury or which may in future be paid in—

First, in United States bonds, as provided in the act of the 7th of May, 1878;

Second, in any United States railroad subsidy bonds of any of the aided roads as described in the act of the 1st of July, 1862, and its several amendments;

Third, in any of the first mortgage bonds of the Union Pacific or the Central Pacific Railroad Companies, such as are described in the third section of the act of the 3d of March, 1867.

Within this range the law leaves it to your discretion to invest in whichever of the securities will best subserve the securing and accumulating of the funds.

I am, yours, respectfully,

A. H. GARLAND,  
Attorney-General.

**THE WITNESS.** The Attorney-General holds, in substance and effect, that when this act says that the sinking funds which are in the Treasury may be thus invested, it only applies to the dribble of "money" there, and has no application to the "bonds" of the United States in which the fund now exists. That, we submit to the fair judgment of this commission, is directly contrary to what was intended, as well as contrary to the language of the act.

He also holds that, although this reads "may be invested by the companies in *any* of the first mortgage bonds of '*either*' of the companies," the act does not mean what it says, but that the Union Pacific is restricted to an investment in its own first mortgage bonds. That, we submit, is contrary to the plain language of the enactment, and is unnecessarily restrictive of the broad option which is intended to be given for the benefit of the Government itself as well as of the company.

Mr. Story had the prevision to see that perhaps these objections might arise. He suggested them to the committee, and they said the language as it stood was so plain that it could not be misconstrued.

**Q.** That is, the Congressional committee having it under consideration?—**A.** Yes, sir. If there is to be further legislation, the practical point here is that attention should be called to the construction which has been put on that act.



Commissioner ANDERSON. Is what you say about the concurrence in the committee a matter of recollection or of record?

Mr. STORY. No, sir; it was a suggestion made to the conference committee.

#### DIVERSION OF MAIL SERVICE FROM UNION PACIFIC.

The WITNESS. In my testimony of yesterday I stated that I had understood that the United States had not given to the Union Pacific all the mail service which the Union Pacific might rightfully require to be given to it under the act, but that other and competitive roads had been allowed to do service which could as well have been, or better have been, done by the Union Pacific. I find this has been the subject of correspondence between the company and the Government, and I produce the letter of the company, dated Boston, June 8th, 1885, addressed to Hon. William F. Vilas, Postmaster-General, and signed by Mr. Oliver W. Mink, the company's comptroller, and I ask leave to reproduce and have go on your minutes what I think contains very pertinent and useful suggestions for your consideration.

The paper is marked "Exhibit 2, June 1st, 1887," and is as follows:

#### LETTER FROM COMPANY TO POSTMASTER-GENERAL.

BOSTON, June 8, 1885.

Hon. WM. F. VILAS,

*Postmaster-General, Washington, D. C.:*

SIR: By direction of our president, Mr. Charles F. Adams, jr., I desire to call your attention to a matter of considerable importance to the Union Pacific Railway Company, in which the United States is, as you probably know, interested to a very large extent.

In the transportation of the mails between Council Bluffs, Iowa, and Ogden, Utah, this company is, as it ever has been, most obedient to the calls of the Post-Office Department. Its facilities for transporting and handling the mail have constantly been in advance of the demands of the Government, and it has in every respect endeavored to perform the service to the satisfaction of the Department. For years the mail matter transported by the company has increased in quantity, until in 1882 the daily weight reached an average of 29,665 pounds. This appears to have been the maximum daily average, as in 1884 the average had fallen off to 23,990 pounds, a decrease within the two years of 5,675 pounds, or about 19 per cent., and the annual compensation of the company was reduced during the same time, by reason of the decrease in the weight, about \$53,000.

This is a showing which is a matter of surprise to the officers of the company. The line of the Union Pacific Company has long been and still is the leading highway to Colorado, Utah, Idaho, Oregon, and Washington Territory.

Its geographical advantages are such that in the transportation of the Utah and Idaho mail, and in the transportation of the bulk of the Colorado mail, and a large proportion of the Oregon and Washington Territory mail, it stands unrivaled.

As the business of the Post-Office Department in these sections of the country has undoubtedly largely increased within this period, the only inference that can be entertained by the officers of the company is that much of the mail matter which formerly went by the Union Pacific is now delivered to and transported over other and competing lines of railway.

From information which has been furnished to me, it appears that the west-bound trains, on which a large proportion of the mail is carried, reach Chicago between six and eight o'clock in the evening. The trains thence, west-bound, leave between nine and ten o'clock in the evening. Under ordinary circumstances, I presume the mail matter would be divided among the railways running thence to Omaha, and could be easily transferred in the intervening time. If so transferred, it would reach Council Bluffs the next evening at about seven o'clock, in ample season for connection with the Union Pacific train leaving an hour or so later. I am informed, however, that a large part of the mail arriving in Chicago on the early evening trains is held over at that place until the departure of the fast mail train leaving for the west at 3 o'clock on the following morning. This train reaches Omaha a few moments only in advance of the regular evening trains. The mail matter which it brings to Omaha, however,

having passed into the hands of a competitive road at Chicago is retained by that road, and transported by it as far as may be to points west of the Missouri River, the most important of which are also on the line of this company's road.

If, now, the mail matter were to be distributed in Chicago among the various east and west lines early in the evening, as was the custom before the introduction of the fast-mail service, a very much larger proportion of that matter would, it is believed, reach the Union Pacific at Council Bluffs than is now the case.

I assume that the Department is familiar with the relations of the Government to the company; that it is aware that the United States is the company's largest creditor; that the contemplated repayment of the debt was primarily arranged for through the application of the Government transportation earnings, and that the ability of the company to repay its obligations to the United States is materially weakened by the diversion of Government business, which, all other things being equal, would most naturally be turned over to this company.

Under the company's charter, and under the terms of the Thurman act, one-half of the entire revenues of the company derived from the transportation of Government troops, stores, supplies, mails, &c., is retainable by the Government, and immediately applicable to the extinguishment of the subsidy debt and the interest accrued thereon. This debt, with the accumulated interest, is not otherwise due and payable by the company until some time within the period extending from 1895 to 1899. The United States, therefore, in allowing the Union Pacific to perform its mail service not only strengthens the ability of the company to pay the subsidy debt and interest, but it exercises its reserved option of declaring to be presently due a large part of the debt not otherwise due for some thirteen years. This option exists in the provisions of the charter, which require that one-half of the Government transportation earnings shall be presently applied to the payment of the subsidy debt. The Government, therefore, in making such application of these transportation earnings, secures the use of these earnings for some thirteen years in advance of the maturity of the debt. The value of this to the United States, reckoning the interest at 3 per centum, is equivalent to \$214.50 on each \$1,000 in Government transportation earnings. In other words, on each \$1,000 earned by this company for Government transportation the Government may at once apply one-half thereof, namely, \$500, the interest on which for, say, thirteen years, at 3 per cent., would be \$195. It also saves the interest for the same length of time on 5 per cent. of the resulting and increased net earnings, which on each \$1,000 would be \$50, the interest on which amounts to \$19.50. Those two sums, aggregating \$214.50, represent the amount saved by the Government on each \$1,000 credited to this company for mail compensation.

It is, therefore, manifestly to the interest of the Government to permit the Union Pacific Company to render as large a proportion of the mail service as may be practicable, since, as the fact is, its compensation for that service is, by reason of its contract relations, fully 20 per cent. less than that of its competitors.

The mathematical process by which it appears that upon every \$1,000 credited to this company for transportation services the Government saves \$214.50 as against the same amount credited and paid to other corporations, though plain and simple, may have escaped observation. It is, of course, in the interest of the company that I present these facts to your notice; but it occurs to me that they are such as, in the interest of an economical administration of the public service, your Department may desire to entertain. If, upon a review of the considerations suggested in this letter, the Department shall find itself in a position where it may extend the usefulness of the company in the transportation of much of the matter which, for reasons not now apparent, has been transferred to railways having no relations such as subsist between this company and the United States, I beg to assure you that, aside from the mutual advantages likely to result from an enlarged service, the Department will receive, as it now receives, a service unexcelled on any other railway route west of the Missouri River.

I have the honor to be, yours, very respectfully,

OLIVER W. MINK,  
*Assistant Treasurer.*

**THE WITNESS (continuing).** That is a basis for the suggestion that there ought to be some way whereby we can do such service; that it should come to us to do, since that was the original understanding, that we should do the mail service in this region, which we could supply.

**Q.** And you claim that the Government has diverted it?—**A.** Not a legal claim.

**Commissioner LITTLER.** But, in effect, you claim that the Government has diverted a part of your mail traffic.

The WITNESS. Yes, sir; and I say further, to their own injury; and that, perhaps, ought to be a provision in any adjustment that is recommended, if you continue the net earnings, or perhaps otherwise—that we should do such service which comes natural for us to do, *i. e.*, which we can do as well as anyone else.

I produce, at the previous request of the Commission, two contracts made between the Union Pacific Railroad Company and Rowland G. Hazard, in November, 1878.

[The papers are respectively marked "Exhibits 3 and 4, June 1, 1887," and are as follows:]

#### CONTRACT BETWEEN UNION PACIFIC AND R. G. HAZARD.

This indenture, executed the fifteenth day of November, A. D. 1878, by and between the Union Pacific Railroad Company, of the first part, and Rowland G. Hazard and Rowland Hazard, of South Kingstown, in the State of Rhode Island, Isaac P. Hazard, Elizabeth Hazard, Elizabeth Hazard, trustee, and Anna Hazard, all of Newport, in said State of Rhode Island, of the second part.

Witnesseth: That it is claimed by the party of the first part that a certain contract made with it by H. M. Hoxie for the construction of part of its road is void or voidable by it, and that it has the right to recover against each of the shareholders of the Credit Mobilier of America, to which corporation said contract of said Hoxie was assigned, all sums by them respectively received as dividends or otherwise from said last named corporation arising out of or connected with said contract assignment and the completion thereof, which claim and its validity is denied by said shareholders.

That it is also claimed by the Union Pacific Railroad Company that certain contracts made with it by Oakes Ames and also by James W. Davis for the construction of parts of its road are each void or voidable by it, and that it has the right to recover from each of the parties who have received from certain trustees to whom said several contracts were assigned by the said Ames and said Davis the proceeds or fruits arising out of or connected with the carrying out of said contracts, the validity of which claim is denied by all the parties who have thus received said proceeds or fruits.

And it is further claimed by said party of the first part "that the parties of the second part hereto were each of them shareholders of said Credit Mobilier of America, and each received from that corporation, by way of dividend or otherwise, sums derived by it from the assignment and the carrying into effect of said contracts with said Hoxie, and were and are also each of them parties who derived and received through said trustees portions of the proceeds or profits arising out of or connected with said contracts of said Ames and said Davis with said party of the first part, under said assignment thereof," which claims are not admitted by the parties of the second part, except so far that they do not deny that they were shareholders in the Credit Mobilier of America, and thereupon it has been agreed by way of compromise between the parties hereto as follows:

First. That the parties of the second part, each of them, shall, and by a transfer indorsed on the certificates of the shares hereinafter mentioned, contemporaneously with the delivery of this indenture, convey to the party of the first part each and all of their respective shares of the stock of the Credit Mobilier of America, namely:

	Shares
Said Rowland G. Hazard.....	1,606
Said Rowland Hazard.....	380
Said Isaac P. Hazard.....	380
Said Elizabeth Hazard.....	34
Said Elizabeth Hazard, trustee.....	13
Said Anna Hazard.....	20

*Provided, however,* That the above parties, one or more of whom are plaintiffs in two certain suits now pending, one against Thomas C. Durant and the Credit Mobilier of America, and the other against said Durant and the Union Pacific Railroad Company in the supreme court of the State of Rhode Island, shall be allowed to retain in the aggregate ten of their said shares in trust until the termination of said suits and upon such termination to convey the same to the Union Pacific Railroad Company; and

*Provided further,* That on the termination of said suits, or either of them, if a decree shall be rendered in favor of the plaintiffs, the party of the first part will not

object to any allowance to plaintiffs for services and expenses out of any sum that shall be recovered and collected which the court may deem just and proper and decree: *And further*, That in case of any such recovery, should any part of the sums recovered be collected and received by the Union Pacific Railroad Company, it shall and will pay over to each of the parties who have thus transferred to it their share in the Credit Mobilier of America such proportion of the sum thus recovered as the number of the shares so transferred by them bears to the whole number of shares constituting the capital stock of said corporation. But the party of the first part, it is hereby declared, is and is not to be in any manner liable for any of the costs, expenditures, or services incurred, or to be incurred or rendered, in conducting said suits, or either of them: *And it is further declared*, That any proceeds of settlement of the suits against Durant or his bondsmen in the same shall be subject to the same provisions herein made in regard to the proceeds of judgment therein, a reasonable compensation for the complainants' expenses therein to be submitted for a judgment of a court as to the same.

Second. Said parties of the second part do hereby further assign, transfer, and convey to said party of the first part all their respective claims and rights in and to the assets or property of every description now held by said trustees arising out of or connected with the assignment to them of said contracts of said Ames and of said Davis, or out of the administration of said trust; but no right or claim against said trustees, or either of them, or their representatives, for any error, omission, or misconduct, if any, in the administration of said trust is hereby assigned, the parties of the second part having, by an instrument of even date herewith, released said trustees and their representatives from all and all possible claims on account of such error, omission, or misconduct.

Third. In consideration of the releases hereinafter specified, and the discontinuance of certain suits, said party of the first part does hereby forever release and discharge the several parties of the second part from the claims aforesaid, and from any and all possible claims it has or might have against them.

*Provided, however*, That this release shall not be deemed or construed to release the claim of the party of the first part against said Credit Mobilier of America, for which a suit is now pending, or against any of its stockholders, other than the parties hereto of the second part.

Fourth. In consideration of the premises, the several parties of the second part, except the said Rowland G. Hazard, do hereby release and forever discharge the party of the first part from all and all possible claims of every description, and the said Rowland G. Hazard, in consideration of the premises, and of the sum of fifteen thousand dollars this day paid him by way of compromise on account of a claim made by him of a larger amount for sums alleged to have been paid by him to certain Burge, Burlage & Co., does hereby release and discharge said claim, and all other his claims or possible claims, against said party of the first part.

Fifth. It is further agreed between the said Rowland G. Hazard and the party of the first part that all suits now pending between him and the party of the first part shall be dismissed without costs to either party, and that the suit of said Hazard against the Credit Mobilier of America, pending in the court of common pleas for the city and county of Philadelphia, with the aid of said Hazard, be dismissed without costs to either party, and the bond of said Hazard given in said suit be, if the rules of the court will permit, surrendered to said Hazard or cancelled.

Page 5, line 20, "to" erased and "do hereby" interlined before signing.

Page 6, line 7, "said" erased and "such" interlined before signing.

Witness our hands and seals.

R. G. HAZARD. [SEAL.]  
R. HAZARD. [SEAL.]

In presence of—  
N. W. WILLIAMS.

I. P. HAZARD. [SEAL.]  
ELIZABETH HAZARD. [SEAL.]  
ELIZABETH HAZARD, *Trustee*. [SEAL.]  
ANNA HAZARD. [SEAL.]

These four in presence of—  
WILLIAM RAMWELL.

[SEAL.] UNION PACIFIC RAILROAD COMPANY (authorized by vote of executive committee, May 30th, 1878),

By ELISHA ATKINS, *Vice-President*.

Attest:  
HENRY MCFARLAND, *Secretary*.

## ANOTHER CONTRACT BETWEEN SAME PARTIES.

This indenture, executed this fifteenth day of November, A. D. 1878, by and between Rowland G. Hazard and Rowland Hazard, of South Kingstown, in the State of Rhode Island, Isaac P. Hazard, Elizabeth Hazard, Elizabeth Hazard, trustee, and Anna Hazard, all of Newport, in said State of Rhode Island, of the first part, and Sidney Dillon, John Duff, Cornelius S. Bushnell, Thomas C. Durant, Henry S. McComb, Frederick L. Ames, and F. Gordon Dexter, present trustees, under an indenture of three parts bearing date the fifteenth day of October, 1867, between Oakes Ames of the first part, the said Thomas C. Durant, Oliver Ames, John B. Alley, Sidney Dillon, Cornelius S. Bushnell, Henry S. McComb, and Benjamin E. Bates, of the second part, and the Credit Mobilier of America of the third part.

Witnesseth: First. That said party of the first part does hereby, in consideration of the covenants of the parties of the second part hereinafter set forth, release and forever discharge the said parties of the second part, and each of them and their predecessors in said trust, and each of them and the representative of each of said predecessors who have died, from all and all possible claims of every nature or description arising out of their or each of their errors, omissions, mistakes, or misconduct in the past administration of said trust created by said indenture in three parts as aforesaid.

Second. And the said party of the second part by their committee, F. L. Ames, John Duff, and Sidney Dillon, thereto authorized by vote of said trustees passed on the twentieth day of May last past, does release and discharge (each of said parties of the first part, except the said Rowland G. Hazard) from all and all possible claims and demands of every description which they or their predecessors as such trustees might or could have against said parties of the first part, and they do further discharge the said Rowland G. Hazard from all said claims, save and except a claim made by them founded on a contract signed by said Hazard, bearing date the twenty-sixth day of August, 1869, upon which a suit is now pending in their favor in the supreme judicial court of the State of Massachusetts, in the county of Suffolk.

Third. Said parties of the second part do further covenant to and with the said Rowland G. Hazard that the suit aforesaid shall be, by a rule of court, irrevocably referred to the arbitration or award of William Gaston and Alexander H. Bullock, ex-governors of the Commonwealth of Massachusetts, and that the suit in equity brought by said Hazard in said supreme court against said parties of the second part or some of them and now pending therein shall be referred to the same referees subject to the following limitation, and it is further provided, that any claims of said Hazard against said trustees or any of them arising out of the transactions complained of and set up in said suits at law and in equity may be used by him as a defense in said action or as a counter-claim to the extent of any claim established in said reference against him but no further, and shall not be the ground of any judgment in said reference or otherwise against said trustees or any of them over and above their claim, if any, established against him, and if no claim shall be found by the referees to exist in favor of said trustees or any of them against said Hazard, then no claim shall be presented or allowed by said referees in favor of said Hazard against said trustees or either of them.

Page 2, line 5, "John Duff," interlined before signing.

Witness our hands and seals.

In presence of N. W. WILLIAMS:

R. G. HAZARD. [SEAL.]

R. HAZARD. [SEAL.]

These four in presence of WILLIAM RAMWELL:

I. P. HAZARD. [SEAL.]

ELIZABETH HAZARD, [SEAL.]

Trustee.

ELIZABETH HAZARD. [SEAL.]

ANNA HAZARD. [SEAL.]

FREDERICK L. AMES,  
JOHN DUFF,  
SIDNEY DILLON,  
Committee of the Trustees. [SEAL.]

The WITNESS. I produce also a copy of a release by Henry S. McComb, dated January 12, 1881, to the Credit Mobilier Company, also copy of release from Henry S. McComb, of the same date, to the Union Pacific Railway Company and Union Pacific Railroad Company.



The papers are marked respectively "Exhibits 5 and 6, June 1, 1887," and are as follows:

RELEASE BY H. S. M'COMB TO UNION PACIFIC.

*To all to whom these presents shall come or may concern, greeting:*

Know ye that Henry S. McComb, for and in consideration of the sum of one dollar, lawful money of the United States of America, to me in hand paid by the Union Pacific Railway Company, the receipt whereof is hereby acknowledged, have remised, released, and forever discharged, and by these presents do for myself and my heirs, executors, and administrators, remise, release, and forever discharge, the said Union Pacific Railway Company and the Union Pacific Railroad Company of and from all and all manner of action or actions, cause and causes of actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever in law or in equity which against the said companies said McComb ever had, now has, or which his heirs, executors, or administrators hereafter can, shall, or may have for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of the world to the day of the date of these presents.

In witness whereof I have hereunto set my hand and seal the 12th day of January, in the year of our Lord one thousand eight hundred and eighty-one.

H. S. McCOMB. [SEAL.]

Sealed and delivered in the presence of—

O. G. KIDDER.

RELEASE BY H. S. M'COMB TO CREDIT MOBILIER.

*To all to whom these presents shall come or may concern, greeting:*

Know ye that Henry S. McComb, for and in consideration of the sum of one dollar, lawful money of the United States of America, to me in hand paid by the Credit Mobilier of America, the receipt whereof is hereby acknowledged, have remised, released, and forever discharged, and by these presents do for himself and his heirs, executors, and administrators remise, release, and forever discharge, the said Credit Mobilier of and from all and all manner of action and actions, cause and causes of actions, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extents, executions, claims, and demands whatsoever in law or in equity which against Credit Mobilier said McComb ever had, now hath, or which his heirs, executors, or administrators hereafter can, shall, or may have for, upon, or by reason of any matter, cause, or thing whatsoever from the beginning of the world to the day of the date of these presents.

In witness whereof I have hereunto set my hand and seal the 12th day of January, in the year of our Lord one thousand eight hundred and eighty-one.

H. S. McCOMB. [SEAL.]

Sealed and delivered in the presence of—

O. G. KIDDER.

By Commissioner ANDERSON:

Q. Did Mr. McComb get a contemporaneous release?—A. My recollection is that Mr. McComb was threatening the company with suits

through Mr. Bangs, his counsel, and that there was a corresponding release.

Q. Delivered to Mr. McComb?—A. Yes, sir.

Q. A general release?—A. I think they were counterparts to these; that is my impression; I do not recollect it distinctly; we have no copies of it on the file of the company here, so Mr. Mink tells me; they are not papers that we would keep; they would be delivered to him; I would say, as far as the company is concerned, it was an adverse, threatening proceeding, and Mr. Bartlett and myself concurred in advising that settlement; I think we did not pay him any money.

Commissioner LITTLE. Is that all?

The WITNESS. Do you wish the settlement which resulted in the assignment of that account for \$185,000 by the trustees to the Union Pacific Company?

Commissioner ANDERSON. Is it not necessary for the complete understanding of the story?

The WITNESS. I think not; they are all recited in the resolutions of the company, and Mr. Oliver Ames testified yesterday as to suits which had been brought on that and their condition.

Commissioner ANDERSON. We do not want them; if we find on reading the evidence that it is necessary we will send for them.

The WITNESS. They are with the company, and you can have them whenever you want them.

JOHN F. DILLON.

EQUITABLE BUILDING,  
Boston, Mass., Wednesday, June 1, 1887.

#### AFTERNOON SESSION.

OLIVER W. MINK, being further examined, testified as follows:

By Commissioner ANDERSON:

Question. Have you a statement of the issue of the stock of the Kansas Pacific Railroad Company, showing the persons to whom issued and the dates of issue?—Answer. Yes, sir; and I produce it.

The paper is marked "Exhibit 7, June 1, 1887," and is as follows:

#### STATEMENT AS TO ISSUES OF KANSAS PACIFIC STOCK.

*The Kansas Pacific Railway Company.—Detailed statement of original issue of stock, date of issue, and to whom issued.*

1866.			
June 8	For stock issued to J. Edgar Thomson and John D. Perry, trustees, until fulfillment of contract with R. M. S. & Co., 4,160 shares of stock subscribed and paid for by eastern and western parties, as per certificate No. 1, at \$50 per share.....		\$208,000
	For 6,360 shares of stock issued March 29, 1866, certificate No. 2, as per contract, at \$50 per share.....		318,000
	For 5,280 shares of stock issued May 15, 1866, certificate No. 4, at \$50 per share.....		264,000
Sept. 15	For amount of legitimate stock found to be outstanding July 1, 1865, in the following names:		
	John D. Perry.....	995 shares.	
	A. Bennett.....	1,000	
	Saml. T. Glover.....	100	
	Thos. L. Price.....	5	
	C. S. Greeley.....	5	
	A. Meier.....	5	
	G. F. Filley.....	5	
	J. P. Usher.....	5	
	A. C. Anderson.....	5	
	J. P. Devereux.....	5	
	S. M. Edgill.....	5	
	S. A. Stinson.....	1	
		2,136 shares, at \$50.....	106,800

*The Kansas Pacific Railway Company, &c.—Continued.*

1866. Nov. 30	For certificate No. 7, dated Sept. 1, 1865, issued to Leavenworth County in accordance with the resolution of directors, passed July 12, 1865, 5,000 shares, at \$50.....		\$250,000
	For certificate No. 8, dated Sept. 20, 1866, issued to H. M. Northrup in accordance with resolution of board passed Aug. 16, 1866, 40 shares, at \$50.....		2,000
	For certificate No. 9, dated Oct. 15, 1866, issued to J. Edgar Thomson and John D. Perry, trustees, as per contract, 25,044 shares, at \$50.....		1,252,200
1867. Mar. 29	For the following issued to Shoemaker, Miller & Co.:		
	No. 229..... 1,000 shares.	\$50,000	
	230..... 800	40,000	
	231..... 800	40,000	
	232..... 600	30,000	
		3,200	160,000
1868. Mar. 28	For stock issued to Shoemaker, Miller & Co., February 25, 1868, certificate No. 333 for 1,000 shares.....		50,000
Apr. 2	For stock issued to Shoemaker, Miller & Co., Apr. 1, '68, certificate No. 345 for 100 shares.....		5,000
1869. Mar. 8	For stock issued Feb. 1, 1869, to Shoemaker, Miller & Co., certificate No. 354 for 49,130 shares, at \$50, which with amounts heretofore issued is in full settlement of the total amount due said firm.....		2,456,500
1871. Mar. 31	For the following original issues of stock on account of land-grant subscription, as per resolution of stockholders passed at meeting held at Lawrence, Kans., Jan. 5, 1871, and circular of directors, Jan. 10, 1871, filed hereto:		
	No. of certificates. No. of shares.		
	For 224 to 238 incl. 9,500.....	475,000	
	240 to 249 4,500.....	225,000	
	250 to 272 5,162.....	258,100	
	278 and 279 3,000.....	150,000	
	297 500.....	25,000	
	299 200.....	10,000	
	302 to 307 1,900.....	95,000	
	310 to 315 2,800.....	140,000	
	316 to 319 950.....	47,500	
	324 to 354 13,235.....	661,750	
	357 400.....	20,000	
	368 40.....	2,000	
	376 and 377 1,200.....	60,000	
	378 to 381 380.....	19,000	
	383 200.....	10,000	
	385 200.....	10,000	
	400 40.....	2,000	
	403 to 434 14,235.....	711,750	
	435 to 441 813.....	40,650	
	464 1,000.....	50,000	
	468 200.....	10,000	
	476 to 478 430.....	21,500	
	490 and 491 220.....	11,000	
	496 and 497 400.....	20,000	
	510 to 551 10,750.....	537,500	
	532 to 551 3,745.....	187,250	
	Total issue.....76,000		3,800,000
May 31	For issue of certificate No. 585 for 2,000 shares, at \$50, to Thos. A. Scott in payment of C & E, 179.....		100,000
1872. Dec. 31	For the following original issues of stock on account of 2d mortgage bond subscription, as per resolution of directors Aug. 23, 1871, approved by stockholders Jan. 20, 1872, 13,329 shares, at \$50.....		666,450
1873. Sept. 30	For certificate No. 1,059, original issue, to T. J. Bartholow on account of his subscription to 2d mortgage land grant gold bonds, 340 shares, at \$50.....		17,000
1874. Feb. 28	For certificate No. 1,189, original issue, dated Nov. 13, 1873, issued to M. Baird & Co., account of their subscription to 2d mortgage, land grant gold bonds, 680 shares, at \$50.....		34,000
1880. Jan. 31	For original issue to parties holding consolidated bonds, for interest, 6,242 shares, at \$50.....	312,100	
	Less for stock issued to parties to qualify them as directors, as per entry, Sept. 15, 1866, for which no certificates were given, 41 shares, at \$50.....	2,050	
	Total.....		310,050
			10,000,000

Boston, May 11, 1887.

Q. Do you know whether these issues of stock to Thomson & Perry, as trustees, were intended to be used under construction contracts, and delivered as part of the payment for the work of construction?—A. I know nothing about the issues of the stock of the Kansas Pacific Company excepting as they may be shown in this account. I have no familiarity with the accounts of that company prior to the consolidation in 1880.

Q. You do not know, then, what consideration was received by the Kansas Pacific Railroad Company for the stock issued by that company?—A. No, sir.

Q. From what books can we derive that information?—A. From the general books of the company, the books from which that statement is drawn.

By Commissioner LITTLER :

Q. Do you mean the Kansas Pacific Company?—A. The Kansas Pacific Company.

Q. Where are those books?—A. They are here. I want to say, in that connection, that while the books of the Kansas Pacific Company are here, the vouchers which support the entries upon them are at Omaha. It would therefore be necessary either to bring the vouchers here or to take the books there in order to get any further details in relation to the capital stock account.

Commissioner ANDERSON. If the books here show that this stock was issued in connection with bonds in payment for construction, we probably will require no other voucher than that mere fact, because it will inform us what consideration was received by the company.

The WITNESS. Yes, sir; the accounts will speak for themselves.

Q. Does the entry in the statement you have handed me, under date of January 31, 1880, relating to the issue of 6,242 shares, refer to the 6,242 shares directed to be issued for interest on consolidated bonds and other indebtedness of the company in the resolution adopted at the meeting of January 24, 1880?—A. It does.

Q. Have you a statement of the consideration received for the issue of that stock, or any part of it?—A. I have. The entry and the vouchers filed against it show that \$101,540 in amount of the stock was issued to parties holding consolidated bonds for interest due them on such bonds to November 1, 1879; and that \$19,150 in amount of the stock was issued to Mr. Frederick L. Ames for six months' interest on \$383,000 in funding bonds. I submit a copy of a statement showing the names of the persons to whom such stock was issued, and the amount of each issue, and the amount of the consolidated bonds held by each person.

The paper is marked "Exhibit No. 8, June 1, 1887," and is as follows:

*Received of James M. Ham, treasurer, the amount set opposite our names, respectively, in stock of the Kansas Pacific Railway in full payment for interest due on consolidated bonds November 1, 1879, and not then paid.*

Names.	Amount of bonds.	Amount of interest.	Shares.	Signatures.
Jay Gould.....	\$2, 105, 475	\$63, 164	1, 264	Jay Gould.
Sidney Dillon.....	196, 650	5, 900	118	Sidney Dillon.
Russell Sage.....	303, 000	9, 050	181	Russell Sage.
F. L. Ames.....	100, 000	3, 000	60	Fred'k L. Ames.
F. G. Dexter, trustee.....	70, 000	2, 100	42	E. Atkins for F. G. D.
A. Hobart, jr.....	10, 000	300	6	E. H. Baker for A. H., jr.
Isaac Thatcher.....	20, 000	600	12	E. H. Baker for I. T.
E. H. Baker.....	15, 000	450	9	E. H. Baker.
Moe S. Lott.....	36, 000	*1, 080	21	Moe S. Lott by Geo. A. Saxer.

*Received of James M. Ham, treasurer, the amount, &c.—Continued.*

Names.	Amount of bonds.	Amount of interest.	Shares.	Signatures.
E. H. Perkins, jr.....	\$20,000	\$600	12	Russell Sage for E. H. P., jr.
Jas. C. Parrish.....	5,000	150	3	James C. Parrish.
Geo. S. Curtis.....	10,000	300	6	E. H. Baker for G. S. C.
Henry Villard.....	92,000	2,780	55	H. Villard by Geo. A. Saxer.
D. M. Edgerton.....	15,000	450	9	D. M. Edgerton.
R. L. Kennedy.....	21,000	630	12	Robert Lennox Kennedy by W. C. Duvall.
Woerishoffer.....	42,000	1,260	25	Woerishoffer—M. J. Farwood.
A. H. Holmes.....	59,000	1,770	35	Artemas H. Holmes.
James T. Woodward.....	20,000	600	12	J. T. Woodward by Hally.
Geo. W. Perkins.....	20,000	600	12	G. W. Perkins by Hally.
G. M. Dodge.....	20,000	600	12	G. M. Dodge.
C. J. Morrill.....	15,000	450	9	E. H. Baker for C. J. M.
Drexel, Morgan & Co.....	45,000	1,350	27	Drexel, Morgan & Co. by Geo. A. Saxer.
H. H. Cook.....	6,000	*180	3	Jay Gould.
C. S. Greeley.....	50,000	1,500	30	C. S. Greeley.
Myers, Rutherford & Co.....	59,880	1,796	36	Myers, Rutherford & Co.
James Buell.....	30,000	900	18	J. Buell.
	3,386,005	101,540	2,029	
F. L. Ames.....	383,000	12,150	383	Fred'k L. Ames.
Less to balance.....		120,600	2,412	
		90		
		120,600		

\* Less \$30.

The WITNESS. The remaining 3,830 shares, amounting to \$191,500, were put into the treasury of the Kansas Pacific Railway Company, and subsequently turned over to the Union Pacific Railway Company, the successor company. The stock thus turned over to the successor company forms a part of the treasury stock of the company referred to in my letter to the Commission, dated May 11, 1887, and was disposed of as stated in that letter.

Q. Have you a statement showing the issue of the Union Pacific Railroad stock, of the persons to whom the stock was issued, and the consideration received?—A. I have, and I now submit such a statement.

The paper is marked "Exhibit No. 9, June 1, 1887," and is as follows:

*Detailed statement of the date of original issues of stock by the Union Pacific Railroad Company, amount of each issue, and to whom issued.*

Date.	Object.	Shares.	Amount paid into treasury of company.
1863 Dec. 22	For first installment of 10 per cent. on the entire subscription of the company to this date, as per following list:		
	Andrews, S.....	20	\$2,000
	Ahern, S. J.....	20	2,000
	Ashley, O. D.....	20	2,000
	Blood, H.....	20	2,000
	Baeford, H. W.....	20	2,000
	Belmont, Aus.....	10	1,000
	Bushnell, C. S.....	50	5,000
	Brodhead, E. C.....	20	2,000
	Bonner, G. T. & Co.....	20	2,000
	Butler, E.....	10	1,000
	Bartholomew, Geo. M.....	10	1,000
	Boody, H. H.....	20	2,000
	Barney, D. N.....	20	2,000
	Blatchford, R. M.....	20	2,000
	Butterfield, John.....	10	1,000
	Blair, John I.....	20	2,000



*Detailed statement of the date of original issues of stock, &c.—Continued.*

Date.	Object.	Shares.	Amount paid into treasury of company.
1863. Dec. 22.	For first installment of 10 per cent. on the entire subscription of the company to this date, as per following list—Continued.		
	Casa, G. W.	20	\$2,000
	Clark, Edward	20	2,000
	Clarke, Dodge & Co.	20	2,000
	Cook, E.	50	5,000
	Curtis, N. B.	20	2,000
	Cisco, John J.	20	2,000
	Chony, A. N.	20	2,000
	Crane, J. S.	5	500
	Crane, H. C.	50	5,000
	Cooper & Hewett	20	2,000
	Chittenden, L. B.	10	1,000
	Corning, Erastus	20	2,000
	Campbell, Allen	5	500
	Carver, B. F.	10	1,000
	Dix, John A.	20	2,000
	Duncan, Sherman & Co.	20	2,000
	Dehon, Clark & Bridges	20	2,000
	Dunham, E. W.	20	2,000
	Davis, G. T. M.	50	5,000
	Dunham, James L.	20	2,000
	Durant, W. F.	20	2,000
	Durant, Thomas C.	50	5,000
	Dows, D.	10	1,000
	Durant, W. W.	20	2,000
	Dodge, William E.	20	2,000
	De Rouge & Dyett.	20	2,000
	Gibson, E. T. H.	50	5,000
	Grinnell, M. H.	10	1,000
	Gibson, C. D.	10	1,000
	Gray, L. M.	10	1,000
	Greaswold, George	20	2,000
	Gould, Charles	20	2,000
	Gardner, Ransom	5	500
	Hartson, G. B.	20	2,000
	Harriman & Jerome	20	2,000
	Hodges, G. W.	20	2,000
	Henry, J. E.	50	5,000
	Husford, O. P.	1	100
	Haven, F.	10	1,000
	Holliday, Benjamin	20	2,000
	Jerome, A. G.	20	2,000
	Jerome, L. W.	20	2,000
	Jones, David	20	2,000
	Kolwalski, C.	20	2,000
	Ketchum, Morris	20	2,000
	Kountze, Augustus	5	500
	Lambard, H. J.	20	2,000
	Low, A. A.	20	2,000
	Lambard, Charles A.	20	2,000
	McComb, H. S.	10	1,000
	Merriam & Bell	20	2,000
	McAndrews & Wann	20	2,000
	Maxwell, John D.	10	1,000
	McPherson, William M.	5	500
	McCormick, John	1	100
	Mcgrath, James G.	1	100
	Nye, E.	10	1,000
	Ogden, William B.	20	2,000
	Opdyke, George	20	2,000
	Pratt, G. W.	20	2,000
	Price, J. M.	20	2,000
	Pruyne, J. V. L.	20	2,000
	Poor, Henry V.	10	1,000
	Pomeroy, L. C.	5	500
	Quintard, G. M.	20	2,000
	Rosekrans, E. H.	20	2,000
	Ramsford, G. S.	10	1,000
	Richards, L. S.	20	2,000
	Richards, T. P.	20	2,000
	Richards, Dean	20	2,000
	Russell, C. H.	20	2,000
	Rickley, John	1	100
	Roberts, M. O.	20	2,000
	Scott, Thomas A.	20	2,000
	Scranton, J. H.	50	5,000
	Stebbins, H. J., & Sons	20	2,000
	Smith, Samuel B.	20	2,000

*Detailed statement of the date of original issues of stock, &c.—Continued.*

Date.	Object.	Shares.	Amount paid into treasury of company.
1863. Dec. 22.	For first installment of 10 per cent. on the entire subscription of the company to this date, as per following list—Continued.		
	Smith, Platt.....	5	\$500
	Sloan, Samuel.....	5	500
	Smith, Francis.....	1	100
	Smith, Geo. B.....	1	100
	Sweeney, William J.....	1	100
	Tuttle, Charles.....	20	2,000
	Thomson, J. E.....	30	3,000
	Tuttle, J. T.....	20	2,000
	Train, Geo. F.....	20	2,000
	Tracy, J. T.....	20	2,000
	Truis, W. R.....	20	2,000
	Train, Willie D.....	20	2,000
	Tilden, William.....	10	1,000
	Thayer, Nathaniel.....	20	2,000
	Tiffany & Co.....	10	1,000
	Tilden, S. J.....	20	2,000
	Taylor, Moses.....	20	2,000
	Thomson, G. A.....	5	500
	Van Schaick & Massett.....	20	2,000
	Winslow, Lanier & Co.....	20	2,000
	Wright, J. B.....	20	2,000
	William & Guion.....	5	500
	Watkinson, Robert.....	10	1,000
	Williams, John M. S.....	20	2,000
	Weed, Thurlow.....	10	1,000
	Williams, N. S.....	20	2,000
	Winslow, F. S.....	5	500
	Young, Brigham.....	5	500
	McCready, F. H.....	20	2,000
		2,177	217,700
1864. Sept. 26	By cash: Second installment on following subscription:		
	Wm. B. Ogden.....		500
	R. Watkinson.....		1,000
	Williams & Guion.....		500
	Aug. Belmont.....		1,000
	J. Butterfield.....		1,000
	E. H. Rosekrans.....		2,000
	E. Cook.....		2,000
			8,000
Sept. 26	By cash: First installment, 10 per cent.:		
	S. Seymour.....		3,000
	Clark Bell.....		3,000
			6,000
Sept. 27	By cash: Second installment, 10 per cent.:		
	G. F. M. Davis.....		3,000
			3,000
Oct. 1	By cash: Ten per cent. on following new subscription:		
	C. S. Bushnell.....		10,000
	J. C. Kennedy.....		1,000
	Alex. Hayes.....		2,000
			13,000
Oct. 1	By cash: Second installment of 10 per cent.:		
	J. F. Tracey.....		1,000
	J. C. Kennedy.....		1,000
	C. S. Bushnell.....		5,000
	Alex. Hayes.....		2,000
			9,000
Oct. 3	By cash: Second installment, 10 per cent.:		
	J. C. Durant.....		5,000
	W. W. Durant.....		2,000
	A. Kountze.....		500
	T. G. Megrath.....		100
	W. J. Swasey.....		100

*Detailed statement of the date of original issues of stock, &c.—Continued.*

Date.	Object.	Shares.	Amount paid into treasury of company.
1864.			
Oct. 3	By cash: Second installment, 10 per cent.—Continued.		
	J. Rickley.....		\$100
	O. P. Hasford.....		100
	J. McCormick.....		100
	J. E. Henry.....		2,000
			10,000
Oct. 28	By cash: First installment, 10 per cent.:		
	H. C. Crane, agent.....		25,000
	H. M. Hoxie (made in accordance with provision in Hoxie contract).....		25,000
			50,000
Nov. 15	By cash: Second installment, 5 per cent.:		
	Robert Watkinson.....		500
			500
Nov. 15	By cash: Second installment, 5 per cent., paid on the following subscriptions:		
	E. C. Broadhead.....	20	
	H. W. Bashford.....	20	
	D. Dows.....	10	
	N. B. Curtis.....	20	
	H. Blood.....	15	
	M. H. Grinnell.....	10	
	T. Haven.....	10	
	Thurlow Weed.....	10	
	Ransom Gardner.....	5	
	Clark Bell.....	30	
	J. M. Price.....	20	
	G. M. Quintard.....	20	
	J. T. Tuttle.....	20	
	M. Van Schauch.....	20	
	Merriam & Bell.....	20	
	G. M. Gray.....	10	
	H. C. Crano.....	40	
	A. N. Cheeny.....	20	
	G. W. Pratt.....	30	
	W. W. Durant.....	20	
	H. C. Crane, agent.....	250	
	Pickering Clark.....	10	
	J. G. Butler, trustee.....	20	
	C. S. Bushnell.....	100	
	G. T. Bonner.....	20	
	J. E. Henry.....	10	
	E. Cook.....	10	
	McAndrews & Mann.....	20	
	S. J. Ahern.....	20	
	Ed. Clark.....	20	
	E. Butler.....	10	
	B. F. Carra.....	10	
	T. H. McGready.....	20	
	W. F. Durant.....	20	
	S. Andrews.....	20	
	J. D. Maxwell.....	10	
	N. S. Williams.....	20	
	T. P. Richards.....	20	
	G. B. Hartson.....	20	
	De Shon, Clark and B.....	10	
	Clark Dodge.....	10	
	Harriman & Jerome.....	20	
	Samuel B. Smith.....	20	
	E. H. Rosekrans.....	20	
	H. M. Hoxie.....	250	
	L. C. Clark.....	10	
	T. C. Durant.....	165	
	H. M. Hoxie.....	20	
		1,525	76,250
1864.			
Dec. 27	By cash, being 95 per cent. balance due on subscription to capital stock of this company by Brigham Young, for 5 shares of \$1,000 each, making it full paid stock.....		4,500

*Detailed statement of the date of original issues of stock, &c.—Continued.*

Date.	Object.	Shares.	Amount paid into treasury of company.
1865.			
Jan. 20	By cash, E. Cook, 15 per cent .....	.....	\$1,500
Jan. 20	By cash, John E. Henry, 15 per cent .....	.....	1,500
May 17	By cash, R. Watkinson, 5 per cent. on 10 shares .....	.....	500
Nov. 8	By cash, R. Watkinson, 5 per cent. on 100 shares held by him ..	.....	500
1866.			
Feb. 17	By cash, O. P. Hinford, 5 per cent .....	.....	50
Mar. 8	By cash, received from Credit Mobilier of America for account of installment on the following subscription to capital stock of this company, making the said stock 20 per cent. paid:		
	<i>Pr. ct.</i>		
	T. C. Durant .....	10	20
	Do .....	10	20
	Do .....	10	10
	W. D. Train .....	10	20
	G. F. Train .....	10	20
	John A. Dix .....	10	20
	Clark Bell .....	10	20
	J. J. Cisco .....	10	20
	J. F. Tracy .....	10	20
	H. V. Poor .....	10	10
	C. A. Lambard .....	10	5
	Milo J. Burke .....	10	15
	J. M. S. Williams .....	10	20
	Charles Tuttle .....	10	20
	J. H. Scranton .....	10	50
	E. C. Brodhead .....	5	20
	H. W. Bashford .....	5	20
	D. Dows .....	5	10
	N. B. Curtis .....	5	20
	H. Blood .....	5	15
	M. H. Grinnell .....	5	10
	F. Haven .....	5	10
	Thurlow Weed .....	5	10
	Rawson Gardner .....	5	5
	Clark Bell .....	5	30
	G. T. Bonner & Co. ....	5	20
	J. E. Henry .....	5	10
	E. Cook .....	5	10
	McAndrews & Wann .....	5	20
	S. J. Ahern .....	5	20
	E. Clark .....	5	20
	E. Butler .....	5	10
	B. F. Carver .....	5	10
	F. H. McCready .....	5	20
	W. T. Durant .....	5	20
	J. M. Price .....	5	20
	S. Andrews .....	5	20
	G. M. Quintard .....	5	20
	J. D. Maxwell .....	5	10
	J. F. Tuttle .....	5	20
	N. S. Williams .....	5	20
	Van Schanck & Massett ..	5	20
	T. P. Richards .....	5	20
	Merriam & Bell .....	5	20
	G. T. Hartshorn .....	5	20
	G. M. Gray .....	5	10
	Dehon Clark & B. ....	5	10
	H. C. Crane .....	5	40
	Clarke Dodge & Co. ....	5	10
	A. W. Cheney .....	5	20
	J. Harriman .....	5	20
	G. W. Pratt .....	5	20
	Samuel B. Smith .....	5	20
	T. C. Durant .....	5	50
	L. C. Clark .....	5	10
	Pickering Clark .....	5	10
	T. C. Durant .....	5	115
	J. G. Butler, trustee .....	5	20
	H. M. Horio .....	5	30
	C. S. Bushnell .....	5	100
	Sidney Dillon .....	5	25
	O. S. Chapman .....	5	25
	W. T. Glidden .....	5	50
	John Duff .....	5	50
	Oliver Ames .....	5	50
	J. M. S. Williams .....	5	50

## Detailed statement of the date of original issues of stock, &amp;c.—Continued.

Date.	Object.	Shares.	Amount paid into treasury of company.
1866. Mar. 8	By cash, received from Credit Mobilier of America for account of installment on the following subscription to capital stock of this company, making the said stock 20 per cent. paid: <i>Per ct.</i> Frederick Nickerson ..... 5 R. G. Hazard ..... 5 C. A. Lambard ..... 5 H. M. Hoxie ..... 5	25 25 50 150	
		1775	\$102,250
1866. Mar. 24	By cash: For received from Credit Mobilier of America for account of installments on the following subscription to capital stock of this company, making the same 30 per cent. paid: <i>Per Ct.</i> Sidney Dillon ..... 10 O. S. Chapman ..... 10 W. T. Glidden ..... 10 John Duff ..... 10 O. Ames ..... 10 J. M. S. Williams ..... 10 Frederick Nickerson ..... 10 R. G. Hazard ..... 10 C. A. Lambard ..... 10 C. M. of A ..... 10 H. W. Gray ..... 20 Griswold ..... 20	25 25 50 50 50 50 25 25 50 875 5 20	
			127,500
June 22	By cash: H. C. Crane, assistant treasurer, being 30 per cent. on new subscription for 5,000 shares, of \$100 each, to capital stock of this company		150,000
July 1	By cash: For received from H. C. Crane, assistant treasurer, installments to capital stock, as follows: N. B. Curtis ..... T. Weed ..... F. Haven ..... —, Rosekrans ..... R. Gardner ..... W. H. Grinnell ..... P. Clark ..... G. T. M. Davis ..... C. A. Lambard ..... J. F. Tracy ..... J. J. Cisco ..... J. A. Dix ..... J. E. Henry ..... E. Cook ..... C. Tuttle ..... T. C. Durant ..... C. M. A .....  <i>Per Ct.</i> George Opdyke ..... H. S. McComb ..... C. H. McCormick ..... B. Holladay .....	200 100 100 200 50 100 100 100 200 200 200 200 200 100 200 100 200 5,100  20 20 50 20	
			7,450
	650 shares at 20 per cent., 7,450 shares at 10 per cent.	650	87,500
Aug. 18	By cash, scrip account: For amount of scrip received from the following-named parties, in payment of 70 per cent. on number of shares standing in their names, same having been transferred to them by Credit Mobilier of America, being 30 per cent. stock, making their stock full paid: Oliver Ames, March 29 ..... Oakes Ames, March 29 ..... James W. Grimes, March 29 ..... Paul Pohl, jr., April 4 ..... J. M. S. Williams, April 4 ..... W. T. Glidden, April 4 ..... John Duff, April 4 ..... Eliasa Atkins, April 5 ..... William H. Macy, April 5 .....	1,563 449 125 3 313 312 625 156 125	



*Detailed statement of the date of original issues of stock, &c.—Continued.*

to.	Object.	Shares.	Amount paid into treasury of company.
18	Ry cash, scrip account: For amount of scrip received from the following-named parties, in payment of 70 per cent. on number of shares standing in their names, same having been transferred to them by Credit Mobilier of America, being 30 per cent. stock, making their stock full paid—Continued.		
	R. G. Hazard, April 6.....	500	
	I. P. Hazard, April 6.....	125	
	C. A. Lambard, April 6.....	625	
	S. Hooper & Co., April 10.....	250	
	F. Nickerson, April 10.....	125	
	G. G. Gray, April 11.....	633	
	Ezra H. Baker, April 12.....	156	
	Thomas Nickerson, April 12.....	50	
	E. Reed Meyer, April 12.....	10	
	J. B. Alley, April 13.....	250	
	W. D. Forbes, April 13.....	50	
	O. S. Chapman, April 13.....	156	
	S. Dillon, April 13.....	313	
	H. S. McComb, April 19.....	250	
	George Opdyke, April 27.....	231	
	O. W. Barnes, April 30.....	20	
	H. W. Gray, May 9.....	13	
	C. H. McCormick, May 14.....	313	
	L. E. French, June 10.....	10	
	H. J. Gilbert, June 15.....	44	
	Horatio Gilbert, June 19.....	63	
	Oliver Ames, July 26.....	1,563	
	Oakes Ames and E. W. Gilmore, July 26.....	450	
	John Duff, July 26.....	625	
	J. M. S. Williams, July 26.....	312	
	W. T. Glidden, July 26.....	313	
	H. W. Gray, July 26.....	12	
	G. G. Gray, July 26.....	634	
	W. D. Forbes, July 26.....	50	
	J. B. Alley, July 26.....	250	
	Sidney Dillon, July 26.....	312	
	H. S. McComb, July 26.....	250	
			\$901, 530
21	By cash: Amount paid in by John A. Dix for 50 shares, of \$100 each, subscribed for him this day, making the same full paid..		5, 000
24	By cash: For amount of scrip received from the following-named parties in payment of 70 per cent. on number of shares standing in their names, same having been transferred to them by Credit Mobilier of America, being 30 per cent. stock, thus making their stock full paid:		
	I. P. Hazard, August 3.....	250	17, 500
	R. G. Hazard, August 3.....	1, 250	87, 500
	Charles M. Hall, August 10.....	15	1, 050
	O. S. Chapman, August 28.....	150	10, 920
	J. Bardwell, August 30.....	250	17, 500
	B. E. Bates, September 18.....	600	42, 000
	James W. Grimes, September 19.....	125	8, 750
	S. Hooper & Co., September 19.....	250	17, 500
	Horatio Gilbert, September 19.....	63	4, 410
	Horatio J. Gilbert, September 19.....	44	3, 080
	F. Nickerson, September 19.....	125	8, 750
	Ezra H. Baker, September 20.....	156	10, 920
	C. S. Bushnell, September 22.....	750	52, 500
	Benjamin Holladay, September 22.....	500	35, 000
	Elisha Atkins, September 22.....	156	52, 500
	Paul Pohl, jr., September 22.....	3	210
	Joseph Nickerson, September 22.....	125	8, 750
	H. S. McComb, September 22.....	50	3, 500
	C. A. Lambard, September 22.....	625	43, 750
	Thomas Nickerson, September 19.....	50	3, 500
			388, 010
22	By cash: Received from Credit Mobilier of America an installment of 30 per cent. on subscription to capital stock of 2,000 shares subscribed for by them 21st instant.....		60, 000
22	By scrip: For amount of scrip received from Thomas C. Durant, being for an installment of 25 per cent. on his subscription for 12,000 shares of the stock of the company, 21st.....		300, 000
27	By cash: For amount paid by Charles Tuttle on 22d instant, being payment in full on his subscription for 20 shares of the capital stock of this company.....		2, 000

## Detailed statement of the date of original issues of stock, &amp;c.—Continued.

Date.	Object.	Shares.	Amount paid into treasury of company.
1898.			
Oct. 23	By cash: For amount of installment of 5 per cent. on capital stock of his subscription.....		\$500
Dec. 31	By cash: For subscription, this day, to capital stock by the Credit Mobilier of America, for 19,192 shares, of \$100 each, 30 per cent. paid.....		575,760
Dec. 31	By cash: For 5 per cent. installment received from Credit Mobilier of America on subscription of 12,000 shares made by T. C. Durant, on which 25 per cent. was paid, this installment making the same 30 per cent. stock.....		60,000
Dec. 31	By cash, for 30 per cent. installment on new subscription of Credit Mobilier of America for 19,200, on which they paid upon 19,192 shares, leaving 8 shares now received.....		240
Dec. 31	By scrip, for 70 per cent. on 24,494 shares capital stock paid in this day:		
	John Duff.....	1,250	
	S. Dillon.....	625	
	J. M. S. Williams.....	620	
	Oliver Ames.....	3,125	
	R. E. Bates.....	600	
	John R. Alley.....	500	
	W. D. Forbes.....	100	
	H. Gilbert.....	125	
	C. H. McCormick.....	625	
	Klinda Atkins.....	312	
	H. S. McComb.....	550	
	P. Pohl, jr.....	6	
	Thomas Nickerson.....	100	
	R. D. Stuart.....	5	
	R. Hazard.....	250	
	G. F. Train.....	125	
	Williams & Gunion.....	250	
	C. S. Bushnell.....	700	
	J. H. Scranton.....	5	
	David Jones.....	250	
	C. C. Waite.....	50	
	George Lytle, Jr.....	250	
	T. C. Durant.....	5,760	
	G. G. Gray.....	1,367	
	G. F. Train.....	125	
	C. A. Lombard.....	1,350	
	W. T. Giddens.....	625	
	C. S. Chapman.....	312	
	J. Nickerson.....	250	
	F. Nickerson.....	250	
	L. P. Hazard.....	250	
	S. Hopper & Co.....	500	
	H. J. Giddens.....	25	
	Oliver Ames.....	250	
	E. H. Baker.....	312	
	J. L. Kline.....	50	
	J. W. Giddens.....	250	
	J. W. Giddens.....	250	
	E. W. Giddens.....	100	
	C. W. Giddens.....	50	
	J. E. Giddens.....	50	
	J. W. Giddens.....	25	
	W. H. Giddens.....	250	
	Frederick H. Giddens.....	250	
	E. H. Giddens.....	50	
	J. C. Giddens.....	50	
	C. C. Giddens.....	250	
	J. Giddens.....	250	
	George Lytle, Jr.....	125	
	<b>Total</b> .....	<b>31,494</b>	<b>1,714,500</b>
Jan. 15	By scrip for 70 per cent. on 100 shares stock, belonging to C. E. McComb, made in his name this day, making said stock full paid.....		21,000
Jan. 15	By scrip for 70 per cent. on 400 shares stock, belonging to H. C. Durant, made in his name this day, making said stock full paid.....		84,000
Feb. 15	By scrip for 70 per cent. on 10 shares stock, belonging to H. C. Durant, made in his name this day, making said stock full paid.....		1,000
Feb. 15	By scrip for 70 per cent. on 10 shares stock, belonging to H. C. Durant, made in his name this day, making said stock full paid.....		1,000
	<b>Total</b> .....		<b>17,300</b>

*Detailed statement of the date of original issues of stock, &c.—Continued.*

No.	Object.	Shares.	Amount paid into treasury of company.
7.	By scrip:		
29	Scrip received from Credit Mobilier of America to make the following stock 30 per cent. paid: One thousand four hundred shares Credit Mobilier of America, 10 per cent. paid, paid 20 per cent. ....		\$28, 000
	Less overpayment as follows:		
	E. H. Rosekrans, 200 shares, 5 per cent. .... \$1, 000		
	Credit Mobilier of America, 200 shares, 5 per cent. .... 1, 000		
	Credit Mobilier of America, 250 shares, 10 per cent. .... 2, 500		
			4, 500
			23, 500
10	By scrip, for amount scrip surrendered by John E. Henry, being 15 per cent. on 100 shares standing in his name, making same 30 per cent. stock. ....		1, 500
28	By scrip, amount received from S. B. Chittenden, being 20 per cent. on 10 shares, making same 30 per cent. ....		2, 000
31	By scrip, for amount received from Morris Ketcham, being 20 per cent. on subscription of 20 shares, making same 30 per cent. paid. ....		4, 000
1	By sundries:		
	By scrip. .... Credit Mobilier of America, for amount paid in this day following subscriptions. ....		1, 970
			13, 530
	V. W. Shipmen, 20 shares, 20 per cent. ....		4, 000
	D. W. Barnes, 20 shares, 20 per cent. ....		4, 000
	C. R. Shelden, 15 shares, 20 per cent. ....		3, 000
	W. B. Ogden, 5 shares, 10 per cent. ....		500
	O. D. Ashley, 20 shares, 20 per cent. ....		4, 000
	Making same 30 per cent. ....		15, 500
7	By Credit Mobilier of America, for amount paid this day on account following stock:		
	E. V. W. Shipman, 10 shares, 20 per cent. ....		2, 000
	A. Campbell, 5 shares, 20 per cent. ....		1, 000
	Making same 30 per cent. paid. ....		3, 000
20	By cash, capital stock, R. Nally. ....		4, 000
15	By cash, capital stock, sundries:		
	Francis Smith. ....		200
	Samuel Sloan. ....		1, 000
	Cornelius Mead. ....		4, 000
			5, 200
17	By cash, cash to sundries, capital stock on account:		
	James Barthish, 20 shares, 20 per cent. ....		4, 000
	J. F. Chamberlain, 30 shares, 20 per cent. ....		6, 000
	G. W. Cass, 5 shares, 20 per cent. ....		1, 000
	J. F. Lamo, 5 shares, 20 per cent. ....		1, 000
	J. E. Thompson, 5 shares, 20 per cent. ....		1, 000
	J. Ulrich, 65 shares, 20 per cent. ....		13, 000
	Silas Seymour, 30 shares, 20 per cent. ....		6, 000
	G. A. Thompson, 5 shares, 20 per cent. ....		1, 000
18	By cash, cash to sundries, capital stock on account. ....		33, 000
			4, 000
20	By cash, capital stock:		
	Tiffany & Co., 10 shares, 20 shares. ....		2, 000
	A. G. Butler, 10 shares, 20 per cent. ....		2, 000
	W. E. Dodge, 20 shares, 20 per cent. ....		4, 000
	D. A. Carrington, 20 shares, 20 per cent. ....		4, 000
	G. W. Hodges, 20 shares, 20 per cent. ....		4, 000
	F. S. Winston, 5 shares, 20 per cent. ....		1, 000
			17, 000
24	By cash:		
	Clark Bell, 20 shares, 10 per cent. ....		2, 000
	Clark Bell, 10 shares, 20 per cent. ....		2, 000
			4, 000

Detailed statement of the date of original issues of stock, &amp;c.—Continued.

Date.	Object.	Shares.	Amount paid into treasury of company.
1867.			
Dec. 27	By cash:		
	Alex. Hay, 20 shares, 10 per cent.....		\$3,000
	A. G. Jerome, 20 shares, 20 per cent.....		4,000
	W. Tilden, 10 shares, 20 per cent.....		2,000
	Henry Blood, 5 shares, 20 per cent.....		1,000
	James C. Kennedy, 10 shares, 10 per cent.....		1,000
			10,000
Dec. 28	By cash, capital stock, E. Cook:		
	J. E. Henry, 100 shares, 15 per cent.....		1,500
1868.			
Jan. 4	By cash, capital stock:		
	Contractors, 22,900 shares.....		2,296,000
	Credit Mobilier of America, 15,881 shares, at 70 per cent....		1,111,670
	E. F. Gordon, 5 shares, at 90 per cent.....		4,500
Jan. 31	By cash to capital stock:		
	T. C. Durant.....		8,000
	J. G. Megrath.....		800
			8,800
Feb. 27	By cash to capital stock:		
	August Belmont, 80 per cent. on 10 shares.....		8,000
	L. W. Jerome, 90 per cent. on 20 shares.....		18,000
	W. K. Travers, 90 per cent. on 20 shares.....		18,000
	G. R. Smith, 90 per cent. on 1 share.....		900
	John Rickley, 80 per cent. on 1 share.....		800
			45,700
April 7	By cash to capital stock:		
	S. C. Pomeroy, 90 per cent. on 5 shares.....		4,500
	O. P. Hurford, 75 per cent. on 1 share.....		750
	A. Kountze, 80 per cent. on 3 shares.....		2,400
			7,650
June 17	By cash to capital stock, Benjamin E. Bates, treasurer.....		1,500,000
July 3	By cash to capital stock, contractors, 25,000 shares.....		2,500,000
July 9	By cash:		
	B. E. Bates, trustee for contractors.....		300,000
	J. J. Crane.....		4,500
Sept. 16	By cash:		
	John Butterfield.....		8,000
	Ransom Gardner.....		3,500
	Moses H. Grinnell.....		7,000
			18,500
Dec. 30	By cash, H. C. Crane, assistant treasurer, 75,000 shares.....		7,500,000
1869.			
Feb. 17	By cash, H. C. Crane, assistant treasurer, subscription 40,000 shares.....		4,000,000
Oct. 26	By cash, B. E. Bates, treasurer of trustees, subscription 10,000 shares.....		1,000,000
Nov. 3	By cash, John A. Rice, assistant treasurer of trustees, subscription 10,000 shares.....		1,000,000
Nov. 26	By cash, B. E. Bates, treasurer of trustees, subscription 10,000 shares.....		1,000,000
Dec. 18	By cash, B. E. Bates, treasurer of trustees, subscription 10,000 shares.....		1,000,000
1870.			
Jan. 11	By cash, B. E. Bates, treasurer of trustees, subscription 10,000 shares.....		1,000,000
Jan. 25	By cash, B. E. Bates, treasurer of trustees, subscription 10,000 shares.....		1,000,000
Feb. 11	By cash, B. E. Bates, treasurer of trustees, subscription 20,000 shares.....		2,000,000
Feb. 18	By cash, B. E. Bates, treasurer of trustees, subscription 10,000 shares.....		1,000,000
July 29	By cash, B. E. Bates, treasurer of trustees, subscription 30,000 shares.....		3,000,000

*Detailed statement of the date of original issues of stock, &c.—Continued.*

Date.	Object.	Shares.	Amount paid into treasury of company.
1864. Nov. 11	Capital stock debtor to cash: For amount paid Robert Watkinson, being 10 per cent. on his subscription paid by him in error on second installment, new call, made for 5 per cent., and paid by him.....		\$1,000
1866. July 30	Capital stock debtor to cash: For repaid 10 per cent. installment on stock, 20 shares, in name of H. S. McComb, being amount overpaid, 18th instant .....		2,000
			3,000
	Total .....		36,762,300

The WITNESS. The form of the entries on the books of the company indicate cash payments in all cases. The connection of the subscription by the Credit Mobilier, by H. C. Crane, assistant treasurer, by Opdyke, McComb, McCormick, Holliday, and by all other persons whose names appear after 1866 with the construction contracts of the road, will be disclosed by an examination of the contracts and amounts maturing thereunder, and are not within my personal knowledge. My recollection in relation to the capital stock account is that the books show that the stock was paid for in cash, with the exception of a small amount that was paid for in scrip of some kind.

## ISSUES OF STOCK.

The two statements just produced, Exhibits 7 and 9 of this date, cover the issue of \$36,762,300 in the stock of the Union Pacific Railroad Company, and of \$10,000,000 in the stock of the Kansas Pacific Railway Company.

In addition to those, the Denver Pacific Railway and Telegraph Company had issued \$4,000,000 of its stock. The consideration for which it was issued is not within my personal knowledge, and must be derived from an inspection of the books and construction contracts.

## TOTAL STOCK OF UNION PACIFIC RAILWAY COMPANY.

The aggregate amount of these stocks, \$50,762,300, was fixed upon as the capital stock of the Union Pacific Railway Company, the successor by consolidation. The new corporation accordingly exchanged its new stock for the respective issues of the constituent corporations, on the terms stated in the consolidation agreement. This completes the explanation of the issue of \$50,762,300 of the present stock of the Union Pacific Railway.

## ISSUE OF STOCK IN 1881.

In 1881 a further issue of \$10,106,200 was made by the Union Pacific Railway Company, a detailed statement of which is now submitted.

(The witness produced the statements referred to, which were marked respectively Exhibits 10 and 11, June 1, 1887, but which are not entered at length in the record.)

Q. Do your books show, as a matter of fact, all of the last-mentioned stock was, in fact, issued against cash, and that the company, in fact, received for this stock the whole par value thereof, to wit, \$10,106,200?



## FOR WHICH THE COMPANY REALIZED CASH.

A. The books show that the company did receive the amount in cash.

Q. Do you know whether this stock was issued in connection with any construction contract or purchasing contract to which the parties subscribing for the stock were parties?—A. No, sir; it was not.

Q. The money then realized actually went into the treasury of the company, without commitment or entanglement by reason of pending contracts, and was applied by the company in such manner as the books will show?—A. It was. The money received from this stock was largely used during the year 1881 in the development of our branch lines, and its application is shown in general by the change in our investment account, which, at the commencement of 1881, amounted to \$22,043,127.89, and at the close of that year amounted to \$34,359,888.49. The principal subjects of expenditure during the year, to which this money was applied, was as follows:

## WHICH WAS APPLIED AS FOLLOWS:

	Miles.
The extension of the following lines:	
Utah and Northern .....	65 $\frac{6}{10}$
Omaha, Niobrara and Black Hills.....	9 $\frac{3}{4}$
Echo and Park City.....	5
Julesburg Branch .....	151 $\frac{3}{4}$
Greeley, Salt Lake and Pacific .....	18 $\frac{7}{8}$
Boulder line .....	2 $\frac{1}{10}$
Denver, South Park and Pacific .....	33
Making a total of .....	285 $\frac{1}{10}$
In addition to these lines grading was done in advance of track laying (excluding the Oregon Short Line) to the extent of about.....	149 $\frac{1}{2}$

As is shown in our report for 1881, at page 14. The Oregon Short Line was constructed through the issue of its own securities.

Q. Do you know whether all this work was done under the construction department of the Union Pacific Railroad?—A. Yes, sir; I believe it was.

Q. From what books can we get the account of that construction, showing the parties to whom the money was paid, and who were the parties in interest under the contracts?—A. From the books of the Union Pacific Company at Omaha.

Exhibits Nos. 10 and 11 show certain details relating to the subscriptions to our stock. The paper I now produce is a recapitulation showing the actual issue of the stock with the amounts and dates.

[The paper is marked "Exhibit No. 12, June 1, 1887," and is as follows:

## The Union Pacific Railroad Company—Statement of debits to installment account.

DR.

1881.		
Mar. 31.	To capital stock: Amount of new full-paid stock issued to subscribers:	
	March 23, 1881.....	\$13,800
	March 25, 1881.....	123,700
	March 26, 1881.....	78,000
	March 28, 1881.....	54,000
	March 29, 1881.....	1,180,000
	March 30, 1881.....	920,950
	March 31, 1881.....	2,220,700
		\$4,583,150
April 1.	To capital stock: Amount of new full-paid stock issued to subscribers.....	2,400,300
2.	Do.....	309,450
4.	Do.....	140,400
5.	Do.....	10,300

*The Union Pacific Railroad Company—Statement of debits, &c.—Continued.*

Dr.

1881.			
April 1.	To capital stock: Amount of new full-paid stock issued to subscribers—Continued.		
6.	Do.....	\$245,300	
7.	Do.....	7,100	
8.	Do.....	172,900	
9.	Do.....	898,700	
12.	Do.....	7,800	
13.	Do.....	3,300	
14.	Do.....	18,050	
15.	Do.....	134,700	
16.	Do.....	4,700	
18.	Do.....	15,300	
19.	Do.....	200	
30.	Do.....		
	April 19, 1881.....	23,700	
	April 20, 1881.....	4,100	
	April 21, 1881.....	1,700	
	April 23, 1881.....	48,400	
	April 25, 1881.....	900	
	April 28, 1881.....	4,100	
	April 29, 1881.....	600	
			82,500
May 12.	To capital stock: Amount of new full-paid stock issued to subscribers:		
	May 7, 1881.....	100	
	May 10, 1881.....	3,000	
	May 12, 1881.....	635,500	
			638,600
13.	To capital stock: Amount of new full-paid stock issued to subscribers.....		4,000
31.	Do.....		
	April 22, 1881.....	4,500	
	April 26, 1881.....	1,200	
	April 30, 1881.....	500	
	May 3, 1881.....	200	
	May 9, 1881.....	100	
	May 10, 1881.....	4,100	
	May 12, 1881.....	20,000	
	May 20, 1881.....	100	
	May 24, 1881.....	100	
			30,800
June 13.	To capital stock: Amount of new full-paid stock issued to subscribers.....		4,000
July 30.	Do.....		201,000
30.	Do.....		
	July 7, 1881.....	100	
	July 11, 1881.....	56,600	
	July 14, 1881.....	10,800	
	July 25, 1881.....	58,500	
			126,000
Aug. 31.	To capital stock: Amount of new full-paid stock issued to subscribers.....		50
31.	Do.....		100
Oct. 8.	Do.....		19,000
31.	Do.....		37,900
1882.			
July 31.	Do.....		
	December 17, 1881.....	100	
	January 17, 1882.....	100	
			200
			10,106,100

The WITNESS. I also submit a statement showing the dates of conversion of the stock of the constituent companies, and the date of issue of the \$10,000,000 increase in 1881, the total amount of which statement represents the present capital of the Union Pacific Railway Company, namely, \$60,868,500.

(The paper is marked "Exhibit 13, June 1st, 1887," but is not entered at length in the record.)

Q. Have you a detailed statement of dividends declared or paid to stockholders?—A. Yes, sir. I submit a statement of the dividends declared by the Union Pacific Railroad Company prior to the consolidation, and by the Union Pacific Railway Company since the consolidation.

[The paper is marked "Exhibit No. 14, June 1st, 1887," and is as follows:]

*The Union Pacific Railway Company.—Statement of dividends paid by the Union Pacific Railroad Company and the Union Pacific Railway Company to April 1, 1884, as shown by the company's books.*

Date.	Company.	Rate per cent.	Amount paid.
1875.			
July 1	The Union Pacific Railroad Company .....	1½	\$551,175 00
Oct. 1	do. ....	2	734,900 00
1876.			
Jan. 1	do. ....	2	734,900 00
April 1	do. ....	2	734,900 00
July 1	do. ....	2	734,900 00
Oct. 2	do. ....	2	734,900 00
1877.			
Jan. 1	do. ....	2	734,900 00
April 2	do. ....	2	734,900 00
July 2	do. ....	2	734,900 00
Oct. 1	do. ....	2	734,900 00
1878.			
Jan. 1	do. ....	2	734,900 00
April 1	do. ....	2	734,900 00
Oct. 1	do. ....	1½	551,175 00
1879.			
Jan. 1	do. ....	1½	551,175 00
April 1	do. ....	1½	551,175 00
July 1	do. ....	1½	551,175 00
Oct. 1	do. ....	1½	551,175 00
1880.			
Jan. 1	do. ....	1½	551,175 00
			11,942,125 00
1880.			
April 1	The Union Pacific Railway Company .....	1½	761,434 50
July 1	do. ....	1½	761,434 50
Oct. 1	do. ....	1½	761,434 50
1881.			
Jan. 1	do. ....	1½	761,434 50
April 1	do. ....	1½	888,340 25
July 1	do. ....	1½	1,058,402 63
Oct. 1	do. ....	1½	1,064,197 75
1882.			
Jan. 2	do. ....	1½	1,065,197 50
April 1	do. ....	1½	1,065,197 00
July 1	do. ....	1½	1,065,197 00
Oct. 2	do. ....	1½	1,065,197 00
1883.			
Jan. 1	do. ....	1½	1,065,197 00
April 1	do. ....	1½	1,065,197 00
July 1	do. ....	1½	1,065,197 00
Oct. 1	do. ....	1½	1,065,197 00
1884.			
Jan. 1	do. ....	1½	1,065,197 00
April 1	do. ....	1½	1,065,197 00
			16,708,645 13
	Total .....		28,650,770 13

COMPTROLLER'S OFFICE, Boston, May 10, 1887.

Q. Were any dividends whatever declared by the Kansas Pacific Company or the Denver Pacific Company before the consolidation?—A. I believe not.

#### DIVIDENDS DECLARED BY BRANCH LINES.

Q. What dividends, if any, have been declared by the branch lines of the Union Pacific Railway?—A. The Colorado Central and the Utah and Northern Companies have paid small dividends. The Central Branch of the Union Pacific Railroad Company has also declared and paid two

dividends. One on November 2, 1885, for 5 per cent., or \$50,000, and another on December 20, 1886, of 10 per cent., or \$100,000, together making \$150,000. The Utah and Nevada Railroad Company has also paid a dividend. In the case of the Utah and Northern, the Colorado Central, and the Utah and Nevada Companies, the Union Pacific Company is the owner of nearly all the stock. The Montana Railway Company has also paid one dividend. That is a little road away up at the end of the Utah and Northern track. It was built under a separate charter. It has no mortgage debt. I believe that statement covers all the dividend paying properties. All income received from investments, including those before referred to, is stated in detail in the company's accounts. The current income also appears in detail in our more recent reports.

Q. Can you state the amount of the earnings of the Union Pacific Railroad Company, of the Kansas Pacific Railroad, and of the Denver Pacific Railway, arising from transportation for the United States Government, and also the earnings of the Union Pacific Railway, and of the branch lines of your system, showing by such statement the total amount of money earned for transportation from the United States Government from the time of the inception of the business down to the present time?—A. The actual detail of the amounts earned appears in full on our books at Omaha, but I submit an approximate statement of the amounts drawn from our reports and records here.

[The paper is marked "Exhibit No. 15, June 1, 1887," and is as follows:]

*Union Pacific Railway Company. Memorandum in relation to United States transportation. (Approximate.)*

UNION DIVISION.

Amount paid in cash to Union Pacific to June 30, 1878 .....	\$2,367,905 65
Same sum carried to interest account to June 30, 1878 .....	2,367,905 65
Amount found to be due in cash June 30, 1878 .....	2,534,792 81
Same sum applicable to interest account June 30, 1878, Ex. Doc. Sen., 48th Cong., No. 124 .....	2,534,792 81
Union Division transportation, July to December, 1878, Ex. Doc. Sen., 48th Cong., No. 124 .....	483,650 10
Union Division transportation, July to December, 1879, Ex. Doc. Sen., 48th Cong., No. 124 .....	943,734 70
Union Division transportation, July to December, 1880, Ex. Doc. Sen., 48th Cong., No. 124 .....	1,093,660 14
1881 .....	1,162,949 65
1882 .....	1,139,709 38
1883 .....	1,043,957 69
1884 .....	1,079,696 18
1885 .....	949,719 21
1886 .....	963,873 62
Total .....	16,303,441 94
Deduct cash payments .....	14,740 64
	<hr/> 16,288,701 30 <hr/>

KANSAS DIVISION.

To December 31, 1878, paid in cash .....	\$1,112,358 77
To December 31, 1878, interest account, &c .....	2,415,551 75
1879 .....	158,236 68
1880 .....	235,003 43
1881 .....	215,725 24
1882 .....	185,038 04

1883 .....	\$135,907 47
1884 .....	163,429 96
1885 .....	149,523 23
1886 .....	131,919 13
Total .....	3,790,334 93
Deduct cash payments .....	32,554 42
	<u>3,757,780 51</u>

## SUMMARY.

Union Division, transportation as per annexed statement .....	\$16,288,701 30
Union Division, cash, July 6, 1881 .....	\$69,358 83
June 24, 1884 .....	718,814 60
April 16, 1885 .....	916,704 02
December 4, 1886 .....	155,246 59
	<u>1,860,124 04</u>
Kansas Division .....	18,148,825 34
	<u>3,757,780 51</u>
Interest collected on United States sinking fund .....	21,906,605 85
	<u>572,891 61</u>
Ledger account, December 31, 1886 .....	22,479,497 46
	<u>22,459,727 56</u>
Difference .....	19,769 90
BOSTON, June 1, 1887.	

## CREDITS THE UNION PACIFIC IS ENTITLED TO.

The WITNESS. I find that to June 30, 1878, the United States paid to the Union Pacific Railroad Company, in cash, \$2,367,905.65. I assume, therefore, that the same amount was retained by the United States and applied on the bond and interest account, because, under the terms of the act, it was only half the transportation that was payable to us, the other half being reserved for the account mentioned. To the same date, namely, June 30, 1878, there became due to the company, in addition to the amounts paid, \$2,534,792.81. This amount is included in various recoveries in suits brought in the Court of Claims, in which the Union Pacific Railroad was plaintiff against the United States. The numbers of the cases are as follows: 9,830, 10,899, 11,901, and 12,515. The amount I now refer to has been examined by the Commissioner of Railroads, passed by him, and allowed in our settlements. I assume that an equal amount was also retained by the United States and applied on the bond and interest account, as the amount before mentioned represents solely the half transportation which we claimed in the cases before mentioned to be payable to us, all of it having accrued, or having become due, prior to June 30, 1878.

From the 1st of July, 1878, to December 31, 1878, the company was entitled to credit for transportation to the amount of \$483,650.10. This amount has been adjusted with the Railroad Commissioner. We were given credit in that year, in the settlement, for that sum. Being subsequent to the Thurman act, this amount represents the whole transportation services on the Union Pacific division for the period named. The credit appears in the Report of the Commissioner of Railroads, at page 14.

In the same way, for the year 1879, the company became entitled to \$943,734.70. This credit appears in the same Report of the Commissioner of Railroads, at the same page.

For the year 1880, the company became entitled to credit for \$1,008,660.14. The amount of this credit appears in part (\$1,016,079.23) in the same Report of the Commissioner of Railroads, at page 15, and in part (\$82,580.91) at page 16.



In the year 1881, the company became entitled to a credit for \$1,162,-949.65. These credits appear in the report of the Commissioner of Railroads for 1882, at page 34, in two items, namely, \$1,012,316.62 and \$150,633.03.

In the year 1882, the company became entitled to a credit for \$1,139,-709.38. These credits appear in the Report of the Commissioner of Railroads for 1883, in two items, one on page 28, for \$932,975.41, and the other on page 29, for \$206,733.97.

For the year 1883, the company became entitled to credit for \$1,043,-957.69. Of this sum, \$960,502.46 is shown in the Report of the Commissioner of Railroads for the year 1884, page 27, and the balance of \$83,455.22 is shown in the same report, on page 28.

For the year 1884, the company became entitled to credit for \$1,079,-696.18. Of this amount, \$765,559.65 is taken up to our credit in the Report of the United States Commissioner of Railroads for 1885, at page 11; and the balance, of \$314,136.53, is put to our credit in the same report, at page 12.

In the year 1885, the company became entitled to credit for \$949,-719.21. Of this amount, \$674,646.18 is taken up to our credit in the Report of the Commissioner of Railroads for 1886, at page 6. The balance, of \$275,073.03, does not appear in the Commissioner's report. It represents the earnings on the non-aided line of the Union Pacific system for that year, retained by the Treasury Department and allowed us in settlement by the Secretary of the Treasury. This amount was not settled between the company and the Commissioner of Railroads, but it was adjusted between the company and the Treasury Department. I produce a letter from Hon. Charles S. Fairchild, Secretary of the Treasury, dated December 4, 1886, in which this matter is adjusted, and he enumerates the various transportation charges for branch lines, amounting in all to \$377,763.90. The settlement, as far as it has progressed with the Commissioner of Railroads, left an apparent amount due from this company, under the terms of the act applicable to its earnings, which amounted to \$533,010.49. After deducting the amount of \$377,763.90, adjusted as before stated, there remained a balance of \$155,246.59, which was paid in cash by the company on December 4, 1886.

It follows, therefore, that the whole of the item for 1885, amounting to \$949,719.21, has been adjusted between the company and the Government. That is to say, the \$674,646.18, allowed by the Commissioner of Railroads, and the \$275,073.03, allowed by the Secretary of the Treasury, amount to \$949,719.21. The amounts allowed by the Secretary of the Treasury, as appears from his said letter, December 4, 1886, aggregated \$377,763.90. This allowance includes \$102,690.87, which belonged to the Kansas division, and is not included in the figures given for 1885—that is, \$949,719.21—for the Union division.

For the year 1886 the company became entitled to credit for \$963,-873.62. This is the amount as it appears on our books, but has not yet been adjusted with the Government. It includes the earnings for transportation of the branch lines. The total so far for transportation amounts to \$16,303,441.94. This embraces all the transportation taken up to the credit of or claimed for the Union Pacific division to December 31, 1886, and includes the branch line transportation to that period, but does not include the Kansas Pacific division at all.

The company has also received from the Government, through sundry small cash payments, made for branch-line services, the sum of \$14,740.64, leaving the balance on this account for transportation earnings \$16,288,701.30. On the Kansas division, in the statements which were furnished to me from Kansas City, covering all Government trans-

portation accounts to December 31, 1878, the total amount of transportation was shown to be \$3,527,910.52. There has been paid to the company in cash on account of these transportation accounts \$1,112,358.77, the balance, \$2,415,551.75, having been retained and applied on the bond and interest account. This amount of \$3,527,910.52 represented all transportation done by the Kansas Pacific Company from 1866 to December 31, 1878.

In a similar statement for the year 1879 the total amount of transportation is shown for that year to have been \$158,236.68. No money payments were made on this account.

Q. Can you refer us to where it has been adjusted?—A. I can. It is in the report of the Commissioner for 1881, at page 17.

The statement to December 31, 1878, shows that of the \$3,527,910.52 \$2,160,402.50 was payable to the company in cash. This represented one-half of the earnings on the road east of the 394th-mile post, all of earnings on the road west of the 394th-mile post, and all of the earnings on the Leavenworth branch, Arkansas Valley, and the Junction City and Fort Kearney branches. On account of the \$2,160,402.50 payable to the company in cash the Government has paid but \$1,112,358.77, leaving the cash balance due to the Kansas Pacific Company at that date of \$1,048,043.73.

For the year 1879, out of transportation earnings amounting to \$158,236.68, there was payable in cash \$107,713.89, on account of which the Government had paid nothing. There was, therefore, due the Kansas Pacific Company on December 31, 1879, a cash balance of \$1,155,757.62. On the other hand, the Government was entitled to 5 per cent. of the net earnings of the Kansas Pacific road, which for the period from November 2, 1868, to November 1, 1879, amounted to \$388,621.32. There was, therefore, a cash balance due to the Kansas Pacific, in excess of the 5 per cent. obligation, of \$767,136.30. This balance is taken up to the credit of the company in the report of the Commissioner for 1881, at page 17. This result was reached by the Commissioner of Railroads, after adjusting the prior accounts at the figure and in the manner before stated by me.

For the year 1880 the company became entitled, on account of its Kansas Pacific division, to credit for \$235,003.43. Of this amount the company was entitled to credit for the portion thereof payable in cash, \$170,455.05, and the credit for this amount appears in the Report of the Railroad Commissioner for 1881, at page 17.

The balance of this transportation, \$64,548.38, consists of one-half of the transportation for that year on the aided road, and is applicable to the bond and interest account. These figures must have been adjusted by the Government as above, in order to reach the cash portion of the transportation as adjusted in the Railroad Commissioner's account.

The company became entitled to credit in 1881 to the amount of \$215,725.24. This amount is shown to have been adjusted by the Railroad Commissioner from the entries appearing at page 35 of the Report of 1882. It appears on that page of the report that the cash portion of the company's transportation in 1881 amounted to \$150,845.25. The bond and interest account, being one-half of the subsidized earnings, \$29,867.75, and also one-half of the subsidized mail earnings, \$35,012.24, make together \$64,879.99, which sum, being added to the cash portion as above stated, \$150,845.25, gives the aggregate, \$215,725.24. The figures for the transportation, contained in the same page, \$253,239.41, exceed the amount above stated, for the reason that the report is made from November 2, 1880, to December 31, 1881, including fourteen months.

For the year ending December 31, 1882, the company was entitled to a credit on account of the Kansas Pacific division for \$185,038.04. This item was adjusted by the Commissioner of Railroads, and appears in his Report for 1883, at page 30. The cash portion due the company for transportation for that year was \$127,580.91. The balance of \$57,457.13, namely, one-half for transportation on the aided roads, was applicable to the bond and interest account. The figures showing this amount appear on the same page, one-half the subsidized passenger freight and express earnings, \$16,004.74, and one-half mail earnings, \$41,452.36.

For the year 1883, on account of the Kansas Pacific division, the company became entitled to \$135,907.47. This amount was adjusted by the Commissioner of Railroads, as appears from his report for 1884, at pages 28 and 29. The Government earnings on the main line are stated at \$132,387.61, and on the Leavenworth branch at \$3,519.86. The aggregate of those two sums is the amount stated, \$135,907.47.

For the year 1884, the company became entitled, on account of Kansas Pacific division, to a credit of \$163,429.96. This amount was adjusted by the Commissioner of Railroads, as appears from his Report for 1885, at page 15, where the amount of transportation for that year on the aided lines is stated at \$101,016.29, and on the non-aided lines at \$62,413.67, the aggregate of which sums is the amount above stated, \$163,429.96. The statements of Kansas Pacific division transportation from the year 1880 to the year 1885, as above explained, also appears to have been adjusted by the Commissioner of Railroads, as appears from the statement contained at page 15 of the Report of 1885, the addition of the two items entered for each year applicable to the aided and non-aided portions of the lines giving the results above stated for the respective years 1880, 1881, 1882, 1883, and 1884.

For the year 1885, the company became entitled, on account of the Kansas Pacific division, to a credit of \$149,523.23. The amount of earnings on the aided road, namely, \$93,664.71, is shown in the Report of the Commissioner of Railroads for 1886, at page 7. The balance, \$55,858.52, the earnings on the non-aided portion on the Kansas Pacific division, is referred to in the letter from Assistant Secretary Fairchild, of December 4, 1886, heretofore mentioned.

For the year 1886, the company became entitled, on account of the Kansas Pacific division, to a credit of \$131,919.13. This amount has not yet become the subject of settlement.

These various sums, extending from 1866 to the 31st of December, 1886, aggregate \$3,790,334.93, against which various small cash payments have been received from the Government, amounting to \$32,554.42; leaving a balance retained by the Government, on account of the Kansas Pacific division, of \$3,757,780.51.

We have, therefore, this result:

Transportation earnings, on account of the Union Pacific division and its branches.....	\$16,288,701 30
On account of the Kansas Pacific division.....	3,757,780 51
In addition to which the following cash payments have been made by the company:	
July 6, 1881.....	\$69,358 83
June 24, 1884.....	718,814 60
April 16, 1885.....	916,704 02
December 4, 1886.....	155,246 59
Total cash payments.....	1,860,124 04
Add interest collected on the bonds in the sinking fund, established under the Thurman act.....	572,891 61
These various sums aggregate.....	22,479,497.46

This statement will explain, as far as I am able to explain it with the material now at hand, the manner in which the amounts repaid by the company on account of the United States debt were made up. The aggregate of these amounts, as stated in the report for 1886, is \$22,459,727.56. In the statement above made by me, the cash payments made by the United States to the company have been deducted. For the purpose of ascertaining the total amount of the services rendered by the company to the Government, these amounts should be added to the amount before found, with the following result:

Amount found above .....	\$22, 479, 497 46
Cash paid to Union Pacific to June 30, 1878 .....	2, 367, 905 65
Sundry small cash payments to branches of Union Pacific .....	14, 740 64
There was also a cash payment made in 1883, as appears from the Commissioner's report of 1884, at page 28, amounting to .....	117, 635 38
This amount was not included in the adjustment for 1883, hereinbefore given at \$1,043,957.69, and must, therefore, be added, in order to ascertain the total amount of transportation services rendered.	
December 31, 1878, paid in cash, Kansas division .....	1, 112, 358 77
Sundry small cash payments .....	32, 554 42

These amounts, being added to the result before found, give us the total aggregate of all transportation services rendered from the inception of the business to December 31, 1886, the sum of..... 26, 124, 692 32

OLIVER W. MINK.

The Commission then adjourned to Thursday, June 2d, 1887, at 10 a. m.

EQUITABLE BUILDING,  
Boston, Mass., Thursday, June 2, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

OLIVER W. MINK, being further examined, testified as follows:

MATTERS IN CONTROVERSY BETWEEN THE GOVERNMENT AND UNION PACIFIC.

Commissioner LITTLER. Please state what matters are now in controversy between the company and the Government, either relating to past accounts or relating to the present, applying to rates of charges in making up your accounts with the Government.

The WITNESS. I understand this question to apply to our transportation accounts exclusively?

Commissioner LITTLER. I want it to cover all subjects of controversy between the company and the Government.

The WITNESS. There are no important controversies between the United States and the company growing out of our rates for transportation, of which I have any knowledge. There is a controversy between the company and the United States with reference to the land grant, but I am not able to define it. Our general land commissioner at Omaha will be able to give the particulars in regard to that.

By Commissioner LITTLER:

Q. Does the Government admit all the charges for services you claim to have rendered?—A. I know of no considerable amounts in dispute. I should say that not more than from \$20,000 to \$30,000 at the outside,

out of several millions of dollars, were disputed by the accounting officers of the United States. The company usually conforms, in making out its bills, to the rulings laid down by the Department officers at Washington.

THE COMPANY USUALLY CONCEDES THE CLAIMS MADE BY THE GOVERNMENT.

By Commissioner ANDERSON :

Q. Do you mean all Department officers ?—A. I should say all Department officers ; yes, sir.

By Commissioner LITTLER :

Q. Do you state that where differences exist in the accounting between the Government and the company, the company usually concedes the differences to the Government, and settles on their statement ?—A. Usually ; yes, sir.

Q. Do you now make any claim on account of improper concessions made to the Government heretofore, in order to get your account settled ?—A. Not here. There are, I believe, some differences between the company and the Interior Department, growing out of transportation connected with the Indian service ; but the amount involved in that controversy I believe to be less than \$20,000. It is an old controversy, and has been pending for several years.

Q. Do you still make claim for that \$20,000 ?—A. Yes, sir ; we do. I do not understand that the Department resists the approval of the company's claim so much as they do the regularity of their own agent's action in connection with it. It is a matter that I am sure will adjust itself in time. It is not a matter of pressing importance.

Q. Do you desire this Commission to consider that item in stating the account ?—A. No, sir ; it is not of sufficient importance.

SUITS PENDING IN COURT OF CLAIMS.

By Commissioner ANDERSON :

Are there not one or two suits in the Court of Claims ?—A. Yes, sir ; but not connected with questions of transportation. The suit now pending in the Court of Claims involves a construction of the term "net earnings." In brief, the questions at issue are, first, as to whether or not the earnings derived from our investment in the Pullman cars now running on our lines should be included in the gross passenger earnings of the company.

Commissioner LITTLER. Judge Dillon spoke of that.

The WITNESS. Yes, sir ; Judge Dillon spoke of that yesterday. Next, whether or not the net earnings of the Omaha Bridge should be included in the earnings of the Union Pacific division, as a part of the aided line, upon which the United States is entitled to twenty-five per cent.

Commissioner ANDERSON. We understand that perfectly.

The WITNESS. Shall I put in a copy of the petition ?

Commissioner ANDERSON. No ; we know the fact.

The WITNESS. There is also a question in relation to the subdivision of the earnings of the Kansas Pacific between the 394th mile post and the western terminus of the road.

By Commissioner ANDERSON :

Q. The figures that you have given for the total transportation embraced what roads ?—A. They embraced the lines of the Union Pacific



Railway Company as consolidated, namely 1,832 miles, including the Union Pacific, the Kansas Pacific, and the Denver Pacific divisions; and they also include the accounts of our various branch lines. Shall I enumerate them?

Commissioner ANDERSON. No, unless there is an exception.

The WITNESS. No, there are no exceptions.

Commissioner ANDERSON. Yes, you say you do not include the Central Branch lines

The WITNESS. We do not call that a branch. Our current reports upon our various branch lines exclude the Central Branch Union Pacific Railroad Company.

GROSS AGGREGATE CHARGES FOR TRANSPORTATION, \$26,000,000.

Q. The conclusion I gather from your figures is that the gross aggregate of all this transportation, from the inception of the services to the 31st day of December, 1886, is something over \$26,000,000. Is that right?—A. Yes, sir.

\$4,000,000 RECEIVED IN CASH; BALANCE SHOULD BE TO COMPANY'S CREDIT.

Q. That of this sum, the various companies have received in cash from the Government, from time to time during the period when cash payments were made, about \$4,000,000, and that the sum of \$22,000,000 is claimed by you to have been earned, and that the credits for this transportation should appear either in the Bond and Interest accounts or the Sinking Fund account. Is that correct?—A. Your understanding of the matter is correct. The amount of \$22,000,000, however, includes the accumulation of interest in the sinking fund, amounting to upwards of half a million of dollars.

By Commissioner LITTLER:

Q. Is that interest?—A. Yes, sir. Commissioner Anderson's statement in his last question is correct, except as to the amount of the accounts not yet passed upon by the accounting officers, and which represents, I think, between \$400,000 and \$500,000. This is not an unusual amount, in my opinion, to be pending investigation.

By Commissioner ANDERSON:

Q. It also includes the cash payments made by the company to the United States?—A. Yes, sir.

Q. So that we should find either in the Bond and Interest account or the Sinking Fund account about \$21,500,000 of credits?—A. Yes, sir.

By Commissioner LITTLER:

Q. Will you furnish a statement of the Government transportation earnings of the Central Branch?—A. It will be submitted as soon as it can be prepared.

Q. Have you a statement showing the relative earnings of the Union Pacific division compared with the Kansas Pacific division for the years 1879, 1880, 1881, and 1882?—A. I have.

The paper is marked "Exhibit 2, June 2, 1887," and is as follows:

**STATEMENT SHOWING RELATIVE EARNINGS OF UNION PACIFIC AND KANSAS PACIFIC DIVISIONS.**

[The Union Pacific Railway Company. Comptroller's Office.]

*General income account of the Union and Kansas divisions for the year 1879.*

	Union Pacific R. R.	Kansas Pac. & D. P.	General.	Total.
Gross earnings.....	\$12,983,135 74	\$1,839,188 42	.....	\$17,822,344 16
Operating expenses and taxes.....	5,475,503 44	2,881,689 32	.....	8,357,192 76
Surplus earnings.....	7,507,632 30	1,957,499 10	.....	9,465,131 40
Miscellaneous income.....	436,889 84	.....	.....	436,889 84
Total income.....	7,944,542 14	1,957,499 10	.....	9,902,041 24
Interest on bonds.....	3,390,595 86	1,388,082 23	.....	4,778,677 50
Sinking funds.....	207,444 00	.....	.....	207,444 00
Discount and interest.....	76,984 86	20,523 39	.....	103,508 25
Miscellaneous.....	268,791 24	148,259 94	.....	417,051 18
Dividends.....	2,204,700 00	.....	.....	2,204,700 00
United States requirements.....	1,443,076 85	91,599 13	.....	1,534,675 48
Total charges.....	7,591,591 81	1,654,464 69	.....	9,246,056 50
Balance over all charges and payments.....	352,950 33	303,034 41	.....	655,984 74

Boston, May 31, 1887.

[The Union Pacific Railway Company. Comptroller's Office.]

*General income account of the Union and Kansas divisions for the year 1880.*

	Union Pacific R. R.	Kansas Pac. & D. P.	General.	Total.
Gross earnings.....	\$15,755,526 36	\$6,520,129 04	.....	\$22,275,655 40
Operating expenses and taxes.....	6,850,425 10	3,685,694 30	.....	10,545,119 52
Surplus earnings.....	8,896,101 20	2,834,434 68	.....	11,730,535 88
Miscellaneous income.....	1,129,247 51	150,301 54	\$33,000 00	1,312,639 05
Total income.....	10,025,348 71	2,984,826 22	33,000 00	13,043,174 93
Interest on bonds.....	3,586,103 42	1,588,367 65	.....	5,174,473 07
Sinking funds.....	334,000 00	100,000 00	.....	434,000 00
Discount and interest.....	.....	.....	114,315 43	114,315 43
Miscellaneous.....	130,386 49	.....	.....	130,386 49
Dividends.....	2,205,738 00	810,030 00	.....	3,015,738 00
United States requirements.....	1,626,772 58	132,468 26	.....	1,759,240 84
Total charges.....	7,883,002 49	2,660,835 91	114,315 43	10,658,153 83
Balance over all charges and payments.....	2,142,346 22	323,990 31	81,315 43	2,385,021 10

Boston, May 31, 1887.

[The Union Pacific Railway Company. Comptroller's Office.]

*General income account of the Union and Kansas divisions for the year 1881.*

	Union Pacific R. R.	Kansas Pac. & D. P.	General.	Total.
Gross earnings.....	\$17,144,860 49	\$6,960,519 92	.....	\$24,105,380 41
Operating expenses and taxes.....	8,208,820 56	4,271,522 15	.....	12,480,342 71
Surplus earnings.....	8,936,039 93	2,688,997 77	.....	11,625,037 70
Miscellaneous income.....	1,618,550 63	281,454 50	.....	1,900,005 13
Total income.....	10,554,590 56	2,970,452 27	.....	13,525,042 83
Interest on bonds.....	3,597,561 11	1,526,472 28	.....	5,124,034 39
Sinking funds.....	340,000 00	100,000 00	.....	440,000 00
Discount and interest.....	.....	.....	\$95,542 95	95,542 95
Miscellaneous.....	125,738 40	6,344 42	.....	132,082 83
Dividends.....	3,096,134 13	990,000 00	.....	4,076,134 13
United States requirements.....	1,473,810 67	137,142 27	.....	1,610,952 94
Total charges.....	8,633,274 31	2,749,959 98	95,542 95	11,478,777 24
Balance over all charges and payments.....	1,921,316 25	220,492 29	95,542 95	2,046,265 50

Boston, May 31, 1887.

[The Union Pacific Railway Company. Comptroller's Office.]

*General income account of the Union and Kansas divisions for the year 1882.*

	Union Pacific R. R.	Kansas Pac. & D. P.	General.	Total.
Gross earnings .....	\$16,980,783 42	\$5,729,544 33	.....	\$22,710,327 75
Operating expenses and taxes .....	7,221,457 51	3,505,591 77	.....	10,727,049 28
Surplus earnings .....	9,759,325 91	2,223,952 56	.....	11,983,278 47
Miscellaneous income .....	1,819,850 70	433,425 00	\$237,081 34	2,490,357 04
Total income .....	11,579,176 61	2,657,377 56	237,081 34	14,473,635 51
Interest on bonds .....	3,554,466 27	1,680,012 66	.....	5,234,478 93
Sinking funds .....	342,000 00	100,000 00	.....	442,000 00
Discount and interest .....	.....	.....	172,722 31	172,722 31
Miscellaneous .....	119,666 99	15,216 00	.....	134,882 99
Dividends .....	3,280,788 00	980,100 00	.....	4,260,788 00
United States requirements .....	1,936,753 84	118,841 39	.....	2,055,595 23
Total charges .....	9,233,675 10	2,893,570 05	172,722 31	12,299,967 46
Balance over all charges and payments .....	2,345,501 51	236,192 49	64,359 03	2,173,668 05

\* Including \$192,000 received from trustees Kansas Pacific consolidated mortgage for payment of interest on consolidated bonds pursuant to the terms of the mortgage.

BOSTON, May 31, 1887.

The WITNESS. I will say that the gross earnings differ from the earnings published in our annual reports, owing to the fact that in the statements which I have now produced we have not included the amount of our claim against the United States for postal compensation, and which claim was disallowed by the Court of Claims. The statements now produced I believe to be correct.

In the statement for 1879, the Kansas Pacific did not, in fact, pay its interest, and I have therefore included the interest which was properly chargeable during that year. The interest charged in the statements for 1880, 1881, and 1882 is the interest actually accruing, in or payable on account of those years. I believe that I have now put in everything that you have asked for.

Q. Is there any other table you desire to present?—A. Yes, sir; I have a statement here showing the net income of our various branch lines (excluding, of course, the Central Branch), applicable to the payment of interest on their bonds. To the net income I have added the net profit of the Union Pacific Company in the haul of the traffic turned over by or interchanged with those companies, or, in other words, 60 per cent. of our proportion of the joint earnings with those lines.

Q. Of the interchange traffic?—A. Of the interchange traffic; yes, sir. The statement is marked "Exhibit No. 3, June 2d, 1887," and is as follows:

[The Union Pacific Railway Company.]

*Statement showing the net income of the auxiliary lines of the Union Pacific system; the estimated net earnings of the parent company from traffic interchanged with such lines, and the interest accrued on the bonds issued on such lines; and in the same connection the interest actually payable on the bonds thus issued on such lines, but which are not owned by the Union Pacific Railway Company.*

Road.	Net income, as per annual report, excluding interest on bonds.	Sixty per cent. of inter-change traffic.	Direct and indi-rect income.	Interest on bonds.	Balance sur-plus or deficit.	Interest on bonds afloat only.	Balance of surplus.
Omaha and Republican Valley.....	\$4,443 75	\$362,568 34	\$367,012 09	\$157,990 00	\$209,022 09	\$140 00	\$306 872 09
Omaha, Niobrara, and Black Hills.....	39,007 02	163,372 21	*202,389 29	68,390 00	133,989 29	.....	202,379 19
Echo and Park City .....	17,660 17	129,507 49	147,167 66	28,800 00	118,367 66	.....	147,167 66
Colorado Central.....	414,371 82	573,927 40	988,299 22	336,030 00	652,269 22	5,480 00	982,819 22
Salt Lake and Western .....	20,383 25	41,536 87	70,920 22	64,800 00	6,120 22	.....	70,920 22
Denver, South Park and Pacific.....	*68,581 56	37,977 31	*28,604 25	301,500 00	*330,104 25	133,680 00	*162,284 75
Utah and Northern .....	460,969 54	639,235 66	1,100,205 20	388,010 00	712,195 20	40,250 00	1,059,955 20
Oregon Short Line .....	500,756 29	656,741 12	1,157,497 41	889,755 00	267,742 41	889,755 00	267,742 41
Greeley, Selt Lake and Pacific .....	*21,679 48	54,727 90	33,048 42	56,560 00	*23,511 58	.....	33,048 42
Lawrence and Emporia .....	*16,384 21	5,875 44	*10,508 77	27,900 00	*38,408 77	.....	*10,508 77
Laramie, No. Park and Pacific .....	*1,158 70	987 91	*170 79	.....	*170 79	.....	*170 79
Junction City and Fort Kearney.....	49,776 78	170,767 39	220,544 17	85,000 00	135,544 17	.....	220,544 17
Solomon.....	27,632 92	160,060 37	207,693 29	34,500 00	173,193 29	.....	207,693 29
Salina and South Western.....	25,305 38	94,827 84	120,133 22	32,400 00	87,733 22	.....	120,133 22
Denver and Boulder Valley.....	15,639 75	48,798 34	64,438 09	.....	64,438 09	.....	64,438 09
Golden, Boulder and Caribou.....	6,464 29	6,662 72	13,127 01	4,800 00	8,327 01	.....	13,127 01
Georgetown, Breckenridge and Leadville.....	*4,117 72	3,158 26	*959 46	8 890 00	*9,849 46	.....	*959 46
Kansas Central .....	*78,523 62	11,398 19	*67,125 43	80,880 00	*148,005 43	11,160 00	*78,285 43
Montana .....	18,304 40	52,037 44	70,341 84	.....	70,341 84	.....	70,341 84
Denver and Middle Park.....	*2,333 42	925 63	*1,407 79	.....	*1,407 79	.....	*1,407 79
Denver, Marshall and Boulder .....	12,005 16	6,488 65	18,493 81	5,400 00	13,093 81	.....	18,493 81
Manhattan and Blue Valley .....	6,406 63	11,640 14	18,046 77	.....	18,046 77	.....	18,046 77
Salina, Lincoln and Western .....	8,774 76	23,848 20	32,622 96	7,785 00	24,837 96	.....	32,622 96
Total .....	1,446,123 26	3,277,070 92	4,723,194 18	2,579,390 00	2,143,804 18	1,080,465 00	3,642,729 18

\*Deficit.

COMPTROLLER'S OFFICE, BOSTON, May 27 1887.

OLIVER W. MINK.

## CONSTRUCTIVE MILEAGE IN THE ACCOUNTS.

Q. That includes constructive mileage?—A. That goes into the net income of the auxiliary lines; their net income is, of course, just that, much larger than it would be without constructive mileage. The sum of the two, that is, the net income of the branch and the net income of our company, from the carriage of this interchange business produces what I call the direct and indirect income from the operation of the branch lines; from that income I have deducted the full amount of the interest on the bonds of the various branch line companies, whether they are in the treasury of the Union Pacific or in the hands of the public. This statement will show you that, taking this view of the matter, these lines contribute, directly and indirectly, \$2,143,000 in excess of the full amount of the interest on their bonds, taking the good with the bad; but as a very large amount of these bonds is owned by the Union Pacific that is not the proper way to look at it, and I have therefore stated it in another light. Under this last-named view I have taken only the interest on the bonds held by the public into consideration, and in that light these lines show a balance of \$3,642,729.18 coming to our company, either in a direct or indirect way.

By Commissioner ANDERSON:

Q. I will ask you whether the sum which you credit as the net earnings of the parent line, being 60 per cent. of the interchange traffic, and the sum which is credited to the branch lines on the constructive mile factor basis, added together equals the net earnings actually received for the business or whether it exceeds that amount?—A. The net income of the branches represents the earnings of those branches, made up of their local business and of the interchange business on the constructive mileage basis, less their operating expenses and any other proper charges against earnings, excepting alone interest on bonds. The earnings of the Union Pacific Company represent what we estimate to be the profits derived from the transportation of that business after the business reaches our line. In other words, we estimate that it costs about 40 per cent. to move that business after it reaches the parent line. The sum of the two is what I estimate to be the direct and indirect net income. Now, if there were no constructive mileage allowances made to the branch lines the Union Pacific's proportion on this business would be just so much larger and the branch line company's earnings, or net income, would be just so much less. Therefore the "direct and indirect net income" would not be altered by reason of any change in that respect.

## CONCERNING BALANCE SHEET OF 1886.

Q. Referring to the balance sheet for 1886, at page 91 of your report, and to the item "cash and cash resources, \$1,351,189.73," and comparing that item with the table of your floating debt, at page 93, I notice that the liquidation of the floating debt and the appearance of an asset of "cash resources" are obtained as the result of a decrease in the item of company stocks and bonds; that is to say, by the conversion of company stocks and bonds into money and the application of the proceeds to the liquidation of the floating debt and to the acquisition of items which go to make up the credit for resources. I ask you to explain why the company's stocks and bonds are regarded as part of your floating debt account, and are not contained in the general statement of your investment account?—A. The company's stocks and bonds, a detailed



statement of which appears on page 90 of the report, were held by the company for the express purpose of liquidating, as far as they would go, its gross floating debt. The securities had been entered in the funded debt accounts of the company as they were issued.

Q. Still, were not those elements of value acquired by purchase in the usual way, and is it fair to conclude that the proceeds resulting from the sale of the company bonds and stock were available in reduction of the floating debt, unless it should appear, on the liquidation of the entire investment account, that you were actually entitled to a net balance of profit after having gone through the complete liquidation of all your investments?—A. I think the statement is perfectly fair and reasonable. The company had expended its means, or income, in the acquisition of its own bonds. I remember, in the case of the consolidated mortgage bonds, that the company acquired a number of them in this way: The Kansas Pacific coupon certificates issued for varying amounts, \$35, \$87.50, \$135, and so on, were held by individuals, who, of course, could not group and present them for exchange into consolidated bonds in multiples of a thousand dollars.

Q. Because there were no small bonds?—A. Because there were no small bonds. The company, therefore, paid the holders cash for their certificates. Subsequently the company turned them over to the trustees under the consolidated mortgage, and received bonds for them. The bonds, therefore, represented an actual outlay of money, money that might otherwise have remained in hand, and it seems to me, therefore, to have been perfectly proper for the company to have sold the bonds in question to pay off debts incurred for that purpose, or debts incurred for any other purpose. That is a general explanation. I think it will hold good with reference to the securities included in our floating debt account generally.

Commissioner ANDERSON. The only criticism I have to make is that, under this method of doing the business, the item of company bonds and company stock does not appear in your balance sheet, but only the balance derived after having credited this amount in your statement of floating debt.

The WITNESS. The officers of our company have never looked upon its own bonds and stock, thus temporarily held, as an investment so called. Our investments have generally been confined to extensions of branch lines and to corporations incident to the operation of the road. The company bonds and stock have been held with a view to a sale for the purpose of discharging the gross floating debt. I think the condition of the market had as much, perhaps, to do with our carrying them as anything else.

Q. I call your attention to the fact that you would have reached the same result by stating among your assets separately the amount of company stocks and bonds, and stating your cash resources at a figure less than the figure actually stated by the amount of the company bonds and stocks, and that in this manner your balance sheet would inform a person examining it of the value which you attributed to the company stocks and bonds; whereas, by the principle pursued by your company of crediting the company stocks and bonds in the floating debt at the cost to the company of the stocks and bonds, and then stating the floating debt as an amount diminished by the amount of such entry, or stating the resources at a figure increased by such amount, it is impossible to ascertain with precision the condition of your actual floating debt without examining that account, and that the balance sheet can be safely relied upon only in the event that the cost price to the com-

pany of the company stocks and bonds can really be realized in the market. That criticism would be just, would it not?—A. I do not think so. I would like to make a specific answer to that question. It seems to me that there can be no misapprehension concerning our balance sheet, because the amount of our cash and cash resources is indicated on the balance sheet at page 91, and is detailed on page 93. Furthermore, a reference is made in the balance sheet to the last-named page. The manner of stating this account was not peculiar to the year 1896. We had been stating it in this way for a number of years; and the market price of the securities was so well known that any one could have figured up the value of them and told whether or not they were being carried at an inflated price. I may say that I think the account was properly handled. The company was owing certain sums of money; it had in its possession certain securities which it held for the specific purpose of applying on the debt, and for no other purpose. The balance between our liabilities and these quick resources was what we estimated to be either our floating debt or the balance of our resources. It strikes me as being, on the whole, a proper and conservative way of stating the account.

#### CONCERNING FLOATING DEBT ACCOUNT.

Q. The balance which is credited in the floating-debt account is the result, is it not, of your account of purchases and sales of company stocks and company bonds, after all the anterior transactions have been debited and credited? The stocks and bonds remaining on hand are considered by you to have cost just the balance which is required to make that account good?—A. No, sir; I will explain that. Our practice is to write off our profit or loss on transactions as they take place. If, therefore, during the previous year bonds had been sold on which we had lost, say, \$10,000 or \$15,000, the loss was written off in the year in which we made the sale.

Q. Suppose you made a profit?—A. We would write off that profit in the same way. We believe we are justified in doing so.

Q. So that the cost price of your bonds remains unchanged?—A. Unchanged. It represents what we paid for them. That is, I may say, our universal practice. We face the music.

#### COST OF DENVER, SOUTH PARK AND PACIFIC.

Q. Can you state from the books of the company the cost of your interest in the Denver, South Park and Pacific road?—A. Yes, sir.

Commissioner LITTLE. I understand this company does not own that road in full, but owns a controlling interest in the stock. You can give us your interest in the cost of all those branches, can you not?

The WITNESS. Yes, sir.

Q. Do they appear anywhere in your reports?—A. Not in detail in our reports. I will answer that question now, or I will submit a statement about all the branches.

Commissioner LITTLE. That will be more satisfactory.

Commissioner ANDERSON. The only thing I want now is the Denver and South Park.

The WITNESS. The Kansas Pacific Railroad Company, at the time of the consolidation, held an interest in the Denver and South Park Road Construction and Land Company amounting to \$12,000.

Twelve thousand dollars in stock?—A. \$12,000 in stock, yes, sir. I do not know the amount of the stock of the Denver and South

Park Railway Construction and Land Company. Mr. Charles Wheeler, of Denver, Colo., was at one time the auditor of that company, and may be able to inform you in relation to it.

On August 31, 1880, we received, as a dividend on this construction company stock, \$300,000 in the capital stock of the Denver, South Park and Pacific Railroad Company. This stock was entered upon the books of the company at a nominal value of a dollar a share, or \$3,000. Our next investment in the stock of that company was made on December 31, 1880, when 4 shares were bought from John Evans at par, \$400. On January 25, 1881, we bought 30,993 shares of Denver, South Park and Pacific Railroad Company stock, as the entry reads, "from Charles C. Niebuhr, on a sixty days' contract dated November 15, which contract was assigned to Jay Gould, as of that date." This stock at par cost \$3,099,300.

Q. Does that amount appear to have been credited to Jay Gould?—

A. It was, and settled with him in his current account.

Q. Is there a current account with Jay Gould?—A. We had one at that time. This transaction was one of the items in an account which was afterwards settled.

Commissioner ATKINSON. I would like to look at that account.

The WITNESS. With pleasure. I will show it to you. I had drawn it up for the Commission. Our next investment in the stock was made on December 31, 1881, when 7,012 shares of stock were received by the company on account of the securities due from the Denver, South Park and Pacific Railroad Company to the Denver and South Park Railroad Construction Company. This stock was entered by the Union Pacific Company at its estimated cost, namely, \$87.50 per share, or \$613,550. As I understand it, this last named construction company constructed the extension of the Denver, South Park and Pacific Railroad, commenced immediately after the completion of the first 150 miles, which had been constructed under the contract with the Denver and South Park Railroad Construction and Land Company. There were two construction companies—one named the Denver and South Park Railroad Construction and Land Company, the other named the Denver and South Park Railroad Construction Company. The contract between the Denver, South Park and Pacific Railroad Company and the last named construction company was made on September 22, 1880, and was subsequently assigned by the construction company to Jay Gould. The following is the indorsement on the back of the contract:

*Certified copy of contract between the Denver, South Park and Pacific Railroad Company and the Denver and South Park Railroad Construction Company.*

The Denver and South Park Railroad Construction Company hereby assigns to Jay Gould all of its right under this contract upon condition that he takes care of and meets its obligation incurred in pursuance thereof.

(Signed)

THE DENVER AND SOUTH PARK RAILROAD CONSTRUCTION COMPANY,  
By JOHN EVANS, *General Agent*.

There also appears indorsed the following assignment:

I, Jay Gould, the assignee of the within contract, for and in consideration of \$1, to me in hand paid, do hereby assign, sell, and transfer the same, and all right thereunder, unto Sidney Dillon, trustee, subject to its obligations and without recourse on me.

Witness my hand and seal this 18th day of October, 1881.

[SEAL.]

JAY GOULD.

There is attached to the construction contract the following letter:

DENVER, SOUTH PARK AND PACIFIC RAILROAD COMPANY,  
PRESIDENT'S OFFICE,  
Denver, Colorado, January 12, 1880.\*

DEAR SIR: Until to-day I had supposed the inclosed ratification of my assignment of the contract for building branches and extensions to you had been forwarded by mail. I now send it, and trust it will be satisfactory.

Very truly, yours,

JOHN EVANS.

JAY GOULD, Esq.

The paper referred to as inclosed is also attached to the construction contract, and is as follows:

DENVER, SOUTH PARK AND PACIFIC RAILROAD COMPANY,  
PRESIDENT'S OFFICE,  
Denver, Colo., December 16, 1880.

Extracts from the record of the proceedings of a meeting of the Denver and South Park Railroad Construction Company, held at the office of the company in Denver, Colo., this 16th day of December, 1880. \* \* \*

Mr. J. F. Brown offered the following preamble and resolution, which was seconded by Mr. William Barth, and unanimously adopted:

Whereas the Hon. John Evans, attorney in fact for this company, did, by virtue of a resolution passed October 17th, 1880, transfer to Jay Gould the contract existing between the company and the Denver, South Park and Pacific Railroad Company, for the construction of its extensions and branches: Therefore,

*Resolved*, That his action in so doing be, and the same is hereby, ratified, confirmed, and approved.

L. H. EICHLITS, *President*.

Q. From what do you derive the estimated cost of the 7,012 shares of stock as being \$87.50 per share?—A. That was merely an estimate. At that time the Union Pacific Company, as assignee under the contract, became entitled to \$901,000 in bonds and the 7,012 shares of stock. That portion of the road on which these securities had been issued was estimated to have cost \$1,514,550. The bonds were entered at par, \$901,000, and the balance of the cost of the road was assumed to be the cost of the stock. Of course, the figures are not actual; they are merely provisional.

Q. By whom was that portion of the road actually constructed?—A. It was constructed by the Union Pacific Company, under the assignment of that contract, as I understand it. That has always been my understanding of it.

Q. And the construction account itself for that portion of the road will be found where?—A. Found in the Union Pacific Company's books.

Q. Where?—A. The detail account is at Omaha.

Q. With regard to the entry that you have made against this stock as representing its cost, no portion of the money that has been actually expended for the construction of the road, as far as you know, was credited to Mr. Gould, or any one on his behalf, as far as your books show?—A. No, sir. On June 30th, 1882, we received 9,386 shares of the Denver, South Park and Pacific Railroad Company stock, the assumed cost of which was 20 per cent., or \$187,720. It is possible that in this case the cost of the stock was very much reduced in comparison with the cost of the previous lot, because the cost of the first-named lot may have been over-estimated. We had to keep the account running as best we could at the time.

\* Probably an error for 1881.

Q. That is, you entered the cost, in order to cover the balance of the construction account?—A. On that portion of the road on which the securities were issued, yes, sir.

On September 4, 1882, we received a further installment of 330 shares, which were entered at 20 per cent., or \$6,600.

Q. Did you not receive bonds with the stock, too?—A. I intend to take up the bonds afterwards, as we started with the stock. On December 30, 1882, we received 1,200 shares, which was entered at 70 per cent., or \$84,000.

Q. That, again, is entered at the price required to equal the balance of the construction account?—A. Yes, sir. I ought to say that it was very difficult to estimate the price of stock issued in this way, but the prices were fixed at about what was thought to be the cost of the road. On December 31, 1884, we received 2,500 shares, the estimated cost of which, at par, was \$250,000. This is the last installment of stock received on account of the contract with the Denver and South Park Railroad Construction Company. On July 21, 1883, the Denver, South Park and Pacific Railroad Company made a contract with Chester W. Collins for the construction and equipment of a number of lines therein set forth, in consideration of which the railroad company was to pay Collins \$32,000 per mile of its first mortgage consolidated bond, and \$20,000 per mile of its full-paid stock. I produce the original of that contract. On April 21, 1884, a contract was made between Mr. Collins and the Union Pacific Company, under which Collins assigned to the Union Pacific Company all the bonds and stock to which he became entitled under his contract with the Denver, South Park and Pacific Railroad Company in consideration of the fact that the Union Pacific Company had advanced whatever sum of money was necessary for the construction of the roads in question.

Q. There were \$1,800,000 of first mortgage bonds on the roads?—A. Yes, sir; there were \$1,800,000 in first mortgage 7 per cent. bonds issued on the first 150 miles of road. Then a consolidated mortgage was made, under which it was, I believe, expected that the bonds issued on the first 150 miles of road would be taken up. This, however, has never been done. The consolidated mortgage is therefore a first mortgage on all of the road, excepting the first 150 miles. On December 31, 1884, the Union Pacific Company received under its contract with Collins 6,000 shares of Denver, South Park and Pacific Railroad Company stock, which it entered at an estimated cost of 20 per cent., or \$120,000. On December 31, 1885, a further installment of 926 shares of Denver, South Park and Pacific Railroad Company stock was received on the same account, which was entered at an estimated cost of \$142.49.

Q. Per share?—A. No; for the whole lot.

Q. I would like you to say a little more definitely whether that figure you arrive at as the cost of the stock was simply the amount required to balance the construction account.—A. It was.

Q. That represents all the stock acquired by you?—A. Yes, sir.

Q. The total amount being how much?—A. Sixty-one thousand three hundred and fifty-one shares, or \$6,135,100 at par, costing \$4,364,712.49. Our interest in the bonds of the Denver, South Park and Pacific Railroad Company is represented by the estimated cost of \$901,000 in the first mortgage 6 per cent. bonds.

Q. Is that the consolidated or the other?—A. The first mortgage consolidated 6 per cent. bonds; yes, sir; received on December 31, 1881, under the contract of September 22, 1880. These bonds were estimated to have cost, par, \$901,000.



Q. Did you get no bonds with the stock that you purchased from Jay Gould?—A. No, sir; that is our first transaction in the bonds of that company. On June 30, 1882, we received \$903,000 in bonds on account of the same contract, which we estimated to have cost, at par, \$903,000. On September 4, 1882, we received twenty-five bonds under the same contract, which were estimated to have cost par, or \$25,000. On December 30, 1882, ninety bonds were received on the same contract, which were estimated to have cost par, or, \$90,000.

Q. They were all on the same contract?—A. So far; yes, sir. On December 31, 1884, two hundred bonds were received under the same contract, which were estimated to have cost par, or \$200,000. This is the last installment of bonds received under the contract of September 22, 1880. On December 31, 1884, we also received, under the contract with Collins, \$1,000,000 of bonds, which were estimated to have cost par, or \$1,000,000. On December 31, 1885, we received one hundred and eight bonds under the contract with Collins, which were entered as having cost \$15,000. These one hundred and eight bonds and the nine hundred and twenty-six shares of stock, which I have already reported as having cost \$142.49, closed the account with Mr. Collins.

Q. And balanced the construction account?—A. Yes, sir; balanced the construction account under that contract with Collins. The amounts of bonds thus received, as already stated, aggregate \$3,227,000.

On June 30, 1882, the Union Pacific Company turned over to the Denver, South Park and Pacific Railroad Company, on account of an indebtedness due from the Union Pacific Company to that company, \$430,000 in the first mortgage consolidated bonds, at par.

Q. Can you explain what the indebtedness was?—A. It was on current account.

Q. Arising out of operation?—A. Arising out of operation; yes, sir. This reduced our holdings of bonds to \$2,797,000, the net cost of which was \$2,704,000. The Union Pacific Railway Company was, under the terms of the contracts assigned to it, obliged to pay a judgment recovered, arising out of litigation with subcontractors. The amount thus paid is added to the cost of its bonds. The amount of the payments was \$42,905.86. There were several payments made on the same judgment. The cost of the \$2,797,000 in bonds, as now represented by the book account, is, therefore, \$2,746,905.86.

Q. Will the construction books at Omaha show the exact amount expended by the Union Pacific in constructing these lines?—A. Yes, sir. The amount expended in the construction of these lines is really the cost of the securities received by the Union Pacific company under the construction contracts covering the lines. The details of those expenditures are, however, at Omaha.

#### AFTERNOON SESSION.

OLIVER W. MINK, being further examined, testified as follows

#### THE LEGAL EXPENSE VOUCHERS.

By the CHAIRMAN:

Q. What vouchers have you given to the Commission representing the legal expense account?—A. I have given you the vouchers covering the amounts charged in the legal expense account on the books of the company in Boston from 1864 to 1885, both years inclusive.

there any other legal expenses chargeable to any other accounts on file in the office in Boston?—A. No, sir; we have no legal expenses which are paid on the line of the road, and the accounts are kept on the books at Omaha.

Commissioner LITTLER:

Where are the vouchers for which will be found there?—A. And the vouchers are on file there; yes, sir.

Where are the vouchers for the bills for legal expenses?—A. In the office of our auditor at Omaha.

PAYMENT TO WALKER & STANTON.

Will you please look at the voucher dated New York, September 1, 1872, for amount paid to Messrs. Walker & Stanton, Attorneys, Washington, D. C., \$2,400, and explain to the Commission what it is?—A. I have no personal knowledge or information in relation to this payment. The amount of the voucher was charged in our legal expense accounts, and the voucher has been produced by me in answer to your request for the legal expense voucher.

By Commissioner LITTLER:

Q. When did your connection with this road begin?—A. In 1872, December.

Q. Do you personally know anything about these vouchers up to 1872?—A. Not until that time, certainly, and after that time I should know nothing about them except what might appear upon the face of the vouchers. I can, perhaps, tell you in many instances, the character of the services in which the professional gentlemen were employed.

TO E. H. ROSENKRANES.

The CHAIRMAN. Look at the bill for the same year of E. H. Rosenkranes, for services as counsel and expenses at Washington, \$3,000, and explain that.

The WITNESS. I know nothing about the voucher or the services rendered by this gentleman. I never saw the voucher before.

TO DANIEL LORD.

The CHAIRMAN: I read to you a voucher for the year 1866:

DEAR SIR:—I received your check for the opinion in the railroad case, for which, and still more the generous consideration at which you have valued it, I offer my sincere thanks.

Yours truly,

DANIEL LORD.

Will you please explain how the road determined upon the amount of \$500 to be paid to Mr. Lord for his services, since no sum is named in the body of the voucher?—A. I cannot explain that. I presume that the amount of compensation was fixed by the president of the company, General John A. Dix.

The CHAIRMAN. But there is no amount named.

The WITNESS. No. I assume that that was done from the fact that correspondence appears to have been carried on to that effect.

Q. How would you file a voucher in your account, in order to balance your books, when there was no sum named?—A. In a case of this kind, the check that was remitted to Mr. Lord ought, I think, to have been filed with these papers. Whether the check can be found or not to-day I am not able to say. Probably not.

TO C. F. SHERMAN.

Q. There appear to be no vouchers for an item of \$1,000 paid to C. F. Sherman, June 23, 1866; also no voucher for recording mortgage, December 8, 1866, for \$22. Where are the papers in connection with those items? I call your attention to these items, because they are not given among the papers with the vouchers for legal expenses. I will read over these vouchers, and you can then make a written explanation.—

A. So far as vouchers covering payments made prior to 1873 are concerned, my impression is that many of them, owing to the investigations made by the Wilson and Poland committees, or as a result of those investigations, were required in Washington, or in the courts, and were taken from our files. Many of them, I remember, went to New York, and were in use for a while there. I presume that a number of the vouchers connected with or incident to the Hoxie and other contracts were sent to New York in connection with controversies which arose between the various construction companies and the railroad company. This will, I think, account for the fact that so many of the vouchers prior to 1873 are missing.

So far as the payments to Mr. Sherman and for recording the mortgage are concerned, I am unable to give you any explanation. Personally, I am very sorry that I am not able to give you the information you ask for.

By Commissioner LITTLER:

Q. You were not connected with the company then, were you?—A. No, sir.

TO B. F. BUTLER.

By the CHAIRMAN:

Q. In 1867 there is a voucher to Hon. Oliver Ames, President Union Pacific Railroad Company:

Please pay to my own order \$3,000 on account of services as counsel fee for said company, and oblige

Yours, very truly,

BENJAMIN F. BUTLER.

For what services was that voucher rendered? He did not mention whether it was for legal services or for what services.—A. General Butler was, I believe, for a while consulted with reference to Union Pacific matters. I think I have read in the report of the Wilson committee that the general acted as our counsel in the company's early history.

TO J. S. BLACK.

Q. There is a draft dated September 3, 1867, by H. S. McComb, drawn on the order of F. Skinner & Company. Where is the voucher for the services rendered for which this draft was drawn and paid?—A. This voucher appears to have covered a payment made to J. S. Black for legal services in connection with a contract between the Union Pacific Railroad Company and Oakes Ames and others and the Credit Mobilier of America. The voucher of Mr. Black, however, appears not to have been filed.

By Commissioner LITTLE :

Q. What is the amount?—A. I think it is for \$3,500. There is a charge of \$4.76, which appears to have been for exchange on the draft.

TO A. J. VANDERPOEL AND OTHERS.

The CHAIRMAN. During the year 1868 we find no vouchers for items of A. J. Vanderpoel paid \$500, July 10; August 28, Van Zandt & Jenks, \$500 each; July 27, Charles Tracy, \$50,000; and December 7, Thomas Ewing, \$1,000?

The WITNESS. I can offer no explanation in regard to these vouchers. They appear not to be on our files.

TO MR. VAN ZANDT.

By the CHAIRMAN :

Q. During the year 1868 a sight draft appears, dated October 21, from New York, for Kiesley & Company's express, \$500. How does that come to appear among the items of legal expenses?—A. The payment was made to Mr. Van Zandt, although the draft was made payable to Kiesley & Company's express.

TO MR. BELL.

Q. Voucher dated June 11, 1868, for \$3,500, on account of legal expenses. What were the legal services and when were they rendered?—A. That I could not tell you. Mr. Bell's voucher appears to me to be like most of the legal expense vouchers that we pay. Professional men rarely ever specify the service. A professional gentleman is retained, and he merely says, when making his bill or his receipt, that he has received so much as retainer, without specifying the case; or that he is paid so much on account of services rendered, without specifying any case. I think you will find a large number of our vouchers made up in that way.

TO EMOTT & HAMMOND AND OTHERS.

The CHAIRMAN. For the year 1869 there appear no vouchers for the following items: March 25, H. W. Gray, \$500; March 29, W. F. Allen, \$500; April 3, C. S. Bushnell, \$2,500; April 11, McFarland, \$2,500; April 14, C. S. Bushnell, \$5,000; April 27, S. J. Tilden, \$120; May 18, Emott & Hammond, \$1,000; December 2, B. F. Butler, \$3,000; December 15, Emott, Hammond & Pomeroy, \$3,410.09. What explanation have you of that? There is no voucher there as to March 18, 1869, Tracy & Olmstead, \$3,000.

The WITNESS. I am not able to explain the disappearance of these vouchers. The payments appear to have been regularly entered on the books of the company, and were apparently at one time supported by vouchers, but what has become of the vouchers I am not able to say.

TO TRACY & OLMSTEAD.

Q. On January 9, 1869, Tracy & Olmstead were paid \$4,000. For what services was that sum paid?—A. There is nothing on the books to indicate the character of the services.

OR,

TO THOMAS EWING.

Q. On February 4, 1869, there appears a draft at sight to the order of Thomas Ewing or bearer, \$10,000. Can you explain that? It is

signed by Thomas C. Durant, vice-president, and addressed to J. J. Cisco, treasurer of the Union Pacific Railroad Company.—A. There is nothing on the books of the company to show what it was for.

TO C. C. VAN ZANDT.

The CHAIRMAN. On May 10, 1869, there appears a draft at sight to the order of the Newport National Bank, \$500, addressed to John J. Cisco, treasurer of the Union Pacific Railroad Company, and drawn by Charles C. Van Zandt. Please explain what service was rendered in that case?

The WITNESS. There is nothing on the books of the company to show what particular service was rendered by Mr. Van Zandt.

TO HAMMOND & POMEROY.

The CHAIRMAN. On July 29, 1869, there appears a draft at sight to Hammond & Pomeroy for \$500, addressed to John M. S. Williams, esq., treasurer of the Union Pacific Railroad Company. For what service was that rendered?

The WITNESS. I am not able to tell you; but Messrs. Emott, Hammond & Pomeroy, and later on Messrs. Emott, Hammond & Stickney, and still later on Emott, Hammond & Kidder, I believe, were our counsel in New York, and attended to the legal affairs of the company. I presume that is one of the regular vouchers.

Q. Where are the vouchers for the service for which the draft was drawn? Do you file the draft as a voucher without putting on record any bill of services usually?—A. Not usually; no, sir; I believe that later along you will find another payment to Messrs. Hammond & Pomeroy, in which the amount of the draft is taken up to our credit in the general account.

TO WINGATE HAYES AND OTHERS.

Q. In the year 1870 there appear no vouchers for entry of December 15, 1870, \$5,000; December 16, 1870, \$3,500; Wingate Hayes, \$100; Wingate Hayes, \$250; George Armstrong, February 21, 1873, \$25; June 21, 1870, \$4,008.65; same date, \$45.42; H. B. Hammond, \$500. Will you please explain about these?—A. The vouchers for \$5,000, December 15, 1870, and \$3,500, December 16, 1870, are not on file. I am not able to account for their disappearance.

Q. Except on the explanation you made before?—A. I do not see why these vouchers should have been required in any litigations. I am not able to account for their disappearance. The payment for \$4,008.65, on June 21, 1870, appears to have been made up, as shown by the books of the company, of various expenses in the Noonan case; expenses of witnesses, &c., which are detailed at considerable length on the books of the company. The amount was paid at Omaha, and that is probably the reason the vouchers are not on file here.

The item of \$451.42 is on the same account. The voucher No. 1364, in favor of George Armstrong, for transcript of the record in the case of Monroe, appears to have been sent to Mr. Ham, in New York, in February, 1873, and never returned.

The vouchers for the payments 156, Wingate Hayes, \$250; 262, Wingate Hayes, \$100; 333, H. B. Hammond, \$500, cannot be found.



TO CLARK BELL.

Q. I find on June 14, 1870, a voucher for \$10,000, paid to Clark Bell; why was the charge made of the entire amount against the Union Pacific Railroad when the services seemed to have been rendered to the trustees of the contract for constructing parts of said railroad?—A. I cannot say.

Q. Would you, as comptroller, charge that amount against the Union Pacific Railroad?—A. On the face of this voucher it would seem as if the contractors or trustees under the contract ought to have borne some part of the expense; but I do not know what the circumstances were at the time of the settlement; they would influence us to some extent

TO W. F. ALLEN.

Q. There is a paper filed May 30, 1870, for \$5,000, in full for services in the city of New York by W. F. Allen; what services?—A. I cannot say, except as it is set out in the voucher for services as counsel in the city of New York.

TO MONTGOMERY BLAIR.

Q. I find on June 17th, 1870, a voucher, "To professional services in the Interior Department, in the Senate, before the President, Secretary of the Treasury, and Attorney-General, in the contest with the Central Pacific Railroad, \$3,000." It is a charge by Montgomery Blair. Please explain what services were rendered.—A. I think the services must have been in connection with the controversy between the Central Pacific Company and the Union Pacific Company, as to the point of junction. It was finally fixed at a point about five miles west of Ogden, some time, as I recollect it, early in 1869. I notice that this bill is made out for services rendered in that year.

TO W. E. CHANDLER.

Q. I find, on December 1st, 1870, Washington, D. C.:

Received of the Union Pacific Railroad Company \$6,000, in full for professional services from June, 1867, to this date.

WILLIAM E. CHANDLER.

Q. What services did he render?—A. I do not know what services were covered by this voucher. I know that Mr. Chandler has represented us at Washington, on one or two occasions, since I have been connected with the company.

Q. Was he regularly employed during that year as the attorney?—A. For the period from June, 1869, to December, 1870, I am not able to tell you, but after my connection with the company I remember Mr. Chandler being regularly employed. He represented us in the Court of Claims, I know, in one or two instances.

By Commissioner LITTLER:

Q. What is the character of the services usually rendered by those attorneys at Washington?—A. Mr. Chandler, so far as my recollection goes, represented us in the Court of Claims, when we brought the first suit to recover our moiety of the United States transportation moneys. You will remember that under the act of 1873 the Secretary of the Treasury was directed to withhold our half of the compensation for ser-

vices rendered for the United States. We brought suit to recover, and my recollection is that Mr. Chandler represented us in that case.

Q. Were any of these attorneys who rendered service at Washington employed to lobby or look after legislation in which the company was interested?—A. Only so far as would be legitimate and proper. Messrs. Shellabarger & Wilson, our attorneys there to-day, are of course watching our interests constantly. I frequently go there myself, and with Judge Shellabarger or Judge Wilson have called upon members of committees, whenever it was deemed proper and fitting.

TO JAMES BROOKS.

By the CHAIRMAN:

Q. I find a paper, which I hand to you, purporting to be a bill of James Brooks for \$8,131.67. The amount receipted for appears to be \$1,501. Please explain the paper to the Commission, and how it came to be charged to legal expenses?—A. The payment to Mr. Brooks of \$1,504 appears to be for his services as a Government director, and was erroneously charged in our account to legal expenses. I find that it was afterwards transferred, on February 28, 1870, to the appropriate account, namely, "Government Directors." The balance of the expenditure I am not now able to explain. A portion of the amount was charged to "Discount and Interest," and still another portion to "Government Directors." It appears to have had some connection with his services as a Government director; but no part of it was charged, eventually, to the legal expense account.

TO TRACY & OLMSTEAD.

Q. I find a paper drawn to Tracy & Olmstead for \$20,000. Please explain to the Commission what service that represents?—A. The voucher filed against this entry shows that the services were in connection with the suit of James Fisk, jr., against the Union Pacific Railroad Company, the Credit Mobilier of America, and others; the suit of Charles W. Pollard against the same corporation, and others; the suit of the Credit Mobilier against J. M. S. Williams; the suit of the Credit Mobilier against Dillon, Hazard, Williams, and others; the suit of McComb against the Credit Mobilier, Dillon, Hazard, and others; the suit of the Commonwealth of Pennsylvania against Dillon, Hazard, and others; the suit of Hazard against Durant and others; the Fisk suit, and other suits.

Q. What is the total amount?—A. The total is \$78,150, apparently.

Q. How much was paid?—A. Twenty thousand dollars.

Q. Why was it charged as against the Union Pacific, and not as against the Credit Mobilier, or a part of the charge made in the suits of the Credit Mobilier?—A. I cannot tell you.

Q. Was the Union Pacific properly chargeable at that time with the expenses?—A. That I could not tell you.

By Commissioner LITTLER:

Q. The Union Pacific was not a party to that suit at all, was it?—A. Yes, sir; in a number of the cases the Union Pacific Company was apparently the principal defendant. In the Fisk case, for instance.

Q. Were Dillon, Durant, and others sued as directors and representatives, or in their individual capacity?—A. Apparently, in their official capacity. I fancy, by the statements made in the papers accompany-

ing this voucher, that they were made parties to the suits after the usual custom for the protection of any legal rights that the plaintiffs might be able to maintain.

Q. Who audited that bill, and who ordered it paid?—A. That was in 1870. There is nothing on the face of the voucher to show, but I think it was either Mr. B. F. Ham or Mr. Horace B. Wilbur. Mr. Ham was formerly auditor, and Mr. Wilbur afterwards succeeded him.

Q. At that period of your history, whose business was it to pass upon such bills?—A. I think the president of the company would be called upon to pass upon a voucher of this size. I think, generally speaking, this would be true as to all legal expense vouchers.

Q. The president's business was to approve them?—A. Yes, sir. Of course, in the case of counsel with whom we are well acquainted, and where we know what they are doing, their vouchers go through subject to any final adjustment that may be made.

By the CHAIRMAN:

Q. I find on February 1, 1870, voucher 322 appears to be indorsed with the sum \$557.90, while the amount named on the bills within the voucher appears for a considerably less sum. Please explain that. What is the explanation between the indorsement upon the voucher and the amount named within being less?—A. I think that some of the papers have become detached from the voucher. The expenditures, as shown on the books of the company, were for printing and other work connected with the preparation of some legal matters at Washington.

TO F. P. BLAIR.

Q. I find a sight draft, dated September 23, 1870, to the order of F. P. Blair, drawn by O. S. Bushnell, addressed to John Duff, vice-president, for \$1,000. Will you explain that item?—A. There is nothing on the books of the company to show what it was for.

TO E. H. ROLLINS.

Q. I find in the year 1870 a voucher to E. H. Rollins, secretary, March 9th, for amount paid for special legal expenses, as directed by report of the special committee of the board, \$126,000: "I hereby acknowledge to have received \$126,000 in full of the above bill. E. H. Rollins, secretary." Can you explain this voucher?—A. No, sir; I know nothing about it. This voucher was gone over at great length by the Wilson committee in 1873, but it is so long since I have read the evidence taken before that committee that I forget it in this particular.

Q. Where is the report of the special committee?—A. This matter was referred to in the testimony taken before the Wilson committee, and on page 189 I see some testimony in relation to the payment. It is detailed also on page 17 of the report of the committee.

TO E. H. ROLLINS.

The CHAIRMAN. I find in 1871, January 16th, E. H. Rollins, cash paid, expenses to Washington and legal expenses, \$198.50. Explain that.

The WITNESS. I know nothing about that. Mr. Rollins was an officer of the company, and that seems to be a reasonable and proper charge.

TO J. M. S. WILLIAMS.

Q. I find on February 10, 1871, a draft drawn by J. M. S. Williams, to the order of E. H. Rollins, for \$500, charged for legal expenses. What were those legal expenses?—A. I do not know what that is for. Mr. Rollins represented our company in Washington for one year, I think.

TO EDWARD ATKINSON.

Q. I find on April 22d, 1871, a voucher to Edward Atkinson, Boston, for services in making business arguments as to liability on the interest of the Government bonds, \$1,200; with the following letter, dated April 22d, 1871:

Mr. EDWARD ATKINSON :

DEAR SIR : The matter of compensation for services rendered by you to this company was referred to me by the executive committee, and I declined to act, and brought the subject before the committee at their last meeting. The treasurer was directed to pay you twelve hundred dollars for your services, which you will be paid by calling at the office.

Yours, truly,

JOHN DUFF, *Vice-President.*

What services were those?—A. My recollection of this is very indistinct, but I believe that Mr. Atkinson—

Q. Is he a lawyer?—A. No, sir; he is not a lawyer, but he is a man of experience, character, and reputation—a man of high standing in this community.

Q. How was such an item charged to legal expenses?—A. Perhaps that ought not to have been charged to legal expenses. It more properly belongs in the general expense account of the company. Mr. Atkinson, at our request, I think, prepared an article on the interest question. This payment represents his compensation.

TO HAMMOND &amp; POMEROY.

Q. I find a draft at sight, dated September 9, 1871, to the order of ourselves, \$3,000, drawn by Hammond & Pomeroy. Where is the voucher for the services for which the draft was drawn?—A. That I believe you will find embraced in the settlement ultimately made with them, covering their services.

TO H. LATHAM.

The CHAIRMAN. I find, on January 3, 1871, a voucher to H. Latham for expenses to Washington and return, \$100. Please explain that.

The WITNESS. I know nothing about it. I never heard of the gentleman before. In its present shape it would not pass to-day.

TO EMOTT, HAMMOND &amp; POMEROY.

The CHAIRMAN. I find a sight draft, dated March 20, 1871, to the order of ourselves, drawn by Emott, Hammond & Pomeroy, \$3,500.

The WITNESS. If you can turn to the voucher of October 30, 1871, I think I can explain it. This draft formed a part of a settlement subsequently made with Emott, Hammond & Pomeroy. I am sure of that.

Q. And was deducted at the time of the settlement?—A. Yes, sir; deducted at the time of the settlement.

TO G. A. JENKS.

Q. I find this paper :

NEW YORK, *March 2, 1871.*J. M. S. WILLIAMS, *Treasurer of U. P.*

Pay to the order of G. A. Jenks, \$4,500, and charge the same to his account in full settlement.

C. S. BUSHNELL.

Also a receipt filed with draft, dated Washington, March 2, 1871, for \$4,500.

Received of C. S. Bushnell \$4,500, in full for services rendered the Union Pacific Railroad Company, the Credit Mobilier of America, Oliver Ames, John Duff, Sidney Dillon, and C. S. Bushnell, in the case of T. P. Hazard.

Why should the Credit Mobilier expenses at this time be charged to the Union Pacific?—A. I cannot say. That would be for the officers to pass upon at the time.

Q. Can you give any other explanation?—A. I can give no other explanation.

TO C. S. BUSHNELL.

The CHAIRMAN. I find this :

*Union Pacific Railroad Company to C. S. Bushnell, Dr.*

1871. Cash paid February, 1876, for counsel fees.....	\$20,000
Interest to October 18, 1871 .....	1,000
	<hr/> 21,000

I hereby acknowledge to have received \$21,000 in full of the above bill.

I hand you the voucher to have it explained.

The WITNESS. I am not able to explain it. I notice the voucher was approved by the vice-president of the company, and I presume it was paid on his approval.

TO L. P. PEASE.

The CHAIRMAN. I find this: Voucher of February 12, 1872, to L. P. Pease, Voucher No. 3,154 for the year 1872, appear to be missing. They are small vouchers, and I suppose they dropped out. I want to call your attention to them.

The WITNESS. The payment to Mr. Pease was made at Omaha, and was for copies of papers. That is the reason the vouchers are not on file here. The voucher of Minot &amp; Balch, No. 3154, is missing. It was for services in regard to some safe-deposit company.

TO E. H. ROLLINS.

The CHAIRMAN :

*Union Pacific Railroad Company to E. H. Rollins, April 11, 1872.*

For expenses to Washington and return, and cash paid legal expenses, at Washington .....	\$90 50
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The WITNESS. I am not able to explain that, but Mr. Rollins was in our service, and it seems to me to be a reasonable voucher.

TO B. W. SPENCE.

The CHAIRMAN [reading]:

BOSTON, *October 14, 1872.*

Received of the Union Pacific Railroad Company, \$2,314.12, in full satisfaction of a judgment in the supreme judicial court for the county of Suffolk, in suit brought by me against the Union Pacific Railroad Company, being the sum for which judgment by agreement has this day been entered.

BENJAMIN W. SPENCE,  
*By his Attorney.*



Q. Why is the amount of the judgment charged to legal expenses?—A. This was a controversy between Mr. Spence, a former employè of the company, on the one hand, and the company, on the other. Mr. Spence claimed that he was entitled, by reason of the extraordinary labor imposed upon him, to a larger amount of compensation than had been paid to him by the company, and he brought suit against our company. Technically, I suppose the amount ought to have been charged to salary account, but it was looked upon by the company as most unjust, and I presume they let it go under the head of legal expenses.

Q. As a rule, you did not charge a judgment to your legal expenses?—A. No, sir.

Q. You charge it to what?—A. Taking the case in point, I should say the amount ought to have been charged to the salary account, as it was, if for anything, on account of services rendered, or claimed to have been rendered, by Mr. Spence.

TO U. H. PAINTER.

The CHAIRMAN :

*The Union Pacific Railroad Company to U. H. Painter, of Cleveland, Ohio, 1873.*

Eighth month, 20. Partial expenses of detectives in collecting testimony to convict the forger of income bonds.....\$300

The WITNESS. I recollect the forgery of the income bonds, and I presume Mr. Painter must have been engaged in some way in ferreting out the forgers. It seems to me the expense is a reasonable one.

Q. Was he employed by the company?—A. I know nothing about it, but my impression is that he had more or less to do with the investigation of this forgery.

Q. Who was Mr. Painter?—A. Mr. Painter is a correspondent of a newspaper, I believe, and resides in Washington; at least he does for a part of the time during the year.

Q. Was he subsequently employed by the company?—A. I think Mr. Painter has been employed occasionally by the company. My recollection is that Mr. Painter has made two or three compilations of laws, or opinions, for the company, and that we paid him for his work. The payments, as I recall them, have always been reasonable.

Q. Where does he reside now?—A. I do not know. I see him occasionally when I am in Washington. I suppose he resides there the greater portion of the time.

TO W. W. WARDEN.

The CHAIRMAN :

*The Union Pacific Railroad Company to William W. Warden, Washington, D. C.*

Special services and all claims whatsoever to date.....\$700

The WITNESS. I know nothing about the voucher, and I am unable to recall any circumstances connected with it.

Q. Was it any legal service that you recall?—A. No, sir; I do not remember his name even.

TO U. H. PAINTER.

The CHAIRMAN :

*Union Pacific Railroad Company to U. H. Painter, West Chester, Pennsylvania.*

Balance due for expenses, suit, arrest, and conviction of L. White alias William Ellis, forging and issuing income bonds.....\$2,174 30

**The WITNESS.** That voucher confirms my recollection with reference to Mr. Painter's connection with this case. Our income bonds were printed, and they were therefore very easily counterfeited. The counterfeiters in this case succeeded in floating a large number of forged bonds in New York, and the company was naturally interested in discovering the forgers.

**Q.** Was Mr. Painter employed as a detective?—**A.** I am not able to tell you, but my recollection is that Mr. Painter did some work in that connection.

**Q.** Detective work?—**A.** Not detective work.

**Q.** What kind of work?—**A.** I think he visited the brokers, and followed up the forgers, so far as a man outside of a detective agency might do so. He attended the trial, if I recollect right. My impression is the forgers were tried in Cleveland, Ohio.

**Q.** Do you regard this as a sufficient voucher for such an expenditure?—**A.** I think it is.

TO U. H. PAINTER.

**The CHAIRMAN:**

*Union Pacific Railroad Company to U. H. Painter, Washington, D. C.*

On account of expense, arrest, and conviction of William Ellis alias Loren White, who issued and passed the forged income bonds, balance unadjusted ..... \$500

**The WITNESS.** I presume this is a part of the voucher previously referred to.

**Q.** How long have you known Mr. Painter?—**A.** I think since about 1873 or 1874.

**Q.** Has he not been employed regularly by this company in Washington?—**A.** I think not. I have no recollection of his having been employed by the company regularly. My recollection is that Mr. Painter has only been engaged in special tasks, such as those already indicated by me.

**Q.** What are they? Just name some of the special tasks.—**A.** The only ones that I recall are the compilations of the laws. I know there have been two or three compilations of the laws, or of the debates in Congress, in relation to the Pacific railroads that were compiled by Mr. Painter, and my impression is that we paid him for his work. I have no recollection of any other payments to Mr. Painter now.

**Q.** How many compilations has he made of the laws?—**A.** I do not know. I think he compiled the laws, or compiled the proceedings in Congress in relation to the Pacific Railroads, in 1873, and, if I am not mistaken, again in 1878. I may as well add here that I have no knowledge of any considerable sums having been paid to Mr. Painter. The payments which we have made to him have been of moderate sums only.

**Q.** Have you any copies of the compilations?—**A.** I think I have one on my table. I have one compilation which, as I recall it, was made by Mr. Painter, and which apparently covers the Congressional proceedings in relation to the Pacific railroads in the Thirty-seventh, Thirty-eighth, and Fortieth Congresses. I may be mistaken as to this, but my recollection is that this is Mr. Painter's work.

**Q.** How was he paid for that work?—**A.** I think we paid him on a voucher.

**Q.** How much did you pay him?—**A.** I cannot tell you from memory, but I will look it up.

**Q.** Will you give me the payments to U. H. Painter, from time to time, in any other account except legal expenses?—**A.** Yes, sir.

TO R. E. ROBBINS.

The CHAIRMAN:

*Union Pacific Railroad Company to R. E. Robbins.*

1874, September 15. Legal expenses incurred by me in the matter of the petition of H. W. Golden..... \$5,300

Who was R. E. Robbins, and what was the nature of the proceeding referred to?—A. Mr. Robbins was, I believe, at that time one of our directors. As I recall this matter, Mr. Golden was in some way interested in a suit brought for the purpose of compelling the company to pay its income bonds. I presume this voucher covered the expenses incurred by the company in resisting that proceeding. I notice the voucher bears the approval of the vice-president.

Q. Do you regard this as a sufficient voucher for such a payment?—

A. Knowing the character of the gentleman, I should say it was.

TO W. E. CHANDLER.

The CHAIRMAN:

*The Union Pacific Railroad Company to W. E. Chandler.*

WASHINGTON, D. C.

1874, July 15. For general retainer on account of services as counsel to said company with reference to proposed suit in Court of Claims, and other legal expenses ..... \$2,000

What other legal expenses does that refer to?—A. I do not know. This voucher confirms my recollection, as I have already given it to the Commission, concerning Mr. Chandler's employment. He conducted the suits of the company in the Court of Claims, which arose under the act of 1873.

TO J. M. THAYER.

The CHAIRMAN:

*Union Pacific Railroad Company, Dr., to J. M. Thayer.*

WASHINGTON, D. C.

June 15, 1874. Legal expenses ..... \$500  
Received payment in full.

The WITNESS. I am not able to give you any explanation of that voucher. I notice the payment had the approval of our auditor.

TO J. H. WORCESTER.

The CHAIRMAN:

*The Union Pacific Railroad Company to J. H. Worcester, Dr., of Washington, D. C.*

June, 1874. To services rendered, legal, and disbursements ..... \$300 00

The WITNESS. I am not able to explain it. I have no recollection of the voucher.

TO HAM BROTHERS.

The CHAIRMAN:

The Union Pacific Railroad to Ham Brothers, Dr..... \$21,969 83

Why is this charge made to legal expenses?

The WITNESS. This voucher, although amounting to \$21,969.83, was not all charged to legal expenses. The amount paid on April 30 for attorneys' fees, \$6,000, and the amount paid on May 5 to H. L. Bur-

net, attorney, in settlement of the Pollard suit, \$10,000, was charged to legal expenses. The release of Mr. Pollard is attached to the voucher.

TO HAM BROTHERS.

The CHAIRMAN:

*Union Pacific Railroad to Ham Brothers.*

For attorney fees and legal expenses.....	\$5,000 00
Interest to date of payment .....	93 33
	<hr/> 5,093 33

The WITNESS. I know nothing about that voucher. I notice that it bears the approval of Mr. Dillon, who was then the president of the company, and it is also approved by Messrs. Jay Gould and Oliver Ames, then directors in the company.

Q. Who were the attorneys?—A. I am not able to tell you.

Q. Do you regard that as a sufficient voucher?—A. I do; yes, sir.

TO E. W. STOUGHTON.

The CHAIRMAN:

June 4, 1875, paid to E. W. Stoughton .....	\$5,000
June 5.....	5,000
April 15.....	2,500
November 19.....	2,500
November 19 (again).....	2,500
December 8, 1875.....	7,500

Q. What were the services rendered by Mr. Stoughton during the year 1875 for the compensation that was paid to him, and was he the regularly employed counsel of the Union Pacific Railroad Company? There was also another one on April 15, 1875, for \$4,000, that being in connection with Mr. Burnett and Mr. Dillon.—A. I am not able to tell you definitely, but my impression is that Mr. Stoughton was interested in the preparation of and appeared for us in court in the case of the company against the United States arising under the act of 1873. The first case so arising under that act was esteemed, very naturally, to have been of grave importance to the company.

TO W. E. CHANDLER.

The CHAIRMAN:

*Union Pacific Railroad Company to W. E. Chandler, Concord, N. H.*

May 1, 1875, to services as attorney and counsel in full to date, in all matters at Washington, including attempted adjustment of interest account with the United States in transportation suits in the Court of Claims .....	\$3,000
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The WITNESS. I know nothing more about that than what appears on the face of the voucher. I know that Mr. Chandler was representing the company at that time.

TO EMOTT, BURNETT & HAMMOND.

The CHAIRMAN:

*Union Pacific Railroad Company to Emott, Burnett & Hammond.*

July 30, 1875 .....	\$1,609 00
January 1, 1876, Union Pacific Railroad Company to Emott, Burnett & Hammond .....	3,036 00
	<hr/> 9,046 00
Total for the year 1876 .....	

Please explain the difference between the amounts indorsed upon the voucher and the amounts as charged within? There seems to be a mistake there.

The WITNESS. The difference is due to the fact that partial payments had been made to Messrs. Emott, Burnett, and Hammond, on account of their services. These partial payments were included in the amount entered on the books of the company on March 10, 1876, and were in addition to the amount of the balance claimed to be due them on that day.

TO J. F. FARNSWORTH.

The CHAIRMAN:

*Union Pacific Railroad Company to J. F. Farnsworth, Dr.*

May, 1876. Retaining fee ..... \$500  
Received payment of W. E. Chandler.

J. F. FARNSWORTH.

For what services, in what case, was that paid?—A. I cannot tell. I know nothing about it.

TO SIDNEY DILLON.

The CHAIRMAN:

*The Union Pacific Railroad Company to Sidney Dillon, Dr.*

November 6, 1875. For extra attorney fees, paid..... \$320  
Also advertising dividend, analyzing coal, expenses to Washington of self,  
and taking depositions. Total ..... \$558 25

What attorneys were employed, and why were the other charges made against legal expenses—analyzing coal, and other expenses?—A. The expense of analyzing coal was not included in our charge to legal expenses. The amount of the voucher, \$558.25, was apportioned; \$228 to expense account, and \$330.25 to legal expenses.

Q. Who were the attorneys?—A. There is nothing on the voucher or on the books of the company to show.

TO SIDNEY DILLON.

The CHAIRMAN:

*The Union Pacific Railroad Company to Sidney Dillon, Dr.*

October, 1876. For amount paid for counsel fees at sundry times ..... \$5,000

Who were the attorneys, and for what services was that amount paid?—A. There is nothing on the books to show who the attorneys were. We have nothing more on file in relation to the voucher.

TO SIDNEY DILLON.

The CHAIRMAN:

*The Union Pacific Railroad Company to Sidney Dillon, of New York, Dr.*

March 18, 1875. For legal expenses incurred in the question of the termini of the Omaha bridge and the road, and for attorney fees in the same case..... \$5,000

Who were the attorneys employed in that case?—A. I cannot tell you. I know nothing about this payment, except what appears on the face of the voucher.



TO W. E. CHANDLER.

The CHAIRMAN :

WASHINGTON, December 31, 1875.

Received of the Union Pacific Railroad Company two thousand dollars on account of legal services in the transportation suit, and various other matters.  
\$2,000.

W. E. CHANDLER.

WASHINGTON, D. C., April 12, 1876.

Received of the Union Pacific Railroad Company two thousand dollars on account of legal services, and in all other matters pending in this city.

W. E. CHANDLER.

NEW YORK, February 28, 1876.

Received of Sidney Dillon, president, one thousand dollars on account.

W. E. CHANDLER.

*Union Pacific Railroad Company to W. E. Chandler, attorney at Law.*

To services in the United States Court of Claims, and all other matters at Washington during 1875, and the present year..... \$2,000  
W. E. CHANDLER.

Making a total of \$7,000. Can you explain these vouchers?

The WITNESS. Only on the supposition that Mr. Chandler was then engaged, as I recollect that he was, or as I believe that he was, in the preparation and trial of our cases before the Court of Claims; proving the claims and getting them in shape to go before the court.

Q. Was he the only attorney in Washington at that time?—A. I am not sure; I think he was. At all events he was our most actively employed attorney there at that time.

Q. Was he the leading attorney of the road in Washington at that time?—A. At that time, I should say he was.

TO H. M. BAKER.

The CHAIRMAN :

WASHINGTON, D. C., August 28th, 1876.

*Union Pacific Railroad Company to Henry M. Baker, Dr.*

For retaining fee and on account of services..... \$100

The WITNESS. I am not able to explain that.

Q. Who is Mr. Baker?—A. I do not know.

Q. Do you know whether he was a lawyer?—A. I do not know. I see the voucher bears Mr. Chandler's approval, and I think, therefore, it had some connection with the controversy in the Court of Claims.

TO F. A. SAWYER.

The CHAIRMAN :

*F. A. Sawyer.*

August 9, 1876. For services as attorney ..... \$150

The WITNESS. I cannot explain it.

Q. Who was Mr. Sawyer, and what kind of services did he render, and where did he render them?—A. I am not able to say. I notice the payment is approved by the auditor.

TO SHELLABARGER & WILSON.

The CHAIRMAN :

Received, December 19th, 1876, of Sidney Dillon, esq., by check of Ham Brothers, \$5,000, retainer for professional services for the Union Pacific Railroad Company, as per agreement.

SHELLABARGER & WILSON, Attorneys.

What was that agreement?—A. I do not recollect what the agreement was, but this appears to have been our first payment of any considerable amount to Messrs. Shellabarger & Wilson, and I presume the agreement must have been the one that led to their employment as our regular counsel.

Q. Have you the agreement?—A. I have no recollection of ever having seen it. I am not able to find on file any contract with Shellabarger & Wilson. It may have been that the agreement was an oral one

TO U. H. PAINTER.

The CHAIRMAN :

*Union Pacific Railroad Company to U. H. Painter.*

1877, February 1. To clerical work..... \$2,500

The WITNESS. I am not able to explain this payment. I do not know whether or not it is in connection with or on account of the compilations. I notice that it bears Mr. Dillon's approval. It was paid, of course, on that approval.

Q. Do you know of any service rendered by Mr. Painter in Washington during that year?—A. No, sir; not at Washington.

Q. Or any other place?—A. No, sir; in 1877 I do not. I do not remember anything going on in Washington or elsewhere in 1877 where Mr. Painter would have been called on to render us any service.

Q. Has he been employed by the Union Pacific Company at Washington to make explanations of legislation to members of Congress?—A. I think not; I never heard that he was.

Q. Do you know?—A. No, sir; I do not. I never heard that he was so employed.

Q. What clerical work would he be employed to perform for the company at such an expense of \$2,500?—A. I can think of nothing excepting the compilations of the debates already referred to; I know of nothing else.

TO GEORGE RHODES.

The CHAIRMAN :

Received from the Union Pacific Railroad Company \$2,000, it being in full for services of the months of August, September, October, and November, as per agreement of July 23, 1876.

G. RHODES.

WASHINGTON, November 14, 1876.

Approved.

SIDNEY DILLON.

The WITNESS. I cannot recall any of the circumstances connected with this payment.

Q. Who is Mr. Rhodes?—A. I do not know.

Q. Was he a compiler, like Mr. Painter?—A. I have no recollection of ever having heard his name before.

Q. Was he a lawyer?—A. I do not know.

TO GEORGE RHODES.

The CHAIRMAN. In connection with the voucher now in your hand, I call your attention to this voucher:

*Union Pacific Railroad Company to George Rhodes, Dr.*

For services and expenses in Washington during the months of December, January and March..... \$3,000

The words "months December, January, February, and March" appear to have been written over, and an attempt to erase the words "sessions Forty-fourth Congress." Please look at that bill and explain it.

The WITNESS. I am not able to give you any explanation in relation to these vouchers. I have no recollection of Mr. Rhodes's name. The voucher for \$3,000 appears to have been paid through Mr. Sidney Dillon.

Q. Who audited the bills?—A. Both bills were approved by Mr. Sidney Dillon.

Q. Who audited the bills?—A. They appear to have been verified by the auditor.

Q. Who was the auditor?—A. Mr. Wilbur.

Q. Where is he?—A. He is not living; he is dead.

Q. Were you connected with the road at that time?—A. Oh, yes, sir; I have been connected with the road since 1872.

Q. In what position?—A. I think in 1876 I was the assistant secretary and assistant treasurer.

Q. Did you ever hear of Mr. Rhodes in connection with the business of the road?—A. If I did, his name has entirely passed from my memory.

Q. Did you ever hear his name before?—A. Not to my recollection.

Q. Who could give the information about this voucher?—A. I think Mr. Sidney Dillon can. Mr. Rhodes's name has entirely passed out of my mind. I have no recollection of ever having seen the voucher before.

TO SIDNEY DILLON.

The CHAIRMAN [reading]:

*Union Pacific Railroad Company to Sidney Dillon, Dr.*

1877, April 24. For cash paid out at sundry times for legal expenses..... \$20,274  
Approved.

JAY GOULD.

The initials, perhaps, you can explain. "F. L. A." and "B. E. B." Who were the attorneys, and what were the legal expenses?

The WITNESS. I know nothing about the voucher, except what it shows on its face, and the memorandum which is annexed to it. The voucher was approved by Messrs. Jay Gould, Frederick L. Ames, and Benjamin E. Bates, who were then directors in the company, and also by the company's auditor. The memorandum attached to the voucher indicates that the payments were made in settlement of the Pollard, Fisk, and other suits in New York.

Q. But the voucher already produced shows payments for these very suits. How do you explain that? I call your attention to that voucher in the Fisk and Pollard suit.—A. I am not able to explain it. That fact escaped my recollection. I know nothing about this voucher, except what appears on its face. I presume the expenditure was made by Mr. Dillon on behalf of the company.

Q. Can he explain it?—A. I have no doubt that he can.

TO W. R. MARTIN.

The CHAIRMAN [reading]:

*The Union Pacific Railroad Company to Sidney Dillon, New York.*

1877, July 25. For cash paid William R. Martin for counsel fees in various matters..... \$1,000

Who was Mr. Martin, and what were the various matters?—A. I cannot tell you. This voucher appears to have been subjected to a good deal of scrutiny, since it was approved by four of the directors as well as having passed through Mr. Dillon's hands.

Q. Was he a lawyer?—A. I have no recollection of his name.

Q. Did you ever hear of him in connection with the road?—A. If I ever heard his name it has since entirely passed out of my mind.

TO J. W. JENNINGS.

The CHAIRMAN:

*Union Pacific Railroad Company to J. W. Jennings, Dr.*

March 5, 1877. For salary and expenses in full to date..... \$600

The WITNESS. I am not able to explain that voucher. It came to us from the president.

Q. Do you know who Mr. Jennings was?—A. No, sir; I do not. That was an expenditure made through our president, Mr. Sidney Dillon, and I presume it can be explained by him.

TO W. S. LINCOLN.

The CHAIRMAN:

*The Union Pacific Railroad Company to W. S. Lincoln, Washington.*

1877, March 7. For expenses and services rendered as attorney ..... \$1,000

The WITNESS. That I cannot explain. The amount was paid in the same way. The case was one connected with the construction of the road. I remember the man's name, Miller.

Q. Cook was the attorney. He represented the road. Do you recollect Cook?—A. No, sir; not at all. I assume that the voucher had connection with the original construction, because of the name of Miller as contractor.

TO JAMES F. WILSON.

The CHAIRMAN:

*Union Pacific Railroad Company to James F. Wilson.*

1877, March 9. For retaining fee in the suit of Miller and Paterson and other suits in Illinois and Iowa..... \$6,000

The WITNESS. That is the case I had in mind in connection with Mr. Cook's voucher. Miller and Patterson were contractors on the road. This must have been a payment made to Mr. Wilson on account of the services rendered by him on behalf of the company in that controversy.

TO J. F. FARNSWORTH.

The CHAIRMAN:

*Union Pacific Railroad Company to J. F. Farnsworth, Washington, Dr.*

March 1, 1877. To counsel and making brief, &c., in opposition to application of the Burlington and Missouri River Railroad Company to be declared a branch, &c., of the Union Pacific Railroad Company, second session Forty-fourth Congress ..... \$1,000

The WITNESS. I know nothing about that. It was paid by Mr. Dillon.

Q. Can Mr. Dillon explain that?—A. I should say it was already explained in the voucher.

Q. Who was Mr. Farnsworth; was he a counsel regularly employed?—A. No, sir; not regularly employed. He was specially employed.

Q. Why was he specially employed as against the regularly employed counsel in Washington?—A. That I cannot tell.

Q. Who will answer that?—A. I think, perhaps, Mr. Sidney Dillon can recall the circumstances.

TO W. E. CHANDLER.

The CHAIRMAN:

WASHINGTON, March 5, 1877.

*Union Pacific Railroad Company to W. E. Chandler, Dr.*

To services in the suit of said company against the United States, in the Court of Claims, and various other suits of said company, in its controversy with the Burlington and Missouri River Railroad Company, and as to all other matters in my charge ..... \$5,000

The WITNESS. I think that voucher sufficiently detailed.

Q. Was he the regularly employed attorney at that time?—A. My recollection is that he was regularly employed for a few years.

Q. What other attorneys had you during that year? Messrs. Shellabarger & Wilson seem to have been paid \$10,000 for services in Washington pending this same suit.—A. Shellabarger & Wilson were representing us there at the same time; but I think Mr. Chandler's connection with the company did not continue long after Shellabarger & Wilson were retained by us.

OLIVER W. MINK.

The Commission then adjourned to Friday, June 3, 1887, at 10 a. m.

EQUITABLE BUILDING,

Boston, Mass., Friday, June 3, 1887.

The Commission met pursuant to adjournment, all the Commissioners being present.

OLIVER W. MINK, being further examined, testified as follows:

TO CHARLES A. ELDRIDGE.

By the CHAIRMAN:

Question. Please explain the voucher No. 13794, dated April 19, 1878, Washington City, D. C.

*Union Pacific Railroad Company in account with Charles A. Eldridge, Dr.*

To professional services rendered said company ..... \$2,000

What professional services was that for, and was Mr. Eldridge the regularly employed attorney of the company?—Answer. I am not able to tell you what the service was. I notice that the voucher is in the handwriting of our attorney, Hon. J. M. Wilson, of Washington, and I presume the service must have been in connection with the services that were rendered by him there. I would like to add, that since the adjournment of yesterday I have thought more or less upon the phraseology of vouchers presented to the company by professional gentlemen, and my general impression is confirmed that the practice of the profession is not to detail the character of the services rendered. It is, therefore, very difficult for me to go over vouchers extending over a number of years past and tell you on the instant what the service, in any special case, may have been.

TO SIDNEY DILLON.

Q. Voucher No. 13357.

*Union Pacific Railroad Company to Sidney Dillon, Dr.*

For cash paid for legal services. .... \$2,500



To whom were the payments made?—A. They do not appear in the voucher, but they were undoubtedly on account of the suit of Miller and Patterson. This was a troublesome suit then on trial in the State of Illinois.

Q. Have you any memorandum or record showing what individuals received payment of this sum for legal services?—A. Not here.

Q. How was the money paid; in cash or check?—A. It would take us a long time to determine that.

Q. Why?—A. Because we would have to hunt for our check-books for that period. I think there is no reasonable doubt that this money was paid by check to Mr. Sidney Dillon.

Q. You think the check was drawn to Mr. Sidney Dillon?—A. I think there is no reasonable doubt of it.

TO JAMES M. HAM.

Q. Voucher No. 13,703, dated March 30, 1878, sight draft, dated "New York, June 1, 1877," to the order of James M. Ham, drawn by Sidney Dillon for James M. Ham, and addressed to H. MacFarland, treasurer, Boston Mass.; expenses, in part, of Fisk suit. Please explain that voucher?—A. Our entry, covering this transaction, says that the amount was for the expenses in part of the Fisk suit, which suit, as advised by letter of Messrs. Emott, Burnett & Hammond, who were our solicitors in New York, dated June 1, 1887, has been compromised, settled, and discontinued.

Q. I want to know what expenses were incurred, and to whom those payments of the sum of \$20,000 were made?—A. There is nothing in our correspondence to show. It may be that the money was paid to the executrix of James Fisk.

Q. Who could explain?—A. I think Mr. Sidney Dillon could explain this in full.

TO SIDNEY DILLON.

Q. Voucher No. 14666, dated November 27, 1878.

*Union Pacific Railroad Company to Sidney Dillon, Dr.*

For cash paid for advertising and printing and attorney fees ..... \$750  
Paid.

What attorney fees—I especially call your attention to that matter—were paid, and who were the attorneys paid?—A. I am not able to tell you.

Q. Who can tell?—A. Mr. Sidney Dillon, I think.

Q. Voucher No. 14545, dated October 30, 1878. The Union Pacific to H. B. Hammond of New York, \$250. Was Mr. Hammond an attorney?—A. Yes; he was at one time one of the firm of Emott, Burnett & Hammond.

Q. Was he regularly employed by the company at that time? I mean by the year?—A. I think he was. My recollection is that he was. If I recollect right, he attended more directly to the matters assigned to the firm of which he was a member.

TO A. S. ROACH.

Q. Voucher No. 13756, dated April 12, 1878.

*Union Pacific Railroad Company to A. S. Roach.*

April 11, for services as attorney at law ..... \$2,000

Who was Mr. Roach and what services did he render?—A. I do not remember him at all. Mr. Dillon, I think, can explain that voucher.

I notice that it is approved by him. I ought to say in this connection that a voucher coming to us, bearing the approval of Mr. Dillon, as this voucher did, would be paid without attracting any special attention.

TO E. ATKINS.

Q. Voucher No. 14792, December 27, 1878, dated—

BOSTON, January 30, 1877.

Received of the Union Pacific Railroad Company, \$3,500, to be accounted for.

E. ATKINS, V. P.

Please explain that voucher.—A. This amount appears to have been a part of the sum, the payment of which was approved by the executive committee on January 27, 1879, at which meeting the treasurer reported that, under the resolution of the executive committee of May 30 and November 25, 1878, he had paid to R. G. Hazard the sum approved by counsel, namely, \$15,000, and for counsel fees and expenses connected with the Hazard suit the further sum of \$11,855.47, of which this \$3,500 is a part.

Q. What connection has that with the Hazard suit?—A. Without knowing definitely, I presume that Mr. Atkins was a party to the suit, was acting on behalf of the company, and was obliged to incur this legal expense.

Q. Was it a payment for attorney fees, or was it a payment on account of a claim against the company?—A. I think not on account of a claim, because the claim appears to have been specifically settled at a sum approved by counsel, namely, \$15,000. I conclude, therefore, that it was on account of counsel fees.

After conference with Mr. Atkins, since giving the foregoing answer, I learn that he is under the impression that the amount was paid to Mr. Hazard through Mr. Bartlett, in addition to the sum of \$15,000 named in the release.

TO B. H. HILL.

Q. Voucher No. 15961, dated October 30, 1879.

*The Union Pacific Railroad Company to B. H. Hill, Dr.*

1879, October 18, for services as attorney in Supreme Court of the United States ..... \$10,000

What services were rendered by Mr. Hill?—A. This was Senator Hill. My recollection is that Mr. Hill made an argument in behalf of the company in the Supreme Court on the constitutionality of the Thurman Act.

Q. Was he in the Senate at that time?—A. That I am not able to tell you; I do not recollect.

TO SAMUEL WARD.

Q. Voucher No. 14929, dated January 27, 1879, being a draft dated New York, 2d January, 1879:

Pay to the order of Messrs. S. W. Boocock & Co., \$500.

SAM'L WARD.

And addressed to "Sidney Dillon;" also draft, 2d December, 1878:

Pay to the order of Messrs. S. W. Boocock & Co., \$500.

(Signed)

SAM'L WARD.

Addressed to "Sidney Dillon." Will you please explain these?—A. I am not able to explain these vouchers, but I presume Mr. Dillon can.

Q. Who was Mr. Ward?—A. Mr. Samuel Ward, a gentleman of some prominence in Washington. I never saw him, however.

Q. Was he an attorney of the Union Pacific?—A. Not regularly employed. If we paid him any other sums, they must have been very inconsiderable in amount, since they never made any impression on my mind.

Q. What kind of services did he render in Washington?—A. I am not able to tell you.

Q. Was he employed anywhere else?—A. Mr. Dillon can undoubtedly tell you. The voucher was paid through Mr. Sidney Dillon, and on his approval.

Q. Was Mr. Ward the gentleman that had some reputation as a lobbyist in Washington?—A. I think so.

Q. This is the same person?—A. I believe it to be.

#### TO SAMUEL WARD.

Q. Voucher No. 14980, February 4, 1879, being a draft dated New York, 2d February, 1879, to "the order of Messrs. S. W. Boocock & Co., \$500." Signed "Samuel Ward," and addressed to "Sidney Dillon" and "Approved, Sidney Dillon." Will you please explain that?—A. That is exactly like the two preceding drafts. They were paid on the approval of Mr. Sidney Dillon.

Q. What were the services rendered?—A. I am not able to tell you.

Q. Would you, as comptroller, approve of such a voucher?—A. I should be relieved of the necessity of approving such a voucher as this, because it bears the approval of Mr. Dillon, the president.

Q. Wherever a voucher appears, whether, in your judgment sufficient or not, with the approval of a director or officer of the road upon it, you would pass it as a sufficient voucher?—A. I should, in a voucher for this amount. If a voucher came to me approved by the president for an unusual amount, or for an unusual purpose, I should feel, as a matter of self-protection, that I ought at least to speak to some of the directors in relation to it, although I am relieved, under the instructions laid down to govern me in my official conduct, of any responsibility in cases similar to the one now in question.

Q. Would you have required an explanation of a voucher like this?—A. No, sir; I should not. I should have passed a voucher for that amount on the approval of Mr. Dillon without a moment's question.

#### TO SIDNEY DILLON.

Q. Voucher No. 15775, September 9, 1879:

*Union Pacific Railroad Company to Sidney Dillon.*

1879. September 4. For cash paid for attorney and counsel fees ..... \$3,500

What attorneys' and what counsel fees were paid?—A. This is another one of the vouchers paid by Mr. Dillon that he, I presume, can explain. It bears the approval of our vice-president, and was paid because of that approval. I think I ought to say that I have no reasonable doubt that the expenditures were incurred by Mr. Dillon, because he was joined as a defendant in suits that were brought, from time to time, against the company and to which he was obliged to make answer in the courts in New York and elsewhere.

TO SIDNEY DILLON.

Q. Voucher No. 15192, April 8, 1879 :

*Union Pacific Railroad Company to Sidney Dillon, Dr.*

1879. April 7. For attorney and counsel fees paid .....	\$1,000 00
Sundry expenses .....	244 54

What attorneys were employed and what services were rendered and what were the sundry expenses thus paid?—A. As to the counsel fees, I can only say that I know nothing about them, except what appears on the face of the voucher. The other advertising and sundry expenses appear to be reasonable, and they were paid without question.

Q. Without items?—A. With Mr. Dillon; yes, sir. Not ordinarily.

TO J. B. STEWART.

Q. Voucher No. 15140, dated March 25, 1879 :

*The Union Pacific Railroad Company to Sidney Dillon, Dr.*

1879. March 20. For cash paid Joseph B. Stewart for professional services.....	\$390
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Who was Joseph B. Stewart?—A. I do not know.

Q. What services did he render?—A. I do not know.

TO E. R. MEADE.

Q. Voucher No. 18878, dated November 30, 1880 :

*The Union Pacific Railroad Company to E. R. Meade, New York, Dr.*

For legal services and retainer.....	\$500
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Who was Mr. Meade? What services did he render at that time?—A. My recollection is that Mr. Meade was retained by Mr. Dillon and that he attended to matters before the Departments in Washington, in connection with the land grant of the Kansas Pacific Railroad Company. I may be mistaken in that, however.

Q. Mr. Dillon could give us the information?—A. I think Mr. Sidney Dillon or Judge Dillon can explain the voucher without the slightest difficulty.

TO S. BARTLETT.

Q. Voucher No. 18681, dated November 10, 1880 :

*[The trustees under the Ames and Davis contracts to S. Bartlett, Dr.]*

1876 to 1880. To retainer and services in the suit against John B. Alley.....	}	\$3,500 00
Costs of court in same .....		
Retainer and services in the suit of Mudge, in equity, vs. The Trustees.....		
Costs of court in same.....		
Retainer and services in the suit of Shorey, in equity, vs. The Trustees.....		
Costs of court in same.....		
Retainer and services in the suit against Nickerson.....		
Costs of court in same .....		
Retainer and services in the suit against Stetson.....		
Costs of court in same .....		
Retainer and services in the suit against Bushnell.....		
Costs of court in same.....		
Services in directing and consultation as to the New York suits.....		
Services and advising counsel in the suits in Connecticut.....		
Bill of C. E. Gross.....	300 00	
Bill of Emott, Hammond & Kidder.....		
Total .....	4,422 66	

(Indorsed :) U. P. should pay the above ¾.  
October 7, 1880.

JAY GOULD.

Why was the charge in the voucher made against the Union Pacific Railway Company?—A. This was paid by the Union Pacific Company on the approval of Mr. Dillon, our president, and Mr. Gould, one of the most active of our directors. The ground upon which they authorized the approval of this voucher, and the ground upon which one or two subsequent vouchers of a similar character were approved, was this: The trustees under the Ames and Davis contracts were the owners of upwards of \$40,000 in the securities of the Union Pacific Railroad Company. The securities were in the possession of the Union Pacific Company. Of course, they should not have been in our custody. They ought to have been in the custody of the responsible officer of the trustees. The Union Pacific Company, however, claimed the securities on an account current, sold them, and appropriated the proceeds. The payment to Mr. Bartlett and the subsequent payments to which I have referred have been held by the officers of the company to have been made on account of those securities, if it shall ever be determined that the trustees were the lawful owners of them. That, in brief, is the ground upon which this payment was made. If the securities had not been appropriated by the company the trustees would have been in possession of funds to have met this claim.

Q. Why was the method of indorsement of the voucher changed by Mr. Gould from his initials to writing the sentence, "U. P. should pay the above  $\frac{2}{6}$ ," such indorsement appearing upon another voucher?—A. The fact that Mr. Gould made that indorsement is conclusive in my mind that the propriety of payment on the part of the treasurer of the Union Pacific Company had been questioned, and the indorsement was made in the way of approval. I may say that the matters in connection with the appropriation of these securities are complicated and are hardly to be handled by me. Perhaps they should be explained by counsel.

TO SIDNEY DILLON.

Q. Voucher No. 19481, dated February 28, 1881:

*Union Pacific Railway Company to Sidney Dillon of New York City.*

1881, February 2. For cash paid for attorney and counsel fees and legal expenses of sundry old suits and settlements in full of same..... \$5,000

Who were the attorneys and what were the old suits for which the payments were made?—A. I am not able to tell you.

Q. Who can?—A Mr. Sidney Dillon can tell. I have an impression, from the date only, that these expenses were incurred in connection with the contest which arose over the Kansas Pacific income bonds.

Q. Why were not the subjects of the payments set out in the voucher?—A. That I am not able to tell you. I only give that explanation, as my general impression.

Q. Was Mr. Dillon in the habit of receiving the payments of the vouchers in check or cash?—A. This payment was made to Mr. Dillon by Mr. Ham, who was then and who is now our assistant treasurer in New York. The entry shows that the money was paid to reimburse Mr. Dillon for attorney and counsel fees paid by him. I know nothing more about it.



TO J. B. HENDERSON.

The CHAIRMAN. Voucher No. 20327, dated June 30, 1881:

*The Kansas Pacific Railway Company to J. B. Henderson.*

To legal services from 1872 to 1876; to oral argument and brief before Pacific Railroad Committees in Congress vs. Union Pacific Railroad Company, to secure equality of rates.

To preparing bills for same purpose to be introduced into Congress.

To oral argument and presenting briefs before Committees of Congress on Public Lands, to protect land grants of said company, &c.

Please explain the voucher, if you have any information to give about it.

The WITNESS. I know nothing about the voucher, except what appears upon its face. The services rendered by Mr. Henderson were in connection with the Kansas Pacific Railway prior to the consolidation. I beg to call your attention to the certificate of Mr. Robert E. Carr, formerly the president of that company, and of Mr. John B. Perry, formerly a director of that company, to the effect that they have personal knowledge that the services were rendered as set forth in Mr. Henderson's bill.

Q. Why was that charge made against the Union Pacific? Some of the litigation seems to have been against the Union Pacific. It was a contest at that time, when the Kansas Pacific was contending with the Union Pacific Company.—A. This was a claim existing against the Kansas Pacific Railway Company. It may be that the contest from which this claim arose was a contest between the Kansas Pacific and the Union Pacific Railroad Companies; but I do not think that circumstance would relieve the Union Pacific Railway Company, as the successor of the Kansas Pacific Railway Company, from the payment of any just claims against the last-named company; and the voucher in question appears to have been a valid claim.

TO BURRILL, DAVIDSON &amp; BURRILL.

Q. Voucher No. 21178, dated October 31, 1881:

*The Union Pacific Railway Company to Burrill, Davidson & Burrill, and John E. Burrill.*

October 24. To services in the suits of Williams, Fremont, Train, McKratney and others against the Kansas Pacific Railroad and Union Pacific, and all services of every kind to date..... \$20,000

Please explain that voucher.—A. I am not able to tell you anything about this voucher. All I know about it is what appears upon its face. It appears to relate to the Kansas Pacific Company prior to the consolidation.

TO E. R. MEADE.

Q. Voucher No. 19261, dated January 21, 1881, for \$500:

NEW YORK, January 17, 1881.

Received of John F. Dillon, general solicitor of the Union Pacific Railway Company, the sum of five hundred dollars in full of all claims and demands of all kinds against said company.

E. R. MEADE.

What claims or demands had Mr. Meade against the company at that time?—A. I take it, from the fact that the settlement was made by

Judge Dillon, that it had some relation to the former payment made to Mr. Meade and that this was the balance.

Q. Who could explain the bill—Judge Dillon?—A. Judge Dillon: yes, sir.

TO E. E. MEADE.

Q. Voucher No. 23054, August 31, 1882, against the Union Pacific Railway Company:

NEW YORK, August 7, 1882.

*The Union Pacific Railway Company to E. E. Meade, Dr.*

To professional services to date, in full of all demands ..... \$250

What professional services did Mr. Meade render at that time and in what cases?—A. I am not able to tell you. I think it was litigation connected with the Kansas Pacific Railway Company. Judge Dillon will be able to tell you all about Mr. Meade's vouchers.

TO J. S. MERRITT.

Q. Voucher No. 22230, dated April 21, 1882:

*The Union Pacific Railway Company to J. S. Merritt, Dr.*

For legal services rendered from March 15 to date ..... \$1,782

What legal services were rendered and in what cases?—A. This voucher was paid by Mr. Ham, our assistant treasurer in New York, undoubtedly under the authority of Mr. Sidney Dillon, the president. I am not able to tell you what services Mr. Merritt rendered; but I have no doubt either Mr. Sidney Dillon or Judge Dillon can do so.

TO M. E. OLMSTEAD.

Q. Voucher No. 24661, dated June 30, 1883:

HARRISBURG, PA., June 12, 1883.

*Credit Mobilier of America in account with M. E. Olmstead, Dr.*

To professional services in securing the withdrawal of the company from the list of delinquent corporations whose charters were declared forfeited by the governor of Pennsylvania and an adjustment of State taxes and capital stock for years 1879, 1880, 1881, and 1882 ..... \$100

Can you inform me how the Credit Mobilier Company's name was withdrawn from the list of corporations by Mr. Olmstead at that period, as he suggests?—A. This voucher was paid through our New York office, by Mr. James M. Ham, our assistant treasurer there. I am not able to inform you by what means the name of the Credit Mobilier of America was withdrawn from the list. I know nothing about the voucher. You understand that the Union Pacific Company had acquired the stock of the Credit Mobilier.

TO E. E. MEADE.

Q. Voucher No. 25958, dated February 28, 1883:

*The Union Pacific Railway Company to E. E. Meade.*

To professional services and retainer in old K. P. matters ..... \$300

What services did Mr. Meade render for that sum of money, and in what cases?—A. I am not able to advise you. Judge Dillon, who approved the voucher, undoubtedly tell you.

TO W. H. TOWNLEY.

Q. Voucher No. 24797, dated July 31, 1883:

NEW YORK, July 21, 1883.

Received from Sidney Dillon, esq., \$250, in full for legal services rendered to Theodore L. Bassett, trustee for certain bondholders of the Utah and Nevada Railway Company.

W. H. TOWNLEY.

Why was that charge made to the Union Pacific Railway Company?—A. The Union Pacific Railway Company was the holder of the majority of the bonds of the road which was foreclosed, and which after the reorganization was known as the Utah and Nevada Railway Company. Our expense was incurred in that direction, because we were the owners of the bonds of the constituent company.

TO E. R. MEADE.

Q. Voucher No. 26442, dated March 31, 1884.

*The Union Pacific Railway Company to E. R. Meade.*

March 3, 1884. To legal services old Kansas Pacific matters, rendered from last payment to date, and retainer for the year 1884 ..... \$500

Will you please tell me what services were rendered by Mr. Meade and in what cases he rendered them?—A. I am not able to tell you. The payment was made through the office of our assistant treasurer in New York, and probably Judge Dillon can tell you all about it.

TO A. L. WILLIAMS.

Q. Voucher No. 26298, dated March 6, 1884.

THE UNION PACIFIC RAILWAY COMPANY,  
TREASURER'S OFFICE,  
Boston, March 6.

Received from the treasurer of the Union Pacific Railway Company one thousand dollars, on account of expenses incurred in behalf of the company.

A. L. WILLIAMS.

What were the expenses incurred for, and in what suits?—A. Mr. A. L. Williams is our attorney at Topeka, Kans. He spent, I think, nearly six months in the East, at Boston, New York, and Washington, during the winter of 1883-'84, and I presume that this amount was allowed to him in that connection.

Q. Engaged in what?—A. In the regular legal work of the company. The questions before the United States Supreme Court were those growing out of the Quo Warranto suits. The questions before the House committee at Washington were those in relation to the transportation rates charged by the company. I remember that I spent a portion of the same winter there. I presume that voucher No. 26,513, April 14, 1884, in favor of A. L. Williams, for \$1,000, and voucher No. 27,102, July 5, 1884, for \$150, were made to cover expenses of a similar character. Voucher No. 26,097, February 12, 1884, recites that the expenses were incurred in connection with the Quo Warranto case as well as for other matters. Mr. Williams, I recollect, was under such expenses during that winter as any one away from home for an extended period would be subjected to,

TO SIDNEY DILLON.

Q. Voucher No. 26444, dated March 31, 1884.

*The Union Pacific Railway Company to Sidney Dillon.*

March 6, 1884. For cash paid for attorney fees and expenses ..... \$1,000

What attorneys did Mr. Dillon pay, and for what services, and in what cases?—A. I am not able to explain this voucher, but I presume Mr. Sidney Dillon can do so.

## AFTERNOON SESSION.

OLIVER W. MINK, being further examined, testified as follows:

## TOTAL SECURITIES OF UNION PACIFIC.

By the CHAIRMAN:

Question. What is the total amount of securities, in bonds or stock, held by the Union Pacific Railway Company?—Answer. The face amount of the securities owned by the Union Pacific Railway Company is \$74,509,599.12, in which is included \$22,467,500 in bonds of other railroad companies, which are detailed on page 96 of our last annual report; \$43,275,774.12 in stocks of other railroad companies, which are set out in detail on page 97 of our last annual report; \$279,000 in miscellaneous bonds, namely, township, precinct, and miscellaneous bonds, which are set out in detail on page 95 of the report; \$3,329,825 in miscellaneous stocks, such as the stock of the Pacific Express Company, the Occidental and Oriental Steamship Company, and other miscellaneous companies, the details of which are shown on page 95 of the last report of the company; \$3,160,000 in bonds of other railroad companies, which are held by the trustees under the Kansas Pacific consolidated mortgage, the details of which are shown on page 98 of the last annual report; \$1,797,500 in stocks of other railroads, and \$200,000 in stock of the National Land Company. These last are also held by the trustees under the consolidated mortgage, and are set out in detail on page 98 of the last annual report.

## THEIR MARKET VALUE.

Q. What is the market value of the securities?—A. It would be very difficult to determine; the Union Pacific Company, in nearly every case, is the principal owner of the securities, and their value to the Union Pacific Company is in the control of the properties upon which they were issued as contributory or feeding lines.

Q. Have you ever made an estimate of the market value based upon the company's idea of worth?—A. No, sir; I have not.

Q. Is it 50 per cent. of the face value?—A. I should say that they were worth to the Union Pacific very much more than that. Taking into consideration the value of the lines upon which these securities were issued, as feeding lines to the Union Pacific Company, I estimate that they produce an annual income of not far from 11 per cent.—not on the face of the securities, but on the cost of the investment. I should say, therefore, that the securities were worth very much more than they cost.

Q. Will you furnish to the Commission an approximate estimate of the market value of these securities?—A. That will be a very difficult thing to do, since but few of them are upon the market. The Union Pacific Company in many cases is the sole owner of the securities, If

the securities were to pass out of the Union Pacific Company's possession we should lose control of the properties upon which they were issued. It would be very difficult indeed, therefore, to determine a market value for them. They may be mainly valuable to the Union Pacific because they represent the control of the feeding lines.

#### DISPOSITION OF THE SECURITIES.

Q. Where are these securities?—A. Those that are not pledged are in the vaults of the company here, or with our assistant treasurer in New York; almost all of them not pledged are here.

Q. How many are pledged?—A. I would have to go over the accounts to give you the exact number; but those that are pledged in the various trusts are all set out in detail in our last annual report. For instance, there were on December 31 last, in the 6 per cent. collateral trust, \$5,529,000 in bonds, which are set out on page 96 of our last annual report; in the 5 per cent. collateral trust there were \$6,204,000 in bonds, which are set out on the same page of our last annual report; in the Kansas Pacific consolidated mortgage trust there were \$3,160,000 in bonds, and in the same trust \$1,997,500 in stocks. I think of no other securities pledged in any trust now.

Q. Where else are the securities pledged?—A. Some of the securities are pledged against loans made to the company; they will be disclosed by the proposed examination of our securities in detail. I am having an account prepared which will show the whereabouts of all of our securities.

Q. Please furnish the Commission the loans, either in bonds or stocks or other securities, that have been hypothecated or pledged for loans of money from time to time from other institutions.—A. I will submit such a statement in writing.

OLIVER W. MINK.

The following letter was subsequently sent to the Commission by Mr. Mink:

[The Union Pacific Railway Company, Equitable Building, Charles F. Adams, president; Henry McFarland, secy. and treas.; Oliver W. Mink, comptroller; James G. Harris, ass't treas'r and transfer agent; Alex. Millar, asst. sec. Post-office box No. 5287.]

BOSTON, June 16, 1887.

Hon. ROBERT E. PATTISON,

*Chairman United States Pacific Railway Commission, 10 Wall St., New York:*

DEAR SIR:—In answer to a request on the part of your Commission for a statement of the consideration paid to the Denver Pacific Railway and Telegraph Company by the original subscribers to the capital stock of that company, I have to advise you that the books of that company show, under date of December 15, 1869, an issue of \$4,000,000 in capital stock, all of which, together with \$2,500,000 in that company's first mortgage bonds, was apparently delivered on account of construction and equipment. The entry is as follows:

DENVER, COLORADO, December 15, 1869.

1. Construction and equipment: To sundries.....	\$6,500,000
2. Capital stock For amount paid in.....	4,000,000
3. First mortgage bonds.....	2,500,000

I feel sure from the manner in which this account is stated that there were issues of the stock of the Denver Pacific Company prior to December, 1869; but I have been unable to find any books of account covering such transactions. Of course any prior issues, if such were made, form a part of this \$4,000,000—entered on December 15, 1869.

Yours truly,

OLIVER W. MINK,  
*Comptroller,*



EQUITABLE BUILDING,  
*Boston, Mass., Friday, June 3, 1887.*

FREDERICK L. AMES, being further examined, testified as follows:

By Commissioner ANDERSON:

Question. Mr. Ames, you are the trustee, I believe, of the Union Pacific land-grant mortgage?—Answer. Yes, sir.

TRUSTEE OF LAND-GRANT MORTGAGE.

Q. When did you become trustee of that mortgage?—A. October 15, 1873; I was appointed as successor to Cyrus H. McCormick, one of the original trustees.

Q. And you have acted as such trustee ever since?—A. Yes, sir.

Q. When you took possession of this office in 1873 had all of the \$10,000,000 bonds provided for by the mortgage been issued?—A. Yes, sir.

Q. They were all outstanding?—A. They were all outstanding; I do not think there were ever quite \$10,000,000; I think the amount was \$9,600,000 or \$9,700,000; I will correct that; the aggregate issue was \$10,400,000.

Q. An additional mortgage for \$10,000 for each mile of railroad?—A. Yes, sir; \$10,400,000 were issued; that would be on 1,040 miles.

Q. Do you know how many acres of land in all the Union Pacific Railroad earned under the acts and which were included in the description contained in the mortgage?—A. About 11,200,000 acres.

Q. And that amount of land is situated in alternate sections on both sides of the railroad from Omaha to Ogden?—A. Yes, sir; on both sides.

By Commissioner LITTLE:

Q. How far out beyond the limits of the road did you have a right to the land?—A. Twenty miles on each side of the road.

DESCRIPTION OF THE LANDS.

By Commissioner ANDERSON:

Q. Please give me a general description of these lands, starting from Omaha; I do not mean in any detail, but their general character. Certain parts we understand are much better than others?—A. When I first became connected with the trust the belief was that the lands for the first 200 or 250 miles west of the Missouri River, in Nebraska, were capable of cultivation, and were called "agricultural lands." Beyond that it was believed that the lands never would be arable, and they were classed as "grazing lands." But, as time has gone on, the western limit of the arable lands has steadily moved westerly, so that now the lands practically almost to the western boundary of Nebraska or the Wyoming line, are all agricultural lands.

Q. That carries you substantially to Cheyenne?—A. Yes, sir; and a great many lands which we sold three or four years ago for grazing lands are now being put upon the market and are being bought up by settlers for farming purposes.

Q. Between the western boundary of Nebraska and Ogden what is the character of the lands?—A. From where the North Branch of the Platte River intersects the railroad, east of Rawlins, to the Utah State line, the lands are very rough and sterile, covered with sage brush; and there is a good deal of alkali land; and those lands have only been used

up to this time for grazing purposes; but the experience has been there that where they could get water out of the streams on to these lands and irrigate them for a short time they became very fertile and made very good farms.

Q. What is the average height of the plateau on which those lands are to be found in this part of Wyoming?—A. It is almost the highest part of the railroad. The summit is at Sherman, which is 8,200 feet high from the level of the sea. Sherman is a point between Cheyenne and Laramie, and is the highest elevation of the road, the elevation there being 8,200 feet. From this point as you go west the railroad runs at a lower elevation. It runs on a comparatively level grade until it gets to Aspen. Aspen is situated on the road shortly before reaching the western boundary of Wyoming Territory. From Aspen the road descends as you go west into the Salt Lake Basin.

Q. What is the character of the railroad lands in Utah?—A. The lands there are better, because there is more water there, and where they are capable of cultivation there is water to irrigate them. The lands there are very good, but the Mormons were in there so largely before the road was built that the best lands in the valley which the railroad runs through were already taken up by the Mormons, and we got comparatively little agricultural land. We have a good deal of land in Utah that lies back on the mountains that has some timber on it.

#### SALES OF THE LANDS.

Q. When you entered upon the duties of your office, what was the condition of the land-grant accounts as to lands sold and lands remaining unsold? What were the outstanding contracts and the amounts due for lands previously sold?—A. I could not tell that from memory. I will have a statement made up and give it to you.

Q. Do you not remember how many acres of lands remained unsold when you took possession?—A. There was a great deal of land on hand at that time. The sales had been comparatively small, and had been confined to the eastern end of the road. No land had been sold, I think, west of Grand Island, in Nebraska. All of the lands that had been sold were on the eastern end of the road, in what was termed "agricultural lands."

Q. Are there any of those lands remaining unsold; I mean the agricultural lands?—A. No; I think not. There may be scattered around here and there a 40-acre tract, or something of that sort, that might have been undesirable, for some reason, which is yet unsold; but all the desirable lands have been culled out and sold.

I find on inquiry that when I assumed the office of trustee there had been sold about 819,000 acres of land and there remained unsold about 10,381,000 acres. There were at that time contracts outstanding for lands previously sold amounting to \$1,956,000.

Q. Please state to us the land account as it stands to-day?—A. I have here a statement drawn off. I can only state the account to-day as it stands at this office. We get a monthly statement on the first of each month, showing the results of the transactions for the preceding month and bringing the whole business down to the first of the month. Of course the statement for May I have not yet received.

Q. That report you got from Omaha?—A. Yes, from Omaha.

Q. Who is your agent at Omaha?—A. The land commissioner is George M. Cumming. On the 30th of April, 1887, we had on hand land unsold 3,168,990 acres, valued at \$2,386,140. We had contracts on hand—that is, representing balances due on lands sold—\$8,727,204.45.

That is the account as it stood at Omaha on the first of May, 1887. That is, April 30th inclusive.

Q. Can you tell me how many acres of lands the contracts related to?—A. It was a balance of 11,200,000 acres.

Commissioner ANDERSON. If you had 2,300,000 on hand, and started with 11,000,000 acres, you must have sold about 8½ millions.

The WITNESS. Yes, sir. The amounts remaining due are for contracts on so much of the 8,000,000 which have been sold as were not paid for in cash or have not been fully paid for on time sales.

Q. What I want to know is, how many acres secured those contracts?—A. I cannot give you that except by a calculation. I should have to have a statement made up, showing just how many acres of land had been deeded. Then, by deducting the amount that had been deeded from the amount that had been sold, I could ascertain the figures.

Commissioner LITTLE. I suppose those \$8,000,000, represented by notes in your hands, cover most of this grant except the land still unsold.

The WITNESS. Ch, no; no, indeed. By the statement here it is shown that I have received on account of the principal over \$11,500,000, exclusive of interest; and that, of course, must represent a large amount of land.

Q. For which deeds have been given?—A. Yes, sir.

Q. When you make a sale you either give a deed or make a contract?—A. The great part of the land is sold on time; a part of the purchase money down, and nothing more until two years have elapsed.

By Commissioner LITTLE:

Q. You take a contract or lien on the land?—A. Yes, sir.

Commissioner ANDERSON. Mr. Ames, you have a statement there, Suppose you give a full explanation regarding all that has been realized from this land grant, and all that may in future be realized from it.

The WITNESS. I have had a statement made in detail, down to the 1st of January, 1887.

Commissioner ANDERSON. Please produce it.

The witness produces a statement, which is marked "Ames No. 1, June 3, 1887," and is as follows:

*Statement of the Union Pacific Railroad Company land grant to December 31, 1886.*

Income.	Amount.
Land sales, net..... Acres. 7,986,346.40	\$19,080,366 35
Town-lot sales, net.....	399,728 80
Interest received from land contracts.....	3,047,628 32
Interest received from town lot contracts.....	28,385 15
Forfeited contracts, lands.....	314,370 76
Forfeited contracts, town lots.....	4,309 44
Miscellaneous income.....	63,636 47
Total income at land department.....	22,938,727 30
Deduct commissions, discounts, and railroad fares allowed.....	617,903 79
Net income at land department.....	22,320,823 51
Deduct:	
Land contracts outstanding..... \$9,077,643 10	
Town-lot contracts outstanding..... 17,697 50	
Land-grant bonds taken in payment of land..... 1,658,000 00	
Interest accrued and allowed on the same..... 30,127 83	
	10,783,468 43
Cash balance remitted to trustee.....	11,537,355 08
Add interest received by trustee.....	429,138 74
Total amount received by trustee and in transit.....	11,966,493 82

*Statements of the Union Pacific Railroad Company land grant, &c.—Continued.*

Income.		Amount.
Accounted for by the trustees in the following manner:		
Land grant bonds purchased and canceled .....	\$6,686,000 00	
Premium paid on the same .....	387,212 43	
Expense account .....	375 00	
		\$7,053,587 43
Cash balance .....		4,912,906 39
Cash on deposit .....	\$4,381,860 66	
Notes receivable .....	505,000 00	
Cash in transit from Omaha .....	26,045 73	
		4,912,906 39

Boston, June 3, 1887.

Commissioner ANDERSON. It appears from this statement that the total amount of land sales effected under this mortgage to December 31, 1886, is 7,986,346.40 acres, for which a gross sum of \$19,080,366.35 has been received, and that from the sale of town lots and interest on your land contracts, forfeited contracts, and miscellaneous income, the total income of the lands up to the date before mentioned is \$22,938,727.30.

The WITNESS. Yes, sir.

By Commissioner ANDERSON:

Q. That represents the gross receipts for lands to that time?—A. Yes, sir.

#### DEDUCTIONS AND COMMISSIONS.

Q. Will you explain in a general way the deductions for commissions, railroad fares, etc.?—A. That item is made up of allowances made to purchasers. If a man goes out to examine the lands, in case he purchases, his railroad fare is refunded to him; and there are also discounts made from the regular prices, where a man sees fit to pay cash instead of taking the time allowance; and the aggregate of them, I see, amounts to \$617,903.79.

Q. There is also an item of commissions. Is that the usual allowance or commission for the sale of lands?—A. Yes, sir; that is, an allowance that used to be made of commissions to the people who are located along the line who took purchasers out to examine them, and also covered the commissions that were allowed to these people for collecting the payments that were due; that is, the installments as they became due.

Q. Where shall we find a detailed statement of these amounts?—A. At the land office at Omaha.

Q. Were proper vouchers in all cases taken?—A. I presume so.

Q. You have not personally examined?—A. I have examined a few, not all. The auditor of the company has that done in his office, and he is supposed to look after all those items and see that they are properly vouchered. I have no doubt they are.

Q. Is there one particular person or set of persons as to whom question has arisen in regard to these commissions?—A. No, sir.

Q. They are distributed generally amongst agents?—A. There is a regular tariff or schedule of commissions that were allowed. They have been very much reduced of late, as the lands have been sold off, and as it has been less necessary to employ these agents. The system has been much changed, so that there are no agents employed now on a large part of the line.

Q. Has any considerable portion of this amount for commissions been allowed to purchasers who were officers of the Union Pacific Railroad?—A. None of it, except, possibly, in cases where the station agents of the railroad also acted as agent of the land department and received commissions on sales the same as anyone else.

Q. There is no director of the company who has received any compensation?—A. Oh, no indeed.

#### NET AMOUNT.

Q. This leaves the net amount for which you are accountable, as trustee, \$22,320,823.51; that sum, of course, includes all lands outstanding on contracts?—A. Yes, sir.

Q. And any securities you may have taken in payment, any securities you may have purchased with cash, any expenses you may have been put to, were paid out of your available assets which were on hand?—A. Yes, sir.

Q. The amount of these respective credits are correctly given on the statement you have handed me?—A. Yes, sir.

#### LAND CONTRACTS.

Q. In regard to these land contracts, what percentage of cash payment do you require when the contract is made?—A. Usually 10 per cent.

Q. How much time do you give?—A. It varies somewhat. I think that on the agricultural lands we have allowed six years' time; on the grazing lands we have allowed ten years.

Q. What rate of interest do the contracts carry?—A. Seven per cent.

Q. Interest payable semi-annually, generally?—A. Annually.

Q. Do you know what proportion of the land contracts, which are stated on the 31st of December, 1886, as amounting to \$9,077,643.10, are under default?—A. A very small proportion of them. It has always been our practice at least once a year to go over them, and where parties are in default, and we were satisfied as to their inability to pay up the balance, we have usually forfeited the contracts as provided therein.

Q. Do your contracts call for payment of principal as well as of interest?—A. The cash payment is made when the contract is given, and ordinarily no further payment is made until the end of the second year. That is, on a six years' contract. Then there would be four more payments, one coming due at the end of each year.

Q. Is the same general course pursued in regard to land contracts?—A. Yes, sir.

#### BONDS RECEIVED FOR LANDS.

Commissioner ANDERSON. Your statement shows that \$1,658,000 of land-grant bonds were taken in payment of lands.

The WITNESS. This was under provision of the mortgage by which purchasers were allowed to turn the bonds in at par in lieu of cash, and at the time the bonds were being quoted at less than par they were largely availed of for that purpose by purchasers.

Q. When did that state of affairs cease? That is, when did the bonds go above par?—A. I do not think there were any bonds used for that purpose after I became trustee. It was previous to that time.

Q. So that these bonds had all been accepted in payment before your trusteeship?—A. Yes, sir; there were perhaps a few of them afterwards.

Q. Does the mortgage provide that the bonds shall be retained in



Q.—A. No, sir; it provides that the bonds purchased shall be paid and discharged.

Effect of that is to decrease the fixed charges against the Railroad?—A. Yes, sir.

Interest accrued and allowed on these bonds means interest on them at the time they were given in payment at small item after the land-grant bonds.—A. Yes,

on the bonds that were taken at Omaha in payment for total amount of the items that I have referred to is \$5,43, which, deducted from the net gross proceeds of the department, leaves the cash balance remitted to the trustee, \$7,355.08.—A. Yes, sir.

#### ACCRUED INTEREST.

Q. I find you have added to this item the sum of \$429,138.74 as interest received by the trustee. Interest accruing on what is that?—A. On the money that I have had on deposit.

Q. It has nothing to do with the contracts?—A. No, sir; the money that is received here is deposited in the trust companies and draws interest, and that interest makes up this accumulation of \$429,000.

Q. Please give us an explanation of the status of this fund which was in your hands on the 1st of January, 1887, amounting to \$11,966,493.82.—A. I have prepared a special statement of the condition of the assets of the land department, which I now produce. This statement only differs from the previous one in omitting to charge the land department with the cash in transit, amounting to \$26,045.73, which amount, being deducted from the amount previously shown, \$11,966,493.82, leaves the sum of \$11,940,448.09, for which amount the present statement is rendered.

The statement is marked "Ames No. 2, June 3, 1887," and is as follows:

*The Union Pacific Railway Company—ledger balances, trustee under the land-grant mortgage of the Union Pacific Railroad Company, December 31.*

Land department.....		\$11,053,263 88
Town-plot department.....		458,045 97
Interest and exchange.....		429,138 74
Land-grant bonds.....	\$6,686,000 00	
Premium on bonds redeemed.....	367,212 43	
New England Trust Co.....	\$205,484 00	
American Loan and Trust Co.....	812,152 04	
Union Trust Co.....	1,310,752 21	
Central Trust Co.....	537,427 09	
Mercantile Trust Co.....	1,516,045 32	
		4,381,860 66
Loan account.....	465,000 00	
Eastern R. R. Car Trust.....	40,000 00	
		505,000 00
Expense.....		875 00
		<u>11,940,448 09</u> <u>11,940,448 09</u>

Land-grant bonds issued.....	\$10,400,000 00
Canceled as above.....	\$6,686,000 00
Canceled at Omaha.....	1,658,000 00
	<u>8,344,000 00</u>
Bonds outstanding.....	2,056,000 00

Commissioner ANDERSON. It appears from this statement that you have purchased for the account of your trust \$6,686,000 of these land-grant bonds?

The WITNESS. At that date.

Commissioner ANDERSON. This I understand to be in addition to the amount of \$1,658,000 previously referred to, and which had been taken by the company in payment of lands?

The WITNESS. Yes, sir; it appears here in this statement. A reference to the bonds so taken appears at the foot of my statement.

Q. So the total amount of bonds then outstanding on the 1st of January, 1887, was \$2,056,000. Are these bonds which are purchased retained by you, or canceled?—A. They are all canceled immediately.

Q. So that interest has ceased to accrue on them?—A. Yes, sir.

#### PREMIUM ON BONDS REDEEMED.

Q. The item "premium on bonds redeemed" refers to what?—A. That was the amount we had to pay above par for them when we were purchasing them in the market.

Q. Are these bonds now mature? That is, are they due?—A. About a third of the bonds that were outstanding at that time became due on the 1st of April, and were then paid.

Q. Since this statement?—A. Yes; the 1st of April last, so that the amount of bonds outstanding to-day is \$1,177,000.

Q. When do those bonds mature?—A. Those not already due mature on the 1st of October, 1888, and the 1st of April, 1889.

Q. What is their present market value?—A. About 104 or 105. There are no transactions in them now.

Q. They bear 7 per cent. for the short period they have to run?—A. Yes, sir.

#### THE INVESTMENTS OF THE FUNDS.

Commissioner ANDERSON. The succeeding items in your statement are the investments that you have made of the funds in your hands, I understand?

The WITNESS. The deposits.

Commissioner ANDERSON. New England Trust Company, \$205,484; at what rate of interest did your deposit stand?

The WITNESS. At that time the New England Trust Company paid  $2\frac{1}{2}$  per cent. They pay that now.

Commissioner ANDERSON. American Loan and Trust Company, \$812,152.04?

The WITNESS. Two and one-half per cent.

Commissioner ANDERSON. The Union Trust Company, \$1,310,752.21?

The WITNESS. That was 3 per cent.

Commissioner ANDERSON. Central Trust Company, \$537,427.09?

The WITNESS. Three per cent.

Commissioner ANDERSON. Mercantile Trust Company, \$1,516,045.32?

The WITNESS. Three per cent.

Q. Are the certificates of these deposits in your possession?—A. There is an ordinary running bank account. I have my bank books written up each quarter. They can be verified by application to the trust companies.

#### LOAN ACCOUNT.

Commissioner ANDERSON. I then find the item "loan account, \$465,000." Please explain what that is.

The WITNESS. It was a loan made to the Old Colony Railroad Company. It was a demand loan at 4 per cent.

Q. On what security?—A. None.

Q. Made to the Old Colony Railroad Company?—A. Yes, sir.

Q. Has the loan been paid?—A. A part of it has been paid; \$200,000 still remains unpaid, which they have been trying to pay for the last two weeks. I have been fighting them off.

Commissioner ANDERSON. There is also the item, "Eastern Railroad car trust, \$40,000."

**The WITNESS.** That is standing at 6 per cent. It is a balance of a loan of \$97,486.65 which I made to them some years ago, with a large amount of cars and rolling stock as security. It has been paid up to that amount, and we still hold the full amount of the original security.

**Commissioner ANDERSON.** Then an item of expense, \$375?

**The WITNESS.** That is for legal expenses; attorneys' opinions which the trustees have had since the opening of the trusts.

**Q.** With reference to your contracts?—**A.** In reference to the duties of the trustees in certain questions which came up, and which were in doubt. That is all the compensation that has been paid to anybody in connection with the management of the trust. The trustees have not been paid anything.

**Q.** You say the trustees have never accepted any compensation?—**A.** They have never received any compensation.

**Q.** Is there provision in the mortgage relating to that matter?—**A.** I think there is a provision that they shall be paid, but without defining the amount of the compensation.

**Q.** I presume that it is merely deferred, and the trustees expect when closing the trust to charge such compensation as shall be proper and reasonable?—**A.** Yes. On inquiry, I find that in February, 1877, the Union Pacific Railroad Company paid in a settlement with Mr. John Duff, former trustee under the land-grant mortgage, \$14,359.27 for his services under that trust. I believe that no further sums have been paid by the railroad company or out of the trust fund for compensation of the trustees.

**Q.** You are the sole trustee?—**A.** I am the sole trustee.

**Q.** Were you the sole trustee at the start?—**A.** No; I was the successor of one of the original trustees. At the time of the resignation of Mr. Cyrus H. McCormick, who was one of the original trustees, I was appointed in his place. In February, 1877, I think, my co-trustee, Mr. John Duff, resigned, which vacancy has never been filled; and I have since then been sole trustee. I have prepared a statement showing the condition of the cash here on the 3rd of June, bringing it down to the present time.

**Q.** Does the explanation that you have heretofore given as to statement No. 2 apply to the present statement?

Witness here produced a statement which was marked "Ames No. 3, June 3, 1887," and is as follows:

*The Union Pacific Railway Company. Statement of the trustee under the land grant mortgage of the Union Pacific Railroad Company, June 3, 1887.*

Land department.....		\$11,828 670 02	
Town lot department.....		465,536 98	
Interest and exchange.....		463,409 39	
Land-grant bonds.....	\$7,565,000 00		
Premium on bonds redeemed.....	374,191 80		
New England Trust Company.....	\$356,646 78		
American Loan and Trust Company.....	686,154 80		
Union Trust Company.....	1,364,781 77		
Central Trust Company.....	774,072 57		
Mercantile Trust Company.....	1,396,393 67		
		4,578,040 59	
Loan account.....	200,000 00		
Eastern Railroad Car Trust.....	40,000 00		
		240 000 00	
Expense.....		375 00	
		<u>12,757,616 89</u>	<u>12,757,616 39</u>
Land-grant bonds issued.....	10,400,000 00		
Canceled, as above.....	\$7,565,000 00		
Canceled, at Omaha.....	1,658,000 00	9,223,000 00	
Bonds outstanding.....		1,177,000 00	

Q. Under the mortgage, as I understand it, all the bonds were issued to the company itself as the construction progressed. Was that the fact?—A. No; I think not. It happened long before I had any connection with the company, but my understanding of it was that these bonds were issued about the time of the completion of the road in order to furnish additional funds which were required to complete the road and pay the bills.

Q. But was not the first issue made to the company itself; that is, from the trustees to the company?—A. Yes; the company took all the bonds and sold them all.

Q. You have no books whatever, then, to show who were the actual beneficiaries of these issues?—A. No; they were on the company's books.

Q. Do you know, as a matter of fact, to what persons these bonds went at the time of the original issue?—A. No; I do not.

Q. You have made no examination of the books of the company for that purpose?—A. No, sir.

#### OUTSTANDING LAND CONTRACTS ALL GOOD.

Q. In your judgment, are the outstanding land contracts, amounting, at present, as you state, to between eight and nine millions, all absolutely good?—A. Absolutely. I have no doubt that the land represented by those contracts, if it came back into the company's hands, could be sold for a large advance over and above the amount of the outstanding contracts.

Q. What is your judgment as to the estimate made of the value of the lands unsold?—A. A very low estimate.

#### LOCATION OF UNSOLD LANDS.

Q. Can you give us any information as to the locality of the remaining 3,000,000 acres?—A. It is mostly, as I stated before, west of Rawlins.

Q. Mostly in Wyoming?—A. Almost entirely in Wyoming; a very small percentage of it outside of Wyoming.

Q. Is there anything of consequence left in Nebraska?—A. Nothing; only an occasional small lot of waste land that, for some reason, was not desirable. Speaking in regard to this unsold land we have fixed a minimum of a dollar an acre on all this land, and are not allowing any sales or considering any applications for lands at less than \$1 an acre, and in some cases we are getting for this land as high as \$1.50 and \$2.50 an acre.

By Commissioner LITTLE:

Q. You do not own more than a section in any one place, do you?—A. No, sir.

#### DISPOSITION OF SURPLUS.

By Commissioner ANDERSON:

Q. Has any provisions been made in the mortgage relating to the surplus that will remain on hand after the land-grant bonds are all retired?—A. I think the land-grant mortgage provides that it shall be turned over to the company, but the company has since made an additional mortgage on these lands called the sinking-fund mortgage, which provides that the proceeds of all the lands after satisfaction of the land-grant mortgage shall be turned over to the trustees of the sinking-fund mortgage.

Q. Will you please refer me to that mortgage?

(The witness referred to the sinking-fund indenture of December 18, 1873, page 41.)

Q. The Union Trust Company of New York is trustee of this mortgage?—A. Yes, sir.

Q. Have you the accounts of the Union Trust Company; do they render any statement to you?—A. They have no occasion to do so; they are not yet active as trustees, so far as the lands are concerned? No, sir; they render no accounts to me.

Q. What is the amount outstanding of these sinking-fund bonds?—A. Twelve million three hundred and seventy-seven thousand dollars coupon bonds and \$1,971,000 registered bonds, making a total of \$14,348,000.

Q. I find by a provision of this sinking-fund indenture, at page 40, that \$11,111,111, to be issued under this mortgage, were to be used as determined by the directors of the corporation, in exchange for the bonds known as the 10 per cent. income bonds of the Union Pacific, or else they were to be sold and the proceeds used to purchase these income bonds. Do you know to what extent that exchange has been made?—A. The whole of the income bonds were taken up by this issue of sinking-fund bonds. There was a bond known as the income bond. When those bonds became due the company offered the holders of the 10 per cent income bonds six of the 8 per cent. bonds in exchange for five of the 10 per cent. bonds.

Q. Is the income mortgage you refer to the indenture contained at pages 76 and following of the book of indentures?—A. No, sir; that is the Kansas Pacific; this is a Union Pacific mortgage. It does not appear in this book.

Q. What books will show the circumstances connected with the issue of the bonds, both under the second land-grant mortgage and under the income mortgage, so as to inform us of the persons to whom those bonds were issued?—A. It will undoubtedly appear on the books of the Union Pacific Railroad Company.

Q. You know nothing of those circumstances?—A. No, sir.

Q. Then your duty as trustee is to turn over the balance that may remain in your hands after your trust shall have been completed to the trustee of the second land-grant mortgage?—A. To the trustee of the sinking-fund mortgage.

#### THE SINKING-FUND MORTGAGE.

Q. I should have said the sinking-fund mortgage. And that trustee will hold the funds so turned over as security for an issue of about \$14,000,000 bonds now outstanding?—A. Yes, sir.

Q. What other property is conveyed by the sinking-fund mortgage?—A. I do not remember.

Q. Are there any other circumstances connected with your trust, that you can recall, that may be of importance to us to know?—A. Nothing.

Q. Will you please state what you estimate will be the value of the surplus which will remain in your hands applicable to the sinking-fund mortgage after you shall have completely discharged your own trust?

—A. There is about \$1,200,000 land-grant bonds now outstanding. The interest accrued on contracts, which does not appear in any statements that we have given here, and that which will accrue before maturity of those bonds, will very nearly pay off the whole of the land-grant bonds now outstanding, which would leave about \$4,820,000 of cash, \$8,700,000



Q. Under the mortgage, as I understand it, all the bonds were issued to the company itself as the construction progressed?—A. No; I think not. It happened long before the mortgage was made with the company, but my understanding of it was that the bonds were issued about the time of the completion of the mortgage, and the company makes additional funds which were required to pay the bills.

Q. But was not the first issue made to the company?—A. Yes. There will be a second issue after the first is sold.

Q. You have no books whatever, the beneficiaries of these issues?—A. No.

Q. Do you know, as a matter of fact, where the following certificates respecting the mortgage were made?—A. Yes.

Q. You have made no examination of that purpose?—A. No, sir.

FRED'K L. AMES.

### OUTSTANDING

Q. In your judgment, at present, as you state, is the mortgage absolutely good?—A. Yes, as presented by those who could be sold for standing contracts.

Q. What is the value of the lands?

BOSTON, MASS., June 4, 1887.

Q. In your judgment, at present, as you state, is the mortgage absolutely good?—A. Yes, as presented by those who could be sold for standing contracts.

N. H. HENCHMAN,  
Secretary.

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Fred'k L. Ames, Esq.,  
Trustee:  
DEAR SIR: I hereby certify that the balance to your credit as trustee upon the books of this company at close of business, January 1, 1887, was \$312,152.04.  
Yours resp'y,

BOSTON, June 4, 1887.

N. W. JORDAN,  
Actuary.

(Union Trust Company, of New York, 73 Broadway, cor. Rector street. Edward King, pres't; James H. Ogilvie, 2nd v. pres't; A. O. Ronaldson, sec'y; A. W. Kelley, ass't sec'y.)

NEW YORK, June 4th, 1887.

This is to certify that Fred'k L. Ames, trustee land-grant mortgage, Union Pacific Railway, had to his credit on deposit with this company, January 1st, 1887, the sum of thirteen hundred and ten thousand seven hundred and fifty-two and 10/100 dollars. (\$1,310,752.21.)

UNION TRUST COMPANY OF NEW YORK,  
By EDW'D KING,  
President.

E. MERRITT,  
General Book-keeper.

Correct.

(Central Trust Company, of New York. F. P. Olcott, pres't; Geo. Sherman, vice-pres't; E. F. Hyde, 2nd vice-pres't; C. H. P. Babcock, sec'y; B. G. Mitchell, ass't sec'y.)

15 NASSAU STREET, June 4th, 1887.

This certifies that there was on deposit in this company, on January 1st, 1887, to the credit of Fred'k L. Ames, trustee, the sum of five hundred and thirty-seven thousand four hundred and twenty-seven (537,427) 7/10 dollars.

C. H. P. BABCOCK,  
Secretary.

## THE MERCANTILE TRUST COMPANY.

*New York, June 4th, 1887.*

FRED'K L. AMES, Esq.,

*Trustee, 47 Equitable Building, Boston, Mass.:*

DEAR SIR: In reply to your inquiry of the 3d instant, we beg to say that the balance to your credit, as trustee, on January 1st, 1887, was \$1,516,045.32.

Very truly yours,

JOHN MONTGOMERY,  
*Vice-President.*

EQUITABLE BUILDING,  
*Boston, Mass., Friday, June 3, 1887.*

CHARLES FRANCIS ADAMS, being further examined, testified as follows:

## EXPLANATION OF CERTAIN VOUCHERS.

By the CHAIRMAN:

Question. Will you please explain vouchers No. 28488, 28462, 28308, 553, 17713, 343, 29146, and 29599, aggregating \$11,245 40?—Answer. When I took charge of the Union Pacific, and for some time afterward, there were various questions connected with the country through which it was running—labor questions and matters of that sort—about which it was necessary for me to be promptly and correctly informed. They had nothing whatever to do with politics or legislative matters. They related to various matters which it was necessary for me to be well advised about from private and outside sources. I had therefore to organize a bureau of information, and it cost about \$15,000 in all. It was in operation for over two years, and has since been discontinued. Those were vouchers relating to it.

## CONCERNING THE BUREAU OF INFORMATION.

Q. How did they come to be charged to legal expenses?—A. Because the party at the head of the whole thing was a local lawyer.

Q. Was the money paid to you in check, or was it a cash distribution from time to time?—A. No. In all these cases this lawyer or agent drew on me, sending his vouchers, and I had a check sent to him for the amount expressed in his voucher, which I made myself responsible for. He had also to be paid for personal services, &c. The whole thing is discontinued, I will say, now. I got the information I wanted, and the necessity for it has ceased to exist, but it was at the time very useful to me. If you wish to examine the reports that were made they are very much at your service. They are interesting reports, too.

Q. Who was at the head of the concern to whom these payments were made?—A. I should prefer not to mention his name. It was one of the conditions of the service that I should not do so. It was a matter between himself and myself. You are welcome to see it yourself, or any other member of the Commission. You can see all the reports. There is a volume of the reports at your disposal.

## CONCERNING QUO WARRANTO PROCEEDINGS.

The CHAIRMAN. I find a number of vouchers—Nos. 28735, 28747, 28746, for the year 1885—drawn in the names of George S. Green, A. L. Williams, A. A. Harris, and W. H. Rossington (as the name seems

to be upon its face). There is a draft in each case for services in the *quo warranto* proceedings. Will you please explain those?

The WITNESS. Those were some suits, which gave us a great deal of trouble, instituted, as expressed in this voucher No. 28747, and they were settled through our local attorney, Mr. A. L. Williams, as the result of long and vexatious negotiations and proceedings. These were the vouchers pertaining thereto, amounting to about \$9,000. It was done by my authority and under the advice of counsel.

PAYMENT TO E. L. ANDREWS.

The CHAIRMAN. Voucher No. 32, for \$1,000:

NEW YORK, October 19th, 1885.

Received of the Union Pacific Railway Company the sum of \$1,000, in full of all demands to date, and in full for any services which I may render for one year, under the direction of the railway company, in respect to negotiations to purchase of Kansas Pacific income bonds or coupons, or other securities of the Kansas Pacific.

E. L. ANDREWS.

The WITNESS. Mr. Andrews brought a suit against us in New York, representing certain parties that held these securities, and one of the agreements of the settlement was that we were to pay Mr. Andrews' fee; and further, the agreement between us and Mr. Andrews was that he should work for us in getting in all of that issue of bonds he could under the settlement. He is a well known lawyer in New York. Mr. Anderson knows all about him.

TO JOHN S. BLAIR.

Q. Voucher No. 993.

UNION PACIFIC RAILWAY COMPANY,  
Boston, December 17.

Received from the treasurer of the Union Pacific Railway Company five hundred dollars as retainer, the amount to be credited by me on such services as I am to render for the company.

JOHN S. BLAIR.

\$500.

What services was he to render?—A. He is a lawyer in Washington, and we found that there were some matters which required closer attention than our regular counsel could give, of which matters Mr. Blair had peculiar information, and I directed that he should be retained. The matters related to controversies before the Land Commissioner, and I directed Mr. Blair to be retained. He rendered the service.

SECRET SERVICE VOUCHERS.

The CHAIRMAN. Voucher No. 1213, dated January 22, 1886, appears to be a receipt of C. F. Adams, jr., president, for \$750. Please explain that?

The WITNESS. That was another voucher for the secret service that I have already explained.

The CHAIRMAN. Also voucher No. 1649, dated February 20, "C. F. A."

The WITNESS. That is the same thing.

Q. The same explanation is made as to that?—A. Yes; the same explanation, exactly.

Q. Voucher No. 2009, March 11, 1886, Charles F. Adams, jr., \$597.05. Do you make the same explanation as to that?—A. The same explanation. It is for services in procuring information which I had to have.

Q. Voucher No. 2701, dated April 28, 1886, Charles Francis Adams, \$655.55. Does that receive the same explanation?—A. The same thing.

The CHAIRMAN. Voucher No. 3271, dated June 11, 1886, \$466.75, "C. F. Adams."

The WITNESS. The same explanation also as to that.

Q. Voucher No. 2941, dated May 11, 1886, "Charles F. Adams," \$622. Is that the same thing?—A. Those are all the same.

Q. Voucher 3747 dated July 8, 1886, "Charles F. Adams, jr." \$650. Do you make the same explanation?—A. Yes, that is the same thing.

TO H. G. WOOD.

The CHAIRMAN. Voucher No. 3845, dated July 20, 1886, to H. G. Wood, for \$1,000. Please explain that.

The WITNESS. That was to pay an accountant in New York. Mr. Mink says that he assigned it to legal expenses, because it was for examining and reporting on the charter of the Oregon Railway and Navigation Company; as to the extent of the powers conferred under it, &c. It was in the nature of a legal examination.

TO W. M. JONES.

The CHAIRMAN. Voucher No. 3873, dated July 23, 1886:

Received from the treasurer of the Union Pacific Railway Company five hundred dollars for professional services.

W. M. JONES.

\$500.

What is your explanation of that?

The WITNESS. Mr. Jones appeared as attorney and made an argument before the Committee on Pacific Railroads in relation to the branch-line bill.

TO E. R. MEADE.

Q. Voucher No. 4103, dated August 19, 1886:

*The Union Pacific Railway Company to E. R. Meade.*

For professional services in full to date..... \$100

What services did Mr. Meade render?—A. Mr. Mink tells me that this was the final payment for services rendered in connection with the Kansas Pacific prior to the consolidation, and approved by Judge Dillon.

Q. Judge Dillon could explain it?—A. I know nothing of it, because it was before my time, although it was settled recently.

SECRET SERVICES.

Q. Voucher No. 4121½, dated August 12, 1886, Charles F. Adams, president, for \$400. What explanation do you make as to that?—A. That is the same as before, in the matter of services and information I mentioned.

TO J. M. THURSTON.

Q. Voucher No. 5731, dated December 23, 1886:

The Union Pacific Railway Company to John M. Thurston..... \$5,500

What explanation do you give as to that?—A. He is our regular counsel in Nebraska, and these were for moneys which he had expended for which vouchers were furnished.

Q. What special services; are all named there?—A. They are all named, I think.

#### FINAL SECRET SERVICE VOUCHER.

Q. Voucher No. 5901, dated December 31, 1886, Charles F. Adams, \$1,000. What explanation do you make as to that?—A. That was a final payment on that matter of information, which I have explained.

Q. It was for obtaining secret information?—A. Yes, sir; private information.

#### CONCERNING THEOPHILUS FRENCH.

Q. Was Mr. Theophilus French paid the sum of \$500 in December last by you or by Mr. Sidney Dillon, or by any other person, for the Union Pacific Railway Company for the purpose of suppressing the publication of a railroad article during the month of December, 1886, or at any other time?—A. Not to my knowledge, and certainly not by the Union Pacific. No such payment was ever authorized or suggested by me, nor would I have consented to it; nor to the best of my knowledge and belief was any such payment ever made. There would have been no object whatever in making it, as the theory that five days' silence at that time was important to us, is wholly imaginary. Five days' silence at that particular time would not have been worth to us twenty-five cents. Mr. French had written to Mr. Mink some time before, stating that unless we employed him he would sell certain information to the newspapers. We declined to employ him.

#### HIS SERVICES.

Q. Had he been employed by the company before?—A. Mr. French had been employed by the company before in various ways and at various times after he ceased to be railroad commissioner. Mr. French was a skillful accountant, and was familiar with the whole connection between the railroad company and the Government as to which there was continual litigation or question. There was nothing in his employment by the company which was in any way discreditable to him.

Q. What were his duties while in the employ of the company?—A. He codified the laws relating to Pacific Railroads, and my impression is he made himself useful to us in various ways in unraveling complicated financial and other questions between the Government and the company. We have those letters of French in which he offered his services to us. I will submit some of the letters written by Mr. French to this company. The letter dated April 15, 1886, closed our correspondence with Mr. French.

CHARLES F. ADAMS.

#### LETTERS FROM THEOPHILUS FRENCH.

The letters referred to are marked, respectively, "Exhibits 2, 3, 4, and 5, June 3, 1887," and are as follows:

[Copy.]

VINELAND, N. J., December 10, 1885.

DEAR SIR: Having been confined to the house under my doctor's hands for two or three weeks past, I have been thinking over the legislation proposed as a relief to the *Union Pacific*.



"Pacific Railroad Legislation, 1862-1885," which I see is ascribed to Mr. Bromley, of your office, I have carefully perused. It is a clear and forcible presentation of the case, but, to my mind, does not assert sufficiently the strong equities of the case. I am now writing a short essay on "The law, the facts, and the equity of the case."

The original intent of Congress was that repayment should be made by service rendered—"all compensation, &c., shall be applied." The common sense and common law equity is that all repayments in advance of a debt not due draw interest at the same rate and in the same manner as the debt itself draws. These two points are the pith of all the law and all the interpretations of law in the case. The Supreme Court decisions in the sinking fund case, delivered by the Chief Justice, is so full of contradictions that it could not stand a moment before the present bench.

Taking the Union Pacific and Kansas Pacific together, the result of my plan of repayment is something extraordinary. To December 31, 1883, the total service in round figures was \$21,000,000, which average into 32 semi-annual payments drawing 6 per cent. simple interest gives a total credit of \$32,000,000, or thereabouts. To January 1, 1884, which includes the interest to December 31, 1883, the United States had paid out just \$32,093,000, the total amount of interest on the 33½ millions of bonds.

For a short period only were the companies paid one-half of the compensation for services rendered, and the Government has virtually gone back to the original condition of retaining all of it, while the companies themselves have appeared to acquiesce in that plan, both as to aided and non-aided lines.

As to the pamphlet itself, I shall print about five hundred, enough to go around the Senate and House if you should at any time deem it expedient to take this position. I believe it would reach that sensibility of real justice between man and man which is latent in the moral nature of all human beings. It goes right home to business principles.

A word now on a less important matter. I have some four hundred copies of the laws, &c. (two hundred for the Union Pacific and two hundred for the Central Pacific), which I am now endeavoring to finish; two hundred pages printed, and am just beginning on the Kansas Pacific mortgages. The paper, composition, press-work, binding, to finish me your two hundred copies, will alone cost me about \$300, and just now I am not overburdened with ready money. Collections hard to make and many of my ventures in trade and otherwise have turned out profitless. To finish this work I would like to have \$250 now and \$250 on their delivery. The Central Pacific has advanced me such an amount for its share.

Very truly yours,

THEOS. FRENCH.

VINELAND, N. J., March 1, 1886.

MY DEAR MR. MINK: On Friday and Saturday last I was in New York and missed having a talk with Mr. Ames by reason of his being called back to Boston. I had previously spoken with Mr. Dillon, who looked favorably on my proposition. On Friday I talked with Mr. Huntington and Mr. Tweed, and Mr. Colburn, who all thought that such an arrangement would be advantageous to both companies. Mr. H. said, "Yes; I think we will do so."

Now, what I want is to be employed by both companies—Union Pacific and Central Pacific—to look after pending legislation and the settlements involved, with a view to keep them thoroughly advised, to give them the benefit of my experience and suggestions, and to aid in working out an equitable adjustment of the accounts between them and the United States. Not only to aid in just and beneficial legislation, but to prevent, by all honorable and legitimate means, unjust, antagonistic, or proscriptive legislation.

The salary spoken of with Mr. Huntington was \$250 per month by each company. I should give up all other work and attend solely and wholly to the companies' affairs.

If Mr. Adams should be in New York or Washington this week, or at an early day, I would like to meet him, and will make it my business so to do, if you will notify me when and where. Or, Mr. A. might see Mr. Huntington some time and determine the matter.

Yours, truly,

THEOS. FRENCH.

VINELAND, N. J., March 3, 1886.

OLIVER W. MINK, Esq.,

Comptroller Union Pacific Railway Company, Boston, Mass.:

MY DEAR SIR: Your favor of the 2nd instant is received. I am sorry that you have so decided, for the reason that the amount involved in the "interest" matter alone for the Union Pacific is about three times that of the Central Pacific (\$15,000,000 to \$5,000,000), and it would be hardly fair to work to that end for both companies and be paid only by one.

Senator Wilson has asked me to meet him and help him with suggestions. Owing to the circumstances of to-day connected with the business of both companies, there are some things which might be proposed for one company which might not suit the other, and *vice versa*.

If the present bill (S. 1200) goes through *as at present worded*, or if the present laws remain in force and no new legislation is had, there is a strong probability that the companies will be successful in obtaining credit for interest on all repayments. I want to work to that end, but I do not care to do it for both companies and be remunerated only by one of them.

I shall be in New York again on Monday to see Mr. Huntington, and should you have any further word I would like to have it by Saturday.

Yours, very truly,

THEOS. FRENCH.

VINELAND, N. J., April 15, 1883.

MY DEAR Mr. MINK: Again I must ask you to excuse me for bothering you.

The New York Herald has signified its willingness to pay me for a series of articles which I am preparing. The first one is a history of the Central Branch, in which I take the ground that the Union Pacific has no right to hold the stock, and that Mr. Gould and his associates of 1879 can be required to take it back and pay the Union Pacific the principal and interest on that wild and profitless investment. Perhaps Mr. G. would be *glad* to take it, and the Union Pacific certainly should not object. Capitalized now at about \$7,000,000, the 100 miles of subsidized road is probably the very worst of all the Government's investment.

Now, I don't want to do or write anything detrimental to the interests of the Union Pacific, not only because of the kindness shown to me by Mr. Dillon and yourself in the past, but also because I think the outlook for your company was never so good. I have concluded an arrangement with Mr. Huntington to the end of the present session of Congress, holding myself available to counsel and aid if forwarding any matters before the Departments or Congress, and would very much like to make a similar arrangement with Union Pacific for a like consideration, viz.: \$250 now and \$250 at the close of the session.

Yours, truly.

THEOS. FRENCH.

EQUITABLE BUILDING,  
Boston, Mass., Friday, June 3, 1887.

#### UNION PACIFIC SECURITIES.

Mr. Henry McFarland, the treasurer, and Mr. Oliver W. Mink, the comptroller, appeared before the Commission and produced the following certificates of shares of stock owned by the company, which were counted and found to be correct:

Certificates for 1,244 shares of stock of the Atchison, Colorado and Pacific Railroad Company, of the par value of \$100 each, aggregating \$124,400.

Certificates for 3,221, 2,412 shares of Blue Valley Railway Company stock, amounting to \$322,124.12.

Certificates for 1,136 shares of stock of the Bakerville and Leadville Toll Road Company, of the par value of \$25 each, aggregating \$28,400.

Certificates for 960 shares of the stock of the Bozeman Coal Company, of the par value of \$100 each, aggregating \$96,000.

Certificates for 2,418 shares of stock of the Central Branch Union Pacific Railway Company, and a letter from the Hartford National Bank, of Hartford, Conn., certifying the fact that they held as collateral security 1,000 shares; a letter from the National Bank of Commerce, Boston, certifying that they held 500 shares of that stock as collateral security; a letter from the National Revere Bank, of Boston, certifying that they held as collateral security 500 shares; a letter from the Na-

tional Bank of North America, Boston, certifying that they held as collateral security 500 shares; a letter from the Mercantile Trust Company, New York, certifying that they held as collateral security 2,670 shares.

Mr. Mink stated that the Merchants' Bank have apparently omitted to advise the Union Pacific Company of 500 shares placed as collateral to a loan with them, and 500 shares with the Massachusetts Hospital Life Insurance Company. This accounts for 8,588 shares of stock of the Central Branch Union Pacific Railroad Company of the face value of \$858,800.

Certificates for 1,825 shares of stock of the Council Bluffs Street Railway Company, of the par value of \$25 each, aggregating \$45,625.

Certificates for 62,290 shares of stock of the Colorado Central Railroad Company, of Colorado, of the par value of \$100 each, aggregating \$6,229,000.

Certificates for 1,300 shares of stock of the Colorado Central Railroad Company, of Wyoming, of the par value of \$100 each, aggregating \$130,000.

Certificates for 37,109 shares of stock of the Credit Mobilier of America, of the par value of \$100 each, aggregating \$3,710,900.

Certificates for 10,000 shares of stock of the Denver, Marshall and Boulder Railway Company, of the par value of \$100 each, aggregating \$1,000,000.

Certificates for 61,351 shares of stock of the Denver, South Park and Pacific Railroad Company, of the par value of \$100 each, \$6,135,100.

Certificates for 4,800 shares of stock of the Echo and Park City Railway Company, of the par value of \$100 each, aggregating \$480,000.

Certificates for 60 shares of stock of the Gray's Peak, Snake River and Leadville Railroad Company, of the par value of \$100 each, aggregating \$6,000.

Certificates for 1,277 shares of stock of the Georgetown, Breckenridge and Leadville Railroad Company, of the par value of \$100 each, aggregating \$127,700.

Certificates for 8,085 shares of stock of the Greeley, Salt Lake and Pacific Railway Company, of the par value of \$100 each, aggregating \$808,500.

Certificates for 440 shares of stock of the Junction City and Fort Kearney Railway Company, of the par value of \$100 each, aggregating \$44,000.

Certificates for 13,134 shares of stock of the Kansas Central Railroad Company, of the par value of \$100 each, aggregating \$1,313,400.

A letter from the Atchison, Topeka and Santa Fé Railroad Company was produced acknowledging the fact that they held stock of the Kansas and Eastern Railroad Construction Company for the Union Pacific, amounting to 2,300 shares, of the par value of \$230,000.

Certificates for 644 shares of stock of the Laramie, North Park and Pacific Railroad and Telegraph Company were produced, of the par value of \$64,400.

Certificates for 4,650 shares of stock of the Lawrence and Emporia Railway Company were produced, of the par value of \$100 each, aggregating \$465,000.

Certificates for 240 shares of stock of the Loveland Pass Mining and Railroad Tunnel Company were produced, of the par value of \$20 each, aggregating \$4,800.

A letter was produced from the Atchison, Topeka and Santa Fé Railroad Company, acknowledging the fact that they held stock of the

Leavenworth, Topeka and Southwestern Railroad Company, amounting to 5,509 shares, property of the Union Pacific Railway Company, of the par value of \$550,900.

Certificates for 4,186½ shares of stock of the Manhattan, Alma and Burlingame Railway Company were produced, of the par value of \$100 each, aggregating \$418,650.

Certificates for 6,000 shares of stock of the Montana Railway Company, 70 per cent. paid, of the par value of \$100 each, aggregating \$600,000.

Certificates for 1,000 shares of stock of the Montana Union Railway Company were produced, 50 per cent. paid, of the par value of \$100 each, aggregating \$100,000.

Certificates for 9,595 shares of stock of the Nevada Central Railway Company were produced, of the par value of \$100 each, aggregating \$959,500.

A certificate for 25 shares of stock of the Nevada Improvement Company was produced, and a letter of ownership, from the secretary of the company, of an additional 25 shares, making in all 50 shares, of the par value of \$100 each, aggregating \$5,000.

Certificates for 18,669 shares of stock of the Omaha and Republican Valley Railway Company of Nebraska were produced, of the par value of \$100 each, aggregating \$1,866,900.

Certificates for 80,156 shares of stock of the Oregon Short Line Railway Company were produced, of the par value of \$100 each, aggregating \$8,015,600.

As to the Ogden and Syracuse Railway Company, 10 per cent. was paid on 2,000 shares, the funds being held by the Union Pacific Railway Company, the certificates not yet having been issued.

As to the Occidental and Oriental Steamship Company, installment receipts were produced for 3 per cent. on 50,000 shares, or \$150,000.

Certificates for 24,000 shares of stock of the Pacific Express Company were produced, of the par value of \$100 each, aggregating \$2,400,000.

Certificates for 10,491 shares of stock of the Salina, Lincoln and Western Railway Company were produced; 9 shares being held by A. L. Williams, attorney at Topeka for the Union Pacific Railway Company, to qualify directors; total aggregating \$1,050,000.

Certificates for 2,317 shares of stock of the Salina and Southwestern Railway Company were produced, of the par value of \$100 each, aggregating \$231,700.

Certificates for 10,800 shares of stock of the Salt Lake and Western Railway Company of Utah were produced, of the par value of \$100 each, aggregating \$1,080,000.

Certificates for 10,000 shares of stock of the South Park and Leadville Short Line Railroad Company were produced, of the par value of \$100 each, aggregating \$1,000,000.

Certificates for 23,015 shares of stock of the Saint Joseph and Grand Island Railroad Company were produced, of the par value of \$100 each, aggregating \$2,301,500.

Certificates for 1,160 shares of stock of the Saint Louis and Mississippi Valley Transportation Company were produced, of the par value of \$100 each, aggregating \$116,000.

Certificates for 18½ shares of stock of the Union Pacific Railway Company were produced, of the par value of \$100 each, aggregating \$1,850.

Certificates for 1,596 shares of stock of the Union Pacific Railroad Company were produced, of the par value of \$100 each, aggregating \$159,600.

Certificates for 18,869 shares of stock of the Utah Central Railway Company were produced, of the par value of \$100 each, aggregating \$1,886,900.

Certificates for 48,164 shares of stock of the Utah and Northern Railway Company were produced, of the par value of \$100 each, aggregating \$4,816,400.

Certificates for 1,385 shares of stock of the Union Coal Company were produced, of the par value of \$100 each, aggregating \$138,500.

Certificates for 810 shares of stock of the Union Elevator Company of Omaha were produced, of the par value of \$100 each, aggregating \$81,000.

Certificates for 467 shares of stock of the Union Elevator Company, Council Bluffs, Iowa, were produced, of the par value of \$100 each, aggregating \$46,700.

Certificates for 210 shares of stock of the Union Depot Company, Kansas City, were produced, of the par value of \$100 each, aggregating \$21,000.

Certificates for 5,550 shares of stock of the Utah and Nevada Railway Company were produced, of the par value of \$100 each, aggregating \$555,000.

In addition to the certificates of stock produced, the Commission is informed that Messrs. Gould and Sage, as trustees under the Kansas Pacific consolidated mortgage, hold the following certificates of stock:

170 shares Denver and Boulder Valley Railroad Company stock, par value	\$17,000
600 shares Golden, Boulder and Caribou Railway Company stock, par value	60,000
7,200 shares Junction City and Fort Kearney Railway Company stock, par value	720,000
2,000 shares National Land Company stock, 20 per cent. paid, par value	200,000
20,010 shares Solomon Railroad Company stock, par value, \$50 per share	1,000,500

OLIVER W. MINK.

The Commission then adjourned to meet on Saturday, June 4, at 10 o'clock a. m.

Mr. Mink subsequently sent the following statement with reference to the securities owned by the Union Pacific Railway Company:

[The Union Pacific Railway Company. Charles F. Adams, president; Henry McFarland, secretary and treasurer; Oliver W. Mink, comptroller; James G. Harris, assistant treasurer and transfer agent; Alex. Millar, assistant secretary. Post-office box No. 5287.]

EUQUITABLE BUILDING,  
Boston, June 14, 1887.

HON. ROBERT E. PATTISON,

*Chairman United States Pacific Railway Commission, 10 Wall Street, New York:*

DEAR SIR: In accordance with your request I have made an examination of the accounts relating to the securities owned by the Union Pacific Railway Company, and I have now to report to you upon them.

The bonds owned by the company, and their location, are as follows:

Council Bluffs Street Railway Company bonds, owned by the company and in the hands of the treasurer	\$16,000
Colorado Central Railroad Company first mortgage 7 per cent. bonds.	
Pledged as collateral:	
Tremont National Bank, Boston	\$87,000
State National Bank, Boston	82,000
Massachusetts Hospital Life Insurance Company, Boston	27,000
Merchants' National Bank, Boston	119,000



## Colorado Central Railroad Company first mortgage 7 per cent. bonds.

## Pledged as collateral:

American Loan and Trust Company, Boston .....	\$129,000
Warren & Co., Boston .....	38,000
Central Trust Company, New York .....	143,000
Mercantile Trust Company, New York .....	144,000
National Bank of Commerce, New York .....	235,000
Chemical National Bank, New York .....	128,000
Six per cent. collateral trust .....	2,078,000
Five per cent. collateral trust .....	1,379,000

4,629,000

Deposited with the First National Bank of Denver as security for appeal bonds.....

50,000

In the hands of the New England Trust Company of Boston, subject to this company's order.....

18,000

Total owned by the company..... \$4,697,000

## Colorado Central Railroad Company first mortgage 8 per cent. bonds,

22,000

owned by the company and in the hands of the treasurer.....  
Denver, Marshall and Boulder Railroad Company first mortgage 5 per cent. bonds:

Deposited with the American Loan and Trust Company, Boston, trustee under the indenture of July 1, 1886.....

202,000

In the hands of the treasurer.....

14,000

Total owned by the company..... 216,000

## Denver, South Park and Pacific Railroad Company first mortgage 6 per cent. bonds:

Pledged in the 5 per cent. collateral trust..... \$1,777,000

In the hands of the New England Trust Company of Boston, subject to this company's order.....

22,000

In the hands of the treasurer.....

998,000

Total owned by the company..... 2,797,000

## Echo and Park City Railway Company first mortgage 6 per cent. bonds, owned by the company and in the hands of the treasurer.....

430,000

Georgetown, Breckenridge and Leadville Railway Company first mortgage 7 per cent. bonds, owned by the company and in the hands of the treasurer .....

127,000

Greeley, Salt Lake and Pacific Railway Company first mortgage 7 per cent. bonds, owned by the company and in the hands of the treasurer.....

808,000

Kansas Central Railroad Company first mortgage 6 per cent. bonds, owned by the company and in the hands of the treasurer .....

1,162,000

Loveland Pass Mining and Railroad Tunnel Company first mortgage 7 per cent. bonds, owned by the company and in the hands of the treasurer...

400,000

Manhattan, Alma and Burlingame Railway Company first mortgage 6 per cent., owned by the company and in the hands of the treasurer.....

339,000

Marysville and Blue Valley Railroad Company bonds, acquired by the company but not yet delivered.....

128,000

Nevada Central Railway Company income bonds, owned by the company and in the hands of the treasurer .....

250,000

## Omaha and Republican Valley Railroad Company first mortgage 7 per cent. bonds.

## Pledged as collateral:

National Bank of Commerce, New York .....	\$275,000
Six per cent. collateral trust .....	1,023,000
Five per cent. collateral trust .....	676,000

1,974,000

In the hands of the New England Trust Company, of Boston, subject to this company's order.....

8,000

In the hands of the treasurer.....

273,000

Total owned by the company..... 2,255,000

Omaha, Niobrara and Black Hills Railroad Company first mortgage 7 per cent. bonds.

Pledged as collateral:

Tremont National Bank, Boston.....	\$93,000
State National Bank, Boston.....	95,000
Massachusetts Hospital Life Insurance Company, Boston.....	250,000
Merchants' National Bank, Boston.....	128,000
American Loan and Trust Company, Boston.....	165,000
Warren & Co., Boston.....	57,000
Central Trust Company, New York.....	70,000

868,000

In the hands of the treasurer..... 109,000

Total owned by the company..... \$977,000

Salina, Lincoln and Western Railway Company first mortgage 6 per cent. bonds, owned by the company and deposited with the American Loan and Trust Company, Boston, trustee, under the indenture of July 1, 1886.....

519,000

Salt Lake and Western Railway Company first mortgage 6 per cent. bonds, owned by the company and in the hands of the treasurer.....

1,080,000

Saint Louis, Council Bluffs and Omaha Railroad Company 6 per cent. bonds, owned by the company and in the hands of the treasurer.....

19,000

Utah Southern Railroad Extension first mortgage 7 per cent. bonds.

Pledged as collateral:

Merchants' National Bank, Boston.....	\$25,000
State National Bank, Boston.....	92,000
Tremont National Bank, Boston.....	92,000
Chemical National Bank, New York.....	228,000
Mercantile Trust Company, New York.....	254,000
Central Trust Company, New York.....	150,000
American Loan and Trust Company, Boston.....	42,000
Five per cent. collateral trust.....	92,000

975,000

In the hands of the New England Trust Company, of Boston, subject to this company's order..... 1,000

In the hands of the treasurer..... 6,000

Total owned by the company..... 982,000

Utah and Northern Railway Company first mortgage 7 per cent. bonds.

Pledged as collateral:

Massachusetts Hospital Life Insurance Company, Boston.....	\$316,000
Six per cent. collateral trust.....	2,356,000
Five per cent. collateral trust.....	2,204,000

4,876,000

In the hands of the New England Trust Company, of Boston, subject to this company's order..... 27,000

In the hands of the treasurer..... 65,000

Total owned by the company..... 4,968,000

Junction City and Fort Kearney Railway Company first mortgage 7 per cent. bonds, owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage.....

970,000

Junction City and Fort Kearney Railway Company, Belleville Branch, bonds owned by the company and deposited with the American Loan and Trust Company, Boston, trustee, under the indenture of July 1, 1886.....

171,000

Union Pacific Railroad Company first mortgage 6 per cent. bonds.

Pledged as collateral:

National Bank of Commerce, New York.....	\$77,000
In the hands of the treasurer.....	5,000

Total owned by the company..... 82,000

## Union Pacific Railroad Company sinking fund 8 per cent. bonds.

Pledged with the American Loan and Trust Company, Boston, in connection with a guarantee for the completion, within a given time, of first 125 miles of the Cheyenne and Northern Railway .....	\$60,000
In the hands of the treasurer .....	366,000

Total owned by the company ..... \$426,000

Union Pacific Omaha Bridge 8 per cent. bonds, owned by the company and in the hands of the treasurer .....	5,000
Union Pacific Omaha Bridge renewal 5 per cent. bonds, owned by the company and in the custody of the Central Trust Company of New York ..	103,000
Kansas Pacific subordinated income bonds owned by the company and in the hands of the treasurer .....	15,200
Kansas Pacific unsubordinated income bonds, owned by the company and in the hands of the treasurer .....	23,100

## Kansas Pacific first mortgage 6 per cent. bonds.

## Pledged as collateral:

National Bank of Commerce, New York .....	\$29,000
In the hands of Lee, Higginson & Co., Boston, subject to the order of this company .....	5,000

Total owned by the company ..... 34,000

Ord Precinct, Valley County, Nebraska, bonds, owned by the company and in the hands of the treasurer .....	12,000 00
Kansas Pacific Railway consolidated mortgage 6 per cent. bonds, owned by the company and deposited with the American Loan and Trust Company, Boston, trustee, under the indenture of July 1, 1856 .....	6,000 00
Denver and Boulder Valley Railroad Company first mortgage 7 per cent. bonds, owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage .....	550,000 00
Golden, Boulder and Caribou Railroad Company first mortgage 8 per cent. bonds, owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage .....	60,000 00
Lawrence and Emporia Railroad Company first mortgage 6 per cent. bonds, owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage .....	465,000 00
Salina and Southwestern Railway Company first mortgage 6 per cent. bonds, owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage .....	540,000 00
Solomon Railroad Company first mortgage 6 per cent. bonds, owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage .....	575,000 00

## The stocks owned by the company and their location are as follows:

Atchison, Colorado and Pacific Railroad Company stock, owned by the company and in the hands of the treasurer, 1,244 shares .....	124,400 00
Blue Valley Railway Company stock, owned by the company and in the hands of the treasurer, 3,221 <sup>3413</sup> / <sub>10000</sub> shares .....	322,124 12
Bakerville and Leadville Toll Road Company stock, owned by the company and in the hands of the treasurer, 1,136 shares .....	28,400 00
Bozeman Coal Company, owned by the company and in the hands of the treasurer, 960 shares .....	96,000 00

## Central Branch Union Pacific Railroad Company stock:

## Pledged as collateral:

	Shares.
Massachusetts Hospital Life Insurance Company, Boston ..	500
Merchants' National Bank, Boston .....	500
National Bank of North America, Boston .....	500
National Revere Bank, Boston .....	500
National Bank of Commerce, Boston .....	500
Hartford National Bank .....	1,000
Mercantile Trust Company, New York .....	2,670

In the hands of the treasurer ..... 6,170  
2,418

Total owned by the company ..... 8,588

858,800 00

Council Bluffs Street Railway Company stock, owned by the company and in the hands of the treasurer, 1,825 shares.....	\$45,625 00
Colorado Central Railroad Company, Colorado, stock, owned by the company and in the hands of the treasurer, 62,290 shares .....	6,229,000 00
Colorado Central Railroad Company, Wyoming, stock, owned by the company and in the hands of the treasurer, 1,300 shares.....	130,000
Credit Mobilier of America stock, owned by the company and in the hands of the treasurer, 37,109 shares.....	3,710,900
Denver, Marshall and Boulder Railway Company stock, owned by the company and in the hands of the treasurer, 10,000 shares.....	1,000,000
Denver, South Park and Pacific Railroad Company stock, owned by the company and in the hands of the treasurer, 61,311 shares.....	6,135,100
Echo and Park City Railway Company stock, owned by the company and in the hands of the treasurer, 4,800 shares.....	480,000
Gray's Peak, Snake River and Leadville Railroad Company stock, owned by the company and in the hands of the treasurer 60 shares .....	6,000
Georgetown, Breckenridge and Leadville Railroad Company stock, owned by the company and in the hands of the treasurer, 1,277 shares .....	127,700
Greeley, Salt Lake and Pacific Railway Company stock, owned by the company and in the hands of the treasurer, 8,085 shares .....	808,500
Junction City and Fort Kearney Railroad Company stock:	

In the hands of the treasurer.....	Shares. 440
Owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage.....	7,200

Total owned by the company.....	7,640	764,000
Kansas Central Railroad Company stock, owned by the company and in the hands of the treasurer, 13,134 shares .....	1,313,400	
Kansas and Eastern Railroad Construction Company stock, owned by the Union Pacific and in the custody of the Atchison, Topeka and Santa Fé Railroad Company, 2300 shares.....	230,000	
Laramie, North Park and Pacific Railroad and Telegraph Company stock, owned by the company and in the hands of the Treasurer, 644 shares ..	64,400	
Lawrence and Emporia Railroad Company stock, owned by the company and in the hands of the treasurer, 4,650 shares .....	465,000	
Loveland Pass Mining and Railroad Tunnel Company stock, owned by the company and in the hands of the treasurer, 240 shares .....	4,800	
Leavenworth, Topeka and Southwestern Railway Company stock, owned by the Union Pacific and in the custody of the Atchison, Topeka and Santa Fé Railroad Company, 5,509 shares .....	550,900	
Manhattan, Alma and Burlingame Railroad Company stock, owned by the company and in the hands of the treasurer, 4,182½ shares.....	418,650	
Montana Railway Company stock, owned by the company and in the hands of the treasurer, 6,000 shares, 70 per cent. paid.....	420,000	
Montana Union Railway Company stock, owned by the company and in the hands of the treasurer, 1,000 shares, 50 per cent paid.....	50,000	
Nevada Central Railroad Company stock, owned by the company and in the hands of the treasurer, 9,595 shares .....	959,500	
Nevada Improvement Company stock, owned by the company and in the hands of the treasurer, 50 shares .....	5,000	
Omaha and Republican Valley Railway Company of Nebraska stock, owned by the company and in the hands of the treasurer, 18,660 shares.	1,833,900	
Oregon Short Line Railway Company stock, owned by the company and in the hands of the treasurer, 80,156 shares.....	8,015,600	
Ogden and Syracuse Railway Company stock, owned by the company and in the hands of the treasurer, 2,000 shares, 10 per cent. paid .....	20,000	
Occidental and Oriental Steamship Company stock, owned by the company and in the hands of the treasurer, 50,000 shares, 3 per cent. paid ..	150,000	
Pacific Express Company stock, owned by the company and in the hands of the treasurer, 24,000 shares .....	2,400,000	
Salina, Lincoln and Western Railway Company stock, owned by the company and in the hands of the treasurer, 10,500 shares .....	1,050,000	
Salina and Southwestern Railway Company stock, owned by the company and in the hands of the treasurer, 2,317 shares .....	231,700	
Salt Lake and Western Railway Company stock, owned by the company and in the hands of the treasurer, 10,800 shares.....	1,080,000	
South Park and Leadville Short Line Railroad Company stock, owned by the company and in the hands of the treasurer, 10,000 shares.....	1,000,000	
Saint Joseph and Grand Island Railroad Company stock, owned by the company and in the hands of the treasurer, 23,015 shares.....	2,301,500	

Saint Louis and Mississippi Valley Transportation Company stock, owned by the company and in the hands of the treasurer, 1,160 shares.....	\$116,000
Union Pacific Railway Company stock, owned by the company and in the hands of the treasurer, 18½ shares .....	1,850
Union Pacific Railroad Company stock, owned by the company and in the hands of the treasurer, 1,596 shares.....	159,600
Utah Central Railway Company stock, owned by the company and in the hands of the treasurer, 18,869 shares.....	1,886,900
Utah and Northern Railway Company stock, owned by the company and in the hands of the treasurer, 48,164 shares.....	4,816,400
Union Coal Company, owned by the company and in the hands of the treasurer, 1,385 shares .....	138,500
Union Elevator Company, Omaha, stock, owned by the company and in the hands of the treasurer, 810 shares.....	81,000
Union Elevator Company, Council Bluffs, stock, owned by the company and in the hands of the treasurer, 467 shares.....	46,700
Union Depot, Kansas City, stock, owned by the company and in the hands of the treasurer, 210 shares .....	21,000
Utah and Nevada Railway Company stock, owned by the company and in the hands of the treasurer, 5,550 shares.....	555,000
Denver and Boulder Valley Railroad Company stock, owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage, 170 shares .....	17,000
Golden, Boulder and Caribou Railway Company stock, owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage, 600 shares .....	60,000
Solomon Railroad Company stock, owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage, 20,010 shares.	1,000,500
National Land Company stock, owned by the company and held by the trustees under the Kansas Pacific consolidated mortgage, 2,000 shares, 20 per cent. paid .....	40,00

## RECAPITULATION.

## Bonds:

Held in the 6 per cent. collateral trust .....	\$5,457,000 00
Held in the 5 per cent. collateral trust.....	6,128,000 00
Held by Messrs. Gould and Sage, trustees, under the Kansas Pacific consolidated mortgage .....	3,160,000 00
Held by the American Loan and Trust Company, Boston, trustee under the indenture of July 1, 1886.....	898,000 00
Pledged as collateral security for loans.....	3,620,000 00
Held by the treasurer .....	6,594,800 00
Held subject to the order of the company.....	184,000 00
Held as security for appeal bonds, &c .....	110,000 00
Acquired but not yet delivered.....	128,000 00
Total .....	<u>26,279,800 00</u>

## Stocks:

Held by Messrs. Gould and Sage, trustees, under the Kansas Pacific consolidated mortgage.....	\$1,537,500 00
Pledged as collateral security for loans.....	617,000 00
Held by the treasurer .....	49,168,949 12
Held, subject to the order of the company.....	780,900 00
Total .....	<u>52,404,349 12</u>

## SUMMARY.

Bonds owned by the company, par value.....	\$26,279,800 00
Stocks owned by the company, par value.....	52,404,349 12
Grand total .....	<u>78,684,149 12</u>

Respectfully submitting the above, I remain, yours, very truly,  
 OLIVER W. MINK,  
 Comptroller.



EQUITABLE BUILDING,  
*Boston, Mass., Saturday, June 4, 1887.*

The Commission met pursuant to adjournment.

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

STATEMENT FROM GOVERNMENT ACCOUNTS OF TRANSPORTATION  
SERVICES.

Commissioner ANDERSON. I offer, in connection with the testimony of Mr. Mink, a statement prepared by Mr. Calhoun from the Government accounts and containing a statement of all transportation services appearing on the Government bond and interest account; also a statement of all transportation services on aided and non-aided roads applying to the sinking fund; also a statement of cash payments by the companies, and interests accrued on the investments.

The paper is marked "Exhibit 1, June 4, 1887," and is as follows:

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Table showing credits for transportation to the Union Pacific Company, the Central Branch Union Pacific Company, and the Kansas Pacific Company and amounts covered into the Treasury to the credit of the sinking fund of the Union Pacific Company (to March 31, 1887.)

Union Pacific Railroad Company.					Central Branch U. P. R. R. Co.		Kansas Pacific Railroad Company.		
Date.	Credits for transportation.	Transportation applied to sinking fund.		Cash payments to sinking fund.	Interest on sinking fund bonds.	Date.	Credits for transportation.	Date.	Credits for transportation.
		Aided roads.	Non-aided roads.						
Jan. 27, 1870.....	\$885,731 44					Feb. 10, 1870.....	\$3,490 79	Feb. 10, 1870.....	\$546,569 10
Mar. 25, 1870.....	166,156 43					Apr. 7, 1870.....	1,811 13	Apr. 2, 1870.....	84,655 89
Mar. 29, 1870.....	55,539 67					Aug. 19, 1870.....	2,100 00	Aug. 17, 1870.....	53,134 13
Sept. 2, 1870.....	182,149 33					July 31, 1871.....	1,875 00	Feb. 6, 1871.....	83,789 54
Feb. 6, 1871.....	145,375 46					Jan. 24, 1872.....	6,562 50	July 31, 1871.....	89,182 27
July 31, 1871.....	305,562 70					Jan. 8, 1873.....	1,875 00	Jan. 9, 1872.....	70,498 37
Jan. 9, 1872.....	224,345 05					July 11, 1873.....	937 50	July 24, 1872.....	46,075 39
July 24, 1872.....	217,139 35					Jan. 24, 1874.....	5,116 35	Jan. 8, 1873.....	93,274 34
Jan. 8, 1873.....	115,302 58					July 11, 1874.....	3,781 23	July 11, 1873.....	15,016 33
July 11, 1873.....	86,143 77					Feb. 5, 1875.....	4,375 00	Jan. 26, 1874.....	123,437 92
Jan. 26, 1874.....	228,459 67					July 22, 1875.....	7,500 00	July 11, 1874.....	85,558 08
July 10, 1874.....	204,694 76					Feb. 5, 1876.....	4,983 55	Feb. 2, 1875.....	36,130 00
Feb. 1, 1875.....	243,981 38					July 28, 1876.....	14,090 30	July 23, 1875.....	76,161 95
July 22, 1875.....	444,670 66					Jan. 8, 1878.....	4,500 00	Feb. 5, 1876.....	36,780 63
Feb. 5, 1876.....	438,889 51					Aug. 10, 1878.....	4,500 00	Aug. 21, 1876.....	7,662 55
Aug. 19, 1876.....	135,969 12					Oct. 6, 1880.....	3,947 19	Jan. 29, 1877.....	67,691 10
Jan. 20, 1877.....	47,166 75					Dec. 8, 1880.....	1,697 19	July 28, 1877.....	15,961 57
July 28, 1877.....	660,170 15					Jan. 5, 1881.....	6,926 91	Mar. 8, 1878.....	670 01
Mar. 8, 1878.....	347,062 17	(1879)			(1879)	Oct. 31, 1881.....	27,346 22	Aug. 10, 1878.....	180 35
Aug. 10, 1878.....	718,767 11	\$200,809 86			\$743 75	Jan. 5, 1882.....	18,547 47	Oct. 6, 1879.....	212,153 47
Oct. 6, 1880.....	292,343 91	(1880)			(1880)	Sept. 18, 1882.....	15,516 68	Dec. 16, 1879.....	580,226 66
Dec. 28, 1880.....	1,172,843 52	331,694 37			12,034 36	June 27, 1883.....	15,607 79	May 21, 1881.....	45,199 33
May 21, 1881.....	96,268 48				(1881)	Sept. 14, 1883.....	17,990 79	July 5, 1881.....	77,287 40
July 5, 1881.....	390,157 51	(1881)			19,540 98	Nov. 26, 1883.....	9,526 46	Oct. 31, 1881.....	55,327 04
Oct. 31, 1881.....	188,452 45	285,222 30			(1882)	Oct. 13, 1884.....	10,241 28	June 5, 1882.....	62,719 12
June 5, 1882.....	142,941 74	(1882)			33,019 35	Dec. 11, 1884.....	2 89	Sept. 18, 1882.....	59,646 07
Sept. 18, 1882.....	91,416 14	298,542 43			(1883)	Feb. 5, 1885.....	9,535 71	June 27, 1883.....	96,952 59
June 27, 1883.....	226,242 90	(1883)			30,960 05	Oct. 13, 1885.....	47,803 50	June 29, 1883.....	3,216 23
Sept. 14, 1883.....	362,451 25	420,110 12			(1884)	June 24, 1886.....	19,249 56	Sept. 14, 1883.....	92,671 39
Nov. 26, 1883.....	117,304 02				42,809 48	Mar. 31, 1887.....	17,789 21	Nov. 20, 1883.....	150,699 87
Oct. 13, 1884.....	588,845 95	(1884)			(1885)			Oct. 13, 1884.....	85,694 02
Dec. 11, 1884.....	483,968 97	071,895 84			\$788,173 43			Dec. 11, 1884.....	267 99
Feb. 6, 1885.....	480,741 82	(1885)			(1885)			Feb. 5, 1885.....	152,630 75
Oct. 13, 1885.....	434,892 68	641,471 72	\$723,917 42		(1886)			Oct. 13, 1885.....	76,371 88
June 24, 1886.....	182,820 89	(1886)			633,541 03			June 24, 1886.....	92,871 05
Mar. 31, 1887.....	167,228 71	350,049 65	360,800 99		(10 m's 1887)			Mar. 31, 1887.....	45,705 15
Ten months of 1887.....		304,405 20	282,625 68		206,478 85				
	11,281,208 00	3,804,201 49	1,367,344 09	1,421,714 46	619,601 48		289,293 20		3,422,870 43

## RECAPITULATION.

<b>Credits to transportation:</b>	
Union Pacific Company .....	\$11,261,208 00
Central Branch .....	289,233 20
Kansas Pacific .....	2,422,870 43
Total credits to March 31, 1887 .....	14,993,311 63
<b>Credits to sinking fund:</b>	
Aided roads .....	3,804,201 49
Non-aided roads .....	1,367,344 09
Total credits in account .....	5,171,545 58
Credits in cash .....	1,421,714 46
Credits of interest on bonds .....	619,601 48
Total credits to March 31, 1887 .....	7,212,861 52
	22,206,172 15

E. &amp; O. E.

Respectfully submitted.

WM. CALHOUN,  
*Accountant.*

BOSTON, MASS., June 2, 1887.

## GOULD'S ACCOUNT CURRENT.

Commissioner ANDERSON. I also offer, in connection with Mr. Mink's evidence, Mr. Jay Gould's accounts current with the Kansas Pacific Railway Company, the Union Pacific Railroad Company, and the Union Pacific Railway Company.

The papers are marked respectively "Exhibit 2, 3, and 4, June 4, 1887," and are as follows:

*Jay Gould in account with the Kansas Pacific Railway Company.*

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U. S. PACIFIC RAILWAY COMMISSION.

1879.			1879.		
July 31	To amount from treasurer .....	\$800 00	Aug. 31	By 106 funding coupons due April 1, 1877, to be applied on notes and interest, at \$50 each .....	\$5,300 00
Sept. 30	To following amounts paid him on account of money advanced and bonds purchased by him, viz:			By payments and advances made by Mr. Gould from April 12 to 25:	
	July 1st, account bonds .....	\$16,137 04		For am't deposited with U. S. Trust Co., New York, in accordance with circular issued to bondholders to pay past due interest, &c., on bonds:	
	Sept. 1st, account loan .....	100,000 00		Deposited, account interest .....	\$1,053,938 38
	Sept. 5th, account loan .....	50,000 00		Deposited, account expenses, &c .....	125,000 00
	Sept. 17th, account loan .....	75,000 00			\$1,178,938 38
	Sept. 30, account bonds .....	10,841 71		For notes of the Ks. Pac. R'y held by Rutten & Boun, issued June 12, '75, paid by him, viz:	
Dec. 30	To this amount to reverse entry (part of \$1,552,241.24) of Aug. 31, 1879; the 10 Den. Pac. bonds having been returned to him .....	6,912 50		Note No. 322 .....	62,500 00
"	To this amount paid Jay Gould by the trustees:			Note No. 323 .....	17,500 00
	July 10, 1879 .....	125,000 00			80,000 00
	Aug. 30, 1879 .....	15,000 00		For am't advanced to pay 4,062 bond and certificate coupons due June, 1876 and '7, at \$56.70 each .....	230,372 10
		140,000 00		For \$23,000 1st m't'ge land grant bonds purchased by him .....	26,978 75
1880.	To bonds issued to him (Mr. Gould) in settlement of his account, \$2,000,000 consolidated mortgage bonds, at 75 cents .....	1,500,000 00		For 10 1st m't'ge Denver Pacific R'y Co. bonds purchased by him, 10 bonds at \$1,000 each, \$10,000; cost .....	6,912 50
Jan. 31	To cash paid treasurer for fractional bonds .....	185 93		For the following am'ts advanced by him for services, &c.:	
"	To amount to correct over-credit in St. Joseph and Pacific bond entry .....	20		J. P. Usher .....	\$1,000 00
"	To balance .....	5,390,668 28		C. E. Bretherton .....	500 00
				N. Y. Stock Exchange .....	50 00
				Rutten & Boun .....	750 00
				For int. charged and paid by him, to June 1, '79, for payments and advances made:	
				Int. charges on deposits and advances .....	\$11,471 99
				Int. from June 7, '76, to Apr. 25, '79, paid on note sold by Rutten & Boun, at 8½ per cent. ....	19,606 67
					31,078 66

		Less int. received from U. S. Trust Co. on deposit of above amount from Apr. 15 to June 7, at 2½ per cent....	4,339 15		
			26,739 51	29,039 51	1,552,241 24
Nov. 30		By amount paid treasurer on account consolidated bonds Oct. 22nd, 1879 .....			261,935 04
Dec. 31		By payments made by him as per statement of Oct. 22, 1879, filed hereto:			
		For Jay Gould .....	\$45 00		
		For J. P. Usher .....	19,409 29		
		For disc't., int., and exchange....	35,327 70	54,781 99	
		For payments to John Evans, Sept. 24, 1879, for services as trustee D. P. and D. and B. V. Ry. Companies .....	5,000 00		
		For payment to A. G. Dulman, Sept. 5, '89, for services as trustee D. P. and D. P. and B. V. Rys. and for legal and travelling expenses, &c., paid by him during 1877, 1878, and 1879 .....	3,020 03	8,020 03	
		For payment to Baltzer and Lichtenstein for interest on matured interest on June and Dec., bonds .....		4,533 53	
		For payment to C. C. Welch for 665 shares (two-thirds of the total stock of 1,000 shares at \$50 each) in the Welch Coal Mining Company of Colorado .....	\$12,879 42		
		Less ¼ chargeable to U. Pac. R. R. Co .....	6,349 71	6,349 71	
		For Union Pacific R. R. Co., ¼ cost of 665 shares of Welch Coal Mining Co's stock, as per above entry .....		6,349 71	
1880.					80,214 97
Jan. 31.		For amount paid by him to treasurer, balance on consolidated bonds as per treasurer's Jan'y statement .....			185 96
"		For 7,616 shares Central Branch Union Pacific Railroad Company stock .....			1,326,500 00
"		For 10,000 shares Denver Pacific Railway and Telegraph Co., stock at \$10 per share .....			100,000 00

GOULD'S ACCOUNT CURRENT.

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*Jay Gould in account with the Kansas Pacific Railway Company—Continued.*

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U. S. PACIFIC RAILWAY COMMISSION.

				1880. Jan. 31	For bonds and scrip bought from him and paid for in stock, as follows: St. Joseph and Pacific R. R. first mortgage bond scrip .....	\$204 23	
					190 St. Joseph and Pacific \$100 first mortgage bonds .....	19,000 00	
					272 St. Joseph and Pacific \$500 first mortgage bonds .....	136,000 00	
					865 St. Joseph and Pacific \$1,000 first mortgage bonds .....	865,000 00	\$1,020,204 23
				"	For Kansas and Nebraska second mortgage bonds: 2 \$100 bonds .....	200 00	
					3 \$500 bonds .....	1,500 00	
					23 \$1,000 bonds .....	23,000 00	24,700 00
				"	For Kansas and Nebraska 1st mortgage bonds and scrip: Scrip .....	120 00	
					322 \$100 bonds .....	32,200 00	
					89 \$500 bonds .....	44,500 00	
					653 \$1,000 bonds .....	653,000 00	729,820 00
				"	By \$59,000 St. Joseph and Denver City R. R. receiver's certificates (first lien on the St. Joseph and Western Railroad) bought of Mr. Jay Gould, to be paid for in stock: 45 St. Joseph and Denver City R. R., western division, receiver's certificates, of \$1,000 each, at par. \$45,000		
					14 St. Joseph and Denver City R. R., eastern division, receiver's certificates, \$1,000 each, at par. 14,000		59,000 00
				"	By the following securities bought from him, to be paid for in stock: For 15,362 shares of the capital stock of the St. Joseph and Western R. R. Co., at \$20 per share .....	307,240 00	
					For 479 Kansas Central first mortgage bonds, at \$1,000 each, and 2,251 shares of Kansas Central R. R. Co. stock .....	479,000 00	786,240 00

				For amount advanced by Mr. Gould, now assumed by this co. on account of 375 first mortgage bonds of the Hastings and Grand Island R. R. Co., of \$1,000 each .....	60,204 25
				By 784 St. Joseph Bridge Building Co. first mortgage sinking fund 7 per cent gold bonds, and 4,000 shares St. Joseph Bridge Building Co. stock, at par, for bonds .....	784,000 00
			7,290,545 66		7,290,545 66
				By balance .....	5,390,668 28

*Jay Gould in account with the Union Pacific Railroad Company.*

1880.				1880.		
Jan. 5.	To 30 collateral trust bonds delivered to Mr. Gould by President Dillon as cash, January 1, at par .....		\$30,000 00	Jan. 1.	By amount of dividend No. 18, stock in the name of the following persons: W. E. Connor .....	\$30,900 00
31.	To cash paid for Mr. Gould's account at Omaha .....		36,000 00		Sidney Dillon, trustee .....	18,000 00
	To balance .....		9,807 58	5.	By am't paid by Mr. Gould to Mr. Dillon Jan. 2, to balance our accounts against Mr. Gould to the 1st inst., excepting the charges for advances to the Hastings and Grand Island Railroad Co. since Sept. 30, 1879 .....	\$54,900 00
			75,807 58			22,907 58
					By balance .....	75,807 58
						9,807 58

*Jay Gould in account with the Union Pacific Railway Company—Continued.*

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U. S. PACIFIC RAILWAY COMMISSION.

1880.				1880.			
Feb. 16	To 34,641 shares of Union Pacific R'y Co. stock delivered by Asst. Treas. Ham to Mr. Gould at par, in payment for securities purchased by the Kansas Pacific R'y Co., and which have now come into the ownership of this company.....		\$3,464,100 00	Feb. 2	By cash balance, as per account annexed.....		\$9,807 58
28	To balance due Mr. Gould on purchase of St. Joseph and Western R. R. Co. bonds and stock, paid to him by Mr. Ham, February 10.....		24 01	"	By balance, as per account annexed.....		5,390,668 28
"	To 600 Collateral Trust Bonds delivered to Mr. Gould on account of the purchase made by the Kansas Pacific R'y Co. of 7,616 shares of Central Branch Union Pacific R. R. Co. stock, and of 10,000 shares of Denver Pacific R'y and Telegraph Co. stock.....		600,000 00	Apr. 1	By dividend No. 1, as follows:		
Mar. 31	927 Consolidated Mortgage Bonds delivered to Mr. Gould, Mar. 23, on the accounts stated below: For payment by means of above bonds of one-half the am't due him on account of the Kansas Pacific R'y Co. for 7,616 shares of stock of the Central Branch Union Pacific R. R. Co.....	\$913,250 00			G. P. Morosini.....	\$30,060 00	
"	For part payment for 10,000 shares stock of the Denver Pacific R'y and Telegraph Co., sold by Mr. Gould to the Kansas Pacific R'y Co.....	13,250 00			J. L. Mathez, jr.....	30,000 00	
"	To am't advanced by the Union Pacific R. R. Co. in September, 1879, on account of the Hastings and Grand Island R. R. Co., and assumed by Mr. Gould, but not heretofore transferred to his account.....		928,500 00		C. E. Silkworth.....	4,950 00	
April 1	To Co. note dated to-day, on demand, his order.....		45,807 58		A. G. P. Segur.....	30,607 50	
"	To balance of dividends paid to-day.....		140,000 00		W. E. Connor.....	25,350 00	
2	To 400 Collateral Trust Bonds delivered to Mr. Gould in full settlement of the purchases made by the Kansas Pacific R'y Co. of 7,616 shares of stock of the Central Branch Union Pacific R. R. Co., and of 10,000 shares of stock of the Denver Pacific R'y and Tel. Co.....		1,217 50		S. Dillon, trustee.....	18,000 00	
July 7	To 120 shares Union Pacific R'y Co. stock delivered by Asst. Treas. Ham to Mr. Gould at par, to pay for bonds entered to-day.....		400,000 00		J. Gould.....	2,250 00	141,217 50
			12,000 00	July 7	By following securities purchased by the K. P. R'y Co. from Mr. Gould, Jan. 23, 1880, but not heretofore entered, now delivered to the company:		
					10,300 St. Jos. and Pac. R. R. Co. 1st mortgage bonds at par.....	10,300 00	
					1,700 Kansas and Neb. R'y Co.....	1,700 00	12,000 00
					By transfer of the following am'ts, as advised in letter of J. M. Ham, Asst. Tr., Oct. 5, 1880:		
					For cash paid Washington Dunn, Mar. 31, 1879, oh'g'd contractors for building the Utah and Northern R'y.....	3,000 00	
					For cost of 3,300 shares of U. and N. R'y Co. stock, bo't for account of Sidney Dillon, Jay Gould et al., paid for at Omaha, as follows:		
					Oct. 11, 1879, cash paid Moses Thatcher.....	15,000 00	
					14, 1879, cash paid Moses Thatcher.....	5,000 00	
					17, 1879, cash paid Moses Thatcher.....	5,000 00	
					24, 1879, cash paid Moses Thatcher.....	8,000 00	
				Oct. 1	By amount deposited in Union Trust Co. as call loan.....		36,000 00
							80,000 00

Sept. 30	To cost of 689 shares Utah and Northern R'y Co., stock bought for his ac. at \$10 per share (Carries interest from Oct. 15, 1879, at 6 per cent.)	6,890 00	1881. Jan. 25	By 30,993 shares Denver, So. Park and Pacific R. R. Co. stock, bo't from Chas. C. Niebuhr on a 60-days' contract, dated Nov. 15, which contract was assigned to Mr. Gould, as of that date, at par	
Oct. 12	To balance of interest on ac., at 6 per cent.	264 01			
Dec. 31	To balance of ac. settled this day	72,845 99	April 2	By balance of interest at 6 per cent. on his ac. to date	3,099,300 00
	To am't paid by Mr. Ham, balance due on purchase of securities, &c., by the Kansas Pacific R'y Co. from Mr. Gould, as per voucher	44 47			51,917 23
	Less am't written off by the Kansas Pacific R'y, Jan. 31, 1880	20			
1881. Jan. 25	To am't paid by Mr. Dillon to Mr. Gould on ac. of the am't due on the contract for 30,993 shares Denver, So. Park and Pacific R. R. Co. stock. (See entry this date.)	44 27			
Feb. 17	To am't paid Mr. Gould this day on ac. Denver, So. Park and Pacific R. R. Co. stock sold to the company	890,000 00			
April 2	To am't paid this day to Mr. Gould, balance due on the 30,993 shares of Denver, So. Park and Pacific R. R. Co. stock, bought by the company on a contract from Chas. C. Niebuhr, which contract was assigned to Mr. Gould	500,000 00			
		1,761,217 23			
		8,820,910 59			8,820,910 59

## INDENTURE SECURING INCOME BONDS.

Commissioner ANDERSON. I also offer, in connection with Mr. Mink's testimony, a copy of the indenture securing the income bonds of the Union Pacific Railroad Company, dated the 1st of September, 1869.

The paper is marked "Exhibit 5, June 4, 1887," and is as follows:

This indenture, made and executed at the city of Boston, on the 1st day of September, A. D. 1869, by and between the Union Pacific Railroad Company, of the first part, and John R. Duff, Benjamin E. Bates, and F. Gordon Dexter, all of the city of Boston, trustees, as hereinafter set forth, of the second part:

Witnesseth: That the party of the first part has caused to be made and executed its bonds, of \$1,000 each, bearing even date herewith, amounting in the aggregate to ten millions of dollars, payable on the 1st day of September, 1871, or on the first days of March or September, in either of the years 1872, 1873, 1874, at the election of said company, with interest thereon at the rate of 10 per cent. per annum, payable semi-annually, and proposes to sell said bonds to parties desirous of purchasing the same; and said party of the first part, for the purpose of securing the payment of the interest warrants attached to said bonds, according to the tenor thereof, to the parties who may have purchased or hold said bonds, has agreed to devote the net earnings of its said railroad, after deducting therefrom the payments of interest that shall fall due upon the first mortgage of its road, and also upon the mortgage of its lands, heretofore made and already issued or to be issued by it, to the payment of the interest warrants attached to the bonds thus proposed to be sold.

Now, therefore, the said party of the first part, in consideration of the premises, does hereby covenant and agree to and with the said parties of the second part, the survivors and survivor of them, who are hereby declared to be trustees for the several parties who may purchase and hold said bonds, that it will, semi-annually, on the first days of the months of January and July of each year, make up and furnish to said trustees a fair and just account of the net earnings of said road for the six months next preceding, and will deduct therefrom the interest due and payable from it upon the first mortgage of its road heretofore issued, and upon its land mortgage bonds heretofore issued, or to be issued, so as to exhibit the true sum applicable to the payments of the several interest warrants attached to said bonds, bearing date September 1, 1869.

And farther, will, in case they shall fail to pay said interest warrants according to their tenor at the time the same fall due, pay over to said party of the second part the said net income of their road, after the deductions aforesaid, or such part thereof as may be necessary to pay said interest warrants, with interest thereon from their maturity, and a reasonable compensation to said party of the second part for the performance of their said trust, which sum thus paid, except their compensation aforesaid, is to be, by said parties of the second part, held and applied to the payment of said interest warrants to the holders thereof with interest.

And said parties of the first part do further agree to hold said net income in trust for the parties of the second part, to be applied to the purposes aforesaid in case of its failure to pay its warrants at maturity.

And said parties of the second part do hereby accept said trust and covenant and agree to execute the same, but without any responsibility except for their wilful negligence or default in the premises, and without responsibility for the acts or omissions of each other.

In testimony whereof the said corporation has hereto affixed its seal, and caused the same to be signed by its president and treasurer, thereto duly authorized; and the said parties of the second part have hereto interchangeably set their hands and seals the day and year first above written.

JOHN R. DUFF. [SEAL.]  
BENJ. E. BATES. [SEAL.]  
F. GORDON DEXTER. [SEAL.]

[Copy.]

UNITED STATES OF AMERICA.

No ———

\$1,000.

UNION PACIFIC RAILROAD COMPANY.

[50 cent stamp.]

Bond.

[5 cent stamp.]

The Union Pacific Railroad Company acknowledges itself to owe to bearer \$1,000, which sum said company promises to pay the holder hereof, at its office in the city of Boston, on the first day of September, A. D. 1871, or on the first days of March or Sep-



tember in either of the years 1872, 1873, or 1874, at the election of said company; and also interest thereon at the rate of 10 per cent. per annum semi-annually, on the first days of each March and September ensuing the date hereof, until said principal sum shall be paid, on the presentation of the annexed interest warrants at the office of the company in the city of Boston.

In testimony whereof the company has caused to be affixed hereto its corporate seal, and these presents to be subscribed by its president and treasurer, this first day of September, A. D. 1869.

[SEAL.]

OLIVER AMES, *President.*

JOHN M. S. WILLIAMS, *Treasurer.*

This bond is one of a series of bonds of \$1,000 each, dated September 1, 1869, amounting in the aggregate to \$10,000,000, and payment of the interest warrants attached thereto is secured by an indenture of covenant between said corporation and John R. Duff, Benjamin E. Bates, and F. Gordon Dexter, trustees for the holders of said bonds, whereby said company agrees to apply the net income of the road, after deducting therefrom the payments of interest that shall fall due upon the first mortgage of its said road, and also upon the mortgage of its lands heretofore made, and to the payments of said interest warrants.

JOHN R. DUFF,  
B. E. BATES,  
F. G. DEXTER,  
*Trustees.*

Copy of one of ten coupons attached :

\$50.

\$50.

Warrant of fifty dollars, half-yearly interest on bond of the Union Pacific Railroad Company, No. ———, dated September 1, 1869, payable September 1, 1874, upon the surrender of this warrant, unless said 10 bond shall have been previously paid.  
J. M. S. WILLIAMS, *Treas.*

EQUITABLE BUILDING,  
Boston, Mass., Saturday, June 4, 1887.

CHARLES FRANCIS ADAMS, being further examined, testified as follows :

The CHAIRMAN. We shall be glad, Mr. Adams, to hear now anything further which you desire to say to the Commission.

#### THE CONSOLIDATION OF 1880.

The WITNESS. Before the Commission leaves Boston I wish to refer to one or two points which have been dwelt upon in the course of the investigation, upon which my observation or experience may throw light. There has been a great deal said about the consolidation of 1880, and I have noticed that there seems to be an impression, which has been also widely spread through the press before and during the investigation, that the result of the consolidation was to foist a couple of worthless lines upon the original Union Pacific, much to its detriment. I wish to submit a table, showing how mistaken such an idea is.

#### COMPARISON BETWEEN KANSAS PACIFIC AND UNION PACIFIC EARNING POWERS.

The Kansas division, as a property, was not at the time of the consolidation so valuable property as the Union division; but in proportion to the rate at which it was put in it was equally valuable with the Union division. As showing that, I now submit a table of the earnings per mile of the Kansas division and the Union division through the years since 1879—that is, from the year which preceded the consolidation to

the present time. It appears from this table that, while at the time of the consolidation the Kansas division was earning per mile about half what the Union division earned and was capitalized on the basis of earning half as much, it has since gone on gaining upon the Union division, until at the present time it earns two-thirds as much per mile. The only reason the Union division then earned and now earns more than the Kansas division is that the Union division then was and still is the channel through which the transcontinental traffic—at the time of the consolidation immensely valuable—was sent. The transcontinental traffic has since lost most of its value, owing to the coming in of competing lines and the consequent division of business and reduction of rates, so that from the way the two divisions are now going on it will not be long before the Kansas division will earn as much per mile as the Union division, although it was capitalized at only half as much in the consolidation.

Commissioner ANDERSON. I do not quite understand what you mean. If it is as much per mile, and they were capitalized according to their relative lengths, then that would be a just apportionment, assuming that the earnings per mile were equal.

The WITNESS. They were capitalized at so much per mile, and I am now showing their earning power per mile. They were capitalized, respectively, at \$40,000 and \$80,000 per mile of road, if I am right in my figures. They earned about in the same proportion.

Mr. MOORFIELD STORY. The Kansas Pacific went in at \$40,000 per mile and the Union Pacific at \$80,000 per mile.

The WITNESS. Now, two to one is not at this time their relative capacity, inasmuch as the Union Pacific earns less than \$5,000 net per mile per annum and the Kansas Pacific earns net over \$3,200. That is in earning capacity they now stand, not as two to one, but about as two to three.

The paper referred to above is marked "Exhibit No. 6, June 4, 1887," and is as follows:

*Earnings and expenses per mile of road, Union and Kansas Divisions, Union Pacific Railway.*

UNION DIVISION.

	1879.	1880.	1881.	1882.	1883.	1884.	1885.	1886.
Earnings per mile .	\$12,455 06	\$15,114 67	\$16,447 49	\$16,290 08	\$15,023 41	\$11,091 13	\$11,515 46	\$11,508 06
Expenses per mile .	4,967 72	6,301 31	7,631 72	6,628 61	6,193 52	5,264 62	5,391 65	6,165 45
Surplus.....	7,487 34	8,813 36	8,815 77	9,661 47	2,829 89	6,726 51	6,123 81	5,343 51
Taxes.....	285 06	270 11	243 20	299 11	515 04	288 66	310 25	369 56
Net earnings ....	7,202 28	8,534 25	8,572 57	9,362 36	8,314 85	6,437 85	5,804 56	4,973 95

KANSAS DIVISION.

	1879.	1880.	1881.	1882.	1883.	1884.	1885.	1886.
Earnings per mile .	\$7,151 57	\$9,280 39	\$9,850 70	\$8,032 56	\$7,115 61	\$6,883 57	\$7,090 57	\$7,580 76
Expenses per mile .	3,976 21	4,902 39	5,810 29	4,560 21	4,372 19	3,681 30	3,681 99	4,070 85
Surplus.....	3,175 36	4,327 00	4,040 41	3,472 35	2,743 42	3,202 27	3,408 58	3,509 91
Taxes.....	193 95	200 12	178 80	235 01	231 40	222 68	206 48	270 09
Net earnings ..	2,981 41	4,126 88	3,861 61	3,236 44	2,512 02	2,979 59	3,202 10	3,230 82

## THE TERMS OF CONSOLIDATION.

The WITNESS. The terms of the consolidation also have been much criticised. I had nothing to do with the consolidation; at that time I was not connected with the company in any way, whether as an officer, a director, a Government director, or a stockholder; but since I have had a great deal to do with getting in the outstanding balance of these securities, the bulk of which were brought in under the Kansas Pacific consolidated mortgage.

## ADVANTAGES OF CONSOLIDATION.

I wish to call the attention of the Commissioners, therefore, to how advantageously the basis of that consolidation, which has been so much criticised, has practically worked for the consolidated company in the light of subsequent events. Under the consolidated mortgage, you will remember that the Stamped or Subordinated Income Bonds were put in, I think, at 30 cents on the dollar. The Unsubordinated Bonds were put in at 50 cents on the dollar. The Leavenworth Branch bonds were put in at 50 cents on the dollar. The vast bulk of those securities were fortunately put into the consolidation at these figures. Meanwhile, a certain portion of them were left outstanding. When I became president of the company in 1884, I found them still outstanding. Being the remnants of the underlying mortgages, they gave us a good deal of trouble. One of my first efforts was, therefore, to pick them up—that is, to clean up the consolidation. Those bonds that were put in at 30 cents I have since been buying up at par. The bonds that were put in at 50 I have bought up at 160. The Leavenworth Branch bonds, which were provided for at 50, we have since been paying interest on in full. Therefore, the practical working of the consolidation, so far as the present company is concerned, has been most advantageous. It has relieved the company, on advantageous terms, of a very heavy debt, which it otherwise would have had to pay.

Q. You mean, by the fact that a number of these securities were put in at rates you have mentioned of 30 and 50?—A. Yes; since that I have been obliged to buy up those that were not put in at the prices named, at very much increased figures. So that I have purchased, since I became president, about \$680,000 in face value of these securities, paying therefor about \$600,000. The bulk of these same securities were put in under the terms of the consolidation at rates which would have made those bought by me cost about \$240,000—that is, if they could have been got in then instead of since by me, the company would have made a saving of more than 50 per cent. on what I paid.

Q. Before you leave that subject I would like to ask you whether you make your statement that a very large proportion of the securities of the character to which you refer were retired at mortgage rates? Do you mean that remark to apply to any of those securities except those actually negotiated through the Union Pacific?—A. I do not remember how they came in. I merely remember that they did come in at those figures.

## HOW THE SECURITIES WERE COMMUTED.

Q. Do you know that the securities, amounting to \$4,000,000, that were held by Mr. Gould, and formerly by the Saint Louis people, were commuted at the mortgage rates, or do you know the fact to be that

they were commuted at a special rate?—A. I understood they were commuted at the mortgage rate.

Commissioner ANDERSON. I invite you to examine the mortgage, and you will find that they were commuted at such rates that the Stamped Incomes, which were the main feature of the holdings, were commuted at 70 instead of being commuted at 30.

The WITNESS. Those are the ones that I have since been buying in at par.

Commissioner ANDERSON. I also invite your examination of the books of the consolidated mortgages of Mr. Gould and Mr. Sage. I think you will find that, apart from the securities which were commuted through the Union Pacific, and which I am informed were commuted at the mortgage rates, all of those which have been taken in by the trustees, and, of course, paid for substantially out of the assets of the Union Pacific Company by being paid for in consolidated bonds of the Kansas Pacific mortgage, have been commuted at very different rates from those prescribed by the mortgage, running up as high as 80, 90, par, and over par.

The WITNESS. Were they commuted, then, at market values? That would be the question.

Commissioner ANDERSON. That I am unable to answer. The mortgage forbids the trustees from commuting except at mortgage rates; but the prohibition in the mortgage in my judgment has been disregarded. The only bearing of it is on this question of the quantity debt, and of stock which the Union Pacific Railway has had to carry. I mean that it has not been contracted as much as would have appeared from your statement unexplained.

#### RESULTS HAVE JUSTIFIED THE CONSOLIDATION.

The WITNESS. This may be so. Of course the propriety of these transactions was largely a question of market values at that time. Securities were then bought and sold at prices very different from those which have since obtained. As I said in the beginning, whatever was done in these matters was done years before I was in any way connected with the Union Pacific, and I have never looked into anything which preceded the consolidation. I take the figures on their face; but even at the prices suggested by you, the transaction was far more favorable to the consolidated company than anything which I have been able to effect during more recent years. In other words, the consolidation long since more than justified the price paid for it.

#### ARTIFICIAL BARRIERS BROKEN DOWN.

As for the effect upon the public of this consolidation, I can only say that I think there can be but one opinion. It broke down an artificial barrier which existed between the two old companies, and has been of manifest service to the community.

#### FAVORABLE EFFECT ON GOVERNMENT'S SECURITY.

As for the effect upon the Government and the Government security, I think there can be no room for difference of opinion among those familiar with the subject. The security of the Government for the repayment of its debts has been enormously enhanced. Any steps to break up the consolidation, such as were threatened through the *quo warranto*

proceedings of the legislature of Kansas, I should regard as most unfortunate, should they result in anything, from every point of view, whether from the point of view of the company and its stockholders and secured creditors, or from the point of view of the United States as being one of the secured creditors, or from the point of view of the communities which the roads serve. From whatever point of view you regard it, the consolidation of 1880 seems to me, judging by the light of experience, to have worked nothing but benefit. I cannot see that it has worked injury anywhere.

It does not seem necessary to go into details. Any one familiar with railroad traffic, and the method in which railroad traffic is done, would see the beneficial working of the consolidation at once. It has broken down barriers, enabling business to flow as it naturally inclined to flow, instead of in ways which were artificial and expensive.

Mr. STORY. So that it has reduced the cost to the public.

The WITNESS. It has reduced the cost to the public and reduced the cost of operating to the company. It has increased the Government security. I do not think any rational and well-informed man could regard it otherwise than as a general benefit.

#### PROPRIETY OF ACTION OF DIRECTORS.

By Commissioner ANDERSON:

Q. Before quitting that subject, I would ask you this question: Is it your judgment, from the knowledge you have of the terms of this consolidation, that any of the directors of the Union Pacific Railroad or Union Pacific Railway, as it existed just before and after the consolidation, made an illegitimate use of their position and office as trustees of this property for the purpose of securing a pecuniary profit to themselves which they should not have taken?—A. When I was examined in New York a month ago, never having had occasion to look very carefully into this matter, except from the practical point of view, in order to satisfy myself how the consolidation had resulted and worked for the company of which I was president, I was not familiar with the historical order of events as they took place. I was under the impression that Mr. Gould acquired his interest in the Union Pacific at a subsequent time, and that his so doing had nothing to do with the consolidation. I find now that this transaction antedated it, and was a large factor in the consolidation. I can only say, from reading the evidence, that it seems to me, under the circumstances, that the consolidation was more advantageous to the Union Pacific and its stockholders than I had before supposed. That is, it was effected on more advantageous terms, for it would appear that Mr. Gould, at the time the consolidation was effected, was a trustee, as you term it, for the Missouri Pacific as well as for the Union Pacific. That is, he was director and largely interested in both companies. Under those circumstances, the Missouri Pacific seemed to have been the concern which suffered rather than the Union Pacific.

By the CHAIRMAN:

Q. Why not have effected it by direct methods rather than by indirect methods?—A. These consolidations are things very difficult to bring about. There are many interests to be considered, and, so far as I know, they always have to be effected indirectly. I have seen no reason to suppose that any of the directors profited illegitimately by it.

Commissioner ANDERSON. Then I understand your judgment to be that the business of purchasing the Missouri Pacific, while being a



member of the board of the Union Pacific, and making terms of consolidation, which the parties all testified were more favorable to the Kansas Pacific interest than the Union Pacific people had been willing to grant, meets your approbation as being a justifiable use to make of the functions of a director.

The WITNESS. I do not feel called on to answer your question in that form. It is an abstract question. I merely look at the practical question, whether under the circumstances of the case it was on the whole a good and an advantageous arrangement for the Union Pacific, and I say undoubtedly it was.

By Commissioner ANDERSON:

Q. I do not desire to insist upon an answer to the question, but I want to understand whether you are merely stating that the arrangement as it resulted was, as a matter of fact, an advantageous one for the consolidation, for the public, and for the Government?—A. That is what I mean to say.

Q. Then you prefer not to pass judgment on Mr. Gould at all?—A. I do not feel called upon to pass any further judgment.

Commissioner ANDERSON. It is more especially with reference to the question whether there is a practical legal claim against him in which the company and the Government are interested or not, that I make the suggestion.

The WITNESS. I do not care to pass on those questions. I say that in itself it was a settlement advantageous to the Union Pacific, and the result has shown it to be so. The company was extricated successfully from a very dangerous position, and at a cost that under the circumstances was not by any means large. That is what I mean. Is that all you wish to ask?

Commissioner ANDERSON. Yes, sir.

#### CONCERNING VALUE OF BRANCH LINES.

The WITNESS. I wish to recur again, for a moment, to the question of our branch lines, which has played so large a figure in the previous examinations. The idea has been repeatedly advanced through the public press, and on more than one occasion by officers of the Government, that the test of the profit of a branch line is to be looked for in the fact whether the returns of that line show that it, in itself, is a source of profit; accordingly, if the returns show that a branch line is not paying its fixed charges it cannot be considered profitable. If they also show that it is not paying its operating expenses, the fair inference is that it is a drain on the main line and not a benefit; a sucker and not a feeder; and as such it should be cut off. I have seen this repeatedly advanced as a proposition which did not admit of successful contradiction. I wish to cite one or two concrete cases bearing upon this proposition, and showing how a branch line might be a most valuable feeder to the main line even though run at a constant loss in operating expenses; even not paying those expenses.

#### THE ECHO AND PARK CITY.

I will take the case of the Echo and Park City branch. The Echo and Park City leaves the Union Pacific at Echo, almost exactly 1,000 miles from Omaha. The branch is 30 miles long, running up to Park City and the Ontario Silver Mine, and is allowed by us a constructive mileage of two to one, which, you will remember, Government Director

Alexander thinks absurdly small, and in that I agree with him. Under these circumstances the Echo and Park City, according to the returns, showed, I think, last year a deficit of \$30,000 in round numbers. Thanks to a constructive mileage of two to one, it did pay its operating expenses, and it had \$5,000 over, but it was short \$35,000 on its fixed charges. It was, therefore, in default to that amount. Meanwhile the Echo and Park City road, having a constructive mileage haul of 60 miles, gave to the Union Pacific its entire business, upon which the Union Pacific had a haul of 1,000 miles. The nearest figures that I can get show that out of the Echo and Park City branch the Union Pacific Company last year netted some \$250,000; that is, it had the lion's share of the business and of the profit, because it had a haul of 1,000 miles to 60, and, owing to the manner in which it received and did the business, it was making money on every mile of its haul.

Commissioner ANDERSON. Before going to that Oregon Short Line, I would like to ask two or three questions about the manner in which this profit is made out of the Echo and Park City.

The WITNESS. Certainly.

By Commissioner ANDERSON:

Q. The total business as given for 1886 is \$70,664. That consists of passenger, freight, mail, express, and miscellaneous. Take the passenger business first, which is \$12,755. Do I understand that your proposition is that the Union Pacific carried those passengers, all of them, 1,000 miles over its main line?—A. Not at all. Many of them would probably go merely to Ogden, on the way to Salt Lake City. Salt Lake City is a local center.

Q. And many of them might be confined to local movement on the road itself?—A. Yes.

Q. So that, as far as that item is concerned, it would not be the source of any special revenue?—A. It might or it might not. It would depend on where the passengers went. The probability is, however, that the \$12,000 earnings of the Park City from that source would represent three or four times as much on the Union Pacific.

Q. Do I understand, as to passengers who are merely local movers on the branch line itself, that the constructive factor has any application?—A. None whatever.

Q. As to the item of freight, \$63,000, much of that, especially of the freight delivered on the line, comes, I presume, from the Omaha terminus of the road?—A. That is bullion, probably, very largely, going from Park City to Omaha, the entire thousand miles over the Union Pacific, and paying a high rate.

Q. That is the chief source of revenue to the parent line of the freight?—A. That is the chief source of revenue to the parent line. I presume that \$63,000 of freight, which is credited to the Park City road, might be estimated to represent three times as much, or \$190,000 earned by the parent line.

#### CONSTRUCTIVE MILEAGE.

By the CHAIRMAN:

Q. How much did you pay to the branch line under the constructive-mileage system?—A. It is all included in the \$63,000.

Q. What proportion of it was under constructive mileage and what proportion local?—A. I suppose in that case at least \$25,000 would come to it by constructive mileage.

Q. That is more than one-third of the entire amount?—A. I should say more nearly half.

Q. So that, as far as freight was concerned, the branch line is helped out one third by the main line?—A. Undoubtedly.

Q. Then before the income is paid to the main line the operating expenses are deducted and the interest on the bonds, and then if there was any profit it went to the owners of the stock?—A. Yes.

Q. That is, after paring down the income by the interest on the bonds and the operating expenses?—A. The bonds in this case are owned by the main line.

#### THE OREGON SHORT LINE.

Q. That the constructive-mileage system helps out?—A. Undoubtedly. Without the constructive-mileage system it could not be operated. I will now take the Union Pacific business—freight—to the Oregon Short Line, in order to show how profitable that traffic is to the main line. The Union Pacific at present delivers to the Oregon Short Line about 103 cars a day of freight. That represents five full trains. Much of it is coal, which comes from Rock Springs and goes over the Oregon Short Line to local points or to Butte, Mont., the balance comes from Omaha. I will take the case of freight trains from Omaha to the Oregon Short Line. The trains are made up in the Omaha yard, we will say—two trains a day. Each train consists of 24 cars. Those cars, on an average, carry 15 tons apiece of paying freight. That freight pays three-quarters of a cent a ton per mile, or about that—it really pays more—but we will suppose three-quarters of a cent. Therefore, each car would earn 12 cents a mile, and there being 24 cars in a train, the train would earn \$2.88 a mile, and it would go 860 miles. In other words, that train earns, between Council Bluffs and Granger, the sum of \$2,500, all of which goes to the Union Pacific. The Union Pacific, before the Oregon Short Line Company built its road, had its own complete facilities, its general staff, general expenses, and fixed charges, none of which were increased perceptibly by the new business which goes to or comes from the Short Line. The cost of hauling a train on the Union Pacific is about 55 cents a mile. Therefore it will be, in the case of a train to or from the Short Line, 860 times 55 cents, or, in round numbers, \$450.

Q. The cost of such a train as this?—A. Yes; such a train would cost the Union Pacific proper \$450 to haul. In addition to that, I am not aware of any expense which the main line is put to, except the wear and tear of its track, which in the case of a single train is imperceptible. It is so small, that we are unable to approximate it in our statistics, although we carry them down to as fine a point as we can. But we will suppose that it amounts to \$250, which is a very liberal estimate; that would make \$700 as the total expense to which the Union Pacific was subjected to on account of a Short Line train which earned for the Union Pacific \$2,500. Upon that single train, therefore, as nearly as I can ascertain from the best figures at my command, the Union Pacific earns net about \$1,800. The branch line business is accordingly the best business that the Union Pacific main line does, and my impression is, although I cannot give exact figures—

Q. Your figures, as you are now giving them, relate to your own haul exclusively?—A. The Union Pacific main line haul exclusively, and whatever the train earned on the Oregon Short Line would be over and above the \$2,500.

Q. And whatever it earned on any other line that delivered it to you at Omaha, that would be over and above?—A. Yes; that also is over

and above. I take, as a basis, the lowest freight we haul—three-quarters of a cent a mile. The Oregon Short Line business averages more than that. I merely now present this case as showing how profitable to the main line this branch-line business is, and how small a proportion of the expenses incident to it is borne by the main line. The expense of the traffic is large, but it falls mainly on the branch line, which has to do handling, distributing, and all the incidental work. The profit is comparatively small to the branch line. It is again the main line which gets the lion's share of the benefit. Yet uninformed critics are continually speaking of the branch lines, which permit this traffic, as being "suckers and not feeders," and as burdens which a competent management would cut off. This has been repeatedly said of the Oregon Short Line; yet my own belief is that the Union Pacific proper earned net last year on Oregon Short Line traffic between Omaha and Granger at least \$500,000 over and above all it advanced to the Short Line to meet the deficit of interest on the Short Line bonds. The critics who talk so freely about such branch lines being "suckers and not feeders" do not understand the first elementary principles of the subject they are discussing. They need to go to school and learn their alphabet.

#### NECESSITY OF FOLLOWING ESTABLISHED RULES OF BUSINESS.

**Q.** Would it not have been clearer and easier to understand if you had made all your apportionments on the straight-mileage basis, and then paid an annual subsidy, the amount of which would appear directly on your books, to the branch road?—**A.** In the first place, that is not the way in which the business is done. We do it on one system of arithmetic or division, whether with our connections or our branches. In so doing it, whether better or worse, or whether well or badly, we have, as General Alexander very clearly stated the other day, merely adopted the system which the experience of all time has shown to be most convenient; and because it has been the most convenient, it has been generally adopted. In adopting another system, we would have had to break through all rule, establishing a rule peculiar to ourselves, the working of which would not be understood by the ordinary freight man. In the second place, an annual subsidy would necessarily tend to fluctuate, according to the amount of the traffic, the rates charged, the expenses incurred. This is exactly what the constructive-mileage allowance does of itself. It was adopted into general use for that very reason. For the Union Pacific to discard it would surely, in my opinion, be to create confusion, and to adopt a poorer and unusual system in place of the usual and better one.

#### "ARBITRARIES."

**Mr. STORY.** The other system is a system of "arbitraries" or local rates, is it not?

**The WITNESS.** The other system is a system of local charges, which is extremely unjust and almost impracticable.

**Commissioner ANDERSON.** Because it does not participate in the good fortunes or misfortunes of the general line?

**The WITNESS.** To recur to the question of branch lines; the Union Pacific, as nearly as I can ascertain, earns from the Oregon Short Line on the present volume of traffic some \$1,200,000 a year in round numbers; of this amount my own judgment would be that \$800,000 at

least was net; showing what the profit of the branch line is in this particular case to the main line, although the branch line on the face of its returns does not earn its fixed charges. Mr. Story asks me what the system of arbitrary local rates would be. The whole object of constructive mileage is, to divide proportionately among the several parties who participate in the rate the burden of the reduction or cut caused by the practical working of the competitive system. It apportions itself in that way insensibly. If, of course, the branch line, in every case, was allowed its full arbitrary or local rate, the main line would have to stand the entire cut. For this reason, as I say, the local rate principle of division is unjust and impracticable.

MR. STORY. So that the present system is better for the Government than the other.

THE WITNESS. The present system of constructive mileage is undoubtedly better for the Government than the system of local rates.

#### CONSTRUCTIVE MILEAGE RULE IN FAVOR OF UNION PACIFIC.

As respects this matter of constructive mileage, upon which I was examined at length a few days since, I will state that I have sent instructions to Omaha to have the subject worked up and approximate results reached; I have endeavored also to reach some approximate results here from such material as we have in the office. I had no great confidence in being able to do so, but, as nearly as we can guess—for I wish it to be understood that it is purely a guess—from such figures as are in our office, and the memoranda we have received from time to time, we are inclined to think the Union Pacific receives from the lines east of it about \$1,200,000 a year on account of constructive mileage. It pays out, as nearly as we can approximate, to its branch and other lines west about \$600,000 a year. The result, therefore, is, as near as we can now get at it, that through the general application of the constructive mileage principle in use throughout the country, and which always has been in use, the Union Pacific receives about \$600,000 more than it pays out, all of which, of course, is net; and in so far as that is received upon the Union division the Government gets its 25 per cent. The Government might, therefore, under the rule of constructive mileage, be approximately said to be better off by \$100,000 a year than if there were no such rule working. All this is as nearly as we can now estimate, subject to more careful revision at Omaha.

Q. This is apart from your estimate of the advantage to the Union Pacific derived from the amount of the interchange traffic while on the parent line?—A. Entirely apart from it. There is one other point upon which I am not prepared to give the Commissioners any figures, but to which I want to call their attention, as it would be an interesting subject of inquiry. Much has been said, first and last, about the fact that a large portion of the stock of the Union Pacific and of the Kansas Pacific was issued in the course of construction and in payment for construction, and is not supposed to have been paid for in cash. So much, indeed, has been said on this subject, that it would be supposed that the Union Pacific was a glaring exceptional case in that respect—a case of which no other example existed. There has been paid, beyond cavil, more than 16 per cent. in cash on the present stock of the Union Pacific, and I venture to express a pretty decided belief that an examination would show that 16 per cent. is more than has been paid in cash upon the stock of any other road west of the Missouri River, if not, indeed, west of Chicago. In other words, more cash has been paid in on the capital



stock of the Union Pacific, as it stands to-day, than has been paid in upon the stock of any other existing railroad in competition with it.

Q. That includes the \$10,000,000 subscription which was paid in in money?—A. Certainly. I refer to the present Union Pacific stock.

Q. That is all that you refer to as the 16 per cent.?—A. I say nothing about other sums. I do not go into that. I say more than 16 per cent. has been paid in, and I am not aware of any other stock west of the Mississippi of which that can be said. I would very much like to have that matter investigated. I think you know something of it, Mr. Anderson. Take the Atchison, for example; there never was a dollar paid in upon its capital stock to my knowledge. Take the Burlington and Missouri also. If there is another road west of Chicago that has as much paid in on its stock as the Union Pacific, I would like to see evidence of the fact.

O

#### THE GOVERNMENT THE GREATEST BENEFICIARY FROM CONSTRUCTION OF PACIFIC ROADS.

Passing on to yet another matter, much has been said, first and last, about what those connected with the Union Pacific have made out of the Government of the United States. We have heard a great deal about the subsidies received by the company in money and in land. But I now wish to express the belief that, however much may have been made by any other parties, whether connected with the original construction of the road or not—and of this I only know as a matter of investigation and hearsay—or however much has been made since by any private individuals, no matter how or when, there is no party to the transaction, public or private, who has begun to make so large a profit out of the Union Pacific as the Government of the United States itself. The greatly maligned Union Pacific has been one of the few instances where the Government went into a business enterprise, and got from it all that it ever hoped, in any respect, to get from it, and that several times over. I do not say this with the slightest intention of expressing regret at anything which the Government got. I am glad it got it. Nevertheless, so far as the Government is concerned, the entire amount it advanced to the Union Pacific, I insist, has been repaid to it at least five times over.

Q. Why do you say "repaid"?—A. Because I mean repaid.

Q. Tell me this: If you had lent money to a railroad company in a region where you and your family were constantly in the habit of traveling, and that railroad was built and owed you \$100,000, would you think it just for them to say when you presented your note that if that railroad had not been built you and your family would have to travel in stage coaches and pay high fares, and they therefore considered that they had repaid you that note?—A. We have never asked the Government to take any such a view. We are ready to repay it, and propose to repay it.

Q. Why do you say "repaid," then?—A. Because the Government has made—I will put it in that form—out of the Union Pacific every cent it ever advanced to it five times over and in five separate forms.

#### SOLUTION OF TRANSCONTINENTAL PROBLEM.

Q. Is it not true that wherever steamboats and factories have been constructed by private enterprise, it is a great benefit to the commonwealth?—A. Undoubtedly it is so. But in this particular case the

Union Pacific was an enterprise which in any other country would have been built by the Government as a military road, and then the question would have been, how much has the Government got out of that military road? But in the present case the Government has got back all it ever advanced to the Union Pacific (and that is one of the subjects of inquiry which is referred to you by Congress) in at least five different forms. In the first place, take the rates at which it has had the mails carried. In the second place, take the rate at which military supplies have been carried and the economies thereby effected. The Government aided this road in order to secure those economies, and it did secure them. It secured them to a far greater extent than was supposed possible when the road was designed. It ended for the Government the Indian wars. Much also has been said about the land grant. The road opened the whole region it traversed, so that the lands were taken up. The alternate sections which the Government reserved were then sold for twice what they would otherwise have been sold for. They sold by law at double price, simply because the railroad was built. Finally they went into the construction of the Pacific railroads as a pioneer experiment. It resulted in the solution of the transcontinental railroad problem. The moment it was found that such a road could be built and operated at a profit other roads were built. We all see what the development of that country has since been. If any private person had been engaged in an enterprise of the sort in order to solve such problems, and had solved them as successfully, I hardly think such private party would have thought he had made a bad bargain. But I have here several papers which I wish to put into the record. I have caused estimates to be made of the amount of saving which was effected by the Pacific roads in the carriage of United States mails, military supplies, &c. The showing is a very startling one. In 1869 the Government paid \$1,750,000 for the carriage of 1,000 pounds of mail matter during a year, for a distance of 987 miles. In 1876 the company's original charge was \$574,000 for the carriage of 15,000 pounds of mail matter a distance of 1,034 miles. That is, it carried fifteen times as much the amount carried seven years before for one-third of the money. The Government, however, not satisfied with this saving, assumed the power to cut down the allowance to \$325,000, the sum actually paid for that year's service. The saving effected can thus be easily demonstrated. The statements contained in these papers are very interesting, as bearing on a portion of your inquiry. I put them into the case.

STATEMENTS SHOWING AMOUNT SAVED TO GOVERNMENT THROUGH  
CONSTRUCTION OF UNION PACIFIC RAILROAD.

The paper is marked "Exhibit No. 7, June 4th, 1887," and is as follows:

MAIL SERVICE.

In 1864 the Department paid for service between Saint Joseph, Mo., and Placerville, Cal., a distance of 1,892 miles, "six times a week; time, 20 days each way for 8 months, and 23 days for 4 months in each year, supplying Denver and Salt Lake City 3 times a week each way with 'Pony Express,' twice a week; time, 10 days for 8 months and 12 days for 4 months of each year, limited to California letters, about 600 pounds," \$1,000,000 per annum, the contractor being the Overland Express Company. This contract began July 1, 1861, and continued till June 30, 1864. The Department at the same time were paying for mail carriage via Aspinwall, 3 times a month, \$150,000. The contract expiring in 1864, a new one was made running to September 30, 1868, for the same service, or about the same, at \$910,000 per annum. In 1868 for a daily service between "Cheyenne or that point on the Union Pacific Railroad where the

mails are being conveyed when this service goes into operation, to Virginia City, Nev., 897.7 miles," Wells, Fargo Express Company were paid at the rate of \$1,750,000 per annum, pay being reduced pro rata for every 50 miles of railroad completed. In addition thereto the same contractors were paid for service 6 times a week between Phil Sheridan, Kans., and Delaware, Colo., a distance of 200 miles, \$79,000 per annum, and between Cheyenne Wells and Denver, a distance of 164 miles, \$64,851 per annum, the contract for Aspinwall service continuing the same—\$150,000.

The reports of the Postmaster-Generals from 1862 to 1868 made frequent references to complaints of irregularity in the service and failure in the mails owing to the depredations of the Indians, who not only interrupted the progress of the mail coaches, but carried off the stock of the company at various stations, and so crippled their resources. During all this time the amount of mail matter was strictly limited, the services being confined to the through-letter mails, the paper and document mails being carried by sea.

In 1864 Postmaster-General Dennison in his report says: "Owing to Indian depredations the mail service was much interrupted during the months of August and September last, and for a period of four or five weeks the whole mail for the Pacific States and Territories was necessarily sent by sea from New York."

The insufficiency of this service was spoken of in 1865, being attributed to "high water, bad roads, and hostility of the Indians."

In 1867 the Postmaster-General reported unusual complaint as to the inefficiency and irregularity of the service. The excuse for this was Indian troubles, which were alleged to be a mere pretense on the part of the contractors. Official reports from General Sherman proved that "serious trouble did exist on the plains, and that there was no safety for either passengers or mails except under ample military escort, which could not be furnished daily." A special agent of the Post-Office Department reported that the difficulties were such as "precluded the possibility of any man or set of men making regular trips over the route unless securely guarded by an armed force of considerable magnitude." It is further stated that from papers submitted by the contractor to the inspection division it appeared that "from April 1 to August 15, 1867, the Indians robbed him of 350 head of stage stock, burned 12 of his stage stations, with large amounts of grain and hay, destroyed 3 coaches and express wagons, severely wounded several of his passengers, and killed outright 13 of his most reliable employes."

In 1868 the overland mail contracts having expired, the Department advertised for proposals for two routes, to wit: "From Cheyenne, or that point on the Union Pacific Railroad to which the mails might be conveyed when this service goes into operation, to Virginia City, Nev., 1,095 miles and back daily, the trip to be performed in 9 days each way in summer and 12 days in winter," and "from Cheyenne to Denver, Colo., 102 miles and back daily, the trip to be performed in 24 hours each way."

The original contractor having failed to fulfill the terms of his contract, and the Department having encountered many difficulties, a contract was at last made with Wells, Fargo & Co., "to carry the mails between the termini of the Union Pacific and Central Pacific Railroads daily for a term of one year, or until the two railroads meet, at the rate of \$1,750,000 per annum, subject to deduction pro rata for every section of 50 miles of railroad completed and reported to the Department ready to carry the mails." This was on the first of the above-named routes. Upon the second route, from Cheyenne to Denver, the same parties contracted at the rate of \$9,970.50 per annum.

At the time of making this contract it was supposed that the junction would be made about the 31st of July. The work, however, was hurried forward so rapidly that the roads joined on the 10th of May, 1869, and the Postmaster-General in his report for 1869 mentions that this circumstance effected a saving to the Government of \$214,339.36 below the estimate.

The contract with Wells, Fargo & Co. was for carrying not to exceed 1,000 pounds of mail matter daily, between the terminal points of the Union and Central Pacific Railroads, at the rate of \$1,750,000 per annum. On the completion of the roads in May, 1862, the quantity of mail matter was increased to 6,500 pounds daily. From May 10, 1869, to December 31, 1872, three years and eight months, the amount paid by the Government to the railroad company for carrying more than six times the matter, twice the distance, was \$1,065,894—40 per cent. less than was contracted to be paid for a single year, for less than one-sixth of the amount and less than half the distance.

The saving in cost to the Government on mail transportation may be fairly estimated from a comparison between 1869 and 1876, a point nearly as may be half-way between the opening of the road and the present time.

In 1869 the Government paid \$1,750,000 for carriage of 1,000 pounds of mail a distance of 897 miles.

In 1876 the company's original charge was \$574,139 for carriage of 15,000 pounds of mail matter a distance of 1,034 miles. The Government, not satisfied with this saving,

by which it was paying one-third as much for carrying 15,000 pounds a distance of 1,034 miles, as seven years before it was paying for carrying one-fifteenth as much matter a distance of 897 miles, assumed the power to cut down the allowance to \$325,143, which was the sum paid for that year's service.

The increase in distance carried and in weight of matter being taken into account, it will be seen that upon any fair estimate the Government was saving in mail transportation alone a sum equal to the entire interest of the subsidy loan.

#### INDIAN WARS.

There are no data for the cost of carrying on the constantly recurring wars along the line of the road prior to its opening in 1839. The reports of the Post-Office Department, above alluded to, furnish some idea of the difficulties attending any mode of transcontinental communication, occasioned by the Indian depredations. So late as 1869 it was necessary to furnish military escort for the overland mail coaches, and the reports show that the stations were subject to constant attack from roving tribes of Indians so that garrisons were necessary at every station, and even then no sufficient security was offered for passengers or freight.

It is impossible to obtain from the War Department any statistics to the cost of these wars, so that they can only be made a matter of estimate.

In estimating the amount of money actually saved to the Government by the building of the roads, it is necessary to take into consideration the fact that the constantly increasing demand for greater security and more rapid service in transcontinental communication necessitated the employment of troops in larger numbers each year.

The cost of maintaining these at frontier posts and of the transportation of provisions, ammunition, and Army supplies would have been a constantly increasing burden upon the Government.

The cost of maintaining these garrisons cannot be given in exact figures, but must be estimated. A fair criterion is furnished in the figures taken from the War Department as to the cost of transportation of men and provisions and munitions of war prior to the building of the roads. A transcript from the books of the Quartermaster-General's Department shows that the cost of transportation of military supplies from Fort Leavenworth, Kans., to Fort Union, New Mex., which may be taken as a fair illustration, the entire distance being 750 miles, was for 100 pounds \$10.95 in 1860; \$15.22 in 1864, and \$11.02½ in 1869.

A statement showing the rates paid for the transportation of United States soldiers by stage, between points west of the Missouri River at various times between 1860 and 1867 gives a rate per mile varying from 8 cents to 45 cents, the rate in a majority of the cases given being over 20 cents per mile. An estimate found on page 182 of this company's report of 1884 shows the cost of transportation for supplies for 3,000 men in Utah, in 1857, to have been more than \$4,000,000, while the cost to the Government for moving all Army supplies for more men a greater distance, by the Union Pacific Railroad, for 1883, was \$342,953, less than one-tenth the amount annually paid in 1857 and 1858.

The average cost to the Government for five years previous to March, 1862, for transporting mails, troops, and munitions of war between the Atlantic and Pacific coasts and intermediate points, was reported by the Secretary of War that year to be \$7,309,341 annually, the time for the transmission of the mails between New York and San Francisco being on an average of 40 days. For the year 1886, as the report shows, the Government paid for the carriage of its freight, mail and passengers over 4,548 miles of the Union Pacific system \$1,093,901.16.

#### LAND GRANTS.

It is customary to speak of the land grant to the Pacific railroads as a magnificent gift of an imperial domain to this company. The truth is, that it was never in any sense a gift, but, independently of the building of the railroad, was purely a business transaction between the Government and the corporations which undertook to give value to an immense tract of lands without any value whatever, the consideration being one-half the lands so made valuable.

It can be shown even if the lands along the line of the road retained by the Government were ever worth or could ever have been sold at \$1.25 an acre—the Government price—that the increase in their value of 100 per cent.—the Government price for lands within the railroad grant being raised to \$2.50 an acre immediately upon the completion of the road—has, of itself netted the Government a sufficient sum to almost pay the subsidy debt. In order, however, to appreciate fully the profits of the transaction by which the Government brought its lands into market and gave value to barren wastes that had none before, the disposals of public lands for cash, and under the homestead and timber-culture laws from 1869 to 1885, should be taken into account in this connection, particularly in the States and Territories made accessible by the building of the road.

The number of acres disposed of by the Government in Arizona in 1871 (no sale having been made in 1869 and 1870) was 160 acres. From 1871 to 1885 there was a gradual increase, until the latter year they amounted to 144,393 acres. During this time Government disposed of 485,721 acres.

In Colorado 19,919 acres were disposed of in 1869. They increased to 552,599 acres in 1885. During this time Government sold 3,494,081 acres.

The Government sales of land in Dakota in 1869 were 95,809 acres. They increased gradually in 1883, when they amounted to 6,689,595 acres. In 1885 there was a falling off, the sales amounting to 3,744,136 acres. For the 17 years between the opening of the road and 1885, Government sold in Dakota 30,706,438 acres.

In Idaho, Government land sales in 1869 were 14,658 acres, which increased to 284,903 acres in 1885. Total sales for the 17 years, 1,573,731 acres.

In Kansas, sales were 263,191 in 1869. In 1885 they were 2,832,401. Total sales in the 17 years following the opening of the roads were 20,073,637 acres.

In Montana, Government sold in 1869, 16,932 acres. These sales ran up to 418,302 in 1884 and 318,601 in 1885. In the 17 years Government sold 1,726,656 acres of land.

The Government sales of land in Nebraska in 1869 were 566,304 acres. In 1885 they were 3,515,705 acres. In the 17 years Government disposed of 18,226,319 acres.

Nevada began with 4,041 acres in 1869, running up to 96,467 in 1878, from that point falling to 3,637 in 1885. During these 17 years Government sold 348,054 acres of lands which without the railroads would have been valueless.

In Oregon, in 1869 Government sold 101,735 acres. In 1885 its sales were 407,859 acres. In the 17 years sales amounted to 3,464,551 acres.

Government sales of land in Utah in 1869 were 148,402 acres. In 1885 they were 167,730 acres. During the 17 years since the railroad opened the Territory of Utah to immigration the Government has disposed of 1,575,368 acres of its lands in that Territory.

In Washington Territory the Government sales were 167,802 acres. In 1884 they were 915,128 acres, falling from that to 480,181 acres in 1885. The Government land sales in Washington Territory during these 17 years were 4,936,914 acres.

The first Government land sales in Wyoming were 953 acres in 1871. In 1885 the Government sales were 552,807 acres. In these 15 years the Government sold 1,578,805 acres of land which would have had no value except for the building of the road.

In these States and Territories most of which are traversed by the railroads, and all of which are affected by it in a greater or less degree in the matter of valuation of lands, the Government has sold in 17 years 88,210,265 acres.

Figures are not at hand from which to give the amount of gross revenue accruing to the Government from these sales, nor is it possible to separate the sales of lands within the railroad grant from other Government lands, the former of which were increased in value 100 per cent. by the building of the road. None of the lands were sold for less than \$1.25 an acre, and the lands within the railroad grant were sold for \$2.50 an acre.

In estimating the profit to the Government from its land transactions with the Pacific railroads, it should not be limited to the increase in the value of the lands within the railroad grant. This in itself was an immensely profitable transaction. It not only doubled the asking price, but it brought them into market and made them immediately salable. But there should be included in the profit of the transaction the gain to the Government from the vast amount of lands outside the railroad grant and within the territory traversed by the road which it made accessible to immigration and brought at once into the market.

#### TRANSCONTINENTAL SERVICE.

In 1857 the cost of transporting supplies, as appears from official documents in the War Department, varied from 26 cents to 71 cents per ton per mile. Taking an average of 45 cents per ton per mile, it may be interesting to compute what would have been the cost of moving the freight that passed over the lines of the Union Pacific system during the year 1886. By reference to the last annual report of the company it will be seen that the number of tons moved 1 mile was 1,269,500,133. The rate per ton per mile was .01.59 cents. The gross receipts for the carriage of this matter were \$18,588,744. If it were supposable that this vast amount of freight could be carried under the same conditions and at the same rate as in 1857, the cost of carriage would reach the almost incredible sum of over \$500,000,000.

#### BUSINESS OBJECT OF GOVERNMENT IN DONATING LANDS.

The WITNESS. I have already referred to the question of the land grant.

Q. In what respect?—A. The familiar aspect. The Government did, in connection with the Union Pacific and other land-grant roads, exactly what every private party is doing constantly. Within the last six



months I have done it myself. I, with others, owned a tract of land of, I think, about 100 acres in immediate proximity to one of our Western cities. A suburban railroad company came to us and proposed to extend their railroad through our tract of land, and asked us what we would give them. We had no trouble in reaching an agreement. We said we would give them what they asked for—40 acres of land—as a subsidy if they would build their road through our land, just as the Government gave alternate sections to the Union Pacific. The land, also, was divided in much the same way, pieces here and pieces there. We deeded the land to the railroad company; the company built its road through it, and the land we gave is now supposed to be worth \$160,000. That was precisely the arrangement which the Government made with the Pacific roads. It said, "If you will build a railroad through this uninhabited and desert land, in which buffaloes and Indians range, and will develop the property, we will give you the alternate sections along your road." We did build the road, and those alternate sections of land, which before probably would not have commanded a market value of 5 cents an acre, now range anywhere from \$2.50 to \$50 an acre. The Government got its advantages just as we did in the case I have mentioned, from the inducement we held out to this company to build its railroad through our farm. Did the Government get no advantage from this transaction? As for the advantage the Government derived from the successful solving of the transcontinental railroad question, it does not admit of computation. That one item alone, the facility with which men and munitions are moved about and brought to a given spot, has enabled the Government to fight out the last Indian war the country will probably ever see. The saving in this respect is something which does not admit of computation.

By the CHAIRMAN:

Q. Is that not due more to the scarcity of the Indians?—A. The Indians would not have been scarce if the railroads had not affected their food supply. The Government thus went into a business scheme for a given purpose, and for once it got everything it went in for, far more than it hoped to get, and at an extraordinarily moderate cost.

Mr. STORY. The statistics show the Indians are increasing.

The WITNESS. These are semi-civilized Indians. I am not aware that I have anything further to say on that point. The Union Pacific, I want it to be understood, does not object in the slightest degree to repaying the Government every dollar, principal and interest, which the company has received from it. We do object to the commonly received idea that the company owning it is the only beneficiaries through the construction of the Union Pacific road. On the contrary, we maintain that when the Government subsidized that road the Government did what any private party, under similar circumstances, would have afterwards considered the monumentally successful business operation of his life. That private persons made money out of the Union Pacific Railroad we do not seek to deny. We do insist that if the account was struck in any court of equity to-day, and all proper allowances made, it would be found that the Government of the United States had made five or ten or twenty dollars out of the Union Pacific to every one dollar that the owners of the property ever derived from it.

Commissioner ANDERSON. I am very happy to say that I do not think that question is referred to us to take and state.

The WITNESS. It would be an account that I should like to see taken and a balance struck.

Commissioner ANDERSON. You will never see it in this world.

## GOVERNMENT NEVER EXPECTED TO GET BACK A DOLLAR.

The WITNESS. If I could see it I should be very glad on the part of the company to agree in advance to abide by it. I repeat that, as a mere business operation, there have been few things on record so successful where private parties were concerned, and I doubt if there is any precedent for a thing so successful where a government was concerned. People are apt to forget the past. They look upon things in the light of the present; and in the case of the Union Pacific they are disposed to insist that the private parties concerned in the construction of the road saw perfectly clearly what the course of future events was to be, and, seeing it clearly, succeeded somehow in swindling a confiding Government. Meanwhile, what did this "confiding" Government itself get out of the enterprise? It went into what was at the time regarded as one of the maddest material ventures ever suggested. It went into it as a political necessity, during a period of war. The chances were large that, after the road was constructed, it would have to be operated by the United States Government as a military and political necessity. The Government never expected to get back one dollar it advanced to aid the construction of the Pacific roads. That is simply a matter of record. It runs through all the debates of Congress preliminary to the passage of the charters. Meanwhile, what was the result? Instead of losing its entire advances and finding a military road on its hands to be operated at the public expense, it in the first place saved for the national Treasury several times the entire cost of the road through reduced rates in carrying its mails. Second, it saved several times the entire cost of the road through the economy with which it transported its material and general supplies. Third, through the rapidity with which it was able to move troops and munitions it put an end to a most costly and unending series of savage wars. Fourth, it filled up a desert country with a producing and tax-paying population. Fifth, it solved the problem of transcontinental transportation, rendering it possible to develop a mineral region of unsurpassed richness among mountains before considered inaccessible. I hold, therefore, I am clearly justified in saying that from a merely business point of view this transaction was a monumentally successful one. It would have been monumentally successful, and so considered universally, had private parties alone been concerned in it; and it does not cease to be such because the Government was concerned in it. I confidently submit, therefore, that there is no good reason for the Government of the United States to turn upon the company in this matter and insist upon it that the transaction has been one of fraud from which the Government has sustained nothing but loss. The Government, I say again, made at least five dollars in this enterprise to every single dollar that was either honestly or fraudulently made in it by private parties, from the year 1863 to this day.

## THE GOVERNMENT ONLY IS THREATENING ITS SECURITY.

We now come naturally to the question of repayment to the Government of the amounts which the company owes it. On this point I wish to say, as the result of my experience as president of the company, I agree with Government Director McVeagh. The Government directors had occasion to write certain letters in February last bearing upon some legislation then proposed in Congress, and Mr. McVeagh, one of the directors, and one of them who had given great attention to the affairs

of the company, in closing his letter, which is printed on page 161 of our last annual report, uses this striking expression, which I think perfectly true: "Nobody at present threatens the security of the Government debt but the Government." I think it would be hard to express the present situation more tersely.

#### ANNOYANCE AND TROUBLE RESULTING FROM CONNECTION WITH GOVERNMENT.

As a matter of record I want to say, as a result of three years of incessant struggling with this question, that, during those three years, I have had, I think, the full share of trouble and difficulty which falls to the lot of the average railroad presidents; but, taking all the trouble and vexation and causes of anxiety I have had connected with the financial management of the road, connected with its operation, and connected with labor troubles—taking all these and putting them together, they have not begun, as a combined mass, to give me the annoyance and trouble and anxiety which the relations of the company with the Government have given to me. I would rather take them all twice over than have to deal with the United States complications of the company. This is my deliberate judgment.

#### UNFAVORABLE ACTION OF THE THURMAN ACT.

Further, I have to say it is my deliberate judgment that if the Union Pacific, at the time of the maturity of its debt to the Government in the year 1897, is unable to pay that debt, and finds itself at issue with the Government in regard to it, it will be through the action of the Government and through the working of the Thurman act, so called. The result of the Thurman act has been to hold the Union Pacific responsible pecuniarily for a financial policy against which it protested, in which it does not believe, and which is working to nothing but disaster. There is an erroneous impression in the public mind, because the Union Pacific was paying dividends prior to the year 1884, that before the passage of the Thurman act the company was making no provision whatever for paying the Government debt when due; in fact, that it was squandering its assets, dividing them among the stockholders. That is the common form of expression. This is in no respect true. The Union Pacific, up to the year 1884, was systematically making the very best and safest provision which could have been made to pay the Government, having long before established its own sinking fund to that end, although it was called by another name; and if the company had been allowed to go on in the course it was pursuing, I have no question in my mind as to what the result would have been. The Government saw fit to interfere. Instead of occupying the position of the ordinary creditor, and saying to its debtor, "We have a lien on your property; go ahead and manage your business in your own way; but if, when the day comes, you cannot pay us, we propose to show you no mercy; we propose to exact from you all that you owe us, principal and interest," the company would then have had no right whatever to complain. Such a course would have been business like and justifiable; and though, perhaps, under all the circumstances of the case, and in view of the benefit the Government had derived from the road, it would have been harsh, yet it would have been legal, and according to the bond. Instead of pursuing this course the Government, by the strong hand, took from us the money which we were putting

into our railroad development, and which was there accumulating at the rate of 10 or 12 or 15 per cent. a year, and locked it up in the Thurman act sinking fund. The originator of that fund is on record as saying he expected it to accumulate at the rate of 6 per cent. a year, and based his calculations thereon, and in reality it is a fund accumulating at the rate of 2 per cent. a year.

RETENTION OF MONEYS DUE FROM GOVERNMENT UNFAVORABLE TO COMPANY.

By Commissioner ANDERSON :

Q. On that point, is it not substantially true that, with the exception of sums not exceeding \$2,000,000, all that the Government has taken from you has been in the form of retention of moneys due you for transportation service and mail service ?—A. Undoubtedly it is true. Meanwhile, if they had paid that money over to us, according to the original contract, and let us turn it into our business, we would now have been considerably better off. If I had, to-day, at my disposal the amount locked up in the Thurman act sinking fund, and producing interest at 2 per cent. a year, I have no question in my own mind it could be so invested that by the time of the maturity of the debt, ten years hence, it would be worth to the company \$20,000,000. But it is locked up at 2 per cent. per annum, and it does not grow. It is hid away in a napkin. Such is the course the Government has taken. It has held us to a strict liability, informing us that we shall pay every dollar we owe at the time of the maturity of the debt. But it will not allow us in the meanwhile to do business in our own way and as all others do it. It forces us to do business in a way in which we have no confidence, and in which no human being has confidence, and then holds us to a strict liability. I submit that is not business; it is not justice; it is not common sense. I make no objection to having the Union Pacific held to the strictest responsibility if only it is allowed freedom of action until its debt matures.

By the CHAIRMAN :

Q. Then your trouble is more due to the course of the Government than to the construction of competing lines ?—A. Undoubtedly, for the construction of competing lines is now going on because we cannot defend ourselves. Our means of defense are taken from us. As I have explained once before, in remarks made to a Congressional committee, we stand in the position of a tradesman whose creditor holds his arms while his competitor robs his till. Such is our position to-day; and we have to bear it with what philosophy we may. The Government says we shall not borrow; we shall not lease; we shall not guarantee except within very narrow limits. Our competitors can borrow, lease, and guarantee; and they are doing it every day, notoriously. Of course they do it, and we ought to be able to do it. The Government says, "You earn money, and you might put that into your business; very well, we will take that also away from you and put it into a sinking fund to accumulate at 2 per cent. per annum." That is our last resource, and the Government takes that away from us, all for our supposed benefit.

Q. If the Government acquiesced in a request to pay to the company the amount held by the sinking fund, would the Union Pacific be able to hold its own as against five competing lines that were built since the opening of the Union Pacific ?—A. Yes; if I had that \$7,000,000 which

is to-day in the sinking fund I verily believe I could in one year transform the whole future of the Union Pacific and lift it out of the mire.

#### PROPOSED BRANCH LINES.

Commissioner ANDERSON. Tell us what lines you would construct?

The WITNESS. I should at once proceed to develop the country beyond Cheyenne, beyond our 500-mile post; also Idaho and Western Colorado and Wyoming—the region from which we have a 500-mile haul on the business—the lines, in short, that General Alexander referred to the other day, and which have been examined by the Government directors and their construction heartily approved by them.

By Commissioner ANDERSON:

Q. The line that was constructed in 1881, at the time of its construction met the approval of all parties engaged in it, did it not, or was supposed to be a very valuable line?

The WITNESS. Which line was that?

Commissioner ANDERSON. The Denver and South Park.—A. We never constructed that. That was a line constructed by Governor Evans during the great Colorado mining “boom”; it was earning enormously, and then Governor Evans sold it out. He had two bidders for it—one, General Palmer; the other, Mr. Gould, representing the Union Pacific. Unfortunately for the Union Pacific, Mr. Gould succeeded in getting the road. Immediately after that, General Palmer, who represented the Denver and Rio Grande, offered the Union Pacific \$250,000 for its bargain. And most unfortunately the Union Pacific declined to take the money.

Q. Are you quite sure you are correct in your statement as to the manner in which the road was constructed, and that the original construction contract was not made something like the year before the Union Pacific acquired any interest, and that Mr. Gould was not substantially the holder of a large interest in that contract, and did not acquire his stock for his own account long before he sold it to the Union Pacific?—A. I have never heard that alleged.

Commissioner ANDERSON. We have heard the statement of Mr. Palmer's bid, at three different sums; one gentleman put it at \$50,000.

The WITNESS. That was a mistake on my part.

Commissioner ANDERSON. You have just put it at \$250,000, and Mr. Gould, I think, or some other gentleman, put it at \$500,000.

The WITNESS. I only know it by hearsay. My informant is Mr. F. L. Ames, who was a director at that time.

Commissioner ANDERSON. It was Mr. Ames who put it at \$500,000.

The WITNESS. Mr. Ames is my informant, and he knows. I do not.

Commissioner ANDERSON. May it not have been simply a bluff? The money never was produced.

The WITNESS. General Palmer had a surprising way of producing money when it was necessary. I had a talk with Palmer about that at the time. I had then no connection whatever with the Union Pacific, but I passed a day with him at his house in Colorado, and he told me himself what he had done and what he proposed to do, which entirely agreed with the statement I have just made.

Commissioner ANDERSON. The object of my question was only to illustrate the point, that if you had this \$6,000,000, and should build the branches you refer to, while they hold out the same expectations to-day that you say this Denver and South Park did in 1881, there might be the same result.

The WITNESS. That is possible. Meanwhile, if that is the case, why



are all our competitors building so eagerly into that territory? The Northern Pacific is borrowing money to do so, on almost any terms. The Northwestern is heading directly for Ogden, and is within striking distance of it.

Q. In Wyoming?—A. In Wyoming, beyond Fort Fetterman. The Rock Island, the Saint Paul, the Burlington and Missouri, the Missouri Pacific, and the Atchison are all building eagerly into the territory which ought to be contributory to our line; and is it likely, I would ask, that they are all crazy, and erroneous in their calculations? They know perfectly well the disadvantage at which they have us. They understand the situation. The Denver and South Park is entirely exceptional in our branch-line organization, but the region which the Union Pacific ought to develop now, and which they would develop if they had the ready means, is the region west of Sherman, beyond the mountain divide.

Q. Suppose you could get your grant from the Government, of \$6,000,000, do I understand you to suggest the continued partnership with the Government?—A. No; exactly the other way. I expressed my views on that subject in a letter to the Secretary of the Interior, which I should be glad to put in evidence. The Commissioners have read it, so that it is not necessary to read it. It was written more than fifteen months ago; I would by no means suggest a continuance of the partnership. I would have the Government assume towards the Union Pacific the ordinary business relations of a creditor and debtor. Let it say to the company, "Go on and manage your affairs in your own way; if your money is not ready when pay day comes, look out!" We have a stake in this property at the market values of to-day. It represents nearly forty millions of dollars, all of which we must lose if we fail to pay. I cannot protect the stockholders of the Union Pacific without protecting the United States Government. If the stockholders of the Union Pacific save anything through the efforts of the present board of directors, the Government has to have everything paid to it. All we ask is to be allowed to go ahead, under the penalty of sixty millions of dollars at present market values, and see what we can do to save ourselves.

Q. Will not the stockholders take the place of the Government by paying the Government?—A. That is a question which I shall be prepared to take up with you gentlemen whenever you say you are prepared to come to it. Mr. Gould, the other day, proposed to pay to the Government twenty-seven millions of dollars, cash. On behalf of the Union Pacific, I will say here and now, that I will do better than that, if you gentlemen are authorized to deal for the Government, which, of course, you are not.

Commissioner ANDERSON. We are not.

#### \$35,000,000 TO BE RELEASED BY GOVERNMENT.

The WITNESS. I would agree to pay thirty-five millions of dollars down on the Treasury table to have a release from the Government in full, and that, too, in a very short time. I will put in evidence this letter to the Secretary of the Interior, in which I have stated at length, as you gentlemen know, the policy which I think the Government should pursue towards the company.

The paper is marked "Exhibit No. 8, June 4, 1887," and is as follows:

BOSTON, MASS., March 4, 1886.

Hon. L. Q. C. LAMAR,

*Secretary of the Interior, Washington, D. C.:*

DEAR SIR: When I saw you in Washington, on the 26th ultimo, I ventured in the course of conversation to say that, in my opinion, it would be better for the United

States to lose every dollar it had loaned to the Pacific railroads, rather than, by continuing and enlarging its present connection with them, to introduce the worst elements of Wall street stock-jobbing into the innermost circles of Congress and the Executive Departments.

You suggested to me that I should submit my views on this subject to you in writing. Acting on that suggestion, I submit those views as follows:

As you are well aware, when once a Government bureau is established, its tendency is to perpetuate itself and continually increase its range of activity. The railroad bureau of the Interior Department was established some eight years ago in connection with the Pacific railroads, and as an outcome of the so-called Thurman act. The Thurman act, therefore, brought the Government into relations which had not before existed with companies, the securities of which are freely bought and sold on the stock exchange. Measures of legislation, either proposed or enacted, might sensibly affect the market price of those securities; and information to be found in the railroad bureau not impossibly would have large market value. I beg to point out that from these premises the inevitable consequences at once followed. The stock exchange is composed of men very acute, very unscrupulous, and controlling vast resources. A fluctuation of one-half of one per cent in the value of the stock of the Union Pacific alone represents over \$300,000 in money. Within the last two years I have seen the stock of that company worked up and down by means of the manipulated action of Congress through a range of at least 15 per cent. I have known information obtained directly from the Railroad Commissioner's office which has affected its market price 4 or 5 per cent. within twenty-four hours. These fluctuations, as you will see, represent a change in value rising high among the millions. I submit it is futile to hope that, where manipulation, or the corrupt purchase of information, may thus affect the value of a stock, such manipulation will not be brought about or such information purchased. The men engaged in this work are adroit. The most honest, well-intentioned, and even the more discreet members of Congress or officers of Departments, are used in a way in which they do not suspect. Influences which they feel, but cannot see, are brought to bear upon them. A direction is given to their investigations, and even to their thoughts. All this has been done, and will continue to be done, to bring about, not the result the agents in question suppose they are bringing about, but some other results which they do not expect, but which are seen in the stock quotations. I have no hesitation in saying, and with perfect confidence in my facts, that this has been especially the case within the last four months. The market has been influenced through the action of the Interior Department inspired from Wall street, but without the slightest idea on the part of those concerned from whence the inspiration came. They have been as tools moved by unseen hands. Moreover, this fact has been notorious among those with the best means of information.

I submit also that where information in the possession of the various Departments is of large value no effort to keep it from the public will long avail. The price to be paid for it is of no consequence. Where the information is worth millions, it is idle to suppose that clerks living upon a small salary, often in debt, subject to pecuniary pressure, can long resist the temptation brought to bear upon them. As I said before, Wall street men are adroit. They know just how to accomplish the ends they have in view, and where information is needed, they know just how to obtain that information. They always have obtained it; they do now obtain it; they always will obtain it. I have myself had erroneous statements accidentally made by me in the Railroad Commissioner's office given to the press and published before I had an opportunity, by the use of the telegraph, to correct my own error. Two hours in that case sufficed; and the information, though wrong, was worth many thousands of dollars.

I wish now to submit that this whole thing is unnecessary. The Thurman act brought the Government into a position it never should have been brought into. It made the Government a partner in the profits of railroad companies. Instead of being a creditor, as the original acts contemplated, occupying simply the position of one calling for the payment of a debt, that act set aside for the benefit of the Government a portion of the earnings of the company, thus giving the Government an interest in the way in which the business of the company was conducted. This was a grave error. It was a deviation from correct principles; and like all deviations from correct principles it brought its own penalty. The Government was drawn into the position which a partnership implied, with no single satisfactory result.

The remedy, I submit, is obvious. The mistake should be rectified. The business connection between the Government and the companies should be severed. The Government should again take its former, original, and correct position, that of a creditor, to whom money is due from the company, and who, until such money is paid, or default made in its payment, holds the ordinary position of a creditor.

The Pacific railroads owe the Government large sums of money. They also owe private parties large sums of money. The Government has a lien upon certain prop-

erties of the company for the repayment of the money due it. So have the private parties. The positions are identical. The proper course, therefore, for the Government to pursue is the familiar business course pursued between debtor and creditor. If by contract, or by force of law changing the original contract, the companies are to make certain specified payments to the Government, so long as those payments are regularly made the Government should leave the companies to conduct their business in their own way. When default is made in those payments, the Government should resort to its remedy, just as any other creditor would resort to his remedy.

So long as this simple, ordinary, every day principle is strictly observed, I am unable to see why the Government stands any more in need of a railroad bureau, or of supervising the accounts of the railroad companies, than the private creditor does. The Union Pacific has many issues of its securities upon the market. In the original instruments, whether mortgage or otherwise, creating those securities, provision is made as to the course to be pursued in case of default. Until default, the private parties to whom we owe these sums of money do not audit our accounts, do not interfere with our business, do not in any way concern themselves in what we are doing. They simply wait for a default to take place, and then, in the method indicated in their bond, they proceed to secure themselves against loss. This is business. The same course should be pursued by the Government. Instead of calling for a percentage of our earnings, as now, the ascertainment of which percentage will be an endless source of vexatious litigation, affording stock-jobbers the best possible opportunity for manipulation—instead of this, the Government should establish a system of fixed, specified payments, to be made by the companies to it. The security for these payments should be stipulated. Then, so long as the companies complied with the conditions and made their regular payments, the Government should leave them absolutely alone, just as their private creditors leave them alone. When default was made, the Government should pursue the course indicated in the law or in the bond, just as private creditors pursue it under similar conditions.

The correct course, therefore, to be pursued by the Government is to my mind plain. Falling back upon well-defined principles of both law and business regulating the relations of creditor and debtor, it should assume towards the Pacific railroads the attitude of a creditor. The companies should be held to a strict responsibility in case of default. Were this course adopted, the entire present railroad bureau of the Interior Department would be unnecessary; just as unnecessary as a similar bureau is found to be in the numberless similar contracts between railroad companies and individuals. The whole thing could be swept away. Nothing would be affected by any action of Congress. There would be no inducement for corruption, because it would be out of the power of any one either to suggest legislation or to sell information. We would, by the familiar business road, get back to correct principles, and the existing difficulty would disappear.

I also beg leave to suggest that this is true democratic doctrine. We need less government, not more. Whatever can be lopped off it is highly desirable should be lopped off. Wherever ordinary business principles can be made to do any needed work they should be looked to to do it. New and untried experiments should not be put in force. The Thurman act was a new and untried experiment. It resulted in failure. Finally, I would confidently urge that the Democratic Secretary of the Interior who, falling back on cardinal principles, should divorce the Government from all business connected with the Pacific railroads, would not only, following the line of correct business and political action, relieve an overburdened Department of an unnecessary excrescence, but he would cut out from the body politic a dangerous and growing spot of political gangrene.

I remain, most respectfully, yours,

CHAS. F. ADAMS, JR.,  
*President.*

#### WILLING TO BE ACCOUNTABLE FOR DEBTS.

\*The WITNESS. We do not object to being held accountable for our debts. On the contrary, we agree it is right and fair and according to the contract. What we object to is being held responsible for our debt and yet not being allowed to manage our business as we and every one else know it ought to be managed until the debt becomes due; so that when it becomes due we may have the money with which to pay. We cannot possibly have the money to pay the debt unless we can do business until the debt becomes due, on business principles, and as our competitors do business. But if you, the creditor, say to us that we shall not do business during that time, we reply at once, "Then we

cannot pay our debt." But who, then, is responsible for our failure? The Government has put us in such a position that we carry on business at a great disadvantage in every respect; first, because we cannot contract, negotiate, borrow, lease, guarantee, and consolidate, as every other company does; and, secondly, because whatever money we make by our business is taken from us and locked up at 2 per cent. interest.

By the CHAIRMAN :

Q. Have you any other suggestion to make?—A. None that I know of.

#### MARKET VALUE OF THE SECURITIES.

Q. Can you give us an approximate idea of the market value of your securities? They are placed in your reports at about \$73,000,000.—A. I cannot give you an approximate value, because there are no market quotations, but if the Union Pacific were free to negotiate for its branch system of 3,000 miles, I should be surprised if it could not get for it very near the face value of \$23,000 a mile from the companies which would be in competition for them. The main stem of the Union Pacific would not be worth much after the branches were gone; but I think the Chicago and Northwestern, the Burlington and Missouri, the Rock Island, and other companies would be eager competitors for them. The only way you could ascertain what you could sell the branches for would be by dickering. I can say this as an illustration of what the branch system is worth: If we have one poor property in the system, it is the Denver and South Park, which has not failed to earn its interest, but ran behind last year \$60,000 on operating expenses. We defaulted the interest May 1, having various reasons for so doing; among others, because so much had been said about our branches being "suckers instead of feeders," and because this investigation was pending. We wanted to proceed very slowly. We did not wish it to be said that for one reason or another we were going along bleeding the main line to support a hopeless "sucker." Meanwhile I have been making investigations into the case of the Denver and South Park line, which will come before the board of directors at their meeting which takes place next week. I can only say, as the result of my investigations, that the most extreme doubt has been expressed by those best competent to form an opinion as to the desirability of the Union Pacific lopping off even the worst showing of all its branches.

#### DENVER AND SOUTH PARK RAILROAD FORECLOSURE EXPECTED.

By Commissioner ANDERSON :

Q. Have foreclosure proceedings been instituted?—A. They have not, but they will undoubtedly be instituted sixty days after default; that is, the 1st of July.

Q. On the \$1,800,000?—A. On the underlying mortgage of \$1,800,000.

Q. In which the Union Pacific has no interest?—A. We have no interest whatever.

Q. What value will be left in the extensions of the Denver Pacific on the 150 miles if that should be foreclosed?—A. I think they would be just as valuable as ever, for we would then undoubtedly connect with them by way of Graymont. You will see how when you go there. It is an interesting problem. By building 14 miles of road we could reduce the distance and make a better line to Leadville, and then the old Denver and South Park would be absolutely worthless.

Commissioner ANDERSON. You have the bondholders in a very bad place?

The WITNESS. If we chose to crowd them, we have them entirely at our mercy. The 14 miles of road would be expensive. It involves a tunnel which would cost us \$1,000,000, but it would give us a line to Leadville of only 94 miles, and we could make it a standard gauge. It would solve the problem. But the rest of the Denver and South Park road, I think, would then be of very questionable value.

But the whole matter of the value of the branch system to the main line is one that I think it would be little better than waste of time for us to discuss here, for when you go over the system the situation will be, whether for better or worse, clear to your minds. On the spot it becomes intelligible, whereas here it is a mixed-up matter.

#### CONCERNING PLAN OF SETTLEMENT.

Q. Are you prepared to specify an annual fixed sum that you would be willing to say that this road could undertake to pay, and would pay?

—A. I am not prepared to take that matter up to-day. The Union Pacific cannot, in my opinion, stipulate to pay any annual fixed sum, separate from the question of its independence.

Commissioner ANDERSON. I assume that you get your independence?

The WITNESS. If you would give us our independence of the Government, as other lines are independent, I do not believe we would have any difficulty in arriving at a result; our independence we would prize at a large sum of money.

Q. How would you propose to provide for the case of a default, supposing the company should receive its independence?—A. You could proceed, when we defaulted, to take our property and foreclose on us.

Commissioner ANDERSON. It would be impossible to foreclose against your junior mortgages by any act of yours.

The WITNESS. You would retain your second mortgage lien and then you would have to pay the first mortgage; our property is well worth that.

Q. How could we make the second mortgage, which the United States has, and which becomes due in 1897, mature against holders of junior mortgages on your main line, for default made now?—A. That would be a question for lawyers to decide. Our property, I think you would find, would be amply sufficient to cover you from any danger of loss.

Q. Have you estimated the reduction of fixed charges, which are bound to occur, in the accounts of the Union Pacific between now and the year 1900?—A. I have.

Commissioner ANDERSON. I think some statement of them was made the other day, but it was not very complete, I believe.

The WITNESS. I could not undertake to speak from memory. Our books show exactly. It is a matter of record. It is far better to have it in exact figures than in round numbers.

#### A FIXED ANNUAL PAYMENT.

Q. So that there would be nothing to prevent the company agreeing to a fixed payment, which, after 1900, might be materially increased?—

A. If we are to discuss this question, I will say at once that our stockholders, at their last annual meeting, passed a vote instructing the board of directors to meet the issues squarely, and to make a direct proposition to the representatives of the Government. The trouble is that the



Government has no representatives. You are the first persons who have even approximated to such a body. When we have sought to take the question up we have always been referred, in a vague way, to Congress. But I will say at once that I have found among those of our stockholders with whom I have talked a strong wish that we should meet the Government on the basis suggested by Mr. Gould. That is (as we would with a large creditor) to enter into the question of "How much will you take to-day in payment of your debt due ten years hence?" I myself am on record repeatedly as saying that I thought the debt could not be so met, and that an extension of time would be necessary. But I have found so strong a feeling existing among our stockholders in favor of the other scheme, that of meeting the thing at once, as you would with a private creditor—if any one can be got at who represented the Government—that I should feel strongly inclined to endeavor to deal in that way.

#### DIFFERENT BASIS OF SETTLEMENT FOR CENTRAL AND UNION PACIFIC ROADS.

Q. Is that without any reference to a connection with the Central Pacific's future at all?—A. I think the Commissioners will find it necessary, when they go into this matter, to adopt a different basis of settlement for the Central Pacific from that for the Union Pacific. Such I know is the opinion of the representatives of the Central Pacific. Mr. Huntington has said to me, in conversation, that the Union Pacific was so differently placed from the Central Pacific (owing to the country through which it ran), to the policy of building branch lines which it had pursued, and to possible development in the region which it served, that he thought each of the two companies must be treated with on its own basis. I am decidedly of the same opinion. I think you gentlemen will be of the same opinion after you have been to California.

#### GOVERNMENT LIEN MORE SECURE ON UNION THAN ON CENTRAL PACIFIC.

Q. You mean he intimated that the Government lien was very much better on the Union Pacific than on the Central?—A. That was his intimation, and it goes without saying. It is apparent from our reports; it was proposed last year (a proposition, which, had it been carried out, would have sent me out of the management of the Union Pacific at once) to increase the annual payments under the Thurman act to 40 per cent., and to extend it over our entire system. When this measure was proposed the Central Pacific took it very calmly. They then found that in the case of the Union Pacific this plan would amount to the payment of \$3,000,000 a year, while in the case of the Central Pacific it would amount, I think, to about \$400,000. That shows the difference between the two properties. On the same basis we would have paid \$3,000,000 a year more than all the interest on the subsidy debt, and the Central Pacific would have paid a fifth part of its interest.

Commissioner ANDERSON. The figures show 25 per cent. of the net earnings to be five or six hundred thousand dollars, so that 40 per cent. would not have been over \$900,000.

The WITNESS. Are you speaking of the Union Pacific?

Commissioner ANDERSON. No; the Union Pacific, with the portion of the Kansas Pacific that pays.

The WITNESS. The computation was made and it was found and stated in debate in the Senate as a reason why the proposed increase

should not be adopted, that it would amount in our case to about \$2,700,000 a year. That was on the earnings of 1885. Our earnings of 1887 have already run ahead of last year \$1,300,000.

Commissioner ANDERSON. The \$2,700,000, or 40 per cent., would have been on the earnings of 1885 or 1884?

Mr. MINK. On the earnings of 1885.

The WITNESS. I have substantially finished my statement.

The CHAIRMAN. Have you any other suggestions now, or will you reserve any further suggestions for a future occasion?

The WITNESS. We shall have abundance of time hereafter. Here is another paper I should like to put in evidence. I have made a verbal statement as to the amount of trouble I have had in dealing with the Government, as compared with all other troubles combined. This statement shows the difficulties in that way which I had to meet during the sessions of the Forty-eighth Congress.

The paper is marked "Exhibit No. 9, June 4, 1887," and is as follows:

#### CONGRESSIONAL INTERFERENCE.

The question having been asked as to the precise manner in which the company has been "harassed" by Congress it may be well to state the following facts:

There is an erroneous impression that the present situation results from the action of the company in urging upon Congress the passage of a funding bill to take the place of the Thurman act and make a permanent adjustment of the relations between the Government and the company. In this, as in almost everything else concerning its affairs, the company has been misrepresented. It did not take the initiative, and had no hand whatever in opening this question. From the beginning of the present agitation it has been simply on the defensive.

In the fall of 1883, before the assembling of the Forty-eighth Congress, a strong combination was formed in Wall street to speculate on the bearside of Union Pacific. The firm of Woerishoffer & Co. was at the head of the combination. An enormous lobby was employed at Washington, led by a well-known speculator and lobbyist, who is reported to have received a stated salary of \$10,000 a year for this service, his special qualification being a certain familiarity with the affairs of the company derived from business relations, he having been a sort of fiscal agent for the Kansas Pacific Company prior to the consolidation.

At this time, when the newspapers, subsidized by the bear combination, were charging daily that the company had an enormous lobby at work upon Congress, it had in fact but one person employed in what might be called the lobby, this being Mr. Williams, of Kansas, whose business it was simply to observe the progress of legislation and report whenever anything affecting the interests of the company should come up.

The attacks of the Wall street combination upon the company began with the opening of the first session of the Forty-eighth Congress, and were directed at every point that seemed weak or vulnerable.

Mr. Dunn, of Arkansas, opened the ball on the 10th of December with House bill 35, compelling the company to pay the costs of surveying all unsurveyed lands, with a view to making them amenable to State and Territorial taxation. On the same day, Mr. Anderson, of Kansas, introduced House bill 507, being a bill with the same title and for the same purpose.

On the same day, December 10, Mr. Rosecrans, of California, introduced House bill 64, establishing a minimum of freight rates for the road, and on the same day Mr. Sumner, of California, introduced House bill 99 for the same purpose, by the provisions of which the freight rates on the Union and Central Pacific railroads were reduced to 70 per cent. of those in force on December 3rd, 1883.

On the 11th of December, Mr. Valentine, of Nebraska, introduced House bill 934, compelling the company to pay costs of surveying, similar in terms to the bills introduced on December 10 by Messrs. Dunn and Anderson. On the 7th of January, Mr. Weaver, of Iowa, introduced House bill 2384, being a bill for the same purpose as the one last mentioned, the purpose being to compel the company to pay for surveys and take out patents on all lands granted by the Government, and so bring them within State and Territorial taxation.

On the 7th of January, Mr. Sumner, of California, introduced another bill, House bill 1803, regulating freight rates. On the 14th of January, Mr. Belford, of Colorado, introduced House bill 3081, also regulating freight rates.

On the 15th of January, Senator Van Wyck, of Nebraska, introduced Senate bill 1101, regulating freight rates. On the 17th of January, the same Senator introduced Senate bill 1156, on the same subject.

On the 21st of January, Mr. Dunn, of Arkansas, introduced another bill relating to the payment of the cost of surveying lands, &c., being House bill 3562.

On the same day, Mr. Throckmorton, of Texas, introduced House bill 3801, being an amendment to the Thurman act, the principal feature of which was the increase of the sinking fund requirements from 25 to 35 per cent.

On the same day, in the Senate, Mr. Edmunds introduced Senate bill 1178, being an act to amend the original acts of corporation, and also "to provide for the settlement of the claims growing out of the issue of bonds to aid in the construction of said railroads, and to secure to the United States all indebtedness of the companies therein mentioned."

This is the first record of any bill for a public act being introduced in Congress which embodied the principle of the funding bill and provided for an extension of the debt. That the company had nothing whatever to do with the preparation or the introduction of this bill is clear from the remarks with which Mr. Edmunds introduced it, which were as follows:

"I desire to say in connection with this bill that it has been prepared by the Commissioner of Railroads, and is a very important bill. The object of it is, if possible, to bring to a termination the controversy that appears to be perpetual between the United States and these railroad companies about what they shall pay in respect of their bonds, and in respect of the security that we have for them, and provide for closing up the transaction by a new arrangement on a long bond to take the place of their obligation to repay the United States, and provide certain legal securities and other arrangements for carrying out the transaction. It is quite clear to my mind that it would be well, if it is possible, to make some arrangement by which we shall provide for the United States being certainly reimbursed by these companies for the vast sums of money it has advanced. Whether the time that is provided for, and the method, is precisely what it ought to be, I am not sure. That deserves consideration. We ought also, I think, in the same connection, although it is not in the bill, to provide some authority in the President of the United States to secure the interests of the United States in case of an attempted foreclosure or sale or other disposition of this property under the mortgages that are prior to our lien."

On the 4th of February, Mr. Anderson, of Kansas, introduced House bill 4447, the purpose of which was ostensibly to prevent the sale of the Pacific railroads before providing for the payment of the United States debt.

On the 25th of February, Senator Logan introduced two resolutions calling upon the Secretary of the Interior and the Attorney-General for information as to whether the company had failed to comply with the requirements of the Thurman act; whether dividends had been declared in violation of the law, and what steps had been taken by the Government in regard thereto.

On the 12th of May, Senator McMillan reported another resolution instructing the Committee of the Judiciary to make inquiry as to whether the company had obeyed the provisions of the law, and giving it the power to send for persons and papers.

On the 16th of June, Senator Van Wyck introduced a resolution directing the Judiciary Committee to inquire whether the company had become responsible for, or had guaranteed the interest on, any bonds other than those specifically authorized by Congress.

On the 5th of July, Mr. Thompson, of the House Committee on Pacific Railroads, introduced a resolution authorizing the Speaker to appoint a committee of five members of the Committee on Pacific Railroads to investigate the affairs of the Pacific roads, and report concerning a number of alleged violations of law and frauds upon the Government. This resolution was not considered, one member objecting that it was "too late a day in the session to provide for a junketing expedition."

It will be seen by this statement that the bear combination got in their work at once upon the opening of Congress, and kept up a rattling series of attacks in the form of new bills for the first two or three months. The effect of these attacks upon the stock market is apparent from the record of sales. The highest price in November, before the session of Congress began, was 91. In December the highest price was 83. It varied during this month 19 points—the lowest price being 70—its general tendency being downward.

On the 26th day of April, the Pacific Railroad Committee reported the Phil. Thompson bill (so called), which provided for an increase of the sinking fund requirements to 35 per cent.

On the 29th of April the Judiciary Committee of the Senate reported what was known as the Garland bill, which embodied the funding bill principle in the original Edmunds bill, for which it was a substitute, but confined its operations to the Central Pacific, omitting the Union Pacific, which was left to the tender mercies of the Thurman act, with the possibility of the increased pressure put upon it by the passage of the Phil. Thompson bill. The results aimed at by the Wall street combination were accomplished. In April, when these two bills were reported, the stock had been rattled down by these continuous attacks to 62½.

On the 18th of June, a vote was taken upon the Phil. Thompson bill. Meantime, a minority committee had reported as a substitute what was known as the Post bill, which contained the funding-bill features of the original Senate bill, applying them to the Union Pacific as well as the Central Pacific, in this respect differing from the Senate bill. The effort to substitute this for the majority bill was very feebly urged. Before the final vote was taken Mr. Thompson moved an amendment to his original bill increasing the sinking-fund requirements to 55 per cent. of the net earnings. This was adopted with scarcely any opposition, and the bill as amended passed the House.

The effect upon the stock was visible at once in a further fall. During June it dropped to 28, the lowest point reached for several years.

The decline was no doubt aided by well authenticated reports in circulation at the time that Senator Edmunds contemplated action in the Judiciary Committee of the Senate of a still more hostile character than any yet taken. The impression was very general that Congress was angry and indignant at the conduct of the Union Pacific, and was determined to force the company into the hands of a receiver.

An interesting circumstance in connection with the record of these concerted attacks upon the credit and standing of the company in Congress is that in the act organizing the commission, Congress thought it worth while to specially order an inquiry as to whether the company had expended any money "for the purpose of influencing legislation." The natural inference is that while it is perfectly proper, and perhaps on the whole commendable, for a combination of speculators in the stock of this company to employ a lobby at Washington to procure hostile legislation, it is contrary to public morals for the company to expend any money in defending itself.

From the beginning of this discussion the company has been on the defensive. It has made no definite proposition or suggestion, but simply remained in an expectant attitude with occasional suggestions as to the details of bills which were being worked out by the committees of the Senate and the House.

Only two methods have ever been proposed for the settlement of this question—one, the funding-bill plan providing for an extension of the debt; the other, an expansion of the Thurman act, by increasing the sinking-fund requirements.

At one stage in the progress of the bill under which the Commission is organized, an amendment was pending which provided for an increase of the sinking-fund requirements to 40 per cent.

As a considerable misapprehension exists concerning the effect of such a provision as this upon the earnings of the railroad company, it may be well to state the results of a calculation made upon this basis in connection with the earnings of a half dozen of the most prominent railroad companies in the country, taking, for instance, the Boston and Albany, Boston and Maine, Fitchburg, New York Central, Pennsylvania Railroad Company, and the Chicago, Burlington and Quincy. Were these companies required by the Government to turn into a sinking fund 40 per cent. of their net earnings, the effect would be a deficit on the part of three of the roads, and in the case of three others so small a return as to make the investment practically without profit. In the case of the Boston and Albany, which in 1885 showed a surplus of \$2,344,306, a deduction of 40 per cent. from net earnings would leave but \$840,847. In the case of the Boston and Maine, which showed a surplus in 1885 of \$2,350,552, the deduction of 40 per cent. would leave a deficit of \$2,847. In the case of the Fitchburg, with a surplus of \$8,110,069, it would be left with a deficit of \$262,585. The Pennsylvania Railroad Company, with its enormous surplus of \$21,293,144, would be left by the deduction of 40 per cent. from its net earnings with a deficit of \$650,586; while the Chicago, Burlington and Quincy would find its surplus of \$14,262,526 reduced to \$2,527,304.

The calculations which give the above results are made upon the same principles as in the calculation of the Union Pacific net earnings. It must be borne in mind, of course, that the amounts given above as the surplus of the several companies include income from other sources than net earnings, from which deductions are made.

CHARLES F. ADAMS.

The Commission then adjourned, to reconvene in Omaha on June 20, 1887, at 10 a. m.

NO. 10 WALL STREET, NEW YORK,  
*Tuesday, June 7, 1887.*

Examination of JAMES MIDDLEDITH, taken before Hon. E. ELLERY ANDERSON, one of the Commissioners of the United States Pacific Railway Commission,



As preliminary to the examination of Mr. MIDDLEDITH, the following memorandum received from him is here inserted :

PRELIMINARY STATEMENT OF JAMES MIDDLEDITH.

Since 1874 the Union Pacific Railroad has paid in dividends to its stockholders over \$27,000,000. According to the decision of Chief Justice Waite, affirming the Thurman act, October, 1878, these stockholders were not *legally* entitled to any dividends. Hence all dividends since 1878, about \$18,000,000, are illegal.

The dividend of 1884 was declared in face of a gross floating debt of \$13,000,000, consisting largely of advances to unprofitable branch roads, and hence not available as assets. (See Government Directors' Report, 1884). The law of 1873 prohibits, under penalty of fine and imprisonment, the payment of unearned dividends, or the issuing of stock and bonds without consent of Congress. *Without such consent this road issued:*

The collateral trust bonds of 1878, about \$4,600,000; stock, in 1881, \$10,000,000; collateral trust bonds in 1883, about \$3,700,000; issued and guaranteed, 1884 to 1886, at an annual loss of about \$500,000; some \$14,800,000 Oregon Short Line bonds, and guaranteed in 1886, \$7,000,000 Saint Joe and Grand Island bonds.

Why has this law not been enforced?

By referring to the report of the Government directors of 1882 you will find the road intended to issue in *that* year the collateral bonds they issued in 1883; but on the expressed doubt of the Government directors as to the legality of such a step, the road dropped the project for that year. The same report shows how these Government directors were treated in the manner of dividends being declared without notification to them.

From the proceeds of the collateral trust bonds of the \$10,000,000 stock and of the surplus of the income of the main (or subsidized) road, since 1878, some 2,300 miles of branch lines have been purchased or constructed, and under the Thurman act (which see) all assets of the road of every nature, including lands and all income, are liable for the Government claim. Hence under the law the Government lien is a first lien on all investments made from disposition of property held by the Union Pacific, or investments acquired from investments of its assets and annual surplus income, and therefore is a first lien on the branch lines, ahead of *any branch-line bonds issued since 1878*.

These branch roads (according to Commissioner Johnson's report, 1886) failed to earn their annual interest by \$1,288,000, which the subsidized road had to pay, in so far the outside branch line bondholders are concerned. For instance, Denver and South Park road earned \$16,000 *less than operating expenses*. The Union Pacific held over \$2,000,000 Denver and South Park bonds, and received no interest on its holdings; but, in addition to paying the deficiency of \$16,000, had to pay outside bondholders \$130,000 interest on their \$1,900,000 bonds, a net loss of \$146,000 to the main line, besides loss of interest on \$4,000,000 invested in ownership of Denver and South Park Railroad.

Allow me to ask you to look at the charges per passenger mile on branch roads, as high as 7 cents, and compare with low rate on main line. Also read in Railroad Commissioner's Report of 1886 how the statement of the earnings of the east and west branches of Kansas Pacific is made up, to the detriment of the Government 25 per cent., and also see the list of constructive mileages of  $1\frac{1}{2}$  to 2 miles allowed to the branch line by the main line for "every 1 mile of service performed."

The Union Pacific has redeemed *before* maturity, at an *average premium* of 12 per cent., all but \$2,000,000 land-grant bonds. It has \$13,000,000 in unsold lands, and \$13,000,000 in land notes, &c., on hand, from which it proposes to redeem *before* maturity \$14,800,000 income bonds or sinking-fund bonds, due in 1894, selling at 118.

These bonds are a renewal of the income bonds of 1874, made by giving the holder of every six old bonds seven of the new ones bearing 8 per cent. On what basis does the road claim that these are a second lien on the land, and by what right are they to be redeemed before maturity out of assets, which, under the acts of 1862 and 1878, are part of the lien of the Government?

The Government directors have recommended a seventy-year extension bill, claiming it gives the Government new assets. On the contrary that bill exempts from the Government lien \$27,000,000 of land assets now under the law part of the lien, and gives *not a single new asset*. The Government has paid *each year* for over twenty years \$3,800,000 (the annual interest on the \$64,000,000 bonds loaned the subsidized roads). The bill recommended by the Government directors and by the Secretary of the Interior assumes that these amounts are not due till 1897, and *discounts them* to 1886, instead of adding interest thereto, as the law requires, according to the speech of Senator Edmunds. (See Record of February 25, 1887.) The Government is entitled (making a loss of interest to the Government) to \$40,000,000 alone. The bill allows over \$3,000,000 credits for interest on part payments made by these roads to the Gov-



ernment, and allows the latter none on absolute payments. An acceptance of that bill, as a renewal of that bill, at 5 per cent. instead of 5 per cent., omitting even the above errors, would involve a loss of \$1,012,000,000 to the Government. (See letter of Professor Elliot, Treasury expert, to Senator McPherson.)

If the Union Pacific gives ample security and pays 6 per cent. to its first mortgage bondholders, 6 per cent. and 5 per cent. to its collateral bondholders, 7 per cent. and 6 per cent. to its branch-line bondholders, and 8 per cent. to its extended income bondholders, on what basis should a second mortgage (or Government lien) be extended for seventy years, giving up its present ample security for none? May I suggest the Government directors be required to answer these questions?

Please compare income account of Union Pacific Railroad (subsidized line) with income account of Union Pacific Railway or system. The former shows a surplus of nearly \$1,000,000 greater than the latter. This difference is the result of operation of branch lines despite higher passenger and freight rates and constructive mileage allowed them.

JAMES MIDDLEDITH being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your business?—Answer. At present I am out of business and living on my income. I was formerly a member of the Stock Exchange.

Q. What is your residence?—A. Orange, N. J.

Q. Will you give it sufficiently explicit for us to find you?—A. Park avenue, Orange.

Q. There are so many Oranges, will you please state which one it is?—A. Brick Church.

Q. What attention have you given to the financial affairs of the Union Pacific Railroad?—A. I have examined them for two years.

Q. Basing your examination on what papers?—A. On their reports.

Q. What other sources of information had you?—A. The official documents and copies of the United States laws.

Q. And the Railroad Commissioner's Reports?—A. Yes, sir.

Q. Have you derived any of your information from personal statements made by persons who would have original knowledge of their own?—A. Yes, sir. I have had an interview with an attorney of the road, with Franklin MacVeagh (at request of Secretary Lamont); with F. R. Coudert, and with General Joseph E. Johnston, United States Railroad Commissioner.

Q. Have you not also conversed with Senator McPherson in regard to it?—A. Yes, sir. I thought you meant those who were interested in the road. I have also considered the propositions made by Senator Edmunds in his various speeches relating to these railroads. I have also had interviews with Representatives Springer and Henley.

#### UNION PACIFIC DIVIDENDS.

Q. I will follow the order of suggestions which you yourself have indicated to us in your communication, and question you in regard to the matters there alluded to. The first matter you refer to is the fact that from 1875 to 1884 the Union Pacific Railway has paid dividends amounting to about \$27,000,000. We have the complete statements, and I think they exceed \$28,000,000. On what do you base your assertion that the stockholders are not legally entitled to any of these dividends?—A. On Chief Justice Waite's decision. It is incorporated in the Report of 1884 of the Union-Pacific Railway Company, at page 188, as follows:

## DECISION OF CHIEF JUSTICE WAITE.

The company has been in receipt of large earnings since the completion of the road, and, after paying interest on its own bonds at maturity, has been dividing the remainder, or a very considerable portion of it, from time to time among its stockholders, without laying by anything to meet the enormous debt, which, considering the amount is so soon to become due. It is easy to see that in this way the stockholders of the present time are receiving in the shape of dividends that which those of the future may be compelled to lose. Under these circumstances the stockholder of to-day has no property right to dividends which shall absorb all net earnings after paying debts already due. The current earnings belong to the corporation, and stockholders, as such, have no right to them as against the just demands of creditors.

## DIVIDENDS ILLEGAL WHEN IN DEBT.

**Q.** Do you conclude from the extract you have just read that the stockholders are not entitled to dividends at all, so long as any of the creditors of the company are not paid, or only that they are not entitled to dividends which should imperil the security of the creditors?—**A.** I do not see why I should answer that question. I have simply quoted the decision of the Supreme Court in the matter, which is supposed to be sufficient authority against any dividends, although Mr. Adams says the road has a legal right to pay dividends. I believe literally in law any dividend is illegal as long as the road has a large floating debt. I am not a lawyer, but that is my opinion, that any dividend is illegal when the road is largely in debt.

**Q.** If the floating debt represent an actually paying asset, would that proposition not be broader than you care to make it?

**The WITNESS.** That may be the spirit of the law. Does not the letter forbid dividends when the corporations are in debt?

**Commissioner ANDERSON.** They may pay dividends when they are in debt, provided the debt is actually represented by actual property which will redeem and pay the debt if the dividend is earned during the year.

## BRANCH LINES.

**The WITNESS.** So you consider advances to branch lines that do not earn anything, comparatively speaking, and that are a burden to the main road, paying assets, especially when such advances were not paid at the time the Government directors reported, and were only eventually paid by the main line selling bonds for these advances, thus funding a floating debt.

**Commissioner ANDERSON.** That is another question. I would not in all cases by any means; but all I call your attention to is that the general proposition without qualification, that the road that earns a great deal of money can never declare a dividend so long as there is a floating debt on its books, without referring to the property which the floating debt has been used to acquire, is broader than the law would justify, and that it is necessary to look into the use that has been made of the floating debt and of the branch lines, or whatever the property may be that has been acquired, in order to determine whether the declaration of a dividend would be a violation of the law or not.

**The WITNESS.** I place against your views the decision of the Supreme Court forbidding any dividends, and in regard to this special dividend I refer, for the proof of the fact that the floating debt of the Union Pacific was at that time \$13,000,000, to the report of the Government directors of 1884, at page 150, showing that nearly \$7,000,000 thereof was unavailable.

## SECURITIES SOLD TO REDUCE FLOATING DEBT.

Q. Have you examined the subsequent reports of the company to ascertain what the company has done since 1884 in liquidation of the floating debt referred to?—A. Yes, sir; slightly.

Q. You are, of course, aware that they have paid no dividends since 1884?—A. Yes. They sold securities in 1885 and 1886 and reduced the floating debt by funding it. They sold nearly \$2,000,000 Oregon Short Line bonds since I made that charge, while they were reducing the floating debt, and probably sold some other things.

Commissioner ANDERSON. The principal securities that they have sold have been Saint Joseph and Grand Island bonds.

Q. At what page is that of the report of 1886?—A. I had not seen that report. On page 19 of the report of 1886 is a line of securities reported by the company to have been sold. They were sold for the purpose of paying off the floating debt. I see they sold a million and a half of the Oregon Short Line.

Q. You refer to the law of 1873 as requiring the consent of Congress, both to the issue of collateral bonds and the issue of stock, and refer to the issue of collateral bonds in 1879, as a violation of that agreement. Do you know what securities were pledged for that loan?—A. I can find the list. The securities pledged are the property of the Union Pacific, subject to the lien of the Government, according to the Thurman act.

Q. Do you know that no lien on the property or earnings of the Union Pacific Railway was given?—A. I know they pledged a large lot of branch-line securities, the property of the Union Pacific, and hence belonging to the Government lien. The main line is responsible in case of a deficiency on part of these pledged lines to earn the interest on the collateral bonds, and the main line will pay it. Hence both the property of the Union Pacific is mortgaged and a pledge made on its future earnings contrary to the law of 1873. If my information is right, and I quote Mr. Henley, of California, the Judiciary Committee of the House reported favorably in 1886 a resolution instructing the Attorney-General to prosecute the officers of the Union Pacific Railroad civilly and *criminally* for issuing those collateral bonds.

## THE GOVERNMENT LIEN COVERS ALL ASSETS.

Q. Still, as a matter of fact, the only security given for the bonds are these bonds and properties of the branch lines. No specific lien, that you know of, was given on the property of the Union Pacific proper or on its earnings?—A. If I were a lawyer, I would take issue with you then and there on two points. First, that those branch-line securities are the property of the Union Pacific Company, and they are liable for its debt to the Government under the Thurman act, 1878. If you have a copy of that act I shall be very glad to read it to you and point out wherein they are so held. Are you aware how these roads have been built?

Commissioner ANDERSON. Perfectly.

The WITNESS. Did the Directors put their hands in their pockets?

Commissioner ANDERSON. No, they were built out of the earnings and out of the proceeds of lands and out of the issue of \$10 000 000 stock.

The WITNESS. No, sir; there was no land sold for it.

Commissioner ANDERSON. Yes, there was some land sold, but it was chiefly done out of the stock and earnings.

The WITNESS. They were entirely built out of bond and stock issues and out of the surplus earnings, which are a part of the lien of the United States. In fact the Government has a lien on all assets. These issues are a mortgage on the earnings of the subsidized lines.

Q. You refer to the issue in 1881 of \$10,000,000 stock as being made in violation of the law. In what respect do you consider that a violation of law?—A. Because they had no right to issue any stock or bonds without the consent of Congress. I am aware that they got \$10,000,000 cash for it.

Q. Are you also aware that under the original act they were authorized to consolidate, and that that original act limited the capital stock to the actual cost of the roads, and under that act they claimed this right to issue the \$10,000,000?

#### THE GUARANTEE OF BONDS A VIOLATION OF ACT OF 1878.

The WITNESS. Do they claim the right to issue these bonds under that same law?

Commissioner ANDERSON. No.

The WITNESS. Under what right do they claim to issue the bonds of the Oregon Short Line?

Commissioner ANDERSON. I want to dispose of the stock first. You have not looked into that feature of it, that under the original act of 1862 and 1864, under which they claim they were entitled to consolidate, and to issue under the consolidation stock equal to the cost of all the consolidated roads.

The WITNESS. Is it not perfectly well known that the road did not cost it bonds; that the stock represented next to no cash? If, as you say, there is such a law, can the stock be issued under it in violation of the law of 1878?

Commissioner ANDERSON. It presents a question of fact as to what the cost of the consolidated roads was; but it steers clear of the difficulty that that issue was illegal, if the cost of these roads was equal to the stock of the consolidated company. You referred to the loan of 1883 as being also a violation, and I assume for the same reasons you assigned for the loan of 1879.

The WITNESS. Exactly. Have you that law here? I mean the railroad law of 1873.

Commissioner ANDERSON. You referred to the guarantee of interest on the bonds of the Oregon Short Line and the Saint Joseph and Grand Island. In what respect do you consider that a violation of the act of 1873?

The WITNESS. In the words of this law I find my support for this statement:

No dividends shall hereafter be made by said company but from the actual net 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 [that is 1873] or the renewals thereof.

I totally misunderstand the case if these collateral trust bonds are not a pledge on the future earnings of the company, and if they are not a mortgage on the property of the company; because these branch roads, being constructed out of the assets of the Union Pacific, are therefore the property of the Union Pacific Company. The collateral bonds are secured by a mortgage on the branch-line bonds, which are the property of the Union Pacific Railroad Company. The collateral

bonds are both a mortgage on the property of the Union Pacific and a pledge on the future earnings, in violation of this law of 1873, and "any director or officer 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 not exceeding two years, and by fine not exceeding five thousand dollars."

Q. In what respect does a guarantee of the interest accruing on the Oregon Short Line amount to a pledge of the property of the Union Pacific or a pledge of its earnings?—A. Because the Oregon Short Line earns just about half of its interest.

Q. But a pledge would prevent the property being mortgaged to anyone else or disposed of in violation of the terms of the pledge. How does the guarantee, assuming the earnings to be deficient, amount to a pledge of the earnings?—A. If you indorse a man's note, if the man does not pay it you pay it.

Commissioner ANDERSON. But it is not a pledge on anything.

The WITNESS. What is the reason it is not? If the Union Pacific indorsed these bonds and the Oregon Short Line does not pay them or their interest, the Union Pacific has to pay both. If it is not a lien on that road, what is it?

Commissioner ANDERSON. It is an agreement to pay.

The WITNESS. It is just the same thing, for it renders the Union Pacific liable. My opinion in regard to the guarantee of interest on these bonds is that, whether the guarantee amounted technically in law to a lien or pledge or not, the effect of the guarantee is to compel the Union Pacific to pay out of its earnings money that would not otherwise be paid, and the result is injurious to the financial capacity of the Union Pacific to respond to the United States, and is therefore precisely the same as though a formal lien or pledge had been given. These collateral loans are a lien both on the property of the subsidized road and its earnings.

#### THE BRANCH LINES SUBJECT TO GOVERNMENT LIEN.

Q. You state that the branch lines have been largely constructed from the proceeds of the collateral trust bonds, the \$10,000,000 of stock, and surplus income, and that for this reason the property purchased with these assets is subject to the Government lien. On what ground do you make that proposition?—A. Section 9 of the Thurman act is:

That all sums due to the United States from any of said companies, respectively, whether payable presently or not, and all sums required to be paid to the United States or into the Treasury, or into the sinking fund, under this act, or under the acts hereinbefore referred to, or otherwise, 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 to any of said companies, respectively or jointly (that includes the lands), and also upon all the estate and property, real, personal, and mixed, assets, and income of the said several railroad companies, respectively, from whatever source derived, subject to any lawful prior and paramount mortgage, lien, or claim thereon.

Q. What railroad do you consider as intended by the act?—A. Any of them. Any of "the said several companies, respectively."

Q. That is, the Union Pacific Railroad?—A. Union and Central Pacific roads.

Q. In what respect would it apply to a branch line having an organization of its own?

The WITNESS. How was this branch line bought? It was bought by stock issued, the proceeds of which are paid into the treasury of the



Union Pacific road. The Union Pacific is liable for the stock. The branch railroads bought or constructed are the equivalent for the money received for the stock. Therefore, the road purchased is the property of the Union Pacific.

Q. Your proposition, then, is that the money subscribed for the stock became subject to the lien of the Government advance?—A. Yes, sir; and all the surplus earnings, that is the income of the road from whatever source derived.

Commissioner ANDERSON. I wanted to get your idea.

The WITNESS. The law certainly says assets, which includes what the road had then, and then whatever income they had used—their income from year to year—in buying or constructing new lines or new assets.

Q. Is the word "income" used there?—A. It is; "and *income* of the said railroad companies, respectively, from whatever source derived." I have submitted that clause to lawyers, and they hold that under that the United States has a first lien beyond the branch line bonds on certain of the branch lines. I call special attention to the fact that by the language of section 9 the income of the Union Pacific Railroad, from whatever source derived, is declared to be subject to the lien of the United States. Whatever shape this income has assumed, or whatever property it has been put into, the United States has a first lien on. I think I can trace \$13,000,000 of that that has gone into these branch lines.

#### THE BRANCH LINES A DETRIMENT.

Commissioner ANDERSON. You state in your communication that you are informed that the branch lines in 1885 failed to earn their interest by \$1,288,000.

The WITNESS. Have you General Johnston's last report?

Commissioner ANDERSON. We have the figures.

The WITNESS. It is \$1,288,000, if my memory serves me right. I made up an analysis of those roads before General Johnston referred to their deficiency, and it was incorporated in a speech of Mr. Henley in 1886. I showed that nineteen or twenty branch roads failed to earn their charges.

Q. Do you conclude that those branch lines are necessarily a detriment to the Union Pacific?—A. I think that the bulk of them are, unquestionably.

Q. Could you answer that question intelligently without examining the amount of moneys earned by the Union Pacific for the haul over the parent line before reaching the branch lines?—A. From the annual deficiency of \$1,288,000 in the earnings of these roads, and that in despite of constructive mileages allowed to them by the parent line of two miles and of a mile and a half for every mile a train is transported I should say they were a detriment to the main line. I could not say what their traffic is.

Q. Would it not be necessary, in order to solve that question accurately, to put on the other side of the account just what the parent line derived from the haul over its line?

The WITNESS. Is the reverse not true? Is the parent line not as essential to the branch lines?

Commissioner ANDERSON. That is true. I say, that in order to determine whether the branch lines be a profit or a loss, you must have the whole picture of transportation from the initial point on the parent line to the final point on the branch line, and then examine the whole

question, charging what is lost by the constructive factor, and crediting what is gained by the haul; and without all those figures you cannot determine whether the branch line is a detriment or a benefit. Does that not seem to be accurate?

The WITNESS. Do you think you will find that out?

Commissioner ANDERSON. If I do not find it out, I cannot solve the problem.

The WITNESS. You will not. I have seen one of the clerks that have been at work at that down at the United States Railroad Commissioner's. He was very able, but found out little.

Q. Mr. Walker?—A. Yes, sir.

Q. He worked at it for what month?—A. I do not know.

Commissioner ANDERSON. He covered the work for one month.

#### AMOUNT INVESTED IN BRANCH LINES.

The WITNESS. I would like to say here that it is my impression that the Union Pacific has got \$38,000,000 invested in these branch line securities.

Commissioner ANDERSON. It is \$75,000,000, I understand.

The WITNESS. They put \$38,000,000 in railroads, represented principally by bonds. The stock for same amount cost but a few millions, though it has a face value of \$38,000,000. They put \$4,000,000 in this Denver and South Park road. That is one-tenth of their real investments. What do they reserve from the Denver and South Park? What feeding does that do to the main line? It earns \$16,000,000 less than operating expenses. If that road does that, what advantage can it be to the main line?

Q. Are you aware they stopped paying the interest?—A. I am aware that a year ago they advertised to buy their coupons. I was not aware that they had stopped paying interest. They got \$2,000,000 of bonds themselves; probably over that. My impression of the way they got those \$2,000,000 of bonds was that they issued them to make good advances that were made to that road.

#### UNSOLD LANDS.

Q. You assert that the Union Pacific has \$13,000,000 of unsold lands. Do you know how many acres they have?—A. I can find out from the report.

Q. Perhaps you include the Kansas Pacific?—A. I include both the lands of the Union Pacific and the Kansas Pacific, because these roads constitute the present Union Pacific Railroad company.

Q. In what respect do you consider that the lands, or the land proceeds, are subject to the lien of the United States? Do you refer to the Thurman act?—A. No; I refer to the original act of 1862, as follows:

#### ACT OF 1862.

To secure repayment to the United States, as hereinafter provided, of the amount of said bonds so issued and delivered to said company, together with all the interest thereon which shall have been paid by the United States, the issue of the said bonds to the said company shall *ipso facto* constitute a first mortgage on the whole line of Railroad Telegraph Company, \* \* \* and on the refusal or failure of said company to redeem said bonds, or any part of them, when required so to do by the Secretary of the Treasury, in accordance with the provisions of this act, the said road, with all

the rights, functions, immunities, and appurtenances thereunto belonging, and all the lands granted to said company by the United States, which at the time of the said default shall remain in the ownership of said company, may be taken possession of by the Secretary of the Treasury for the use and benefit of the United States.

Commissioner ANDERSON. Until the bonds become due, or default is made, it cannot, under the original act, be said that the Government has a lien on the lands which would prevent the sale or mortgage of the lands by the company.

The WITNESS. These roads have announced in advance that they cannot meet the payment of the Government when due, and it is a question whether the road has a right to get these lands out of the way by anticipating the payment of these bonds, which are not due for seven years.

Q. Why do you think the Government gave them the lands? For what purpose?—A. To build the road, or help to build the road, and also to put them in shape where they could pay their debts. Most assuredly to help enable them to pay the Government lien besides building the road.

Q. Could they build the road with the help of the lands, except by selling or mortgaging them?—A. Yes; they could if they had been honest, from proceeds of \$33,000,000 Government bonds and \$33,000,000 first mortgage bonds on 1,400 miles of road. They did mortgage the lands also for \$10,000,000 more.

Commissioner ANDERSON. You say they have no right to mortgage them against the United States?

The WITNESS. I put that as a question. Had they a right? According to my reading of the law, the United States has a lien, in a certain contingency, on those lands. The Union Pacific have, in advance, stated that they could not pay the Government; that they would default at maturity, and therefore it is the duty of the Government to protect its assets, which this road is attempting to divert.

Commissioner ANDERSON. The lien is only to apply to the lands which remain on hand, implying that they have the right to sell and mortgage before default.

The WITNESS. I do not know about that. According to that law, they would not have any right to mortgage. They would have a right to sell. The lands might be on hand and they might be mortgaged, and if mortgaged such mortgage would be subject to this special lien of the United States.

Q. Does it not appear to you that if those lands were a gift made, in good faith, to enable the company to build its road, it was understood by the Government, and by every one, that they should be authorized to borrow on those lands, and apply the borrowed moneys to the construction of the road?

The WITNESS. Is not the road constructed?

Commissioner ANDERSON. I am speaking about the time when they made the mortgages on the lands, in 1866 and 1867.

The WITNESS. If the Government gave them the lands for the profit of the road and not for its own protection, why does the law of 1878 put the lands as the assets of the Government?

#### VALIDITY OF LAND GRANT MORTGAGES.

Q. I want to get your views as to the validity of the land grant mortgages made by the companies prior to the act of 1878?—A. In my judgment, they have no right to anticipate the extended income bonds,

as these sinking fund bonds practically are, out of the proceeds of the land.

Q. Do you know when the mortgage was made which took up the original incomes?—A. In 1874, it is my impression, or thereabouts.

Q. That was before the Thurman act?—A. Yes, sir.

Q. If those lands were the property of the company in 1874, why had they not the right to mortgage them?

The WITNESS. Do you think they were?

Commissioner ANDERSON. I do.

The WITNESS. I do not. For then the Thurman act approved by the Supreme Court is wrong.

Q. You say that the proposed extension bill for seventy years exempts from the Government lien all the land assets, which, under the law, are a part of the lien. Have you anything more to say in regard to the existence of that lien on the land assets than the explanation you have already given under the law of 1862?—A. And 1878.

Q. You think that under the law of 1878 a lien has attached to the land assets, as they stand?—A. Exactly, under the laws of 1862 and 1878.

Q. And that, therefore, it would be improvident to grant an extension which would exempt the land assets from that lien?—A. In other words, I do not see why the Union Pacific Railroad should refuse to pay the full 6 per cent. interest on its second mortgage claim, and pay 8 and 10 per cent. on its subsequent liens, and anticipate them before maturity, at a premium of 16 or 18 per cent. That they should pay subsequent creditors their full debt and a premium and refuse to pay the Government even face value. Have you seen the Outhwaite bill?

Commissioner ANDERSON. I have seen it.

The WITNESS. I would like to explain that.

Commissioner ANDERSON. I think I understand your point.

The WITNESS. It was the biggest piece of robbery that ever was proposed.

Commissioner ANDERSON. We do not propose to examine these bills in detail until next fall, after we have taken all our evidence. All the statements I have seen so far are substantially as to the effect of an annual payment of \$1,850,000 for a period of seventy-five years.

The WITNESS: Seventy years.

#### LOSS OF \$1,012,000,000.

Q. Seventy-five it is stated was necessary to liquidate the indebtedness. Is there not a mistake in that figure of a thousand millions [pointing to a paper submitted by witness]?—A. No, sir; I say that renewing or extending the debt of the Pacific Railroads at 3 per cent. instead of 5, is a loss to the Government in seventy years, on the same basis of calculation as the Outhwaite bill, of \$1,012,000,000, according to the calculation of Professor Elliott, the Treasury expert.

Q. Is that computation a computation of the difference between 3 and 5 per cent.—that is, 2 per cent., with the interest compounded for the seventy years?—A. Yes, sir; that does not take in the principal. They offered to pay some \$1,850,000 as equivalent, on their basis, to  $3\frac{1}{10}$  per cent. on the debt of the subsidized roads. Three per cent. pays the annual interest, and  $\frac{1}{10}$  of 1 per cent. is, semi-annually, compounded and recomputed with these semi-annual payments. Mr. Elliott has taken the annual payment at  $3\frac{1}{2}$  per cent. The difference of  $3\frac{1}{2}$  per

cent. and 5 per cent., compounded in the same way, would amount in the seventy years to the national debt.

Q. Do you make this computation as the result of the entire indebtedness of all the Pacific Railroads, or only of the Union Pacific?—A. All, on a less basis, than they actually owe. On the basis of the Outhwaite bill, which is robbery.

Commissioner ANDERSON. You suggest that we ask Mr. Ames some questions in regard to his interest with Mr. Gould in the Union Pacific stock?

The WITNESS. In 1874 or 1875, one of the Ames—it is my impression it was Oliver Ames—was speculating (right in this very building, where Smith & Seaver used to be located) at the same time that Jay Gould was buying the control of the Union Pacific Road. I simply sent you that point to show you that at that time these two gentlemen were in harmony, whatever their relations are now.

Commissioner ANDERSON. The Mr. Ames that we have examined in Boston is Frederick L. Ames.

The WITNESS. Did you not examine Oliver Ames?

Q. That is not the same Oliver Ames who was connected with the Credit Mobilier?—A. I know it is not; but it is my impression that he is the one who was operating with Mr. Gould in 1874. I remember it very distinctly.

#### PAYMENT TO MR. FRENCH.

Q. You suggest that we ask Mr. Adams in regard to the payment of \$500 to Mr. French for five days' silence. Do you know anything of the fact?—A. Nothing but what I saw in the papers at or about the time. I think in January last French made a statement to the New York World—it may be of value as about the time French says he was bought, the Pacific Railroad Company of the House attempted to whip the Outhwaite bill through by surprise.

Q. Did he state that \$500 had been offered to him?—A. I am entirely depending on my recollection now. The other things I have stated are facts as far as figures go. It is my impression that he said he was paid \$100 each for five days' silence.

Q. Have you seen our examination of Mr. Adams on that point?—A. Yes, sir.

Q. Have you seen Mr. French's letters written at that same time to the Union Pacific Railway Company?—A. No, sir.

Q. Are you under employment with any one in New York or elsewhere in regard to this legislation in Congress?—No, sir; not a particle. I act in no way, directly or indirectly, for anybody but myself.

Q. Have you been, during the past two years, personally interested in the stock of the road?—A. Yes, sir; I sold 100 shares short on the Government directors' report last year. Since that time I have been long of it several times. I have no interest in it now. It never amounted to more than 100 shares either way. It was at my own risk each time and at nobody's suggestion but my own.

Q. Did you assist in drawing the bill under which this Commission was appointed?—A. I did not.

Q. Were you consulted in regard to the terms of that bill?—A. I was not.

#### CONFERENCES WITH REDDINGTON.

Q. Do you know Mr. Thomas Reddington in Washington?—A. Yes, sir.



Q. Have you conferred with him in regard to the Pacific Railroad affairs?—A. Yes, sir.

Q. Did you know him when he was a Government employé?—A. I did not.

Q. Your acquaintance with him was subsequent?—A. Yes, sir.

Q. Do you know anything of the circumstances that led to his discharge from his office?—A. I only know Reddington's story—that he refused a bribe to make a favorable report, and that the corporation had influence enough with the Administration to cause his discharge.

Q. Do you know Mr. J. C. Reiff?—A. Yes, sir.

Q. Have you conferred with him in regard to the Union Pacific affairs?—A. I obtained through him a Government directors' report for 1882. I have spoken incidentally, meeting him on the street.

Q. Have you talked a good deal with Mr. Springer in regard to the matter?—A. Yes, sir. Well, "a good deal?" I have had several interviews with him.

Q. Have you substantially stated all the sources of actual information which you have which lead you to the conclusions stated in your paper, and in this examination?—A. I do not know of any other except their own reports, and the laws of the United States; and that by putting two and two together you make four.

Q. Have you any suggestion to offer as to what, in your judgment, ought to be the terms of adjustment between the United States and the railroad companies? You can take time and care to prepare your answer.—A. I will send it to you within the three months you say I can have.

JAMES MIDDLEDITH.