

TESTIMONY

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TAKEN BY

THE UNITED STATES PACIFIC RAILWAY COMMISSION,

APPOINTED

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

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

VOLUME III.

STENOGRAPHIC REPORT

REPORTED BY

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

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TESTIMONY

TAKEN BY

THE UNITED STATES PACIFIC RAILWAY COMMISSION,

AS TO

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

UNION PACIFIC RAILWAY OFFICES,
Omaha, Nebr., Monday, June 20, 1887.

The Commission met, pursuant to adjournment.

Present, Commissioner Pattison, chairman, and Commissioner Littler.

Mr. POPPLETON. Mr. Kimball asked me to say to the Commission that he was aware, for the first time this morning, upon seeing Mr. Mink, that he was likely to be called upon now as a witness, and that he would very much prefer, if it could be made satisfactory to the Commission, that his testimony should not be taken until to-morrow morning. He has had very little time to systematize or arrange his ideas upon the matters in respect to which, perhaps, he might be called upon to testify. Of course we are anxious not to delay the Commission. We want to facilitate it in every way in going on with its inquiries, but we thought that a request for delay until to-morrow morning would not, perhaps, be unreasonable.

The CHAIRMAN. What do you say, Commissioner Littler?

Commissioner LITTLER. I think the request should be granted. I suppose you will be able, Mr. Kimball, to go along without delaying us then?

Mr. KIMBALL. Yes, I think so. I would like also, if consistent with your plans, to get, if I could, to-day, the leading points to which you want me to testify.

The CHAIRMAN. We want to know what your business is, please.

Mr. KIMBALL. I am in charge of the traffic.

The CHAIRMAN. You had better be sworn, though we will not take your testimony in detail to-day.

THOMAS L. KIMBALL, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your position?—Answer. I am the general manager of the Union Pacific Railway.

DUTIES OF GENERAL TRAFFIC MANAGER.

Q. What are your duties?—A. I have charge of the freight business, the passenger business, the commercial coal business, and the commercial stone business of the Union Pacific system.

Q. Are there any other duties?—A. No other duties in my direct charge.

Q. Do you direct all the detail in connection with the several branches that you have named?—A. I have responsible charge of the making of the rates that are in use and of the agreements for the division of rates with other roads. I have general charge of the business arrangements for procuring traffic, local and through, of the company.

Q. Have you charge of the arrangements for allowing rebates?

The WITNESS. Rebates with branches?

Commissioner LITTLER. Shippers.

The CHAIRMAN. Individual shippers, firms, or corporations.

A. Yes, sir. I have charge of them.

Q. Have you charge of the pool arrangement with other roads?—A. Subject to the authority of the general manager of the road.

The CHAIRMAN. I understand that we have been referred to you for information on these points.

WHO ADJUSTS CONSTRUCTIVE MILEAGE?

Q. Have you charge of the arrangement of the constructive mileage allowance?—A. That has been adjusted by the auditing department, in connection with the management of the road.

Q. Who adjusts it in the auditing department?—A. I apprehend the auditor in charge of the local business of the company here.

The CHAIRMAN. Those are about the lines of examination we shall pursue with you. You speak of the auditor having charge of the constructive mileage.

The WITNESS. I ought, perhaps, to qualify what I have said about the auditor's duties in respect to that, by saying that the exact figures that are adopted and the inspections given for working the division of joint revenue between the main line and the branches are issued by the auditing department, and presumably on the authority of the manager or president or comptroller of the road. Mr. Mink would certainly be able to explain that more definitely than I could.

The CHAIRMAN. Mr. Adams, the president, has referred us to you on the question of constructive mileage. Probably he was mistaken as to that.

Mr. POPPLETON. He must mean the reasons for adopting constructive mileage at all.

Commissioner LITTLER. What we want to get at, Mr. Poppleton, is the practical working of this constructive mileage system. We want, if possible, to see the accounts.

Mr. POPPLETON. You want to get at the facts.

Commissioner LITTLER. Yes. Now, refer us to some one who can give us all these facts.

Mr. POPPLETON. The auditor will do that.

The CHAIRMAN. Does the auditor fix the rates of constructive mileage that you allow?

The WITNESS. Yes; they are arranged as I have stated, and issued by the auditing department.

The CHAIRMAN. That is one of the matters we want to inquire into. We want to get at the man who fixes the rates of the constructive-mileage allowance to the several branch roads.

Commissioner LITTLER. He not only fixes the rate, but keeps the account, as I understand you?

Mr. MINK. Governor Pattison means to inquire, Mr. Kimball, whether in the case of the Echo and Park City, for instance, where two miles are allowed for one, the rate is fixed by you or by the auditor. I understand that the auditor does nothing but settle the account under a rule laid down by another department.

The WITNESS. The traffic department has been consulted and its advice given in almost all cases of that kind, but I never understood I had the exclusive authority to say how the earnings should be apportioned between the two departments—between the main line and the branches.

COMMERCIAL STONE BUSINESS.

Commissioner LITTLER. Mr. Kimball, I would like you also to furnish this Commission all the information you can in relation to this commercial stone business—did you call it commercial stone business?

The WITNESS. Yes.

Q. And the coal business?—A. Yes.

Commissioner LITTLER. Be ready to explain all that, please.

By the CHAIRMAN:

Q. What other information have you in the offices in Omaha other than that which we have already called for?

Commissioner LITTLER. Information which is peculiarly within your knowledge.

A. I think your questions, governor, are broad enough to cover about all I know.

Mr. MINK. The general questions are those relating to pools, rebates, constructive mileage, and the coal and stone interests.

The CHAIRMAN. Yes; Pools, rebates, constructive-mileage allowances, commercial stone and coal. And, of course, we want passenger rates on the branch lines, freight rates on the branch lines, passenger rates on the main line, and freight rates on the main line. I would also like you to be prepared to give me any information concerning deductions that have been made by you before making up your gross receipts to be returned to the main office at Boston.

Mr. MINK. That has been called for in the form of a statement, I think, governor.

The CHAIRMAN. What I desire from Mr. Kimball is how he makes it up (the information in detail) before he gets to the item of "gross earnings." I also want information as to passes, your method of granting them. I only give you now the heads on which I want to examine you.

The WITNESS. Yes.

By Commissioner LITTLER:

Q. Whose business is it, in this department, to approve vouchers?—

A. I approve vouchers that directly affect the department I have charge of.

COMMERCIAL, OPERATING, AND CONSTRUCTION DEPARTMENTS.

Q. How extensive is your department?—A. It embraces the freight, passenger, coal and stone business—the commercial business, really, of the road.

Q. What other departments are there besides the commercial department?—A. The operating department. That has charge of the maintenance and operation.

Q. You have nothing to do with that?—A. I have nothing to do with that.

Q. Who is the chief man in control of that?—A. Mr. Potter is the head now, but he is absent at present. Mr. Cumming, who is assistant general manager, is also away just at present.

Q. What other departments is this business divided into?—A. The construction department. The engineers would be in charge of this department.

Q. Any other?—A. No; no other distinctive department except the legal department, and land department.

Q. The auditing department is another?—A. Yes; the accounting department is in charge of the comptroller.

APPROVAL OF LEGAL EXPENSE VOUCHERS.

Commissioner LITTLER (to Mr. Poppleton). Do you, Judge Poppleton, approve of all the vouchers for legal expenses that are incurred at these headquarters? I mean on all the lines and branches of the Union Pacific road.—A. West of the Missouri River and outside of Kansas I have for some time approved all legal vouchers. Kansas has been under a separate control.

Q. Who is chief of your land department here?—A. Mr. Cumming.

Q. Mr. Cumming is the land commissioner?—A. General land commissioner and assistant general manager.

COST OF FORMER GOVERNMENT TRANSPORTATION.

Q. Will you be able to give this Commission any information in relation to the average cost per annum of Government transportation in the region now traversed by the Pacific roads between 1850 and the completion of the road?

The WITNESS. I would like that question written out for me.

Commissioner LITTLER. Also the average cost per annum of Government transportation since the completion of the Union Pacific road. I direct your attention also to the question whether the United States, since the Union and Central Pacific Railways have been completed, has granted aid in lands or money to competing parallel roads; and if so, to how many such roads and to what extent, that have impaired the earning capacity of the Union Pacific Railway.

The CHAIRMAN. But I understand Mr. Kimball to be subject to any examination to-morrow. I have only given him an outline of what we will examine him on to-morrow—the subjects we have named. We reserve the right to ask any question. I do not want him to be misled into thinking that any particular questions will be the only ones that will be asked.

Commissioner LITTLER. Exactly. We only want to direct his attention to the questions that we shall ask. Of course we may ask him any other questions that may occur to us.

The CHAIRMAN. At what hour will you be ready to-morrow?

The WITNESS. At 10 o'clock to-morrow.

Commissioner LITTLER. Can we examine anybody else?

Mr. POPPLETON. Mr. Cumming, our assistant general manager, is on the line of the road, but Mr. McAllaster is here.

THO. L. KIMBALL.

OMAHA, NEBR., *Monday, June 20, 1887.*

BENJAMIN MCALLASTER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your position on this road?—Answer. Land commissioner.

LAND COMMISSIONER'S DUTIES.

Q. What are your duties?—A. I look after the selling of the lands and the collections from the same.

Q. Do you keep the land account?—A. Yes, sir.

Q. How do you keep it—I mean, do you enter the number of acres held by the Union Pacific from the Government, the number of acres disposed, of and the prices per acre?—A. The acres disposed of, as they are disposed of.

Q. You keep the account only of the acres disposed of?—A. Yes.

Q. I understand you to say that you keep only the account of lands disposed of?—A. Well, we have a list of the lands that have been granted to the road; that is, that inure to the road in the grant, and from time to time they are appraised by appraisers.

Q. Now, up to the present time, how many acres of land have been granted and patented by the Government to the Union Pacific road?—A. I will have to go to our books to ascertain.

The CHAIRMAN. Very well.

Commissioner LITTLER. You had better take a memorandum of such facts as the Commission calls for, which you are not now able to supply, and you can supply them hereafter.

UNPATENTED LANDS.

By the CHAIRMAN;

Q. Are there any unpatented lands?—A. There are.

The CHAIRMAN. That is one of the things we want to know.

The WITNESS. Then you want to know how many there are patented and how many not patented?

The CHAIRMAN. Yes.

Commissioner LITTLER. Let him state any reason why any lands remain unpatented, if he knows.

The WITNESS. Many of them have not been selected or the fees paid, and would not be patented until then.

Q. How do you pay the taxes on the land held by the Union Pacific—the local tax?—A. Annually, upon lands that have been selected and patent applied for.

TAXES NOT PAID ON UNPATENTED LAND.

Q. Then there is no tax paid on the land remaining unpatented by the Union Pacific?—A. Not heretofore. There was an act of Congress passed this last year by which the lands have all become taxable in organized counties for this present year whether the fees have been paid or not.

Commissioner LITTLER. And whether patents have been granted or not?

The WITNESS. Yes.

Mr. POPPLETON. Provided they have been surveyed.

The CHAIRMAN. Please furnish the Commission with a statement of the lands patented, of those unpatented, and the amount of tax paid up to date.

Q. Was it the policy of the company to permit the lands to remain unpatented in order to avoid local taxation prior to the passage of the act to which you refer?—A. We have paid taxes on lands before they were sold.

Commissioner LITTLER. Read the question to the witness again.

The question was read as follows:

Q. Was it the policy of the company to permit the lands to remain unpatented in order to avoid local taxation, prior to the passage of the act to which you refer?—A. I do not know that I can answer that question.

CONCERNING PURPOSE OF COMPANY IN LEAVING LANDS UNPATENTED.

Q. Why not? What was the purpose of the railway company in leaving lands in the possession of the Government that rightfully belonged to them, and failing to take out patents for them?

Mr. POPPLETON (to the witness). Did you settle that matter? Had you any authority to settle it—whether patents should be taken out or not?

The WITNESS. Certainly not.

Mr. POPPLETON. The question whether patents should be taken out or not was not for him to settle.

By the CHAIRMAN:

Q. Then in whose authority or in whose power was it to settle?—A. Within the power of the president and directors.

Q. Then you had no authority or information upon that question?—A. Not direct. Not that I can call to mind.

Q. Were you communicated with, whenever patents for land were applied for, by the officers of the road?—A. Not in all cases. I cannot say that I have been. We have usually applied for patents. Now, where that authority comes from is the question.

METHODS EMPLOYED IN KANSAS DIVISION.

Q. Who instructed you in each case?—A. What the usual plan has been on this division, I could not say. In the Kansas Division we have usually or frequently paid the fees on land prior to being sold—if other lands were partly patented up to that line. We have applied for patents for all lines that were deeded during the year; all lands on which a fair proportion of the purchase money had been paid, so that we were satisfied that it would be all paid.

Q. Then you did not patent lands until they were sold by the company to individuals?—A. Many times.

AVOIDANCE OF LOCAL TAXES.

Q. And in some cases not until some time after they were sold, I understood you to say.—A. Well, very soon afterward; within a year afterward. O, I don't mean sold; I mean sold and patented; some time after they were sold; may be two or three years after they were sold. So far as I was concerned, and my predecessor, we acted on this plan:

that the Government lands adjoining ours were not taxable. A man on the Government land had no taxes to pay; therefore the man buying railroad land was but getting a fair show if he didn't pay taxes for two or three years after he bought his land. He was taking up land by the side of a man who paid nothing for it.

Q. Then, I understand, it was the policy of the road not to take a patent for the land, in order that it might avoid the local tax. That was the purpose of it?—A. It was, I must say; yes.

Mr. POPPLETON. You are speaking now for the Kansas Division?

The WITNESS. For the Kansas Division.

The CHAIRMAN. I do not understand that.

Mr. POPPLETON. He has not made it plain that he has come very recently into the control of the entire land department. He has been employed in Kansas, and has had the Kansas Division, which extends from the Missouri River to Denver. The balance of the land department has been under the control of other officers until quite recently.

OFFICIALS OF LAND DEPARTMENT.

The CHAIRMAN. Who are the other officers?

Mr. POPPLETON. Mr. Cumming has had it for the last six months; Mr. Leavitt Burnham had it prior to that, and prior to that Mr. Oscar F. Davis, who is now dead.

Q. Where is Mr. Cumming?—A. He is the assistant general manager of the road now, and is supposed to be in Salt Lake City, or near there, with Mr. Potter.

Q. When do you expect his return?—A. That I could not say from personal knowledge. Mr. Mink says he may be expected the last of this week.

Q. Do you know of any policy pursued on the balance of the Union Pacific Road different from that of the Kansas Division?—A. I cannot say; I have not investigated that matter at all.

Q. How long were you on the Kansas Division?—A. Since 1875.

Q. When did you enter on this division?—A. This present season; in May last.

The CHAIRMAN. If you will furnish the Commission with the statements that we have called for, I do not know of any other questions that we have to ask you, unless Commissioner Littler has some.

Commissioner LITTLER. No; I do not think I have any.

The CHAIRMAN. Mr. Poppleton, do you wish to ask any questions of Mr. McAllaster?

Mr. POPPLETON. I think not; I think he has made all the explanation that is necessary.

The CHAIRMAN. In order that there may be no misunderstanding, let me say that I understand that the policy pursued on the Kansas Division with reference to the unpatented land was in order to avoid the local taxation that would be put upon the land if the title was in the company.

DELAY OF GOVERNMENT IN ISSUING PATENTS.

The WITNESS. Well, we have not, for the last five years, on the Kansas Division, applied for a patent for half the land we would have done if we had got the patent on those we had paid on. I mean to say that we have applied for patents for nearly a million acres of land and paid the fees—since 1881—that we have got no patents for. Had we got those

patents we would have paid on a million more acres of land on that division.

Q. And on the remaining unpatented lands you would, of course, have had to pay the additional taxation, beyond that on the million, if you had received them?—A. Oh, yes. The company were inclined to do that, I think.

Q. How much do you estimate that the company, on the Kansas Division, saved by reason of the policy pursued in not taking out patents for their lands?—A. I do not know. I have no idea.

Q. It was a considerable amount, was it not?—A. It is a problem. Through the country where this land is, of course, the railroad is taxed for what taxation there is—the railroad and rolling stock. If the road and rolling stock both paid, there would be the same amount of tax levied. The tax would be no more. So that you can see where the problem is as to whether the road saved.

The CHAIRMAN. It is only the fact I am after.

Mr. POPPLETON. But his point is that the roads and the land are the only taxable property there is in these counties. So that whether there was anything saved by the lands being unpatented is a question.

The CHAIRMAN. The question is asked because the act under which this Commission is operating specially directs us to ask you, or the railroad company, for the reason why you have not patented the lands.

TAX RATES ON LANDS SOLD.

Q. How are the tax rates upon the lands that have been sold by the road to individuals or to companies; are they high or low? How do you estimate them, if you know anything about them?—A. Well, of course the localities vary very much. It depends on what is required, what taxes are required to be levied for and whether they include the school tax.

Q. How did they run on the Kansas Division?—A. Well, they vary in counties as they have the improvements completed.

The CHAIRMAN. Please add to the statement that I have already called for, a statement of all the rates of taxation for the last year, along the line of, say, the Kansas Division, if you are familiar with that.

Commissioner LITTLER. Different counties.

The CHAIRMAN. Different counties.

Mr. POPPLETON. That is, of the land?

The CHAIRMAN. Yes.

Commissioner LITTLER. Have you a tax commissioner, judge?

Mr. POPPLETON. Yes.

METHOD OF PAYMENT OF TAXES.

The CHAIRMAN. How are the taxes paid by the company on the lands that they have patented and which are still in their possession? Is that matter in your jurisdiction?

The WITNESS. Do you mean by whom they are paid?

The CHAIRMAN. No. Are they paid by cash, or check, or by an order, or how?—A. Paid by cash or by our cashier's check.

Q. By whom are they paid?—A. At present by the cashier; the local cashier.

Q. How does he get the notice of the account of tax due?—A. From the land commissioner—by the land commissioner applying to the county treasurer.

Q. Does the county treasurer notify the land commissioner and then the land commissioner the cashier? Is that the system?—A. Yes; the land commissioner makes the list of the lands on which he desires to know the amount of taxation for the year, and he is furnished with the amount.

Mr. POPPLETON. What does he do with it? He sends it to the tax agent, does he not?

The WITNESS. Not on our division.

Mr. POPPLETON. You speak of the Kansas Division?

The WITNESS. Yes.

Q. On the Kansas Division how is it done?—A. It is paid through the cashier: by funds from the cashier.

Q. What voucher do you, as land commissioner, give to the cashier?—A. The county treasurer's receipt.

Q. Will you furnish the Commission, in addition to the statements already called for, the total amount paid by the Kansas Division during the last year—the current tax year; and can you furnish the same for the division you are now in control of?—A. I will endeavor to furnish it as to both divisions.

Mr. POPPLETON. Will you allow me to make a suggestion?

The CHAIRMAN. Certainly.

Mr. POPPLETON. I think you would get more satisfactory information as to the lands outside of the Kansas Division from the tax agent, or from the auditing department, which pays these taxes directly.

Commissioner LITTLE. That is the reason I asked whether you had a tax commissioner.

The CHAIRMAN. If it is in the auditor's control, of course we will meet with it in the commission's report.

APPLICATIONS FOR LAND RELATIVE TO PATENT RIGHTS.

By Mr. POPPLETON.

Q. It is true, is it not, that the railway company has applied for much more land on the Kansas Division than the Government has ever patented to it?—A. Yes.

Q. How many acres?—A. About a million acres.

Q. Has it been the company's fault that that land was not patented to it?—A. It has been no fault of the company's that I am aware of.

Q. So that it is true, is it not, that the company has not been able to get from the Government the land that it is entitled to—to get it patented—land on which it has paid surveying fees and costs of entry upon?—A. Yes.

Q. Did you, in your own person or by your own instrument, write in any way the policy of applying for patents to lands of the Government under instructions of the President in that respect while you were in charge of the land department in Kansas?—A. I have said that in previous instructions given over the President, unless by suggestion that we should pay fees on lands that had so much as been surveyed.

Q. Did you ever advise or cause him to enter surveying fees and costs of entry for any considerable part of said lands under the direction of some superior officer?—A. Well, I cannot say that I could get the money without authority of the President. No.

Q. Presumably, then, could not get any money to pay with without the authority of some superior officer, could you?—A. In that is a fact.

KANSAS LANDS UNTAXABLE AND UNPATENTED IN UNINHABITED LOCALITIES.

Q. These untaxable lands which had not been patented in Kansas; in what sort of country did they lie; an uninhabited and unreclaimed country, or a cultivated and inhabited country?—A. Where there was no habitation; very little land under cultivation; not any, in fact. I would not say all of it, either; some parts of it.

Q. What ratio would the taxable property of the Union Pacific road in those counties bear to the entire taxable property of the county?

Commissioner LITTLER. To what period are you directing his attention?

Mr. POPPLETON. All this time, when these lands were unpatented. I am asking for an estimate. Of course you cannot get accurately at these things without going to the books.

The WITNESS. I do not exactly get at your question.

RATIO OF COMPANY'S TAXABLE PROPERTY TO ENTIRE TAXABLE PROPERTY IN COUNTIES.

The question was read as follows:

"What ratio would the taxable property of the Union Pacific road in these counties bear to the entire taxable property of the county?"

Mr. POPPLETON. Would it be 70 per cent., or 80 per cent., or 90 per cent.? I am speaking now of road-bed and lands both. Of course if you cannot give any estimate you had better say so.—A. I cannot give any estimate.

AMOUNT OF LAND FOR WHICH PATENTS HAVE NOT BEEN SOUGHT.

By Commissioner LITTLER:

Q. Judge Poppleton has asked you the question whether you have not applied for at least 1,000,000 acres of land which has not yet been patented. I will ask you to state how much land belongs to this company, to which you are entitled to patents and for which you have not applied for patents?—A. That I would have to ascertain from the books.

Q. Can you explain why the Union Pacific Railway Company has not selected all the lands to which it is entitled under the original grant? I understood you a while ago to say that a portion of lands to which the company was entitled had not yet been selected. Now, I ask you can you explain why those lands have not been selected before this time?—A. Well, many of them are in localities where there is no demand for land.

Q. That does not hinder you from selecting them, though, does it?—A. No.

WHY COMPANY DOES NOT COMPLETE SELECTION OF LANDS.

Q. Why does not the company go on and complete its selection? Can you answer that question, Judge Poppleton?

Mr. POPPLETON. No, I do not know that I can. I never determined the question of the policy in regard to these lands. There are a good many unsurveyed lands that could not be selected under any circumstances. West of the eastern base of the Rocky Mountains there are vast tracts of land that, if the company could escape the responsibility

of taxation, it might be desirable not to select at all—that is, if it could escape the necessity of taking the land.

The CHAIRMAN. The selection would involve taxation?

Mr. POPPLETON. It would involve taxation. If they could let the lands go and escape the liability for taxation it would be desirable.

UNSELECTED, UNSURVEYED LANDS COVERED BY LAND-GRANT MORTGAGE.

By Commissioner LITTLER:

Q. Are these unselected, unsurveyed lands covered by your land-grant mortgage?—A. In terms, they are.

Q. And when selected they will become subject to the terms of the mortgage?—A. I think so.

Q. Is it not important that these selections should be made, in order that the company shall have the benefit of selecting from the best lands?—A. They cannot select from the best lands; they are bound to take from the lands as they stand, every alternate section.

Q. Yes, I understand; but in case locations have been made by private parties you have to go further out in order to get the alternate sections. Is not that true?—A. No, I think not; the grant excepted in the first instance all lands to which homestead pre-emption or other claims had attached.

Commissioner LITTLER. Yes.

Mr. POPPLETON. And there has since been an act which authorizes the selection of indemnity lands, where lands were taken in that way, but the amount is small, and the indemnity, as I understand it, has been nearly exhausted already.

The CHAIRMAN. Will you furnish, in addition to the statements already called for, a statement containing the names of the counties through which the road passes, the quantity of land remaining unpatented, and the rate of the county tax in the several counties?

Commissioner LITTLER. Is that as to the whole line?

The CHAIRMAN. Yes. [To the witness.] When can you give us these statements, Mr. McAllaster?

The WITNESS. I will do so as soon as possible.

THE BOOKS CONTAINING LAND ACCOUNTS.

Q. What kind of books do you keep in your land accounts?—A. A journal, ledger, cash book, and sales book. Our sales book might be denominated bills receivable book.

Q. What do you enter in your journal?—A. An original entry would not be in the journal, of course.

Q. Just go through the process. I want to know how you keep your books. How do these accounts come to you as the Land Commissioner?—A. By an application for purchase first.

Q. What do you do with that?—A. It goes on our sales book as so much land, sold for so much money, and to such a man. So much of it is cash, and so much bills receivable.

Q. How do you carry that in your books?—A. As land sold for such an amount—so much cash and so much bills receivable.

Q. And you carry it through your ledger in that way?—A. Yes.

Q. Have you entire control of these books?—A. Yes, sir.

Q. Do you make an annual report of your accounts?—A. We do, and a monthly report.

Q. Will you furnish, in addition to the statements that have been called for, your last report?

The WITNESS. The last monthly report?

The CHAIRMAN. Yes. And your last annual report, if you make one. That is about all, I believe. When did you say you would be ready?

The WITNESS. Well, on these items it would possibly be two weeks before we could complete them all.

The CHAIRMAN. But we want them all made up before we leave here, if possible.

The WITNESS. Well, if we possibly can we will do so.

The CHAIRMAN. The reason why we do not ask you questions now is because you have not got the figures. We are perfectly willing that you should get the figures before we ask you any questions. That is fair to you. I should like to examine you further about this land question, but I want you to inform yourself as to your figures.

The WITNESS. I shall endeavor to give the information as soon as possible.

AMOUNT OF TAXATION DUE IF LANDS WERE PATENTED UPON SURVEY.

The CHAIRMAN. You might add to your statement what amount of taxation the company would have paid if it had patented all the lands as soon as the survey was made.

The WITNESS. That could not be answered by anybody.

Mr. POPPLETON. Excuse me, governor, but is it quite fair to ask that question, in view of the fact that it is not in the company's option or volition to say what they should patent and what they should not?

The CHAIRMAN. The question is, whether the company shall do it or the Commission shall do it. That is the only question. The provision in the act of Congress requires that we shall make such a calculation; and it is only fair to you to have it done here.

Mr. POPPLETON. Yes. But that assumes that it is the fault of the company that it has not patented all its lands, when the fact is that there are many of them that are not surveyed; and we have had great difficulty in getting patents when we wanted them; and, as I understand it, there is an order now absolutely prohibiting the issuing of any patents at all until this Commission is all through.

The CHAIRMAN. Probably that is because questions may arise under this very matter; but we are to inquire into all questions concerning the payment of taxes; especially upon lands granted by Congress.

Commissioner LITTLER. You can accompany your answer to that question with such explanations as you think proper.

The CHAIRMAN. This form of question may take the place of the other form: What would have been the amount of taxes paid if the company had applied for patents as soon as the lands were surveyed, assuming that patents would have been granted as applied for?

Mr. POPPLETON. Yes; I desire to say that if it is the intention of the Commission to examine me for any purpose, you would do me a favor by doing what you have done with Mr. Kimball—indicating the subject of examination. I do not say this because I am not ready to tell anything that I know at any time or upon any notice, but I think it may save some time for you if I have a little notice.

The CHAIRMAN. We have examined Judge Dillon on the legal aspects of the bill, and if you desire to place your views in the shape of *testimony*, just as he did, we would be glad to have it.

Mr. POPPLETON. Well, I have no statement to make unless the Commission proposes to question me in regard to some particular matter. I supposed Judge Dillon had covered all questions relating to the legal department.

The CHAIRMAN. We took his testimony very fully in Boston on the legal aspects and relations of the bill.

BENJN McALLASTER.

OMAHA, NEBR., *Monday, June 20, 1887.*

ERASTUS YOUNG, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Q. What is your full name?—A. Erastus Young.

Q. What position do you hold with the Union Pacific Railway Company?—A. I am its auditor.

DUTIES OF AUDITOR.

Q. What are your duties as auditor?—A. I have charge of all the accounts of the company at this place—Omaha.

Q. What accounts?—A. The accounts of what we know as the operating department; or the operating accounts—traffic and expenditures.

Q. How do you come into possession of the accounts; do they reach you at first hand or does another officer furnish them to you?—A. They reach me through another officer as a rule.

Q. What other officer?—A. The earnings would reach me through the auditors of passenger receipts and freight receipts; while the operating accounts would reach me through the superintendents of the various departments; and, at present, through the auditor of disbursements.

The CHAIRMAN. Give me the names of the different officers, please?

The WITNESS. At present the arrangement is that the operating accounts—operating expenses and construction expenditures—reach me through J. W. Griffith, auditor of disbursements. The reports are rendered to him by other officers of the operating department.

NAMES OF CHIEFS OF DEPARTMENTS.

Q. What are the names of the other officers?—A. The superintendent of the Kansas Division, Mr. Brinkerhoff; the superintendent of the Colorado Division, Mr. J. K. Choate; the superintendent of the Nebraska Division, Mr. Edward Dickinson; the superintendent of the Wyoming Division, Mr. C. E. Wurtele; the superintendent of the Idaho Division, Robert Blickensderfer; and the superintendent of the motive power department, Clem. Hackney.

Q. I want to know where those gentlemen are to be found.—A. Mr. Brinkerhoff is at Kansas City; Mr. Choate is at Denver; Mr. Dickinson, at Omaha; Mr. Wurtele, at Cheyenne; Mr. Blickensderfer, at Pocatello; Mr. Hackney, at Omaha. The accounts of the store department are furnished us by J. J. Burns, supply agent, at Omaha; in the revenue department, D. D. Davis, auditor in charge of freight accounts, and W. S. Wing, auditor of the passenger receipts, have charge of the passenger revenue. All other revenue comes more directly under me—

earnings from transportation services and earnings telegraph receipts. The net earnings are made up from orders of the Post-Office Department being the compensation for mail service, which are sent to the earnings of the Commission agent at Washington, D. C.

Q. What do you do with the earnings when you receive them?—A. They are compared with books of record and earnings and expense sheets each month are reported by us to the Boston office.

DISCRETION AS TO APPROVAL OF ACCOUNTS.

Q. Have you any discretion as to approval or disapproval?—A. Yes, sir.

Q. To what extent?—A. When I know an account to be wrong, withhold my approval until it is passed upon by higher authority.

Q. Do you mean by an account being wrong that it was wrong in figures, or wrong in charge, or wrong in services rendered?—A. Wrong for any purpose or on any account.

REBATE ACCOUNTS.

Q. How does the rebate account reach your department in cases where rebates are allowed by the company?—A. That is handled by the freight claim department, which is directly under the freight auditor, and reaches me by a report from him. Vouchers made by him are passed through the records of the auditor of disbursements to the local treasurer for payment.

Q. Do you accept his approval as final?—A. Unless we discover something wrong. As a rule, his approval is that on which I certify for payment.

Q. Is his approval final as to the amount charged in rebate?—A. Yes, sir. It is upon the statement of account made by him that the payment is made. He states the account, adjusts it, and passes it for payment; and it is upon his certification that payment is made.

CORRECTION OF ERRONEOUS ACCOUNTS.

Q. As an illustration of what you consider an error, so that you would return the voucher to him, what error would you find?—A. I might have evidence that it was not according to contract, and that the account was incorrect in amount or wrongly stated. I would then return it to him for correction.

Q. Have you possession of the contracts?—A. Yes, sir; all the principal contracts or copies of them.

Q. Will you furnish the Commission with copies of the contracts of the original contracts?—A. We will furnish the originals or copies of those we have.

Q. Have you a contract book?

The WITNESS. To what contracts do you refer?

The CHAIRMAN. All contracts referring to rebates that are in your possession as auditor.—A. I do not have the contracts relating to rebates.

Q. What did you mean by saying that you would ascertain if it was in accordance with the contract?—A. Well, we have a few contracts; such as pool contracts.

The CHAIRMAN. I am speaking of rebates now.

WITNESS. We very seldom, if ever, have a contract relating to when how would you correct an error in a rebate account furnished by the general freight agent that was approved by him?—**A.** Could have no means of correcting that. There are many vouchers added to freight earnings that are not rebates, for which we have contracts as pools. These as well as all vouchers for which we have contracts are compared with the contracts before they are approved for payment, and if incorrect in any particular they are returned to the agent for correction.

THE RECORD BOOK OF VOUCHERS.

Have you the names of parties to whom rebates are allowed?—**A.** We have a record of all the vouchers that are paid for rebates. Will you furnish the Commission with a list of the vouchers?—**W.** Yes, sir; we will furnish you with the register—the book in which they are registered.

CHAIRMAN. Please bring that register now, Mr. Young, if it is building; also the contract book.

WITNESS. The contract book will not show anything; it simply shows the numbers and the dates of the contracts.

POOL CONTRACTS.

MISSIONER LITTLER. I suppose your pool contracts are in writing, are they not?

WITNESS. Yes, sir.

MISSIONER LITTLER. Suppose you bring those down.

WITNESS. Either the originals or copies?

MISSIONER LITTLER. Either will do.

WITNESS. I could not furnish them immediately; it will take some time to get them out of our files.

MISSIONER LITTLER. That will do. Have you a record of all the arrangements with these branch lines?

WITNESS. I do not know whether we have or not.

MISSIONER LITTLER. See if you have. Are you operating any of the branch lines under a lease?

WITNESS. Not that I know of.

MISSIONER LITTLER. If you are, we would like to see a copy of them.

WITNESS. Well, I will bring the book.

MISSIONER LITTLER. Please do so.

CHAIRMAN. The book and the pool contracts.

ROADS ONLY OPERATED UNDER WRITTEN CONTRACTS.

MINK. There are, I think, but two roads in the Union Pacific system that are operated under written contracts.

MISSIONER LITTLER. Under leases, do you mean?

MINK. Under contract. The others are under arrangements that have not been reduced to writing.

MISSIONER LITTLER. What kind of an arrangement?

MINK. Arrangements under which the Union Pacific accounts for the earnings of the branch lines. The only arrangements that have been reduced to writing are those with the Saint Joseph and Grand and the Oregon Short Line.

The CHAIRMAN. Mr. Mink, while I think of it, I would like to examine the balance of the legal-expense account of the eastern division.

Mr. MINK. The items are being drawn off. They may be ready tomorrow or next day.

The CHAIRMAN. Very well.

Mr. MINK. It had not escaped my attention.

THE REGISTER OF "FREIGHT EARNINGS REFUNDED."

(The witness produces the register of "freight earnings refunded" from April 1, 1885.)

By the CHAIRMAN :

Q. I call your attention to the item of "Recapitulation" in book produced, and to the memorandum on page 197, "Total freight earnings refunded, \$119,727.89." For what period is that?—A. That is for a month.

Q. For what month?—A. The month of July, 1886. It is the charge to freight earnings of the Union Pacific Railway and branch lines for the month of July, 1886. The book does not show the divisions. This charge is to the freight earnings of the entire system.

Q. Turn over to the month of June, 1886. Please state the amount for that month.—A. The amount for that month is \$105,418.90.

Mr. MINK. Do you get the impression from his answer that these amounts refunded are for rebates only?

Q. How much of this amount is the amount refunded from rebates?—A. I could not answer that. We have not kept our account to show that information.

METHOD OF KEEPING THE ACCOUNTS.

Q. How do you make up that sum?—A. This is made up of all charges to freight earnings, which include overcharges, pool balances, and everything else that would be a proper charge to earnings. For instance, an error on a way-bill, if adjusted after the close of the month, would be made by voucher and charged to earnings. For instance, if a shipper at New York held a bill of lading for a shipment from that point to San Francisco at a certain rate and the agent, in billing it, made a mistake and overcharged the shipper, if it was not corrected before the account of that month was closed it would be refunded to him in a subsequent month by voucher and charged to freight earnings.

Q. I call your attention to the last entry on page 197. Voucher, favor of Whittier, Fulton & Co. Account of oil, \$6.95; "Division G, \$2.47," in red ink. "Division B, \$9.42," in black ink. Who are Whittier, Fulton & Co.?—A. I cannot answer that question.

Q. Who can?—A. The freight auditor.

Q. What do the figures represent?—A. The amount paid them.

Q. For what?—A. I do not know for what purpose it is.

Q. Where is the voucher for that item?—A. It is in the office.

Q. Will you produce it?—A. Yes, sir.

The CHAIRMAN. We shall be obliged if you will do it right now.

The WITNESS. I will do so.

Q. I will call your attention, while you are doing that, to another item, voucher 19073. "Holt Brothers, account of spokes, \$214.62. Division O, \$85.96; Division B, \$128.66." Also vouchers 19201 on same page; 18944, on page 166; 19589, on same page; 19500, on same

page; and 19383, on same page. What is the charge of return freight for in the case of voucher 19075 to Holt Brothers of San Francisco?—A. My impression is that that is an overcharge, but I cannot tell without reference to the papers.

Q. Ought not the voucher to show?—A. Not necessarily, for even though it may represent the payment of a rebate it would be made up on the same blank and might therefore appear as an "overcharge" on the face of the voucher, all charges to freight earnings being made upon the same form.

Q. That is, if you allow a rebate when the voucher is made up it is for overcharge?—A. It is made up on that form. It is an overcharge to earnings.

OBJECTIONS TO EXPOSING BUSINESS METHODS TO COMPETITORS.

MR. POPPLETON. Mr. Chairman, I would like to make one suggestion in relation to this inquiry. Of course the interstate-commerce law wipes out the rebate question substantially, and for this open and public investigation to go on in respect to past rebates is simply to advertise through the public press here the dealings of a railway company in that particular to all its competitors in all time past. It is of the highest importance that this Commission should know all these things in detail and have everything that they ask for to the fullest extent. But is it desirable that it should be spread before the public until the Commission see fit to spread it before the public in their own way? I say this in view of the fact that the press is represented here, and its representatives are taking down every item that the Commission is investigating. It is practically opening up our books and our business in the past to our competitors, which it seems to me should be avoided, if possible.

THE CHAIRMAN. I do not see, judge, that we can avoid that. We have never in our investigation at the headquarters of the Union Pacific, or anywhere else, in the minutest detail attempted to hold any session but a public session. I do not think we can have any control over that matter. We certainly cannot hold our sessions in private. The law has given us a certain line of topics to inquire into, from the organization of these lines down to date, and to the best of our ability we are endeavoring to pursue a course that will give the information for which Congress asks. We have never undertaken to make the investigation private.

MR. POPPLETON. I do not think the question is whether the investigation should be private or not. It is not important to the Government of the United States to know whether John Smith had a rebate two or three years ago, when it is of no importance one way or the other. Everybody knows that rebates were given, and given by all roads. There is no sort of controversy about that. But when the Commission sits and makes this sort of investigation in detail, and reads a list of names, if you please, and reads them in public, that is information that our competitors would have paid a good deal of money for heretofore, and puts us at a disadvantage. And what the company has, perhaps, had some reason to complain of heretofore is, that the Government put it at a disadvantage all the while in its dealings with its competitors. It is possible that it is one of those things that cannot be met; but it does seem to me that in investigating things of this sort the Commission might reach its conclusions without publishing all the details.

The CHAIRMAN. How are we to ascertain whether the rebates that have been allowed from time to time have been fair or not? That is one of the questions for inquiry. Unless we take up each individual account, how are we to ascertain whether or not injustice has been done to individuals along the line of road, unless we take up the individual case? We come to your office here and ask for the books and the witnesses.

Mr. POPPLETON. We do not object to that; but we say that when that information is put into a newspaper and published broadcast before the country from this Commission, and given to the public before this Commission makes an official communication on the subject, it is putting before the public information which there is no necessity for putting before it, and which cripples the company—weakens it; does exactly what the Government ought not to try to do, or ought not to do—to weaken the Union Pacific Company. Still there may be no remedy for it. It may be one of those inevitable things that it seems the fate of the company to encounter.

The CHAIRMAN. One of the essential things to which we were referred to the Omaha office by the Union Pacific Railway Company was the very subject of rebates. We adjourned at their request and on their reference from Boston to Omaha to take up in detail the rebate account, the pool account, and the constructive mileage account, simply because they could not there afford any information, and they informed us at that point that the freest and fullest information could be given at Omaha.

Mr. POPPLETON. Well, the books are there, the safes are open, and everything else is open for the inspection of the Commission, but I do not think it ought to be open to promiscuous and general public inspection. I am speaking only for myself, and upon my own impulse, in the matter, but it seems very plain to me.

The CHAIRMAN. I do not see how we can alter our line of inquiry.

Commissioner LITTLER. It is a question that we have not considered judge.

EXPOSURE OF PRIVATE BUSINESS OF SHIPPERS OBJECTED TO.

Mr. POPPLETON. If you have had experience as a railway attorney you know precisely what effect this will have and just exactly where it puts this company in respect to its competitors and its own shippers. There is another thing about it. It is not right. It may be the law. The Government may have required it. But it is not right for the Commission to compel the exposure of the private business of these shippers and of their transactions. Suppose any person, outside of a Government officer, should come here and ask us for that information or any other information, or should go to the Western Union Telegraph Company or any other corporation, what answer would he get? He would be told, "We obey legal process, but we do not expose the business of our customers." It is one of the first duties of a common carrier or any business concern to keep the confidence of those with whom it deals. We may not have the power to do it, but we ought to do it if we can. And we are now not only acquainting our competitors with these matters, but we are exposing the business of shippers and subjecting them, possibly, to the persecution of our competitors, because of things that are past and that were confidential, things that they ought not to know, and that no Government ought to compel a railway company or any other business organization to disclose. As I said before

I know this Commission is a creature of law, and that this bill under which it operates is a sweeping, broad, and conclusive one, and it may be that there is a necessity for violating these things that are fundamental as between men and as between business organizations, but it does not seem to me that it ought to be done. It seems to me that some way ought to be found to avoid it, without detriment to the Government.

ACQUIESCENCE OF COMPANY IN THOROUGH INVESTIGATION.

As I have already said, every book, every paper, every vault, everything is open to the Commission. The more closely they investigate it, and the longer they look into it, the better it will suit the company, because we believe that, in the main, there is a clean record here from beginning to end. As I have explained, it certainly is a tremendous hardship, and it will cost this company and, through this company, the Government a great deal of money if it goes on.

Commissioner LITTLER. We have no desire to embarrass the company at all. You understand, we are desirous of promoting its best interests. For it is from the company that the Government is hoping to get its money.

It is now after 4 o'clock. Suppose we confer about this matter, Governor Pattison, and give our conclusions in the morning.

The CHAIRMAN. So far as I am concerned, I want to say now that the Commission cannot hold any sessions but public sessions. We shall have no "star-chamber" business.

Commissioner LITTLER. There is no occasion for any "star-chamber" at all. We may reach a plan by which we can arrive at all we want.

Mr. POPPLETON. Is it not possible that the Commission may make some direction as to the publication of these names, and in that way control the matter?

The CHAIRMAN. We do not offer anything for publication.

Mr. POPPLETON. But your honor opens the doors here.

The CHAIRMAN. We cannot close the doors of the court room. You would not suggest that?

Mr. POPPLETON. No, but the court frequently says what a newspaper shall publish, and what it shall not; and verdicts are often set aside because of the promiscuous publication of information. Thousands of them go by the board for that very reason.

The CHAIRMAN. Well, I would suggest, Commissioner Littler, that we finish the vouchers that we have.

Commissioner LITTLER. Very well.

VOUCHER 19,073.

By the CHAIRMAN:

Q. I show you voucher 19,073. Please explain what that is?—A. It purports to go for an overcharge; but I cannot be positive, without reference to the papers.

Q. Are all your rebates made in the nature of an overcharge?—A. All vouchers are made on a blank, stating it to be for an overcharge.

Q. Is there not a memorandum on the bill to indicate whether it was for a rebate or for damage to goods, or for any other purpose?—A. They are upon a paper, but not always on the voucher as made up. It depends somewhat upon the clerk.

Q. Then do I understand you to say that you cannot explain for what purpose the overcharge was made in the voucher 19,073?—A. Yes, sir.

Q. Do you regard it as a sufficient voucher therefor?—A. Yes, sir.

Q. And yet you do not understand it?—A. I do not understand whether it is an overcharge or a rebate.

Mr. POPPLETON. Is there any way of finding that out?

The WITNESS. Yes; the papers would show.

Q. How would you determine that, as an auditor, when presented?

A. That is paid ordinarily on the certificate of the freight auditor.

Q. Do you accept that as final?—A. Yes, sir.

VOUCHERS 19,201 AND 18,944.

Q. As to voucher 19,201, can you explain that?—A. It is not in the office.

Q. It is a voucher for E. Rochat on account of chairs. Total amount \$166.65. Please explain voucher 18,944, which I now show you?—A. That is evidently a rebate.

Q. To whom was the rebate made?—A. To M. Erman & Co., of San Francisco.

Q. For what was it?—A. For rebate.

Q. Rebate for what?—A. Rebate on a shipment from various points to San Francisco, Cal.

Q. What business are they in?—A. I do not know.

Q. Who allowed the rebate?—A. The rebate was made on the authority of the traffic department.

Q. Why was it made?—A. I do not know.

Q. Who does know?—A. I presume the original authority is in the hands of the freight auditor.

Q. Who is he?—A. D. D. Davis.

Q. Where is he?—A. In this building.

VOUCHER 19,589.

Q. Can you explain voucher 19589? What is that voucher for?—A. This voucher is for payment to the Consolidated Tank Line Company, Cincinnati, Ohio, \$39.84.

Q. For what purpose?—A. That I am unable to state positively.

Q. Is it a rebate?—A. I cannot tell without reference to the papers.

Q. How soon can you get the papers?—A. Perhaps in half an hour.

The CHAIRMAN. To-morrow morning will do.

The WITNESS. I shall have them to-morrow morning.

CONSOLIDATED TANK LINE COMPANY.

Q. Who are the Consolidated Tank Line Company?—A. I do not know them.

Q. Who does know?—A. I presume Mr. Kimball would know.

Q. On whose authority?—A. On the authority of Mr. H. A. Johnson, assistant freight agent.

Q. Where is he?—A. His office is in this building.

Q. Is he here now?—A. I cannot answer.

Mr. MINK. He was here this morning.

The CHAIRMAN (to Mr. Mink). Will you please have him here to-morrow?

Mr. MINK. Yes, sir.

VOUCHER 19,500.

Q. Will you please explain voucher 19500?—A. That was paid on the same authority.

Q. Can you say whether it was a rebate or not?—A. I cannot.

Q. Then, in so far as the voucher fails to show on its face whether it is a rebate or an overcharge, as auditor, do you regard that as a sufficient voucher?—A. I do, sir; because the authority for it is filed in my department.

Q. Are the papers filed together?—A. Yes, sir.

PAPERS FILED SEPARATELY AND NOT WITH VOUCHER.

Mr. MINK. I should like to have Mr. Young explain why it is that the papers are not attached to the vouchers, but are filed in separate packages.

The WITNESS. The custom with all railroads is to file the papers separately from the vouchers. The papers are made up from a statement giving all the details, showing the transaction and referring to the authority for making the rebate or overcharge, or whatever it may be. Those are filed in the claim agent's office; that is one reason for not filing them with the voucher; another is, they are, with rare exceptions, so bulky as to make it impracticable to file them with the voucher.

By Mr. POPPLETON:

Q. They are filed in the office of the freight claim agent?—A. Yes.

By the CHAIRMAN:

Q. Then, how is this paper made out?—A. From the papers in his hands, which show all the authority and all the details. They are often very bulky.

Q. Did you see the other papers?—A. No, sir. He is authorized to make up these papers on proper occasions.

Q. You regard them as final?—A. Yes; unless there is something on them that would call our attention to a manifest error; but, as matter of fact, we pay them on his authority. That is the rule; anything else would be an exception.

VOUCHER 19,383.

Q. Please explain voucher 19383, on page 196.—A. The explanation is on the voucher itself.

Q. What is the explanation?—A. This voucher is for the refunding of freight paid on lumber used in building the road bridge over the Platte River.

Q. Was that a rebate?—A. It was in accordance with an agreement made by Mr. Kimball.

Q. Does Mr. Kimball know all about the charge?—A. I presume he does.

POOL CONTRACTS.

The CHAIRMAN. We would like to have the pool contracts now

Mr. KIMBALL. I am having an abstract made of all the pool the Union Pacific has ever had anything to do with. We membership of each pool, the percentages assigned to ea also a full history of the business done under the cont

The CHAIRMAN. But, in addition to that, we want the real basis of the pool—which is, the contract.

Mr. KIMBALL. Those contracts are all covered in the proceedings, are they not? We can produce the copies we have; but the originals are the property of the Pool Association, and are in their possession.

ORGANIZATION OF THE POOLS.

The CHAIRMAN. That would be sufficient. Who are the officers of the Pool Association?

Mr. KIMBALL. Primarily the traffic men of all the roads constituting the pool organizations, and the different companies engaged in the pool, in many cases, select an independent set of officers to conduct the pool business.

The CHAIRMAN. Who are the officers in the pool arrangements the history of which you are going to give us?

Mr. KIMBALL. Various officers.

The CHAIRMAN. Well, say the Utah pool.

Mr. KIMBALL. Of that the present commissioner is Mr. Rich.

The CHAIRMAN. Where is he?

KIMBALL. In Denver. Of the transcontinental pool we had once Mr. Ristine, of Chicago. His successor, Mr. Cannon, is, I think, also in Chicago.

The CHAIRMAN. Have you not a Nebraska pool?

Mr. KIMBALL. We have had.

The CHAIRMAN. Who is in that; what commissioner?

Mr. KIMBALL. There is no organization of that pool. The auditors of the railway companies keep the accounts themselves.

REBATES.

By the CHAIRMAN:

Q. How much in any one month do the rebates in the book that you have produced amount to?—A. I do not know.

Q. Who does know?—A. I do not think anybody knows. It can only be determined by going over the work again and separating rebates from all other matters.

Q. How can you separate them?—A. By going back to the papers.

Q. What papers?—A. The original papers on which the voucher is based.

Q. Then the original papers of these items will show whether they are rebates or not?—A. Yes.

Q. Have you in your possession the original papers?—A. They are in the possession of the department; yes, sir.

Q. You can produce them?—A. Yes, sir.

The CHAIRMAN. It may become necessary for us to take up these matters in detail, because it is utterly impossible for us to report as to whether these things are fair or not unless they give us the detailed information. Suppose the Standard Oil Company has a rate on this road—I only use that as an illustration—or suppose the cattle shippers have a given rate allowed them by this company. How are we to say in our report whether it is fair or not?

Mr. MINK. I think we had better show the Commission the tissue copy of the report already submitted to the Government. That will probably be sufficient.

The CHAIRMAN. No. I think we shall have to go through five years' individual cases in order to determine whether your rates of rebate have

been fair or not. I used the Standard Oil Company as an illustration, because it is a constant matter of public reference—as to whether it was fair or not. The same may be said as to the cattle dealers along the road. There are a number of charges made from time to time through the country, and this Commission has, among the specific things into which it must inquire, the question whether the rebates have been fair or just.

Mr. POPPLETON. How can you do that without knowing whether or not the rebates allowed by other railroad companies operating in the same territory are the same?

The CHAIRMAN. That might do as to comparison of rebates on different roads, but we are to compare with each other the rebates allowed by you to different shippers.

Mr. POPPLETON. How do you know about other shippers—whether they have rebates or not?

The CHAIRMAN. Suppose you render the Union Pacific Railway Company utterly inaccessible, as a common carrier, to many people who are dealing in oil, by reason of your rebates to the Standard Oil Company. If that is so, it is for us to say whether it is just or not.

Mr. POPPLETON. How can you say that without knowing what other people have? The simple looking at a rebate does not show. There are two or three other factors in that problem.

The CHAIRMAN. Well, that will start us on the way.

Mr. POPPLETON. But the trouble is that when you reach that you will have reached a point where you will not have any power to make that investigation, and so you will have to make your report, after all, on a one-sided statement.

INSTRUCTIONS OF SECRETARY LAMAR TO RAILROAD COMMISSIONER.

The CHAIRMAN. The twelfth paragraph of Mr. Lamar's statement to the Railroad Commissioner, published November 27, 1885, reads:

A distinct and full report of all special rates, if any, that were allowed. Also all, if any, rebates or drawbacks, and to whom, and the aggregate amount of each; to be returned within fifteen days after the close of each quarter.

Now, if they have complied with that interrogatory they ought to have given considerable information.

The WITNESS. We will submit a statement.

Mr. POPPLETON. I do not see how the fairness of a rebate can be settled without the Commission investigating every rebate.

Commissioner LITTLER. We have the power to determine whether these rebates are fair and reasonable.

Mr. POPPLETON. Suppose you should send a subpoena to the Chicago and North Western road or to the Chicago, Burlington and Quincy road; which are not Government roads.

Commissioner LITTLER. Suppose we should go ourselves?

Mr. POPPLETON. But suppose you should send a subpoena for that kind of information? As matter of law, do you think you could get that information?

Commissioner LITTLER. If we could not get it on the subpoena *duces tecum*, I think we could get it by going to their office.

POWER OF COMMISSION.

The CHAIRMAN: The act reads:

That the Commissioners hereby created, or either of them, shall have power to require the attendance of witnesses and the production of all books, papers, contracts,

agreements, and documents relating to the matter under investigation, and to administer oaths; and to that end may invoke the aid of any court of the United States in requiring the attendance and testimony of witnesses and the production of books, papers, and documents under the provisions of this section.

Mr. POPPLETON. Do you construe that to authorize you, for instance, to send a commission—

Commissioner LITTLE. A subpoena, you mean.

Mr. POPPLETON. Either a subpoena or a commission—to a private merchant anywhere who has never had anything to do with the Union Pacific Railway?

The CHAIRMAN. We have all the power of the United States court. It is a large power.

ERASTUS YOUNG

The Commission then adjourned to Tuesday, June 21, 1887, at 10 a. m.

OMAHA, NEBB., *Tuesday, June 21, 1887.*

The Commission met pursuant to adjournment.

Present, Commissioner Pattison (chairman), and Commissioner Little.

RAILWAY LANDS.

The chairman submitted a communication from H. L. Muldrow, as Acting Secretary of the Interior, inclosing a communication from W. A. J. Sparks, Commissioner of the General Land Office, dated Washington, May 31, 1887, relating to the lands of the Union Pacific Railway Company; which was ordered filed and to be embodied in the printed record of the Commission.

Commissioner LITTLE. Judge Poppleton, here is a report from the Commissioner of the General Land Office, giving a statement of the lands, &c., of the Union Pacific Railway Company. Do you care to see it?

Mr. POPPLETON. If I could have it when I am a little at leisure I would like to see it.

The CHAIRMAN. The communication cannot very well be allowed to be taken away. I suppose the only part that you are interested in is that relating to the Union Pacific?

Mr. POPPLETON. Yes; I do not suppose it would be of very great importance to us, one way or the other. The facts are what they are after, and the records will show them.

(The paper is handed to Mr. Poppleton, who examines it.)

DATE OF CERTIFICATION.

Mr. POPPLETON. There is one suggestion I want to make about this. I suppose the Commission has power to call for whatever information it wishes from the Commissioner of the General Land Office. He gives here a statement of all patents, and the dates when issued; the dates of certificates of instruction entitling the respective railway companies to the issue of patents, and the amount of lands, &c., for which the patents may be issued. It seems to me that the Commission ought also to have the dates when these lands were certified to the railway company for patenting. The date of the completion of the road, upon this theory, may have entitled us to patents. But the question is—at least it

is an important question, it seems to me—when the Government was ready to certify these lands to us. These two items of information ought to be had, I think.

SURVEYED AND UNSURVEYED LANDS.

The CHAIRMAN. I would suggest, Commissioner Littler, that the Commission inquire of the Land Department for the number of acres of land surveyed and not patented, and the lands remaining unsurveyed.

Mr. POPPLETON. At the present time?

The CHAIRMAN. Yes; because you could not make your selection before they were surveyed.

Mr. POPPLETON. No; and if the lands were unsurveyed at the time the roads were completed and accepted by the Commissioners, we could not do it. That information you ought also to have. For instance, the Commissioner of the General Land Office certifies here that the road was completed, at different times, in sections of 20 and 40 miles, as we all know. Now, it is an important question, if the object of this inquiry is to fasten upon the railway company odium, or to prejudice the railway company in this investigation, or in respect to action with regard to it in any way—it is important to know how many lands were surveyed at that time, and whose fault it was that these patents were not issued. That may be made up of the fact that they were unsurveyed, or that the Government did not certify them to us, or of the further fact, if you please, that the Government never called upon us—never demanded of us in any way the payment of surveying fees and costs of entry.

PAYMENT BEFORE SURVEY OF LANDS.

As a matter of fact, there were many of these lands that were not surveyed at the time the several sections of the road were completed; and I think, in many instances, the company was required to put up the money for surveying the lands before the Government did survey them. All those things, it seems to me, it will be desirable to bring out.

With due respect, this statement is a misleading statement, because it assumes that the company could have these lands when the different sections of the road were completed, when, as matter of fact, that is not at all true. Still, perhaps that is matter of criticism, is matter of argument or discussion. But the information ought to be here to lay the foundation for it. Now, if it is a practical matter and the Commission care to take any action in regard to it, I will undertake to formulate two or three questions that I think will bring out this information, and present it to the Commission at noon or this evening. It can at least do no harm to do that, even if they do not take any action on it.

Commissioner LITTLER. We will consider anything you may prepare, judge.

The CHAIRMAN. If you will formulate questions with respect to lands that remain unsurveyed we will submit them to the Government for answer.

TIME OF SURVEY.

Mr. POPPLETON. Is there any objection to submitting also the other question, that is, when these lands were surveyed?

The CHAIRMAN. No objection at all. Any questions you desire information on we will submit to the Government.

Commissioner LITTLER. Had we better let the minutes show that the letter was authorized to be written to the Commissioner? We can write it at our rooms.

The CHAIRMAN. I think, when the judge submits the questions, I would make it a matter of motion to be entered on the minutes, showing that "on motion, the following questions were submitted to the Department at Washington for answer."

Commissioner LITTLER. And let those questions appear at large on the minutes.

The CHAIRMAN. Yes.

OMAHA, NEBR., *Tuesday, June 21, 1887.*

THOMAS L. KIMBALL, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. How long have you been connected with the Union Pacific Company?—Answer. Since the early part of 1871.

Q. What was your position?—A. General passenger and ticket agent at that time.

Q. How long did you remain general passenger and ticket agent?—A. Until 1880.

Q. What position did you then fill?—A. Assistant general manager.

Q. How long were you assistant general manager?—A. Until the autumn of 1884. Then I was appointed to my present position.

Q. That is, general manager?—A. General traffic manager.

DUTIES OF GENERAL PASSENGER AND TICKET AGENT.

Q. What were your duties as general passenger agent in 1871?—A. I had charge of the making of all the rates that were in use upon the Union Pacific lines for the carriage of passengers and baggage and also of all the agencies that were employed to procure business in the passenger department, the traveling agencies, the advertising agencies, &c.

TICKET AGENTS AS SOLICITORS OF BUSINESS.

Q. What was the nature of the agencies that you employed to secure business?—A. They were ticket agents, for the sale of tickets, in some cases; but generally they were the solicitors of that department, to induce people to travel by the Union Pacific.

Q. How did they induce people to travel by the Union Pacific road?—A. By the circulation of advertising matter that we issued, and by showing the advantages of the Union Pacific Railroad over any competing road or route.

Q. What had you to do with the soliciting of freight at that time?—A. Nothing; that was in charge of another man.

Q. Was your business entirely with passenger traffic?—A. Yes; up to 1880.

PASSES—TO WHOM ISSUED.

Q. What power had you in the granting of passes?—A. I was furnished during the most of that period with blank books with authority to issue them under the rules made by the general manager of the road to govern the issue of passes.

Q. What were the rules?—A. We were allowed to pass representatives of newspapers, when such representative would give us an equivalent for their transportation in advertising, editorial notices, and descriptive articles bearing upon our line and its business.

Q. Who else?—A. I was authorized to issue passes to representatives of other roads—connecting roads; particularly those that issued passes to my representatives in traveling over their lines in pursuance of their duties as advertising agents, solicitors, &c.

Q. Who else?—A. We gave passes in some instances to clergymen, and to people who were subjects of charity. It was in my discretion to determine whether an applicant for free passage, on account of charity, was entitled to it or not.

Q. Who else?—A. I do not recall (during that period) that, I had discretion to issue passes outside of the cases I have named; except that, in the transportation of parties, we would give a pass to the leader of the party—a man who might organize a colony to settle on our lands, or the advance agent of an opera company or theatrical company, or a party of tourists. We frequently issued transportation free to the man in charge of such parties.

Q. Have you named all parties or classes to whom you issued passes?—A. I do not think of any other general class that would be included.

CLASS OF PASSES ISSUED BY GENERAL MANAGER.

Q. Did you issue passes to public officers?—A. Those would be issued by the general manager of the road, or general superintendent.

Q. All forms of passes, then, other than those you have named, would be issued by the general manager of the road?—A. Yes, I think so; should be, or, possibly, by the president of the road in some instances.

Q. Were your rules printed?—A. No; I think not.

Q. How did you get the instructions?—A. I got my instructions from my immediate superior, who would be the general manager.

Q. By word?—A. Yes, generally; or, possibly, by letter. I do not recall the exact facts about that.

Q. Did you ever receive a letter instructing you as to the method of distribution of passes?—A. Yes, recently; but not in connection with the period you are talking about now.

The CHAIRMAN. I am speaking of the period from 1871 down to 1880.

The WITNESS. You mean the period when I was general passenger agent?

The CHAIRMAN. Yes, sir.—A. I do not remember it.

Q. What other duties had you?—A. I had none; unless, on special occasions, I might be called upon to assist any other officer of the road.

Q. Had you a knowledge of the general passenger traffic at that time—from 1871 to 1880?—A. Yes.

GENERAL PASSENGER TRAFFIC FROM 1871 TO 1880.

Q. If you have a knowledge of the passenger traffic from 1871 to 1880, I ask you, as a matter of information, how does the passenger traffic during those periods, or during the years between 1871 and 1880, compare with the passenger traffic now?—A. Well, I should prefer to answer that by the records. In the early period of the Union Pacific's history it was the only railroad crossing the continent. We carried all the passengers across the continent that went by rail, and our competitor was the Pacific Mail, by way of Panama, and our volume of busi-

ness was large; but as to its exact amount, in comparison with our passenger earnings now, I should prefer to consult the record before attempting to give the figures.

PASSENGER RATES.

Q. What were your passenger rates during that period?—A. The passenger rates when I first came on the Union Pacific Railroad, in 1871, were about an average of $7\frac{1}{2}$ cents, but as high as 10 cents on some portions of the line.

Q. Had you authority to give to your agents power to make special rates for the carrying of passengers?—A. Yes, sir.

SPECIAL RATES.

Q. What kind of instructions did you issue as to your special rates to your agents?—A. In those days the agents all had to refer to me for the settlement of the question as to whether a special rate should be granted or not. I did not give them discretion to make rates until we had competition by rail. I determined in, practically, all cases whether a rate should be reduced or not. But we had for the tourist business—the round trip business—a system of graduated rates, dependent on the number in the party. Commencing with five or ten in the party—that number would take the highest rate; a very slight deduction from the general tariff. Then we graduated down to parties of one hundred and fifty or two hundred.

Q. Had you any other special rates?—A. We had half rates for clergymen and families. We had special rates for foreign missionaries that were traveling across the continent. We had a special rate to officers of the Army when traveling on leave. We gave them about half the local rate, with their families.

Q. Had you special rates to any shippers—not as to freight but as to passenger traffic—by the issuing of passes or the making of a special rate, such as a half rate or quarter rate?

The WITNESS. Bearing on freight business?

Q. No; I refer only to passenger business now.—A. Only in the special cases I have alluded to; such as in the case of leaders of parties, like the organizers of colonies. In some cases we gave free transportation and in some cases reduced rates.

Q. Were passes issued by you to the authorities of cities or towns through which the road passed?—A. Not unless I was requested to issue them by the manager of the road.

Q. Will you furnish this Commission with all instructions, either printed or by letter, concerning the granting of passes?—A. Yes; I will give you all that I can find or recall in respect to the issue of passes. The records are a little musty.

ACCOUNTING FOR PASSES.

Q. How did you make a return to the company of the passes granted, and how were they charged or entered as a charge by the company?—A. They were returned to the auditor of ticket accounts or to the clerk in the ticket department, whose duty it was to receive and check the collections by the conductors. Passes would be taken up and returned in connection with tickets. Then they were turned over to the general superintendent or general manager of the company. They were in his custody.

Q. What was the next position you held in the company?—A. I was assistant general manager; appointed in 1880.

Q. Now, have you named to me all your duties as general passenger agent from 1871 to 1880?—A. All my official duties, yes.

Q. Well, had you any private duties as passenger agent?—A. None, except, as I said, when called upon to perform any special service for the company.

Q. What special service were you called upon to perform for that period?

The WITNESS. During the period of 1871 to 1880?

The CHAIRMAN. Yes, sir.

A. That would be very difficult to state.

SPECIAL DUTIES OF PASSENGER AGENT.

The CHAIRMAN. If it was special, I should not think it would be very difficult.

The WITNESS. Well, I have been called upon to canvass the territory in which the Union Pacific Company was proposing to build new lines and to make a thorough canvass of the resources and put them in such form as would establish to the directory whether the project was feasible—whether there was revenue enough or supporting traffic enough in sight to warrant the construction of a proposed branch line or extension. That was one of the matters I was called upon to perform outside of my regular duties as passenger agent. I have been called upon frequently to assist the other departments—in all of the departments, nearly—by investigating problems that have been submitted to them or have come up in the course of their official duties; and I have always done it to the best of my ability.

Q. Then, while acting as general manager, you filled, as assistant, most of the regular operating departments of the road?

The WITNESS. Well, you say "while acting as general manager." I thought you were asking me about my duties as general passenger agent.

The CHAIRMAN. Yes; your special duties. Have you given me all your special duties?

The WITNESS. I have not given you all the work I have done for the Union Pacific Railroad, outside of my regular department.

DEFENSE OF RAILROAD POLICY.

Q. Well, what other work?—A. I have written for the press, more or less, in defense of the policy of the Union Pacific Company. That happened to become part of my duties; not voluntarily, but by request of the company. Also when questions of legislation have come up I have been detailed occasionally to assist in explaining to the law-makers the position of the Union Pacific Company; the effect of proposed legislation against its interests; and in some instances, to do what I could on my own judgment to defeat the proposed legislation.

Q. What other special business?—A. I do not recall anything now, particularly worthy of mention.

REPORTS ON RESOURCES OF THE COUNTRY.

Q. Were your reports as to the resources of the country through which the Union Pacific contemplated building a road, made in writing?

—A. Not always; but frequently.

Q. Have you any of those reports?—A. No; I have not, in my own custody.

Q. Where are they?—A. I could not tell you now.

Q. Are they in the custody of the railroad company?—A. They may be.

Q. Well, would you not know?—A. No; I could not tell you whether they have been preserved or not. Generally the results of a trip or exploration would be given to the manager of the company, or to the president of the company. That information, acted on, would end it.

REPORT ON COUNTRY TRIBUTARY TO THE COMPANY.

Q. But sometimes you wrote out the information and submitted it to the president. Where are those reports?—A. Well, one report that was made—one general examination of all the country tributary to the Union Pacific Railway and available for a branch system of lines—was written up and published.

Q. Where is that publication?—A. Published in connection with a general advertising book that was issued. I presume there may be some copies of that still in existence.

Q. Will you furnish it to the Commission, if you can find one?—A. Yes.

Q. Do I understand, Mr. Kimball, that you know of the existence of but one published report of that kind?—A. The publication that I refer to was drawn up as a popular advertisement—a popular publication for circulation; but it contained descriptions of the country and the resources of the district into which we proposed to extend lines.

Q. You would make that to the public before you made it to your officers?—A. Oh, no; I am talking now about the way that much of the matter which was worked up through my department became published.

Q. But where are the reports that you made of the business resources of the sections of country through which the company contemplated building a road?—A. Well, if they were preserved at all, and in written form, they would probably be filed in the correspondence of the general manager's office.

Q. Will you examine and ascertain for the Commission if such correspondence at that date is on file; and, if so, furnish us with any such correspondence?—A. Yes; I will furnish you all I can obtain.

DEFENSE OF RAILROAD CHARGES.

Q. Please explain what you mean by being employed in writing articles in defense of the Union Pacific Railroad while general passenger agent.—A. The Union Pacific Railroad, like all other roads, was liable to be attacked for its rates of charge for the transportation of freight and passengers; those are two of the grounds on which the Union Pacific road and all other roads are liable to be attacked, and are frequently attacked. It happened to become part of my duties to explain, through the press, and defend the acts of the company that were so attacked.

RAILROAD LEGISLATIVE SCHEMES.

Q. What else did you write in defense of the company? I call your attention to the matter of hostile legislation, which is one of the subjects of the bill.—A. I have analyzed and commented on bills that

were proposed by legislators in the territory through which the Union Pacific Railway runs. You know our system touches some ten States and Territories. In nearly all of them, about once a year or once in two years, we have some legislative scheme bearing upon the Union Pacific Company and other roads in those States and Territories. I have frequently commented on the proposed measures, explaining as best I could the effect of such measures upon the interests of the railway company that I represent and upon the people at the same time.

PUBLICATION OF AGENT'S ARTICLES NOT PAID FOR.

Q. Did you pay for these publications?—A. No; I do not remember of any case where we paid for the publication of matter of that sort.

Q. Were they in the nature of a correspondence to a newspaper?—A. Sometimes they were in the nature of correspondence and sometimes they were accepted as editorials.

Q. Were they accepted as editorials in the nature of an advertisement paid for by the company?—A. No, sir.

Q. What consideration, then, was given to the newspaper company for the publication of these articles in defense of the road?—A. I do not know of any special consideration.

Q. Any general consideration?—A. Those topics are generally pretty interesting to the press and the public during the sessions of the legislature; and they are very glad to get any arguments or facts that bear upon the questions that are immediately in the minds of the public.

Q. Did the company have any interest in any newspaper at that time?—A. The company had an interest in one paper during the period that I was general passenger agent of the Union Pacific Railroad.

Q. Were your publications generally made in that paper?—A. That was one of the papers that published articles I wrote.

Q. Now, when the legislature was not in session and it was not such an interesting period, how did these newspapers accept them?

The WITNESS. Accept what?

The CHAIRMAN. Your articles.—A. Generally I found them glad to get them.

FREE TRANSPORTATION TO EDITORS.

Q. You say there was no special consideration. What was the general consideration?—A. Throughout the territory of the Union Pacific Company (if a paper was of sufficient importance and had a large circulation) we generally gave some free transportation to the editorial staff. That was the practice of all the roads in our territory at that time—that free transportation was usually treated as an exchange for favorable notices of the railroad and the publication of time cards and special correspondence.

Q. Any other consideration?—A. I do not recall now that we had very much cash advertising during that period. We did some; but generally our paid advertising in the press was limited. It was small in amount.

Q. Have you now given me all the considerations that were paid for the advertising of these publications written by you in defense of the road?—A. All that I can recall now.

Q. If you had paid any money consideration you would recall the fact; or would it be in your knowledge?—A. Well, I do not recall the fact; and yet I might have paid for the publication of articles specially contributed to papers; but I do not recall it.

Q. Would you pay it directly, or through the cashier of the company ?
—A. Oh, it would be paid through the regular department. It would go through the cashier. The account would be audited.

Q. Under what heading would the account be entered ?—A. Advertising, generally.

The CHAIRMAN. I wish you would produce the advertising account for the years 1871 to 1880, while you were general passenger agent.

RAILROAD METHODS OF DEFEATING LEGISLATION.

Q. What did you do to defeat legislation ? You said, a moment ago in your testimony, that you were sometimes employed specially, among the things named, to defeat legislation.—A. I generally undertook to persuade the legislator that what he proposed to do was not right ; was not for the interests of the people he represented, or for the interests I represented.

Q. The legislators of how many States ?—A. Well, particularly, the State of Nebraska. Colorado was not a State then ; it was a Territory. I also include the State of Kansas and the Territories west of us.

Q. What Territories ?—A. Wyoming, Utah, and Idaho.

ONLY ARGUMENT USED.

Q. With the legislature what persuasive powers did you exercise ?
—A. Well, if you could bring me the bills that were under discussion, then I think I could recall the arguments I used.

Q. Did you always employ only argument ?—A. That was my method of reaching a legislature.

Q. Did you employ any one else to aid you ?—A. I may have done so, but it was not within my province to employ others.

Q. Well, outside of your province ?—A. I was one of the men that was employed in that work occasionally.

WHO WERE EMPLOYED TO ARGUE.

Q. Whom did you employ ?—A. I generally made use of some of my subordinates in the employ of the Union Pacific Company.

Q. Who were they ?—A. Mr. Shelby was one.

Q. Where is he ?—A. He is at Salt Lake.

Q. Who else ?—A. Mr. Newman was another.

Q. Where is Mr. Newman ?—A. He is in Chicago.

Q. What business is he now in ?—A. He is in some private business there. I do not know ; some patent machinery, I think, he is dealing in.

Q. Who else did you employ ?—A. Mr. Jones, of the passenger department.

Q. What is his first name, because it may be hard to find the right Jones unless we knew the initials ?—A. S. B.

Q. Where does he live ?—A. He lives here.

SOMETIMES LAWYERS.

Q. Who else ?—A. Some of the representatives of the legal department were active on such occasions in the interest of the company.

Q. Who were the gentlemen ?—A. Mr. Thurston was one.

By Commissioner LITTLER :

Q. Do I understand that these were regular attorneys of the company that you are mentioning now ?—A. Yes.

The CHAIRMAN. Who else?—A. Mr. Stull was another.

Q. An attorney of the company?—A. Yes.

Mr. POPPLETON. That is a mistake, Mr. Kimball. He was a claim agent, or right-of-way agent.

The WITNESS. I believe he was. Was not Mr. Newman a right-of-way agent too?

Mr. POPPLETON. Yes.

The WITNESS. So he was, I think.

Q. Where does Mr. Stull live?—A. At Hailey, Idaho.

Q. Where does Mr. Thurston live?—A. Here.

Q. Who else?—A. Mr. Williams, of Topeka, Kans.

Q. What is his full name?—A. A. L. Williams.

Q. Is he an attorney?—A. Yes, sir.

Q. Have you given me all the names?—A. All I think of at this moment.

PERSUADING MEMBERS AND COMMITTEES OF LEGISLATURES.

Q. Among the employes of the company that you have named is Mr. Shelby. How did you employ him about the legislature?—A. I asked him to go and labor with the committees and with the members of the legislature, and persuade them and show them that the proposed legislation ought not to be passed, and show them the objections to it.

Q. What arguments did he use, other than persuasion?—A. I never knew him to use any.

Q. Did he ever use money?—A. Not to my knowledge.

Q. Would you not know it? If he used money for you, you would be likely to know it?—A. If he was working directly under my instructions I should know it.

Q. Would he use money without your instructions?—A. I think not.

Q. Well, do you know?—A. No, because the Union Pacific Company might have a ranking officer who did not consult me in a matter of that sort, if such a thing was done—without my knowledge.

Q. Had it such an officer?—A. It had a general officer who outranked me.

Q. Was he such an officer you have stated, who had that authority? A. He had authority to deal with Mr. Shelby or anybody else without consulting me. I am only trying to give you such facts as are within my knowledge.

Q. Well, what were the duties of Mr. Newman?—A. Mr. Newman would be engaged in the same service as Mr. Shelby.

Q. While so employed were these two men subject to your immediate direction?—A. They would be, to some extent.

Q. Who else would direct them?—A. Well, I should say the general manager of the road would be the man that would have authority over them.

Q. Who was the general manager at that time?

The WITNESS. What time are you talking about?

The CHAIRMAN. The time that you were general passenger agent; when you were doing this special work, from 1871 to 1880.

A. S. H. H. Clark was the ranking officer in those days.

Q. Is Mr. Newman a member of the firm of Wells & Newman, of Chicago?—A. I do not know that he has any associate of that name.

DUTIES OF INDIVIDUALS IN OPPOSING HOSTILE LEGISLATION.

Q. What were the duties of Mr. S. B. Jones, at the legislature, under you, in special service?—A. They were the same as mine. He would

be there for the purpose of preventing the passage of unfriendly legislation—hostile legislation.

Q. Do you state that with reference to Mr. Thurston?—A. Yes.

Q. And Mr. Stull?—A. Yes.

Q. And Mr. A. L. Williams?—A. Yes.

NOT ALL ATTENDING LEGISLATURE AT SAME TIME.

Q. Were you all at the legislature together?—A. No; I do not remember that we ever were.

Q. Well, how many of you were there?—A. I remember being at the legislature—

Mr. POPPLETON. You had better state what legislature. These men spread over all these six or eight Territories.

A. I remember being at Lincoln with Mr. Shelby, but I would have to tax my memory in order to fix the definite date of the occasion when either one of those gentlemen was with me in attendance upon a legislative committee or a legislature itself.

Q. How could you refresh your memory?—A. I could tell by my diary.

Q. Have you got that?—A. I have a diary; yes, sir.

Q. Have you got it with you?—A. No; I have not got it with me. It is rather bulky. I have kept it since I was twenty-one years old.

The CHAIRMAN. If there is any public entry there concerning the performance of duties for the Union Pacific Railroad before the legislature, with these gentlemen as your special agents, we would like to have it.

The WITNESS. I will see if I can assist you any by consulting my diary.

Q. Were you present with these gentlemen while they were at the different legislatures during the different years?—A. I remember occasions when I was present with one or more of the gentlemen that I have named.

INSTRUCTIONS TO RAILROAD AGENTS.

Q. How did you instruct them?

The WITNESS. As to what they were to do?

The CHAIRMAN. Yes.

A. I could only give you my instructions in a general way.

The CHAIRMAN. That will do.

A. If I were satisfied that a certain explanation of a measure pending would influence the judgment and understanding of a member, I would ask one of those gentlemen to bring the fact, or facts, to bear on the member.

Q. Would you do that by letter?—A. No; I would tell them.

Q. Would you do it by written memorandum?—A. I might not.

Q. Did you?—A. I do not remember.

ARGUMENTS BEFORE COMMITTEES.

Q. Have you any copies of such memoranda issued at the time?—A. No. Generally we have been allowed to appear before the committees when very important measures were pending, and submit arguments—written and oral arguments—to members of the legislature—to the committees.

Q. Would you do that with employes of the road as special agents? Would it not be through your attorney? Would not that be the usual

course?—A. Most of that work has been done by representatives of the traffic department. I have done my share of it.

Q. Did you correspond with any members of the legislature?—A. I do not recall any case now. I might have done so. If I thought that I could explain a bill to a member of the legislature so that he would oppose it, I should certainly write him.

Q. Did you keep a copy of such correspondence?—A. I would; yes.

Q. Have you such a copy?—A. I do not know that I ever wrote to a member.

Q. Will you produce to the Commission, if you have it, any letter written to a member of the legislature or any other individual during these years, affecting the Union Pacific Railway?—A. I will.

Q. What other means would you exert if you failed to do it by argument and a presentation of the facts?—A. I cannot recall any instance in which I ever used any means beyond what I have already described, that of legitimately persuading and inducing members of the legislature to oppose measures that I wanted defeated in the interest of the company.

Q. Did you authorize or permit any one else to use any other means?—A. I do not recall an instance.

PASSES TO MEMBERS OF THE LEGISLATURE.

Q. Did all the members of the legislature have free passes?—A. Generally, they did. They were offered free passes. If they were not offered, they generally asked for them.

Q. Did they ask for passes for others?—A. Yes.

Q. Did they get them?—A. They did in many cases, especially if they were anti-monopoly members. (Laughter.)

Mr. POPPLETON. And they generally were?

The WITNESS. Yes; they generally were. They were allowed to call for passes, and generally got them.

"ANTI-MONOPOLY" MEMBERS.

Q. What do you mean by "anti-monopoly" members?—A. Those men who believe that anything is justifiable to defeat whatever is wanted by a railroad company.

Q. Have you had to use a different line of argument with these men from that you used with members?—A. They generally furnished the line of argument themselves.

Q. You said you generally issued passes to those men.—A. Yes; they generally applied for and got them.

Q. Was that because they were opposed to the legislation?—A. We made it a rule to tender to every member of the legislature a pass. That was, as I recollect, the general practice.

Q. What other practice had you about passes?—A. There might have been during that long period of time occasions when we did not give members of the legislature—when we did not offer to members of the legislature—passes; but that I cannot swear to now.

Q. Did you grant them any other privileges on the road?—A. I do not recall any.

PASSES ISSUED ON REQUEST OF MEMBERS OF THE LEGISLATURE.

Q. Did you grant to any other persons, for them, privileges over the road?—A. I cannot recall any at this time.

Q. Did you grant any passes to others for members of the legislature?

The WITNESS. When asked for by others?

The CHAIRMAN. Yes.

A. Undoubtedly.

REBATES AT REQUEST OF MEMBERS.

Q. Did you grant rebates on the request of any member of the legislature?

The WITNESS. Because he was a member? That being the consideration?

The CHAIRMAN. To any member of the legislature.

A. I do not remember any.

Q. Did you grant rebates to any constituent of any member of the legislature on the application of the legislator?—A. I do not recall any such instance.

Q. Was any such application ever made?—A. I do not remember any now.

Commissioner LITLER. You mean, governor, rebates on shipments?

The CHAIRMAN. Yes.

The WITNESS. I do not remember any.

NO IMPROPER MEANS USED TO INFLUENCE LEGISLATION.

Q. Have you given to the Commission all the methods exercised by you, or by any one under your direction, in influencing legislation, whether for or against the company; or has any one within your knowledge exercised any other methods than those you have named?—A. Well, I can only speak for myself in that matter. I do not recall an instance in which I exercised or authorized to be exercised any illegal or improper means to influence legislation in the States and Territories through which the Union Pacific runs.

Q. Did you ever permit others?—A. (Interposing.) Well, you are going beyond my authority now; I am the servant, and not the master or at least during that period I was the servant.

The CHAIRMAN. I am asking for your knowledge during that period.

The WITNESS. I could not swear to any definite instance or case in which other or improper means were used.

Q. Any indefinite instance?—A. No.

INFLUENCING ELECTION OF MEMBERS.

Q. Has any influence used by you as an officer of the company, acting in the line of special duty in reference to legislation, been directed to the election of members of the legislature or the selection of members for the legislature?—A. Yes; I think my answer to that question would be that there have been, during the period that you refer to, times when I have influenced the nomination, and the election or defeat, of candidates for the legislature.

Q. What influence did you use or exercise upon such an occasion?—A. I used my personal influence and all the help I could enlist when I undertook to do anything in that direction.

Q. What kind of help?—A. My personal acquaintance.

Q. Were you acting under the direction of the company?—A. No always; in some instances where men were nominated to the legisla-

ture expressly for the purpose of attacking the interests of the Union Pacific Railway we felt justified—I did, particularly—in doing everything I could legitimately to defeat the nomination, and, if nominated, to defeat their election. That is something that has not often occurred. I have, on my own individual responsibility and as a personal right, worked against the nomination of individuals worked for the nomination of others, and worked for their election; but that was a right I exercised as a citizen and not as a representative of the Union Pacific Company.

INDIVIDUAL EXPENDITURE OF MONEY.

Q. Did you use any money upon such occasions?—A. Yes.

Q. Money of the company?—A. No; I used my own on those occasions. And, during some of the campaigns of the past, I may have paid out some expenses for the company, but my practice has been to pay my own political bills when I have engaged in a party campaign.

Q. Where would those expenses of the company, that you were sometimes called upon to incur, appear in the accounts of the company?—A. I could not tell you. And I cannot say that I can swear definitely to the payment of money, but it might have been done.

Q. Well, can you swear indefinitely? You have sworn already.

Mr. POPPLETON. Indefinite swearing is rather objectionable.

The CHAIRMAN. I am taking the witness' own story; he is discriminating between "definite" and "indefinite" all the time, and I want to know what the difference is. If he will state to me when he has a definite knowledge and when an indefinite knowledge, I can understand him.

The WITNESS. I can remember some instances where I have paid money for political purposes; instances where I have paid money myself—subscribed to a political fund.

NONE EXPENDED BY THE COMPANY.

Q. Do you recall any instance in which you paid money for the company to influence an election?—A. No.

Q. Or a nomination?—A. No.

Q. What influence and what arguments did you use in the nomination or election of members of the legislature?

The WITNESS. You refer to nominations that I opposed, as in the interests of the company. Those are the kind you refer to?

The CHAIRMAN. Any in which you participated, where you believed the interests of the company were involved? I am only questioning you as to your course in those instances?—A. I would use every argument that I could, or any persuasion that I could, to induce people not to support the men that I did not want nominated. I would enlist all my friends—people that I could influence—to co-operate with me in that.

NO PROMISES OF PLACE USED.

Q. Did you make promises of place or position in the company's service?—A. I do not remember any case of that sort.

Q. Did you ever make such a promise on such occasions?—A. I do not recall any.

Q. Did you ever make a promise of any rebate or business advantage with the company to any one at that time?—A. No; not that I know of; not that I can recall.

Q. Of what other officers did you at any time participate in the nomination or election, for or against, on account of the interests of the company?—A. I do not remember any now.

LOCAL ELECTIONS.

Q. Did you participate in the elections in the cities and towns along the line of the road?—A. Very rarely.

Q. Did you occasionally?—A. There may have been a few occasions in the city of Omaha; but I do not recall any definite case.

THE COMPANY'S EMPLOYÉS FREE TO VOTE.

Q. Did you instruct the employés of the company to participate or how to vote in those elections or canvasses for nomination or election?—A. I have, at times, asked them to vote to support the interests of the company when they were being assailed, but never instructed a man working for the company how to vote; never ordered a man to vote as I wanted him to when I had authority to do it.

Q. During this period who else assisted you, other than the subordinates you have named, in effecting or opposing legislation; either a superior officer, general officer, or others than those you have named?—A. I do not recall any. I have generally employed the men that were associated with my department when they understood the question and understood the bearing that the proposed bills would have upon our traffic. I have generally made use of those men, and, as I said, to some extent we have been assisted by the representatives of the legal department and some of our right-of-way men.

"SMART" RAILROAD AGENTS.

Q. Were those men selected with regard to a peculiar fitness for this kind of work that you have spoken of?—A. If they understood the questions that were pending and if they were available for that kind of work.

Q. How available?—A. Well, generally smart.

Q. How "smart"? What do you mean by that term?—A. They could convey their opinions so that they would be understood.

Q. You employed them and paid them in addition to the compensation paid by the company?—A. No; I do not know of any instance where we paid anything outside of their regular compensation.

Q. That was all the consideration they received?—A. Yes.

NO MEMBERS RETAINED AS ATTORNEYS.

Q. Were members of the legislature retained by you as attorneys pending any legislation?—A. No.

Q. Do I understand the statement that you have made with reference to legislation to apply to all the States and Territories that you have named during this period?—A. So far as I have had anything to do with the legislatures in the States and Territories.

Q. Do I also understand by your testimony that you mean to apply to nominations and elections in all the States and Territories you have named with reference to the legislatures?—A. No; the only case that I can recall where I ever had anything to do with the nomination or the election of a member of the legislature is in the State of Nebraska.

HOSTILE LEGISLATION.

Q. What was the effect during that period of the hostile legislation actually passed in sections through which the Union Pacific Railway ran?

The WITNESS. The effect if the legislation had been adopted, you mean?

Mr. POPPLETON. What was the effect upon the business of the company?

The CHAIRMAN. Yes.

Mr. POPPLETON. That is what the act of Congress creating this Commission calls for—the effect upon the business of the company.

The CHAIRMAN. Yes, enacted legislation.

Mr. POPPLETON. That is, in the way of diverting business to competitors and destroying the interests of the company itself.

The CHAIRMAN. Yes, legislation in any sense antagonistic. What was the effect upon the business of the company?

The WITNESS. I would like to see the exact form of the inquiry in the act of Congress.

Mr. POPPLETON (reading): “Also to inquire if either of the Pacific railway companies have been embarrassed in their earning capacity, and hampered by antagonistic local or State legislation”

The CHAIRMAN. That is the question. What has been the effect, my question is, of the antagonistic local or State legislation along the line of territory through which the Union Pacific Railway passes, during the period I have mentioned, from 1871 to 1880?—A. There was no hostile legislation, that I can recall, up to 1880. My present recollection is that no hostile legislation was actually passed during that period.

Mr. POPPLETON. That is, State legislation.

The WITNESS. Up to 1880?

The CHAIRMAN. Any local legislation?

The WITNESS. None that I recall.

RIGHT OF EMINENT DOMAIN IN NEBRASKA.

Q. So that, during the period from 1871 to 1880, as I understand you, there was neither local nor State legislation antagonistic, hostile, or embarrassing in any way to the company?—A. None that I can recall, excepting a provision incorporated into the constitution of 1875, prohibiting the Union Pacific Railway Company from exercising the right of eminent domain in the State of Nebraska.

Q. Does that apply to the new corporation—the Union Pacific Railway Company?

Mr. POPPLETON. Yes. Because the consolidated corporations takes all the rights and all the burden of the constituent companies, as matter of law.

The CHAIRMAN. They have taken the United States charter and wiped it out by this provision of the State constitution?

Mr. POPPLETON. Precisely. I have been trying for years to get Judge Dillon to allow me to take it to the Supreme Court of the United States, because I do not think it would stand an instant when argued there. But, from considerations of policy, it has not been thought best to take it there. We cannot, to-day, take a piece of property if we wanted it, even as an approach to a bridge. We have got to go and buy it, like anybody else.

The WITNESS. In section 8, page 33, of the compiled statutes of Nebraska for 1885 appears the following, in the constitution of the State of Nebraska adopted in 1875:

No railroad corporation organized under the laws of any other State, or of the United States, and doing business in this State, shall be entitled to exercise the right of eminent domain, or have power to acquire the right of way or real estate for depot or other uses, until it shall have become a body corporate pursuant to and in accordance with the laws of this State.

EFFECT OF ITS PROHIBITION.

The CHAIRMAN. What has been the effect of this provision?

Mr. POPPLETON. The effect has been to prevent the Union Pacific Company acquiring property for railway uses by condemnation and appraisal. In all instances where it has been necessary to acquire real estate for railway purposes we have been compelled to pay the price asked by the seller.

The CHAIRMAN. To what extent has the business of the company been hampered by reason of this?

Mr. POPPLETON. That could not be accurately answered. But it has been a source of perpetual inconvenience and perpetual imposition might say. Because the company has been, to a very large extent, at the mercy of property holders. And as soon as it became known that the company would require land in a certain vicinity, the prices have advanced immensely.

MISSOURI RIVER BRIDGE-APPROACH.

We have paid from \$10,000 to \$15,000 for lots, after it became known that they were a necessity in connection with the approach to the Missouri River bridge, that, before that knowledge, and not more than eight or ten months before, could have been bought for less than \$5,000.

RIGHT OF WAY IN NEBRASKA.

The CHAIRMAN. How much has your company paid by reason of that legislation?

Mr. POPPLETON. I could not tell that.

The CHAIRMAN. Mr. Mink, could you tell that?

Mr. MINK. I could not.

Mr. POPPLETON. I could not get at it accurately; I can only say that we have paid, in every instance, a high price.

The CHAIRMAN. Can you give an approximate idea of the amount that you have paid for right of way in Nebraska since the passage of that legislation?

Mr. POPPLETON. It will be difficult; it is possible that it might be made up, but the great majority of the right of way that has been acquired has been for branch lines. But for terminal facilities here in the city, probably that could be made up.

Mr. MINK. We can look the ground over after the adjournment, and see what can be ascertained.

The CHAIRMAN. I would like you to furnish the Commission with the amount paid in the State of Nebraska for the right of way since the passage of the provision in the constitution of 1885 just quoted.

DELAY IN ITS ACQUISITION.

By Commissioner LITTLE:

Q. Has the constitutional provision above referred to operated to hinder, delay, or prevent the Union Pacific Railway Company from ac-

quiring the right of way in the State of Nebraska for any proposed branch lines which were sought to be constructed?—A. My recollection is that that has been the effect—that we had to use the alternative of another or branch-line corporation to cover the right to condemn and acquire property for the indirect use of the main line.

Mr. POPPLETON. I did not bring this to the attention of the Commission so much on account of the amount that has been involved in it as that I thought they ought to know the fact.

Commissioner LITTLER. I think Congress ought to know the fact.

Mr. POPPLETON. Yes; and it is a good way to get it before them—through this Commission.

BRANCH LINES.

By the CHAIRMAN:

Q. How many miles of branch line, Mr. Kimball, have you built in Nebraska since the passage of the act?—A. Substantially all the Nebraska branches have been built since that date.

Q. How did your branch lines get the right of way?—A. By a charter granted by the State of Nebraska.

EMBARRASSMENT IN OMAHA.

Q. Then the actual loss, as I understand, or embarrassment, has been on the terminal facilities of the main line—in adjusting or changing them. Is that true?—A. Well, it would also apply to our station facilities, depot grounds, and right of way for terminals and side tracks throughout the State; but the most serious difficulty we have had has been the embarrassment right here in Douglas County—in the city of Omaha.

Q. It would be no embarrassment to the branch lines?—A. No; they could take property under their franchises; but the embarrassment has been to the main line.

Q. As general passenger agent during the period from 1871 to 1880 have you anything to suggest or to say to the Commission that has not been called out during the examination?—A. Nothing that suggests itself to my mind at this time.

CONCERNING INFLUENCING LEGISLATION.

By Commissioner LITTLER:

Q. I want to ask you just one question, Mr. Kimball. From your testimony on this subject I understand you to state emphatically that there has never been any money paid by the Union Pacific Company for the purpose of improperly influencing State or local legislation at any time during the period you have spoken of?—A. None by me or within my knowledge. That is correct. That is what I intended to say.

Q. Are your avenues of knowledge such as to enable you to have known of the fact if it existed?—A. Well, not necessarily and absolutely. I was only one officer of the company.

Q. Money might have been illegitimately paid for the purposes mentioned without your knowledge?—A. Yes; that is possible, of course.

PASSES.

By Mr. POPPLETON:

Q. In respect to the passes to the legislature. You say that it was the custom to tender passes to members of the legislature. I

general custom among railways in this State?—A. Yes; that is the general practice of all the roads—to tender passes over the road to members of the legislature.

DUTIES OF ASSISTANT GENERAL MANAGER.

By the CHAIRMAN:

Q. What were your duties as assistant general manager from 1880 to 1884?—A. The title implies virtually what my duties were. The general manager is the ranking local officer having jurisdiction of all the departments, or authority over all, except, I think, the auditing department. I was exercising the authority and performing the duties of the general manager, subject to his instructions mainly; and, quite largely, my work was in connection with the traffic of the company during that period. When the general manager was here he took immediate charge of his work. When he was absent I attended to such duties as he delegated to me.

Q. Did you have entire control as assistant general manager of all the operating departments of the railway?—A. I had authority over all the operating departments when the general manager was absent, either to issue orders and instructions in his name or in my own name.

Q. What control, as assistant general manager, had you over the passenger traffic?—A. The head of the passenger department and the head of the ticket department reported to me as assistant general manager.

SPECIAL PASSENGER RATES FROM 1880 TO 1884.

Q. What special rates for passengers had you during the period from 1880 to 1884 over the Union Pacific main line?—A. I think it was in 1880, or about the time that I was appointed to that position, that we made a pretty general reduction in our tariff over pretty nearly the whole system; but I could not recall now, without consulting the tariffs or records, just what the scaling of rates on the Union Pacific was at that time.

Q. You speak of tariff rates with reference to passengers only, now?—A. Yes; I referred to passengers only. We were compelled to make special rates on passengers, and freight as well, to fit that period, because we had much stronger competition than we had previously.

Q. During your active performance of the duties of general manager—did you exercise the same policy as to the passenger department that you had as general passenger agent?—A. Yes, sir; except that we had to grant more reduced rates—more special rates than previously—because of the competition that did not exist during most of the time that I was general passenger agent.

Q. How many different special rates did you grant after that?—A. I could not tell you without reference to the records.

Q. Where is the book that has the memoranda?—A. I do not know whether the record so far back as that would be preserved. I think I could, generally, give you a pretty good idea of the prevailing special rates; that is, rates made lower than the public, official tariff.

Q. Will you please produce the record, if you have it in your possession, or if it is in possession of the company?—A. I will.

Mr. POPPLETON. The main line, that is, I believe?

The CHAIRMAN. I think we had better have it as to the whole system.

NOT DIFFERENT FROM RATES BETWEEN 1871 AND 1880.

Q. What special rates do you recall now that were allowed at that time?—A. I do not recall any that differ materially from the specials that I described in my previous testimony as applicable to the period from 1871 to 1880.

Q. The special rates during the period that you were assistant general manager, as to passenger traffic, remained about the same?—A. They would cover the same classes of business; but just what the rates were, I should have to consult the records to show.

APPLICABLE TO MORE CLASSES.

Q. Was there any increase of the classes that were allowed special rates in consequence of the competition that you have spoken of?—A. Yes.

Q. What were they?—A. They would be the shippers of freight over the line who could obtain passes or reduced rates over a competing line with the Union Pacific to the point that such passengers wanted to reach.

FREIGHT RATES.

Q. Did you fix the freight rate during this period, from 1880 to 1884?—A. I was consulted as the ranking officer of the man who did fix the freight rates during that period.

Q. How did the rates upon the main line, under your management, differ from the rates upon branch lines, as you recall them?—A. The rates on the branch lines at that time were, as a whole, higher than on the main line, except in the western portion of our territory—the western portion of the main line.

PRINTED SCHEDULE OF RATES.

By Commissioner LITTLER :

Q. Have you not a printed schedule of those rates?—A. Yes; I can show, I think, those figures during the period.

By the CHAIRMAN :

Q. Will you please produce the record of rates during that period?—A. Yes; what you want is the basis of rates; if it was so much a mile for the branch line and so much a mile for the main line and certain portions of the main line during that time?

By Commissioner LITTLER :

Q. You have a detailed freight tariff, have you not, between all stations?—A. Yes; but I do not imagine there is one of those in existence as far back as 1880.

Mr. POPPLETON. They can be furnished as far back as you can give them.

The WITNESS. Yes; I can furnish the basis per mile on which all the passenger tariffs were made at that time.

By the CHAIRMAN :

Q. To this date?—A. To this date, or until subsequent changes were made. I would like to file that in connection with the present testimony and let it go in here.

The paper is as follows:

LOCAL PASSENGER TARIFFS IN 1880.

THE UNION PACIFIC RAILWAY COMPANY, GENERAL TICKET OFFICE,
Omaha, Nebr., June 22, 1887.

Basis upon which local passenger tariffs were constructed in 1880, when the constructive-mileage basis of divisions between main line and branches was adopted in April, 1880, with changes made since. Rate in cents per mile except between Council Bluffs and Omaha, where actual fare in cents is given:

	April, 1880.	Nov., 1880.	June, 1883.	June, 1885.	Jan., 1887.	June, 1887.	July, 1887.
<i>Consolidated line.</i>							
Council Bluffs to Omaha:							
Limited	25						
Unlimited	50					25	
Omaha to North Platte	5	4		3		3	
North Platte to O'Fallon	7½	4		3		3	
O'Fallon to Chappell	7½	4				4	3
Chappell to Nebraska and Wyoming line	7½	5		4		4	3
Nebraska and Wyoming line to Cheyenne	7½	5		4		4	
Cheyenne to Laramie	9	7		6	5	5	
Laramie to Almy	9	7			5	5	
Almy to Ogden	9	6½		5	4	4	
Kansas City to Topeka	3					3	
Topeka to Kansas and Colorado line	4		3			3	
Kansas and Colorado line to Denver	5				4	4	
Denver to Cheyenne	7	5.2			4	4	
Leavenworth Branch	3					3	
<i>Auxiliary line.</i>							
Omaha and Republican Valley	5	4		3		3	
Omaha, Niobrara and Black Hills	5	4		3		3	
Saint Joseph and Grand Island:							
In Kansas	5	4	3			3	
In Nebraska	5	4		3		3	
Lawrence and Emporia	4		3			3	
Manhattan and Blue Valley				a 3		3	
Junction City and Fort Kearney	4		3			3	
Solomon	4		3			3	
Salina and Southwestern	4		3			3	
Salina, Lincoln and Western					b 3	3	
Kansas Central		c 4	3			3	
Colorado Central:							
Julesburg Branch		d 5.1		e 5	f 4	4	
Denver and Cheyenne	5				4	4	
Denver, Georgetown and Central City	10	g 7½			6	6	
Georgetown, Breckinridge and Leadville			h 7½		6	6	
Greeley, S. L. & P.:							
Greeley and Stout			i 5		4	4	
Boulder and Sunset			j 8		6	6	
Denver, Marshall and Boulder				k 5	4	4	
Denver and Middle Park				5		5	
Denver and Boulder Valley	7	5.2			4	4	
Golden, Boulder and Caribou	4					4	
Denver, South Park and Pacific:							
Denver, Platte Cañon and Morrison		l 6			4	4	
Platte Cañon and West		9½			6	6	
Cheyenne and Northern			m 5			5	
Laramie, North Park and Pacific			n 7		5	5	
Oregon Short Line		o 8			5	5	
Echo and Park City		p 6½			5	5	
Utah and Northern:							
Ogden and Franklin	5	q			5	5	
Franklin and Arimo	10	8½			5	5	
Arimo and North	10	8			5	5	
Salt Lake and Western		r 6			5	5	

a August, 1886.

b June, 1886.

c February, 1881.

d November, 1881.

e June, 1885.

f January, 1887.

g November, 1880.

h April, 1884.

i July, 1882.

j April, 1883.

k September, 1886.

l January, 1881.

m December, 1886.

n April, 1885.

o October, 1882.

p December, 1880.

q November, 1880.

r September, 1882.

C. S. STEBBINS,
General Ticket Agent.

O. P. McCARTY,
Assistant General Ticket Agent.

Q. Will you furnish a similar schedule as to the freight rate?—A. I will do the best I can.

The CHAIRMAN. Let your statement go back to the beginning, if you can.

The WITNESS. A history of the rates from the beginning of the Union Pacific?

The CHAIRMAN. Yes, sir; freight rates and passenger rates.

The WITNESS. Well, I will do the best I can for you.

Mr. POPPLETON (to the chairman). Will not this table here (referring to a table in a book of reports of the Union Pacific Company) suit your purpose?

The CHAIRMAN. Does it show the increase and decrease?

Mr. POPPLETON. It is a table showing the rate per mile for the different years.

The CHAIRMAN. What I want is the open local rate; not the average. This is a table showing simply the average rate. That is not what we want.

The WITNESS. I will try to give you the information.

TARIFFS ON BRANCH LINES.

Q. Did you discriminate in your rates in favor of the branch roads as against the main line?

The WITNESS. Do you refer to the division of the rate on joint business interchanged between the branches and the main line?

The CHAIRMAN. I mean as to the general local and through rates. Were the rates fixed rather in favor of the branch lines—the unaided lines—and against the main line?

A. As a rule we made our local tariffs on the branch lines higher than the main line tariffs in the same vicinity, wherever we could do so, on account of the short-haul and extra expense and small amount of business of the branch lines as compared with the main line. We generally adjusted our rates higher on the branch than on the main line.

Mr. POPPLETON. You are stating now the non-joint business?—A. Yes; I mean the official local tariffs that they asked for.

Mr. POPPLETON. Yes; local.

NO DISCRIMINATION IN THEIR FAVOR.

Q. Did you discriminate in the fixing of your rates in favor of the branch lines as against the main line?—A. No, sir; I think the discrimination, as matter of fact, has been the other way.

Q. Were the benefits derived by the main line from the rates fixed equal to the benefits derived by the branch lines?—A. I think so. I think clearly so.

Q. Were the rates the same?—A. In some cases the same.

Q. Well, what in other cases?—A. Generally the branch line had a higher rate than the main line.

Q. You would not regard that as a greater benefit to the treasury of the branch line than was conferred on the main line?—A. If the branch line received an additional compensation of, say, 50 per cent. on each mile of the haul of freight or passengers, and the haul on the branch line was 50 miles and the haul upon the main line was 500, it does not require much argument to show the profit—the direct advantage to the main line, at 50 per cent. less rate per mile on all business that could be

gathered up or created by the branch line and given to the main line—it seems to me it is perfectly clear that the benefits are decidedly greater in favor of the main line by such an adjustment.

CONSTRUCTIVE MILEAGE.

Q. By the term "50 per cent." which you have used you mean the system of constructive mileage that is now in operation? I do not mean fixing the percentage; but that is what we denominate constructive mileage.

The WITNESS. Where the tariffs allow a branch line, or make for a branch line, a 50 per cent. higher rate per mile than is obtained on the main line, would you call that constructive mileage?

The CHAIRMAN. I am asking you.

A. No, I should not call it constructive mileage. I think "constructive mileage" is a misnomer in such case; it is misleading, especially misleading to Congress. "Constructive mileage" if applied at all in such cases, simply signifies, as I understand it, the ratio that the local rates of compensation bear to each other, between the main line and the branch lines.

By Commissioner LITTLE:

Q. You simply used the term "50 per cent." to illustrate your point?

A. Yes.

By the CHAIRMAN:

Q. But your haul of 50 miles on the branch line and of 500 miles on the main line, and the allowance in favor of the branch line as against the main line, is the system of constructive mileage that you are now operating under?—A. If the tariff of the branch lines is based on a figure 50 per cent. higher than that of the main line, then it should not be called constructive mileage.

Q. What is it?—A. It is simply compensation on the basis of its local tariff.

CONSTRUCTIVE MILEAGE DEFINED.

Q. What is "constructive mileage"?—A. It is a term applied to the allowance between railroads for a service not performed, or for a distance greater than the actual haul.

Q. A service for what?—A. Transportation of freight or passengers.
THOS. L. KIMBALL.

Afternoon session.

THOMAS L. KIMBALL, being further examined, testified as follows:

INTRODUCTION OF CONSTRUCTIVE MILEAGE SYSTEM.

By the CHAIRMAN:

Question. When was the plan of constructive mileage first introduced into the Pacific system?—Answer. My recollection is that it was about 1880—1879 or 1880.

RATES.

Q. What were the rates fixed for that year?—A. I have a list here of the basis of divisions between the lines, but I see noted on it "Octo-

ber 1, 1880," and the present basis I find on the same sheet, so that the application of the percentages that I am going to read will not in all cases date back to 1880; but will apply when the branch line named was opened for business, since that time:

The Union Division, designated A, Omaha to Cheyenne, 1 mile.
Cheyenne to Ogden, 1½ miles.
Kansas Division, N, 1 mile; Leavenworth Branch, O, 1 mile.
Denver Pacific, U, 1½ miles.

Auxiliary lines.

Omaha and Republican Valley, designated B, 1½ miles.
Omaha, Niobrara, and Black Hills, C, 1½ miles.
Colorado Central, Julesburg Branch, 1½ miles.
Echo and Park City, G, 2 miles.
Colorado Central Railroad, H, broad gauge, 1½ miles; narrow gauge, arbitrary (or local tariff).
Salt Lake and Western, I, arbitrary.
Denver, South Park, and Pacific, J, arbitrary, east-bound; 2 miles for one, west-bound.

Utah and Northern, K, 1½ miles.
Oregon Short Line, L, 1½ miles.
Grooley, Salt Lake and Pacific, M, 1½ miles.
Lawrence and Emporia, P, 1½ miles.
Laramie, North Park and Pacific, Q, arbitrary.
Junction City and Fort Kearney, R, 1½ miles.
Solomon Railroad, S, 1½ miles.
Salina and South Western, T, 1½ miles.
Denver and Boulder Valley, V, 1½ miles.
Golden, Boulder and Caribou, W, arbitrary.
Georgetown, Breckinridge and Leadville, X, arbitrary.
Kansas Central, Y, arbitrary.
Denver and Middle Park, arbitrary.
Salina, Lincoln and Western, 1½ miles.
Cheyenne and Northern, arbitrary.
Denver, Marshal and Boulder, 1½ miles.
Manhattan and Blue Valley, 1½ miles.

All business to be divided on basis named, except—

(1) No line receives more than its locals; (2) special rates based on half-local to be divided accordingly; (3) round-trip rates covering two routes to be split in the middle and each half apportioned according to the route of the same.

Mr. MINK. That is all passenger business?

The WITNESS. Yes.

ARBITRARIES.

By Commissioner LITTLE :

Q. I would like to have you explain what you mean by "arbitrary."—A. That is a fixed sum without any pro rate of a cut rate. The local tariff applies.

By the CHAIRMAN :

Q. For what time were these rates fixed?—A. The first division noted here was in effect October 1, 1880, and so down to the present date.

CHANGES IN DIVISIONS OF RATES.

Q. Have they remained the same from that date?—A. I think there have been some slight changes in the basis of divisions.

Q. What are the changes?—A. There was a change made on the Oregon Short Line by which business going north of Pocatello, on the Utah and Northern, pays the Oregon Short Line about three-quarters of a cent a ton a mile from Granger to Pocatello.

Q. Who fixed the rates?—A. That was ordered, as I remember, by the president of the company, through the general manager. The divisions were published by the auditing department.

Q. Did the president communicate with the general manager?—A. I think he did.

Q. Have you that communication?—A. No; it would not be in my possession.

Q. In whose possession would it be?—A. In the files of the office of the general manager.

Q. Will you procure that communication for the Commission? Mr. Adams referred us to you on the question of these rates. He said you fixed them.—A. Well, it is generally true that these matters would be referred to me.

Q. Well, did you fix the rates?

The WITNESS. You are asking me about this particular case, are you not?

The CHAIRMAN. No, sir; I am asking you about the general rates.

The WITNESS. There is a chance for misapprehension here. Your question is addressed to the general tariff of the company, and not to the division of rates?

Q. Yes.—A. Well, my answer to that would be that I am responsible for the making of the rates.

Q. Are you responsible for the change in the rates also?—A. Yes, sir.

BASIS OF DIVISIONS OF RATES.

Q. Upon what basis did you first fix the rates?

The WITNESS. Do you mean in this case—in the case of these lines of which I read the divisions of the rates—or do you mean generally the tariffs?

The CHAIRMAN. I mean how do you reach a conclusion as to the rates charged upon the several branch lines and upon the main line, and from Ogden to Cheyenne?

The WITNESS. You mean the divisions of rates and not the rates themselves?

The CHAIRMAN. Yes.

A. Originally, when the question came up as to the relation that branch-line rates should bear to the main-line rates, we made allowances in favor of the branch lines in consequence of the extra cost of maintaining and operating such branches; also in consequence of the meagerness of the business of the branch lines as compared with the main line. Those were elements always taken into account, together with the general fact that the main-line haul is much greater and its earnings larger on a given shipment of freight interchanged between a branch and the main line than the earnings upon the branch would be.

RATES IN FAVOR OF BRANCH LINES.

Q. Was the rate fixed in favor of the branch lines because of the deficiency of the branch lines as compared with the main line?

The WITNESS. In respect to the volume of business?

The CHAIRMAN. In respect to general conditions?

A. Yes, that was taken into general account. The circumstances generally would be in favor of a larger rate per mile on a given amount of business than on the main line.

Q. Was the main line made to support the branch lines to the extent of the deficiency?—A. I don't so understand it.

THE DENVER PACIFIC.

Q. What do you understand?—A. If you take, during this period of 1880, our tariff on the Denver Pacific road, running from Cheyenne

to Denver, you will find that it was 6½ cents a mile. That was the local passenger tariff. Now, the average rate between Omaha and Cheyenne on our main line would be in the neighborhood of 5 cents. I could not this moment give it to you exactly, but it would certainly be in the neighborhood of 5 cents. Now, in the division of a through rate between the main line and the Denver Pacific we allow the Denver Pacific a mile and a quarter to a mile. We were really giving the Denver Pacific less than the proportion to which it would be entitled. On the basis of its local tariff and the main line tariff the Denver Pacific would have got more at that time than a mile and a quarter to a mile.

THE OREGON SHORT LINE.

By Commissioner LITTLER:

Q. I want to get that straight. Suppose I had bought a ticket from Omaha to some point on the Oregon Short Line. You would have charged me at the rate of 5 cents a mile, if there had been no constructive mileage on the Oregon Short Line, for the several miles of travel on the main line. Then would you have charged the local rate, or the tariff rate prescribed for the Oregon Short Line, the balance of the way?—A. Yes.

Q. You say that if that had been done the Oregon Short Line would have got more money than it would have got under this constructive mileage plan?—A. Yes; it would have got 8 cents per mile.

Q. Because the rate on the main line was 5 and on the branch 8?—A. Yes. Now, if we had applied the rule that any corporation owning and operating the Oregon Short Line, independently of the Union Pacific, would have applied, the Short Line would have exacted from us on the through rate her local tariff, or her pro rata proportion of any through rate we wished to make.

CONDITION OF THE ROADS.

By the CHAIRMAN:

Q. Have the conditions on which you based your rate of constructive mileage in 1880 remained the same as to all these roads?—A. No; they have not remained the same.

Q. In what respect have you changed the rates?—A. We have reduced them.

Q. Upon what roads?—A. Reduced them, I think, on all the roads. Our main line has gone down to 3 cents per mile within the States of Kansas and Nebraska.

The CHAIRMAN. You misunderstand me. I am speaking of constructive mileage. You gave me certain rates that you fixed in 1880, and I understood you to say that the rates remained the same except in a few cases.

The WITNESS. Yes.

Q. Now, have the conditions of the roads on which you based the constructive mileage of 1880 remained the same?—A. The relative condition, substantially the same.

IT HAS IMPROVED.

Q. Then I understand you that since 1880 there have been no improvements in the branch lines?—A. No; I do not think you should infer that from my answer.

Q. Well, what am I to infer?—A. I said "relatively."

Q. What do you mean by "relatively"?—A. I mean that the main line has improved in its earning capacity, and that the branch lines have improved as a whole.

Q. Then I understand you that the main line has improved equally with the branch lines, and the ratio upon which you base the constructive mileage of 1880 between the branch lines and the main line remains about the same?—A. Well, I should say without going into a careful calculation or analysis, that that was a fair proposition. I should be willing to state that as a general opinion.

HOW IMPROVEMENT IS SHOWN.

Q. State the conditions on which you framed your conclusion.—A. My general knowledge of the fact that most of the main-line territory and most of the branch line territory is developing and its traffic improving. I think the development will be in proportion on the branch and auxiliary system to the progress made on the main line.

RELATION OF POPULATION TO PASSENGER BUSINESS.

Q. In making the estimate of the rate of constructive mileage, have you taken into consideration the population along the territory contributing to the support of the lines?—A. Generally, we take that into account. In calculating the amount of passenger business to be derived from any locality, we take into account the population in the district reached and served by the branch line, or any portion of the main line.

RELATIVE VALUE OF BRANCH LINES.

Q. As I understand you, there were two elements that entered into the conclusion as to the rates of constructive mileage: the deficiency of the branch roads as compared with the main line and the sparseness of population. Now, what other condition?—A. We have in view, as well, the value of the branch-line system to the main line, and the importance of securing to the branch line supporting earnings, so as to encourage the building of other branch lines.

Q. You would not include that under the head of deficiency—the support of the branch road due to the fact that it was not earning sufficient to support itself?—A. It would be, if we appropriated money for that purpose; but if we adjust our divisions so as to give the branch line only an equitable share of the earnings on the interchanged business, I do not think that would be so construed. I think the branch line is entitled, on its merits, to all it gets.

ADJUSTMENT OF RATES BETWEEN MAIN AND BRANCH LINES.

Q. The main line, under the constructive mileage system, was made to contribute to the support of the branch lines? That is it, is it not?—A. No; I do not understand it so.

The CHAIRMAN. Then please explain how you understand it.

The WITNESS. I understand it in this way—as I explained before: If, in the distribution of a through rate over the main line and the branch lines, we give the main line an equitable and fair division, and the branch line (taking all the circumstances into account) no more than its equitable and fair share of that through rate, I do not consider that

a "contribution" of the main line to the branch line. I do not consider it an improper tax on the main line's revenues.

Q. Are there any other conditions, then, on which you base your calculations or estimate?—A. I would have some other things in my mind in making an adjustment of rates between the main line and branches. The consideration as to what that branch would do if it was independent of the main line, controlled by an independent set of men, owned by independent capital—I should call that a legitimate consideration.

Q. That is to say, what would be necessary to support that branch line if it were an independent line?—A. Yes.

THE DENVER AND RIO GRANDE.

Q. You consider that a fair estimate to enter into the calculation?—A. Take, for illustration, our relations to the Denver and Rio Grande Road—its line between Denver and Pueblo, 120 miles. That road is independent of the Union Pacific Company, and of the Burlington, and of the Santa Fé. But our company and the Burlington and Santa Fé have lines connecting with it: two at Denver and one at Pueblo. Now, in consideration of the fact that the Denver and Rio Grande has a short haul, that it does a terminal business either at Pueblo or at Denver for these roads—in dividing all through rates from that line we allow them a mile and a half to the mile. And that is considered a fair distribution of the through rate—not paying them more than they are entitled to, under all the circumstances.

LEGITIMATE COMPENSATION TO BRANCH LINES.

Q. Is not that a contribution to their support, however, under the circumstances?—A. I do not see how you can call it a contribution; because the Rio Grande Road could say to us, and to the Burlington, at Denver, "You must stop shipping through freight and passengers over our line"; and it could say to the Santa Fé, at Pueblo, "You must quit sending passengers and freight over our line; we will do that business at our own rates between Denver and Pueblo." The earnings of the Rio Grande Road would be just what the Rio Grande chose to make them by their tariff between Denver and Pueblo; and they would be entitled to all they would get from their local tariff, out of the through rates on stuff coming over our line.

Q. What other explanation can you give besides that of deficiency in the earnings of that road, the sparseness of population, and the question of independent control, unless it is that this additional one mile, or half-mile, or three-quarters of a mile is given in order to contribute and make up for these deficiencies and those conditions?—A. We regard it only as a fair equivalent.

The CHAIRMAN. I am not questioning the fairness of the matter at all. It is not for me to say whether it is fair or unfair; but I want to know from you whether it is in the nature of a contribution? Do not understand me as questioning, now, its fairness.

AN EQUITABLE RETURN.

The WITNESS. No; I do not so regard it. I regard it as a legitimate compensation for the work done by the branch line and as some return for the value of the business created by the branch line and given to the main line, which, without such branch lines, the main line would never get.

Q. Is not the compensation a contribution to the support of the branch lines?

Mr. POPPLETON. It is a premium for getting business, if anything.

The WITNESS. I think "contribution" is the wrong word to use.

Q. What word would you use?

The WITNESS. Would it be a contribution in the sense of a gift if any one of the branches of the Union Pacific was in independent ownership and made its tariffs on the basis that our interchange of business on constructive mileage is done; simply declared such local tariffs as would give it exactly the same revenue; or, suppose they cut loose from us, run their line independently then as to all interchange business they might get on the basis of their tariff, more than we now allow, would you call that "contributing" on the part of the Union Pacific Railway to the support of a branch line? Would it be a contribution, or would it simply be taking its legitimate compensation for the work done?

CONSTRUCTIVE MILEAGE NOT NEW.

Q. Are there any other conditions?—A. That is, substantially, all that occurs to me. I might mention the fact that the allowance of a higher rate per mile (or "constructive mileage," if you choose to call it so) is not new and is not exclusive in its application to the Union Pacific system. It is as old as the Union Pacific road, and it is practiced on some of the most important roads in the Western country to-day, and is considered a legitimate policy to encourage development of branch lines—of feeding lines—by allowing them more than an equal mileage distribution of earnings.

COMPARATIVE COST OF TRAFFIC ON MAIN AND BRANCH LINES.

Q. What was the cost along the main line, as compared with the cost along the branch line, at the time you fixed this rate, that led to your calculation on that basis?—A. I do not remember what the relative cost at that time was; but, as a generally recognized fact that we need not stop to investigate very much, it would be admitted among railroad people that a line carrying a small tonnage and a small number of passengers to the mile of road would do it at a higher rate of cost per passenger and per pound of freight than another line carrying a larger volume and on longer mileage.

Q. Have you any record of the cost at the period when you fixed the rate of constructive mileage upon which you based your calculation?—A. That may be shown in the records of the company.

Q. Will you furnish the commission with the cost?—A. I will if I can find it in the records of that period.

RELATIVE SPARSENESS OF POPULATION ON BRANCH LINES.

Q. What was the population upon which you based your estimate at that period, of the main line and of the branch lines—the relative population?—A. That I could not tell you just now.

Q. Have you any memorandum?—A. No.

Q. Had you at the time?—A. In our calculations of the necessity and fairness of an adjustment of the branch line tariffs with respect to the main line, we should calculate that a territory like that through which the Oregon Short Line runs would have very little population to serve it, compared with the main line, which receives not only the business

ness of its own local territory and the trans-continental, but receives the traffic and travel of all those branches in addition.

Q. What definite figures had you at the time, to make up your rates under the constructive mileage system?

The WITNESS. With respect to population?

The CHAIRMAN. Yes.

A. I do not think I could tell you at this late day.

Q. Did you have any figures?—A. We had knowledge of the fact that there were no people out in that country, except in a few mountain camps, on a good deal of the line.

THE OMAHA AND REPUBLICAN VALLEY ROAD.

Q. How much was contributed under the rate of one and a half allowed to the Omaha and Republican Valley Railway Company during the first year that the rate was fixed?—A. I do not remember.

Q. Have you any account to show how much, under the rate fixed by you, a mile to one-and-a-half miles, was contributed by the main line to the Omaha and Republican Valley Railway Company during the first year, I think in the year 1881?—A. I do not recall that any statement was ever made on that interchangeable business by me. I do not remember to have looked it up.

Q. Who did make it?—A. I have never known of any separation or analysis of the business on that basis, except latterly. There has been an analysis of the interchangeable business and the effect of the constructive mileage principle for the month of January, 1887. That has been worked out in detail.

Q. You would know if any such calculation had been made at any time?—A. I should be likely to remember it; but I do not recall it.

Q. Was the calculation during the month of January, 1887, the first one you made under the constructive mileage system?—A. I think the Interior Department made a statement for July, 1886, or, possibly, 1885.

Mr. WINK. 1885.

The WITNESS. 1885. I have never seen that.

AMOUNT PAID BY MAIN TO BRANCH LINES.

Q. Can you give the Commission any figures showing what contribution under the constructive mileage system, in total, the main line has contributed to the branch lines?

Mr. POPPLETON (to the witness). It seems to me you ought to "hedge" against this word "contribution" all the time. I do not think it has any application.

The WITNESS. Yes; I do not think it is a correct expression.

The CHAIRMAN. I will put it in any other shape that is agreeable. How much money went from the treasury of the main line of the Union Pacific Railway Company into the branch line treasuries, under the constructive mileage system? You may call it payment or contribution or anything else.

Mr. POPPLETON. I think the answer would be "not a dollar," or that the money went the other way.

The WITNESS. I think the answer would be that a careful analysis of the effect of what you call "constructive mileage" upon the revenues of the Union Pacific Company and its auxiliary lines will show that the Union Pacific Company makes money by that principle. It has more money in its treasury to-day than if, by act of Congress, the strict mileage pro rata distribution of revenues were insisted upon.

Q. What amount of money has been paid in the settlement of Union Pacific Railway Company with the branch lines under the constructive mileage system?—A. You understand that I stated that calculation had been made and no analysis entered into except for month of January, 1887, and that is as follows:

Allowances in favor of branch lines in January, 1887.....	\$20,591 13
Allowances in favor of auxiliary lines of the Union Pacific contributed by the lines east of the Missouri River.....	18,445 51
Balance contributed by the Union Pacific.....	11,145 62
Amount contributed by the roads east of the Missouri River to the Union Pacific, in addition to the amounts contributed by said roads to the auxiliary lines of the Union Pacific.....	31,080 61
Balance to the credit of the constructive mileage account in the treasury of the Union Pacific Company in the month of January.....	19,934 99

CONTRIBUTIONS TO MAIN LINE BY OTHER ROADS.

Q. Do you carry, in that calculation, the amount paid by the Union Pacific Railway Company to other roads—roads outside of the Union Pacific system?

Mr. MINK. That has nothing at all to do with the account.

The CHAIRMAN. You have brought items from foreign roads into this account, have you not?

Mr. MINK. Yes, sir.

The CHAIRMAN. Now, have you taken out the amounts that have gone out from the Union Pacific to those roads?

Mr. MINK. Such roads, if I understand your question, do not get anything from us. In this connection, I do not class our branch lines as foreign roads.

Mr. POPPLETON. It is an allowance to the Union Pacific Company from those roads.

The CHAIRMAN. Is the balance always in favor of the Union Pacific in the constructive mileage system?

Mr. POPPLETON. Yes; it always has been.

The WITNESS. Yes; two miles to one, or one and a half to one.

Mr. MINK. And sometimes three miles to one, is it not?

The WITNESS. Yes; in some cases more.

Q. How much money in that estimate—throwing out the contribution of the foreign roads to the main line—was paid as between the main line and the branch lines by the main line to the branch lines?

A. Eleven thousand one hundred and forty-five dollars and sixty-two cents.

Q. Is that a statement for one month?—A. One month; yes.

Q. Would you base an estimate for a year on that sum for each month?—A. Well, the amount of business transacted in a given month may not be a fair measure of the twelfth of the total business for the year; but that statement will give you a basis upon which you can show, approximately, what the total contribution for the twelve months would be, based on the earnings for the entire year.

Q. That is to say, I am to understand (correct me if I am wrong) that it would be a fair estimate to say that the main line contributed \$120,000 annually to the branch lines under the constructive-mileage system?—A. I should say it would amount to more than \$120,000.

Q. How much more?—A. Well, on the same basis as your calculation, it would amount to \$166,000.

"AUXILIARY LINE."

By Commissioner LITTLER :

Q. Will you explain the difference between the auxiliary lines and branch lines, as you used those terms here ?—A. We use a general term, "auxiliary lines," to cover all the lines that the Union Pacific Company has an interest in or controls.

Q. Or has traffic arrangements with ?—A. No ; I think it is limited to lines in which we have an ownership, or absolute control.

THEIR POSITION IN RELATION TO CONSTRUCTIVE MILEAGE.

Q. Assuming that these several branch lines were independent corporations, entirely independent of the Union Pacific, would you as general manager of the Union Pacific, having control both of the branches and of the main line, make such contracts for constructive mileage as you have fixed for those branches ?—A. I should say yes, as a rule. There might be some individual exceptions when I should come to analyze them in their details. But as a general proposition I should say such a contract was exceedingly favorable to the Union Pacific.

Q. You would make such contracts if the lines were independent of you ?—A. Yes.

Q. What are the exceptions ?—A. None occur to me at this time.

Q. Some of those branch lines have a constructive mileage of two for one ?—A. Yes.

Q. Are they among the exceptions ?—A. I think the Echo and Park City has a very liberal arrangement for the main line, and not for the branch. It is a very small piece of road, right up into the mountains.

"CONSTRUCTIVE MILEAGE" WITH THE DENVER & RIO GRANDE.

By the CHAIRMAN :

Q. What constructive mileage account has the main line with roads other than the branches or auxiliary roads ?

The WITNESS. The foreign companies that we are not interested in, do you mean ?

The CHAIRMAN. Yes.

A. We allow, as I stated, the Denver and Rio Grande a mile and a half to the mile in dividing through rates.

Q. Do you pay out, in your settlements, that additional half mile ? Does the Union Pacific Railway Company pay to the Denver and Rio Grande that additional half mile for freight or passengers carried over it ?—A. Yes.

Q. Then that is a payment taken out, is it not, from the main line ?—A. If the passenger or the shipment of freight originate on that road, they collect the money on it and pay out to us, after deducting what belongs to them. They report to us the balance.

Q. It is that much less in your receipts from them in your settlement ? If they collect and take out the additional half mile for freight and passengers, when they settle with you they pay you that much less ?

The WITNESS. Less than they would if they made a straight mileage division ?

The CHAIRMAN. Yes.

A. Oh, yes.

Q. Is not that a payment ?

The WITNESS. In the sense of a contribution by our com that ?

The CHAIRMAN. No ; I am not speaking of a contribution.

A. It is simply allowing them their rate—paying them what th

Q. Do they collect for you ?—A. Yes ; they collect for us c bound passenger business.

Q. Do you permit them to make this deduction ?—A. We do.

Q. What do they do with the amount they deduct ?—A. Th it, I suppose. It belongs to them.

Q. Could you not collect it and pay it back to them ?—A. V no right, at Pueblo, to ticket out over their railroad.

Q. Is it not, as matter of fact, a payment on the part of this Pacific main line ? We are differing about a matter of mere You have that much money left ?—A. Why, no ; it is not a pay all, in the ordinary sense. It is simply an arrangement by whi company gets its agreed share of a through rate.

Q. Is it an allowance ?—A. It is simply a collection by t Grande road of its tariff, or its proportion of the rates. The collect it from the public or from the connecting road, as the ca be.

Q. Do they settle with the Union Pacific Railway ?—A. Yes.

Q. Do they settle as upon mile for mile ?—A. No.

Q. How do they settle ?—A. They take a mile and a half to t or 22 per cent. They keep that. They give us that much le the total amount collected to the Missouri River.

Q. That is in payment for the half-mile allowance, is it not ?— you may call it that.

Mr. POPPLETON. That is, assuming that they would give joint rate in lieu of the local rate ?

The WITNESS. They allow us to do business over their road basis of 22 per cent. of the through rate. Now, if we refuse to p they will shut us off their road.

"ARBITRARIES" ALLOWED TO FOREIGN ROADS.

Q. What other foreign roads have you the constructive mileage with ?—A. I do not recall any now. We allow arbitrar dividing with other roads. We allow the Utah Central an a between Ogden and Salt Lake, in consequence of a short mile the necessity of running a good many trains that would not pay local business between the two towns—Salt Lake and Ogden— our main-line passengers.

Q. What foreign roads ?—A. Any road that charges us a rate than a pro-rate per mile we would be dealing with on the basis you call constructive mileage as compared with the strict pro-rate mile.

THE NORTHERN PACIFIC.

The CHAIRMAN. Name the roads.

The WITNESS. In the Northern Pacific local territory that c sometimes makes us pay more than a pro-rate per mile.

Q. Then you make a payment on account of the Northern Pac der this constructive mileage system ?—A. We pay them more pro-rate per mile.

OTHER ROADS.

Q. What others ?—A. The Central Pacific, O. R. and N. C others.

BASIS OF MEASUREMENT OF RATES.

The WITNESS. I would like to know what ground there is for measuring all rates by a pro rata rule—exact mileage—as a basis of distribution of joint earnings. Why do you make your calculations by that rule to ascertain the “contributions?” Because one road gets more than another per mile on interchanged business is no evidence that either is wronged.

The CHAIRMAN. I am asking you, Mr. Kimball. You are the witness.

The WITNESS. I thought you might give me some light that I have never been able to get on that subject. I thought you might show me where the justice comes in for such a test of our main and branch line divisions.

Q. You have named the Denver and Rio Grande and the Northern Pacific. What other road?

Mr. POPPLETON. This works both ways I suppose, whether the Union Pacific pays constructive mileage or whether the other roads pay it to the Union Pacific?

The CHAIRMAN. Yes.

Mr. POPPLETON. And includes the roads that give us constructive mileage as well as those we pay it to, in the chairman's theory.

The WITNESS. We are doing business with many roads in the West where our long-haul in connection with their local short-haul pays them more per mile than we would think of asking, or more than we would get.

Q. What other roads?—**A.** Well, I know very few of which that might not be true in respect to some portions of our interchanged business.

Q. Then I understand you that under the constructive mileage relations which you hold with nearly all these roads that in any way connect with this system, you, at times, make payments to them based on a percentage per mile greater than mile for mile?—**A.** In other words, in dividing through rates our connecting roads sometimes get more than we do per mile. That is right.

Q. Have payments by the Union Pacific main line been carried into this \$31,000 for the month of January, 1887? Have they been included in that statement?—**A.** There is no item of business in that account, that I can recall, that would pay to our eastern connections a higher rate per mile than the Union Pacific earns on the same business.

The CHAIRMAN. Excuse me, but that does not answer my question.

The WITNESS. There are not any in that statement. The statement of business on which this \$31,000 is based has none of that kind of business in it on which we earn a less rate per mile than our connections do. Because the business on which the statement was based was and from the Mississippi and East, interchanged with our company. In that traffic we get a higher rate per mile than our connections do.

Q. That is all true; but I want to know what payments the Union Pacific Railway Company has made on the basis of the constructive mileage system during the month of January to foreign roads, other than the branch or auxiliary roads.—**A.** There would be no considerable item of business that I can think of, in the month of January, that would earn a greater rate per mile to foreign roads than the Union Pacific earns, except the business going to and coming from the Denver and Rio Grande road and the Central Pacific, delivered at local rates on the latter line. But these figures are based on our earnings, w

to what these eastern roads have contributed to the Central Pacific or to the Rio Grande. They collect the money. They pay us what we are entitled to under the regular divisions, and if the constructive mileage or excess of a mileage rate is allowed to the Rio Grande, the road on which the business originates collects for the ticket that is sold through, and the public pays that difference.

Q. Would the balance of \$31,000, in the estimate for January, 1887, be increased or decreased if the payments on account of constructive mileage were carried into the account?—A. I don't think it would be affected at all, on the basis of that statement.

Q. On what basis would it be affected?

The WITNESS. I should like to hear the question read.

The question was read, as follows: "Would the balance of \$31,000, in the estimate for January, 1887, be increased or decreased if the payments on account of constructive mileage were carried into the account?"

Mr. MINK. To other roads, including, of course, the Union Pacific's own branches?

The CHAIRMAN. Certainly.

The WITNESS. I think that would be more than offset by the advantages we get on other business under the constructive-mileage rule that is not included in this statement.

Q. Would the item of \$31,000, then, entirely disappear by other advantages that the Union Pacific would get?—A. No; I do not see how it could.

Q. Then what do you mean by "offset"?—A. There are some items of business on which we have constructive-mileage advantages that are not included in this statement.

THE MILEAGE PRINCIPLE A DECIDED ADVANTAGE.

Q. What are they?—A. In our passenger business (which is not included here at all), when the business is running at full tariff, we would show a very decided advantage and gain by the application of the mileage principle. We are not able to show it now, because of the exceedingly low rates on which we are doing our business.

Q. Then is that a just estimate of the amount contributed by the main line, under the constructive-mileage system, to the branch lines, if you have not carried into it all of your constructive-mileage accounts with other roads?—A. I do not think the result would be materially affected if the entire business was analyzed on that basis.

The CHAIRMAN. I would like to have that statement put in evidence.

Mr. MINK. Yes; and it would be well to have the other statement which you have before you go in with it.

(The papers are put in evidence and marked, respectively, Exhibits 1 and 2, June 21, 1887.)

EXHIBIT 1.—June 21, 1887.

Memorandum in relation to constructive mileage allowances, January, 1887.

STATEMENT A.

On the business interchanged by the Union Pacific with its auxiliary lines in January, 1887, on constructive mileage and other bases as opposed to a straight mileage basis, the parent company lost \$29,591.13.

The total freight earnings of the system for the year ending January 31, 1887, were \$18,263,353.16, of which \$1,262,229.74 was earned in January, 1887. The January earnings were 6.69 per cent. of the total earnings of the year.

If the constructive mileage and other allowances for the month of January, 1887, bore the same relation to the allowances for the year that the January earnings did to the total earnings for the year, the total allowances would amount to \$442,318.58

On the other hand, the Union Pacific received from its connections on the east, at Omaha and Kansas City, on constructive mileage and other bases, as opposed to straight mileage, \$49,526.12. On the above-named basis that would amount for the year to 740,300.74

Balance of profit under the constructive-mileage rule in favor of the Union Pacific 297,982.16

EXHIBIT 2.—June 21, 1887.

STATEMENT B.

Allowances in favor of the branch lines in January, 1887, as per memorandum "A" 29,591.13

Allowances in favor of the auxiliary lines of the Union Pacific, contributed by the lines east of the Missouri River 18,445.51

Balance contributed by the Union Pacific 11,145.62

Amount contributed by the roads east of the Missouri River to the Union Pacific, in addition to the amounts contributed by said roads to the auxiliary lines of the Union Pacific 31,080.61

Balance in favor of the Union Pacific 19,934.99

If \$19,934.99 = 6.69 per cent., 100 per cent. will amount to 297,982.16

PROFITS TO MAIN LINE UNDER RATES ALLOWED TO BRANCHES.

Q. In Exhibit No. 1, marked A, balance of profit under the constructive mileage rule in favor of the Union Pacific, is given at \$297,982.16. Am I to understand that, under the rates allowed by the Union Pacific Railway Company to the branch lines, that company has profited in money to the extent of \$297,000 ?—A. Yes; that is the result for the year.

Q. In money ?—A. In money. In order to show that the parent company has gained by the application of the "constructive mileage" principle, as a whole, to its connections, as well as to its auxiliary or branch lines, we have made a calculation, showing what the year's business (1887) would produce on the basis of what did actually happen in the month of January. We say it produces a contribution equal for the Union Pacific system, by its connections, to \$740,347.74. Now, taking by the same process the contributions or allowances that have gone to the branch lines, we have a net result of \$297,982.16 in favor of the treasury of the Union Pacific Railway.

CONSTRUCTIVE MILEAGE WITH FOREIGN ROADS OMITTED.

Q. In that calculation have you omitted the constructive mileage allowance to foreign roads ?—A. The business on which that statement is based would not have a constructive mileage allowance to foreign roads.

Q. Have you not based your estimate upon freight coming from the branch roads over the main line and running into the foreign lines ?—A. Yes.

Q. Then, why do you not carry into that calculation the constructive mileage relation with the foreign roads ?—A. I understand that the ex-

ception would be in the case of interchanged business with the Rio Grande and the Central Pacific. That would cover about all that there would be that would be stated on the other side of that account.

Q. Do you not have such business with the Rock Island, the Chicago, Burlington and Quincy, and the other roads?—A. We have very little business interchanged with the lines east of here that pays them a higher rate per mile than we get.

Q. And have you a constructive mileage account with them?—A. No.

THE PERCENTAGE BASIS EAST OF THE MISSISSIPPI.

Q. Have you not a system of constructive mileage in making settlements with them?—A. In our business east of the Mississippi River and west of Chicago we have a percentage basis that is better to us, on the whole, than a mile and a half to the mile.

Q. Have you carried any of the accounts into the statement rendered, marked A (Exhibit No. 1, June 21, 1887), east of the Mississippi?—A. It would be all east. It ought all to be in there.

Q. Well, is it there as matter of fact—your constructive mileage account?—A. Yes, that is my understanding. Of course I did not make up the details of this account.

Q. Who did make it?—A. It was made in the auditor's office.

Q. Under whose instructions?—A. Made at my request and under the direction of the auditor.

AMOUNT CONTRIBUTED BY MAIN LINE TO SUPPORT BRANCHES.

Q. I understand you, Mr. Kimball, to say that the constructive mileage system in operation on the Union Pacific Railway contributes annually about \$160,000 to the support and maintenance of the branch lines?—A. Yes.

Q. Then the president of the Union Pacific Railway Company, Mr. Adams, when he stated that it contributed millions, was wrong?—A. What he stated I do not know.

Q. Well, I now inform you, as a fact, that in his testimony under oath he stated that. And, further, that Mr. Mink, who is here now, undertook to furnish a statement and an estimate in Boston of what the main line contributed under the constructive mileage system; and after a calculation, and a very careful one at the time, they said it was \$600,000. If they made any such statement, they were in error! That is so, is it not?—A. Well, I should say that if they made that statement in respect to the items in this account on which you asked me the question, they were in error.

Q. To what account do you refer?—A. I refer to the balance that is shown to have been contributed in the month of January, multiplied by twelve months' business, producing \$166,000.

Q. Leaving that account out of the question, how much do you estimate that the Union Pacific Railway Company contributes to the branch lines under the constructive mileage system?—A. I do not believe she contributes a cent.

MR. POPPLETON. That is it. That is the proposition. No matter what anybody has said, that is the fact.

WITHOUT BRANCHES THE UNION PACIFIC WOULD BE BANKRUPT.

THE WITNESS. I believe that without the branches, without the traffic that we have secured by our system of branches, the Union Pa-

cific road would be bankrupt to day. If you apply the principle of mileage pro rata to the Union Pacific system, you will bankrupt that system within twelve months.

Mr. POPPLETON. It would have been bankrupted years ago if it had been applied in connection with the Kansas Pacific.

THE STRICT MILEAGE BASIS WOULD RESULT DISASTROUSLY.

The WITNESS. We cannot go to our connections and predicate a claim for larger divisions than the mileage pro rata that they will listen to for one moment. If the Government of the United States says that we must deal with our branch or auxiliary system on a strict mileage pro rata basis—if there is such a platform declared and made legal by the Government of the United States on which the distribution of earnings must be made, I do not see how we could face our connections with the proposition (after that is done) to allow us 50 per cent. more than we allow our branches or auxiliary lines, and in violation of the principle which the Government has declared to be law for us.

ADVANTAGES OF CONSTRUCTIVE MILEAGE TO BRANCHES.

Q. What, then, are the advantages of the constructive-mileage system to the branch lines?—A. I think the "constructive-mileage" system is "rot" in name. I think it is unfortunate that the term was ever invented or applied in this case. It leads to confusion—misunderstanding—of the relations (as a matter of equity) that should exist between the branch lines and the main line. I believe, further, that if the branch system of the Union Pacific Company to-day was taken out of the hands of the Union Pacific and put into the hands of an independent corporation having no interest in the earnings of the Union Pacific Company that that very fact would sap the Union Pacific of sufficient net revenue to bankrupt the road.

Mr. POPPLETON. What kind of an arrangement could it make with the Chicago, Burlington and Quincy, and the Chicago and Northwestern, with a branch system like that?

The WITNESS. Give me the management of the branch system, and instead of 50 per cent. I will make it 100 per cent. And they would gladly come and take business from us at that premium instead of 50 per cent. allowed by the Union Pacific Company.

PRESENT AND FUTURE BENEFITS TO MAIN LINE OF BRANCH SYSTEM.

Q. Are the advantages of the branch system to the Union Pacific main line future advantages or present advantages?—A. They are both, I think. If we were shut out of our distributing lines in the State of Colorado to-day—our branch or auxiliary system that we control—I believe our earnings on the Colorado business (the Union Pacific proper, I mean) would shrink a million dollars in twelve months by the loss of the South Park branch alone. I believe that is demonstrable by a statement of the facts. That our power to control 50 per cent. of the business of the city of Denver, for example, lies in our having the control of a thousand miles of distributing railroad in the State of Colorado. The jobbers, the manufacturers, and large shippers, whose patronage is exceedingly valuable to a railroad, recognize that, and they designate the Union Pacific road on shipments in, because they know that we have control of the system of roads where their

merchandise will go after it is shipped to Denver. But our branch system does not get proper credit in our method of accounting, for the large amount of business that is controlled, by our having the branch system in Colorado, over the main line to Denver, because almost that entire business is taken there upon local bills. It is credited to the Union Pacific consolidated road, mainly. Then this property is taken from the warehouses and distributed by our lines through the State of Colorado on local bills of those branches. Now, our accounts between the Union Pacific and the branch system in Colorado do not show this traffic as interchangeable, nor to what extent the main line is indebted to the branch system for the great amount of earnings it has secured by having control of that distributing system. It does not appear upon the books. Nevertheless, it is a fact that we do get the bulk of our Colorado business through the power that the branch system puts into the hands of the management of the Union Pacific Company.

**FORMER TRANSCONTINENTAL BUSINESS COMPARED WITH PRESENT
BRANCH LINE BUSINESS.**

Q. How does your business since the construction of the branch system compare with the business prior to that time?—**A.** I could not quote those figures out of hand, but before we established connections through our branch system with territory not reached by our main line we had the entire traffic of the continent—the transcontinental traffic—and the Asiatic business. We had then a large business that since has been divided up, and what sustains the Union Pacific to-day, relatively to the travel and traffic it had then, is this branch system, creating new business, pouring all its small streams in upon the trunk line. That business, which has been created by local development very largely, has taken the place of the through business that we used to have before we had the branch system, and which is now divided between four or five competing trunk roads.

BRANCH LINE SYSTEM COMMENCED IN 1871-'72.

Q. When did your branch system begin; when was it commenced?—**A.** We really began developing the branch system in 1871—1872, I think.

Q. To what extent had you developed it up to 1880?

Mr. POPPLETON. The Julesburg branch was built since 1880.

The WITNESS. That was opened in 1881, and the Oregon Short Line about two years later.

Q. Is it not a fact that proportionately more dividends were declared by the Union Pacific Railroad Company before the establishment of the branch system than since its construction?

Mr. POPPLETON. That is, earnings, instead of tonnage.

The CHAIRMAN. Explain that. Is it not a fact that the Union Pacific Railway Company declared more dividends prior to the general establishment of the branch system than since its establishment?

The WITNESS. I do not remember.

The CHAIRMAN. Dividends commenced in 1875 and extended down to 1883, or the spring of 1884. The last dividend declared was declared in April, 1884.

Mr. POPPLETON. That period covers, really, the development of the branch line system.

THE WITNESS. Dividends were paid from 1875 to the first quarter of 1884, I think. So that the dividend-paying period represents the period in which the branch system was developed, very largely.

Q. What has become of the branch system since 1884?—**A.** It has been added to somewhat.

Q. Has the Union Pacific Railway Company declared any dividends since then?—**A.** The Union Pacific Company, in 1875, did not have the competition that it has now.

RELATIVE PROFITS BEFORE AND AFTER BRANCH SYSTEM WAS DEVELOPED.

Q. I call your attention to the fact that, to December, 1880, 1,033 miles of the branch system had been constructed; and on December 21, 1885, 2,687 miles had been constructed, or 1,600 additional miles. Those figures are before you. Now, I ask you, has not the period prior to the general establishment of the branch system been more productive in profits to the stockholders than since the general establishment of the branch system?—**A.** Yes, I think so.

"ARBITRARIES."

Q. What do you mean by the term "arbitrary" in your statement, referring to the Laramie, North Park and Pacific Railroad Company, the Georgetown, Breckinridge and Leadville Railroad Company, the Golden, Boulder and Caribou Railroad Company, the Denver, South Park and Pacific Railroad Company, the Denver and Middle Park Railroad Company, and also the Salt Lake and Western?—**A.** I mean that they have a fixed charge, an arbitrary allowance or tariff in the division of passenger rates.

Q. What was that charge, with reference to the main line, in 1880?—**A.** I find I have not all of the rates noted, and I would like you to allow me to file a statement in answer to that question showing the tariffs that were charged.

THE CHAIRMAN. There is no objection to that. But you can explain generally what you mean by an arbitrary charge?

THE WITNESS. A charge not prorated on any basis. A fixed charge. It may be the local tariff.

DIFFERENCE BETWEEN "ARBITRARIES" AND "CONSTRUCTIVE MILEAGE."

Q. What is the difference between the term "arbitrary" and a rate fixed under the term "constructive mileage"?—**A.** Well, one implies that in the making of divisions of a through rate over two or more roads, no matter what rate may be obtained, there is a certain fixed arbitrary figure on a portion of such through line that must be paid. A constructive mileage rule applies generally on the understanding that whatever the rate may be, more or less, it will be divided between the lines in interest upon the basis of the constructive mileage allowance.

Q. Why were exceptions made in the case of the companies marked "arbitrary"?—**A.** In the case of one of the lines—the Laramie and North Park—it is only a few miles long. It runs out to a local town where we obtain soda. It has very little passenger business; only such as is local to the soda lakes at one end and the city of Laramie at the other. Nothing that I can think of would call for a prorating in that case with the main line.

Q. You mean by "prorate" constructive mileage?—A. On any basis less than its ordinary tariff.

Q. Is there an advantage in the arbitrary rate over the constructive mileage rate or the prorate system?—A. There is an advantage to the fellow that can get it.

Q. Who is the "fellow" in this case?—A. In the case anybody travels from Laramie to the soda lakes, the Laramie and North Park road would be the "fellow."

Q. Well, take some of the other roads. The Georgetown, Breckinridge and Leadville, for instance, and the Golden, Boulder and Caribou?—A. They are very short local roads, and have no occasion to accept less than their local tariffs.

Q. Is that the case with all the roads you have marked "arbitrary"?—A. The Denver, South Park and Pacific has practically no constructive mileage arrangement. Our relations with that road are very largely upon a tariff basis.

Q. Was the arbitrary rate so made because of the extra cost in those cases?

The WITNESS. The arbitrary rate on the South Park?

The CHAIRMAN. On any of them.

WHY DENVER, SOUTH PARK AND PACIFIC IS TREATED AS A LOCAL ROAD.

The WITNESS. There were circumstances in the case of the Denver, South Park and Pacific that made the arrangement a natural and proper one for the Union Pacific Company, after it came into the control of it, to treat it as nearly as a local road, under local management, as possible.

Q. What were the circumstances?—A. The arrangements between the Denver and Rio Grande and the South Park (competing lines) were such that it made it desirable to let the business begin and terminate at Denver—the business handled by those lines—as far as possible.

LENGTH OF ROAD AN ELEMENT IN ARRANGING CONSTRUCTIVE MILEAGE.

Q. Has the length of the road anything to do, with the constructive mileage system, with making up the rate?—A. Yes; ordinarily.

Q. To what extent would it enter into the calculation of a rate?—A. We could hardly lay down any exact rule that would control in making rates on a branch line higher than the main line, on the basis of distance. That would be one of the considerations that would weigh

VOLUME OF BUSINESS ANOTHER ELEMENT.

Q. Does the volume of traffic or business enter into the calculation?—A. Yes.

Q. To what extent?—A. To a very considerable extent. It is one of the first considerations. The question of the cost of carriage and maintenance, the ratio of cost to revenue, turns very largely on the volume of business.

Q. Why did you not state in your original statement these two conditions—length of road and volume of business?—A. Well, I think I did state in my testimony that the branch system had been favorable to the parent company, because it so largely gives the parent company

the long haul; and that we favored the branches in the establishment of rates, because of the much greater volume of business on the main line. I think I stated that in my first testimony.

ECHO AND PARK CITY CONSTRUCTIVE MILEAGE.

Q. The Echo and Park City Railroad Company has been allowed 2 miles to 1 on the main line; the Omaha and Republican Valley Railroad Company $1\frac{1}{2}$ miles to 1 mile on the main line. Am I to understand that this half mile additional given to the Echo and Park City Railroad Company was based on sparseness of population, length of road, and volume of business, and that proportion of difference between the two sections—the territory through which these roads pass?—A. I think, in the case of the Echo and Park City, that population would be considered in connection with the making of a tariff that would pay for the running of passenger trains on that particular piece of road. And if the consideration of all the elements that go to the making up of a tariff fixes it at twice what we were charging on the main line, it would stand at that; it would be made with that consideration in view. Even though the population for the twenty odd miles of the Echo and Park City might be greater per mile than the average population of the entire Union Pacific system per mile, we might arrive at a conclusion, that, with this local population on twenty odd miles, there would not be business enough, there would not be passenger movement enough to pay for its passenger-train service that we would put on that mountain road at anything less than twice the main-line rates.

OMAHA AND REPUBLICAN VALLEY CONSTRUCTIVE MILEAGE.

Q. What was the difference in the population between the Omaha and Republican Valley Railroad territory and the main line between Cheyenne and Ogden at the time the rates were fixed?—A. I do not remember.

Q. Were they equal in population?—A. I could not say.

Q. The rates fixed upon the two roads were equal. Upon what basis did you make them each $1\frac{1}{2}$ as against 1 mile on the main line?—A. The main line west of Cheyenne takes $1\frac{1}{2}$ miles to the main line east of Cheyenne. The basis upon which we make that extra charge would be, very largely, the lack of local business over that division of the line, together with its mountainous character, making it expensive to operate a railroad there.

Q. What was the consideration in the case of the Omaha and Republican Valley?—A. I should say the lack of business. The western half of the Union Pacific road gets the hauling of the transcontinental business, and the Utah, Montana, and Idaho business that the eastern half gets. But the eastern half has a large local business that comes into it from branches, and that originates along the line of the road, because the territory is very much more productive of traffic and travel on the eastern than the western half. Now, on the Omaha and Republican Valley the probability is that at that time it was sending out branches here and there, projecting into a territory comparatively new, and to some extent undeveloped. That road does not have much in addition to its local business—business produced on its line; it does not have any share in the main line through business—the transcontinental business. So we should say that branch therefore would be entitled to something more than the main line in Nebraska.

Q. The main line contributed to that extent then in the shortcomings of other roads?—A. Well, you can state it that way.

The CHAIRMAN. I am not on the stand. I am not a witness; I am here to ask you.

BRANCH LINES ENTITLED TO 50 PER CENT. PER MILE MORE THAN MAIN LINES.

The WITNESS. I do not think so. I do not think that expression conveys the exact idea. The branch line is entitled to and is certainly allowed 50 per cent. more on the mile's service than the main line in Nebraska.

Q. Is the allowance an aid to the road?

Mr. POPPLETON. In the sense of a contribution, do you mean, or an assistance?

The CHAIRMAN. I want to know what he means.

Mr. POPPLETON. "Aid," in this country, means a donation.

The CHAIRMAN. Is the allowance on the branch system an aid to the road?

The WITNESS. Well, it does not strike me that that conveys the correct idea. As I believe, the branch line is entitled to just what it gets; it earns it; and if it was independent of the Union Pacific management, it would take it. Now, it does not seem to me that it is proper to call that a "contribution."

Mr. POPPLETON. Or an aid.

The WITNESS. Or an aid, in the sense of a contribution.

The CHAIRMAN. If it is not an aid or a contribution or an allowance, what do you call it?

The WITNESS. It is a legitimate division of the through rate.

Q. Is the division of the through rate in favor of the branch lines?—

A. Yes, sir.

Q. Have you anything to suggest with reference to the constructive-mileage system?—A. I have nothing at present. But if any statements or figures occur to me that will give any light to the Commission on that subject I would like to be allowed to present them hereafter.

The CHAIRMAN. Any suggestion or statement you may have to make we will be glad to have, subject, of course, to the right of the Commission to examine you on the statements made. (To Mr. Poppleton.) Judge Poppleton, have you any questions to ask?

Mr. POPPLETON. No; I think not. Perhaps I ought to apologize for putting in my oar during these examinations; but it was what I might have asked, perhaps, if I were to examine the witness.

The CHAIRMAN. That is all perfectly proper.

Commissioner LITTLE. The Commission accords you the privilege of asking any questions that occur to you.

The CHAIRMAN. Then, Mr. Kimball, we will excuse you until tomorrow morning.

THOS. L. KIMBALL.

OMAHA, NEBR., *Tuesday, June 21, 1887.*

JAMES W. DAVIS, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your full name?—Answer. James W. Davis.

Q. Where do you live?—A. I reside in Omaha, Nebr.

Q. How long have you lived here?—A. Since the fall of 1867.

Q. What is your business?—A. Attorney-at-law.

Q. How long have you been practicing law?—A. About two years. But I practiced in early days. I was admitted to the bar in 1856, in Illinois, and practiced ten or twelve years there before I came here.

Q. Have you been engaged in constant practice since your admission to the bar?—A. I have not.

A CONTRACTOR OF UNION PACIFIC IN 1868.

Q. What other business have you been engaged in?—A. Well, I was a contractor at one time, of the Union Pacific Railway.

Q. When were you a contractor?—A. I think, in 1868.

Q. What contract did you have with the Union Pacific Railway Company?—A. I never had any contract whatever with it.

Q. With whom did you have a contract?—A. With the trustees or contractors who constructed the Union Pacific Railway.

Q. What was the nature of your contract with the trustees or constructors of the Union Pacific Railway?—A. I furnished them ties, timber, and lumber for construction of road.

Q. Who were the trustees?—A. It is a good long while ago, but I think I can recall them: T. O. Durant, Sidney Dillon, C. F. Bushnell, Benjamin E. Bates, John B. Alley. If I have not named them all, I have forgotten the others.

Q. Was Oliver Ames one?—A. Yes; Oliver Ames was one of them.

Q. Was Dexter one?—A. No, sir. Henry S. McComb and John Duff.

Q. Are they all living?—A. I believe not, sir; I believe Mr. Duff, Mr. Ames, Mr. Durant, and Mr. McComb are dead.

Q. Did you perform the work under the contract?—A. I did, sir.

Q. How long were you engaged?—A. The contract was made in New York in December, 1867, and the work was completed, I think, and the line connected with San Francisco, in 1869—about May.

Q. Did you make an assignment of the contract?

The WITNESS. For furnishing ties and lumber?

The CHAIRMAN. Yes, sir.

A. Never in the world.

CONTRACTED WITH THE TRUSTEES.

Q. Did you originally contract with the company?—A. Never made a contract with the railway company of any kind or character.

Q. Was your contract direct with the trustees?—A. Yes, sir; with the trustees for building the Union Pacific Railroad. My contract was with them, and with no one else.

Q. With the trustees for the building of the Union Pacific Railroad?—A. Yes, sir.

HAD THE "DAVIS CONTRACT."

Q. Are you the Mr. Davis who had the "Davis contract" with the Union Pacific Railroad Company?—A. Yes, sir.

Q. Was not that contract signed to the Credit Mobilier?

The WITNESS. For furnishing ties and lumber?

The CHAIRMAN. Any contract. A building contract or any other contract that you had?—A. Well, no, sir; I never signed any contract with the Credit Mobilier. I never had anything to do with it.

Q. What other contract did you have?—A. Well, I took a contract nominally at the expiration of what is known as the "Oakes Ames con-

tract," for the building of the rest of the road to where it intersected with the Central Pacific Railway—came to a point.

ASSIGNED THE "OAKES AMES CONTRACT" TO THE TRUSTEES.

Q. Who really was associated with you?—A. Well, I do not know. I never asked any questions.

Q. Then what do you mean by "nominally"?—A. I mean that I never performed that contract for building the Union Pacific road.

Q. Well, who did perform it?—A. The trustees.

Q. Did you assign it to the trustees?—A. Yes, sir.

Q. For what consideration?—A. Nothing.

Q. What induced you to assign it?—A. Well, Dr. Durant and Mr. Dillon asked me to assign it.

Q. Did you do it without any hesitation or question?—A. I certainly did, sir.

Q. Why?—A. Well, I had what I considered a lucrative tie and lumber contract, and they asked me to do that, and I did it.

Q. Was that the consideration for the assignment?—A. Oh, no, sir; that was not the consideration.

Q. Did you bid directly in your own name, or did the trustees use your name in this contract?—A. Well, I do not think there were any bids proposed. There were no proposals.

Q. Did the trustees use your name without your knowledge or consent, or did they do it with your consent?

The WITNESS. For the building of the road?

The CHAIRMAN. Yes.

The WITNESS. Why, certainly, they did it with my consent; not without my knowledge or consent.

WITNESS'S ASSOCIATES IN FURNISHING LUMBER AND TIES.

Q. Were you alone in this contract for the supplying of lumber and ties to the road?—A. No, sir; I had some associates.

Q. Who was associated with you?—A. Mr. Durant, Mr. Sprague, William Ruth, and James H. Gessner.

Q. Any one else?—A. That is all.

Q. What was the price for the ties?—A. The prices ranged from 65 to 90 cents, owing to locality—owing to the distance from the main line of the place where we had to get the material from.

Q. What was the price for lumber?—A. Forty dollars to \$45 per 1,000 feet.

Q. Did you receive a greater price for either lumber or ties than the prices charged in the contract?—A. No, sir.

Q. Did any one associate with you?—A. Not that I know of.

Q. You would know it, would you not?—A. I think I would, if they did.

Q. How much did you receive under the contract?

The WITNESS. For the ties and the lumber, do you mean?

The CHAIRMAN. Yes; what total amount did you receive?

A. It has been a long while ago, but I think it was about \$700,000; near that. This excludes a final settlement made in 1870; the amount agreed upon was \$329,000.

Q. Did you receive \$700,000 in cash?—A. Well, we had to pay freight over the road; and it was charged to us, of course. I could not tell you the exact amount in cash, because our freight bills were very heavy. We had to transport many men and much machinery.

LOSSES UNDER THE CONTRACT.

Q. How much did you receive in cash?—A. I could not tell you that.

Q. How much cash did those associated with you receive?

The WITNESS. How do you mean?

The CHAIRMAN. Individually or collectively.

A. The associates individually never got a dollar out of the settlement in 1870.

Q. Who got all the money?—A. We paid it out to creditors.

Q. You did not make anything?—A. Not much.

Q. Well, how much?—A. Well, the way it turned out we were about \$200,000 behind, owing to frauds in New York.

Q. You were out, then, \$200,000?—A. Yes, sir; as I explain it.

WRECKED BY BOSS TWEED'S JURISPRUDENCE.

Q. How did it turn out so—in what way? What was the cause of the loss?—A. The Union Pacific Railroad Company never got a dollar of it, nor any of its officers. It was a matter between the associates. They got into trouble in New York. I will answer your question very frankly. The firm was wrecked by Boss Tweed's jurisprudence. The fund was stolen—under color of legal proceedings.

Q. Did Boss Tweed exercise the jurisprudence?—A. No, sir; it was done by his trusted lieutenants in New York.

Q. Who did it?—A. Well, I will tell you. Judge Cardoza granted a writ of injunction against me; and, to escape impeachment, he resigned. Afterwards a receiver was appointed who never performed a single act of his office, and judgment for \$200,000 was fraudulently taken against me in New York without the presence of counsel, or any testimony being heard, or any accounting whatever; and they absolutely stole the whole amount of the money, under cover of law, from Davis and his associates. Who got it I do not know. I wish I did know.

SUPPLIED TIES AND LUMBER FOR THE ENTIRE ROAD.

Q. Did you supply ties for the entire road?—A. Yes, sir; from Cheyenne westward.

Q. And also lumber?—A. Well, lumber, too. We furnished most of the lumber. We had quite a number of mills, and we subcontracted the lumber all along the line.

Q. That was the most difficult and inaccessible portion of the road to reach at that time, was it not?—A. Yes, sir; we had to go along distances from the line of the road.

Q. The cost of the ties and lumber east of Cheyenne was much less than those supplied west?—A. I do not know as to the cost of the ties west. The cost was materially increased.

Q. But it was more difficult, as you say?—A. Yes, they were more inaccessible; and we had to run the ties down the mountain streams and cut them in the cañons.

Q. Did you ever receive any price greater than this charged in the contract for your ties?—A. Certainly not.

Q. Did any of your associates?—A. Not to my knowledge.

THE SETTLEMENT MADE WITH THE TRUSTEES.

Q. Was any bill rendered at a higher rate than that named in the contract?—A. Well, there was a settlement made between the trustees

and my company. I was not present at the settlement and knew nothing about it until some time afterwards; and I really do not know. The settlement was made by another party.

Q. Who was the other party?—A. An attorney.

Q. Who was the attorney?—A. Mr. Woolworth.

Q. What settlement did he make?—A. Well, he settled up everything that was between the trustees and myself under power of attorney.

Q. What was there to settle?—A. When the road was completed we had considerable material on our hands. I was, unfortunately, the representative of the others, and acted under the orders of Mr. Thomas C. Durant, who had plenary power. We were sent without any reference to care of material wherever he wished us to go—even up streams that were inaccessible. When the road was completed we had in the neighborhood of \$500,000 worth of material on hand. That material laid there from the time of the completion of the road until 1871, subject to the fires and depredations of anybody that chose to do harm to the property. Efforts were made for settlement immediately both by Mr. Poppleton, representing the contractors, and Mr. Woolworth, representing myself. A settlement was finally reached in the fall of 1870. Mr. Woolworth settled up with them.

NO CONTRACT OF SETTLEMENT IN WRITING,

Q. What were the terms of settlement?—A. The contract was in writing. I can't speak as to its terms.

Q. Where is the contract?—A. I have not got it. I do not know.

Q. Who has it?—A. I do not know.

Q. Did you see it?—A. No; not until months afterwards.

Q. What was paid you under the terms of settlement?—A. Well, we did not get much of anything. They appointed a receiver, and obtained an injunction against me in New York, and took judgment against me, as I have previously indicated. Afterwards they sent stool-pigeons out here from New York and bought up the claim here for 15 cents on the dollar. I do not know who sent them out here. I certainly did not do it.

Q. Is Mr. Woolworth, who was your attorney, living?—A. I guess he is.

Q. Where is he?—A. He lives in Omaha.

Q. Is he here now?—A. I don't know, sir; I presume he is. I want to be understood, and I want this taken down: That I do not desire to reflect in any way on Mr. Woolworth. That was only in answer to an interrogatory as to whether we had charged more for material than the contract price. In that connection I say that if there was anything more charged I do not know it. I never saw the proposal for a settlement. It was made in Boston in 1870.

Q. Who would know it?—A. I suppose Mr. Woolworth would know it. If he had a copy of the contract he could tell it himself. It would probably be in Boston. It is not likely he recollects anything about it after so long a period.

Q. Who was the party in Boston?—A. The trustees.

By Mr. POPPLETON:

Q. Was not that settlement made in New York with Durant instead of Boston?—A. Well, sometimes they were in New York and sometimes in Boston. They might have made it in the two places; I cannot say positively.

DID NOT APPEAR BEFORE CONGRESSIONAL COMMITTEE.

By the CHAIRMAN:

Q. Were you subpoenaed to appear before the Congressional committee to investigate the Pacific Railway construction years ago?—A. Yes, sir; I suppose so.

Q. Did you appear?—A. No; I did not.

Q. Why not?—A. Well, I was away from here.

Q. Where did you go?—A. I went to Illinois.

Q. At whose instance?—A. I went there of my own accord.

Q. Did you go there to avoid the committee?—A. No, sir.

Q. Or the subpoena of the committee?—A. No, sir; I was not subpoenaed. "John H. Davis" was not my name. I went away from here.

Q. Did you go away on account of the subpoena?—A. Well, no, sir; not particularly.

Q. Did business call you to Illinois at that time?—A. Well, I went down on a visit.

Q. Did any one suggest to you to go there at that time?—A. No one.

Q. Did you receive an invitation to go?—A. No, sir.

Q. Were you paid anything to go?—A. No, sir; not a dollar.

Q. Were you paid anything to stay away from the committee?—A. No, sir.

Q. Did you volunteer any statement to the committee?

The WITNESS. To the Congressional committee?

The CHAIRMAN. Yes.

A. Not that I know of; I had nothing to offer it.

Q. Had you any information that would be of service to the committee?—A. Well, I really had not. I did not know anything about the Credit Mobilier of America, or its relations to the Union Pacific Railroad Company. I never had any dealings with them, directly or indirectly.

THE WYOMING COAL AND MINING COMPANY.

Q. Did you have any dealings with the Wyoming Coal and Mining Company?—A. I believe I was elected a director in that corporation.

Q. Who was associated with you?—A. I cannot remember; I think Thomas C. Durant was in it.

Q. Where was the company located?—A. It was doing business here in Omaha. Its mines were located along the line of the Union Pacific Railroad.

Q. Were there any other officers, directors, or employes of the Union Pacific Railroad at that time interested, besides Mr. Durant?—A. Not that I know of.

Q. What were the advantages offered by the Union Pacific to this company? Did they serve the company with coal?—A. Yes; they had a contract.

Q. How long?—A. Oh, it ran for a number of years; I have forgotten.

Mr. POPPLETON. That has all been through a long litigation.

Q. Did you have any stock in that company?—A. There was some stock subscribed for me in that company; yes, sir.

Q. Have you the stock still?—A. No, sir.

ASSIGNED THE STOCK TO UNION PACIFIC.

Q. Did you assign it?—A. Yes, sir; I assigned the stock.

Q. To whom did you assign it?—A. I assigned to the Union Pacific Railroad Company years afterwards.

Q. For what consideration?—A. Nothing.

Q. At whose solicitation—at the request or solicitation of the Union Pacific Railway Company?—A. No, sir.

Q. Did you volunteer to assign it to the company?—A. I won't put it that way. I think some one—I can't recollect who—wrote to me from New York, or somewhere, saying that they were assigning the stock to the company and asking me to assign it to the company, and I did so. I never paid a dollar for the stock and did not know that I had any stock until after it was subscribed.

Q. Did you get any dividends from the company?

The WITNESS. The coal company?

The CHAIRMAN. Yes, sir.

A. No, sir.

Q. Do you know what amount of cash was charged by the trustees to the railway company on account of ties and lumber?—A. I do not. Never had access to books of trustees.

WENT VISITING AFTER BEING SERVED WITH SUMMONS UNDER WRONG NAME.

Q. How long were you in Illinois?—A. Well, I think it was not over a couple of weeks.

Q. Did you know that the sergeant-at-arms of the committee was looking for you at that time?—A. No, sir.

Q. Did you ever hear it before?—A. No, sir.

Q. This is the first information you have had that the sergeant-at-arms of the Congressional committee that investigated the affairs of the Credit Mobilier was making inquiries for you?—A. Well, as I say, they brought a summons for me for "John H. Davis," summoning me to Washington; and I went away from here.

Q. When did you return from that trip?—A. I think it was about two weeks. It is a long while ago.

Q. Were you asked to come back?—A. No, sir.

Q. Were you directed to come back?—A. No, sir.

Q. Did you receive an invitation to return home?—A. Why, no; I came home when I was ready to return.

EMPLOYED 3,000 MEN AND 500 TEAMS.

Q. How many men did you employ while you were engaged in the contract with the Union Pacific Railroad Company?—A. We had 3,000 men at work for us at one time and 500 teams.

Q. Did you sublet any part of your contract?—A. Yes, sir; we sublet portions of it.

Q. To whom?—A. To quite a number of men. They were men that would come in in squads and would cut ties, and we found they were pretty competent and we would first appoint them foremen, and then we would let them contracts.

Q. How would you fix the prices?—A. Well, we generally gave them such prices as would make them a little more than the current wages we paid to the tie cutters. It was necessary to get out the ties.

PAROL CONTRACT WITH DURANT.

Q. After the construction of the road did you have any contract with them?—A. About the time the road was constructed, Mr. Durant, representing the railway company, gave to me a parol contract to deliver

2,000,000 feet of lumber to the road. I went on, under that contract, and cut quite a large number of logs in the neighborhood of Piedmont, and hauled out some lumber. The contract was referred to the company by Colonel Hammond, then superintendent of the railroad company, who referred it to Boston. Mr. Duff was then president of the road. After operating under it for some time I received a letter from Mr. Duff stating that they did not recognize the authority of Mr. Durant to make such a contract; and I stopped it.

Q. What year was that?—A. 1869.

Q. What was the price per 1,000 feet for your lumber?—A. It was \$40.

Q. Did you make any expenditure under that contract?—A. Yes; there are judgments against me now for it, over \$20,000.

Q. Were you paid by the company?—A. No, sir; I was not paid \$1 by the railroad company.

Q. What is the amount of your claim against the company for breach of contract?—A. Well, I will have to explain that. Mr. Woolworth settled my matters in Boston, and everything was included—individually and as a firm.

Mr. POPPLETON. You are mistaken about Mr. Duff being president of the road.

The WITNESS. Then he was vice-president.

Mr. POPPLETON. Mr. Oliver Ames was president.

The WITNESS. The letter was written by Mr. Ames, and Mr. Duff, at the bottom of it, said he had no knowledge of the contract.

COST OF THE TIES.

Q. Did you know of any ties on the road costing as much as \$5 apiece?—A. Oh, no. There is nothing in the statement.

The CHAIRMAN. Mr. Gould swore that some of the ties cost as much as \$5 each.

The WITNESS. Mr. Gould was misinformed. We had the most expensive ties that were got out on the road. We had to go 160 miles sometimes from the line of the road to get the timber, and had to float the ties down the streams.

By Commissioner LITTLER:

Q. What did that cost the company?—A. From 65 to 90 cents.

Q. I mean the railway company?—A. That is what it cost them; and if anything more was charged to the company at Boston I do not know it. It would be a fraud on the Government.

RUINED BY THE CONTRACT.

By the CHAIRMAN:

Q. Have you had any other relations to the company since the contract?—A. No, sir. I was ruined by the contract; but I do not charge it to the company or its officers. They treated me kindly. They paid all the freight bills. I will, furthermore, say that I think the contract was an exceedingly low one; and, taking all the circumstances into consideration, such as the inaccessibility of the ties and lumber, I had a good, fair contract; and if I had been treated fairly I would have made money.

THE CONTRACT MADE WITH SEVEN TRUSTEES.

Q. Do you know anything of a contract made with the seven trustees?—A. Well, Dr. Durant was there. I think he was the only trustee

that was there. A paper was drawn up and given me, on the same conditions and terms as the Oakes Ames contract, on the construction of the rest of the road. Subsequently I assigned that paper to the seven trustees. I never dealt with the Credit Mobilier of America, or had anything to do with anybody interested in it, as far as I know.

Q. Or received any consideration?—A. Not a five-cent piece.

Q. Or knew anything about it?—A. Not a thing about it. It is just as I tell you, strange as it may appear.

Q. What was the length of mileage covered by your contract?—A. I think 146 miles.

Q. West from Cheyenne?—A. 146 miles from where the Oakes Ames contract terminated.

Q. Have you anything, Mr. Davis, to suggest to this Commission concerning the construction, operation, finances, or management of the Union Pacific Railroad?—A. Nothing whatever. I know nothing about it.

JAMES W. DAVIS.

The Commission then adjourned to June 22, 1887, at 10 a. m.

OMAHA, NEBR., *Wednesday, June 22, 1887.*

The Commission met pursuant to adjournment.

Present: Commissioner Pattison (chairman) and Commissioner Littler.

AS TO THE OMAHA AND GRANT SMELTING AND REFINING COMPANY.

GUY C. BARTON, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am engaged in the smelting and refining business.

Q. Where?—A. At Omaha.

Q. With whom?—A. It is an incorporated company.

Q. What is the name of the company?—A. The Omaha and Grant Smelting and Refining Company.

Q. How long have you been connected with them?—A. Since 1881.

Q. What position do you hold?—A. I am president of the company.

Q. Who are the directors?—A. They are J. B. Grant, of Denver, Colo., Edward Eddy, E. W. Nash, of Omaha, Charles Balbach, J. H. Millard, and myself.

Q. When was the company incorporated?—A. The Omaha and Grant Smelting and Refining Company was incorporated, I think, in 1882, under the laws of Colorado.

Q. When was the refining company under its present title, "The Omaha and Grant Smelting and Refining Company," incorporated?—A. That was the time of the incorporation of the present company.

NUMBER OF ITS STOCKHOLDERS.

Q. How many stockholders have you?—A. Well, I could not say; there are probably fifteen or twenty.

Q. Who are they?—A. Before answering that question I would like to ask the nature of the information as to which you want to inquire.

I have no objection to telling the Commission the name of any stockholder that may be in any way connected with the Union Pacific road, if that is the purpose of this examination, but I would hardly want, without seeking legal advice, to give a full list of our stockholders to the public.

TWO STOCKHOLDERS INTERESTED IN UNION PACIFIC.

Q. Who are the stockholders of the company interested in the Union Pacific?—A. So far as I know there is Mr. Frederick L. Ames and Mr. Sidney Dillon.

Q. How far do you know?—A. Well, I know all the stockholders personally. I am very positive that those are all the stockholders that have any interest in or connection with the Union Pacific.

Q. Are any of the employés of the company interested?

The WITNESS. In the Union Pacific?

The CHAIRMAN. Are any of the employés of the Union Pacific interested in the smelting company?

A. No.

Q. Is any of the stock of the Omaha and Grant Smelting and Refining Company held in trust by any one for the employés of, or for any one interested in, the Union Pacific Company?—A. No, sir; not a share.

AMOUNT OF CAPITAL STOCK.

By Commissioner LITTLER:

Q. What is the capital of the company?—A. \$100 a share.

Q. How many shares are there?—A. It has \$2,500,000 altogether.

Q. What is Mr. Sidney Dillon's interest?—A. He holds 880 shares.

Q. What is Mr. Ames's interest?—A. It is the same; they each hold 880 shares.

By the CHAIRMAN:

Q. How long have those gentlemen been interested in the corporation?—A. Since its incorporation.

Q. Was the same consideration paid by them for their interest in the company as by the other shareholders?—A. Precisely.

ITS RELATIONS TO UNION PACIFIC.

Q. What business has the company with the Union Pacific Railway Company?—A. It has the ordinary shipping business. We receive ores and bullion over the Union Pacific.

Q. What do I understand to be your objection to furnishing a list of the stockholders of your company?—A. It is that it is not usual to publish a list of stockholders in any business; and I do not like to make public what the list is, any further than to serve the purpose for which the Commission called me.

Q. Do you object to it merely on the question of publication?—A. That is all. I have no objection to showing the list to members of the Commission, if it is not for publication.

The CHAIRMAN. Well, we would like to see the list of the stockholders, not for publication.

The WITNESS. With that understanding, I have no objection whatever to showing it to the Commission.

(The witness hands a paper to the chairman.)

Q. Is the capital stock of the company all paid in?—A. No.

MR. DILLON INTERESTED WHILE PRESIDENT OF UNION PACIFIC.

Q. Did Mr. Dillon have the interest that you have named in the company while he was president of the Union Pacific?—A. Yes, sir.

Q. Did Mr. Ames have the same interest while he was a director?—A. Yes.

The CHAIRMAN (to Mr. MINK). When did Mr. Dillon go out?

Mr. MINK. Mr. Dillon went out, as president, in 1884.

The WITNESS. Yes; Mr. Dillon had this interest while he was president, and Mr. Ames while he was director.

Q. Are any of the names that you have given to the Commission relatives or connections by marriage in any way of any of the officers or employes of the Union Pacific Company?—A. No, sir.

(The chairman hands the list back to the witness.)

WHERE THE OMAHA AND GRANT COMPANY DOES BUSINESS.

Q. Where do you do business, principally?—A. Here in Omaha.

Q. Where are your principal shipments from?—A. We ship from all the Territories west of Utah. We ship from Utah, Montana, Nevada, Arizona, and New Mexico.

Q. Where do you ship to?—A. To Omaha and Denver.

Q. What roads are your shipments made over?—A. Well, we make shipments over all the railways in the West that connect with mining districts.

Q. Do you have the same rates over other railroads that you have with the Union Pacific?—A. Precisely; that is, from common points. Of course, from local points the rates would be fixed rates.

REBATES.

Q. Are you allowed any rebates on your shipments by the Union Pacific?—A. No, sir.

Q. Were you allowed any rebates prior to April 1?—A. Yes. Before putting that answer down I would like the privilege of explaining what rebate is, so far as I understand it. The method of doing business on the road is for the road to make a schedule of charges upon ore and bullion from the various points along the line. We ship on those rates. There have been instances, and instances frequently arise, when a quality of ore at a certain shipping point will not be of sufficiently high grade to warrant shipping under that grade. That is to say, the value of the metal contained in the ore is not sufficient to pay our treatment charge and the schedule rate. It has been customary heretofore, when there were large quantities of that low grade ore, for the road, while maintaining the tariff rate, to fix a lower rate for that low grade of ore. The rate is open to everybody; and we have purchased large quantities of ore on the lower rate. We do not get the advantage of the lower rate. It simply enables us to pay a higher price for the ore than we could otherwise. In other words, it nets the miner more than he could get under the other rate. So the miner is the man that gets the advantage; and this rate is not a special rate to us; it is a rate open to any competitor who desires to buy that class of ore. In that way the ore would be billed to us on the tariff. In that way we get the difference between the new rate and the rate shipped. So also would any other shipper that furnished ore. That is the reason I have entered on this *plan*. While it would seem that shipping on the lower rate the

road was giving us a lower rate for our benefit, as a matter of fact it is enabling the miner and us to ship a lower grade of ore than we could ship under the tariff rate.

REBATES VARY IN SPECIAL CASES.

Q. What was the rate of rebate allowed by the company to you?—A. It varies in special cases.

Q. What special cases?—A. Well, for instance, we will take a case in one town, say, where the tariff rate was \$18. A case will arise where a certain lot of ore could be moved if we could pay the miner \$4 more or \$3.75 a ton more for his ore. Now, while we could not move it at \$18, we could move it at \$14 or \$14.75; so, in order to enable us to move that ore, it would be billed at \$18 and we would pay the miner \$3.75 more than we could otherwise pay him. The road, in order to get that ore, would cut its rates. That is universal, and our competitors have always done it. On the low-grade ore the rate now is \$12.40; and since April 1 that is the rate on all qualities of ore.

RATES ON MINING PRODUCTS.

Q. What has been the rate prior to April 1?—A. It varied from various points. You understand these mining points are local points in Idaho and Montana. We were paying on heavy ores \$20 from Wood River. That is the rate now, for that matter. We have paid \$14.75 for Montana ores that we are shipping now at \$12.40. In rearranging the tariffs on the 5th of April, I find that the road was compelled to—or it did, at least—fix the lowest rate that had been fixed. That is, where low-grade ores had been shipped (as in the case of the Montana) at \$12.40, the rate of \$12.40 became the open rate. It had already opened in the East and a great many low-grade mines had opened up, and low grade became a regular matter of shipment, and it became desirable to keep up that business.

COMPETITORS PRIOR TO APRIL 1, 1887.

Q. How many competitors had you at that time?—A. We have none at that point. We have a brisk competitor at Kansas City, an active one at Denver, one at Pueblo, and four, I think, at Leadville, three at Salt Lake, one at Ketcham, one at Wickes, Mont., and one at Glendale, Mont. That is the competition we have in the smelting business.

Q. Have they all received equal rebates with you?—A. They might not be equal, but Kansas City has enjoyed the same rates we have. The nearer points would have different rates, but all on the same principle.

PRIVATE AND OPEN RATES.

Q. Why should the company make a private rate instead of an open rate?—A. It is private to this extent: Take a higher ore and it will bear a higher rate. It is of more value and the risk is greater. On ore worth over \$100 per ton the risk of loss is greater, and it gets into another class, and for that reason the railroads maintain a tariff; but, practically, in some places they have abandoned the tariff rate entirely.

COMPETITORS ENJOYED SAME RATES.

Q. Prior to April how many of your competitors enjoyed the same rates or rebates over the Union Pacific with you in ore and bullion?

A.—Every one of them—not only over the Union Pacific, but over every other road. The special rates have been open rates.

Q. Were the rates, prior to April, to you and to your competitors private or open rates?—A. The rate was an open rate, so far as our competitors went. It was not a published rate. That is to say, there was no tariff published, so far as that went, but ore and bullion shippers knew what it was very well.

Q. To whom did you make application for this rate?—A. To Mr. Kimball, of the Union Pacific.

HOW REBATES WERE MADE.

Q. How were the rebates on each payment made to your company by the Union Pacific?—A. The billing has been on tariff. We would pay the tariff rate on that, and then, through the auditor's office, we would get our rebates.

Q. Monthly?—A. As we made settlements.

Q. How often did you make settlements?—A. Well, as often as we could, because it was quite a load to carry. The railroad people were not always very rapid in making settlements.

Q. What did your rebates amount to in any one month?—A. That I could not tell without getting the record.

REBATES ON ORE.

Q. How much for a year?—A. I could not say that. It would be quite large, as I was going to explain to you. For instance, we ship from our works at Denver alone, in bullion, about 20,000 tons per annum. Now, the tariff rate from Denver to Omaha for two years, on bullion, was \$10 per ton; but, by common consent, all of the roads reduced the rate to shippers to \$7. While they did not change the tariff at all, any one of them would ship the bullion, and they were all shipping it at that rate—\$7. But we were paying \$10, at that time, on every ton of bullion shipped, and got a rebate of \$3; and on that one item alone, therefore, it would amount to \$60,000 per annum. But if the Union Pacific had held their rate of \$10 (the tariff rate) we could have shipped by any one of three lines at \$7.

Q. What other articles did the company get a rebate upon?—A. Nothing but the bullion and ore.

Q. What was your rebate on ore?—A. As I have stated, it would be different from different points.

Q. Did you ever receive a rebate on your coal?—A. No, sir; we bought all our coal at a fixed rate.

Q. Did you ever receive a rebate on any of the acids used in your business?—A. They did not come over the Union Pacific at all.

Q. Then, of course, you receive no rebate for any such purpose?—A. Not from the Union Pacific; no, sir.

Q. Did you receive any rebates for drugs shipped over the Union Pacific Railway?—A. We do not use drugs. I have stated it frankly. The only rebates we have received from the Union Pacific have been on ore and bullion.

Q. Nothing else?—A. Nothing else.

Q. Was any one authorized to receive rebates for you on any other articles?—A. We ship nothing else.

NO REBATE ON COAL.

Q. You ship coal, do you not?—A. We buy coal here. The principal amount of coal we use we buy in Iowa.

Q. Then, if any one has charged to you on the books of the Union Pacific Company a rebate on coal consigned to you—the Omaha and Grant Smelting and Refining Company—that was an error?—**A.** The coal was billed to us at a fixed price, which we paid, and there was no rebate about it, either to ourselves or to any representatives of ours.

Q. If there is any such charge on the Union Pacific Railway Company's books as a rebate on coal to the Omaha and Grant Smelting and Refining Company, that charge is an error, is it?—**A.** I should say so, as far as I ever knew.

A REBATE ON SLAG.

Q. If there is any charge of rebate on slag to your company on the books of the Union Pacific the charge is an error, is it?—**A.** Well, slag would be in the nature of an ore. You understand what slag is. It is a product that remains after smelting ores. In smelting originally at Leadville the slag was very rich. The method of smelting was very crude, and after the works at Leadville were burned and removed to Denver there was a large amount of this rich slag left, and that may have been shipped at lower than the tariff rate. It may have been shipped as a low grade ore, or it may have been shipped as slag.

Q. Would a charge be made on ore?—**A.** No; I feel confident it was shipped as slag. The original smelting did not take out all the metal, and this would be worked to get out the remainder.

PRINCIPAL COMPETITORS TO OMAHA AND GRANT COMPANY.

Q. Will you be kind enough to name all your principal competitors?—**A.** At Kansas City, there is the Kansas City Smelting and Refining Company; at Denver, there is the Holden Smelting and Refining Company; at Pueblo, there is the Pueblo Smelting and Refining Company and the Colorado Smelting Company; then there is a Massachusetts Company, though I don't think that is operating now; there is the Royal George Smelting Company at Cañon City, Colo.; the Arkansas Valley Smelting Company at Leadville; the Harrison Smelting Company, the La Plata Company, the Mauville Smelting Company, and the Marquand Smelting Company. In some branches of our purchases we come in competition with the Argo Works at Denver. At Salt Lake, there are the Hanauer Works, the Germania Works, and the Mingo. At Ketchum, Idaho, there is the Philadelphia Mining and Smelting Company. I do not know the name of the concern at Wickes; it does not cut much of a figure; but the works are located at Wickes, Mont.

By Commissioner LITTLE :

Q. You have not mentioned the Hill Works?—**A.** They smelt from a copper base instead of lead, and it is only in a certain class of ore that we come into competition with them.

Q. They smelt refractory ores, chiefly, do they not?—**A.** No; they smelt copper ores, and we smelt from a lead base; so that our lines do not cross each other.

By the CHAIRMAN :

Q. Have you named all the companies?

The WITNESS. Those are all the smelting companies. Do you want the refining companies also?

The CHAIRMAN. Yes.

A. The Kansas City Works is a smelting and refining works; so is the Pueblo company. Then there is the Aurora company, which is located at Aurora, Ill., and at Chicago; the Saint Louis Smelting and Refining Company, at Saint Louis; the Pennsylvania Lead Company, at Pittsburgh, and the Balbach Works, at Newark, N. J.

By Commissioner LITTLER:

Q. Are those the only refiners in the United States?—A. Yes, sir.

THEY ALL SHIP OVER THE UNION PACIFIC.

By the CHAIRMAN:

Q. How many of the shippers you have named ship over the Union Pacific Railway Company?—A. All of them.

By Mr. POPPLETON:

Q. Have you named the Butte companies?—A. No; they are not competitors with us. The Anaconda companies smelt nothing but copper ores. They do not come in competition with us; but they are a large concern.

ALL SHIP AT SAME RATES.

By the CHAIRMAN:

Q. Do all the companies shipping over the Union Pacific receive an equal amount in rebates?—A. They all ship at the same rates; yes, sir.

Q. Did they prior to April 1?—A. So I understand. In conversation with the officers of those companies the question of rates is discussed openly; and I have never known that there was any difference in the rates. If there was a special rate given it was understood by us all, and in bidding it was understood what the rate would be.

Q. Did they receive the same amount, in money, each one of them?—A. In proportion to their shipments, I think. I think, however, that we are the largest shippers of that class of goods over the Union Pacific.

Q. Have you named all the companies that are in competition with you?—A. I think so, as far as I know.

VOLUME OF SHIPMENTS OF OMAHA AND GRANT COMPANY.

Q. Will you give the Commission the volume of your shipments, as to the amount of ore?—A. I could not give that, without taking some time to think.

Q. What would be the proportion of the volume of business of ore as compared with bullion shipment?—A. Well, the shipments to our works at Denver would be exclusively of ore. You know the bullion made from the ore. It is the metal that is in the ore. So that all the shipments to Denver would be ore, and the shipment out would be bullion.

THE DENVER SMELTING WORKS.

By Commissioner LITTLER:

Q. I understand you have a smelting works at Denver?—A. Yes; that is exclusively for smelting. The plant here (at Omaha) is both smelting and refining.

By the CHAIRMAN:

Q. Can you give an estimate of the total amount of rebate paid to your company by the Union Pacific in one year prior to April 1, 1887?—

A. I would not attempt to give an estimate. I could get the exact figures.

Q. Will you furnish the Commission with the figures?—A. Yes; I will try to do so.

OVERCHARGES SHOWN IN VOUCHERS.

Q. I call your attention to page 10 of the Union Pacific Railway Company's book called "register of vouchers" for the year 1885, for "freight earnings refunded," and to the item on that page, No. 34085, "Omaha & G. Smelting & Refining Company;" overcharge, coal, \$180.80. Do you recall that?—A. I do not recall that; but that would be an overcharge, perhaps, for coal.

The CHAIRMAN (to Mr. Mink). Will you please produce that voucher with the papers in connection with it?

Mr. MINK. Yes.

Q. I call your attention to page 22, same book, voucher No. 34697, Omaha & Grant Smelting & Refining Company, coal, \$68. Also, same page, No. 34698. Omaha and Grant Smelting and Refining Company, coal, \$2,039.44. Will you please explain to the Commission what those items are for, if you have any knowledge of them?—A. I have no knowledge of them. I would prefer to see the vouchers.

The CHAIRMAN. I call your attention also to page 33, same book, No. 35167, Omaha and Grant Smelting & Refining Company, overcharge, coal, \$147.50.

The WITNESS. That is an overcharge.

Q. I call your attention to the same book, page 80, same year, voucher No. 37289, Omaha and Grant Smelting and Refining Company, coal, \$672.07. Will you please explain that item?—A. That is an item of overcharge.

Q. I call your attention to page 94 of the same book, No. 37839, Omaha and Grant Smelting and Refining Company, iron, \$50.31. What is that?—A. I think I can explain that iron item.

\$250,000 REFUNDS NOT CONSIDERED EXCESSIVE.

The CHAIRMAN. I call your attention also to page 190 of the same book, voucher No. 41838, auditor's No. 16716, Omaha and Grant Smelting and Refining Company, bluestone, \$26.53. While these vouchers are being produced belonging to these different items, I will ask you whether you would consider \$250,000 as a large sum to be refunded to the Omaha and Grant Smelting and Refining Company for rebates and overcharges during any one year?—A. No, sir; I should not.

Q. Would it be in excess of what you have received in any one year?—A. Well, as I have said before, I would rather tell the facts in the case than to guess at it, and I will furnish them.

By Commissioner LITTLER:

Q. Do you understand that you are required to furnish all the rebates you received since your company was organized?—A. No; I understood that it was what had been received in any one year.

Q. Why not furnish it year by year?—A. I think, perhaps, we can get at that. It would require a good deal of work.

The CHAIRMAN. We do not want the detail. We simply want the totals, because we have the details here. We can prove it by the company, but we are simply asking for corroboration of the matter in the books; that is all.

The WITNESS. Very well.

CHANGE IN REBATE ALLOWANCES SINCE APRIL 5, 1887.

By the CHAIRMAN:

Q. Have the rebate allowances or rates varied much since the organization of the company?—A. They have varied since the 5th of April.

The CHAIRMAN. We are dealing with the time prior to that.

The WITNESS. It would depend on the volume of business. Sometimes we have been doing an immense business in one region, without any rebate at all, because the quality of the ore enabled us to ship it at tariff rate. Then again we would be running on a low grade of ore which would always be overcharged. So that while I might say that the rate would not vary very much, still it might. I should think, however, that it would be an average each year.

HOW RAILROADS ASCERTAIN THE GRADES OF ORES.

By Commissioner LITTLER:

Q. How do the railroad people find out the grade of your ores?—A. We state the case to them. It is reached by assay. The fact that a large body of ore is on the dump, and not being shipped, and that we cannot offer the miner a rate that will enable him to ship or us to purchase, brings out the fact that the ore is of such a grade that it will not stand the tariff rate; and I think, perhaps, that was the reason why, under the interstate law, it was decided to put it at the lowest grade, so that it would enable the miners to ship, although by that they were putting high-grade ore at the lowest price. It operates against the road in that respect.

SPECIAL CASES REQUIRE SPECIAL REBATES.

By the CHAIRMAN:

Q. Have the rebate rates of the Union Pacific Railway Company varied much since the organization of the Omaha and Grant Smelting and Refining Company?—A. No, sir; I do not think they have. Of course special cases would require special action.

Q. What do you mean by special cases?—A. As I have explained—

The CHAIRMAN. I am speaking now of the Union Pacific Railway Company; not of others.

The WITNESS. As I have explained, if a lot of low-grade ore could not be moved without cutting the rate, then the necessity would arise for cutting the rate.

By Mr. POPPLETON:

Q. And the different mines and districts vary in the rate?—A. Yes. And if competitors cut the rate on bullion, for instance, from common points, then, in order to meet that cut, after dragging along for three or four months at tariff rates, if we acquire proof that other roads were cutting rates, and we submit that proof to the railroad, the railroad would have to meet it, or else we would go to other lines.

IOWA COAL OVERCHARGED ON THE BRIDGE AT OMAHA.

Q. [Voucher No. 31,085 shown to witness.] Can you explain by the at
voucher the overcharge of \$108.80?—A. Yes; it was simply an over-
charge on the bridge on shipments of Iowa coal from our works. It
was charged at 3 cents a hundred, and should have been charged at
2 cents a hundred.

Q. Was the claim presented by you to the railway company?—**A.** Yes; by my company.

Q. What papers did you present to them?—**A.** This voucher is an exact copy of the papers we presented.

Q. You do not mean to say that this is the original paper?—**A.** No; I mean to say that this is a copy of the paper that we furnished. And we furnished, in addition to this, the expense bills that were paid, showing that we did pay that amount.

Q. Have you those?

Mr. MINK. They are all filed with the auditor.

The CHAIRMAN. Where are they?

Mr. MINK. The vouchers are bound, and so we cannot keep the papers with them.

By **Mr. POPPLETON:**

Q. What bridge was this that you referred to?—**A.** The Missouri River Bridge, between Council Bluffs and Omaha.

Q. [Voucher No. 34,697, dated July 9, 1885, shown witness.] What is the explanation of that?—**A.** That is also an overcharge on shipments of coal from Iowa. The rate across the bridge should have been 2 cents, and it was charged 3 cents. That \$68 was the amount of overcharge.

VOUCHER REPRESENTING A GENERAL SETTLEMENT OF OVERCHARGES.

Q. [Voucher No. 34,698, dated July 9, 1885, shown witness.] What is the explanation of that? What explanation have you to offer of this voucher—\$2,039.44 charged on there fund book as coal?—**A.** The same explanation. The voucher is not for coal, but for a general settlement of overcharges on the bridge. There is some coal in it, but it is an overcharge.

By **Commissioner LITTLER:**

Q. What other articles?—**A.** There are some Leadville ore settlements in it.

The CHAIRMAN. Slag?

The WITNESS. And slag.

OTHER BRIDGE OVERCHARGES ON COAL.

By **the CHAIRMAN:**

Q. [Voucher No. 35,167, dated August 4, 1885, for \$147.50, shown witness.] Will you please explain that voucher?—**A.** That is also a bridge overcharge on coal. Just the same thing. It should have been this amount at 40 cents a ton, instead of 60 cents a ton.

Q. [Voucher No. 37,289 dated December 17, 1885, for \$672.07, shown to the witness.] Will you please explain that voucher?—**A.** Fifty-one dollars and thirteen cents of that seems to be an overcharge on the bridge for coal. The balance is for bullion and matte.

Q. How soon will you be able to furnish the total refunds from the Union Pacific Railway Company?—**A.** I will try to do it to-day, or as soon as possible. I will set the force right to work at it. It may be that it will be much simpler than I imagine; if you only require the footings.

The CHAIRMAN. That is all we want.

DIVIDENDS PAID BY OMAHA AND GRANT COMPANY.

Q. *What have been the profits of the Omaha and Grant Smelting and Redning Company?*

The WITNESS. Is that a fair question?

The CHAIRMAN. I am asking you. I will put it in any other form. What have been Mr. Dillon's profits and what Mr. Ames's?

A. We have been paying, up to the present time, since the organization of the company, an annual dividend of 10 per cent., 2½ per cent. quarterly.

CONCERNING AMOUNTS PAID MR. DILLON AND MR. AMES.

Q. Will you please furnish to the Commission the sums paid from time to time to Mr. Sidney Dillon and Mr. Ames, officers of the Union Pacific Railway Company?—A. Yes. That would be just the amount of the quarterly receipt.

Q. We would like to have it from you as to those men who were officers of this company.

The WITNESS. Very well, sir. You can see that there are objections to giving the inside of our business to the public.

The CHAIRMAN. The Commission only wants information as to the Union Pacific Railway Company and its officers, as to whether they have profited in any way outside while dealing with the company.

The WITNESS. I shall answer every question that you may ask that has any bearing on the Union Pacific Railway Company.

Commissioner LITTLER. Would it not be fair, with the view of fixing the profits of those gentlemen, to ask the question what their stock is worth? That is an element of profit.

The CHAIRMAN. Do you ask the question?

Commissioner LITTLER. Yes; I will ask the question.

VALUE OF DILLON'S AND AMES' STOCK.

By Commissioner LITTLER:

Q. I will get you to state whether the stock held by Sidney Dillon and Frederick Ames is worth par, or more than par.—A. There have been no sales by which to gauge the value. I believe it is worth par. There have been very few transfers of stock in our company.

Q. Is the stock now held in the treasury of the company for sale?—A. No, sir.

OVERCHARGE ON SLAG.

By the CHAIRMAN:

Q. [Voucher No. 37839, dated January 6, 1886, shown witness.] Will you please explain this voucher?—A. That was some slag shipped from Leadville to Denver.

Q. What was that item of return for?—A. It was for an overcharge.

Q. For what?—A. For a shipment of slag from Leadville to Denver, amounting to \$50.31.

Q. Based upon what?—A. It was a special rate for that class of material.

NO CAUSE FOR THE REBATE.

Q. Was this a rebate?—A. It is the same kind of rebate that all those goods are subject to. As I have explained, where material will not bear the tariff rate, and, in order to move it, a special rate has to be given, then this will appear as an overcharge, or a rebate on the tariff rate. Now, that material was very poor in silver. It had very little

silver or lead in it; but, you see, it carried a little iron, so that as a flux we could use it, provided we could get it there at that rate; and by an agreement, I think between the Union Pacific and the Denver and Rio Grande, we were given that rate; but even at that rate it did not pay us, and we returned it.

Q. How does this return from the Union Pacific Railway to the Omaha and Grant Smelting and Refining Company, of overcharge, differ from the vouchers that you have already explained?—A. In no way.

Q. Are the other vouchers representative of the same character of rebate?—A. Yes, sir; I believe so. I should hardly want to answer that until I saw the vouchers; but I think so. That is my understanding. [After a pause.] Yes, it is the same.

Q. This is a similar character of rebate to that on the vouchers shown you already?—A. Yes.

EXPLANATION OF BRIDGE OVERCHARGE.

Q. Do you mean to say to the Commission that the overcharge in the rate by reason of the transportation on the bridge is the same character of overcharge as the return made to you on slag shipped to you from Leadville?—A. No; I think not. I think that the overcharge on the coal crossing the bridge occurs by their billing the coal at local rates, instead of what is known as a through rate, and ours was a through shipment. I am quite sure that that was the nature of the coal voucher. This was one of the character I have already explained—a rate to enable the shipper to ship the slag. There were two rates—the through rate and the local rate. Here was a rebate of the rate, to enable us to move the goods and to get the traffic for the road.

Q. Does voucher 37839 represent the character of rebates that are allowed to you monthly by the Union Pacific Railway Company on bullion and ore?—A. Yes, sir.

REBATE ON SULPHATE OF COPPER.

Q. [Voucher No. X 838, dated August 12, 1886, shown to the witness.] Will you please explain this?—A. This refers to a shipment of sulphate of copper (blue vitriol), a drug that we manufacture, to Helena, Mont. The rate to Helena of \$1.75 was given in order to enable us to reach that market in competition with blue-stone which was manufactured in Cleveland, which could reach Helena at a cheaper rate than we could deliver it there. The rate of \$1.75 per hundred was given to us to enable us to make that sale, or we could not do it, in competition with the Chicago dealers.

Q. The rate was fixed by the Union Pacific Railway Company to the Smelting Company, in order that they could compete for this article?—A. That was it, or in order that the railway might get the freight. I always felt that any favor they showed us was in order to get business for themselves rather than doing anything for us. This was creating a traffic for the road.

Q. Was this voucher X 838 a different character of voucher from the vouchers already shown to you relating to coal—in its charges for rebate?—A. No; it was not, only as to the direction in which it went, only as being a west-bound shipment.

Q. Do I understand you to mean that a rebate allowed because of an error made by the company in a charge for a shipment of coal over the bridge, is the same character of rebate as a rebate made in order that

you might compete with other shippers on a given article? You certainly do not mean that?—A. One is an overcharge and the other is a special rate given for a special purpose.

Q. Are these vouchers shown you, of rebates for coal and for bluestone and for slag, the only exceptions in rebate allowances to those on bullion and ore shipments?—A. So far as I know.

The CHAIRMAN. Have you any suggestion to offer to the Commission, or any statement to make, with reference to the inquiry for which the Commission is here? (To Mr. POPPLETON:) If you have any suggestions to make to Mr. Barton, you may make them.

Mr. POPPLETON. I have none.

The WITNESS. It has been generally understood, and our competitors have taken pains to convey the idea, that our company, by reason of the connection of Mr. Ames and Mr. Dillon with us, has been treated more favorably by the Union Pacific Company than our competitors have been. In my evidence I have shown just what our relations with the company have been.

REASONS MESSRS. AMES AND DILLON BECAME INTERESTED IN OMAHA AND GRANT COMPANY.

I will say, in relation to the connection of Messrs. Ames and Dillon with the company, that at the time they came into it the company was almost bankrupt (it was a concern that had been running quite a number of years, and was right on the point of bankruptcy) and it became necessary for new capital to take hold of the enterprise. It was a very important enterprise for the Union Pacific Company, because the shipments of ore, bullion, and other material were very large; and, in order to put the company on its feet, I urged these gentlemen to take an interest in it. They did take a small interest, as shown by the list I have produced. The joint interest of those gentlemen amounts to about 7 per cent. of the capital stock. Of course, their interest in the Union Pacific Company was very much larger than the interest they could have in our works. So that their interest would have been more to enhance the earnings of the Union Pacific Company than of our company. I have felt that we were handicapped, more or less, by reason of their connection.

DIRECTION BY MR. AMES THAT NO FAVORS SHOULD BE SHOWN BECAUSE OF HIS INTEREST.

When Mr. Ames obtained this interest he wrote a letter to Mr. Auditor Gannett, informing him that he had got an interest in the Omaha and Grant smelting and refining works, and that he relied on him (Gannett), as auditor of the Union Pacific Company, to see that no favor should be shown to our company that was not shown to any customer of the road, doing the amount of business we were doing. And I think that the trouble that has come to us has been principally from the general understanding of railroads and smelters that we were enjoying special privileges over the Union Pacific, which is not true in any one instance. The business has been done by us precisely as it has been done by our competitors. We have all enjoyed the same rates. While we have largely confined our shipments to the Union Pacific, it has not been because of any special privileges we were getting, but because most of the material we were handling was on the line of the road, and they have shipped our bullion from Denver because the ore *that that bullion came from came from their territory. It was desira-*

ble, and necessary perhaps, for us, that instead of the ore coming to us direct it should be shipped to Denver. Well, the rates on that, excepting in one instance, have been the same as by other lines. In that one instance we were paying for, I think it was, five months \$10 on our bullion, when our competitors were shipping over the Burlington and the Santa Fé road at \$7. That was a clear case of overcharge, and it required strong proof on our part before we could get the rebate on our shipment.

I feel free to take up the time of the Commission on this matter because I have felt always (or for years, at least) that there was a determination on the part of our competitors to show that our success depended on favors or privileges that we enjoyed from the Union Pacific.

"THE VOLUME OF BUSINESS MAKES THE PROFIT."

Now, as possibly one member of the Commission may know, it is the volume of business that makes the profit. Our capital is very much larger than that of any other company engaged in the business. Our tonnage is very much more. The value of tonnage we did last year was nearly \$15,000,000, perhaps twice as much as any competitor we have. Now, a small profit on an immense tonnage will make a large aggregate, and in handling tonnage in that way we can afford to do it for less per ton, and our fixed charges are less in proportion in handling a large amount than a small amount.

Q. Do you get lower rates in consequence of your large shipments?—A. No; that is not the sense in which I mean it. But in competing for a lot of ore with our competitors, on the same rate, if we handle a thousand tons while they handle only a hundred, we can afford to pay a closer margin, because the profit, though smaller, aggregates greater. The competition we meet wherever we are successful is just on that ground; and, as a matter of fact, unless we have some personal feeling in the matter at any common point, we could ship as low by any other road as by the Union Pacific.

SMALL AND LARGE SHIPPERS OBTAIN EQUAL RATES.

Q. Does the small shipper ship at as low a rate as the larger?—A. Precisely.

Q. Over the Union Pacific?—A. Over the Union Pacific, or any other line.

The CHAIRMAN. We are dealing with the Union Pacific.

The WITNESS. Well, the Union Pacific, particularly, because I have means of knowing that. A small shipper can get a ton of ore, or a load, shipped to this place at the same rate we have been allowed.

THE MINERS RECEIVE BENEFIT OF LOWER RATES.

Q. Would he have the same rate allowed him?—A. Precisely. The rate was the tariff rate. And if, by reason of the lowness of the ore, it became necessary to name a lower rate, it was not for the profit of the company but for the miner. We turn right round and give it to the miner. Rebates are a nuisance to us. We would be very glad to have tariffs fixed, so that we would not have to bother with these things.

REFUND OF \$40,871.25.

Q. Well, here is a little of the "nuisance" I would like to have you look at while you are on the subject. On page 191 of the same book

that you have looked at before, voucher No. 18605, August 23, 1886, Omaha and Grant Smelting and Refining Company bullion, \$40,871.25. Will you please explain that item of refund?

The WITNESS. That item of "nuisance"?

The CHAIRMAN. Yes.

A. That is a pretty large item. The rate, as I have explained, from Denver, was \$10 a ton. The rate that every other road was shipping at was \$7 a ton. The bullion was shipped to us at \$10 a ton, and we paid the bill. Now, the "nuisance" of that, as I have said, is that we have got to carry that until it accumulates to such an amount as that, for instance, and lay out of the money, without interest, continually paying new charges, until we finally get it back. Now, if we could have shipped at \$7 per ton, this overcharge would never have appeared. It was true that every other road was shipping at \$7. If the shipper could have got a straight rate of \$7 a ton, all this waiting and payment of money would not have occurred at all. The shippers by other roads were shipping at \$7 a ton.

Q. How long were you out of this \$40,000?—A. Well, I could not tell without reference to the expense bills that made up that voucher.

The CHAIRMAN. I read from page 1 of the same book, payments as follows:

Freight earnings refunded.

Page.	Date.	Amount.	Page.	Date.	Amount.
	1885.			1886.	
1	April 16	\$3,228.05	94	Jan. 23	950.31
2	April 25	1,189.00	96	Feb. 1	67.69
5	April 25	8,591.73	101	Feb. 15	174.67
7	May 6	5,315.59	103	Feb. 19	7,046.23
8	May 19	1,037.69	104	Feb. 19	4,512.42
10	May 20	108.80	109	Mar. 9	1,651.73
16		10,163.00	111	Mar. 10	6,869.12
22	July 13	1,000.00	114	Mar. 18	687.66
33	Aug. 12	3,305.31	117	Mar. 30	4,927.87
40	Aug. 31	8,388.68	126	April 9	3,883.39
41	Sept. 4	8,329.54	127	April 9	7,291.62
42	Sept. 9	7,112.71	129	April 14	78.62
47	Sept. 28	4,458.81	130	April 14	2,298.53
50	Oct. 8	9,444.14	132	April 26	827.72
55	Oct. 23	1,181.54	136	May 13	128.69
60	Nov. 4	11,190.16	138	May 13	5,635.31
61	Nov. 11	684.00	139	May 13	1,919.99
62	Nov. 10	1,858.70	141	May 22	2,252.39
66	Nov. 25	4,534.00	143	May 26	173.21
67	Dec. 1	11,401.13	147	May 28	36.25
73	Dec. 11	2,574.68	148	May 31	4,747.59
78	Dec. 18	10,879.47	154	June 21	446.42
80	Dec. 23	389.53	170	July 26	1,531.85
80	Dec. 23	1,997.61	171	July 26	112.69
90	Dec. 23	5,243.45	174	July 26	21.93
	1886.		175	July 30	229.87
83	Jan. 4	877.57	190	Aug. 19	959.96
87	Jan. 13	5,702.12	190	Aug. 19	265.87
89	Jan. 13	5,383.46	191	Aug. 23	40,871.25
92	Jan. 20	1,189.38			
92	Jan. 23	977.28			
93	Feb. 1	4,767.66			
			Total for 16 months of over.....		253,000.00

INCONVENIENCED BY DELAYS IN PAYING REBATES.

Do I understand you that, during that period, you, for any length of time, were inconvenienced in any way by lying out of your money?—A. Why, everybody is inconvenienced when lying out of money, without interest. To that extent we were inconvenienced.

Q. For how long a period during this sixteen months, at any time, did you lie out of any considerable sum?—A. As shown by voucher X. 842, the settlement was made September 1, 1886, and the date of the voucher commenced May 27, and it was cumulative, running along to later dates. There are June, April, and March of the same year.

Q. In the mean time were you making settlements of the other vouchers?—A. Yes, sir. That is to say, we were paying bills right along. They were presented regularly.

METHOD OF SETTLING FOR FREIGHTS.

Q. How soon after the freight was delivered did you make your settlements?—A. It was usually about once a week, I think, that the bills would be presented. The cashier—or freight agent at the depot—is supposed to collect his bills daily; but, where we were doing a very large traffic, they were delivering the goods. The goods are delivered at our works, you know. They would let them run a week, perhaps, until a few thousand dollars would accumulate, and we would pay them. And it has run along and accumulated in two weeks up to thousands of dollars. But, generally, it was a week or ten days before the bills were sent down for settlement.

Q. Were any of the rebates paid to you, for the period of sixteen months, rebates in the nature of private rebates allowed to the Omaha and Grant Smelting and Refining Company?—A. No, sir; I think not.

THE REBATES THE SAME TO ALL.

Q. Were the rebate rates to you the same as were allowed to other shippers?—A. That was always my understanding; the same rebate on the same quality of ore.

Q. Was it the open rebate known to all shippers?—A. To all shippers of that grade of ore. It was not a published rate in the sense that the tariff rate was a published rate, but it was known to all competitors just at what rate those ores could be shipped.

Q. How were you informed of this rate?—A. By Mr. Kimball, on application, or by any agent of the company.

Q. Were you informed by letter?—A. No.

Q. How?—A. Probably by inquiry at the office.

Q. Were the other shippers informed in the same way?—A. Yes, sir; either by letter or by personal application to the agents at the town at which they were shipping.

ALL EQUALLY INFORMED AS TO REBATES.

Q. Do you know of your own personal knowledge that the other shippers were notified?—A. I know by general conversation with them, in which these matters were discussed. When we were to bid on certain ores it was known just what the rate was, and it was talked of among the purchasers of the ores. Some mines, having a large output, invite bids. They invite all the smelting fraternity to bid on their output of ores for sixty or ninety days, or sometimes six months, and frequently for a year.

By Commissioner LITTLE:

Q. The entire output of a mine?—A. The entire output of a mine. Now, while no one of the proposed purchasers of that output would know what we were to bid, yet in the general discussion among our-

selves the freight rate would be talked of openly, although the rate might be one below the tariff; so that I think there is no question but that every shipper of that quality of goods knew what he could obtain.

The following letter was subsequently received from Mr. Barton:

[Omaha and Grant Smelting and Refining Company.]

OMAHA, NEBR., June 29, 1887.

Hon. R. E. PATTISON,
Chairman:

DEAR SIR: The total amount of overcharges and rebates paid to this company by the Union Pacific Railway Company, from 1st September, 1883, to 1st of April, 1887, was \$670,112.26. Total amount of dividends paid to Messrs. Frederick L. Ames and Sidney Dillon during that time was \$30,800 each. Messrs. Ames and Dillon each hold \$28,000 of Omaha and Grant stock, which was purchased by them on the same terms that was paid by the other members of the company at the time of organization. The above amount includes all moneys paid Messrs. Ames and Dillon by this company.

Yours, very truly,

GUY C. BARTON,
President.

OMAHA, NEBR., June 22, 1887.

Afternoon session.

A. PERRY NICHOLAS, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I own real estate here at the present time. I am not in any active business.

Q. Where do you reside?—A. In Omaha.

Q. How long have you been here?—A. I have been here twelve years, or shall have been, this coming fall.

Q. Have you been engaged in business with the Union Pacific Railway Company?—A. I have been.

Q. When?—A. In 1878.

THE OMAHA STOCK YARD.

Q. What business relations did you have with the company?—A. I built what was known as the "Omaha Stock Yard."

Q. Upon your own suggestion?—A. Yes, sir.

Q. Were you engaged in the stock business at the time?—A. No, sir.

Q. Where were the stock yards built?—A. On the south side of the Union Pacific track, above the lead works.

Q. Did you complete the construction of the yards?—A. I did.

Q. Did you enter upon your business as a stock-yard man?—A. I did; as manager of the yard.

Q. How long were you engaged in the business?—A. From 1878 until 1880.

Q. Why did you close your business in 1880?—A. If you will allow me, I will go back and make a little statement; I intended to start the fall before.

Q. What fall?—A. The fall of 1877; and I made application to Mr. Clark, the former manager, for a lease.

ELECTION OF COUNTY COMMISSIONER OF OMAHA.

At that time there seemed to be some difficulties with the road, some litigation pending here; and he said that unless I would help to adjust

that in some way he could not give a lease, because the people of Douglas County were fighting the Union Pacific Road. I said, "I don't see what I have to do with that. However, if I can do anything to bring about an amicable adjustment, I will do so." The city of Omaha was, during that fall, to elect a county commissioner, and the point was to elect one who would be friendly to the road. Well, in the fall we did so. After the election, or about that time, there was an excursion given to the Omaha board of trade, of which I was a member, and I suggested to Mr. Clark the idea—requested him, rather—to invite the county commissioners to come along also; to extend an invitation to them.

Q. Will you explain what the county commissioners had to do with the stock yard?—A. They had nothing to do with it. This was a step to get down to it, before he would give a lease. There was a suit pending in the courts; the county commissioners had brought a suit against the company, and it was desirable to have that adjusted.

Q. What had the county commissioners to do with the matter?—A. It was a suit to forfeit bonds, I believe, to maintain a transfer on this side of the river, instead of going on the other side.

THE USE OF MONEY.

Q. At whose request did you go into the matter of helping the election?—A. At the request of Mr. S. H. H. Clark. I took quite an active part. I used some means that were given me.

By Commissioner LITTLE:

Q. Do you mean money?—A. Yes; that was given me.

By the CHAIRMAN:

Q. Who gave it to you?—A. Mr. S. H. H. Clark.

Q. How much did he give you?—A. I do not remember just the amount. I remember that I returned the balance to him. It was a legitimate expenditure.

Q. Was it an expenditure of a thousand dollars?—A. No; the amount given to me was a small amount.

By Mr. MINK:

Q. How much was it? Let us clear it up as we go along.—A. A hundred dollars. Out of that amount I spent \$80, and returned him \$20.

HOW IT WAS SPENT.

By the CHAIRMAN:

Q. How was the money spent?—A. Spent on election day, in simply treating men at the different polls, especially the ward I live in, the Fourth ward. I live there still.

EXCURSION OF OMAHA BOARD OF TRADE TO COLORADO.

Well, after the election, the Omaha board of trade made an excursion to Colorado, and I requested Mr. Clark (or rather suggested the idea to him) to invite the county commissioners along, and that I would explain to them about the matter; that this stock-yard enterprise would really involve the whole enterprise of developing this side of the river, and would eventually bring all the business on this side of the river; and that I believed it would be to our interest to adjust that matter, if

possible, and bring it about, because we wanted friendly relations. We certainly could not expect success if we were to be constantly in a fight. They were very favorably disposed. And between that time and the 28th day of April the matter was adjusted.

ORGANIZATION OF THE OMAHA STOCK YARD COMPANY.

On the 20th or 26th of April I organized my company.

Q. What was the name of the company?—A. My company's name was, "The Omaha Stock Yard Company."

Q. What was the date of the organization? Just give the years as you go along.—A. The commencement of the corporation was the 27th day of April, 1878.

Q. Who was in the corporation?—A. A. P. Nicholas, H. K. Smith, S. R. Johnson, J. F. Sheeley, C. F. Goodman, and E. Estabrook.

ORGANIZATION OF A SECOND OMAHA STOCK YARD COMPANY.

Q. After your company was organized, what then?—A. Just at that time, when I organized, immediately, on the same day or the day following after I had filed my papers, another so-called "Omaha Stock Yard Company" was organized. The parties that were in that were W. C. B. Allen, at that time secretary of the board of trade; J. L. Lovett, and W. J. Broatch, the present mayor of the city. Just after we had organized we came down for our lease and called on Mr. Clark. Mr. Clark made some remark to Mr. Smith. He said, "Unless you parties meet and unite, we will divide this." I said, "That is not just, Mr. Clark. That belongs to my company—to me." But he said, "We will not do anything unless you parties meet and divide." So I called them together. We met in my office, which was up in the Faulkner Building at the time. General Estabrook was our attorney. He made some remarks about the other corporation; that it was not legal, and so on; and I suggested to the General to keep quiet a moment, and if these gentlemen would come in and join with us we would divide; what we wanted was an equal division. Mr. Broatch jumped up and said he was not going into anything to be "divided up," or something of that kind. I said, "You will find, Mr. Broatch, that Nicholas is the man you will have to settle with." At that time these men that were there got up and left.

Q. Left the company?—A. Yes. General Estabrook said he would "stand by the ship." I said "All right."

ORGANIZATION OF THE UNION COMPANY.

They went off immediately and organized what was called the "Union Company," another company, at the head of which was William A. Paxton.

Q. Who was he?—A. He was a cattle-man. He is a citizen here; the man after whom the Paxton Hotel was named. Well, they went on and shoved up their yards.

Q. Where?—A. On the opposite side of the track from mine. I had just started in on mine. The trouble was owing to the fact that men connected with the company owned a couple of thousand acres of land on the other side of the river.

Q. Who were they?—A. Mr. Dodge was one.

Q. What is his full name?—A. Granville M. Dodge, I think, and his associates.

Q. Was he interested at the time in the Union Pacific Railway Company?—**A.** I so understood it.

Mr. POPPLETON. It seems to me it is hardly the thing to listen to this loose talk. General Dodge and his associates did not have any land. He was general manager of the Fort Worth and Pueblo road, and is building it now, I believe.

Commissioner LITTLER. Does he live here?

Mr. POPPLETON. His residence is in Council Bluffs.

The WITNESS. They owned some land, I believe, or a company of them did. Well, I went on and built my yards; and that fall Mr. Clark asked me if I could get A. H. Swan interested.

Q. Who is he?—**A.** A large cattle-man of Cheyenne. I advertised my own affair out at Cheyenne, posting up bills for my yards. I had a talk with Swan, and he agreed to go in; but he said he wanted to buy the Union yard. I told him to wait, and he could buy the other yard, and I could probably get a lease, or make some arrangement to go over the river; but I had not the means; and, anyhow, my side of the river was the Omaha side.

SALE OF THE UNION YARD.

I believe they bought out the Union yard the next spring.

Q. Who bought out?—**A.** Swan bought out Paxton, Lovett, Broatch, and their associates. They pulled those yards up the next spring, and moved over the river. I telegraphed to Swan that I wanted him to come here and fulfill his agreement. He sent me a letter referring me to his brother and Mr. Paxton.

Q. Have you that letter?—**A.** Yes.

Q. Where is it?—**A.** I think I have got it here.

The CHAIRMAN. Read it.

The WITNESS (reading letter):

LETTER OF A. H. SWAN.

CHEYENNE, May 29, 1879.

A. P. NICHOLAS, Omaha:

DEAR SIR: Your telegram received. I go west to-day. Will be gone some time, looking after cattle. I have written Mr. Paxton and my brother about it, and any trade you may make with them and Mr. Sparty will be entirely satisfactory to me. We would, under the circumstances, feel willing to give you a little more than the other yards cost, but, at the same time, you can do well to keep them and run them, and get the year's business. We shall not have any one out on the road soliciting consignments. Hence you should feel that a very fair share of the business would naturally come to your yard.

You spoke to me once about taking an interest with you in your yards, even though we built in Council Bluffs. Now, I have thought that matter all over carefully, and will briefly give you my conclusions and reasons therefor.

(1) I could not give it the personal attention that would be necessary, as most of my time would be necessarily taken up with the range during the summer months.

(2) Connected as I am with the interests on the other side of the river, having larger interests on that side, I feel that it would create a prejudice in many, thinking that my larger interests would lead me to quietly favor that side. I would be censured even if I went a thousand miles away—

The WITNESS. Is it necessary to read the whole letter?

Commissioner LITTLER. Yes, sir; read it all, since you have started.

The CHAIRMAN. Unless there is something private in it, or something not relating to this matter.

The WITNESS. No; I will finish it (continues reading.)

for not controlling certain men's stock and have it stop at the Omaha side. Now. I want you to feel that we will not in any way injure your legitimate "

age, but will be pleased to see your enterprise prove a success. But, as for myself, I must decline to take an interest with you in the yards for the reasons stated. However, if you should decide to sell to our folks, they will confer with you at any time, and if prices can be agreed upon they will close the trade at once. The parties you will have to see will be Mr. Paxton and my brother, who will represent myself in my absence. You can readily see that if we owned your yards there would be no room for prejudice, for it would not matter to us where they were handled because of the ownership being the same.

Respectfully, yours,

A. H. SWAN.

PROPOSED SALE OF THE OMAHA STOCK YARD.

Q. What did you do on the receipt of that letter?—A. I met Mr. Henry Swan and William A. Paxton at the Withnell Hotel, and made a proposition to sell a half of the yard for \$5,000, or the entire yard for \$10,000, which was \$2,000 less than it cost me. Mr. Paxton declined. After their declining I called to see Mr. Clark and stated to him that I had offered to sell my yard; that I did not feel it just for me or fair in him to change on the statement of one party, but better hear both sides. Mr. S. H. Clark, the manager, said to me, "Why, they say they cannot do anything with you." I said, "Is that possible?" He said that they said I would not make any proposal. I said, "Is that possible?" Well, what to do next I hardly knew. Then, along some little time after that, I went on running the yards and trying to do what little I could. Mr. Clark was East, in New York, stopping at a private house there, I believe.

FLANNIGAN'S STATEMENT ABOUT COUNCIL BLUFFS CONVERSATION.

In the mean time an engineer told me that he had heard my yards and myself discussed.

Q. Who was the engineer?—A. His name is John O'Brien. He is now, I believe, in Portland, Oreg. He said that a conversation took place on the transfer platform. I have a statement of about what took place there. There was also a gentleman named Flannigan present. He is here in the city at this time. I requested Mr. Flannigan to make a statement to me of what took place. He did; he wrote a letter. In fact, I employed him as my yardmaster, and he expected to go to work for those parties on the other side of the river, inasmuch as he had been yardmaster on this side of the river. I will say right here that when I got this statement of Flannigan's, I wrote a letter to Mr. Clark, in New York, and said to him: "You say these parties say I refused to sell, and that they cannot do anything with me." I said, "Here is a statement of their own which verifies everything I have said." In the letter I said, "Will you take an interest?" And if you won't take an interest, won't the party you are stopping with do so?" When he returned home I asked him if he had seen the letter. He said, "Yes." I asked if the gentleman he had been stopping with had seen it. He said, "Yes."

LETTER OF WM. A. FLANNIGAN.

I will read this statement of Flannigan's [reading]:

OMAHA, NEBR., September 16, 1879.

Mr. A. P. NICHOLAS:

DEAR SIR: Yours received and noted; and in reply I make the following statement of a conversation which took place on the transfer platform at Council Bluffs,

in the latter part of May last, on a Sunday, between the following gentlemen: A. H. Swan, Henry Swan, J. W. Spratly, W. A. Paxton, and J. T. Clark, assistant general superintendent of the Union Pacific Railway Company, relating to the Omaha stock-yards and myself.

That gentleman is in town and can be subpoenaed if you wish him.
[Continues reading]:

One of the parties (William A. Paxton) remarked that the "damned fool" (meaning you) persists in asking \$10,000, or \$5,000 for one-half interest, he (Nicholas) to retain the other half. W. A. Paxton again remarked, "Who in hell wants to go in partnership with a fool. The best way is to freeze out the son of a bitch."

Mr. POPPLETON. This is not under oath. This is a letter from somebody whom we have never seen, putting words into the mouth of Mr. Paxton, who is one of the leading citizens of this town. No justice under heaven would ever listen to it for an instant.

The WITNESS. The gentleman is right in town and can be subpoenaed.
[Continues reading]:

After the above remarks the conversation turned on the subject of who should be yard-master, or who should have charge of the yards in Council Bluffs. I was standing near there; and J. T. Clark, assistant general superintendent, looked up and said, "There is Flannigan. He was in the yards at Toledo and bursted them. You take him. He will burst you up."

Respectfully,

WILLIAM A. FLANNIGAN.

STATE OF NEBRASKA, *Douglas County*:

William A. Flannigan, being duly sworn, deposes and says that he wrote the contents of the foregoing letter, and that the facts set forth therein are true.

EDWARD W. SIMERAL,
Notary Public.

I think that Mr. Clark was satisfied, but I was forced to quit the yards.

DISCRIMINATION AGAINST THE OMAHA STOCK YARD.

By the CHAIRMAN:

Q. What took place after you got that information from Flannigan?—A. Why, I ran the yards until the next year, and had the encouragement from another party that if I should hold on until the next year the Wabash road would run into Omaha. I did hold on; and when it came round to next year we did quite a good deal of business; but that year there was quite a good deal of discrimination against us.

Q. What kind of discrimination against you?—A. Well, for instance, I made a contract for 2,500 head of cattle for feeders to be unloaded at Omaha. The owners of these feeders wanted, of course, to save the bridge toll, and peddle them out here to farmers in Nebraska. I tried to get cars from the Union Pacific. I asked them to furnish cars. They claimed that they had none. I went myself, individually, to the Burlington road (W. J. Davenport being agent at that time), and requested the loan of seventy-five cars to bring in these cattle. He offered to let me have the cars, and I tendered them to the general superintendent of the Union Pacific Railway Company. He refused to send them down. Then I went to Mr. J. T. Clark, agent of the Northwestern. He is a different Clark from this I have mentioned. He also offered to send me seventy-five cars. I tendered those cars to the Union Pacific Railway Company, but they refused to send them out. The result was the owner of the cattle that I had contracted with shipped them East over the Burlington road. Of course I lost the entire trade.

Q. What other discrimination was made against you by the Union Pacific Railway Company?—A. *Sturgiss* was the man that owned the

cattle. I made my contract with his agents, Brown, Price & Co., commission brokers, at Chicago. They were here and represented Sturgiss at that time, and made the contract with me for the cattle. But failing to get the cars, the cattle were driven away. That same fall there was a lot of cattle billed to the Omaha yards from the Council Bluffs side, and \$5 paid in advance to unload them down at the bridge. Through that kind of discrimination I was finally closed out.

THE OMAHA STOCK YARD TRANSFERRED TO THE ROAD.

Q. How long did this discrimination continue against you or your company?—A. It was from 1878 to 1880, when I turned the yards over to the Union Pacific Company.

Q. How did you turn them over to that company?—A. Mr. Poppleton, here, drew up the receipt. I gave them possession, and turned them over to the company, they paying off for me certain mortgages that were on my property. It amounted to about 40 per cent. on what my yards had cost me.

Q. How much did they pay you in all?—A. I say about 40 to 45 per cent. of what the yards cost me. The arrangement was made by Mr. Dillon, president of the Union Pacific Company. It was through his instructions that the Union Pacific Company paid off certain mortgages I had on my property. Mr. Poppleton drew up the receipt; and when it was said that I should not bring any suit against the company for discriminations—

NOT TO SUE ON GROUND OF DISCRIMINATIONS.

Q. Was that the agreement that you made with the company—that you would not bring any suit for damages on the ground of discrimination made against you?—A. Not in the first place; no, sir.

Q. Well, did you make such an agreement in the second place?—A. Well, as I say, Mr. Poppleton drew up the receipt. The receipt would be the best evidence. I forget just how it was drawn.

Q. Did you keep a copy of the receipt?—A. No.

Q. Did you give Judge Poppleton a receipt as the representative of the Union Pacific Company?—A. No, sir. I represented the stock yards. Mr. Poppleton represented the Union Pacific Company.

Q. Did you give him the receipt as the representative of the Union Pacific Company?—A. Yes.

The CHAIRMAN. Judge Poppleton, have you got that receipt?

Mr. POPPLETON. If such a receipt was taken it would be filed with the papers or vouchers showing the money that was paid to Nicholas.

The CHAIRMAN. Please produce it to the Commission.

ITS LIENS AND LIABILITIES ASSUMED BY THE ROAD.

By Mr. POPPLETON:

Q. In this the company assumed all liens and liabilities against you?—A. I assumed all liens and liabilities.

Q. But they were paid out of this money?—A. Yes, of course.

By the CHAIRMAN:

Q. What was the character of the discrimination made against you by the company?

"FROZE OUT."

A. Well, I could not explain it in any other way than by saying that I was "froze out." That was all.

Q. What do you mean by "froze out"?—A. Well, by the combinations. I could not control the business because the general superintendent at that time seemed to be in with the cattle men, and encouraged them to go over the river, inasmuch as it was the company's interest to go over the river, as I said.

Q. How did he encourage them?—A. At this time I speak of, when he refused to send out cars for cattle, he furnished cars for cattle that went over the river.

Q. Where did they go then?—A. To Chicago.

Q. To whose yard did they go?—A. To Paxton, Swan & Co.

Q. Was there any other yard?—A. Not at this time.

NO DISCRIMINATION BY THE ROAD AS TO RATES.

Q. Were there any other differences, as to any rates furnished to shippers shipping to the Paxton Company, as against your company?—A. Not unless there were rebates given. That I know nothing about. There was really an advantage to the shipper on this side, because he saved the bridge toll of \$10, or \$6 on the through rate at that time.

REFUSAL TO FURNISH CARS.

Q. The discrimination, I understand, against you, and which drove you out of business, was the refusal of the Union Pacific Company to furnish you with cars; is that true?—A. For that lot of cattle. And then the agents along the line seemed to have instructions, or labored under the idea, that they must work for the Swan yards, the yards on the other side of the river.

Q. What agents?—A. I think there was one by the name of Sinclair at North Platte. He could explain.

Q. What is his first name?—A. I do not know.

Q. Where is he now?—A. I do not know.

Q. Were they the agents of the company?—A. They were the agents of the company.

A STOCK KING.

Q. Have you been in business since?—A. No, sir.

Q. Why not?—A. Well, I cannot explain that exactly, unless there has been a disposition to "freeze out." There seemed to have been a ring of some kind here—a stock ring.

Q. Who composed the stock ring?—A. Swan and Paxton.

"SILENT PARTNERS."

Q. Only two?—A. Who the silent partners were I could not say.

Q. How do you know there were silent partners?—A. Well, I do not know.

The CHAIRMAN. Well, you have said "silent partners." I want to know what you mean by that?

The WITNESS. They had other partners, I believe; because the superintendent of the road seemed to stand by them.

Q. Was J. A. Jennings interested in that Paxton Company?—A. I do not know. I am not acquainted with him. Spratly was interested on the other side of the river.

Q. What other cattle dealer was interested?—A. Those were the only heavy shippers at that time that I know of.

THE NEW COMPANY.

Q. Does the Paxton Stock-yard Company still control the cattle interest under the same conditions as they did when you went out of business?—A. Well, they organized a new company, I believe, on this side of the river. They came back.

Q. Who organized?—A. Paxton, Swan, and others.

Q. Any others?—A. The Union Company, this present company that is in existence out here. There is no other company in existence but the one.

Q. Do the same conditions exist to-day in relation to the shipment of cattle that existed when you went out of business?—A. I could not answer that question, because I have not investigated it. I am not interested in it, and I cannot answer.

THE NEW MANAGEMENT.

Q. Would the same discrimination to-day prevent you from going into the cattle business?—A. I do not believe it would—the shipping business.

Q. Why not?—A. Because I think there is a different management.

Q. How long has the different management existed?—A. Well, I think from the time that Mr. Callaway took charge of the road.

Q. When did he take charge?—A. I think over two years ago.

Q. Then, up to two years ago, the same conditions of discrimination continued as existed when you went out of business?—A. I believe they did. Favoritism, or whatever you may call it.

Q. How has that changed since then—under Mr. Gallaway's management?

The WITNESS. In what way do you mean "has it changed?"

The CHAIRMAN. In the way of discriminations?—A. That I could not say, because I am not in business, and I do not come in contact with other parties.

Q. Are there any other cattle dealers that have undertaken to build a stock-yard?—A. No.

Q. Does the Paxton company still have the monopoly of the stock-yard business?—A. They have the monopoly, yes, sir, at the present time. I believe that if any other strong company should organize there, would have a very full share of business.

THE SWAN LAND AND CATTLE COMPANY.

Q. Are you acquainted with the Swan Land and Cattle Company?—A. No, sir.

Q. Do you know anything about it?—A. No, sir.

Q. Did you ever hear of it?—A. Yes, sir; I know Mr. Swan. I believe he is president of the company. That is all.

Q. Where is the company located?—A. In Wyoming Territory.

Q. Have they any privileges in the stock-yard?—A. He is one of the large owners, or was before he got tired.

Q. When did he get "tired?"—A. I believe a few weeks ago.

Q. What made him "tired?"—A. He had too much of a load, I guess.

Q. A load of what?—A. Debt.

"WANTED THE WORLD."

Q. Was it the discrimination against him that prevented him from continuing business?—A. No; I think he wanted the world, and one little corner of the other country for a calf pasture, and he could not carry it.

Q. Then it was not the railway company's discrimination that crippled him?—A. No, I think not, as far as I know.

THE OGALALLA CATTLE COMPANY.

Q. The title of the Paxton company is the "Union Company;" it is not?—A. The title of the Paxton company, I believe, is the Ogalalla Cattle Company.

Q. What is the Union Cattle Company?—A. That I do not know.

Q. Did you ever hear of it?—A. I have heard of it, but I do not know who the officers are or who are connected with it.

Q. Where is it located?—A. I think in the western part of this State, or the eastern part of Wyoming; I am not positive.

IMPROVED FACILITIES TO CATTLE DEALERS UNDER NEW MANAGEMENT.

Q. What other changes have been made since Mr. Callaway took charge of the management that have improved the condition of cattle dealers?—A. This large land purchase, I believe, was prior to Mr. Callaway's time; that is, these South Omaha stock yards.

Q. What have been the changes in the conditions of the discrimination that you have spoken of under Mr. Callaway's management?—A. I believe his disposition is to deal fairly and justly with everybody.

Q. Has any one, under his management, attempted to build stock yards?—A. No, sir.

Q. During the last two years?—A. No, sir.

Q. Have you any other information or suggestion to give to the Commission?—A. I don't know that I have.

LOSSES BY THE OMAHA STOCK YARD COMPANY.

By Commissioner LITTLE :

Q. State the amount of your losses growing out of the stock-yard enterprise.—A. Well, I said that I received between 40 and 45 per cent. That would make 55 or 57 per cent of a loss.

Q. How much was the original investment?—A. It would amount, at that time that I turned the yards over, to about \$16,000. I had the land really under contract to purchase; but, of course, when I turned it over I surrendered that.

SUIT FOR DAMAGES AGAINST CLARK, SWAN, AND PAXTON.

Q. You never brought suit for damages growing out of this discrimination?—A. No, sir; that is, *not against the railway company.* I

brought suit against J. T. Clark, Swau, and Paxton. The amount of that suit was for \$50,000 damages.

Q. On what ground?—A. For the combination, or conspiracy, as I call it.

Q. What was the ground on which the suit was based?—A. I think it was that.

Q. What was the result of that suit?—A. I dismissed the suit.

Q. Did they pay you any consideration for dismissing it?—A. No, sir. Mr. Clark, when he left and went to Milwaukee, came to me and claimed that he had instructions to do what he did. I consented to let it go.

Q. Why did you not bring suit against the parties for this discrimination?—A. My understanding was that I was to have my yards back, and that I was to manage them.

CONSIDERATION FOR WITHDRAWING THE SUIT.

Q. How did you have that understanding?—A. Verbally.

Q. Who made that promise?—A. Mr. Kimball. When I turned the yard over to the company the understanding was that I was to run the yards.

Q. Did that form part of the consideration for your doing it?—A. Yes, sir. I wanted something to do. Then, when I found that I could not get the yards, I asked Mr. Kimball, "What shall I do? I have got to do something. Here I am, in debt. I must get to work."

Q. Would you have sold the yards for the consideration mentioned, but for that promise?—A. Well, there was a judgment standing over me and I could not help myself; I had to do it or else lose more valuable property.

Q. Do you know of any officer, stockholder, or agent of the Union Pacific Railway Company having an interest in these yards across the river in favor of which discriminations were made, as you allege?—A. I labored under the impression at the time that Clark was interested.

The CHAIRMAN. An "impression" is hardly evidence, Mr. Nicholas.

The WITNESS. I have no positive evidence, only in the affidavit that I have read. That man Flannigan is here and can be subpoenaed, if you wish.

Q. Have you any other complaints against this company, or do you know or desire to state any other matter or thing?—A. No; I may have, of course, personal matters that do not bear on this.

THE ROAD'S MANAGEMENT OF THE OMAHA STOCK YARD.

By the CHAIRMAN:

Q. What did the Union Pacific Company do with the yards when they got them?—A. The first year Mr. Kimball, I believe, put them in charge of a man by the name of C. R. Shaller, and I believe Shaller tried to get Paxton & Company to go in with him, or something of that sort, claiming that he had a lease. I believe he expended a little money. He stated to me that Paxton asked him to show his lease, and he could not produce any; so Paxton did not go in with him; but, however that was, Paxton had his name on the sign. "Shaller & Paxton," I believe, was as near as he got into the yards.

Q. How was Shaller paid?—A. I suppose out of the earnings of the yards. The next year, I believe, Swan used the yards.

Q. What are the charges?—A. Twenty per cent. for weighing cattle; \$1 per 100 pounds for hay, and 8 cents a head for hogs, and the same for sheep; so much for unloading and so much for loading the cars; and if it was necessary to put the cars into shape for shipping, so much for getting them into shape.

Q. Did Paxton & Shaller lease the yards from the Union Pacific Railway Company?—A. Mr. Paxton discovered that Shaller had no lease, and refused to go in with him, as it was stated to me.

Q. What other advantages had Paxton & Shaller in the possession of the yards over the possession of a yard by any other private individual?—A. Well, there was no other yard here.

The CHAIRMAN. Suppose a private individual should build alongside?

The WITNESS. Well, Paxton claimed to be an influential man, and so he would get special favors, possibly.

ADVANTAGES OF ITS LOCATION.

Q. Were there side tracks put in?—A. I put those in. I built those, so that it was very convenient. I had a platform that will accommodate 15 cars, loading and unloading.

Q. What advantage would the lease made by you from the Union Pacific have been over other stock yards?—A. My recollection is that there was embodied in the lease a contract to purchase at a certain rate per acre, or the same rate that the company paid at the time they bought, and that if I had been able to hold on to it and procure the land—the land is very valuable to-day—

Q. What advantage would the lease have been to you, as a cattle shipper or dealer or stock-yard keeper, over other individuals engaged in the business with the possession of this lease?—A. It was a desirable location.

DISADVANTAGES OF OTHER STOCK YARDS.

Q. Was there not room for other stock-yards in the same locality?—A. There were others built right on the north side.

Q. Would they have the same advantages?—A. They did not have the locality, because the way they were situated without a great deal of expense they could not have built a track or switch connecting with the main line; so that a train load of cattle coming from the West would require two locomotives to shove them up a grade back into the other yards. In my yards the way I had the trackage I had connected the upper end of the yard with the main line. When an engineer would come in from the West with a train loaded with cattle he would open up the yard, go down, place the train, detach his locomotive, go down to the yard with his caboose, and by the time the switch-engine would get up there our cattle would be in the yard, feeding, and so save delay, whereas the other way the company would have to keep two locomotives in the other yard. No other place around there had the same facilities, on account of its location.

REBATE ON EASTERN SHIPMENTS OF CATTLE.

Q. What was the advantage of this provision in the lease [reading]:

It is further covenanted and agreed that upon all stock whose destination is Omaha the same tariff for transportation will be charged as to Council Bluffs; but in case the same stock should be reshipped to Chicago, Saint Louis, or other points east of Council Bluffs no further charge will be made for transportation over the bridge and to the eastern terminus, or elsewhere.

A. As I remember it, our contract recognized the terminus of the Union Pacific Railway Company on the other side. If a sale took place on this side of the river we had to charge the rates through, as though it was through to the Bluffs; but, however, that was regulated afterwards, and the bridge toll was knocked off in case the cattle were sold on this side of the river. But if reshipped it was added on to the rate going on east.

Q. Would you have had the same advantages as a private dealer, without this lease?—A. I presume I should.

INABILITY OF OMAHA STOCK YARD COMPANY TO PAY RENT.

Q. Did you pay your rent?—A. I paid a portion of it.

Q. And your taxes?—A. No, sir.

Q. What was the objection to the payment of the rent?—A. I was not able to pay. I got in there and got my money tied up, and could not control the business, owing to the combination, as I said before, made over the river and other yards.

Q. Was the rent demanded?—A. No, sir; not to my recollection.

The CHAIRMAN (to Mr. Mink). Will you give us a copy of this lease and papers?

Mr. MINK. Yes, sir.

The papers are as follows:

LEASE BETWEEN UNION PACIFIC RAILROAD COMPANY AND OMAHA STOCK YARDS COMPANY.

This lease, made this thirtieth day of April, A. D. 1878, by and between the Union Pacific Railroad Company, a corporation created and organized under the laws of the United States, lessor, and the Omaha Stock Yards Company, a corporation organized and existing under the laws of the State of Nebraska (articles of incorporation adopted and acknowledged April 27, 1878, and recorded on the same day), lessee,

Witnesseth, that said lessor, in consideration of the rents, covenants, and agreements hereinafter contained, to be paid, kept, and performed by the said lessee, hath demised, leased, and let, and by these presents doth demise, lease, and let unto the said lessee (the following-described tract of land situated in the county of Douglas and State of Nebraska, to wit: commencing at a point 104 feet south of the northeast corner of the southeast quarter of section 28, township 15 north, range 13 east, in Douglas County, Nebraska, thence south along the east line of said section 28, 1,216 feet to the southeast corner of the northeast quarter of the southeast quarter of said section 28, thence west along the south line of said northeast quarter of the southeast quarter 687 feet to an intersection with a point on the said line at right angles to and 50 feet distant from the center line of railroad track; thence northeast along the southeast side of the railroad track, keeping 50 feet distant from center line of same, to place of beginning; containing 11½ acres more or less) for the term of five years from the date hereof, with the right and privilege to purchase the said leased premises, at the expiration of said lease, at the original cost thereof to said lessor, when purchased of the Hazard Powder Company; the election of said lessee to so purchase to be made and notice thereof to be given lessor at least sixty days before the expiration of this lease.

To have and to hold the same until the said lessee and its successors for the term aforesaid. And the said lessee in consideration of the leasing aforesaid, doth hereby agree to pay as rent for said premises the sum of \$300, payable quarterly in advance on the first days of January, April, July, and October of each year, and all taxes or assessments levied or falling due during the continuance of this lease, whether national, State, county, school, municipal, general or special.

It is further covenanted and agreed that said demised premises are to be occupied and used by said lessee for the purpose of building and maintaining thereon cattle and stock yards and transacting the business authorized by its articles of incorporation, and that it will, before the fifteenth day of July, 1878, expend in grading and preparing said premises and building thereon the necessary fixtures erections and structures for the transaction of said business not less than five thousand dollars.

It is further covenanted and agreed that the said lessee shall do all grading necessary to be done for the laying of tracks in said stock yards, and that said lessor will

furnish and lay ties, iron, and fixtures necessary to complete said tracks and maintain and use the same for the transaction of the business of said stock yards.

It is further covenanted and agreed by said lessor that all stock in transit over the road of said lessor shall be by said lessor stopped for unloading at said stock yards whenever consigned thereto, or when so directed or ordered by the shipper, consignee, or owner having authority to control the same in that respect.

It is further covenanted and agreed that upon all stock, whose destination is Omaha, the same tariff for transportation will be charged as to Council Bluffs, but in case the same stock shall be reshipped to Chicago, Saint Louis, or other points east of Council Bluffs, no further charge shall be made for transportation over the bridge and to the eastern terminus of the lessor.

It is further covenanted and agreed that said lessee shall not maintain, permit, allow, in any way or manner, any nuisance whatever on said premises, or use or permit the same, or any part thereof, to be used, for any purpose, or in any way, in violation of any law of the State of Nebraska, or the United States, or ordinance of the city of Omaha; and that it will not sublet said premises or any part thereof without the consent in writing of said lessor hereon indorsed.

And the said lessee further agrees that at the expiration of the said term above granted, or at any earlier termination of this lease, in case it should be sooner terminated, it will quietly and peaceably yield up possession of said premises unto the said lessor in as good condition as the same were when entered upon, ordinary wear or damage by fire excepted.

And it is further expressly agreed and understood by and between the parties hereto, that in case the rent above reserved or any part thereof be not paid at the time the same becomes due and payable, or if any other condition or agreement herein contained, on the part or behalf of said lessee, be not by it fully complied with and performed, then and in that case the said lessor shall have the right, at its option, to declare this lease at an end, and thereby cancel and annul the same, and to retake immediate possession of said premises, and to put out and remove any person or persons occupying the same.

Witness the signatures of the general superintendent, of the lessor and lessee hereto affixed by authority of the board of directors of the respective corporations, this 1st day of May, 1878.

UNION PACIFIC R. R. Co.,
By S. H. H. CLARK,
General Superintendent.
OMAHA STOCK-YARD Co.,
By A. P. NICHOLAS,
Managing Superintendent.

In presence of—
M. H. GOBLE.

STATE OF NEBRASKA, County of Douglas, ss :

On this 7th day of June, A. D. 1878, before me, a notary public in and for the above-named county and State, personally appeared S. H. H. Clark, general superintendent of the Union Pacific Railroad Company, and A. P. Nicholas, managing superintendent of the Omaha Stock-Yard Company, whom I know to be the identical persons whose names are signed to the foregoing lease, and they thereupon severally acknowledged the execution of the same to be their voluntary act and deed and the voluntary act and deed of their respective companies for the uses and purposes therein set forth.

Witness my hand and notarial seal the day and year above written.

[SEAL.]

THOMAS S. McMURRAY,
Notary Public.

This lease having been forfeited by non-payment of rents and taxes therein stipulated to be paid on the part of the lessee, and the lessor having by reason of such forfeiture entered and taken possession of the demised premises, I, A. P. Nicholas, for myself individually and as managing superintendent of the Omaha Stock-Yard Company, and on behalf of said company, hereby surrender said lease to said lessor and cancel and annul the same.

Witness my hand this 16th day of April, 1881.

A. P. NICHOLAS,
Omaha Stock-Yards Company.
By A. P. NICHOLAS,
Managing Superintendent.

CHICAGO LUMBER COMPANY,
Omaha, April 4, 1881

We will take the sum of \$500 as settlement of our claim on the Omaha stock yard if said \$500 is paid inside of five days from this date. This proposition

the purpose of obtaining a settlement only and not an admission that the sum of \$500¹ is all that is due Chicago Lumber Company, and A. P. Nicholas, signing this paper, admits that the claim of Chicago Lumber Company, now in court, is a just claim for amount claimed.

CHICAGO LUMBER Co.,
F. COLPETZER.
A. P. NICHOLAS.

Witness:
C. H. GUION.

In consideration of the sum of \$500, the receipt of which is hereby acknowledged, the Chicago Lumber Company, doing business in the city of Omaha, doth hereby sell, assign, and transfer to the Union Pacific Railway Company a certain book account for lumber and timber furnished, against the Omaha Stock-Yards Company and A. P. Nicholas. Said account being of the face amount of \$1,139, being now in suit in the district court of Douglas County, and being the only claim or demand of the said Chicago Lumber Company against the Stock-Yards Company and the said A. P. Nicholas.

Witness the signature of the said Chicago Lumber Company this 5th day of April, 1881.

CHICAGO LUMBER COMPANY,
By F. COLPETZER,
Manager Omaha Yard.

[Foster & Gray.]

OMAHA, April 4, 1881.

A. P. NICHOLAS: Will take \$100 for my claim against you, providing you pay same within five days.

Secured by lien against Stock Yard.

WM. M. FOSTER.

In consideration of \$100 to me paid, the receipt of which is hereby acknowledged, I, Wm. M. Foster, hereby sell and assign to the Union Pacific Railway Company a certain account against the Omaha Stock Yards Company and A. P. Nicholas, and which is claimed to be lien on the stock yards of said company and of the face amount of about \$139, said claim being now in litigation in the district court of Douglas County, and being the only claim I have against the stock yards company and said Nicholas.

Witness my hand this 5th day of April, 1881.

WM. FOSTER.

A. P. NICHOLAS, Esq.: I will take \$50 for my claim against you, providing you pay the same within five days, said claim secured by lien against Omaha Stock Yards Company.

A. W. PHELPS.
A. W. FERGUSON.
His Attorney of Record.

APRIL 5, 1881.

In consideration of the sum of \$50 to me paid, the receipt of which is hereby acknowledged, I hereby assign and transfer to the Union Pacific Railway Company the claim and account above referred to, and authorize it to enforce and collect the same.

A. W. PHELPS.
By A. W. FERGUSON.
His Attorney of Record.

OMAHA, April 5, 1881.

For a good and valuable consideration to me paid, the receipt of which is hereby acknowledged, from the Union Pacific Railroad Company, I, A. P. Nicholas, of Omaha, Nebr., hereby remise, release, and forever discharge the said company of and

on all manner of actions, causes of actions, suits, debts, and sums of money, dues, claims, and demands whatever in law and equity, which I ever had or now have against said company, whether arising upon contract or tort, to the present day. And for a like consideration the Omaha Stock Yard Company, by said Nicholas, its managing superintendent and agent, hereby makes a like release and discharge of said railway company.

Signed this 16th day of April, 1881.

A. P. NICHOLAS,
Omaha Stock Yard Company,
By A. P. NICHOLAS,
Managing Superintendent.

(This conveys the yards, wind mill, fences, and improvements of stock yards.)

OMAHA, NEBR., April 16, 1887.

The Union Pacific Railway Company to A. P. Nicholas, of Omaha, Nebr., Dr.

April 16. For account and amount as per original bills, duly approved, filed in auditor's office:

For amount paid on his account and paid him as follows: For surrender of lease of Omaha Stock Yard Company and sale and delivery of its yards and property to the Union Pacific Railway Company, and its receipt and his individual receipt in full of all demands, as per annexed receipt No. 1 and lease surrender and receipt No. 2, indorsed on lease	\$6,500 00
For amount paid claim of Chicago Lumber Company, receipt No. 3..	500 00
For amount paid claim of Wm. M. Foster, claim No. 4.....	100 00
For amount paid claim of A. W. Phelps, claim No. 5	50 00
	<hr/> 7,150 00

Approved:

THOS. L. KIMBALL,
General Manager.

Received ———, — 188—, from the Union Pacific Railway Company \$7,150, in full payment of above account.
Receipts attached.

[Copies of receipts.]

\$6,500.]

OMAHA, April 16, 1881.

Received of F. D. Brown, cashier Union Pacific Railway Company, \$6,500.

A. P. NICHOLAS,
Order T. L. K.

\$650.]

OMAHA, April 5, 1881.

Received of F. D. Brown, cashier Union Pacific Railway Company, \$650, for to be accounted for.

A. P. NICHOLAS.

Commissioner LITTLER. Judge Poppleton, do you want to examine Mr. Nicholas?

Mr. POPPLETON. No, I think not; it is one of that sort of subjects that I think no light can be thrown on unless a man has lived with it from the commencement, as I have done.

The WITNESS. That is so.

SURRENDER OF LEASE.

The CHAIRMAN. Here is an indorsement on the lease:

This lease having been forfeited by non-payment of rent and taxes thereon, and the lessor having, by reason of non-payment, entered and taken possession of the demised premises, I, A.

for myself individually and as managing superintendent of the Omaha Stock Yard Company, and on behalf of said company, hereby surrender said lease to said lessor, and cancel and annul the same.

Witness my hand this 16th day of April, 1881.

A. P. NICHOLAS,
Omaha Stock Yard Company.
By A. P. NICHOLAS,
Managing Superintendent.

Q. Is that your signature?—A. Yes, sir.

Q. Well, the failure to pay rent and taxes was the "freezing out, was it not, more than the discrimination?—A. No, sir.

WHAT CAUSED THE SURRENDER.

Q. Then how do you explain such an indorsement as that?—A. Of course, in signing, as I say, there was a judgment of foreclosure against me on my property in the North, and they drew up that to suit themselves. That was all. What I was to have was enough money to cancel the mortgages. It was pressure; I could not help myself; it was "Hobson's choice." Either that, or lose my property, and lose that too. The fact of the business was that I did not have money enough to push the enterprise. That was the secret of it. Mr. Kuntz, Ezra Miller, and Frank Murphy were urged to go in, and I believe afterwards would have gone in; but, of course, it was too late.

DISCRIMINATION AND LACK OF MONEY.

Q. Was it the lack of money and not the discrimination that compelled you to go out of the business?—A. No; it was the discrimination. Well, it was in part the lack of money. If I had had a fair chance I could have held on until to day—if I had had sufficient money. The discrimination took the business away from me, as I have stated.

By Commissioner LITTLER:

Q. You mean to say that if you had had plenty of money you could have overcome the discrimination?—A. Yes, sir; I could have overcome the discrimination, if I had had money enough back of me; ~~as~~ eventually it was that struggle that forced the yards over on this side of the river.

UNSAFE ON THE OTHER SIDE OF THE MISSOURI.

As I claimed in the first place, I thought it was unsafe to go on the other side of the river, because, as I believed, the Missouri River had a mortgage on that bottom. The whole bottom over there was about 4 feet under water, and their yards (a portion of them) went down into the Gulf of Mexico.

Q. Then the Commission is to understand that it was the unjust discrimination on the part of the Union Pacific Company against you that forced you out of the cattle-yard business?—A. That, and my lack of means, as I stated. If I had had sufficient means I could have overcome anything that would have discriminated against me.

Q. If you had not been discriminated against you would have had means to go ahead?—A. Yes. With the means I had I could have gone ahead if I had not been discriminated against.

SELLING AND FEEDING CATTLE.

By Mr. POPPLETON:

Q. What did your business in these stock yards consist of?—A. It consisted of the feeding of cattle which were in transit to Chicago, and

the selling of cattle from the owner of the cattle to feeders—farmers and other parties.

Q. What proportion of the cattle which were shipped from this State to the Western Territories eastward over the line of the Union Pacific stopped here in Omaha and were sold and disposed of? I am asking you as to the fact.—A. A very small percentage at that time; the percentage I could not say.

Q. Do you think 10 per cent. were sold?—A. No; I do not believe the first year that there was 10 per cent.; the second year there was more.

Q. Then the great bulk of your business was simply receiving and feeding and reshipping stock?—A. That was what it was, excepting where we made a great effort to get "feeders" to distribute among farmers. Those were sold.

THE YARD ON THE IOWA SIDE.

Q. At the same time, on the opposite or the Iowa side of the river there were stock yards at the terminus of the road, were there not?—A. The first year there were two yards on this side and a little yard on the other side of the river; three or four pens; a mud-hole, you might say.

Q. Which afterwards became large and commodious yards?—A. Well, we did not get my yards completed until late in the fall, and the company had been stopping most of the cattle on this side, but after I gave notice to the company most of the cattle went over to the other side of the river.

DESTINATION OF CATTLE CONTROLLED BY THE ROAD.

Q. What controlled the destination of the cattle, the railway company or the consignors?—A. The railway company controlled it. That was my understanding at the time.

Q. Do you know that?—A. That is the way I understood it.

Q. I ask, do you know it? Had the railway company any power, or did it, as matter of fact, carry any train of cars to Council Bluffs that was consigned to Omaha, for feeding?—A. Yes, sir.

Q. In what instances?—A. I can give you an instance.

Q. How many instances?—A. I can give a number of instances.

Commissioner LITTLER. Give one.

The WITNESS. I can give an instance where cattle were billed to Omaha, and billed to the Omaha yards, and not put in the Omaha yards.

BULK OF THE TRADE TO THE EAST.

Q. But I speak of cattle coming east. The great bulk of the cattle business was in the moving to the east, was it not?—A. Yes.

Mr. POPPLETON. You have spoken of J. T. Clark, the general superintendent, as the man who discriminated against you, as one of the men?

The WITNESS. He was in this party.

DELIVERY OF CATTLE ON THE COUNCIL BLUFFS SIDE OF THE RIVER

Q. That is your idea. Now, do you not know it to be a fact that since he was connected with this road Mr. Clark insisted openly and publicly to everybody, everywhere, that the true policy of the Union Pacific Company was to deliver cattle on the other side of the river, at the end

of its road, when they were once on its rails—to get rid of them; and that he applied that rule to everybody as well as he applied it to you, as far as he could?—A. Yes, excepting when there were “feeders” billed to Omaha here, and “feeders” for that side, they were not shipped to the other side.

Mr. POPPLETON. But I am speaking of where cattle were going through, which was 90 per cent. of the cattle business.

The WITNESS. Yes.

Q. There was not any secret as to his views on that subject, was there?—A. No secret of his. I suppose he had his instructions.

Q. Is it not true that from the time you got into the cattle business until the time you got out of it you were perpetually pinched for money with which to conduct it?—A. Not at the time I went into it.

Q. I am speaking of the time that you opened your yards and commenced to do business. Is it not true that you were constantly harassed for means and for money with which to do the business?—A. Yes; I lacked the means. I will say that.

SHIPPING CATTLE CONTRARY TO ORDERS OF OWNER.

There is one case I will mention, a shipment of cattle that Mr. Spearman bought in Sarpy County, five cars of cattle that were at Council Bluffs yards, for feeding. Mr. Spearman says [witness reads from a paper]: “I ordered them shipped to the Omaha stock-yards. They were loaded at Council Bluffs before I left the yard, between 3 and 4 p. m. on Saturday last (that is, October 24, 1880), for shipment to Omaha. The stock-yard company paid \$5 per car of \$10 per car charged by the Union Pacific Company, for shoving back to the Omaha stock-yards. I came over to the Omaha yards expecting to find the cattle there, but did not find them; but feeling sure they would come, according to directions, I ordered hay put out in the yard, which was done. I [Spearman] then went back to find where the stock was, and found them unloading in the bridge yards below.”

The reason Spearman wanted them in the Omaha yards was that he lived there and wanted to drive them down.

By the CHAIRMAN :

Q. Have you any other papers or memoranda that you want to furnish the Commission?—A. No; I have not any others. There are others that I could not put my hand on. There are many other instances of that kind. Those were facts.

OMAHA, NEBR., *Wednesday, June 22, 1887.*

THOMAS L. KIMBALL, being further examined, testified as follows:

By the CHAIRMAN :

Question. During what time were you assistant general manager?—Answer. I was assistant general manager from the fall of 1880 to the fall of 1884.

Q. And what after that?—A. After that I was general traffic manager.

REBATES.

Q. As assistant general manager did you make rates for rebates for freight shipped over the Union Pacific Railway?—A. During that pe-

road rebates were authorized and made, generally by the general freight department, subject to my authority and to consultation with me or the general manager.

Q. Were the rates fixed by you?—A. They were fixed generally by the general freight agent, Mr. Vining.

Q. Were the rates returned by him, as the freight agent, to you?—A. Not necessarily; not unless he thought it necessary to confer with me about making the arrangement.

Q. What supervision had you over the rebates allowed during that time?—A. I was the direct superior officer to the head of that department in the absence of the general manager, and the general freight agent, when he had any doubt about the propriety or necessity for making some arrangements that he regarded important, conferred with me.

Q. Was he under your instructions as to the rate allowed upon rebate?—A. In the absence of the general manager he would be.

HOW FIXED.

Q. Upon what principle did you fix the percentage of rebate allowed along the line of the road?—A. Generally rebates were fixed by our competitors on business to and from competing points or competing territory.

Q. Was that the basis upon which all rebate allowances were made?—A. No; not from local territory.

BASIS OF RATES FROM LOCAL TERRITORY.

Q. Upon what basis did you make the rate from local territory?—A. In cases of the shipment of ore we would rebate from our regular open tariff, in some instances, because the ore was of a grade that could not bear the full tariff; it could not be moved at that. In other instances, where smelters that shipped their product over the Union Pacific road wanted dry ores for mixing with their lead ore, or when smelters wanted lead ores that would combine with other ores from our line or from other roads, and they would promise us the shipment of their product, we would frequently give them reductions in their rates from the regular tariff as a consideration for the shipment of the bullion product by our line.

Q. You speak of ores with reference to your local system of rebates?—A. With respect to local and through, both. That consideration would apply in both cases. But, generally, when rebates were paid from points of competition, it was because a rebate corresponding to the amount paid was being paid by our competitors.

REBATE RATES PRIVATE.

Q. Did you have an open and a private rebate rate?—A. All our rebate rates were usually considered private and treated as private.

Q. Why were they treated as private?—A. For the reason, in many instances, that if the net rate produced by a rebate was openly published and generally known, localities shipping corresponding distances, where there was no necessity for a rebate, might claim, on that knowledge, a corresponding reduction.

Q. Did you determine the necessities of the localities as to rebate?—A. Yes, we aimed to.

NECESSITY OF REBATES: HOW DETERMINED.

Q. Upon what basis did you measure the necessity of a locality as to rebate rates?—A. If a camp shipping ore to a given point ships a high-grade ore that will bear a high rate, or the regular open tariff, that camp does not get a reduction, generally; there is no necessity for it. The shipper of ore, the miner and the smelter, are doing as well as the railroad company, generally, on the rates we have given to mining districts, and as a rule they pay our tariff, our open rates. Another locality, or that same locality, may have a grade of ore that cannot be utilized on the tariff. There may not be lead enough, or gold or silver enough, in the ore to pay the same cost of transportation that the higher-grade ore bears. We would reduce the rate for that. But if we published that rate, the man who was paying the higher rate, even for a better class of ore, would declare he was discriminated against. That is one of the principles forming the basis of rebate rates.

Q. Does the explanation of the principle you have given as applying to rebates apply to all classes of goods and shipments on which rebates have been given by the company?—A. The explanation in respect to rebates paid by competitors would apply in all cases. The explanation, generally, in the other case, where the ore is of different specific value and cannot bear the same rates, would apply to pretty much all the localities.

VARIATION OF REBATES.

Q. What were your rebate rates during your term as assistant general manager?—A. They would vary according to circumstances.

Q. What circumstances?—A. Well, during that period, or a portion of it, the open traff on bullion, for example, from Colorado common points to the Missouri River was fixed at \$10. We found our competitors were all paying a rebate on bullion shipments, and our shipments declined; we lost, almost entirely, the product of the city of Leadville, a large mining and smelting camp. On investigation, we discovered that at least \$3 a ton was being paid as a rebate from the open rate of \$10; and after we became fully satisfied that that was the case we gave the same rebate.

REBATES VARYING WITH CONDITIONS.

Q. How often did your rebate rates vary during the year?—A. I could hardly give you a definite answer to that question. They would vary as often as circumstances varied. If a competitor raised his rebate a dollar we followed him, whether he did it once a week or once a year.

Q. Does that apply all along the main line and branches of the Union Pacific?

The WITNESS. Upon the local tariff?

The CHAIRMAN. Yes.

The WITNESS. No, that would not apply.

REBATES IN LOCAL TERRITORY WHERE THERE IS NO COMPETITION.

Q. How did you apply the rebate principle to the local territory along the main line and branches where there was no competition?—A. Our basis of rebates in such cases would depend on the price at which a smelter could purchase a particular body of ore or the product of a

particular mine. If that ore could be purchased and shipped to a smelting point over our road at a given figure, and we found our open tariff as too high to move it, we might change our rebate to meet that occasion. We might change our open rate by a rebate.

REBATES TO INDIVIDUAL SHIPPERS.

Q. Were there rebate rates allowed to individual shippers along the main lines?—**A.** I do not recall any instance where a rebate upon ore or bullion was ever paid to a private individual not engaged in that business as a smelter or a dealer in ore, or a sampler.

Q. Were any preferences given by rebate rates to any citizen or company in any town or city along the line of the Union Pacific Railway or the branch lines?—**A.** Yes, there were.

RATES ON SHIPMENTS OF ORE TO DENVER.

Q. How did you determine that preference?—**A.** In one instance we gave a lower net rate to a smelter in Denver than we gave to smelters in Pueblo, for the reason that the smelting company to which we gave the rebate or the lower rate was under an arrangement with the Union Pacific Company to ship its entire bullion product over the Union Pacific road from Denver to the Missouri River. The company that was competing for that ore in the Wood River country shipped its product over the Atchison, Topeka and Santa Fé road. If we had let the ore go to Pueblo, or the Pueblo works, at the same rate that he brought it to the Denver works we should have lost the shipment from Pueblo to the Missouri River; or, if we had not lost it, and had taken it, we should have realized upon every 2 tons of ore so shipped a loss of upwards of \$5 over the earnings the Union Pacific Company could make, and did make, by sending the ore to Denver.

RATES TO GRAIN SHIPPERS.

Q. Does that explanation apply to the shippers of wheat and corn?

The WITNESS. Shippers of wheat and corn in the State of Nebraska, do you mean?

The CHAIRMAN. Anywhere along the system.

A. The rates allowed to shippers of grain in the Union Pacific territory have generally been controlled by competition, and the allowances, by rebate, on grain shipments have largely been controlled by the competitors in the grain business of the Union Pacific.

Q. How was it where there was no competition?—**A.** Well, there is not much territory that you can apply that rule to in our grain country.

Q. Do you exclude the local grain?—**A.** The grain business is controlled—the power to purchase grain is controlled—by the rates of transportation, and the market, on a given day. I mean the rates of transportation to market, and the prices paid at the point of destination—Chicago, Toledo, New York, &c.

Q. Does that apply to all dealers in grain and corn upon the lines in the system of the Union Pacific Railway Company?—**A.** No, not to all; but it applies, directly and indirectly, to nearly all.

OMAHA AND COUNCIL BLUFFS ELEVATORS.

Q. What are the exceptions?—**A.** The elevators at Omaha and Council Bluffs are allowed by the Union Pacific Company one cent,

charge or a terminal allowance for transfer by and through their elevators. That is an allowance not made to other elevators in the State.

THE OMAHA ELEVATOR.

Q. How many elevators are there in Omaha?—A. There is one elevator company in Omaha that controls all that trade.

Q. Who controls the elevator business in Omaha?—A. Himebaugh, Merriam & Co. control that business here.

Q. Who compose the company?—A. I do not know.

Q. With whom do you deal in fixing your rates, from time to time they vary?—A. Generally Mr. Himebaugh; sometimes Mr. Merrill and employes of the elevator company.

Q. Are any of the officers or employes of the Union Pacific Railroad Company in the elevator company?—A. Not that I am aware of, I think not. I think it would be safe to say that they are not.

Q. What other elevators are there in Nebraska?—A. I think there may be a hundred steam elevators on the line of the Union Pacific road, scattered through the State.

Q. Are the same rates allowed to the other 99 elevators as you allow to the Omaha elevator?—A. No, sir.

AN ALLOWANCE IN ITS FAVOR.

Q. What is the difference in the rates?—A. We allow this terminal charge to the Omaha and Council Bluffs elevator companies as compensation for a service that they perform for our company—for the use of their storage plant. The Union Pacific Company is itself a stockholder in the building, in both cases—in Omaha and in Council Bluffs. Our object in taking an interest in and promoting the building of these elevators here and in Council Bluffs was to enable our company to charge train loads of grain here and send our equipment right back more. We found that if we allowed our grain equipment to go east to Chicago, Toledo, New York, and elsewhere, the cars were so far away that we were crippled when the demand was active and the farmer wanted to sell. We had not equipment enough to move their cars. So it became an absolute necessity for us to promote a system of storage here, so that when shipments come in, either to the Council Bluffs or Omaha elevator, they are immediately discharged, and the equipment can go back for another load.

Q. What is the difference in the rates allowed to the Omaha and Council Bluffs elevators and the other elevators in Nebraska?—A. The other elevators are not allowed anything on that account.

AN ADDITIONAL REBATE TO OMAHA ELEVATOR.

Now, in addition to that, there has been paid a rebate amounting 2 cents and upwards (sometimes a good deal more than 2 cents) to the elevator companies here, and through them to the smaller elevators through the State, to the local buyers; and through the local buyers directly the advantage of that rebate goes to the producer of the corn or the grain. That allowance on the part of the Union Pacific Company and its Eastern connections is controlled by the allowance made by the Chicago and Northwestern Company and its Nebraska branches on the other hand, and the Chicago, Burlington and Quincy and its Nebraska system on the other hand. Those lines approach

nearly to our grain territory, and in a great many instances actually cross our lines and intersect them. The other roads have been in the practice of paying directly to the elevators, or the elevator men throughout the State, an allowance of, I think, 2 cents a hundred. The interior grain men and the producers are protected to the same extent through the elevator companies, to which we pay these rebates at Omaha and Council Bluffs. Sometimes these rebates will go as high as 4 to 8 cents a hundred pounds, and sometimes higher than that when there is a fight or contest for the control of grain shipments. But you understand that that rebate is not retained by the elevator company that gets it.

IT GOES TO THE SELLER OF GRAIN.

Q. Who receives it?—A. It goes to the seller of the grain.

Q. How do you know that the seller gets it?—A. Well, we know it by the prices that are paid. We are daily advised of the prices obtaining at all points on our lines.

LENGTH OF EXISTENCE OF REBATE SYSTEM TO OMAHA ELEVATOR.

Q. How long has this rebate system to the Omaha Elevator Company continued?

The WITNESS. How long has it been paid?

The CHAIRMAN. How long has it been continued?

The WITNESS. It has been paid for quite a number of years.

Q. During your term as assistant general manager and as general traffic manager?—A. During a portion of my term as assistant general manager I think a rebate was paid, and subsequently during my term as general traffic manager. .

ITS COMMENCEMENT.

Q. When did it commence; during your term as assistant general manager?—A. I do not recollect. If you wish to be definite I will look it up and give you the date.

Q. I wish you would. Does the rebate system to the elevator company continue at present?—A. No.

ITS TERMINATION.

Q. When did it cease?—A. It ceased on the 1st or 5th of April, I think; at the time that the inter-State law took effect.

Q. What has been the effect of the cessation of this rebate allowance upon the Omaha Elevator Company, as compared with the other elevators in the State?—A. I can only answer that they have complained they were not controlling the amount of business that they formerly did; and that the grain buyers for competing routes—routes competing with the Union Pacific—were getting a larger percentage of the business than the Union Pacific was getting.

Q. Was that control lost by reason of the rebate system stopping?—A. I think that, combined with the reductions in rates to Southwestern points, had a good deal of effect upon the control, or the losing of the control, of considerable of that business by our company.

Q. Is it a correct conclusion, then, that the rebate system allowed by the Union Pacific Company to the Omaha Company enabled them to control the grain business here at this terminal point up to April 1?—

A. I do not dare to express myself on that point, upon the complaint of the elevator companies here. I have not looked into the matter thoroughly enough to have formed a clear and satisfactory judgment of the situation.

OTHER OUTLETS FOR GRAIN.

Q. If their complaint is true, that would be a correct conclusion, would it not?—A. Well, it may be the fact that the grain buyers upon other routes than the Union Pacific have secured outlets for the shipment of grain at less rates than the grain men on the Union Pacific have been able to do since the 5th of April; and, if so, they can pay a higher price to the producer of grain than the buyers and shippers on the Union Pacific. That would control the market, the shipment of the grain would be made over those routes.

SHIPMENTS OF CATTLE.

Q. Would the same principle of rebates apply to shipments of cattle along the line of the Union Pacific Railway?—A. That would be governed by the same considerations as I mentioned in respect to any other competitive business, in many instances. If the shipper of cattle should come to us with an assurance and could prove that he could get a rebate upon a shipment of cattle by driving them to another road, we should meet that proposition by paying a rebate. If a shipper of cattle came to us and proposed to build a feeding plant on the line of our road, investing in permanent improvement anywhere from twenty to thirty or forty thousand dollars, and to become a permanent local patron of our line, and, as a part of that arrangement, should give me the assurance that he would drive cattle from the territory of another road if I would give him some special concession, making it a part of the arrangement by which the Union Pacific was to secure an important and permanent contributor to its revenues, I should make such an arrangement.

THE SMALL SHIPPERS.

Q. What would be the effect of such an arrangement upon the small shipper along the line of the road?—A. I do not know that it would hurt him any.

Q. Could he ship in competition with the other man?—A. A small shipper would not drive from the line of another road to ours, without a consideration. If he should come to us, and propose to give us his business with the conditions suggested, we would take care of him on the same basis.

NO RECENT CASE OF PREFERENCES TO SHIPPERS.

Q. Have you had any complaints made with reference to allowances made by the Union Pacific in the shape of a preference to one cattle shipper as against others?—A. I do not remember any recent case of that kind. There may have been, in the past.

Q. Well, have you had such complaints at any time during your management?—A. I do not recall any case.

Q. Would the complaint be made to you?—A. It would ultimately reach me. It might be made first to the assistant general freight agent, or to the general freight agent; but such a thing would reach me finally.

THE EVENERS' ASSOCIATION.

Q. Is there such an association (I ask you for information) as the eveners' association?—A. No; we have nothing of the kind here, that I know of.

Q. Have you ever heard the term before?—A. I have heard it in respect to Eastern cities, in connection with cattle shipments.

Q. What have you heard about it?—A. All I know about it is that it is just what the name implies.

WHAT IT ACCOMPLISHES.

Q. Well, what is that? For I do not know.—A. I am hardly competent to define the arrangements of a concern that I do not, personally, know anything about. I can give you my understanding of what an eveners' association would mean. That would imply to my mind, that there was an understanding between two or more roads that, while they would not pool their business, they would quietly divert business one to the other, until each line got about its share of the business that it would be entitled to if they had a pool.

HOW APPLIED TO CATTLE SHIPPERS.

Q. How do you apply that explanation to cattle dealers or cattle shippers?—A. That would apply to any business.

Q. How do you apply it to cattle shippers; I never heard of it in connection with anything else, in the East, except cattle shippers.

The WITNESS. Do I understand you to ask, how do we apply it? We have nothing of the kind.

The CHAIRMAN. How do you apply to cattle shippers the principle of the pooling of traffic between two roads, under the explanation you have given of the principle of the eveners' association? In other words, how would you divide cattle traffic?

THE SHIPPER'S CONSENT ORDINARILY OBTAINED.

A. Well, we would get the consent of the shipper, ordinarily. A man whose preference is to ship by one line, comes to that line to ship his stock. That line may be "over" in its shipments, and another road "short." With the consent of that shipper, with the request of the eveners, the shipment would be shipped by the other line.

By Mr. POPPLETON:

Q. But do not the eveners make that diversion without the consent of the shipper; and is not that the great complaint made against them?—

A. I know, in pool organizations, that has been done.

By the CHAIRMAN:

Q. What preferences have the eveners as shippers?—A. I do not know that I care to go any further in explanation of an institution that I never was in and do not know anything about.

Q. Did an eveners ever ship over the Union Pacific line?—A. I have no knowledge of it.

Q. It is not a secret organization, is it?—A. I know nothing about it except from hearsay.

Q. Have you knowledge of any individual or association known as an eveners or an eveners' association shipping cattle over the Union Pacific road?—A. No, sir; I have not.

POOLS.

Q. Have you any knowledge as to a preference given to any individual or association known as an eveners' association in the shipment of cattle?—**A.** In the distribution of business under our pools the business has been divided and diverted.

Q. To what extent?—**A.** To a considerable extent in the past.

Q. Well, what is the extent?—**A.** When the Union Pacific Company and other roads that were in the pool have agreed between or among themselves how the business should be divided (live stock or any other freight), when they have agreed on the percentage that each line should take of a given competitive business, it has been the practice of the pool commissioners to direct or request the line that happens to be "over" its percentage in the pool to divert business to the line that was "short" in the pool. That has generally been the practice in pools—tonnage and revenue pools.

HOW THEY AFFECT INDIVIDUAL SHIPPERS.

Q. How was the individual shipper benefited by reason of such an arrangement?—**A.** I do not know that I can say the individual shipper was benefited or harmed by the arrangement. He got his property transported from and to the points he wished the same as if he had shipped by the line he had preferred. If the shipper opposed the diversion, I doubt very much if it would be insisted upon. I think it is generally admitted that a pool organization has not a legal right to divert shipments against the will of the shipper. We certainly never have insisted on that in later years.

COMPLAINTS THAT REBATES TO LARGER SHIPPERS SHUT OUT SMALL DEALERS.

Q. Does not the system of the allowance of rebates to a large shipper along the road, in consequence of the amount of his capital and the business brought by the shipper to the road, shut out the small dealer entirely?

The WITNESS. Do you refer to the business of these feeding companies or plants?

The CHAIRMAN. Any business where you give a preference to a company or to an individual, in order to secure business by reason of their capital and of the traffic that they will bring to your line.

A. I think that might be the case; that might be the fact in some instances, or in some cases.

Q. Have you ever heard of such complaints in your railroad management?—**A.** Yes; I have heard of such complaints. They are pretty general in the newspapers.

STOCK OWNED BY PROPRIETORS OF FEEDING PLANTS.

Q. Have they ever been made to you?—**A.** Very rarely.

In respect to these feeding plants, the stock shipped over our road fed and handled at these feeding points, is generally stock raised, owned and controlled by the company that runs the feeding plants.

Q. How do you run the stock yard connected with the Union Pacific Company in Omaha?—**A.** We do not have any connection with them except through our tracks. We have no interest in the company.

Q. Do you own the stock yard?—**A.** No.

THE UNION STOCK YARDS COMPANY OF OMAHA.

Q. Who does own it?—A. There is a corporation known as the Union Stock Yards Company of Omaha.

Q. What was done with the stock yard purchased by the railway company from Mr. Nicholas?—A. The Burlington and Missouri River road took a good slice of it, building their track through it.

Q. What did you do with the other part of it?—A. The other part of it is still there.

Q. Have you used it?—A. Oh, no; we have no use for it.

NO REBATES GIVEN IT BY THE ROAD.

Q. What rebates or preferences do you give to the owners of the Union or Paxton stock yard in Omaha?—A. We do not give any, unless it be for service performed by the company, and then we would pay the same as anybody else.

Q. Was that the case prior to the 1st of April?—A. So far as my knowledge goes that has been the case from the time the yards were started.

THE YARDAGE CHARGE.

Q. How many yards have you in Omaha?—A. Only one of any extent.

Q. What is the charge by the company upon cattle—what is the system of charges—for feeding and watering and for hay?

Commissioner LITTLE. Loading and reloading.

Mr. MINK. What is called the yardage charge.

The WITNESS. It is the ordinary arrangement.

Q. Well, what is the ordinary arrangement?—A. About a dollar a hundred for the hay, and some fixed sum for loading and unloading. That varies somewhat in different yards.

By Mr. POPPLETON:

Q. These are the charges of the stock yards?—A. Yes.

UNLOADING OF STOCK.

By the CHAIRMAN:

Q. Do you require all stock to be unloaded at the stock yard?—A. We have nothing to do with it. The shipper or the consignee settles that.

Q. Do you ever have an application for the unloading of stock at any other place than the stock yards?—A. Yes; at the yards at Council Bluffs, which are in competition with the yards here in Omaha.

Q. Have you ever received any communication from any individual for the unloading of stock at any other place than the stock yard?

The WITNESS. Any other place than the Omaha yard, you mean?

The CHAIRMAN. Yes.

The WITNESS. Applications for unloading at the Council Bluffs yard?

Q. Any other place?—A. No other, I believe.

CONTROLLED BY SHIPPER.

Q. Would you regard such an application?—A. Why, we should follow the orders of the shipper. If he said he wanted his stock delivered at the Council Bluffs yard the stock would go there.

Q. Suppose he said he wanted his stock delivered somewhere else?

The WITNESS. You mean at a private yard or side track?

The CHAIRMAN. Yes.

The WITNESS. Yes, sir. We would deliver it there.

The CHAIRMAN. That is better than they do in Pennsylvania.

Mr. POPPLETON. There are many respects in which we do better here than they do in Pennsylvania; and I hope you will investigate to the very bottom.

THE STANDARD OIL COMPANY.

Q. Has the Standard Oil Company ever made any shipments over the Union Pacific Railway?—A. Yes, sir; a great many.

Q. When did they commence to ship?—A. I presume about the time the Standard Oil Company commenced.

Q. Well, when did it commence?—A. I could not tell you. I know this about the Standard Oil Company, that it has been a very large patron of the Union Pacific. We have made a good deal of money out of their business. We have paid them a good deal in rebates.

REBATES ALLOWED IT.

Q. What rebates did you allow the Standard Oil Company?—A. At different times different rates, according to the bids that other roads made for their business.

Q. When did you commence to allow the Standard Oil Company rebates on their business?—A. You will have to allow me to look that up. I could not tell you now.

Q. Was it during your official term as assistant general manager?—A. I will have that put in the answer, if you will allow me.

RATE OF REBATE.

Q. What was the rate allowed to the Standard Oil Company?—A. All sorts of rates, according to the point of delivery and the liveliness of competition at that point; 5 per cent., 10 per cent., 15 per cent., and up to 30 per cent.

Q. Prior to 1884, what was the rate that you allowed to the Standard Oil Company on oil sent to the dealers at San Francisco?—A. I could not tell you from recollection.

Q. Have you any memorandum that will show?—A. I think I could find it in the records.

The CHAIRMAN. Will you please produce the records, and also the subsequent rate—the rate allowed since the 1st of January, 1884, to April, 1887, to San Francisco?

The WITNESS. I will.

RATES TO OTHER OIL COMPANIES.

Q. What rate did you allow to shippers other than the Standard Oil Company?—A. The Continental Oil Company and the Consolidated Tank Line Company I think are on our books for rebates. Perhaps I ought to remark right here that the Standard Oil Company ships about 95 per cent. of the total oil distributed in this country. Prior to the payment of rebates to the Standard Oil Company that oil pretty much all went by ocean to the Pacific coast; and after we had agreed to pay them a rebate they transferred the business largely to the overland routes.

Q. How were the payments of rebate made to the Standard Oil Company?—A. By voucher, I think.

PREFERENCE TO STANDARD OIL COMPANY.

Q. Did the Standard Oil Company have a preference over all other shippers in oil?—A. There have been times when the Standard Oil Company had a preference.

Q. Was that preference very great as compared with the rates to the other oil shippers?—A. Yes; it was pretty large.

EMBARRASSING EFFECT ON SMALLER DEALERS.

Q. What was the effect of that on the smaller dealer or smaller shipper in oil?—A. I should think it would be embarrassing to the small shipper.

Q. Only embarrassing?—A. We found it very embarrassing when the Standard Oil Company took its business away from us on the 1st of April. They have got about 200,000 cases of oil on the ocean, and they will ship 600,000 before the year is out in the same way.

By Commissioner LITTLER :

Q. What do you call a case of oil?—A. About 80 pounds.

ALLOWANCE TO STANDARD OIL COMPANY ON ACCOUNT OF CAR SERVICE FURNISHED BY IT.

By the CHAIRMAN :

Q. What allowance was made to the Standard Oil Company by reason of that company's furnishing the car service for the shipment of oil?—A. I think that on a patent car owned by the Standard Oil Company—a car so arranged that oil in bulk or in case could be shipped by the same car, and merchandise or other property shipped back—a mileage allowance has been given on such cars, and refused on the boiler-tank car, no matter by whom used or owned, because the boiler-tank car does not admit of any return load.

HOW IT WAS SETTLED.

Q. How did you make a settlement with them on such an allowance?—A. Well, that would be a straight mileage claim, or it might be settled by voucher and go through the rebate or overcharge books.

Q. What account would it appear in?—A. I really do not know what treatment that particular item has had in our audit office. If it was a straight mileage allowance on the car it would go into the car-service account; but if it was treated as an overcharge or rebate, and went into the form of a claim, then it would go through the freight auditor's office, and a record could be found there.

Q. Then it would be either with the freight auditor or the car service account?—A. Yes.

Q. Was that independent of the rebate?—A. Yes; that would be independent of a percentage rebate.

RETURN OF CARS WITHOUT CHARGE.

Q. What allowance, rebate, or reduction would you make for the return of empty cars belonging to the Standard Oil Company over the

Union Pacific road?—A. We would make no charge. We would load them back.

The CHAIRMAN. My reference is to these tank cars that could not be loaded back.

The WITNESS. That would be controlled by our agreement with other roads. We charge in some cases \$10, or \$15, or \$20, according to the distance of the haul—or more.

AGREEMENT AS TO EMPTY TANK CARS NOT IN WRITING.

Q. Did you have an agreement with the Standard Oil Company about their empty tank cars?—A. I think so. I think we have had in the past an arrangement with the Standard Oil Company.

Q. Was that arrangement in writing?—A. No; I think not.

CARS SOMETIMES RETURNED FREE, SOMETIMES NOT.

Q. What was the arrangement?—A. I think we have returned Standard Oil tank cars from Colorado points free, at times, and we have charged for the return of equipment at times. The rule of our company would usually be to apply the same principle that other roads did to the equipment of the Standard Oil Company.

Q. Did the Union Pacific Railway Company make the same allowances for the cars furnished by other oil shippers that they did to the Standard Oil Company?—A. I have not the information to answer that question.

Q. You would know that, as general manager, if it was so in the past?—A. I do not recollect; I can ascertain.

Q. Are there so many other dealers that you cannot recall?—A. There are a good many cars and there is a good deal of freight moved over this road that I personally do not know anything about.

The CHAIRMAN. I am speaking of oil.

The WITNESS. No cars pass over the road of which we do not have record. I will ascertain the facts for you.

The CHAIRMAN. Please ascertain, then, what rate was charged to other dealers and what allowance was made on the return of cars; also what amount was charged, if any, for the return over the road of tank cars belonging to other oil shippers; also the total amount of rebates that were paid or allowed to the Standard Oil Company since the beginning of the rebate allowance.

The WITNESS. I will do so.

PRIVATE RATE ALLOWED THE STANDARD OIL COMPANY.

Q. Had you an open rate for the Standard Oil Company, and a private rate, prior to April 1st?—A. We have an oil rate that is published to anybody. Then we have a net rate or rebate rate to the Standard Oil Company.

ALSO WITH THE CONSOLIDATED TANK LINE AND THE CONTINENTAL OIL COMPANIES.

Q. Have you any other net rate or private rate to any other oil shipper?—A. The Consolidated Tank Line Company and the Continental Oil Company are organizations that we have given special rates to in the past.

Q. Does not the Standard Oil Company have a controlling interest in both the other companies?—A. I do not know, but I presume at the present time the Standard Oil Company does.

Q. Control both?—A. Yes; but they are operated in the names I have given you, and they so appear on our books.

Q. Then, outside of the Standard Oil Company, would it not be impossible for any other oil dealer to deal, with profit, in the shipment of oil, under the arrangement you have made with the Standard Oil Company and the companies in which that company has a controlling interest?—A. I cannot say that, because other shippers have shipped oil, and have competed with the Standard Oil Company in the various markets that our line reaches.

PURCHASE OF THE CONTINENTAL BY THE STANDARD.

Q. How long could such a competition last?—A. It was kept up in the case of the Continental until the Standard bought them out.

Q. Would the Continental have sold out to the Standard if it had been profitable to the Continental?—A. Yes; if it had been made more profitable to sell, and I guess that was the fact.

Q. It was made more profitable to sell than to continue in business?—A. Yes; I think, in considering this Standard oil proposition, particularly on the transcontinental oil traffic, it ought not to be lost sight of that the arrangements made by the railway companies secured to the railroads an immense volume of business, profitable business, that was entirely lost to them before.

DISCRIMINATION WOULD ASSIST THE STANDARD OIL COMPANY.

The CHAIRMAN. That is all true. That is a business matter. But I am asking you now what would be the effect, in so securing such a business, upon the small shipper?

The WITNESS. Well, any discrimination in rates in favor of the Standard Oil Company would assist that company in fighting competition.

ITS EFFECT ON OTHER SHIPPERS.

Q. Has not the effect been to drive every shipper off the road and out of the business except the Standard Oil Company?—A. No; that is not the case, because there has been, during a considerable period, a great deal of oil shipped. Not by comparison with the amount shipped by the Standard, but very considerable shipments of oil have been made in the Union Pacific and in transcontinental territory by other oil companies than the Standard.

Q. How much, now?—A. I would have to look that up before I could answer accurately.

By Commissioner LITTLER:

Q. The operation of this preference in mileage service, as I understand you, and in rebates, has resulted in giving to the Standard Oil Company substantially the entire traffic over your road. Am I correct?—A. I did not say that; but I said, in answer to the question, that the preference given by our road and other roads was a decided aid to the Standard company in meeting its competition.

THE STANDARD OIL COMPANY SHIP OVER 90 PER CENT. OF ALL THE OIL.

Q. You have said, as I understand, that 95 per cent., about, of the entire oil traffic—A. (*Interposing.*) I was speaking of the United States, not over our road.

Commissioner LITTLER. I thought you were speaking of 95 per cent. of it going over your road.

The WITNESS. No; I meant to say that in dealing with the Standard Oil Company we were dealing with the shipper of over 90 per cent. of the oil of the country.

Commissioner LITTLER. It is our duty to develop these discriminations, and we want any fact within the knowledge of this company that goes to establish that discrimination.

Mr. POPPLETON. Ought not that information to be confined to shipments that originate with the Union Pacific road? So far as it must be gathered from outside sources—from Chicago and Saint Louis—this Commission is aimed with its experts to do all that, and it does not seem to me that that labor ought to be imposed on this company.

POLICY GOVERNING THE ROAD IN REGARD TO SUCH SHIPPERS.

By the CHAIRMAN:

Q. Will you please furnish the Commission with a list of shippers in oil other than the Standard Oil Company, the Consolidated Tank Line Company, and the Continental Oil Company, and give us the lowest net rate to each?—A. Yes. It should be understood by the Commission that, in our dealings with the Standard Oil Company, we are governed largely by the policy and the business propositions of lines that would take the business, if we declined it, at the rebates we paid.

Q. Have you any other book containing an entry of any other rebate allowances or preferences other than the book that has been produced here, denominated the "Freight earnings refunded?"—A. I think that is the only book of record that would show the exact basis on which rebate and overcharge settlements have been made.

CAR SERVICE ACCOUNT NOT A REBATE.

Q. Do you not regard a car service account, representing the car service to the Standard Oil Company, as in the nature of a rebate?—A. No, I should not; because, if any other company would give us the same cars to transport over our road, we would transport them at the same rate as we did for the Standard oil—the cars on which we pay a mileage allowance.

Q. Does the car service allowance show all the returns that are made in the nature of allowances?—A. The car mileage accounts do.

Q. Will you produce the car mileage book account for the last five years?—A. I will.

THOS. L. KIMBALL.

The Commission then adjourned to Thursday, June 23, 1887, at 9 a. m.

UNION PACIFIC RAILROAD OFFICES.

Omaha, Neb., Thursday, June 23, 1887 —

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

REPORT OF IOWA RAILWAY COMMISSION.

Mr. POPPLETON. The testimony yesterday seemed to take a direction pointing toward little complaints and abuses that might have arisen here in connection with the operation of the road. A large number of

complaints made by the people of Council Bluffs were investigated by the Iowa Railway Commission last year and a full report made upon them; and it has occurred to me that it would be desirable for the Commission to have a copy of that report. I therefore present a copy of it.

Commissioner LITTLE. Was this report made to the Iowa legislature?

Mr. POPPLETON. The examination was made at the request of the governor of the State, and the report was submitted to him.

THOMAS L. KIMBALL, being further examined, testified as follows:

THE POOL STATEMENT.

By the CHAIRMAN:

Q. Have you any papers ready this morning that have been called for by the Commission?—A. I have ready the pool statement that was called for. I have it in pencil, but should have preferred to copy it on typewriter, if there had been time. Do you wish to have it go in now?

The CHAIRMAN. I think you had better produce now any papers that have been called for that you have ready.

The WITNESS. This statement that I submit shows the membership and divisions between the members in all the different pools of any importance that the Union Pacific Company has been in.

By Commissioner LITTLE:

Q. At any time?—A. At any time of which I have record. The Colorado pool, the Western Colorado pool, the Utah pool, the Colorado-Utah common points pool, the Nebraska pool, the Montana pool, the Oregon pool, and the California and Transcontinental pool.

By the CHAIRMAN:

Q. Does the statement contain the receipts and payments on account of pool settlements?—A. No; but it contains the basis on which the receipts and expenses are divided.

COLORADO RAILWAY ASSOCIATION.

AGREEMENT OF APRIL 7, 1879.

[Freight and passenger business. Lines interested: Union Pacific Railroad, Kansas Pacific Railroad, Atchison, Topeka and Santa Fé Railroad.]

Business pooled and divisions.

Between Denver and Missouri River points and junction points east of Kansas western boundary:

	Per cent.
Union Pacific Railroad	30
Kansas Pacific Railroad	40
Atchison, Topeka and Santa Fé Railroad	30
Between Leadville and same points:	
Union and Kansas Pacific roads	53
Atchison, Topeka and Santa Fé Railroad	47
Grain from local points to Denver:	
Union and Kansas Pacific roads	75
Atchison, Topeka and Santa Fé Railroad	25
Grain to Leadville (after first deducting 30 per cent. for operating expenses):	
Union and Kansas Pacific roads	53
Atchison, Topeka and Santa Fé Railroad	47

Agreement was changed June 1, 1879, by allowing 40 per cent. to be first deducted for operating expenses.

Amended September 1, 1879, allowing 40 per cent. for operating expenses and divisions, as follows:

	Atchison, Topeka and San- ta Fé.	Kansas Pa- cific.	Union Pa- cific.
Merchandise:	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>
Denver and Leadville.....	30	40	30
Denver and Rio Grande Railway points.....	70	17	13
Grain:			
Denver and Leadville.....	25	43	33
Denver and Rio Grande Railway points.....	75	14	11

Agreement expired April 1, 1880.

NOTE.—On passenger business agreements of September 1, 1879, Denver percentages were as above.

	Atchison, Topeka and San- ta Fé.	Union Pa- cific and Kansas Pacific.
	<i>Per cent.</i>	<i>Per cent.</i>
Leadville business.....	30	70
Other Denver and Rio Grande Railway points.....	70	30

SECOND TRIPARTITE AGREEMENT.

[Atchison, Topeka and Santa Fé Railroad, Denver and Rio Grande Railway, Union Pacific Railway
Dated March 27, 1880. In effect April 1, 1880.]

Business pooled and divisions.

Traffic to and from Missouri River, and all competitive local traffic, to and from territory south and west of Denver reached and covered by the Denver and Rio Grande Railway and Denver, South Park and Pacific Railroad:

	<i>Per cent.</i>
Atchison, Topeka and Santa Fé Railroad	50
Union Pacific Railway	50

All traffic to and from Missouri River points and Denver, &c., after first deducting 40 per cent. for operating expenses:

	<i>Per cent.</i>
Atchison, Topeka and Santa Fé Railroad	25
Union Pacific Railway	75

THIRD AGREEMENT, OF OCTOBER 13, 1882.

[In effect November 1, 1882, to July 1, 1883. *Lines interested:* Union Pacific Railway, Burlington and Missouri River Railroad, Atchison, Topeka and Santa Fé Railroad.]

Business pooled and divisions.

	Union Pa- cific Rail- way.	Burling- ton and Mis- souri River Railroad.	Atchison, Topeka and Santa Fé Railroad.
	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>
Between Missouri River and Denver.....	51	30	19
Between Missouri River and Pueblo.....	25	25	50
Between Missouri River and Denver and Rio Grande Rail- way common points.....	40	25	35
Between Missouri River and other common points.....	40	35	35

Divisions in effect to September 30, 1884, when, under award of J. F. Tucker (arbitrator), following were substituted on business, commencing October 1, 1884:

	Union Pacific Railroad.	Burlington and Missouri River Railroad.	Atchison, Topeka and Santa Fé Railroad.
	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>
Between Missouri River and Denver	49	29	23
Between Missouri River and Pueblo	22½	22½	55
Between Missouri River and Denver and Rio Grande Railway common points	39	29	32
Between Missouri River and other Denver and Rio Grande Railway points	28	28	44

January 1, 1885, the following divisions were put in force under award of G. H. Daniels, commissioner Colorado Railway Association, based on earnings for last five months of 1884:

	Union Pacific Railroad.	Burlington and Missouri River Railroad.	Atchison, Topeka and Santa Fé Railroad.
	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>
Between Missouri River and Denver	47	30	23
Between Missouri River and Pueblo	25	25	50
Between Missouri River and Denver and Rio Grande Railway common points	36	29	35
Between Missouri River and other Denver and Rio Grande Railway points	20	30	40

These percentages remained in force until April, 1887, when the association ceased by the operation of the interstate commerce law.

NOTE.—On passenger business there was no pooling of earnings from July 1, 1883, to October 1, 1884.

Following were divisions on passenger earnings under the Tucker award, covering the business of October, November, and December, 1884:

	Union Pacific Railroad.	Atchinson, Topeka and Santa Fé Railroad.	Burlington and Missouri River Railroad.
	<i>Per cent.</i>	<i>Per cent.</i>	<i>Per cent.</i>
Denver business	49	22	29
Pueblo business	22½	55	22½
Denver and Rio Grande Railway, and Denver South Park and Pacific Railroad common points business	39	32	29
Other Denver and Rio Grande Railway points business	28	44	28

[Under the Daniels award of January 1, 1885.]

Denver business	46½	22½	31
Pueblo business	23	62½	14½
Denver and Rio Grande Railway and common points business	41	33	26
Other Denver and Rio Grande Railway points business	22½	53½	24½

As such they remained until April, 1887, when the association ceased.

WESTERN COLORADO RAILWAY ASSOCIATION.

AGREEMENT OF OCTOBER 1, 1879.

[Freight and Passenger business. In effect to November 1, 1882. *Lines interested:* Denver, South Park and Pacific Railroad, Denver and Rio Grande Railway.]

Business pooled.

Traffic between Denver and Pueblo and points on joint track. First deduct 50 per cent. for operating expenses. To be in operation on the completion of Denver and Rio Grande Railway, and Denver, South Park and Pacific Railroad.

No settlements made and no statements of earnings made after February, 1881.

AGREEMENT OF OCTOBER 21, 1882.

[Same lines interested. In effect November 1, 1882. Changed to a gross pool.]

Business pooled.

Denver and Pueblo proper, and points east of Denver and Pueblo, on the Burlington and Missouri River Railroad, Union Pacific Railway, and Atchison, Topeka and Santa F6 Railroad. To and from Leadville and all points on joint trackage. Same to Gunnison. Joint track points to joint track points. Joint track points to Gunnison:

	Per cent.
Denver and Rio Grande Railway.....	60
Denver, South Park and Pacific Railroad.....	40

May 26, 1883, contract was made between Denver and Rio Grande Railway, Union Pacific Railway, and Denver, South Park and Pacific Railroad, settling all disputed claims, including amounts due under pool contracts prior to June 1, 1883, by the payment to the Denver and Rio Grande Railway by the Union Pacific of \$250,000.

NOTE.—Passenger business. Agreement of October 1, 1879. Same as freights. No settlements made after February, 1881.

2. In effect November 1, 1882, to July 1, 1883. Same as freight, changing it to a gross pool.

These percentages remained in force until January 1, 1886, when they were changed thus on freight:

	Per cent.
Denver and Rio Grande Railway.....	60½
Denver, South Park and Pacific Railroad.....	39½

Settlements under agreement of October 1, 1879, were made in the contract of May 26, 1883, as the Union Pacific did not secure control of the South Park road and complete it until 1881-1882.

Agreement of May 26, 1883, was made to pay Denver and Rio Grande Railway for all claims arising from use of their track, &c., in the unfinished condition of South Park road.

UTAH TRAFFIC ASSOCIATION.

AGREEMENT MADE JANUARY 24, 1884.

[*Lines interested:* Central Pacific Railroad, Union Pacific Railway, Denver and Rio Grande Railway, Atchison, Topeka and Santa F6 Railroad, Burlington and Missouri River Railroad. Taking effect February 1, 1884.]

Business pooled.

Traffic to or from Ogden, Spanish Fork, and intermediate points, passing through Roseville Junction, Cheyenne, Denver or Pueblo, except strictly local business, coke, company material, and grain and cattle between Utah and California.

BASIS OF DIVISIONS.

On freight into Utah.—Central Pacific, 25 per cent. Of the balance, Union Pacific, 66⅓%, and Denver and Rio Grande Railway, Atchison, Topeka and Santa F6 Railroad, and Burlington and Missouri Railroad, 33⅓ per cent.

On freight out of Utah.—Central Pacific, 10 per cent. Of the balance, Union Pacific 66 $\frac{2}{3}$, and Denver and Rio Grande Railway, Atchison, Topeka and Santa Fé Railroad, and Burlington and Missouri Railroad, 33 $\frac{1}{3}$ per cent.

This association virtually ceased September 1, 1885, by the withdrawal of the Central Pacific, but it was renewed on substantially the same divisions March 1, 1886.

A passenger association was formed March 12, 1885, with the following divisions:

	Per cent.
Union Pacific Railway	60
Denver and Rio Grande Railway, and Denver and Rio Grande Western Railway	24 $\frac{1}{2}$
Atchison, Topeka and Santa Fé Railroad	8
Burlington and Missouri Railroad	7 $\frac{1}{2}$

COLORADO-UTAH COMMON POINTS ASSOCIATION.

AGREEMENT MADE JANUARY 24, 1884.

[*Lines interested:*—Union Pacific Railway, Denver and Rio Grande Railway. Taking effect February 1, 1884.]

Business pooled.

Traffic between Utah common points and Colorado common points, except coke and company material.

BASIS OF DIVISIONS.

	Per cent.
Union Pacific Railway	50
Denver and Rio Grande Railway	50

These percentages were changed, taking effect January 1, 1885, as follows:

Union Pacific Railway, 40 per cent. : Denver and Rio Grande Railway.

These remained in force until April, 1887.

A passenger association was formed March 12, 1885, with the following divisions:

Union Pacific Railway, 42 $\frac{1}{2}$ per cent; Denver and Rio Grande Railway, 57 $\frac{1}{2}$.

These remained in force until April, 1887.

NEBRASKA TRAFFIC AGREEMENT.

AGREEMENT OF DECEMBER 1, 1884.

[*Lines interested:* Union Pacific Railway, Burlington and Missouri Railroad. In effect same date, to continue until December 31, 1885.]

Business pooled.

All freight traffic between Missouri River and following junction-points in Nebraska to be pooled at Omaha rates, and divided thus:

Junction points.	Burlington and Missouri Railroad.	Union Pacific Railway.
	<i>Per cent.</i>	<i>Per cent.</i>
Kearney	50	50
Grand Island	40	60
Central City	45	55
Columbus	50	50
David City	50	50
Lincoln	73	27
Beatrice	60	40
Wynona	50	50
Red Springs	50	50

Earnings at Omaha rates on all grain, lumber, and live stock to or from any station in following groups, divided thus:

Group points.	Burlington and Missouri River Railroad.		Union Pacific Railroad.	
	Stations.	Per cent.	Stations.	Per cent.
Grand Island group	Phillips.....	50	Saint Libory, Alda, Lockwood.	50
Central City group...	Marquette.....	50	Chapman, Clark's.....	50
Columbus group.....	Bellwood.....	22	Lost Creek, Platte Center, Duncan, Benton, Schuyler.	78
David City group...	Garrison, Ulyassa.....	50	Brainard, Risinga.....	50
Beatrice group.....	Putnam, Caldwell, DeWitt, Wilber, Filley, Firth, Adams.	85	Holmesville, Pickrell, Cortland.	15
Wymore and Blue Springs group.	Liberty, Odell.....	65	Otoe.....	35
Lincoln group.....	Capitol Mills, Newton, Waverly, Woodlawn, Malcolm, Emerald, Pleasant Dale, Denton, Barks, Crete, State Prison, Salttillo, Roca, Hickman, Cheney.	85	Raymond, Jamaica, Hanlon, Valparaiso.	15

NOTE.—Exceptions, and not to be pooled: All business now or hereafter included in the Colorado and Utah pools; soft coal from all points; hogs consigned to or purchased by packers at Columbus and Lincoln.

Agreement continued until February 1, 1885, when a new one was made, as follows, to continue until December 31, 1886.

Junction points.	Burlington and Missouri Railroad.	Union Pacific Railway.
	<i>Per cent.</i>	<i>Per cent.</i>
Kearney.....	45	55
Grand Island.....	35	65
Central City.....	42½	57½
Columbus.....	42½	57½
David City.....	50	50
Lincoln.....	68	32
Beatrice.....	65	35
Wymore.....	50	50
Blue Springs.....	50	50

Earnings pooled at 40 per cent. of Chicago tariff rates.

Group.	Burlington and Missouri Railroad.	Union Pacific Railway.
	<i>Per cent.</i>	<i>Per cent.</i>
Grand Island group.....	55	45
Central City group.....	45	55
Columbus group.....	23½	76½
David City group.....	50	50
Beatrice group.....	76½	23½
Wymore and Blue Springs group.....	67½	32½
Lincoln group.....	82½	17½

Forty per cent. of Chicago tariff rates on all grain, lumber, and live stock—stock cattle shipped in, for feeding, excepted.

MONTANA TRAFFIC AGREEMENT.

AGREEMENT OF FEBRUARY 23, 1883.

[Lines interested: Union Pacific Railway, Northern Pacific Railroad, Oregon Railway and Navigation Company In effect October 1, 1883.]

Business pooled.

Eastern pool territory to include Saint Paul, Duluth, for the Northern Pacific Railroad, and the Missouri River terminals for the Union Pacific Railway.

	Union Pacific.	Northern Pacific.
	<i>Per cent.</i>	<i>Per cent.</i>
Eastern pool:		
Virginia City	50	50
Helena and points east of Garrison	40	60
Butte, Garrison, and intermediate points	50	50
Westward or Pacific coast business:		
Butte, Helena, or intermediate points, and California	60	40
Butte, Helena, or intermediate points, to Portland	40	60

NOTE.—This agreement did not take effect until the completion of the Northern Pacific Railroad to Bozeman, October 1, 1883.

Until the completion of the Oregon Short Line to a connection with the Oregon Railway and Navigation Company's lines at Huntington, December 1, 1884, we were not in a position to do business between Montana and Portland.

ADDITIONAL DIVISIONS.

	<i>Per cent.</i>
Virginia City and California points:	
Union Pacific	60
Northern Pacific	40
Virginia City and Portland:	
Union Pacific	40
Northern Pacific	60

These divisions were as above until May 1, 1886, when the association was changed, the Northern Pacific reporting its gross revenue and the Union Pacific reporting its net revenue until Northern Pacific evened up its shortage.

The passenger divisions were same as above.

OREGON TRAFFIC ASSOCIATION.

AGREEMENT OF DECEMBER 1, 1884.

[Lines interested: Northern Pacific Railroad, Oregon Short Line for the Union Pacific Railway. In effect July 1, 1885.]

Business pooled.

Traffic passing eastern terminals of Union Pacific and Northern Pacific to and from Portland, Oreg., and Pacific coast points—50 per cent. allowed for operating expenses. Balance divided thus:

	<i>Per cent.</i>
Union Pacific	50
Northern Pacific	50

These divisions remained in force until April, 1887.

CALIFORNIA POOLS.

FIRST AGREEMENT.

[Lines interested: Union Pacific Railway, Atchison, Topeka and Santa Fé Railroad. In effect April 1 1881. Expired December 31, 1881.]

Business pooled.

Business originating at or east of the one hundred and fourth meridian and destined to any point west of Roseville Junction, vice versa.

DIVISIONS.

Gross earnings were pooled and divided thus:

	Per cent.
Union Pacific Railway.....	65
Atchison, Topeka and Santa Fé Railroad.....	35

SECOND AGREEMENT.

[Lines interested: Union Pacific Railway, Atchison, Topeka and Santa Fé Railroad, Texas and Pacific Railroad. In effect January 1, 1882. Expired January 31, 1882.]

Business pooled.

Business originating at or destined to the terminal and junction points on the east, and that section of country lying west of Roseville Junction and Fort Yuma, or of a straight northerly or southerly line passing through those points.

DIVISIONS.

Twenty-five per cent. of earnings retained by each line for operating expenses.

Balance divided:	Per cent.
Union Pacific Railway.....	60
Atchison, Topeka and Santa Fé Railroad.....	20
Texas and Pacific Railroad.....	20
New Orleans business divided thus:	
Union Pacific Railway.....	20
Atchison, Topeka and Santa Fé Railroad.....	20
Texas and Pacific Railroad.....	60

THIRD AGREEMENT.

[Lines interested: Union Pacific Railway, Atchison, Topeka and Santa Fé Railroad, Texas and Pacific Railroad, Galveston, Houston and San Antonio Railroad. In effect February 1, 1883, to June 1, 1883.]

Business pooled.

Same as in second agreement.

DIVISIONS.

	Per cent.
Union Pacific Railway.....	36
Atchison, Topeka and Santa Fé Railroad.....	16
Texas and Pacific Railroad.....	14
Galveston, Houston and San Antonio Railroad.....	14

From June 1, 1883, to October 1, 1883, there was no pool on California business.

FOURTH AGREEMENT.

TRANSCONTINENTAL ASSOCIATION.

[Lines interested: Union Pacific Railway, Central Pacific Railroad, Atchison, Topeka and Santa Fé Railroad, Burlington and Missouri River Railroad, Denver and Rio Grande Railway, Galveston, Harrisburg and San Antonio Railroad, Northern Pacific Railroad. An agreement to maintain rates only in effect October 1, 1883.]

The territory covered being all competitive points in the east and the Pacific coast territory, as described in former agreements.

The exceptions on freight traffic were United States Government business, European grain and freight interchanged with the Oriental and Occidental Steamship Company.

This contract was amended November 23, 1883, by an agreement on the part of the California lines to pay the Northern Pacific and Oregon Railway and Navigation Company six per cent. of San Francisco business to stay out of that business.

A supplemental agreement was entered into by the lines in the Trans-Continental Association pooling the business from October 1, 1884, to December 31, 1884, per centages to be fixed by arbitration of the lines interested could not agree.

In this agreement the Atlantic and Pacific Railroad concurred; also, the Northern Pacific Railway lines, the Oregon Short Line and the Utah and Northern Railway.

The Northern Pacific and Oregon Railway and Navigation Company were to be paid six per cent. subsidy not to compete for California traffic.

Business pooled.

For California passenger business—all passenger traffic including business interchanged with Pacific Mail Steamship Company, excluding Government business, passing ninety-seventh meridian on the east, and Yuma, Mojave, Roseville Junction, Cal., and a line drawn through those points, and from the latter due north to the California State line on the west.

Oregon—all passenger traffic passing the ninety-seventh meridian on the east, and on the west passing through Portland, to or from points south of Portland on the Oregon and California Railroad, including Portland. Same on freight traffic. Contributions to pool.

PASSENGER CONTRIBUTIONS.

Ninety per cent. of regular and special rates used locally between Kansas City and San Francisco, except on business between trans-Pacific and European points, and on emigrant business between Europe and California points, which were pooled on basis of agreed actual earnings between Kansas City and San Francisco.

FREIGHT CONTRIBUTIONS.

	Per cent.
New York and common points.....	60
Pittsburgh and common points.....	73
Cleveland and common points.....	77
Cincinnati and common points.....	80
Chicago and common points.....	85
Saint Louis, New Orleans, and common points.....	87

Percentages were submitted to arbitration and awarded thus by J. F. Tucker, arbitrator :

	Passenger.	Freight.
	Per cent.	Per cent.
Central Pacific.....	21.4	19.5
Union Pacific.....	20.6	18.0
Southern Pacific.....	17.8	20.2
Atchison, Topeka and Santa Fé Railroad.....	16.5	14.0
Galveston, Houston and San Antonio Railroad.....	3.4	6.0
Burlington and Missouri River Railroad.....	3.8	4.3
Texas and Pacific Railroad.....	3.5	5.0
Atlantic and Pacific Railroad.....	9.0	9.8
Denver and Rio Grande Railway.....	4.0	3.2

January 1, 1886, the association was divided into two pools, thus :

Eastern pool.—Union Pacific and Colorado connections; Denver and Rio Grande Railway; Denver and Rio Grande Railway and eastern connections of Denver and Rio Grande Railway; Atlantic and Pacific and eastern connections; Southern Pacific and connections at Deming; Southern Pacific and connections at El Paso.

Western pool.—Central Pacific; Atlantic and Pacific and western connections; Southern Pacific.

CONTRIBUTIONS.

Eastern pool.—Fifty-four per cent. of agreed poolable through rate in transcontinental association.

Western pool.—Forty-six per cent. of same.

Business pooled, same as before.

EASTERN POOL.

Percentage submitted to arbitration, and awarded thus by Arbitrators Bogue, Gray, and Ford, May 22, 1885 :

Railroad.	Passenger.	Freight.
	Per cent.	Per cent.
Union Pacific.....	41½	40
Union Pacific and Denver and Rio Grande Railway, via Denver.....	2	10
Burlington and Missouri River Railroad and Denver and Rio Grande Railway.....	15½
Burlington and Missouri River Railroad and Union Pacific Railway.....	2
Atchison, Topeka and Santa Fé and Denver and Rio Grande Railway, via Pueblo.....	2	1
Atchison, Topeka and Santa Fé and Atlantic and Pacific, via Albuquerque and Mojave.....	10	19
Atchison, Topeka and Santa Fé and Southern Pacific, via Deming.....	6	3
Texas and Pacific and Southern Pacific, via El Paso.....	6	10
Atchison, Houston and San Antonio and Southern Pacific.....	6	17

These percentages proving unsatisfactory, it was decided, June 16, 1885, to change them, July 1, 1885, to the basis of the revenues of each line earned in the previous three months. These were:

Railroad.	Passenger.	Freight.
	<i>Per cent.</i>	<i>Per cent.</i>
Atchison, Topeka and Santa Fe Railroad	21.183	18.597
Atlantic and Pacific Railroad	3.019	5.413
Burlington and Missouri River Railroad	5.848	2.370
Denver and Rio Grande Railway	10.123	2.280
Galveston, Houston and San Antonio Railroad	3.016	18.260
Southern Pacific Railroad	3.430	6.263
Texas and Pacific Railway	4.459	4.875
Union Pacific Railway	*49.473	42.549

* The passenger percentage varied between 49.473 and 49.469.

These divisions continued until the dissolution of the association, in February, 1886.

Q. Where are the accounts containing the receipts and payments on pool settlements?—A. That statement can be submitted later. I expected to have shown to the Commission in that statement the status of the Union Pacific road in all the associations; but the data have not yet been got together.

Q. Will you produce a statement showing the receipts and payments on account of pool settlements from time to time?—A. Yes.

Mr. MINK. A call for it already appears in the record, and the material is now being prepared.

The CHAIRMAN. Where is the material?

Mr. MINK. In our auditor's office here.

The WITNESS. It is spread over a period of quite a number of years, and it is a good deal of work to gather up and formulate a statement of that kind; but it will be done.

MILEAGE RATE FROM APRIL, 1880, TO JULY, 1887.

Q. What other papers have you ready this morning that have been called for?—A. I have a statement prepared by the general ticket office, showing the rate per mile charged upon all the branches and of the main line of the Union Pacific road at different periods from April, 1880, down to July, 1887.

The CHAIRMAN. July, 1886, I suppose you mean?

The WITNESS. 1887 I mean.

The CHAIRMAN. That date has not come yet.

The WITNESS. Well, the basis is fixed under the law of the State of Nebraska, and it is made up to July, 1887. That makes our basis 3 cents per mile. I would like to have that go in in connection with the question on that subject.

(Paper produced and handed to the Commissioners.)

INSTRUCTIONS RELATING TO FREIGHT AND PASSENGER RATES.

Q. Have you your instructions to agents relative to freight and passenger rates?—A. No; I have not anything prepared on that point.

Q. What have you to prepare on that point?—A. Why, I would have to write out the general instructions that are given to the agents of the passenger and freight departments.

Q. But I understood, in your testimony, that you issued, sometimes, *written instructions* to agents relative to freight and passenger rates.

Have you any of those instructions?—A. I shall have to explain, if I have not already explained, that question implies in its answer almost daily communication between my office and the different departments, or between the heads of those departments and their subordinates, as the competition at different points and at the different districts throughout the country in which we have representatives calls for authority to cut rates, to make concessions, or to authorize any arrangement. At one point the instructions would be to maintain the tariff at all hazards; at another point, on the same day, my instructions might be to meet the cut offered by the competitor. Now, does the Commission want me to go into my letter-books and produce the telegrams and letters that have been sent for the last half dozen or dozen years to subordinate agents, or cannot I make a general statement covering the policy that my department has pursued in respect to regular tariffs and special rates or reductions from those tariffs?

WRITTEN AND PRINTED INSTRUCTIONS CALLED FOR.

The CHAIRMAN. The call is for any written instruction as to freight and passenger rates.

Mr. POPPLETON. That legitimately calls for general instructions, instructions that are issued generally on those subjects and that are made common, as I understand it, to a given class of agents—circulars.

The WITNESS. A good deal of that would be found in the tariffs.

The CHAIRMAN. The Commission calls for written and printed instructions of freight and passenger rates as made by you as assistant general manager or traffic manager. It is for the Commission to say to what extent they will go in printing them; but at present they call for any written or printed instructions as to freight or passenger rates.

The WITNESS. Well, I will do the best I can for you.

Mr. POPPLETON. I do not think that question calls for letters, but for written or printed instructions that are sent out and made general to particular classes of persons.

The CHAIRMAN. Then I will enlarge the call to include letters or telegrams or any instructions of any kind, written or printed, with reference to freight and passenger rates.

The WITNESS. That involves time, of course.

INSTRUCTIONS FOR MARCH, 1887.

By the CHAIRMAN:

Q. What instructions have you, printed or written or issued by letter or telegram, for the month of March, 1887?—A. That I could not answer from recollection. I would have to look them up.

Q. Did you have one?—A. I might have.

Q. Did you have ten?—A. I could not tell you without reference.

INSTRUCTIONS CONCERNING PASSES.

Q. Have you your instructions relative to free passes, either printed or written or by letter or telegram?—A. My instructions in regard to passes, I think, as early as March, perhaps earlier than that, were to issue no passes. And I returned all blanks that were in the hands of my clerks and my subordinates, and I have not had a blank pass in my possession since. I do not think any man in my department has since that time.

The CHAIRMAN. The trouble is you do not distinguish the fact that we are not the Interstate Commission by any means. Under the acts of Congress we are sent out specially to inquire as to matters prior to the time the interstate act went into effect, and our inquiry covers the time prior to April 1.

CONCERNING RECALL OF PASSES.

The WITNESS. But you asked me about instructions during the month of March, and I am speaking now from memory, and I remarked that during that month I was instructed to return all blank passes, and the order was issued about that time to recall from the traffic department all the passes.

The CHAIRMAN. I have not called for instructions for the month of March for free passes.

The WITNESS. Did you not ask me that?

The CHAIRMAN. You are confounding the inquiry in regard to instructions as to freight and passenger rates with the subsequent inquiry that I put to you with reference to another class of instructions as to free passes.

The WITNESS. Did I understand you to ask me what instructions I had received or had given during the month of March?

The CHAIRMAN. We asked you the other day for the instructions you issued to your agents as to free passes.

The WITNESS. Well, I am not prepared to give that this morning.

DECLINATION TO PRODUCE PRIVATE DIARY.

Q. Have you your diary?—A. No, sir; I have not.

Q. When will you produce it?—A. I do not intend to produce it.

Q. Did you not say that you would produce it?—A. I would "consult it," I said. I do not think you will find that I said I intended to produce that or any portion of it before this Commission.

The CHAIRMAN. The call was for your diary; and you led the Commission to believe that you would produce such entries as applied to the Union Pacific Railway Company or their business.

The WITNESS. I would like to have the record read. I may have misunderstood the request of the Commission.

Q. Do I understand you to decline to produce the entries in your diary with reference to any business transaction of the Union Pacific Railway Company in regard to legislation or communications to members of the legislature or anybody else concerning the interests of the Union Pacific Railway Company?—A. I should say, in answer to that question, that I should feel at liberty to use my own discretion. I will neither decline nor consent to produce my personal private diary before this Commission.

Q. When will you conclude as to your discretion whether you will produce the diary, or the entries having reference to the business of the Union Pacific Railway Company, or not?—A. I think I shall be willing to answer the Commission on that point to-day.

The CHAIRMAN. Very well, sir.

INFLUENCING LEGISLATION.

Q. Have you letters ready this morning relative to influencing legislation in which you believed the Union Pacific Railway Company to be interested directly or indirectly?—A. No, sir; I am not yet prepared to report on that.

Q. When will you be prepared?—A. As soon as I get time.

Q. What time do you want?—A. Well, perhaps I should explain to the Commission that I am generally a pretty busy man in my office. I am dancing attendance on this Commission, and am trying to keep up my office work at the same time. Beyond that, I am not well and have not been for a week or ten days. I am willing to work all day and part of the night, but there is a limit to what I can do in twenty-four hours; and I ask the indulgence of the Commission as to giving me time to make such examination, extracts from correspondence and statements as the Commission calls for from my correspondence in the books of the company in my custody and my personal diaries. That is all I ask.

Q. Have you a letter book containing any such communications?—

A. I do not know whether I have copies of any such correspondence or not.

Q. Have you a letter book containing any such communications?—

A. I cannot say with certainty now that I can find copies of such correspondence in any letter book in my possession. I do not remember.

Q. How much time do you want, Mr. Kimball?—A. I cannot tell; only sufficient time to make the necessary examination.

By Commissioner LITTLER:

Q. Does it require your personal attention, or can you not have it done by a clerk?—A. Well, I should not want a clerk to go through my personal diary.

By the CHAIRMAN:

Q. Will it require a week? I ask you the question because the Commission cannot remain in Omaha very long.

The WITNESS. Cannot this statement follow you?

The CHAIRMAN. No, sir. I think we should require to examine you on those letters.

The WITNESS. Well, you can examine me at any time.

The CHAIRMAN. I do not know that the Commission will have time to travel a couple of thousand miles to return here in order to continue the examination.

Commissioner LITTLER. I suppose that Mr. Kimball, in that case, would come to the Commission.

LETTER BOOKS OF ASSISTANT GENERAL MANAGER CALLED FOR.

The CHAIRMAN. I call, this morning, for your letter books as general traffic manager or assistant general manager of the Union Pacific Railway Company.

Q. Have you a statement containing the payments, in the aggregate, for the right of way in Nebraska since 1875, made by the Union Pacific Railway Company?—A. No; I am not prepared yet on that subject.

Mr. MINK. It will take two or three days yet to prepare it.

Commissioner LITTLER. Is it in course of preparation?

Mr. MINK. Yes, sir; it is.

The CHAIRMAN. There are several other papers that have been called for, but I have not the list here.

STATEMENT PRODUCED CONCERNING TAXES ON CERTAIN UNION PACIFIC LANDS.

(Mr. Mink produces a statement containing an account of taxes on lands on the *Kansas Division of the Union Pacific Railway*; the com

ties in which such taxes were paid; the amounts in each county, and the total payments from 1874 to 1886, inclusive.)

Mr. MINK. The account of the taxes paid on the lands granted to the Union Pacific Railroad Company will be produced in a few days.

STATEMENT CONCERNING TERRITORIAL POPULATION CALLED FOR.

Q. Have you ready this morning the statement containing the population of the Territories through which the branch roads pass, on which you based your constructive mileage rates?—A. No; I have not.

Q. When will you have such statement ready?—A. Have I been asked to furnish that, except in a general way?

The CHAIRMAN. I think there was a call for the population on which you based your statement. If not, I make a call for the statement showing the population of the Territories through which the branch roads and the main road passed at the time at which the constructive mileage rates were fixed.

Mr. POPPLETON. Anybody can do that, from the census; so you can get that out pretty quickly.

The CHAIRMAN. Well, if the census has any reference to constructive mileage, we could.

The WITNESS. I think I said that population was one of the elements that entered into the calculation of the resources of the branch and main lines, and that we would take that into consideration in calculating the divisions of the branch and main lines. I will give you the best knowledge I have, back to 1880, of the condition of the population at that time, if that is what you desire.

The CHAIRMAN. I want the data showing the population which entered into the calculation at the time that you fixed the constructive mileage rates.

The WITNESS. Well, I will do the best I can for you.

The CHAIRMAN. If you say that you base it upon the census, the Commission can ascertain that; the census of 1880?

Commissioner LITTLER. They were not issued then.

The CHAIRMAN. The rates were fixed in 1881.

The WITNESS. Yes; and they have been issued yearly ever since.

The CHAIRMAN. I ask you this in order that when the Commission makes its calculation they may make it by the same methods by which you make it. They do not want to differ with you in the matter of the basis on which they make their calculation.

By Commissioner LITTLER:

Q. Is the population a controlling element in fixing those rates?—A. It is only one of the elements.

THOS. L. KIMBALL.

OMAHA, NEBR., *Thursday, June 23, 1887.*

D. S. BARRIGER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am dealing in grain.

Q. Where is your place of business?—A. At Omaha. That is, I live here. My office and elevator is at the Council Bluffs transfer.

Q. Is your place of business in Council Bluffs?—A. Yes, sir; the office is.

Q. How long have you been in the grain business?—A. Since 1875.

Q. Have you always been located in Council Bluffs?—A. No, sir.

Q. How long have you been in business there?—A. Since about 1883.

Q. What is the nature of your business at Council Bluffs?—A. We handle grain there in an elevator. The grain comes off the Union Pacific lines.

THE OMAHA ELEVATOR AND GRAIN COMPANY.

Q. Are you engaged alone in the business?—A. No, sir.

Q. Have you a company?—A. Yes, sir; the Omaha Elevator and Grain Company.

Q. Who are the members of the company?—A. H. W. Rogers—I do not know that is necessary, though, is it?

Commissioner LITTLER. Yes, sir, we want it.

The WITNESS. There is no objection, however, to giving it. They are William H. Paxton, F. H. Davis, C. W. Thomas, and myself. Those are the members of the company.

Q. Are they directors of the company?—A. Yes, sir.

Q. Have you any stockholders?—A. They are the stockholders and directors and the owners of the company.

AN INCORPORATED COMPANY.

By Commissioner LITTLER:

Q. Is this an incorporated company?—A. Yes, sir.

By the CHAIRMAN:

Q. How many stockholders have you?—A. The gentlemen whose names I have mentioned are the stockholders.

Q. Are there any others?—A. No, sir.

NO UNION PACIFIC PEOPLE INTERESTED.

Q. Are there any officers, employes, directors, or any connections by relation of the Union Pacific Railway Company, interested, directly or indirectly, in the Omaha Elevator Company?—A. No, sir. None now and never have been.

Q. How much property or land have you in connection with the place of business of the elevator company?—A. The company that conducts the business does not own the building.

Q. Who owns the building?—A. It is owned by several railroads.

Q. What railroads?—A. The Union Pacific is one, and the five lines running east from Council Bluffs.

Q. What interest has the Union Pacific Railway Company in the elevator?—A. I believe it has an equal interest with the other roads. There are six roads interested.

ITS BUILDING ERECTED ON GROUND OWNED BY THE UNION PACIFIC.

By Commissioner LITTLER:

Q. You may have constructed the building under lease or contract with those parties. How is that?—A. I think the ground on which they are constructed was leased from the Union Pacific.

Q. Does the Union Pacific Railway Company own the land in fee-simple?—**A.** I cannot answer that question.

Commissioner LITTLER. How is that, Mr. Poppleton?

Mr. POPPLETON. That is true.

Commissioner LITTLER. Does the Union Pacific Railway Company own the land in fee-simple upon which this building stands?

Mr. POPPLETON. That is my understanding. And the Union Pacific Company leased to this company the right to construct the elevator. The six railroads built the elevator. They leased the ground from the Union Pacific Railway Company, and Mr. Barriger's firm leased the building and conducts the business.

VALUE OF ELEVATOR AND LAND.

By the **CHAIRMAN**:

Q. What is the value of the elevator and the land?—**A.** About \$300,000. Well, it is not so much as \$300,000; about \$280,000, I should say.

Q. What do you pay to the Union Pacific Railway Company for the rent of the building and the land?—**A.** Well, I have not the lease here, and I do not know as I can figure up just what they do get.

Mr. POPPLETON (to the witness). Pay close attention to the question and answer it as it is asked. He asks you what you pay the Union Pacific Railway Company for the lease of the elevator and the ground.

NO RENT PAID TO UNION PACIFIC.

The WITNESS. Oh, we do not pay anything to the Union Pacific Railway Company.

Q. To whom do you pay any rent?—**A.** To the owners of the building.

Q. Who are the owners of the building?—**A.** The Union Elevator Company.

THE OWNERS OF THE UNION ELEVATOR COMPANY.

Q. Who compose the Union Elevator Company?—**A.** The Union Pacific Railway Company owns one-sixth of it, I believe; the Rock Island road one-sixth, the Milwaukee and Saint Paul one-sixth, the Chicago and Northwestern one-sixth, the Chicago, Burlington and Quincy one-sixth, and the Wabash one-sixth.

WHAT RENT IS PAID BY OMAHA ELEVATOR AND GRAIN COMPANY TO UNION ELEVATOR COMPANY?

Q. What do you pay the Union Elevator Company for the rent of the grounds and building?—**A.** Well, if that question is not a necessity in your business here—it is a private matter.

Mr. POPPLETON. Answer the question.

The CHAIRMAN. It is nothing private. It is a part of our inquiry, if it is the property of the Union Pacific Railway Company, or if they have any income from it.

The WITNESS. We would rather not publish to the world such relationship.

Commissioner LITTLER. It will not do any harm.

The WITNESS. I would not want to see that published in the newspapers to-morrow morning.

By the CHAIRMAN :

Q. Why ?—A. If you were in my business you would not want to see it in print.

Q. What do you pay the Union Elevator Company for the rent of the ground and building ?—A. I thought you were investigating the Union Pacific Railway Company. We have a contract with the Union Elevator Company. You can find out from the Union Elevator Company what part the Union Pacific gets ; I do not know. We do not pay the Union Pacific Railway Company anything.

Q. What do you pay the Union Elevator Company ?—A. That question is irrelevant.

DECLINATION TO ANSWER.

Q. Do you decline to answer that question ?—A. Well, I do not know that you should ask me my relations with other corporations, when you are investigating the affairs of the Union Pacific Railway Company.

Q. You will please answer my question, yes or no. Do you decline to answer my question ?—A. For the present I do.

Commissioner LITTLER. We do not want to give unnecessary trouble to you or to anybody that is interested with you, but I think you ought to answer that question.

The WITNESS. Why, I do not know what the Union Pacific Railroad Company gets from this company.

DUTY OF COMMISSION TO INSIST ON AN ANSWER.

The CHAIRMAN. This Commission is charged with the duty of ascertaining the resources and the income of the Union Pacific Railway Company, and, while other railway companies are interested in this building, yet there is a definite interest of the Union Pacific Railway Company in this building. It has an income from it, according to what you have already testified. Now, we are entitled to know how much this Union Pacific Railway Company, at all events, receives from you as the lessee.—A. I could not answer that question, because I do not know.

The CHAIRMAN. You should answer the question, because it is your duty. We do not want to put you to the trouble of going into court.

The WITNESS. You place me under oath here, and I say I do not know.

Mr. POPPLETON. I think you are making a great mistake in not answering the governor's questions as they are put. You may be a little squeamish about your private business, but you have nothing in your business that you cannot publish.

The WITNESS. Nothing whatever ; but it is our private business, that is all.

PLENARY POWER OF COMMISSION.

Mr. POPPLETON. This Commission is here for the purpose of investigating the affairs of the Union Pacific Company. It has plenary power to ask these questions. If you should decline to answer questions as they are asked relative to that, they can compel you to go into court.

The WITNESS. I understand that. But they ask me what the Union Pacific Company receives. I do not know.

THE QUESTION ANSWERED.

By the CHAIRMAN:

Q. What do you pay the Union Elevator Company for the use of the building and the grounds used by you in your business?—A. Last year we paid \$5,000 per annum. That will answer the question. Now what proportion of that the Union Pacific received I do not know.

The CHAIRMAN. That is for us to find out.

Mr. POPPLETON. You pay the taxes, too?

The WITNESS. The taxes come out of it.

By the CHAIRMAN:

Q. What other consideration do you give to the Union Elevator Company?—A. None whatever, sir.

OTHER COMPETING ELEVATOR COMPANIES.

Q. What other elevator company have you in competition with you in that section?—A. Well, sir, that is a big question to answer. We have the entire Chicago, Burlington and Quincy system, the Burlington and Missouri system in Nebraska, and all the elevators on their lines, on either side, besides other roads.

Q. What other elevator company have you in competition with you in connection with the Union Pacific Railway Company?—A. Himebaugh & Merriam, on this side, in competition with us.

Q. Have you any in Council Bluffs?—A. No, sir.

Q. Have any other individuals attempted in any way to enter into such a business in competition with you, on shipments over the Union Pacific Railway?—A. Why, we are in constant competition with Chicago and Saint Louis grain dealers, and dealers in other large cities East—Baltimore and New York.

Q. Are they owners of elevators on the Union Pacific Railway?—A. They go and make bids to the dealers on the Union Pacific Railway lines just the same as we do. We are in competition with them.

Q. Will you give the names of some of the dealers; some of the most active competitors?—A. W. S. McCrae & Co., of Chicago. I cannot give the names of the different parties very readily without consulting the records. Redmond, Fair & Co., I suppose; W. F. Johnson & Co., Chicago; George T. Kimball & Co., of Baltimore.

Q. You are confining yourself now to the Union Pacific Railway?—A. They can ship over any railroad.

The CHAIRMAN. You confined me, a few moments ago, to the Union Pacific Railway. Now I want you to confine yourself to the Union Pacific.

A. Well, those gentlemen ship over the Union Pacific Railway.

Q. Do they have the same advantages with you in their shipments and their contract arrangements with the Union Pacific Railway Company?—A. I do not know anything about their contracts.

REBATES TO OMAHA ELEVATOR AND GRAIN COMPANY.

Q. Have you any preferences or rebates allowed to you by the Union Pacific Railway Company?—A. At times we have had, in order to compete with prices made on other lines.

Q. At what times?—A. Whenever the prices on other lines were above the prices paid by Union Pacific buyers, we have always made

aged in some way to meet that price. We would report the fact to the Union Pacific officers and endeavor to meet it.

Q. What do you mean by "in some way" meeting these prices? What other way have you?—A. No other than to make the rate low enough to meet the price, considering the market.

Q. Since when have you had these arrangements with the Union Pacific Railway Company?—A. Up to the 1st of April we have had them, at times.

Q. From when?—A. Well, ever since we have been in business, more or less. Whenever it was absolutely necessary.

Q. Since 1883?—A. Yes, sir; I do not mean to cover all that period. At times. It might not last more than a week or a month.

Q. At times since 1883 and at times prior to 1883?—A. Yes, sir.

Q. How long prior?—A. Ever since we have been in business.

Q. Where were you when you received those preferences prior to 1883?—A. We had a house on this side then, which burned up.

Q. On the Omaha side?—A. Yes.

Q. At what times during this period did you fail to receive such rebates or preferences?—A. I cannot answer that, from the fact that I do not know.

FAILURE TO GET REBATES ONLY TEMPORARY.

Q. How long would the times last when you failed to get the rebates?—A. Only so long as the price would require it—the price made by the competing roads.

Commissioner LITTLER. You fail to understand the governor's question.

The question was read as follows: How long would the times last when you failed to get the rebates?

A. When the other roads were quiet, not making any inroad on the Union Pacific territory, none was made by the Union Pacific. They were not aggressive in these movements, to my knowledge.

Q. How long would such times last?—A. As long as the other roads would enforce it.

Q. What would be the period—one month or two months?—A. It might be one month; it might be three.

Q. Do you recall any period within the last three years when the time during which you failed to receive a rebate has extended over the term of three months?—A. Well, I could do it by consulting my books, but not from memory.

A CONTINUOUS REBATE OF ONE CENT A HUNDRED POUNDS.

I will amend that by saying that we always receive here at the transfer one cent a hundred pounds. That is continuous.

Q. Do I understand you to mean that you received such a rebate all the time?—A. Yes, sir; that has been paid. Well, it has not been paid all the time, but most all the time.

Q. What do you mean by saying it has not been paid all the time? You have said that that was continuous.—A. Well, I will say for the past two years that has been in force—one cent a hundred.

By Commissioner LITTLER:

Q. On all grain shipped?—A. That was in order to put us on an equality with other dealers who might have grain behind us at another

point. The dealer would ship the grain through, say, to Chicago; the grain would be transferred here in order to have the car stay in the Union Pacific territory, and the roads over which this grain passed—the Union Pacific and the eastern lines—would pay for this transfer. If our company bought a car load of grain on this road and shipped it, the roads did not pay us anything for the transfer, so they gave us this one cent to equalize that.

Q. What was the rate of transfer—what did you pay?—A. That was about it. That was the proportion that the Union Pacific paid for the transfer. The lines running east paid their proportion, whatever it was.

Q. Prior to the two years you have mentioned, at what times did you receive this one cent per hundred rebate?—A. I think the answer I made you a while ago, that two years—

Q. You said you had it continuously for two years. Now, at what times prior did you have it? I am speaking of the rate of one cent per hundred that you had continuously for two years. Back of that period, at what times did you receive that rate?—A. We have had it at times running through five or six months, through the busy part of the season, and then it would be dropped.

ADDITIONAL REBATES.

Q. What other rates of rebate, in addition to the one cent a hundred, did you receive from the Union Pacific Railway Company?—A. I answered that a while ago, if you will remember.

Q. I wish you would repeat it.—A. Would not the record show it?

Mr. KIMBALL. How many cents a hundred, he wants to know.

The WITNESS. Well, sometimes we have received two cents. Do you wish the answer to cover just what the Union Pacific Railway Company received, or some other road in conjunction with the Union Pacific?

Q. I want to know what rebate rates you received in addition to the one cent on the hundred, that you have spoken of as a continuous rate for two years; and as a rate that you received at times prior. In addition to that sum, what rates of rebate have you received?—A. Sometimes we would receive two cents, at certain stations, where necessary. Sometimes it would be six cents. The Union Pacific would give us six cents from one station to Chicago, but the Union Pacific would only bear a certain percentage of that six cents—say 40 per cent., and the lines east of here to Chicago would bear 60 per cent., making the Union Pacific proportion two and four-tenths cents on the six cents.

Q. How often would the rate vary?—A. As often as the competing lines south and north of us would compel it.

WHO ALLOWED THEM.

Q. Who allowed those rates of rebate to you?—A. The officials of the Union Pacific Railway Company.

Q. What officials?—A. Well, Mr. Kimball here has allowed some.

Q. Who else?—A. His predecessors.

Q. Who?—A. Mr. Vining.

Q. Any one else?—A. I cannot call to memory any one, of the officers of the Union Pacific Railway Company.

Q. Any other person in the employ of the Union Pacific Railway Company?—A. That is all.

Q. Did you appeal for those rates?—A. I have been consulted about them.

Q. Did you appeal for the rates as they changed?—A. Yes.

Q. How?—A. By furnishing the prices made by other buyers on other lines, and the prices that we could pay, considering the market where we were shipping.

Q. Were your communications made in writing?—A. Such communications are generally made verbally.

Q. Did you ever make any such appeals in writing?—A. Yes, sir; I think I have.

Q. Have you in your possession any correspondence in answer to such communications?—A. I have not.

The CHAIRMAN (to Mr. Kimball). Will you produce any letters of Mr. Barriger's that may be in your possession relative to the allowance of rebates at any time since 1876?

The WITNESS. I do not say that I wrote any to Mr. Kimball.

The CHAIRMAN. I am asking him as for the company.

NO INDUCEMENT FOR THEIR ALLOWANCE.

Q. Have you at any time offered any inducement to any of the officers or employes, or any one connected with them, directly or indirectly, for the allowance of a rebate?—A. No, sir; we have but one way to do business, sir, and that is on the principle of justice; we do not know any other, in our house.

Q. Have you ever offered any inducement to any one else to secure an allowance of rebates?—A. In order to state further in regard to your inquiry as to that, I can say that I have advised the Union Pacific Company, their officers, at times, not to make any reductions to meet competitors.

Q. Have you offered to any one other than the Union Pacific Company inducements to secure rates of rebate or allowances or preferences of any kind in shipments over their road?

The WITNESS. You mean over the Union Pacific road?

The CHAIRMAN. Over the Union Pacific road.

PRICES OF GRAIN ASCERTAINED BY UNION PACIFIC AGENTS.

A. No, sir. Now, I will say further, that the Union Pacific Railway Company keep themselves advised daily, through their agents, of the prices paid for grain at their different stations, and when we make statements to them regarding the values of grain there and what competitors pay, they not only have my statements and those of others of my company, but they have the statements of their own agents and their own records to confirm that. We have not any secrets. We are willing to tell you all we know about it.

REBATES TO OTHER SHIPPERS.

Q. Do any of your competitors, any of the gentlemen that you have named engaged in shipments over the Union Pacific Railway enjoy the rates of rebate or preferences that you have named that you have received from the Union Pacific Railway Company?—A. I cannot answer that question. I have understood that they have.

Q. Can you name any of the gentlemen that you have understood have received any such rates?—A. As I am under oath I do not care to name anybody, because I do not know. The Union Pacific Railway officers do not communicate to me what they do with other grain-houses.

Q. Would any of your competitors, if they failed to receive such preferences as you received, be able to compete with you in your business?—A. Well, sir, on account of our facilities for handling grain here (we get it as it comes from the thrashers), I don't believe they would be.

AGGREGATE REBATES.

Q. What do your rebates from the Union Pacific Railway Company amount to in a year?—A. Sometimes we have had 2 cents a hundred; and a few times, perhaps once or twice, since we have been in business here, we have had a rebate of as much as 10 cents a hundred.

Q. How much have your rebates or preferences amounted to in any one year—the total sum. Give an estimate.—A. Oh, say \$25,000 or \$30,000.

Q. Would that be an average estimate? A.

The WITNESS. Per annum?

The CHAIRMAN. Yes.

A. No, sir.

Q. What would be an average?—A. It would not be that much.

Q. How much would it be?—A. I dislike to guess at things when I am under oath.

Q. I am only asking for an estimate?—A. Some years we have not had as much as five; I don't know that we have had as much as that.

Q. How much did you receive in the year 1883?—A. I could not tell you without consulting my record. And even the remark I made a while ago about \$25,000 or \$30,000 may be an overestimate.

Q. Would you recall such an event as the receipt of \$15,000 in one payment in one year? You say that the Union Pacific only pay 40 per cent. of those items, and it receives back from these Eastern lines 60 per cent.—A. Twenty-five or thirty thousand dollars would be the rebate through to Chicago; and possibly the Union Pacific portion would be 40 per cent. of that. They paid us the whole amount and would collect back from the Eastern lines 60 per cent. Sometimes we have been paid by the Union Pacific only their proportion, and we have ourselves collected from the Eastern lines 60 per cent.

EFFECT OF REBATE ON COMPETITORS OF OMAHA ELEVATOR COMPANY.

Q. How would that payment to you affect your competitors in business, notwithstanding the payment back to the Union Pacific Railway Company from other lines?

The WITNESS. Which competitors in business?

The CHAIRMAN. Your competitors.

The WITNESS. On other lines?

The CHAIRMAN. On the Union Pacific.

A. I understood, when these rebates were being paid, that my competitors had the same rebate.

Q. The competitors that you have named?—A. Yes, sir; some of them. I do not know all of them. I do not know what the Union Pacific gives to other shippers.

The CHAIRMAN. Mr. Mink, I would like to have vouchers Nos. 212 to 236, inclusive, of the Omaha Elevator Company, July, 1883, representing the entry in the book "Abstract of Vouchers; freight; 1883 1884," page 5.

Mr. MINK. I will get them.

REBATES ALLOWED IN JULY, 1883.

The CHAIRMAN. I read from the book entitled "Freight earnings reduced" for the month of July, 1883:

Omaha Elevator Company: \$4,479.90, \$1,398.84, \$83.01, \$403.17, \$285.17, \$176.53, 60, \$229.86, \$429.84, \$837.37, \$3,684.81, \$991.62, \$1,933.60, \$998.85, \$79.31, \$146.41, 25, \$303.50, 168.58, \$1,148.37, \$5.80, \$352.84, \$71.46, \$1,494.11, \$522.63.

Will you please state to the Commission whether these sums that I read to you, in the name of the Omaha Elevator Company, represent payments or rebates or preferences made to your company at that time?—A. They are not preferences.

Q. What are they?—A. Why, they are rebate allowances below the tariff at which the goods were billed; but other dealers alongside of us were no doubt receiving the same.

Q. What other dealers?—A. Those that were here, operating on the same line.

Q. Those that you have named?—A. Yes, sir; some of them. Have you ever been in the grain business?

The CHAIRMAN. Do you advise me to go in?

The WITNESS. Well, it is a pretty hard business. These railroads have printed tariffs, and their agents are instructed to bill by tariff. Of course, they cannot intrust their business here at the general office in the hands of agents in the country. Everything is billed straight as the tariff reads. If there is a cut from the regular tariff to meet a price made by a competing line, I would receive—my company would receive a rebate, and any other shipper shipping alongside of me on the Union Pacific road would receive the same—Himebaugh & Merriam, for instance.

Q. The competing shippers would receive the same?—A. I understood that they received the same. As an evidence of that, they paid me the same price that we did, and they could not have done that unless they all received about the same.

Q. Is the company that I have named to you your company—the Omaha Elevator Company?—A. At that time it was my company. There was a change in the name of the company when the old company's elevator burned up.

HIMEBAUGH, MERRIAM & COMPANY.

Q. Who are the firm of Himebaugh, Merriam & Company?—A. That is an elevator company here.

Q. Have they any interest in your company?—A. No.

Q. None whatever?—A. None whatever.

Commissioner LITTLE. That is not answering the question whether you received those several sums.

The WITNESS. I imagine we did. I could only say positively by consulting our books. But I imagine we did.

REBATES IN OCTOBER, 1883.

The attention of the witness is called to entries in the same book for October, 1883, page 22:

The Omaha Elevator Company rebate: Wheat, \$55.96, \$41.31, \$34.96, \$14.00, 12, 65, \$5.31. Rye, \$16.39. Oats, \$19.08. Corn, \$1,466.71, \$491.61, \$956.97, \$4.74, \$410.93, \$1,786.53, \$577.70, \$383.26, \$905.23, \$518.30, \$507.44, \$329.14, \$1,193.33. Grain, \$384.92. Corn, \$99.45, \$1,064.84, \$108.41, \$2,654.56.

Page 23.

Rebate on corn : \$801.06, \$558.97, \$1,134.00, \$402.31.

Q. Will you be kind enough to state to the Commission whether this refers to your company, and the preferences, rebates, or allowances made during the month of October, 1883?—A. Yes; that is my company. A number of these items may be overcharges in freight, in the weights of grain, corrected weights on which freight was paid. The facilities for weighing grain at the way stations is very poor, and the freight is paid on that weight to destination. Most generally that destination is Chicago.

METHOD OF WEIGHING GRAIN.

Q. Do you not regard your elevator facilities as very excellent?—A. Yes, sir. If it stops here it is weighed by the Union Pacific Company.

Q. Would a misweight often occur?—A. The biller guesses at it.

Q. Who weighs it, when the mistake occurs, in settlement with you?—A. The Union Pacific Company.

Q. Where?—A. On their own scales, in old times; but latterly they have had a man at our elevator.

Q. During 1883 was it weighed in your elevator?—A. It was weighed at their yards, at that time, at Council Bluffs.

Q. Would they furnish a certificate of the weights on their scales to you?—A. If we asked for it.

OVERWEIGHT.

Q. Then how did you discover that there was an error in the weight to get your overcharge?—A. Why, if the grain stopped here it would be weighed in our elevator, and if it went on to Chicago we would get the return from Chicago, showing the weight. We paid the Union Pacific Company on the weight at this point, and then they would correct any error.

Q. Then, on receipt of a certificate of overweight from Chicago, you would notify the Union Pacific?—A. Yes.

Q. How would you give the Union Pacific notice?—A. By letter.

Q. How?—A. We furnished the expense bill.

Q. With any communication?—A. It was not necessary to furnish any communication; the expense bill was sufficient.

The CHAIRMAN (to Mr. Mink). Will you please produce the vouchers showing the overcharges and rebates for the month of October, 1883, to the Omaha Elevator Company?

Mr. MINK. Yes, sir.

The WITNESS. Some of these items are rebates on prices and some overcharges in the weight. I could not distinguish one from the other.

Q. Would it be possible for rebates to be allowed to individual shippers or companies, under the head of overcharge, when there was no overweight?—A. I do not know how they keep their books.

Q. I am asking you for your general knowledge on such a question. Would such a thing occur?

The WITNESS. As to whether they would call it an overcharge or rebate?

The CHAIRMAN. Would a bill be paid as for overcharge when no overcharge was made?

24,000 THE MINIMUM ALLOWED FOR A CAR.

A. When the stock is billed under, say, 24,000 pounds, the company never allow us anything. They make us pay for the first 24,000 pounds, saying it is our fault if we do not get full weight in the car. But for overweight they make us pay.

By Commissioner LITTLER:

Q. Are you bound to ship 24,000 pounds when you ship by carload, or have you to pay for that in any case?—A. Yes.

Q. That is the minimum weight allowed for a car?—A. Yes; they make us pay for that, even if we do not put that much in.

Q. And if you put in more than that they make you pay for it?—A. Yes; they get all they can.

REBATES IN APRIL, 1884.

By the CHAIRMAN:

Q. I read from the same book, page 71, April, 1884: "Omaha Elevator Company. Rebate on sundry shipments: \$100.65, \$78.30, \$5.68, \$73.20, \$83.37." Please look at the book and say whether these entries refer to your company?—A. Yes, sir.

Q. Are these all rebates?—A. Rebates or overcharges, one or the other; under the same head.

Q. Would they be entered as rebates if they were overcharges?—A. Any money paid back would be a rebate.

Q. Then they make no distinction in the book between a rebate and an overcharge?—A. I do not know whether they do or not.

Q. Do you enter in your books rebates and overcharges as the same?—A. I am not able to answer that question.

Q. Who keeps your books?—A. I have a book-keeper—half a dozen of them.

Q. Who is your principal book-keeper?—A. Mr. Traile is our principal book-keeper. I think in our books we make a distinction.

The CHAIRMAN. Well, that is what I want to know.

The WITNESS. You asked me under oath and I could not tell you positively.

Mr. POPPLETON. When you do not know a thing positively, give your best understanding.

REBATES IN JUNE, 1884.

By the CHAIRMAN:

Q. I read from the same book, page 79, June, 1884, and page 80, June, 1884, the following:

Omaha Elevator Co.	{ \$48.60 \$12.15	Rebate	\$4.10
	{ \$30.98 \$3.60		
	{ \$5.87 \$17.55		
Eye	\$11.57 \$9.10	Wheat	{ \$13.26 \$4.55 \$4.47
Rebate	\$3.43		{ \$10.37 \$5.25 \$40.56
Eye	{ \$8.86 \$47.56		{ \$9.72 \$3.77 \$4.63
	{ \$14.18 \$19.35		{ \$38.29 \$52.13 \$5.12
Rebate	\$5.07	Corn	\$5.43 \$31.28
Oats	\$25.98 \$10.39	Rebate	\$112.86
Barley	\$20.33	Corn	\$4.26
Wheat	\$134.12 \$211.15 \$50.09	Rebate	{ \$3.98 \$3.97 \$24.74
			{ \$4.16 \$8.65

Will you please look at this entry and state whether it refers to your company?—A. Yes, sir; it does.

REBATES FROM JULY, 1884, TO NOVEMBER, 1885.

Q. I read from the same book, page 93, month of July, 1884: "Omaha Elevator Company, \$72.60." Does that refer to your company?—A. Yes.

Q. I read from the same book, page 94: "Omaha Elevator Company, corn, \$41.67." Page 98, August, 1884: "Omaha Elevator Company, corn, \$161.12, \$8.16. Rebate, corn, \$10.50; O'C. [meaning "overcharge"], \$31.52."

The WITNESS. Now, that answers your question; "overcharge"—"O'C."

The CHAIRMAN. I see that "O'C" is on this book, but "O'C" in this book does not always mean "overcharge," by any means. This is a sort of "india-rubber" account. I will read from the same page the following items: "Omaha Elevator Company, \$11.14, \$103.70, \$111.65, \$275.93."

I read from the same book, August, 1884, page 103: "Omaha Elevator Company, O'C., wheat, \$10.75; O'C., corn, \$607.11."

Also, page 107, same book: "Omaha Elevator Company, O'C., wheat \$4.37." The same: "Oats, \$150.54." Same: "\$255.92." Same: "Rye \$8.45, O'C.; corn, \$22.26."

Same book, page 116: "November, 1884, Omaha Elevator Company, O'C., corn \$131.78."

Page 118: "November, 1884, Omaha Elevator Company, O'C., grain, \$58.63."

Page 122: "December, 1884, Omaha Elevator Company, O'C., wheat, \$1,118.75."

Page 128: "January, 1884, O'C., corn, \$10.84."

Page 130: "February, 1885, Omaha Elevator Company, O'C., wheat, \$167.78." Same: "Corn, \$174.87."

Page 138: "May, 1885, Omaha Elevator Company, O'C., corn, \$1,959.14."

Page 171: "November, 1885, Omaha Elevator Company, O'C., lumber, \$29.22."

Do these items refer to your company?—A. Yes. We have small elevators out on the line. We built them.

HALF RATES FOR LUMBER FOR CONSTRUCTING ELEVATORS.

Q. Would you have a rebate rate on lumber?—A. Lumber shipped out to build elevators on the line would be shipped at half rates. We would pay the full rate, and get back half. Some railroads dead-head it entirely; but the Union Pacific ship at half rates and invite elevator companies to build.

Q. Was that privilege given to all grain dealers?—A. Yes, sir; it is open to anybody. I understand it so.

Q. Do you know it as a fact?—A. I know of instances where it was a fact.

ADDITIONAL ELEVATORS.

Q. Where else have you an elevator along the Union Pacific line?—A. We have a number of small houses.

Q. Where are they?—A. At stations on the line of the Union Pacific.

Q. Name them, please.—A. One at Pillion, one depot at Millard, and one at Saint Paul.

Q. In the Union Pacific system?—A. That is the only one we deal in. We have one at Brainard and one at Sheldon. There are some others, but that will give you an idea.

The CHAIRMAN. I would like to have all.—A. I could not give all on memory.

Q. Will you furnish a list?—A. I can.

Q. Do you include, in the names you have given me, the branch lines?—A. Yes; some of those are on branch lines, and some on the main line.

SAME REBATES ENJOYED BY OTHER ELEVATOR COMPANIES.

Q. Are the same rebates and preferences given to other parties as to the Omaha Elevator Company?—A. All the same, as far as I know.

Q. I read from page 176: "December, 1884. The Omaha Elevator Company. Merchandise, etc., \$1,314.16."

Page 180: "January, 1885. Omaha Elevator and Grain Company."

The WITNESS. That is the company at the present time.

The CHAIRMAN (continuing). "Corn and oats, \$559.47."

Was it at this period you changed the name?—A. It was when we went across the river.

Q. That you changed your name?—A. Yes, sir.

Q. That was in January, 1885?—A. In 1884, I guess.

Q. This is the first entry that appears here in that name?—A. That is possibly correct. What date is it?

The CHAIRMAN. This is for January, 1885.

AN "EVIL" OF REBATE.

The WITNESS. Then we changed the name in the fall of 1884. When we shipped grain at a rate less than the tariff, you can see clearly that a large amount of money lies in the hands of the railroad companies, and they have the use of it, and it takes us some time to get that money back.

Q. That is not another "evil" of rebate, I hope?—A. Yes, sir; that is an evil of rebate. And sometimes the rebate we get does not cover the price of the grain.

The CHAIRMAN (jocularly). You do not mean to inform the Commission that the Union Pacific Railway Company would take any such advantage of you in that way?

The WITNESS. I do, sir.

Q. I read from page 185: "January, 1885. Omaha Elevator and Grain Company. Corn, \$97.30."

Page 186: "January. O.C. Corn, \$4,633.06."

The WITNESS. I think it would be well to ascertain whether this is the amount that the Union Pacific Railway Company pays. That is the amount it pays to us, but the Union Pacific actually was responsible for only 40 per cent. of that; it received 60 per cent. of it back from some other lines.

ADDITIONAL REBATES.

Q. I read from page 189: "February. Grain Company. O.C. on grain, \$2,009.33."

Omaha Elevator and

Page 193: "Omaha Elevator and Grain Company."

Corn, \$53.59.

Page 197: "March, 1885. Omaha Elevator and Grain Company. Lumber, \$16.70. Corn, \$81.83. Barley, \$49.07."

I read from book entitled "Register of Vouchers, Freight Earnings Refunded." Page 10, May, 1885: "Omaha Elevator Company. Corn, &c., \$380.63. Omaha Elevator and Grain Company, \$2,723.65. Omaha Elevator and Grain Company, \$1,299.29."

Page 12: "June, 1885. Omaha Elevator and Grain Company. OC. Corn, \$1,277.13."

Page 16: "Omaha Elevator and Grain Company. Corn, \$1,925.95."

Page 25: "Omaha Elevator and Grain Company. Corn, \$791.55."

Page 28: "June. Omaha Elevator and Grain Company. Corn, \$1,182.09."

Page 31: "July. Omaha Elevator and Grain Company. Refund storage charges, \$15.77."

What does that last entry mean? What storage charges were refunded?—A. That may have been where some cars were broken down, some accident happened, and the road that hauled them was responsible for it.

The CHAIRMAN (to Mr. Mink). Please produce the vouchers representing that. It is auditor's No. 10161, for the month of July, 1885. That entry differs from any other entry here. It is a refund on storage charges.

The WITNESS. In all probability the item was paid back by some other company to the Union Pacific Company. But we paid the money and got it back from the company.

The CHAIRMAN: Here are some additional items:

"Omaha Elevator and Grain Company. Corn, \$646.43." "Omaha Elevator and Grain Company. Corn, \$2,255.24."

Page 47: "August, 1885. Omaha Elevator and Grain Company. Corn, \$1,247.73."

Page 48: "August. Corn, \$3,800.17."

Page 53: "September. Omaha Elevator and Grain Company. Corn, \$86.74."

THE RAILROAD THE GAINER BY REBATES.

The WITNESS. I think this, Mr. Chairman, that every dollar paid out in rebate represents ten or twenty times that amount paid to the company in revenue that they would not get if they did not pay the rebate.

FURTHER REBATES.

The CHAIRMAN. Page 60: "October, 1885. Omaha Elevator and Grain Company. Grain, \$1,488.17. October, 1885. Omaha Elevator and Grain Company. Grain, \$1,696.24."

Page 61: "October, 1885. Omaha Elevator and Grain Company. Corn, \$1,032.05."

Page 63: "October, 1885. Omaha Elevator and Grain Company. Corn, \$49.36."

Page 69: "November. Omaha Elevator and Grain Company. Rye, \$54.01."

Page 69: "November. Omaha Elevator and Grain Company. Grain, \$733.71."

Page 69: "November. Omaha Elevator and Grain Company. Grain, \$154.87."

Page 71: "November, 1885. Omaha Elevator and Grain Company. Corn, \$1,337.66."

Page 71: "November, 1885. Omaha Elevator and Grain Company. \$31.80."

NO PREFERENCES RECEIVED BY THE OMAHA ELEVATOR AND GRAIN COMPANY IN ANY OTHER NAME.

Q. In what other companies are you interested that have rebate or preference allowances from the Union Pacific Railway Company?—A. None, sir.

Q. Have preferences ever been obtained in any other name?—A. I never heard of any.

Q. Would you not know it?—A. We have not received any, and I have not heard of any.

Q. I ask has your company received preferences in any other name?—A. No, sir. You mean in the name of any other company?

Q. Of any other company or individual, or in any other way.—A. In no way, directly or indirectly.

The CHAIRMAN. (Reading). Page 87: "December. Omaha Elevator and Grain Company. Corn, \$400.55. Corn, \$746.22. Wheat, \$100.65. Corn, \$279.65. Corn, \$231.89. Flaxseed, \$71.21."

ALL SEEDS AND CEREALS RECEIVED ON STORAGE.

Q. You receive every character of seeds and cereals on storage, do you?—A. Yes; all kinds of grain, and flaxseed.

Q. Do you receive the same kind of percentage on all alike—shipments of all kinds?—A. Well, it might be different.

Q. What fixes the rate?—A. Sometimes a certain rate might apply to corn and another to wheat. It is only on the cereal that our competitor happens to be cutting on.

ADDITIONAL REBATES.

The CHAIRMAN. I read the following additional items:

Page 94: "January, 1886, Omaha Elevator and Grain Company, Rebate on barley, \$818.38."

Page 95: "January, 1886, coal, \$961.32."

Page 95: "January, 1886, wheat, \$178.78."

Page 106: "January, 1886, wheat, \$966.35."

Page 114: "February, 1886, wheat, \$49.20."

Page 114: "February, 1886, corn, \$189.08."

Page 117: "March, 1886, corn, \$187.63."

Page 117: "March, 1886, corn, \$244.29."

Page 121: "March, 1886, wheat, \$140.42."

Page 121: "March, 1886, wheat, \$146.69."

Q. Do all the amounts that have been named as entered upon the books to which your attention has been called contain the refund items on account of the rebate rates that you have been allowed from time to time by the Union Pacific Railway Company?—A. I imagine they do.

Q. Do they contain the 1-cent allowance on the 100 pounds weight that you received continually for the last two years?—A. Yes, sir.

Q. Also the additional rates of rebate that were allowed from time to time, as they were changed by reason of competition upon the subject?—A. Yes, sir.

By Mr. POPPLETON:

Q. Do they not also contain rebates allowed you by others collected by the Union Pacific and paid to you?—A. Yes.

stated two or three times, in order to impress it upon the Commission that 60 per cent. of that came back to the road.

RECEIPTS FROM OTHER ROADS.

The CHAIRMAN. Where will the receipts from the other roads count of these items, appear?

Mr. MINK. In the accounts with the other roads.

The CHAIRMAN. Where are they?

Mr. MINK. In our auditor's office.

The CHAIRMAN. Will you furnish them to the Commission?

Mr. MINK. Yes, sir. We have accounts with all these lines.

The CHAIRMAN. Where do you keep them?

Mr. MINK. In the auditor's office. That is in a register of vouchers. Some part of a voucher will be properly chargeable to the earnings account, and another portion properly chargeable to the roads east of the river. In our auditor's office that distribution is made, and it is in our current account with the railroad company. Subsequently, of course, the railroads return that amount, when they investigate the claim and pass upon it.

The CHAIRMAN. Will you furnish to the Commission the amounts of rebates received from other companies on account of the Omaha Elevator Company?

Mr. MINK. We will try to do so, but that involves a good deal of work. We have got to run down every voucher that we have ever issued to the Omaha Elevator Company and its successor company.

The CHAIRMAN. Have you a ledger account with the Omaha Elevator Company?

Mr. MINK. I think we have, but I am not quite sure. We have had it for the last year or so, at all events.

The CHAIRMAN. Would that account show the rebate account of the Omaha Elevator Company with the Union Pacific Railway Company?

Mr. MINK. I think it would, from the period that we kept it.

The CHAIRMAN. So that, for the last two years, there would be much difficulty in taking off the ledger account?

Mr. MINK. I think not; not with that company. But when you ask us how much was returned to us on account of shipments to the Omaha Elevator Company by the Iowa roads, it would take some time to prepare it.

The CHAIRMAN. Would you not see the account of the Omaha Elevator Company in the rebate account all the way through in the ledger account? Under what arrangement would the 60 per cent. be paid to you?

Mr. MINK. Under the arrangement with the traffic department.

Afternoon session.

THOMAS L. KIMBALL, being further examined, testified as follows:

The CHAIRMAN. I would like the stenographer to read to you your testimony in regard to your diary, given the other day.

THE "PRIVATE DIARY" QUESTION.

The testimony was read from the record of June 21, 1887, as follows:

Q. How could you refresh your memory?—A. I could tell by my diary.

Q. Have you got that?—A. I have a diary; yes, sir.

ave you it with you?—A. No; I have not got it with me. It is rather bulky. I kept it since I was twenty-one.

CHAIRMAN. If there is any public entry concerning the performance of duties of the Union Pacific Railroad before the legislature with these gentlemen as your agents, we would like to have it.

WITNESS. Well, I will see if I can assist you any by consulting my diary.

WITNESS. What I understand you to want is the fact in that diary.

CHAIRMAN. We want to ascertain concerning the facts. Of course I do not want your private business. I only meant concerning the Union Pacific Railway Company. You volunteered it.

WITNESS. I volunteered to consult my diary to fix the dates.

CHAIRMAN. I only wanted to call your attention to the matter.

WITNESS. Am I not right in saying that what the Commission wants is the dates on which I was in attendance on a legislature? That was the subject under consideration at the time of my former examination.

CHAIRMAN. Any business transaction for the Union Pacific Railway Company that you entered in that diary we would like to have.

WITNESS. Very well. I did not understand that you wanted anything but the dates.

CHAIRMAN. That is all.

WITNESS. If you please, I would like to have further time.

CHAIRMAN. Oh, certainly. You volunteered the remark about a diary yourself. I did not ask you.

OMAHA, NEBR., Thursday, June 23, 1887.

D. S. BARRIGER, being further examined, testified as follows:

ADDITIONAL REBATES.

The CHAIRMAN. I read from the book entitled "Freight Earnings Refunded," page 135, month of April, 1886: "Omaha Elevator and Grain Company, wheat, \$368.79; corn and wheat, \$139.36; corn, \$94.82; corn, \$1,604.99."

Same book, page 149: "May, 1886. Account of corn, \$802.52."

Page 150: "May. Account of corn, \$1,216.21."

Page 158: "May. O. C., oats, \$269.65."

Page 170 (no time given): "O. C., oats, \$9.64."

Page 171: "June. Corn, \$163.23; wheat, \$31.19; corn, \$318.86; wheat, \$859.83."

Page 171: "July. Corn, \$394.51."

FURTHER ALLOWANCES TO THE OMAHA ELEVATOR COMPANY.

Q. Have you any knowledge, without an examination of your books, of any rebates or preferences that have been allowed to the Omaha Elevator Company since June, 1886, the last date that I have mentioned?—A. I do not remember any exact amounts.

Q. Have there been any allowances since that date?—A. Since June, 1886?

Q. Yes.—A. Yes, sir.

Q. How long did they continue?—A. I do not remember.

Q. Did they continue until the enforcement of the interstate commerce bill?—A. No, sir; not continuously from June up to April 5.

stated two or three times, in order to impress it upon the Commission, that 60 per cent. of that came back to the road.

RECEIPTS FROM OTHER ROADS.

The CHAIRMAN. Where will the receipts from the other roads, on account of these items, appear?

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The CHAIRMAN. Where are they?

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The WITNESS. Very well. I did not understand that you wanted anything but the dates.

The CHAIRMAN. That is all.

The WITNESS. If you please, I would like to have further time.

The CHAIRMAN. Oh, certainly. You volunteered the remark about a diary yourself. I did not ask you.

OMAHA, NEBR., *Thursday, June 23, 1887.*

D. S. BARRIGER, being further examined, testified as follows:

ADDITIONAL REBATES.

The CHAIRMAN. I read from the book entitled "Freight Earnings Refunded," page 135, month of April, 1886: "Omaha Elevator and Grain Company, wheat, \$368.79; corn and wheat, \$139.36; corn, \$94.82; corn, \$1,604.99."

Same book, page 149: "May, 1886. Account of corn, \$802.52."

Page 150: "May. Account of corn, \$1,216.21."

Page 158: "May. O. C., oats, \$269.65."

Page 170 (no time given): "O. C., oats, \$9.64."

Page 171: "June. Corn, \$163.23; wheat, \$31.19; corn, \$318.86; wheat, \$859.83."

Page 171: "July. Corn, \$394.51."

FURTHER ALLOWANCES TO THE OMAHA ELEVATOR COMPANY.

Q. Have you any knowledge, without an examination of your books, of any rebates or preferences that have been allowed to the Omaha Elevator Company since June, 1886, the last date that I have mentioned?—A. I do not remember any exact amounts.

Q. Have there been any allowances since that date?—A. Since June, 1886!

Q. Yes.—A. Yes, sir.

Q. How long did they continue?—A. I do not remember.

Q. Did they continue until the enforcement of the interstate commerce bill?—A. No, sir; not continuously from June up to April 5.

Q. They did not continue until April 5?—No, sir; not continuously.

Q. When did they stop?—A. I do not remember that.

Q. Did they stop in January of 1887?—A. We were receiving a rebate to about that date—January, 1887. That is, I might say that current rates for shipments from Nebraska over the Union Pacific and other roads were less than the tariff.

THE ONE CENT PER HUNDRED REBATE CONTRACT VERBAL.

Q. Have you a copy of the written contract with the Union Pacific Railway Company allowing the 1 cent on the hundred weight of shipment?—A. We have no written contract that I am aware of.

Q. What was the nature of the contract that you made with the company at that time?—A. It was verbal. It was generally understood that we were to get 1 cent.

Q. With whom did you make the contract?—A. I do not remember now; some official.

Q. Did you make it with the general freight manager?—A. No doubt with some one of the freight managers.

Q. Did you make it with Mr. Kimball?—A. I do not remember that. That is no secret here, however.

The CHAIRMAN. I did not say that it was. [To Mr. Mink.] Mink, have you such a contract on file? [To Mr. Poppleton.] Was there any written contract of that kind?

Mr. POPPLETON. Not that I ever saw. I have no idea that there was.

The WITNESS. No railroads make written contracts for such things; no railroad that we have ever dealt with.

Q. How many have you dealt with?—A. Perhaps from a dozen to fifty.

A SIMILAR CONTRACT WITH OTHER ROADS.

Q. Do you enjoy the same privilege with other roads as with the Union Pacific?—A. Yes, sir.

Q. Have you the 1 cent arrangement with them, as well as with the Union Pacific, on that hundred weight of business?—A. Yes, sir; on that transfer business, we have. The Eastern line pays us 1 cent.

Q. Have you any other suggestions or information to give the Commission?—A. I think I have told you about all I know. I want to answer any of your questions that I can.

Q. Will you name to the Commission the other railroads from which you have received concessions such as you have received from the Union Pacific? I do not mean those received from other roads indirectly, through the Union Pacific, but such as you have received directly from the other companies?—A. Well, we receive these things sometimes indirectly, Governor. We have received rebates from roads east of Chicago. That is sometimes done through a road between here and Chicago. We will deal with the road between here and Chicago; for instance, the Chicago, Burlington and Quincy, or the Rock Island, which represent routes to the Atlantic coast—the seaboard. We deal with that road and we know what the connecting road does about it. We would deal with them and they would settle with the other road. We would sometimes have an arrangement with the Chicago line to go on to the seaboard.

The CHAIRMAN. Judge Poppleton, have you any questions to ask this gentleman?

Mr. POPPLETON. One or two.

“REBATE” OR “PREFERENCE” A MISNOMER.

By Mr. POPPLETON:

Q. Do you get from other roads in the territory of the Union Pacific the same rates, or similar rates, on grain that you do from the Union Pacific?—A. Yes, when we make shipments over their lines we do.

Q. Now by the word “rebate” or “preference” do you mean any benefit or advantage that is given to you over and above other grain shippers operating in similar territory, upon similar lines, or do you mean simply the difference between the open tariff rate and the rate that all grain shippers actually pay?—A. The difference between the current rate and the rate prevailing at that time. No preference.

Q. So that the word “preference” or the word “rebate,” as indicating any advantage to you over other men engaged in the same business, is a misnomer?—A. Yes, sir.

CHARLES WELLS, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am a real-estate dealer; a broker.

Q. Are you engaged in business in Omaha?—A. Yes, sir.

Q. How long have you been in business?—A. Since February.

Q. Had you been in business in Omaha prior to that time?—A. Yes, sir.

Q. What kind of business?—A. In the grain business part of the time; not here in Omaha, though, but along the Union Pacific routes; and at the Council Bluffs Transfer.

Q. How long were you engaged in the grain business along the road and at Council Bluffs?—A. I should think eight or ten years.

Q. Have you had business transactions with the Union Pacific Railway Company?—A. Yes, sir.

Q. When did you commence?—A. I think I commenced in 1876, probably. It might have been 1875, somewhere along there.

Q. Were you associated with a company?—A. No, sir.

Q. Was there a firm?—A. In the grain business? Yes, sir.

Q. What was the name of the firm?—A. Hoge & Co., I think, part of the time; part of the time O. Wells, and part of the time S. F. Wells.

Q. Were you ever associated with Mr. Neiman in business with the Union Pacific Company?—A. No, sir.

Q. Are you acquainted with the firm of Wells & Nieman?—A. Yes, sir.

Q. Are you in any way connected with Mr. Wells of that firm?—A. No, sir.

Q. Where is it located?—A. Mr. Wells is located at Schuyler; has been for a good many years.

CONCERNING THE TRANSFER OF FREIGHT.

Q. What was the nature of your business transactions with the Union Pacific Railway Company?—A. The majority of it was handling the

freight—transferring it from road to road, and from car to car, by contract.

Q. What was the rate under that contract?—A. Twenty-two and a-half cents per ton.

Q. Did you have a written contract?—A. Yes, sir.

Q. Have you a copy of that contract?—A. I have not. It has been destroyed, probably a year ago. I did not keep it after I quit them.

Q. Did the company have a copy of the contract?—A. Yes, sir.

The CHAIRMAN. Mr. Mink, I would like to have you produce a copy of the contract with Mr. Wells.

RATES FOR TRANSFER.

Q. So that the rate then existing was 22½ cents?—A. No; there were two rates. I cannot give you the exact amount for the other; but it was a little less than that. Owing to a strike that was on the Union Pacific Road, my men struck at the same time that the Union Pacific men did; and Mr. Clark came to their terms and got them all to work again. I did not. Mr. Clark informed me that it would not do for me to have trouble with my men there; that they would come out again with the Union Pacific men. I told him that I could not give what the men were demanding of me; and he asked me what the men were demanding. I said I could not do it for less than 22½. And he said, "Give it; put the men to work." I did so, and put the men to work again.

Q. What was the previous rate?—A. The difference was not a cent, I think. It was a very slight one.

Q. Did you have a rate with the company of 12½?—A. No, sir.

Q. At no time?—A. At no time; 22½ was the rate the major part of the time; that is, per ton of 2,000 pounds.

WHAT THE CONTRACT WITH THE COMPANY REQUIRED.

Q. Under the contract with the company, what were you to do?—A. I was to furnish all the labor; see that the freight was transferred from one road to the other—from the Union Pacific to the Eastern line, and from the Eastern line to the Union Pacific; to furnish all labor required for other purposes, no matter what; for cleaning up the yard, or any other purpose that the agent should ask for, for which I should receive at the same rate that I was paying my men by the day. They would even call for men by the hour, or three hours. They would often call for men for extra mail, or anything of that kind. In that case they would call on me for men, and I furnished them at the same rate that I was paying my men by the day.

Q. Is that all that you were to do for the company?—A. I think it was.

HOW THE TRANSFER WAS MADE.

Q. How was the transfer to be made? What do you mean by the transfer—wagons, or cars, or what?—A. Transferring all kinds of freight. We did it generally with trucks across a platform, and the company was to furnish the tools, trucks, platforms, &c., and to see that the cars were in order before unloading. The company was to do that. I did nothing but the handling of the freight—weighing the freight and opening packages, &c.

THE COMPANY'S PART OF THE WORK.

Q. You were going on to state what the company were to do in the hope of furnishing tools, &c.—A. They also, when I asked for it, did

the switching and placed the cars where I wanted them at the platforms; or, if I wanted to have the freight outside, they placed the cars on the track in the yard where they could be handled to advantage.

Q. And, in addition to that, they paid you 22½ cents a ton for the work?—A. Yes.

A PRIVATE CONTRACT.

Q. Did you bid for this work?—A. No; it was a private contract.

Q. With whom did you make the private contract?—A. Mr. Clark.

Q. Who was Mr. Clark?—A. The general manager. At that time he was general superintendent.

Q. What kind of a private contract did you make?—A. There was nothing private about it; it was simply a contract between him and me. I meant that there were no bids on it.

NO PUBLIC LETTING.

By Commissioner LITTLER:

Q. No public letting?—A. No; I simply found out, by watching things, about what it was costing the company. I made Mr. Clark a figure, which was less than it was costing the company. He asked me how I found out, and I told him. He called Mr. Shelby, and asked him how much it was costing the company by the day, week, and year. I was to meet him next day. I did. Mr. Shelby had the statement, and my bid was a little less than it was shown to have cost the company, and on that he gave me the contract.

TOTAL RECEIPTS FOR TRANSFER.

By the CHAIRMAN:

Q. What would be your total receipts from the company for the year?—A. I could not say; sometimes \$5,000, sometimes \$9,000, sometimes \$7,000 by the month.

Q. Would it average about \$6,000 a month?—A. I should think about that.

Q. About \$75,000 a year?—A. I kept no account of it; that is, I have no account of it now. This is a good many years ago, and it has passed out of my memory.

Q. Have you been engaged during this last year in the transfer business?—A. I have not been there since 1883, I think.

Q. Was that the close of your business contract with them?—A. Yes, sir.

CONTRACTOR SUCCEEDED BY THE COMPANY.

Q. Who succeeded you?—A. The company. It was closed because I informed Mr. Clark that at the present price I could not handle the stuff and make anything, and that unless he would increase the price to me I would have to quit.

Q. What was his answer?—A. That if I could not do it at the price we had better annul the contract. Either party could annul the contract by giving three days' notice, and in his letter he stated that he could not give any more than the 22½ cents.

Q. Did you receive all this 22½ cents on the ton for the transfer freight yourself?—A. Yes, sir; except that I had a partner.

Q. Who was the partner?—A. The partner was Dr. Miller.

NO MONEY PAID AS A BONUS BY CONTRACTOR TO ANY EMPLOYÉ OF
UNION PACIFIC.

Q. Did you or Dr. Miller pay out any part of this to any employé of the Union Pacific company?—A. No, sir; there was nobody interested in any shape or manner but Dr. Miller and myself.

Q. Did you pay out any part of it to any officer of the Union Pacific Railway Company?—A. No, sir.

Q. Or to any employé of the company?—A. No, sir.

Q. Did you pay out any sum of money to any officer, employé, or any other person, directly or indirectly, from the sum that you received from the company in consideration of the transfer of freight?—A. No, sir; but I might at times—I think I did at times—pay a dollar or two to get some extra work done by some employé of the company. For instance, in fixing up a car that the company did not think it necessary to fix up and that I did. I have sometimes employed a man that way to fix up such things.

Mr. POPPLETON. I do not think you get the force of Governor Patison's questions.

The WITNESS. He asked me if I ever paid anything to any employés of the company, and I say no, unless on something of that kind.

Q. What employé of the company did you make such payment to—what was his position?—A. No position, unless some employé working around on the other side of the river.

By Commissioner LITTLE :

Q. A common laborer, do you mean?—A. A common laborer; yes, sir.

THE COMPANY AS A GRAIN BUYER.

By the CHAIRMAN :

Q. Were you ever an employé of the company?—A. No, sir.

Q. At no time?—A. Well, I will take that back; I was for one month.

Q. When?—A. When I first started with the company I was employed by Mr. Vining to buy grain on the road; and I did that for one month and then withdrew, and told him I would not handle grain that way. He gave me a cent a bushel for buying, shipping, and handling grain for the company.

Q. What was the company buying grain for?—A. Because there was at that time nobody, or but one or two, on the road that were handling grain. The grain went to the Burlington and Missouri. The Burlington and Missouri drew the grain from the Union Pacific territory almost to the track. There were no buyers, hardly, on the territory of the company, and Mr. Vining asked me what I would go up and handle the grain for.

ONE CENT A BUSHEL FOR BUYING GRAIN.

Q. How much were you to receive?—A. One cent a bushel.

Q. How long did you continue in that position?—A. One month.

Q. Did they continue, after that time, to buy grain?—A. No, sir.

Q. Why did you stop?—A. Because there was nothing in it for me.

Q. How much grain did the company handle in that way, by such purchase, during that month?—A. Very little. The rates that the Union Pacific were giving to Chicago were such that nobody on the Union Pacific road could buy grain.

Q. What was the date?—A. I could not remember the date.

Q. Was it 1880?—A. No, sir; it was before that.

Q. 1875?—A. It may have been 1875 or 1876—it was somewhere along there about; I could not give you the year.

By Commissioner LITTLER:

Q. Was it before you made your contract for handling freight?—A. Yes, sir.

Q. That would take it back to 1875 or 1876?—A. Yes, sir; somewhere along there; but I can't remember the date. I handled so little grain that the amount did not justify me in keeping on; and I quit.

By the CHAIRMAN:

Q. Were you in any public position at the time you were acting as the transfer contractor for the Union Pacific Railway Company?—A. No, sir.

Q. Have you ever been in a public position?—A. I have not.

Q. Have you any suggestion or information concerning your business relations, or anything else, with the Union Pacific Railway Company?—A. No, sir; nothing. It was all plain. Everybody knew it.

EXPLANATION OF VOUCHERS.

Mr. MINK. Mr. Chairman, I have a number of vouchers here that you asked me to produce [hands a number of vouchers to the Chairman].

Voucher No. 10525, dated July 27, 1885, in the name of the Omaha Elevator and Grain Company produced, showing that the charge was caused by error at the station in delivery of cars. The amount was \$15.79.

Voucher No. 956, page 22 of the Refund Book for October, 1883, is produced showing rebate on four cars of wheat from Schuyler to Chicago: "As per impression copy of bill No. 25877 on file, \$55.96."

The CHAIRMAN. What other disposition of that \$55.96 does this voucher show?

Mr. MINK. It shows that of the \$55.96 only \$15.79 was payable by the Union Pacific Company; the balance being payable by the Chicago, Rock Island and Pacific Company.

The CHAIRMAN. That is to say, that in this rebate allowed to the Omaha Elevator Company the Union Pacific paid the sum of \$15.79 and the Chicago Rock Island and Pacific Railway Company paid \$40.17.

Mr. MINK. That is about right. The Union Pacific Company paid the whole of it and recovered \$40.17 from the Rock Island Company.

The CHAIRMAN. In either case, however, the Omaha Elevator Company received the benefit of the entire amount.

Mr. MINK. Precisely.

The CHAIRMAN. Is that the explanation of all the other vouchers to the Omaha Elevator Company?

Mr. MINK. Not of all; no.

(Vouchers Nos. 956 to 991, inclusive, are produced and explained by Mr. Mink to be rebates allowed to the Omaha Elevator Company, in part by the Union Pacific Railway Company and in part by the Chicago, Rock Island and Pacific, the Chicago, Milwaukee and Saint Paul, and the connecting roads on the east.

THE COMPANY'S CONTRACT WITH CHARLES WELLS, OF OMAHA.

A contract, dated April 16, 1877, between Charles Wells, of Omaha, and the Union Pacific Railroad Company, produced, showing that he

is to act as the transfer agent in the handling of freight, the consideration to be paid to be 22 cents per ton of 2,000 pounds for every ton of freight loaded and unloaded. The contract to take effect April 16, 1877.)

The CHAIRMAN (to Mr. Poppleton). Should you like to have the whole contract go into the record, judge?

Mr. POPPLETON. We do not consider it a matter of any importance. The whole examination of Mr. Wells had only one thing in it.

The CHAIRMAN. What was that?

Mr. POPPLETON. If Dr. Miller were not in it Wells would never have been called.

The CHAIRMAN. Who is Dr. Miller?

Mr. POPPLETON. He is the editor of the Omaha Herald and a Democratic politician in this State.

The CHAIRMAN. I only mention this to show that the company has produced the contract on call.

OMAHA, NEBR., *Thursday, June 23, 1887.*

THOMAS L. KIMBALL, being further examined, testified as follows:

CONCERNING THE LOWEST NET RATE ON GRAIN.

By the CHAIRMAN:

Question. Can you give the Commission the lowest net rate allowed by the company, for grain, during the several years of your management?—Answer. I could not do so from recollection.

Q. Can you produce accounts showing lowest net rate on grain during those periods?—A. It is possible that I can; but it would take some time to do it. You mean the lowest net rate from any given point? You know the rates varied.

The CHAIRMAN. The lowest net rate allowed in the whole system for transportation.

The WITNESS. That would be the lowest average rate for a period?

The CHAIRMAN. No; I want the lowest net rate per 100 pounds per mile, if you can give it in that way; or per ton, over the system, for any one year.

The WITNESS. I think it would be practically impossible for me to give you the information you ask for without a very great deal of labor and time.

Q. Can you give me the lowest net rate given to the Omaha Elevator Company, Himebaugh, Merriam & Co., the Standard Oil Company, the Union Cattle Company, the Omaha and Grant Smelting and Refining Company, per ton per 100 miles in each of the years from 1884 to 1886, inclusive, or per car per 100 miles, if you prefer it that way?—A. Per ton per mile, I think, would be the better way.

The CHAIRMAN. That will do.

The WITNESS. I think I can; but, like the other proposition, it is a matter that will take considerable time.

Q. What time would it require?—A. It is hard to tell.

Mr. POPPLETON. That would be a rate representing destructive competition, of course?

The WITNESS. Yes; and it might represent a low grade ore that was but little better than common rock.

Mr. POPPLETON. Yes; without regard to the kind of freight or the circumstances under which it was carried.

The CHAIRMAN. The lowest net rate in each year for each year?

REBATE TO OMAHA & GRANT SMELTING AND REFINING COMPANY.

The WITNESS. Yes; I so understand it.

Paper dated August 17, 1886, shown witness, as follows:

PERSONAL.

D. D. DAVIS, Esq.,

F. C. A. Union Pacific Railway Co., Omaha, Nebr.:

DEAR SIR: Returning herewith papers in claim of the Omaha & Grant Smelting & Refining Co., you may settle claim as follows:

On the shipments of ore from Park City to Denver you may reduce charges to \$3 per ton. On the shipments of ore from Hailey to Denver you may reduce charges to \$16 per ton. On the shipment of bullion from Denver and Golden to Omaha you may allow rebate of \$3 per ton. On shipment of bullion originating at Morgan to Salt Lake City you may allow rebate of \$3 per ton. On the shipment of ore from Hailey to Omaha you may reduce charges to \$20 per ton.

Yours, truly,

THOMAS L. KIMBALL, G. T. M.

Q. Is that the letter, or communication, on which the \$40,000 voucher of rebates was allowed to the Omaha and Grant Smelting and Refining Company?—A. All the items named in this voucher are covered by the authority given in my two letters of August 17, 1886.

THE PUBLISHED RATES ON ORE AND BULLION.

Q. What were the open or published rates at that time?—A. On bullion from Denver to Omaha the open rate was \$10 per ton. On the same from Golden to Omaha, \$10 per ton. From Salt Lake to Omaha, \$18 per ton; Hailey to Denver, on ore, \$20 per ton; Park City to Denver, on ore, \$10.60 per ton; Leadville to Denver, on ore, \$5 per ton; Hailey to Omaha, on bullion, \$25 per ton; Ketcham to Omaha, on ore, \$27 per ton; Morgan to Omaha, on bullion, \$18 per ton; Ketcham to Denver, on ore, \$20 per ton.

DIFFERENCE BETWEEN SPECIAL AND PUBLISHED RATES ON ORES.

Q. Was there 50 per cent. difference between the published open rate and the special rate allowed under your instructions to the smelting company?—A. On shipments from where?

The CHAIRMAN. On the average.

A. I hardly think that would be the average.

Q. What would be the difference on the average? Give me the difference in each. I only wanted to shorten it by taking the average.—A. I have not got the average.

Q. Give the difference in each, then.—A. There would be a difference of \$3 in the first item—Denver to Golden; Salt Lake to Omaha, \$3; Hailey to Denver, \$4; Park City to Denver, \$4.60; Leadville to Denver, 40 cents; Hailey to Omaha, \$5; Ketcham to Omaha, \$12. I make that statement with this explanation: That the ore from Ketcham was shipped from over the range of mountains and could not be hauled to market at the tariff rate from Ketcham and pay the wagon charge from the mines to Ketcham. The most we could get out of it was \$15 for the railroad's part of the earnings. Morgan to Omaha, on bullion

per ton; Ketcham to Denver, on ore, \$4 per ton. That covers all the items in the voucher that I have noted.

"PERSONAL" CLAIM PAPERS.

The CHAIRMAN. The following communication, headed "The Union Pacific Railway Company, Accounting Department," was sent by the freight claim agent to the general traffic manager:

OMAHA, NEBR., July 9, 1886.

C. W. V. T. (Personal.) Claim 66861.

T. L. KIMBALL, Esq., G. T. M.,
Union Pacific Railway Company, Omaha, Nebr.:

DEAR SIR: Herewith please find expense bills in claim of the Omaha and Grant Smelting and Refining Company, which have been checked with our billing, and are now returned to you, under personal cover, as requested by you of June 25, attached.

Yours, truly,

D. D. DAVIS,
F. C. A.

Please explain to the Commission why it was necessary to place such a communication under personal cover.

The WITNESS. May I be allowed to see the letter?

The CHAIRMAN. Yes. [The chairman hands the paper to the witness.]

A. Those claim papers, in cases of rebate, are generally marked personal—the communications between the different departments of the company. That is our practice—marking pretty much all communications of that sort sort "personal," because most of the rebate arrangements are understood between the shipper and company to be private and personal. They are not public like the published tariffs of the company.

A REBATE ACCOUNT PRIVATE.

Q. Do I understand that the rebate account, then, is rather of a personal or private nature in the arrangement of the business of the railway company?—A. Yes. It covers transactions that, under the practices of competing railways, could not and should not be treated as openly and publicly as the open, published tariffs and ordinary transactions of the company. And in this regard our practice is the same as that of all other roads of which I have any knowledge, in respect to rebate transactions. If they were of a character that could be made public there would be no necessity for a rebate. We could change our tariff to cover the case and make it public.

PROPERTY OF THE OMAHA & GRANT SMELTING AND REFINING COMPANY.

Q. What interest has the Union Pacific Company in the property of the Omaha and Grant Smelting and Refining Company?—A. None that I am aware of.

Q. Does the company own the building?—A. I think not.

Q. Or the grounds?—A. I think, in Omaha, they are located on the Union Pacific's ground, under a lease; but in Denver they own their own site.

Mr. POPPLETON. In Omaha they are partly on ground to which the Union Pacific Railway Company has title and partly on ground to which it simply has easements from the city.

The CHAIRMAN. What is the nature of the lease?

Mr. POPPLETON. It is in writing and the best way will be to produce it.

The CHAIRMAN. We shall be glad to have it produced.

Mr. POPPLETON. They own a piece of ground 5 or 6 miles from us; to which, I think, they thought for some time it would be to their interest to move, and get out of town.

REBATES TO WELLS & NEIMAN.

Q. What business relations has the Union Pacific Railway Company with the firm of Wells & Neiman?—A. Wells & Neiman are manufacturers of flour and are shippers over the Union Pacific road. Their mill and elevator are located at Schuyler, in this State—a local station on our line.

Q. Upon what principles are rebates allowed to the firm of Wells & Neiman?

The WITNESS. On shipments to where?

Commissioner LITTLER. Anywhere.

A. My recollection is that the shipments of flour produced by Wells & Neiman, to Western points, are rebated from the regular rates; because they could not compete with the producers of flour, locally in the Western territory that they ship to, without rebate. We get the long haul out of their business.

Q. Why did you not make your open rate of such a figure that all could come in?—A. Well, the fellow that had a flour mill nearer to the market than they had would want a proportionate rate to the one we had made for them on the long haul.

RATE OF REBATE ALLOWED.

Q. What was the rate allowed to Wells & Neiman?

The WITNESS. At what period?

The CHAIRMAN. In the year 1883.

A. From recollection, I should say 50 cents a hundred pounds to Wyoming points.

Q. Did that rate continue through 1884 and 1885?—A. I don't know, personally, of the then current rebates on business of Wells & Neiman; and I hardly wish to testify to exact figures, without ascertaining just what they were. No original or other rates dating back to 1883, to Wells & Neiman, were made by me, as far as I can recall.

Q. By whom were they made?—A. I do not know, of my personal knowledge.

Q. Since 1883 who made the rates?—A. They would be made subject to my authority since 1884.

Q. What rates did you allow them?—A. I do not remember; but I think the rebate rate was in the neighborhood of 25 cents a hundred, as I said before.

Q. And what was the open rate?—A. Probably about 75 cents to \$1.

UNION PACIFIC DIRECTORS OR EMPLOYÉS NOT INTERESTED IN THE FIRM.

Q. Are any of the officers, employés, or directors of the Union Pacific Railway Company interested in the firm of Wells & Neiman?—

Never, to my knowledge; I never heard of it. It is about the only case in regard to which I have not heard that charged. It is about the only case of a business on the line or in this city in which the officers of the Union Pacific Company were not accused of being interested, especially myself. I might as well say right here, now, that I have been on this road sixteen years, and I have never had any interest in any business of any sort connected with the Union Pacific road, where my interest in the business could possibly come in conflict or in competition with patrons of the road. I think that is substantially true of the other officers of the road, too.

THE CHICAGO LUMBER COMPANY.

Q. Who compose the Chicago Lumber Company?—A. The only two gentlemen that I know, positively, have any connection with that company are Mr. Colpetzer, of Omaha, and Mr. Green, of Chicago.

Q. Why were rebates allowed to the Chicago Lumber Company?—A. Only for the same reason that we allowed rebates to other lumber dealers and to other business men along the road. They have had to have them to meet their competition.

DIRECTORS OF THE UNION PACIFIC INTERESTED IN CORPORATIONS SHIPPING OVER THAT ROAD.

Q. Do you know of any officer or director or employé, of the Union Pacific Railway Company being interested, either directly or indirectly, in any firm or business house, or company, or corporation doing business and shipping over the Union Pacific Railway; if so, will you please name them?

The WITNESS. In Omaha, do you mean?

Commissioner LITTLER. Anywhere.

The CHAIRMAN. Anywhere. Take the whole system.

A. I know of no case of any sort among the local officers of the Union Pacific road.

The CHAIRMAN. I ask you as to any officer.

A. I know, or have understood, that Mr. Ames, a director of the company, and Mr. Dillon, another director, were interested in the Omaha and Grant Smelting and Refining Company, as stockholders.

PRESIDENT ADAMS A STOCKHOLDER IN THE ARGENTINE SMELTING COMPANY.

I have also heard that the president of the Union Pacific Company was a stockholder in the Argentine Smelting Company, of Kansas City.

By Commissioner LITTLER:

Q. Is that Mr. Adams?—A. Yes; and I understood that he owned that before he became connected with the Union Pacific road. I ought to say, perhaps, in addition that when it was first brought to my knowledge that Mr. Adams had such interest, he wrote me a letter, and said to me, personally:

I desire, in the adjustment of rates for that company, to have it distinctly understood that my interest shall have no influence whatever upon your department in the adjustment of rates. I want you to ignore the fact that I am a stockholder in the company,

DIRECTIONS GIVEN THAT NO FAVORS BE SHOWN BECAUSE OF SUCH INTEREST.

The same thing has been said to me by Mr. Ames and Mr. Dillon in respect to their interest; and I never yet had a request from either of the three gentlemen to do anything exceptional or special in favor of the companies they were interested in.

Q. Were any rebates allowed to the company in which Mr. Adams was interested?—A. Yes.

Q. What were the rates?—A. I cannot recall them. There were either special rates or rebate rates allowed to them, I think, in the past. But not very much, for the reason that that company does most of its business over roads competing with the Union Pacific.

Q. Who made application for the rebate in the case of the Argentine Smelting Company?—A. I do not know. The applications generally would come to me, through our agent at Kansas City, or some assistant in the freight department. If any applications were made they would come from that source, or to me direct. I do not now recall any special case.

Q. Have you now named all the officers?—A. Yes; I do not think of any other case.

Q. All the officers, directors, employes, and agents of the main line and branch lines?—A. So far as my knowledge goes, I have covered every instance.

THE NORTHWESTERN FORWARDING COMPANY.

Q. What is the Northwest Forwarding Company?—A. That is a concern in Utah that was organized to transport freight to and from the Union Pacific lines of the west to overland points off the line of the road, where wagon transportation is necessary.

Q. Why were rebates allowed to the Northwest Forwarding Company?

The WITNESS. Tell me what the rebates were.

REBATES ALLOWED.

The CHAIRMAN. In August, 1883, page 7 of the register of freight earnings returned \$1,249.57 on an item of salt.

The WITNESS. I think that it is a concession allowed that concern for handling salt from Salt Lake to the mills in Montana or Idaho. It used to be 50 cents a ton. It may be that now; I do not recollect.

Q. Who compose the Northwest Forwarding Company?—A. I know two gentlemen, Mr. Lyman and Mr. Wallace, of Salt Lake, as members of the firm. Whether anybody else is interested in the company I do not know.

WHY ALLOWED

Q. Why did you allow to that company a concession of that kind?—A. Because they purchase the salt; they manufacture a great deal of it; they sell it, and collect, not only their charges, but the company's charges, transact all the business, and assume all the risk; and the commission allowed them is certainly not excessive for the risk they take and the amount of business they do.

UNION PACIFIC PEOPLE INTERESTED IN OTHER ROADS.

Q. Are any of the officers, directors, employes, or agents of the Union Pacific Railway Company interested in any company in which

Union Pacific Railway Company has an interest, to your knowledge ?—A. Not to my knowledge; unless you refer to some other railroad--branch or auxiliary line. It is possible that some of our officers may be stockholders in some branch roads.

Q. Can you name any of them ?—A. I know of one.

Q. What is it ?—A. The Utah Central.

Q. Who is interested there ?—A. I am, unfortunately. I bought the stock at par, and I would like to sell it at 25 cents on the dollar. I would say, however, that I took my stock for a debt.

Q. What other officers, if any ?—A. Well, I do not know. I suppose some of the directors of the company hold stock in some of the auxiliary lines, but probably to a somewhat limited extent.

Q. Is that the extent of the interest, to your knowledge, of the Union Pacific Railway Company in organizations in which their officers are interested ?—A. Yes, sir; I do not recall anything else.

WHO COMPOSE THE UTAH FORWARDING COMPANY.

Q. Who compose the Utah Forwarding Company ? I see an entry here of an allowance for coke, August, 1886, \$833.46.—A. I think it is the same concern as the Northwestern Forwarding Company.

Q. What was the reason of an allowance of a rebate to them ?—A. For the same reason that we made the allowance on salt. They took charge of the business, and advanced the money, and made the collections, and took the risk of getting the money back, not only from the coke but the freight.

Q. Then the rebate was in the nature of a commission or consideration for doing that service ?—A. Yes.

Q. Do you allow the same consideration to others engaged in the business ?—A. I do not know any others engaged in the business.

Q. Could they possibly engage in the business on such allowance or rebate to a competing company ?—A. Oh, yes.

Q. How ?

The WITNESS. In respect to the coke business, or salt ?

The CHAIRMAN. Coke or salt.

A. There is nothing to prevent them that I see. The allowance made to those gentlemen is but trifling, to stand in the way of any coke producing company or coke shipping firm competing with them in that market. That is certainly shown by the fact that the Northern Pacific company is shipping coke into the same Territory (Montana) that this firm ships to by our line.

Q. Do you consider the item of 50 cents a ton a small item ?—A. I think it is 25 on coke.

Q. Would you regard that as a small consideration in trade ?—A. Yes; I should consider that a small consideration for the work done and the risk taken by those gentlemen.

COST OF COKE.

Q. What is the cost of a ton of coke in that section ?—A. Sixteen to \$18 a ton. In some localities they are selling at less, and the price varies according to the quality and kind of coke.

Q. That includes the transportation ?—A. Yes.

Q. What is the price at the coke ovens ?—A. We have no coke ovens on our line.

Q. Do you know the price ?—A. Three dollars and a half, I think, in Colorado.

Q. Are you speaking of the ovens of Colorado?—A. Yes.

The CHAIRMAN. That is about 90 cents in Pennsylvania.

The WITNESS. Well, it is \$9 a ton delivered here, now, since the in-state law was passed. We used to get it at \$6 and \$6.50. That is one of the blessings of the new law to this western country.

OTHER COMPANIES ENGAGED IN THE COKE OR SALT BUSINESS.

Q. As matter of fact, are there any other companies engaged in the salt or coke business in the same sections as are covered by these north-western and Utah companies?—A. Oh, yes. About one-half our shipments are now made by the firm of Adams & Keisel, of Ogden.

Q. Were they there before the 1st of April?—A. They have been in the business two years, I think.

Q. Any other company?—A. I do not recall any at the present time.

Q. Is the Keisel you mention of the firm of F. J. Keisel & Co.?—A. Yes; that is the same man.

THE ELDON COAL MINING COMPANY.

Q. Do you know about the Eldon Coal Mining Company?—A. That is one of the things that never reached me.

Q. Did you ever hear of it before?—A. I cannot recall that I did.

Q. In your refund book, page 14, September, 1883, there are allowed items of rebate amounting to \$2,790.23 on the 10th of October.—A. That is an Eastern coal company, probably.

The CHAIRMAN (to Mr. Mink). While looking at that you might as well look at another item on page 16—the Eldon Coal Mining Company; \$1,120.07 is charged.

THE LA PLATA MINING AND SMELTING COMPANY.

Q. What do you know about the La Plata Mining and Smelting Company?—A. I know there is such a company engaged in smelting in Leadville.

Q. How long have they been shipping over the road?—A. I do not know how many years. I have known of the company being in Leadville several years.

Q. Do they receive the same rates of rebate as the Omaha Smelting Company?—A. On shipments from Denver to the Missouri River they would, if they applied for it; and if they shipped over our road they would be paid the same rebate.

THE BOSTON AND COLORADO SMELTING COMPANY.

Q. The Boston and Colorado Smelting Company—what do you know of them?—A. That is the name of a concern in Butte, Montana. It is part of the same organization or property which is owned by Senator Hill's company, of Denver. We have known that as the Boston and Colorado Mining and Smelting Company, or the Argo Works.

Q. What rebate arrangements have you made with that company?—A. We have paid that company, on shipments of ore from Butte, a rebate, that I recall, and maybe other points.

Q. Is the rebate rate the same as to other persons?—A. I think so, would have to look that up.

LARGE SHIPMENT OF LOW GRADE ORE AT LOW RATES.

I know that at one time we shipped a large quantity of low-grade ore for Senator Hill at less than we ever shipped for anybody else up to that time from Butte to Denver. I think that was the lowest rate we ever made from that camp for anybody.

Q. Did Senator Hill ever complain about the rates?—A. Yes, he always complained.

Q. Even when he was the lowest?—A. Well, he always suspected that somebody else was below him.

Q. Is he engaged in shipping over the Union Pacific Railway?—A. Yes; but not quite so much as I would like to have him.

HORN SILVER MINING COMPANY.

Q. What do you know about the Horn Silver Mining Company?—A. I know that to be a mining and smelting company at Salt Lake and at Frisco on the southern end of the Utah Central.

Q. Who compose that company?—A. I know the man that manages it—Mr. Hill, of Salt Lake. I used to hear that Mr. Jay Cook, of Philadelphia, was one of the owners of it, but I think he got out in time, when the stock was worth 16½. It is selling now, I think, at \$1.50 or \$2.

Q. What rebate rates have you allowed to the Horn Silver Mining Company?—A. I do not remember any, except—

REBATE TO HORN SILVER MINING COMPANY.

The CHAIRMAN. I find a rebate of \$21,855.72 to that company.

The WITNESS. At what date is that?

The CHAIRMAN. September, 1883. The Horn Silver Mining Company appears on the return of freight-earnings rebate account to be allowed in the aggregate \$21,855.72.

The WITNESS. Well, I do not know anything about that.

The CHAIRMAN (to Mr. Mink). Please produce the papers as to that item.

The WITNESS. I do remember that in 1885 the Horn Silver Mining Company offered me for transportation an amount of bullion that would give the Union Pacific road in earnings about \$60,000. They offered it to me if I would cut the rate \$3 a ton, I think. I declined to cut the rate. Every pound of it was contracted for by the Rio Grande and connecting roads at \$4 rebate, was shipped that way, and we lost it.

Q. When was that?—A. I think it was in 1885.

Q. Did they, prior to that date, have the same rate of rebate as the Omaha company had at Omaha?—A. That I do not know; but at that time it was the agreement between the roads that no line should pay a cent of rebate on shipments from Utah to the Missouri River.

Q. Who would know whether the rebate to the Horn Silver Mining Company prior to 1885 was at the same rate that was allowed to the Omaha and Grant Smelting and Refining Company?—A. I could easily give that information when I get the papers showing the dates and the character of the shipment, whether ore or bullion.

C. W. COLLINS & COMPANY.

Q. What do you know of the firm of C. W. Collins & Co.?—A. The C. W. Collins & Co. I know about were contractors for building rail-

roads—branch lines of the Union Pacific—for a term of two or three years.

Q. I find on page 27 of the book entitled "Register of Refund Freight Earnings" October, 1883, entries covering sundries, coal, and grain, amounting, in the aggregate, to \$43,000. Were the sums represented in the several cases, and in a total to the amount I have named, rebates allowed to Collins & Co.?—A. I presume they were allowances made to cover the difference between the published tariff and the special rate given to Collins & Co. as contractors. I presume, if you had the papers, you would see that.

STEVENS WAS THE "COMPANY."

Q. Who was in the company?—A. A man by the name of Stevens was the "company."

Q. Was it part of the contract into which they entered with the railway company that there should be an allowance in the nature of rebates?—A. Usually those arrangements are made in this way: A man would take charge of a piece of construction—take a contract to build a piece of road. He will stipulate, in his undertaking with the company, that he will make his bids on half transportation or free transportation or full tariff. Now, I apprehend that when Collins & Co. made their arrangements with the Union Pacific they had an understanding that their supplies, tools, teams, and men, and provisions for their camps—everything that they required in that service—would be shipped to them at half rates, or at a certain agreed discount from the open tariff.

Q. Would that include grain?—A. Yes; to feed their mules.

Q. The grain is \$10,000.—A. That would not be a very large amount where the haul was from 1,000 to 1,500 miles. Of course I am not giving you this as the facts. I do not know the exact facts.

The CHAIRMAN. Will you produce the contract?

The WITNESS. I do not remember it. I do not know that there was a contract.

Q. Was Mr. Gould in that firm?—A. I never heard of it.

Mr. POPPLETON. It is pretty safe to say that he was not.

Q. Was Collins a contractor for Mr. Gould?—A. I never heard of it.

"VARIOUS STATIONS: FREE TRANSPORTATION."

The CHAIRMAN. I would like you to explain the nature of the entry, in the month of October, on page 29, of the refund book, voucher No. 1273 "various stations. Free transportation." It is a small item of \$8.34?—A. I presume it was some shipper who was entitled to free transportation, who had paid his fare, and the money was refunded. But I am not sure; must see the voucher.

The CHAIRMAN. (To Mr. Mink.) Please produce the voucher for the item No. 1252, for the month of October, page 28. "Various stations, F. transportation issued," \$11,989.19.

UNION PACIFIC COAL DEPARTMENT.

Q. What is the Union Pacific Railway coal department?—A. It is only a name.

Q. A name for what?—A. A name for the department of the Union Pacific organization which produces and distributes coal.

Mr. POPPLETON. It mines it for its own use?

The WITNESS. For the company.

Q. Who compose it?—A. The Union Pacific Railway Company. The men who do the work are myself, in the commercial department. The man in charge of the production of the coal is Mr. D. O. Clark.

Q. Is it an incorporated company?—A. No, sir.

Q. Is it a department of the railway organization?—A. Yes; like the passenger or the freight department.

Q. Is it also a mining department?—A. It includes the mining of coal by that department.

REBATE ON COAL.

Q. On what principle do you allow to the company a rebate on the shipment of coal—on what principle is a rebate allowed to the Union Pacific Railway coal department?

The WITNESS. Well, I should have to see the entry to understand it. The CHAIRMAN. I find an entry on page 43, in the book of "Refund freight earnings" Union Pacific Railway Company coal department—rebate on coal, \$3,423.33.

The WITNESS. If you will have that voucher brought in I will explain it.

The CHAIRMAN (to Mr. Mink). Will you please produce voucher indicated on page 43, reading, "the Union Pacific coal department, rebate on coal, \$3,423.33."

Mr. MINK. Yes, sir.

SWAN LAND AND CATTLE COMPANY.

Q. What knowledge have you of the Swan Land and Cattle Company?—A. I know that there is such a company in Wyoming; the largest producer of live stock in the Union Pacific territory.

Q. How long have they been shipping over the Union Pacific?—A. Mr. Swan, or Swan & Brothers, have been shipping for a dozen years, I should think, over the Union Pacific; but the Swan Land and Cattle Company could not have been organized more than three or four years ago.

Q. What rates of rebate have you given to the company?—A. I do not remember.

Q. Have they had a rate?

The WITNESS. I would like to see the entry in the book and the voucher.

The CHAIRMAN. Page 54 of the book of "Refund freight earnings," February, 1884, voucher No. 2328, Swan Land and Cattle Company \$408.

Mr. MINK. I will get the voucher.

THE PHILADELPHIA SMELTING COMPANY.

Q. What do you know about the Philadelphia Smelting Company?—A. It is the name of a company located at Ketchum, Idaho, on the Wood River Branch of the Oregon short line.

Q. Who compose the company?—A. A gentleman by the name of Wright, of Philadelphia, and another by the name of Elkins, of Philadelphia. Those are the only two that I ever heard of in that connection that I recall now.

Q. How long have they been shipping over the Union Pacific?—A. Ever since the Oregon short line was built; I think since 1882 or 1883.

Q. Did you make an allowance or rebate to that company?—A. Yes, sir.

Q. What rates did you give them?

The WITNESS. For what period?

The CHAIRMAN. The entry is on page 61 of the book "Refund of freight earnings" voucher No. 2,621 for the month of March, 1884, "Philadelphia Mining and Smelting Company, \$16,591.44."

The WITNESS. It is on account of bullion shipments.

THE ROCKY MOUNTAIN NEWS COMPANY.

Q. What is the "Rocky Mountain News Company"?—A. That is a Democratic newspaper publishing establishment in Denver.

Q. A printing establishment?—A. A printing and newspaper publishing establishment. They print a daily paper.

Q. What business dealings have they had with the Union Pacific Railway Company?—A. They have, I think, shipped their supplies of paper, &c., over the Union Pacific.

Q. Has the company allowed any rebate or preference (not, of course, in consequence of their politics) to the Rocky Mountain News Company?—A. I think they have had a special rate (by rebate, I presume), but I do not now recollect.

Q. Did you fix the rate?—A. I would help fix the rate. It was an agreed rate by all roads.

REBATES ALLOWED TO IT.

The CHAIRMAN. I find, on page 55, of the book called "Register of refund of freight earnings," for the month of February, voucher No. 2457, "The Rocky Mountain News Company, \$1,506 for sundries."

Mr. MINK. Do you wish that voucher, Mr. Chairman?

The CHAIRMAN. I would like to see the voucher, unless Mr. Kimball can explain it without the voucher.

The WITNESS. No; I could not do that without the voucher. It may have been for shipment of a printing press or a large quantity of paper supplies.

Q. Would that be on any general fixed rate arrangement that you would allow in such a case?

The WITNESS. In what year was that shipment made?

The CHAIRMAN. Eighteen hundred and eighty-four.—A. Then it would probably have been made by mutual consent of all the roads between the Missouri River and the city of Denver. The rates were published at that time as joint rates, all lines agreeing to them. We had a rule in some of our associations, probably in that one, to give reduced rates, or special rates, to publishers of daily papers. That is my memory about it.

Q. To what other newspapers did you allow such preference?—A. I do not remember.

The CHAIRMAN. I do not find any such upon your books for the period covering 1884 or 1885. There are two Omaha papers, I think, but none others that appear upon your records.

The WITNESS. Well, I could not say, of my own personal knowledge now, whether the rate was given to any other paper in Colorado or not.

METHOD OF ALLOWING REBATES.

Q. Then it was not a general method of management as to be made by an association it could not be made at all unless

it in this way. The management of the paper may have applied to the association for a special rate, to get in a new press, or a supply of paper; that would be acted on by the commissioner or the members on the application of any publishing house. That action of the association would establish a rate for all the lines. It might be an open special or a rebate rate, but it would be an agreed rate.

Q. For that particular case?—A. Yes.

Q. Would not that be rather a preference than a rebate rate?—A. It might be both.

Q. Will you please explain that.—A. If one publishing house in the city of Denver applied for a special rate and got it, and another publishing house applied and did not get it, it would be a preference. It would be a "rebate" rate, too, if the difference was refunded by voucher; but I do not know the facts in this case. I do not recall any of the circumstances.

APPLICATIONS MADE BEFORE GRANTING REBATES.

Q. Do you wait for an application before you fix your rebate rates?—A. We generally have applications for all the rebate rates we grant; and we have a good many applications that we do not grant.

Q. Then you have not any rule on which you issue your rates of rebate, without application?—A. No general rule. We prefer to get the tariff rate; but we cannot always do it.

Q. If an individual shipper fails to make an application he would be required by the company to pay the full rate?—A. He might be.

Q. Well, he would be, would he not?—A. Unless we should decide upon the application of one individual shipper, after investigating his case, that the rebate granted in his case would be advisable in all cases. Then we would apply it. We would be governed by circumstances.

Q. Would that be in the nature of a refund upon amounts paid by shippers?—A. It would be in the nature of a refund or an "overcharge." The rate would be named to the shipper as lower than the full open tariff; and, by rebate, the difference between the rate given to him and the open tariff would be refunded to him.

METHOD OF PAYING REBATES.

Q. Would the company notify him that, in consequence of a rate of rebate fixed he was entitled to an overcharge, and to appear at the company's cashier's desk and receive the amount?—A. He would send in his expense bill and make a claim.

Q. Suppose he failed to receive notice, what then?—A. He would not file any claim then.

Q. Would the company seek after him, to find him out?—A. Probably not in all cases.

THE CLYDE MILL COMPANY.

Q. What is the Clyde Mill Company?—A. I do not recall any, except that at Clyde, Kans.

Q. A rebate was allowed the Clyde Mill Company, on page 72 of your register of return freight earnings for April, 1884, voucher No. 3141 \$2,112.83; voucher 3142, \$594.72; voucher No. 3143, \$33.42; voucher No. 3144, \$3,124.03. Can you explain these items without the vouchers?—A. No, sir.

The CHAIRMAN. Will you produce the vouchers, Mr. Mink.

Mr. MINK. Yes, sir; I will.

THE HORN SILVER MINING COMPANY.

(The vouchers of the Horn Silver Mining Company are produced and shown to the witness.)

Q. Can you now explain the amounts of rates of rebate allowed to the Horn Silver Mining Company?—A. These all cover a period during which I have no recollection of having made the arrangement; and I would like the indulgence of the Commission until to-morrow morning, to answer the question.

The CHAIRMAN. There is no objection to that.

The WITNESS. I would like to investigate it.

THOS. L. KIMBALL.

The Commission then adjourned to Friday, June 24, 1887, at 10 a. m.

OMAHA, NEBR., *Friday, June 24, 1887.*

The Commission met pursuant to adjournment.

Present: Commissioner Pattison (chairman) and Commissioner Litter.

JOHN H. WALSH, being duly sworn and examined, testified as follows:

FAILURE TO SUBPÆNA J. M. THURSTON.

By the CHAIRMAN:

Question. Did you serve a subpœna on Mr. J. M. Thurston?—Answer. I called at his office, and they told me he was in Minnesota.

Q. Did you serve a subpœna?—A. No, sir.

Q. Did you make an effort to serve a subpœna?—A. I did.

Q. Have you got the subpœna?—A. I have.

Q. Where did you go to find Mr. J. M. Thurston?—A. To room 132 in the Omaha National Bank building.

Q. What was the answer?—A. That Mr. Thurston was out of town with his family, on a pleasure trip in Minnesota.

Q. When will he return?—A. They could not tell.

Q. How long has he been away?—A. They did not say.

ALSO W. A. PAXTON.

Q. Did you serve a subpœna on W. A. Paxton?—A. I did not.

Q. Did you try to serve him?—A. I did.

Q. Where did you go?—A. To the Paxton Hotel.

Q. What was the answer?—A. The clerk said Mr. Paxton was out of town.

Q. How long had he been out of town?—A. He could not tell.

Q. Whereabouts out of town did he say he was?—A. He could not tell that.

Q. Did you get any information as to his whereabouts?—A. He could not tell where he was, or anything about him at all.

ALSO G. M. DODGE.

Q. Did you serve a subpœna on G. M. Dodge?—A. I did not.

Q. Did you try to serve him?—A. I did.

Q. Where did you go?—A. To the office of N. P. Dodge, Council Bluffs.

Q. Was he there?—A. No, sir; he was not.

Q. What was the answer you received?—A. They told me that, when last heard of, he was at Fort Worth, Texas, but that he was now probably in New York.

Q. How long had he been away?—A. They said for quite a while.

Q. Did they say when he will return?—A. They could not tell, but thought it doubtful whether he would ever return to Council Bluffs, as he thought of locating permanently in New York.

Mr. MINK. He is building a railroad between Fort Worth and Denver. He simply maintains a residence at Council Bluffs. I do not suppose he has averaged a month in a year at Council Bluffs. For ten or fifteen years he spent most of his time in Council Bluffs. He originally lived there, before he embarked in the enterprises that take him away so much.

OMAHA, NEBR., *Friday, June 24, 1887.*

THOMAS L. KIMBALL, being further examined, testified as follows:

FREIGHT TARIFFS.

By the CHAIRMAN:

Question. Have you any of the papers called for yesterday or the day before?—Answer. I have a full set of the freight tariffs, arranged in the order of numbers, with notes in each case, showing to what portion of the line and between what dates these tariffs are applicable. Those I will put in in answer to the question calling for them.

OPEN AND NET RATES.

Q. Do they contain the open rates?—A. The open rates.

Q. And the net rates?—A. The specials that were in effect. The rebate rates are not quoted, because rebate is a discount from the figures given there. It would be well to keep them arranged in the order I have given them, because in that way the explanation will be found connected with the tariff.

Q. For what years do the papers produced show the open tariff rate?—A. It is all shown in the memorandum submitted with the tariff according to the date when the tariff went into effect, and such of them as are now in effect. For instance, the tariff for February, 1885, is superseded by the tariff of another month.

Q. Do the papers contain the net rate for the periods that you have given?

The WITNESS. Do I understand the question to be, do those papers show the net rate produced by payment of rebate?

The CHAIRMAN. No; the net rates that you have allowed in rebates to different individuals, and in special cases.—A. Oh, no; those here now are the regular open tariff that Mr. Littler asked for, I think.

Q. Have you ready the papers showing the rates allowed to individuals in rebate on shipments over the road?—A. Such as have been called for I have had and am having made up, so as to give you the *open and the rebate rate*. You recollect that yesterday quite a num-

ber, covering, I think, all of the large rebate vouchers to the Omaha and Grant Smelting and Refining Company, I explained, giving the gross and the net rate, in my testimony.

Q. Will the other papers you are going to produce show the difference between the open rate and the net rate allowed to individuals?—

A. In all cases where my attention is called to a rebate rate I can give you the net rate and the gross rate.

Q. In addition to the papers you have given, showing the open rate for the same periods, I call for the rates of rebate for the same period and for the same parts of the road, in contrast with the open rates produced by you.

The WITNESS. The rates allowed to everybody?

The CHAIRMAN. Yes; because I simply say to you that the rates you have produced are publicly advertised along the road and are of no earthly use unless you can show the contrast given by special rates, and that is just what we are after.

The WITNESS. That is just what you are getting.

The CHAIRMAN. We have been getting them in small details, and very small at that.

The WITNESS. It is a matter of time. I do not understand that we are limited as to the time in which to do it. We can show it all, with time.

Q. Is there any way by which you can give to this Commission the total sum allowed in rebates in special cases, as against the total of the open rates?—A. Yes; if we can have the time to do it.

EFFECT OF DISCRIMINATION.

The CHAIRMAN. I want to call your attention to the fact that the purpose of the Commission is simply to ascertain what the effect of the course of discrimination under special rates has been as against open rates. You have been kind enough to produce the open published rates. Now, it will be impossible for the Commission to report on the effect of the special rates as against the open rates unless they have both.

The WITNESS. In making up an analysis of the rebates and overcharges that are made and have gone into our accounts for one year, or for a term of years, do you want us to show to the Commission the gross sum so paid that would be in round figures, the representation of every dollar that has been paid in the form of overcharge and rebate, or do you desire us to separate the overcharge and rebate account into items, showing what would be simply a reduction of the tariff and a legitimate reduction of the tariff if, instead of making a rebate of it, or an overcharge by voucher, we had published the tariff at the net figures at which we took the freight, and a justifiable reduction in every case of that kind, as against what you call preferential rates, or rates that reduce the earnings of the Union Pacific Company improperly or irregularly?

CONCERNING AMOUNT OF REBATE.

The CHAIRMAN. I want to know the sums that have been allowed from time to time as a result of special rates, in comparison with the sums that result from the open rates produced by you.

Mr. POPPLETON. That could only be done by taking the records of the company from the beginning and making a complete detailed statement.

ment And, even then, it would not be correct, as in many instances it would not show it. Mr. Barriger touched the point of this thing when he said that the rebate rate touched business that would never have been done at the regular rate, but that it did represent earnings on the part of the company, as he said, from five to ten times what it would have got without giving the rebate rate. So what good does it do; how does it benefit anybody; how does it benefit the Government to make a supposition on a hypothetical basis that you and I and every intelligent man knows does not exist, but that the mass, the multitude, the general public imagine has some foundation to it. It seems to me that if such a course as that is entered upon, instead of throwing light on the condition of the railroads, it will mislead, and mislead to the prejudice of both the Government and the company. Of course, if this can be done, if it can be approximated even, my idea and my advice in the matter would be to come as near to doing it as possible—to do it, if possible; and if not possible, to come as near to doing it as possible. But, when it is done, there is not a man at this table who does not know that it will be misleading to any one who does not understand the subject. So far as the outside world is concerned, every figure you make will be a falsehood, necessarily.

THE HORN SILVER MINING COMPANY.

The WITNESS. Allow me to call attention to a fact in connection with what Mr. Poppleton has been saying. Take the case of the Horn Silver Mining Company that I referred to yesterday. There were, in shipments from that company, if I understand it, 3,200 tons of bullion. We had been allowing them a rebate. All the roads that got their shipments allowed the same. By agreement we abolished our rebate. They demanded it. They said they were ready to load on our cars about \$60,000 worth of freight, and all they asked was a rebate that would be equal to about \$9,000. We refused to allow the rebate. Our competitor did not refuse, and got the business. Now, we lost about \$60,000 worth of freight, less the rebate; the competitor gained \$60,000 worth of business, less the rebate. If we had paid the rebate and taken the business, our books would show that we had shrunk the earnings of the Union Pacific Railway Company, of which the Government is entitled to 25 per cent.—that we had shrunk those earnings about \$9,000. We took the other course and lost \$51,000. Now, how am I to show, in such a statement as you call for, the line of distinction to be drawn between an actual rebate that shrinks the earnings of the company and a rebate that makes earnings for the company, a rebate on which our revenues depend and without which we could not get the business?

REBATES.

Q. Can you produce for the Commission a statement showing the total amount of rebates allowed in any one year?—A. I can show what appears on our books under the head of rebate for one year; but I think, as Mr. Poppleton says, that would clearly mislead the public if the figures were given to the public.

Q. Will you also produce a statement showing the gross sum of payments on account of overcharges, the gross sum of payments on account of rebates, the gross sum of pool settlement, and the gross sum of railroad settlements?—A. That inquiry should have been addressed to the comptroller instead of the traffic manager. It is a matter of bookkeeping now.

THE "REFUND OF FREIGHT EARNINGS" BOOK.

Q. Is it not a fact that the "Refund of Freight Earnings" book contains all the information that I have called for? What do you say to that?

The WITNESS. Do you want simply the showing of the figures, without explanation, that appear under the heads of overcharge and rebate?

The CHAIRMAN. Will the refund books show such a statement?

A. I think they would.

Q. What would be the difficulty of making a footing of the separate headings that I have given?—**A.** That would not be very difficult to do; but what would it mean after it was made?

Q. Will you produce, if it is not difficult to do so, such a statement as I have called for, with any explanation that you see fit to append at the end?

"THE GROSS SUM OF POOL SETTLEMENTS."

Mr. MINK. What is meant by "the gross sum of pool settlements"?

The CHAIRMAN. The entries in your refund book showing the settlements with the different railroad companies.

Mr. MINK. The amount paid?

The CHAIRMAN. Yes.

Mr. MINK. Without regard to the amounts received?

The CHAIRMAN. That is matter of explanation. I have no objection to your appending to it such explanation as you choose.

Mr. MINK. Are these statements to extend from 1869 to 1886, or will a single year answer?

The CHAIRMAN. We want a statement from the beginning. I understand, upon examination of your accounts, that the books are balanced monthly.

Mr. MINK. That is right.

DIFFICULTY IN OBTAINING INFORMATION DESIRED BY COMMISSION.

The CHAIRMAN. Then what is the difficulty in taking the amounts for each year?

Mr. MINK. The difficulty is that in many cases we shall be obliged to go back to the papers on which the vouchers were predicated, and that this will consume time and be most expensive.

The CHAIRMAN. Do I understand you that you desire that the Commission should pay for this information?

Mr. MINK. No, sir; still, I suppose that a statement of this importance should be paid for by the Commission, just as it is paying for the stock lists and the various other statements that are in course of preparation.

The CHAIRMAN. What statements, other than the stock lists?

Mr. MINK. I understand your experts at Boston are drawing off elaborate lists in relation to our land matters. I have not, however, paid much attention to what they are doing, and am not able, therefore, to tell you definitely how the matter now stands.

EXPENSIVE TO THE RAILROAD.

The CHAIRMAN. That work is done by the Commission's officers. What other statement do you refer to that the Commission is paying for?

Mr. MINK. We are keeping an account of the cost of all the statements made for the Commission. I have two or three hundred pages of matter in relation to legal expenses. I suppose the Commission intends to pay for this matter.

The CHAIRMAN. Do you propose to render bills to the Commission?

Mr. MINK. No, sir; still I suppose the Commission will desire to do what is right in the matter. It would be most unfair to throw the cost of this work upon the company.

The CHAIRMAN. We want to see where we are getting to in this matter.

Mr. MINK. These various statements will cost a great deal of money. I suppose that this statement of our legal expenses has cost us not less than \$500 for clerk hire. We cannot go roaming over the records of this company for the past sixteen or seventeen years without spending money. What conclusion does the Commission arrive at concerning this question?

The CHAIRMAN. That you are to furnish the information.

OVERCHARGES AND REBATES.

Mr. MINK. Separating the overcharges from the rebates, and the pools from the two?

Commissioner LITTLER. Is this controversy hinging simply on the cost of producing these?

Mr. MINK. No, sir. There will be some cost and trouble; but, of course, we desire to do anything that you may wish done. But these specific vouchers, on their face, may appear to be for overcharges when in fact they are for rebates. There is a difference between the two. An overcharge voucher is made, of course, to correct an error; a rebate voucher is made pursuant to an arrangement with the shipper or the consignee. We shall have to go back to the original papers to ascertain whether the vouchers are in fact for overcharges or rebates, as we have taken no special care to distinguish between the two in phrasing the vouchers.

Commissioner LITTLER. You are willing, as I understand it, to furnish this information, notwithstanding the amount of labor involved, if the Commission will furnish you pay for it.

Mr. MINK. We will, if it is desired, furnish it without the Commission's paying for it. I merely wish the Commission to understand that this is a question of a great labor and expense.

The CHAIRMAN. At what do you estimate the expense?

Mr. MINK. I could not estimate it.

AUTHORITY OF COMMISSION TO PROCURE THE INFORMATION SOUGHT.

Mr. POPPLETON. May I ask you, Mr. Chairman, under what clause of the act this particular information is asked for? It is worth while, once in a while, to ascertain on what basis we are working; because it is an enormous work.

The CHAIRMAN. Under this clause (reading from the act):

What amounts have been deducted from the gross earnings of any of said aided railroad companies, by their general freight and passenger agents or auditors, by way of rebate, percentage of business done, constructive mileage, or monthly or other payments, on any pooling or rate arrangement, contract or agreement.

EARNINGS MADE UP AFTER MAKING DEDUCTIONS.

Mr. MINK. I should say that nothing has ever been deducted from the earnings of the company on any of those accounts, for the reason that

the "earnings" of the company are made up of the amounts remaining after making the deductions. As to any subsidy, such as, for instance, the Pacific Mail, or as to any special line of inquiry, we shall be glad to furnish whatever figures may be required. Any sums of money coming into our hands and afterwards paid out in the way of rebates are so many transactions in trust moneys, which cannot be esteemed to affect our revenues or income, though they may affect our receipts. They do not belong to us, and ought not to be treated in our accounts as if they did. Such shipments are made on the basis of the net rate, and not on the gross rate. It cannot be said that these shipments are made on the gross rate. They are made on the net rate.

THE FREIGHT BUSINESS AS A TRUST FUND.

The CHAIRMAN. Suppose you made your whole freight business a trust business under special rates?

Mr. MINK. Ah, but we do not.

The CHAIRMAN. But suppose you did? The principle holds good. If it is good in one case it would be good in a thousand. Suppose you had an open rate and published it in every direction, and then, in most of your business, you made a special rate, you could make such conditions as you pleased, and could then say that it was a trust fund, and that you were not, therefore, accountable.

Mr. MINK. That would be true, if agreements were made with the shippers beforehand.

GROSS EARNINGS.

Mr. POPPLETON. Gross earnings, as I understand it, means the amount of money that the company receives for the business that it does. I do not see how these published tariffs have any relation to the gross earnings, and if they have not, this inquiry is, in reality, as I have said before, fruitless and misleading. But it is not required. It is not authorized. Suppose it was a question of gross earnings, and, in a court of justice, a lawyer should get up and propose to put those tariffs in as proof of the gross earnings of the company, he would not be listened to for a moment. They do not represent the gross earnings, and have no relation to the gross earnings. Supposing those to be the rates, and supposing the company has a given amount of business, the gross earnings would be so much; but we are not dealing with supposition.

GROSS EARNINGS AND EXPENSES HAVE NOTHING TO DO WITH THE PUBLISHED TARIFF.

The gross earnings and expenses of the company have been reported to the Government, and have appeared from year to year. They have nothing to do with this published tariff, and throw no light on the subject, nor does it indicate in any way what the gross earnings are. The thing, it seems to me, that the Commission is required to do, under that clause, is to find out what the gross earnings are. The Government has been represented here by a board of directors ever since the passage of the Thurman bill. It has been represented by a commissioner, whose business it is to probe into the business and books of the company and see that it has proper information. That commissioner has reported the gross earnings; and the Government director

made similar reports; and it has been going on from year to year. That information is before the public, and that law does not assume that it is not before the public. It does not ask that gross earnings are to be dug out in some occult or secret way, and that nobody knows anything about it at the present time; but it does assume that this Commission shall find out, if possible, what the company has lost from the gross earnings that they have received by the payment of rebates and overcharges.

DIFFICULTY OF COMPARING THE ACCOUNTS.

I do not see what relation this printed tariff has to the matter in any shape or form. Hence, when you ask us to compare the two, you impose the labor of perhaps six months or a year on clerks at work in these offices in digging out information, which, when they have got it out, will do nothing but deceive and delude any man who has not the brains to comprehend railway business and the principles on which it is done. It does not seem to me that this Commission should impose on this company the enormous labor and expense of doing a thing that is fruitless in the end, and is of doubtful requirement and authority under that act of Congress. Of course, if the Commission say so, we must do it.

The CHAIRMAN. (To the secretary) Read the question.

The question was read, as follows:

Q. Will you also produce a statement showing the gross sum of payments on account of overcharges, the gross sum of payments on account of rebates, the gross sum of pool settlements, and the gross sum of railroad settlements?

RAILROAD SETTLEMENTS.

Mr. MINK. What is meant by railroad settlements?

The CHAIRMAN. Do you not ever have any railroad settlements?

Mr. FINK. Every day; yes, sir. But I do not really get the bearing of the question. For example: We repair a car for the Chicago, Rock Island and Pacific Company—put in a new door, or something of that kind—we pay them for the use of a car, or for their share of our ticket sales, or for their share of any traffic over their road. In turn they do the same for us. If credits are given, a balance struck, and accounts pass from one road to the other, the "settlement" might be represented by an insignificant payment, though involving large sums on both sides.

THE "REFUND OF FREIGHT EARNINGS" BOOK.

The CHAIRMAN. What does the book of the "Refund of freight earnings" show, other than your pool settlements, your rebate settlements, your overcharges, and railroad settlements?

Mr. MINK. It has nothing to do with anything except traffic matters. That is, overcharges, rebates, and amounts paid on account of pools. It also contains some corrections as between one department of the road and another. Frequently sums are at first carried into our freight earnings that belong in the passenger earnings. Such errors would be corrected here. In an organization of this character adjustments must go through the department in the regular way. As a correction, as a refund, it would go into the refund book, notwithstanding which it is merely an adjustment between the two departments of our own service.

The CHAIRMAN. Will you please show, in answer to the questions that have been put, the statements that can be obtained from your "refund of freight earnings" book for the several years during which you kept the book?

Mr. MINK. Is not that the same question in another form?

WHAT THE REFUND BOOK SHOWS.

Commissioner LITTLER. I think you are magnifying this. I may be mistaken. As I understand, these books of rebate and overcharge are balanced every month. Is that so?

Mr. MINK. Yes, sir.

Commissioner LITTLER. They show an aggregate amount of balance every month. Now, would it be any very great amount of labor to turn to those books, month by month, and show the monthly balances and footings?

Mr. MINK. No trouble at all. A few figures would cover it.

Commissioner LITTLER. And would it be any hardship to the company if the officers were allowed to make such explanations as they wish?

Mr. MINK. Not at all.

The CHAIRMAN. That is exactly what we want. The books for 1883, 1884, 1885, and 1886 show, in the aggregate, \$8,000,000 that have gone from the company in rebates, in the settlement of pools with railroads, as well as account of overcharges and other payments that I call "settlement," simply to cover everything that I do not know about.

Mr. MINK. I understand you fully now, and we will furnish such a statement with great pleasure; but to me it seems to have no significance.

Mr. POPPLETON. Well, furnish it, and put right on the face of it any explanation you wish.

Mr. MINK. The Commission does not ask now that any distinction be made between the three classes of settlements. The Chairman will be satisfied with the gross footings.

The CHAIRMAN. No; that is not fair, Mr. Mink; the difficulty between us all along has been about words. If I do not put in certain words you take advantage of it.

DIFFICULTY OF DISTINGUISHING BETWEEN "OVERCHARGES" AND "REBATES."

Mr. MINK. I desire to assure you, Mr. Chairman, that I do not intend to take any advantage. But in this case the distinction between a rebate and an overcharge is so difficult of determination that if the question is left in its original form it will impose upon us a great deal of work.

The CHAIRMAN. We will put it, then, in this shape: Will you show to the Commission a division of the sums to which you are entitled, so long, that appear from year to year in the books of freight earnings?

Mr. MINK. Does that involve the question of action being taken by the Commission— "a division of the sums to which you are entitled by them?"

The CHAIRMAN. Yes.

Mr. MINK. Well, that is the question. I do not wish to prolong the discussion, but I do not wish to be contending over technical terms.

Commissioner LITTLER. If they are content to furnish the statement that we have called for, and if they are content to let it go without explanation, let them do it.

Mr. POPPLETON. My opinion would be that it would be better to furnish it without any explanation, because then the figures would be absolutely worthless.

The CHAIRMAN. What is your answer, Mr. Kimball? You appear as the witness.

Mr. KIMBALL. My answer would be that we will furnish the statement as requested by the Commissioners.

The CHAIRMAN. When?

Mr. KIMBALL. As soon as possible.

THE QUESTION OF REBATE.

Commissioner LITTLER. I think this whole question of rebate, so far as it depends on the officers of the road, depends on whether they give greater rebates than the necessities of commerce required in order to insure the business. That is the point to which it will narrow down, finally, I think.

Mr. MINK. I think the question is one of policy and ought not to have any bearing on the accounts of the company.

Commissioner LITTLER. It will involve the correct management of the road. If you gentlemen have been frittering away the earnings of the road, when it was not necessary, in paying rebates, &c., you will be found reprehensible.

Mr. KIMBALL. If, on the other hand, we show that we have not given as many preferential rates as our competitors I suppose we shall be commended.

OVERCHARGES, REBATES, POOL, AND RAILROAD SETTLEMENTS.

Mr. MINK. The question, as it now stands, Mr. Kimball, is virtually in its original form: A statement of payments made on account of overcharges, rebates, pool, and railroad settlements.

Mr. KIMBALL (to the Chairman). Do you wish to include all those?

Mr. MINK. I understand from Mr. Norris that he desires to have, stated separately, any amounts paid out on traffic settlements to railroads, whether on account of pools or to reimburse them for payments made on our account. In other words, he wants to know what is on our refund book.

The CHAIRMAN. That is all.

Mr. NORRIS. A division of it into four parts.

REBATE CONTRACTS.

By the CHAIRMAN:

Q. Have you produced your copies of rebate contracts?

The WITNESS. Rebate contracts in what cases?

The CHAIRMAN. In any cases that you made them.

A. No, I do not recall any that were asked for.

The CHAIRMAN. They were called for on June 20. What is the answer?

The WITNESS. Did you ask me if I was prepared to furnish rebate contracts?

The CHAIRMAN. Yes.

A. I am not, sir.

Q. When will you be?—A. As soon as possible.

AVERAGE COST OF GOVERNMENT TRANSPORTATION BY THE UNION PACIFIC BEFORE COMPLETION.

Q. There was a call for the average cost per annum of Government transportation in the regions now traversed by the Union Pacific Railway, between 1859 and the time of completing the road. Have you got that?—A. I have a clerk engaged on that now, and I hope to be able to report to you some information before your sessions close here.

AVERAGE COST SINCE COMPLETION.

Q. And the average cost per annum of the Government transportation since the completion?—A. Yes; and also some data as to the rates charged before the construction of the road, on overland freight.

Commissioner LITTLER. That is one of the subjects of inquiry in this bill.

The WITNESS. Yes; I noted that, and have a man at work on it.

Q. There was a question: "Have the United States Government, since the completion of the Union Pacific Road, granted aid in land or money to competing roads, and if so, in what respect it has impaired or injured the traffic of the Union Pacific;" have you got that?—A. That is also in course of preparation.

Mr. MINK. Is the statement of rebates and overcharges to include the rebates, &c., on the branch lines, or only the Union Pacific subsidized road and the Kansas Pacific subsidized road?

The CHAIRMAN. The branch lines.

Mr. MINK. The whole system?

The CHAIRMAN. The whole system. This book includes them.

RAILROAD TARIFFS.

By Commissioner LITTLER:

Q. How far back do these tariffs go, that you have furnished this morning?—A. Some of them, I think, to 1883 or 1885. The tariffs that date back to 1850, about the time that these constructive mileage rates were adopted, I am having worked up. You know we ordinarily destroy tariff stock, when one tariff supersedes another.

Q. Do you not keep files of all tariffs?—A. We keep a few files; but they have been badly broken into by calls from the Government at different times. But I have a clerk at work on that to show either the tariff itself in effect in 1880, or the basing rates on each division of the line.

Commissioner LITTLER. Notwithstanding that they are published on the road, they are not familiar to the people of the United States generally, and especially to the members of Congress; and one of the questions involved, I understand, is whether your tariff rates have been fair and reasonable, as published.

The WITNESS. That work is in hand now.

Q. Have you any copies of your rates on file?—A. I have a clerk at work on that now, who looks on the tariffs and from such information as we can get from the freight books and other sources, to get what the basic rates were. I understand now that you want us to go back as far as we have tariffs.

Commissioner LITTLER. Yes; we want to know.

The CHAIRMAN. I will hand you back the rates you have handed in this morning, which seem to be rates since the passage of the interstate commerce law, and ask you to amend it by including the rates prior to that time.

Commissioner LITTLER. It is a specific requirement of the act to report the rates of freight and passenger traffic both.

Mr. POPPLETON. They cannot be reported when they do not exist.

Commissioner LITTLER. Of course, we do not want you to do anything that you cannot do.

Mr. POPPLETON. But is it not a fact that all these rates are in the Government Commissioner's office at Washington?

Commissioner LITTLER. If they are that would help us. I do not know why this law should require this information if the information is already in the Commissioner's office.

Mr. POPPLETON. Well, that is one of the questions that bothered my mind.

The WITNESS. I doubt whether all of these tariffs are in the Commissioner's office.

BUSINESS RESOURCES OF THE UNION PACIFIC COUNTRY.

Q. Have you your reports or correspondence as to the business resources of the country through which the Union Pacific Company contemplated building or did build?—A. I have not; and have not had time to look into the matter.

Q. Have you your advertising accounts from 1871 to 1880, while you were general passenger agent?

Mr. MINK. They will have to be prepared in the accounting department.

The CHAIRMAN. You are preparing it?

Mr. MINK. I sent word to our auditor. I cannot say that he is preparing it, but I have no doubt that he is. It is going to take a long time to work up this statement. I suppose that not more than two or three men can work at it at one time; but we will get it out as soon as possible. I understand you wish the name of the person to whom the money was paid and the amount, or something of that sort.

STATEMENT IN REGARD TO REBATES.

I have just spoken to Mr. Young, our auditor, on the question of rebates, and, in his opinion, we could not possibly get that statement out short of an expense of \$15,000 to \$18,000. He has gone to make some further examinations; but I thought I would mention his estimate to you. The difficulty is in the direction I have already pointed out, namely, the distinction between a rebate and an overcharge.

The WITNESS. Yes; and without the explanation it would mislead the public and the Government.

Mr. MINK. I do not think it can be made for any such sum, myself.

"CONSTRUCTIVE MILEAGE."

The CHAIRMAN. You must remember, Mr. Mink, that you were a long way out in your estimate of constructive mileage.

Mr. MINK. I think you ought to recollect that when I gave you my estimate on constructive mileage it was announced to be the rankest kind of a guess, and that I then had no satisfactory information on

which to base the estimate. I thought those allowances would represent a net sum of \$600,000 a year, and I am apparently out of the way about \$200,000. The freight business shows about \$300,000, and my estimate is that the passenger business amounts to \$75,000 or \$100,000 more. That makes about \$400,000, and leaves me out of the way about \$200,000. I do not think it a poor estimate.

INFORMATION IN REGARD TO REBATES.

The CHAIRMAN. The information as to rebates is bound to come out in the examination of your income account. It will have to be gone over in that. We shall have to have it somehow. You have to get it yourselves, here in Omaha, before sending your returns to Boston and before making your returns to the Government.

Mr. MINK. We have already shown you the principle upon which the amount is stated. The earnings of the company are supposed to be the sums received for doing the business. If now, by any chance or arrangement, a sum of money passes into our hands and remains there for ten or fifteen days, or for six months, and belongs to our customer, we do not mean to include it in our earnings. It is a debt and belongs to the customer.

A POOL PAYMENT A TRUST FUND.

Q. Is a pool payment a trust fund?—A. Yes; I understand it to be from the time the contract is made.

Q. For whom are you acting as trustee?—A. The associates, the members of the pools.

Q. The more pools the more the trust fund enlarges?—A. Precisely.

The CHAIRMAN. At that rate a large portion of the business might eventually be run into a trust fund?

Mr. MINK. So far as the share in the pool belonged to the other companies it would; yes, sir.

The CHAIRMAN. If so, then, with all those funds, although representing the large sum of business of the corporation of the Union Pacific Railway Company, there would be no accounting to the Department of a sum on which the gross income was based?

Mr. MINK. Yes, sir; there would be an appropriate method of accounting, since whatever share in the pool the Union Pacific enjoyed would represent part of our gross income.

The CHAIRMAN. After settlement?

Mr. MINK. We might not wait for the final settlement. We know what the percentages are and what is due to the pool. We pass to the credit of the others their share and appropriate our own share. It seems to me to be a very simple proposition.

RELATION OF POOLS TO RAILROAD EARNINGS.

Commissioner LITTLER. A very large portion of the entire earnings of the company, as I understand you, arises from these pools?

Mr. MINK. Yes; there are a great many of them. Mr. Kimball can tell you how much of the territory is covered by pools.

The CHAIRMAN. What proportion of the traffic for the year 1885 or 1886 was pool business?

Mr. MINK. I could not answer that question. Mr. Kimball can tell.

The WITNESS. We can show that from our books, but I should hardly care to guess on it. My guess might be "rank." [Laughter.]

Q. You mean as to the pool traffic?—A. The percentage that the pool traffic bears to the whole traffic.

LETTERS TO MEMBERS OF THE LEGISLATURE, ETC.

Q. Have you ready any copies of your letters written to members of the legislature?—A. I have not looked them up yet, but I have a young man who was at it all day yesterday, searching for them.

Q. Have you examined your diary, and are you prepared to furnish all public information it contains regarding the Union Pacific Railway?—A. I have not had time to look at that yet.

The CHAIRMAN. We have not very long to stay here, Mr. Kimball. Have you the statement showing the amount paid by the Union Pacific Railway Company on account of the right of way in Nebraska?

Mr. MINK. That was referred to me.

The CHAIRMAN. Have you that ready?

Mr. MINK. No; not now.

The CHAIRMAN. When will it be?

Mr. MINK. I thought it would be handed down this morning; it is well under way.

The CHAIRMAN. Have you produced the records showing special passenger rates since 1880?

Mr. MINK. They also are being prepared.

The CHAIRMAN. We called attention to the demand for printed schedules of the regular rates, open local rates, since 1880.

The WITNESS. 1880 and since?

The CHAIRMAN. Yes, sir. Our call on June 21 included the rates since 1880. That included freight and passenger rates.

Q. Have you any record ready as to the basis on which rates of constructive mileage were based?—A. That I am having prepared.

Q. Have you ready the written and printed instructions that were called for as to freight and passenger rates?—A. That is being looked up in the books of correspondence now.

THE OMAHA ELEVATOR AND STANDARD OIL COMPANIES.

Q. Have you the information called for on June 22 as to the date or period when the rebate system to the Omaha Elevator Company commenced, and how long it continued, and when the company began allowing rebates to the Standard Oil Company? There was also a call on June 22, as follows: "What was the rate allowed the Standard Oil Company prior to 1884; also the rate January 1, 1884, to April 1, 1887, to San Francisco; also what allowance was made by the Union Pacific for the return of cars for other shippers than the Standard Oil Company; also the amount charged, if any, for the return of the tank cars of other shippers than the Standard Oil Company." Have you not any of this information ready? We called for it on June 22.

The WITNESS. In the form in which these questions are now put, some of the preparation that is going on, and about ready to answer, will not be applicable.

The CHAIRMAN. These are taken from the stenographer's notes as they were called for. They are not new questions. These are the stenographer's minutes that I am reading from.

There was also called for the total amount of rebates allowed the Standard Oil Company since the beginning of the rebate allowances to that company.

Mr. MINK. I have here now [handing it to the chairman] a copy of the lease made with the Omaha and Grant Smelting and Refining Company.

The paper is as follows:

LEASE OF UNION PACIFIC RAILWAY COMPANY WITH OMAHA AND GRANT SMELTING AND REFINING COMPANY.

Agreement No. 1003.

This indenture, made this twenty-third day of April, A. D. 1886, between the Union Pacific Railway Company and the Omaha and Grant Smelting and Refining Company, witnesseth:

(1) That the said railway company, in consideration of the covenants and agreements of the said smelting and refining company hereinafter set forth, does by these presents demise, lease, and let unto the said smelting and refining company the following described premises, situate in the city of Omaha, Douglas County, State of Nebraska:

(2) Beginning at a point where the south line of Cass street intersects the east line of Seventh street; thence south along the east line of Seventh street 966 feet to a point 42 feet north of the north line of Capital avenue; thence south 32-30' east 925 feet to the north line of Douglas street; thence east to the bank of the Missouri River; thence northerly, following the meanderings of the Missouri River, to the south line of Cass street; thence west along the south line of Cass street to the place of beginning; containing fourteen acres, more or less. A correct plat of said premises is herunto attached, marked Exhibit "A," to which reference is had for greater certainty.

(3) To have and to hold the same to the said smelting and refining company for the period of twenty-five years from the date hereof, for the purpose of smelting and refining ores, and such other business pertaining thereto as said company may engage in: *Provided, however*, and it is hereby expressly stipulated, agreed, and understood, that said railway company leases and demises to said smelting company no other or different or greater estate in the above-described premises than is vested in it (said railway company) at the date of making this lease; and covenants to continue said Smelting Company in possession thereof no further or longer time than its own lawful possession continues, and in case of the eviction of the said railway company from said premises, or any part thereof, at any time, such eviction shall operate to terminate this lease as to that portion of the premises upon which such eviction operates.

(4) And for the consideration aforesaid the said railway company covenants and agrees to furnish all material for, and to lay upon the grading therefor, as hereinafter set forth, all necessary tracks over and upon said premises, which the said smelting and refining company may require to be laid for the handling of its freight and material in the prosecution of its business, and to do all switching of its cars within its premises necessary in placing the same for loading and unloading freight, or material therefor, free of charge to the said smelting and refining company.

(5) In consideration of the leasing aforesaid and of the foregoing covenants on the part of the said railway company, the said smelting and refining company agrees to pay as rent therefor the sum of \$150 per month, payable at the expiration of each quarter during said term, and to pay all taxes and assessments which may be assessed, levied, or in any manner imposed, or fall due upon said premises, or any part thereof, during the period of this lease.

(6) And it further agrees to do all necessary grading for the road-bed of such tracks over and upon said premises as may be required as aforesaid.

(7) It is mutually agreed and understood that the land herein leased shall revert to the said railroad company whenever the said smelting and refining company shall cease to use it for the purpose hereinbefore stated; at the expiration of this lease the said smelting and refining company shall have the right, within a reasonable time thereafter, to remove from said premises all buildings, structures, and other property belonging to it.

It is hereby further agreed that this lease may be terminated by the lessee at any time by giving the lessor six months' notice in writing.

(8) And the said smelting and refining company further agrees that at the expiration of the lease, or at any earlier termination thereof, it will give peaceable possession of said premises to the railway company, and that if any portion of the rents stipulated for herein shall not be paid when the same become due, according to the tenor and effect hereof, or if the said smelting and refining company shall fail in the

performance of its agreements herein contained, or any part thereof, then the railway company may, at its option, declare the lease at an end and retake immediate possession of the said premises.

(9) These covenants herein contained shall extend to and be binding upon the representatives, successors, and assigns of the parties hereto.

(10) Nothing in this lease shall be construed as conflicting with or abrogating any of the terms of the contract now existing between the said railway company and the Grant Smelting Company of Denver Colorado.

In witness whereof the said parties have caused these presents to be signed, executed, and acknowledged by their respective presidents and attested by their respective secretaries, with the seals of the respective companies hereto attached, the day of the year first above written.

[SEAL.]

CHARLES FRANCIS ADAMS, JR.,
President Union Pacific Railway Company

Attest:

HENRY MCFARLAND,
Secretary.

Witness the signature of Charles Francis Adams, jr.;

J. S. SHROPSHIRE.

GUY C. BARTON,
President Omaha and Grant Smelting and Refining Company

Attest:

E. W. NASH,
Secretary.

Witness the signature of E. W. Nash and Guy C. Barton:

F. R. MCCONNELL.

STATE OF NEBRASKA,

County of Douglas, ss:

On this 24th day of April, A. D. 1886, before me, J. S. Shropshire, notary public and for said county, personally appeared Charles Francis Adams, jr., who is personally known to me to be the president of the Union Pacific Railway Company, and the identical person whose name is affixed to the above lease, and who acknowledged the instrument to be his voluntary act and deed, and the voluntary act and deed of the Union Pacific Railway Company.

Witness my hand and official seal the date aforesaid.

[SEAL.]

J. S. SHROPSHIRE,
Notary Public.

STATE OF NEBRASKA,

County of Douglas, ss:

On this 4th day of May, A. D. 1886, before me, a notary public in and for said county, personally appeared the above-named Guy C. Barton, who is personally known to me to be the president of the Omaha and Grant Smelting and Refining Company, and the identical person whose name is affixed to the above lease, and who acknowledged the instrument to be his voluntary act and deed, and voluntary act and deed of the Omaha and Grant Smelting and Refining Company.

Witness my hand and official seal the date aforesaid.

[SEAL.]

J. S. SHROPSHIRE,
Notary Public.

TO WHOM REBATES ARE ALLOWED.

The CHAIRMAN. I call your attention to information you said you would furnish, in many of the individual cases that I read to you yesterday, as to whom rebates had been allowed, from time to time. You said you would examine, and give the Commission the information.

The WITNESS. You gave me a list of companies and firms; and this is being looked up.

The CHAIRMAN. I will furnish you a list of names, reading them over now, where rebates were allowed, that appear upon the refund book for 1885 and 1886, and ask that you furnish information in each case, stating what parties are interested in each company, the location, and the reasons for the allowance of rebates, and whether the Union Pacific Railway Company, or any of the directors, officers, or employes, have any interest in any of the companies named, and whether there are

public officers interested in any of the firms or companies named, or were interested during the time of the allowance of the rebates.

The WITNESS. What is meant by "public officers?"

Commissioner LITTLER. Any public official.

The CHAIRMAN. Federal, State, or local.

THE CONSTRUCTIVE MILEAGE ACCOUNT: HOW KEPT.

Q. Does the book entitled "Refunds of freight earnings" show the allowances on account of constructive mileage?—A. I could not answer that.

Q. Who could answer that?—A. Possibly Mr. Mink may answer it.

The CHAIRMAN. Mr. Mink, what do you say as to that?

Mr. MINK. It does not.

The CHAIRMAN. Where is that account shown?

Mr. MINK. It would be in our freight auditor's office, here in the build-

Q. Will you produce that?—A. There is no account showing the amount allowed for constructive mileage. An account, however, can be prepared from materials in our freight auditor's office.

The CHAIRMAN. Have you any book containing the constructive mileage account?

Mr. MINK. No; we have no such account.

The CHAIRMAN. Where do you keep your constructive mileage settlements?

Mr. MINK. We have no such settlements. The settlements are made on the basis of constructive mileage.

The CHAIRMAN. Where do you make an entry in any book of any constructive mileage rate in settlement of a constructive mileage account?

Mr. MINK. I do not think I understand your question. To prepare an account covering the distribution of the earnings the percentages would first be ascertained on the basis of the actual mileage, on the one hand, and the constructive mileage on the other. Those percentages having been ascertained, the earnings would be divided accordingly. There is no account to show how much is allowed to a branch line in the way of constructive mileage under the agreed or established percentages, as opposed to the amount that would be allowed to that branch on a straight mileage basis.

DEDUCTIONS ON ACCOUNT OF CONSTRUCTIVE MILEAGE.

The CHAIRMAN. Where do you keep the account showing deductions on account of constructive mileage from the gross earnings?

Mr. MINK. We have no such account.

The CHAIRMAN. Or from the net earnings?

Mr. MINK. We have no such account.

The CHAIRMAN. What do you deduct them from?

HOW CONSTRUCTIVE MILEAGE ACCOUNTS ARE MADE UP.

Mr. MINK. They are not supposed to be a part of the net earnings. I do not know that I can do better than to give you an illustration. In the case of a haul of 100 miles; 50 miles on the Union Pacific and 50 on one of the branch lines. Under an agreement the branch line mile is to be allowed, say, 2 miles for 1. It would there-

taken into the account as 100 miles for the branch against 50 miles for the main line. The proportions would therefore be two-thirds on the branch line as against one-third on the main line; although the exact mileage proportion would be 50 per cent. on the one and 50 per cent. on the other. When the percentages are ascertained they are furnished to the auditor, and he makes up the accounts on the basis of the arrangement. No account is kept of the way the matter would stand if the arrangement had not been in force. Therefore, to answer your question we should have to go into the account in detail, and at great length.

WHEN AND WHERE.

The CHAIRMAN. How often does the freight auditor make the settlements?

Mr. MINK. Monthly.

The CHAIRMAN. From what book can the Commission get the information?

Mr. MINK. From the freight auditor's account.

The CHAIRMAN. Can you produce now an account for the month of February or March?

Mr. MINK. Do you mean an account showing the settlements between the main lines and the branch lines?

The CHAIRMAN. Yes.

Mr. POPPLETON. I do not think the company ought to decline to furnish any information on account of cost, trouble, or expense.

Mr. MINK. We do not.

Mr. POPPLETON. Or to seem to do so, whether the request is made as "modified" or as originally put. I would come just as near to it as I could, and get at it just as quickly as I could.

Mr. MINK. I think it only right to inform the Commission what expense is involved in the question.

COMMISSION LIMITED AS TO TIME.

The CHAIRMAN. To us time enters into it just as much as money, because we must get through by the fall; certainly by the 1st of October. Therefore the question of time with us is as important as that of money; more so in this matter. Therefore we want, if possible, to bring it in time within the work of the Commission. I am willing to say from January, 1884, and 1885 and 1886.

Mr. MINK. To December 31, 1886?

The CHAIRMAN. Yes. And then simply add to that the titles of books of prior years, which can be taken off, I think, in an hour.

Mr. MINK. Oh, yes; that is nothing at all.

Mr. POPPLETON. Then add to that a full explanation of the railway company's view of the bearing that it has.

The CHAIRMAN. Oh, yes; any explanation.

Commissioner LITTLER. Anything you want

INFORMATION AS TO REBATES.

Mr. MINK. I understand the fourth clause of the request calling for railway settlements on any of these preceding accounts, includes any amounts paid to other railroad companies to reimburse them for overcharge or rebate payments, or anything else paid by them on our account?

The CHAIRMAN. The simplest way to put it is an analysis of this book.

Mr. MINK. Then this request stands modified so as to make it go back to January 1, 1884?

The CHAIRMAN. Of course you will make an explanation as to the other question. We only recall that because from your statements it is utterly impracticable and impossible.

Mr. MINK. You would like me to give my idea of cost?

The CHAIRMAN. Yes; because we only modified it on that account. If it takes twenty years, of course it would be absurd to ask it.

Mr. MINK. I think we can get at the information you want from the 1st of January in a few weeks.

The CHAIRMAN. You had better put it on record that you cannot furnish the call as it originally stood, because there is not sufficient time.

Mr. MINK. Because there is not sufficient time; I will not say anything about the expense. But the request as modified we can furnish in a reasonable time.

The CHAIRMAN. The request is only modified because of the time it would take and the large expense involved.

Mr. MINK. I understand it so.

The CHAIRMAN. Will you produce that account?

Mr. MINK. I have sent up-stairs for it.

"MOVEMENT AND DISTRIBUTION OF FREIGHT EARNINGS" BOOK.

(The book called "Movement and distribution of freight earnings" was here produced.)

The CHAIRMAN. In explanation of the constructive mileage account this book is produced. What does it contain in reference to constructive mileage?

Mr. MINK. It shows the distribution of the earnings made on shipments passing from a point on the Union Pacific Railway Company's lines to a point on one of the so-called branch lines, or *vice versa*.

ITS RELATION TO THE CONSTRUCTIVE MILEAGE ACCOUNT.

The CHAIRMAN. What relation does this book bear to the constructive mileage account?

Mr. MINK. I have answered that question.

The CHAIRMAN. Where is any constructive mileage account shown in this book?

Mr. MINK. I will answer that by giving an illustration. On page 7 of this distribution book is shown the earnings on shipments between Council Bluffs and, say, for illustration, Georgetown, Colo. The gross earnings of the Union Pacific system on those shipments were \$157.58, of which \$2.13 was assigned to the Omaha Bridge, \$73.06 to the main line, Union Division, \$82.39 to the Colorado Central from Julesburg to the point of destination.

The CHAIRMAN. When was the division made?

Mr. MINK. It was made soon after the close of January. This distribution was made in the month of February.

MONTHLY SETTLEMENTS.

The CHAIRMAN. Are all such items belonging to the same business of shipment and the same places thrown together at the end of month, as you have read off, in monthly settlements?

Mr. MINK. Yes, sir; all the settlements from one point to every other point you see in this book are put in here in territorial order.

The CHAIRMAN. Then as they appear from time to time in each month they are finally totalized at the end of the month; and to that particular point that you have used by way of illustration it is summed up and the settlement made with the road in the way you have named?

Mr. MINK. Precisely.

"JOINT EARNINGS."

The CHAIRMAN. Where does that settlement for the road you have named come in?

Mr. MINK. For instance, at the head of the column marked "Union Division, Main Line," appears the proportion of the joint earnings credited to the main line of the Union Pacific; under the head of "Colorado Central" appears the proportion of the joint earnings credited to that division.

The CHAIRMAN. Where does the settlement appear finally?

Mr. MINK. For the month in question, the earnings of the system on east bound shipments were \$613,159.58; on west bound shipments, \$649,040.16. The succeeding column shows the distribution between the Omaha Bridge, the main line, Kansas Pacific, and Leavenworth Branch, &c.

NET EARNINGS.

The CHAIRMAN. From the net earnings, what did they get?

Mr. MINK. The Omaha Bridge, on east bound shipments, received \$10,439.06; west bound, \$22,267.80; the main line of Union Pacific, east bound, \$273,810.63; on west bound, \$256,680.47; the Kansas division, on east bound—

The CHAIRMAN. Now you are following one case. You have the one of January, and I want you to follow that through the divisions.

Mr. MINK. I am doing it.

STATEMENT OF CONSTRUCTIVE MILEAGE SETTLEMENTS FOR JANUARY, 1887.

Railroads.	South bound.	North bound.	East bound.	West bound.
Kansas Pacific.....			\$92,962.22	\$145,633.28
Leavenworth Branch.....			1,320.02	3,726.42
The Cheyenne division.....			20,793.55	11,463.85
The Omaha and Republican Valley Railroad.....			33,698.03	19,723.23
The Omaha, Niobrara and Black Hills.....			4,999.80	1,736.41
Echo and Park City.....			4,019.79	1,671.52
Colorado Central Railroad.....			34,266.92	46,321.49
Salt Lake and Western Railroad.....			3,473.70	489.79
Denver, South Park and Pacific.....			39,529.23	17,622.52
Utah and Northern.....	15,001.06	61,033.04		
Oregon Short Line.....			26,428.42	43,901.69
Groesley, Salt Lake and Pacific.....			2,070.73	528.27
Lawrence and Emporia.....			944.19	65.86
Laramie, North Park and Pacific.....			87.24	Nothing.
Solomon Railroad.....			3,322.49	2,561.09
Salina and Southwestern.....			1,555.28	1,994.56
Denver and Boulder Valley.....			4,845.90	1,994.65
Denver, Marshall and Boulder.....			8,950.57	1,321.19
Georgetown, Breckenridge and Leadville.....			1,054.00	127.68
Kansas Central.....			5,066.63	5,454.78
Salina, Lincoln and Western.....			1,018.15	1,499.81
Denver and Middle Park.....			411.44	17.89
Manhattan and Blue Valley.....			6,968.70	5,677.96
There should be added to the earnings of the Omaha and Republican Valley the earnings of the Grand Island Branch.....			4,131.18	2,394.19

The CHAIRMAN. The figures you have given are the totals for the constructive mileage settlements for the month of January, 1887?

Mr. MINK. Yes.

The CHAIRMAN. Under what rates?

Mr. MINK. Under the constructive mileage rates in force in the system. So far as the earnings were local to each of these various lines, of course the constructive mileage rates do not affect them. So far as the business was interchanged between the parent line on one hand and the branch line on the other, of course the constructive mileage rates will affect the earnings.

The CHAIRMAN. Where do the rates for the constructive mileage appear in this statement? What are the rates on which you base these allowances for the month of January? Are the rates given by Mr. Kimball as to the rates of constructive mileage the basis of the rates for the calculations in the month of January, 1887?

Mr. MINK. I understand that to be so.

Mr. KIMBALL. I understand, Mr. Mink, you have filed with the Commission a statement of the actual division and the constructive mileage division.

Mr. MINK. For that single month as an illustration; yes.

THOS. L. KIMBALL.

Afternoon session.

STATEMENTS PRODUCED BY COMPANY.

Mr. MINK. I have here a number of statements that I wish to put in. They are as follows:

A statement of legal expenses of the Union Pacific Company from 1863 down to the consolidation in January, 1880.

Also, a statement of the legal expenses of the Kansas Pacific Railway Company from April, 1867, to January 31, 1880; which includes the Leavenworth Branch.

Also, a statement of legal expenses of the receiver of the Kansas Pacific Railway, including the Leavenworth Branch from November 1, 1876, to August, 1879.

Also, a statement of legal expenses of the Union Pacific Railway Company (the present organization) from February 1, 1880 (the date of the consolidation of the accounts), to December 31, 1886.

I think there is a request on the record for us to furnish a detailed statement of the advertising account. I understand that that request is, to some extent, modified, and I do not want to appear on the record as not producing it.

The CHAIRMAN. I understand that you have taken off the total of the advertising account, and taken it into your annual account.

Mr. MINK. Yes, sir.

The CHAIRMAN. That includes everything?

Mr. MINK. Yes, sir. We can give you the total amount charged to advertising since the consolidation in 1880, without any difficulty at all.

The CHAIRMAN. Then we will leave the question of the advertising account to the accountant of the Commission.

Mr. MINK. And relieve the company of the necessity of preparing the detailed account?

The CHAIRMAN. Yes.

OMAHA, NEBR., *Friday, June 24, 1887.*

JOHN H. WALSH, being further examined, testified as follows:

FAILURE TO SUBPÆNA GEORGE M. CRAWFORD.

By the CHAIRMAN:

Question. Did you have a subpœna for George M. Crawford?—

Answer. I did.

Q. Did you serve that subpœna on George M. Crawford?—A. No, sir.

Q. Did you make an attempt to serve him?—A. I did.

Q. Where did you go?—A. To his office at the corner of Harney and Thirteenth streets, and his residence on Sheridan avenue, near Leavenworth avenue.

Q. What answer did you receive?—A. At his residence his sister told me he had gone to Iowa early this morning.

Q. When will he return?—A. She could not tell. She said that he said he did not know when he would return.

OMAHA, NEBR., *Friday, June 24, 1887.*

ERASTUS YOUNG, being further examined, testified as follows:

By the CHAIRMAN:

Question. Will you please repeat to the Commission your duties as general auditor of the company?

DUTIES OF GENERAL AUDITOR.

Answer. My duties as auditor are to supervise the accounts of the company at Omaha.

Q. What accounts have you supervision over?—A. I have the supervision of the accounts of operating departments, expenses and revenue.

Q. Are there any other departments of income that are subject to your control as auditor?—A. All the income is subject to my control as auditor; that is, all the earnings on the line of road in the West.

Q. West of where?—A. West of the Missouri River—all the lines of the Union Pacific Railway Company.

HOW ACCOUNTS ARE RECEIVED.

Q. How do you receive your accounts?—A. The accounts come to me by reports from the various sub-officers of the accounting department; the freight revenue from the freight auditor; the passenger revenue from the passenger auditor, and the expenses from the various sub-departments of the operating department.

Q. Have you printed blanks that the subordinates return to you?—A. Yes, sir.

Q. Can you furnish us with copies?—A. Yes, sir.

Q. Will you do so now?—A. It would take some time.

The CHAIRMAN. I do not want anything but the blank forms.

The WITNESS. There are several hundred of them, and it would take some time to get them.

Q. How do you distribute these blanks?—A. They are distributed by the stationery department, after being arranged under my direction.

Q. How often are the blanks returned to you?—**A.** Some are returned in the shape of monthly reports, mostly in monthly reports; some daily, but mostly monthly.

HOW THE BOOKS ARE KEPT.

Q. What books do you keep?—**A.** I keep the general accounts; that is, a condensation of the reports made by the various departments of the accounting department. Those of the freight auditor, the passenger auditor, the auditor of disbursements, auditor of agents' accounts, car accountant, &c., are condensed in the general books kept by the auditor.

Q. In what books are the freight accounts and passenger accounts carried in detail?—**A.** Passenger accounts in the books in the office of the passenger auditor, and the freight accounts in the books of the freight auditor.

Q. Where do you enter your pool accounts?—**A.** Pool accounts take the same course. Those affecting freights are made up in the office of the freight auditor, and those affecting the passenger department in the office of the passenger auditor.

Q. Why do you carry pool accounts into freight accounts?—**A.** Because they are proper additions to or deductions from freight earnings, as the case may be. The same with passenger pool accounts.

Q. Where do you carry your freight rebate accounts?—**A.** Freight rebates into freight accounts, passenger rebates into the passenger accounts.

Q. What business, other than rebates and pool accounts do you carry in your books in that way?—**A.** We have the mail earnings and the earnings from miscellaneous sources.

Q. They all, as I understand, go into either freight or passenger earnings?—**A.** No, sir.

Q. Where, then, do they go?—**A.** We have a subdivision for express, for mail, and for those from miscellaneous earnings. Freight and passenger earnings relate specially to those branches of the service.

Q. How often do you make your return to Boston?—**A.** Monthly.

Q. In what form do you make it?—**A.** In the form of statements that show the earnings and expenses in the various details.

GROSS EARNINGS AND GROSS RECEIPTS.

Q. Do you show the gross earnings in your return to Boston?—**A.** Yes; after deducting the rebates.

Q. Do you show the gross receipts?

The WITNESS. I do not know whether I understand your question exactly.

The CHAIRMAN. Do you show the gross receipts of your company, in your reports to Boston?—**A.** Yes; the gross receipts, after deducting rebates.

Q. But you would not call that a gross receipt, if you deducted it, would you?—**A.** Yes, we do. We make simply a statement of earnings and expenses. Before we declare our earnings we have deducted all rebates and charges against them.

Q. Where do you keep your gross receipts, before the deduction?—**A.** The gross receipts of freight in the office of the freight auditor of the passengers in the office of the passenger auditor. They make the deductions.

Q. What deductions do you make from the gross receipts from freight?—A. Principally rebates, overcharges, and debit balances on account of pools.

DEDUCTIONS FROM GROSS RECEIPTS.

Q. What deductions do you make from the gross receipts on passenger earnings?—A. Well, the same. Overcharges, refundments, or rebates, if any, or pool balances affecting passenger business, would be deducted from the passenger earnings in the office of the passenger auditor before being reported to the general auditor.

Q. Have you given all the deductions that are made before you report to the general office, at Boston?—A. I think I have.

Q. How do the authorities at Boston ascertain what deductions you have made from the gross receipts?—A. Well, if they desire to know, they call for a statement.

Q. How often have they called for a statement in the last year?—A. I think that during the last year we have furnished a statement, perhaps not every month of the year, but for quite a good many, for a number of months, for the freight business; not for the passenger business.

Q. How was such a call made?—A. Through the comptroller.

Q. In writing?—A. I am not certain as to that, whether in writing or verbally.

Q. Did you ever receive a communication to forward the deductions made from the gross receipts from the general auditor of Boston, or any other officer?—A. I have received instructions from him either verbally or in writing to furnish a statement of our deductions on account of freight.

Q. During the last year?—A. During the last year.

Q. Will you produce it?—A. I said I have received it either in writing or verbally. I am not sure about that.

Q. Will you produce any that you have received in writing?—A. Yes, sir.

The CHAIRMAN. Do so, now, please.

The WITNESS. I will have to hunt it up, if there is any. I do not think I have any letter, but I will not be positive about it.

Q. Will you name the list of books you keep in your department and the passenger department?—A. I would not attempt to do so now, but I can have such a list made.

The CHAIRMAN. We shall be obliged to you if you will have such a list made and furnished to the Commission—a list of the books under your control in which the accounts of the Union Pacific Railway Company are kept.

The WITNESS. You do not want all records, or only the books pertaining directly to the accounts?

GROSS RECEIPTS AS DISTINGUISHED FROM GROSS EARNINGS.

Q. What you keep your accounts in. What were your gross receipts for 1886?—A. I could not state them off-hand.

Q. Where are they entered?—A. In the books and in the annual report.

Q. Where do they appear in the annual report? Here is the annual report (handing to the witness a copy of the report of 1886 of the Union Pacific Railway Company).—A. Page 28.

Q. What were the gross receipts for the year 1886?

The WITNESS. The gross earnings?

The CHAIRMAN. The gross receipts I asked for.

The WITNESS. I could not tell you if you put it on the ground that the rebates should be added.

The CHAIRMAN. I want a statement showing the gross receipts for the year 1886.

The WITNESS. That I should have to have made upon your statement of what gross receipts are.

The CHAIRMAN. All receipts. What you understand by all receipts, generally?

The WITNESS. You mean gross receipts, before rebates are deducted?

The CHAIRMAN. Receipts of all kinds by the company entering into your department.

The WITNESS. I should have to have that made.

Q. How soon can you give that to the Commission?—A. I do not know; as I should have to look it up and see.

Q. Have you any books in which you carry the gross receipts.—A. No, sir.

Q. How do you ascertain the gross receipts?—A. We do not ascertain them, except month by month.

Q. Will you give me one month in the year 1886?—A. Yes.

Q. What month?—A. Any month.

Q. Will you give me the sum of the twelve months; will you do that now?—A. I can have it done. There is one question I would like to have made clear; does it include back charges on freight collections on account of other roads proportions on joint freight and passenger business; do you mean all that comes in the Union Pacific revenue?

GROSS RECEIPTS DEFINED.

The CHAIRMAN. I want the gross receipts for the Union Pacific system for the year 1886.

The WITNESS. The gross amount of money?

The CHAIRMAN. The gross receipts.

The WITNESS. I shall have to ask you to define what you mean by "gross receipts," as I do not understand the question in the way you state it.

Q. What is the difficulty about the question?—A. Because gross receipts would mean all the money we have received from every source.

The CHAIRMAN. That is just what I mean; the gross receipts of the Union Pacific system for the year 1886.

Mr. POPPLETON. All the money collected from any source, no matter from whom collected.

The CHAIRMAN. Yes.

The WITNESS. We can give you the gross receipts; the cash receipts.

Q. Will you do that?—A. Yes.

Q. When?—A. I can have it made to-day.

A CALL FOR THE GROSS RECEIPTS FROM 1869 TO 1886.

Q. Will you include the year 1885 and give an account of your receipts from the beginning, 1869 to 1886, inclusive?

Mr. MINK. Including the Kansas Pacific?

The CHAIRMAN. The Union Pacific system.

Mr. POPPLETON. The Kansas Pacific constituted no part until 1880.

BOOKS OF THE KANSAS PACIFIC.

The CHAIRMAN. I understand that. Have you the books of the Kansas Pacific in this department at Omaha, prior to the consolidation, showing the gross receipts, such as you are going to give me, from the consolidation of the Kansas Pacific down to date? Where are the books?

The WITNESS. I do not know.

The CHAIRMAN. Are they in Boston, Mr. Mink.

Mr. MINK. I think the only books of the Kansas Pacific Company that we have in Boston are the ledger and journal in use at the date of the consolidation.

The CHAIRMAN. They would not show it.

Mr. MINK. They would be necessary in order to make the statement you ask for, but they would not in themselves show the information you desire.

Q. Where are the other books of the Kansas Pacific prior to 1880?—A. A portion of the books are in our possession here; what ones they are I do not know.

The CHAIRMAN. If you have the books of the Kansas Pacific in your possession, please include, in the information that you are to furnish, the gross receipts from the Kansas Pacific from its organization till 1880.

HOW GROSS EARNINGS ARE ASCERTAINED.

Q. What did you deduct from gross receipts to ascertain gross earnings?—A. We do not ascertain our gross earnings in that way.

Q. How do you ascertain your gross earnings?—A. We ascertain our gross earnings, for instance, on freight by taking the amount that is charged on the way bill—if it is a local way bill—and crediting it to freight earnings. The value of a passenger ticket is credited to passenger earnings. It would be credited if we never received a dollar on that account. The cash receipts cut no figure in determining the earnings.

Q. The gross earnings of the Union Pacific Railway Company appear in the annual report for the year 1886 (on page 88) at \$17,806,132.59. What deduction did you make, as auditor, from the gross receipts, in order to enable the authorities of the company at Boston to ascertain the gross earnings reported?—A. I made no deduction from the cash receipts that would enable us to arrive at that figure. It would not be arrived at in that way.

Q. How did you arrive at the figures as reported in the annual report as gross earnings? Just name me the subjects that you deduct or that do not appear in the gross earnings?—A. I think I had better go back to the transaction. If, for instance, there was a shipment from Omaha to Ogden, if it was \$100—

The CHAIRMAN [interposing]. Excuse me; but in dealing with your annual settlements do not go so far into detail. If you take your annual balance sheet, when you strike it, to make return to the Boston authorities, in order to enable them to make up the gross earnings, we can get at it. Did you, in that, make comparison between your gross receipts and gross earnings?

CASH RECEIPTS CUT NO FIGURE IN DETERMINING EARNINGS.

The WITNESS. We make no comparison between them at all, except to take them in connection with other accounts that enter into our busi-

ness. We do not make any deductions from our gross earnings, month by month, or from our gross receipts in arriving at our earnings. In other words, the cash receipts cut no figure in determining the earnings of the road, as stated in those reports.

The CHAIRMAN. Well, what does cut the figure?

The WITNESS. On a shipment from Omaha to Ogden, if we earn \$1,000, that is credited to earnings. Perhaps, however, there may be another \$1,000 due on it as charges—money due the connecting line—making \$2,000 cash to be remitted by the agent at Ogden, making our cash receipts that amount (\$2,000), only \$1,000 of which would be Union Pacific Railway earnings. In this way thousands of transactions enter into our business, in which we collect money for account of other roads, that does not affect our earnings at all, but that does affect our receipts. We sell material and collect rents and balances due from other roads for various purposes, some of which relate to earnings, but very many do not. On the other hand, we pay out hundreds of thousands of dollars per month that are not earnings and are not deducted from our gross receipts to determine our earnings.

DEDUCTION OF POOL BALANCES, REBATES, AND OVERCHARGES.

Q Do you deduct your pool accounts or pool settlements?—A. We deduct our pool balances, even though we never earn them.

Q And do you deduct your rebates?—A. From our earnings; certainly.

Q. What else?—A. Any overcharge, even though it had accrued six months prior and not paid until to-day. We deduct that as a charge against our earnings; but our gross receipts may include collections on account of debts that may have been due six months or a year previous. We have hundreds of thousands of dollars due us from individuals and companies on charges that may, perhaps, have been charged against them six months previous. They enter into our receipts, but have nothing whatever to do with our earnings. In other words, there is only an indirect relation between gross receipts and earnings, as stated in our reports.

NO COMPARISON OF GROSS EARNINGS WITH GROSS RECEIPTS.

Q. But, as a matter of fact, do you not compare your gross earnings with your gross receipts?—A. No, sir; I know no comparison between them.

Q. Do not sums of money, as gross earnings, appear on your books as receipts from time to time?—A. Yes; all money we get from freight and passenger traffic enters into our gross receipts; but it is only one factor.

Q. In addition to pool balances, rebates, and railroad settlements, what else do you deduct from your gross receipts?—A. Overcharges, refundments, &c.

Q. Are those items added to the items you have named, the gross receipts, that, according to your testimony, bear no relation to your gross earnings?—A. Those would have some relation to our gross earnings, because they are deducted from them.

Q. Where do you carry the deductions? Into what account?—A. We carry them into earnings in those cases, although we may not pay them. We may charge for freight earnings to-day \$50,000 for a freight balance due another road, or a pool balance, and not pay it for to

months ; or, I may credit a bill that is due to us from another road and not collect it for six months or a year.

Q. What do you do with the sums that you deduct from time to time from gross earnings and other sums that you have named that never appear in gross earnings nor bear any relation to them ? Do you carry them together into an account ?—A. We carry them into the accounts of parties from whom they are due or vice versa.

ANNUAL BALANCE SHEET.

Q. Do you strike a balance of such accounts at the end of the year ?—

A. We have a balance sheet of the amount due us from other parties and due by us to other parties.

Q. Containing all the sums you have named ?—A. Yes ; all that have not been paid.

Q. I want to know what becomes of the sums that disappear out of the item of gross receipts and leaves the net earnings that come annually to the company ?—A. I do not know that I understand you. The items that are charged to earnings ? Do you want to know what becomes of the rebates, overcharges, and such items as I have named ?

GROSS EARNINGS.

Q. The item of \$17,806,132.59 for 1886 represents, as I understand you, the total gross earnings, after deducting overcharges, rebates, and pool balances. Anything else ?—A. Anything else that may be a proper charge. I do not remember anything else now.

Q. Where do you carry the remainder, after making these deductions ?—A. To earnings.

Q. What earnings ?—A. Freight earnings, in the case of freight.

Q. Where does such account, in the year 1886, appear in the annual report ?

The WITNESS. The amount deducted ?

The CHAIRMAN. Yes.

The WITNESS. It does not appear in the annual report.

Q. Why is not such a return made ?—A. Because it is not necessary to make it.

Q. Is it not part of the gross receipts ?—A. It is ; but in determining the earnings these items are all deducted on our books as an overcharge to earnings. On one side we have an account representing the gross traffic receipts, freight or passenger, as the case may be ; on the other side a charge representing these various items. The balance of the account represents freight or passenger earnings.

Q. Under whose instructions do you make up your accounts in the method you have stated ?—A. I make them up under the orders of the comptroller, as the head of the accounting department. I will say, however, that is the customary method, the method in use on all rail roads.

CAR SERVICE ACCOUNT.

Q. Have you a car-service account ?—A. Yes, sir.

Q. How is the car-service account reported in the annual reports or monthly statements to the authorities at Boston ?—A. It is included in the monthly report as car service.

Q. On what page of the report of 1886 ?—A. Page 99 of the report of 1886 [referring to page]. The first process is to credit our "car-service

count" with the amount due us on this account from other lines, and to charge the same account with the amount due other lines on this account. If the *balance* is a debit, it is charged to expenses as "use of cars" (account 22); if the *balance* is a credit it is credited to earnings as car service."

CAR SERVICE BALANCE INCLUDED IN GROSS EARNINGS.

Q. The car-service balance, then, for 1886 (\$9,586.55) is included in the gross earnings of the company, \$17,000,000?—A. That is included in gross earnings. That represents the service of cars owned by lines whose cars have earned more than they have paid to other lines for this service, while the debit balance represents the debit balances of lines which have paid more for car service than their cars have earned. For instance, in the Union Pacific Railway system many of the branch lines, having no equipment, are charged the same rate for car service that they pay foreign lines. That goes to their debit in the expenses. The Union Pacific Railway, having a large equipment, may possibly earn more than it pays. That credit balance will go to the credit of earnings under the heading of "car service."

Q. And it will appear in your general balance of gross earnings?—A. Will appear in our general balance of gross earnings. This statement here (page 99) represents the Union Pacific Railway Company.

Q. Have you given all the sums that have been deducted from the gross earnings of the Union Pacific Company?—A. I stated overcharges, rebates, and pools. That is all that I can remember now. If there are any other items they are very small.

THE POOL BALANCE.

Q. When the pool balance is in favor of the Union Pacific Railway Company, into what item is that reported to the general office at Boston?—A. It is included, if it relates to freight, in the freight earnings; if to passengers, in the passenger earnings.

Q. Have you a separate account of the pool balances upon freight in favor of the Union Pacific Company for the year 1886?—A. No, sir.

Q. Have you a separate account of the amount due the Union Pacific Company from passenger pools?—A. No, sir.

Q. How do you determine, then, the amount due from freight balances in favor of the Union Pacific, or from passenger balances, under the pool system?—A. We determine it from monthly statements made up by the freight and passenger auditors, in connection with other lines, or with the pool commissioner.

Q. What proportion of the earnings of the Union Pacific Railway Company, under the term "freight," represents pool business, and how much straight railroad business?—A. I could not answer that question off-hand.

Q. Can you give such a statement for the year 1886?—A. I think I can have it prepared.

Q. Without much difficulty?—A. It will be considerable work.

Q. Why?—A. Because we have not kept our business covered by our pooling agreements separate from business not covered by such agreements.

ORDINARY BUSINESS AND POOL TRAFFIC.

Q. What do you denominate the ordinary business of the railroad as distinguished from pooling?

Mr. MINK. I suppose it includes the ordinary traffic and business as distinguished from pool traffic or business.

Q. Do you keep the accounts of the ordinary traffic and the pool traffic together?—A. Yes, sir.

Q. Have they ever been separated?—A. Not to my knowledge.

Q. How does the company determine how much they get from the ordinary traffic and how much from the pool traffic?—A. It has never been determined to my knowledge.

Q. How does the company ascertain whether it is an advantage to work under the pool arrangement or under the ordinary traffic arrangement?—A. That is a question for the traffic department, I think, to answer.

Q. Will you furnish a statement showing the amount in passenger earnings that have been derived from pool balances and the amount from ordinary business?—A. I will endeavor to have it prepared.

Q. How long will it take you to prepare the two statements as to freight and passenger earnings?—A. I cannot tell you. I would have to look over the ground and see. It will involve considerable labor.

RELATIVE PROFITS FROM POOL SYSTEM AND ORDINARY SYSTEM.

The CHAIRMAN. Mr. Mink, will you tell me why the company has not ascertained how much they get under the pool system or how much under the ordinary system?

Mr. MINK. Because it has not been deemed essential. Each pool is measured by its own results. The value of one may be, and often is, contingent upon another. Special circumstances, however, govern in nearly every case. Without the intervention of the pool, demoralization of rates may prevail. Under such circumstances, with advantages far superior to those enjoyed by a rival, the stronger company may deem it wise to make concessions in exchange for concessions, the value of which must be determined under rules applicable to each individual case. No book account is therefore necessary. If confronted, on the part of a competitor, with an ultimatum of "half the business or a fight," the problem is one for the traffic department and not for the accounting department.

Commissioner LITTLER. Explain what is meant by "fight"?

Mr. MINK. A radical drop in the rate.

HOW DETERMINED.

The CHAIRMAN. Has the company never ascertained, in the settlements from month to month, how much they were getting from pools and how much from the ordinary business?

Mr. MINK. I think not, in that form.

The CHAIRMAN. How do you determine whether the pool system is a success or not?

Mr. MINK. By the general results of the year.

The CHAIRMAN. How do you know that ordinary railroading under the ordinary method produces less results than that method?

Mr. MINK. By experience we can tell the instant a pool is disrupted. Perhaps it is determined more by the negative process than the positive. In the case of the recent transcontinental trouble, the effect was instantly noticeable.

The CHAIRMAN. Then you determine by the percentage of falling off?

Mr. MINK. No, sir; we determine the value by taking the general results of the year's business. If we can earn a given sum of money, and our expenses are kept within a certain figure, the managers of the property are satisfied. If these conditions do not obtain, the conclusion is that there is something wrong.

The CHAIRMAN. Now, how do they determine what is wrong?

Mr. MINK. They would have to determine that by special investigation.

THE TRANSCONTINENTAL POOL.

The CHAIRMAN. Would not that special investigation involve the ascertainment of exactly what the pooling was doing?

Mr. MINK. Yes, sir; but I have never known of special investigations, except in one or two instances. In the recent case of the disruption of the transcontinental pool, the demoralizing effect was so evident that no investigation was necessary. We actually received more for the sleeping-car fare than for the transportation of a passenger. I cannot estimate the cost of that war of rates. In my long service with the company I do not think I have heard so broad a question relating to pool matters as the one you have now put to Mr. Young. The traffic of the road is handled under terms fixed by the traffic department, and they are responsible for the results.

WHAT DETERMINES WHETHER A POOL IS SUCCESSFUL.

Q. How do they determine whether the pool is a success or not?—**A.** Only by the result of the business.

The CHAIRMAN. Would I be justified in taking a percentage of the falling off, and saying that that percentage is the injury done to the business by the pool?

Mr. MINK. I think I can explain the matter. We will take any given pool. The Union Pacific is entitled to $33\frac{1}{3}$ per cent., the Santa Fé to $33\frac{1}{3}$ per cent., and the Burlington road to $33\frac{1}{3}$ per cent. Now, if the Union Pacific is actually earning 45 per cent. or 50 per cent., fault would soon be found, and we should insist on a rearrangement of the percentages. If we occupied a very strong position the percentages would most certainly be revised. If, however, investigation should show that our increased earnings in the pool were due to some accidental circumstance, of course the percentages would remain undisturbed— $33\frac{1}{3}$ per cent. in each case. It is a matter of barter, dicker, or trade, or whatever you choose to call it.

GROSS RECEIPTS AND GROSS EARNINGS.

By Commissioner LITTLEB :

Q. I want to recall your attention to the subject of gross receipts and gross earnings. Do I understand you to say that in the course of your business you receive large sums of money due to other railroads? For instance, where a shipment is made from Chicago, if you please, through to Ogden or any other point on your line, is it true that the charges follow that shipment and that they are all collected by your company?—**A.** That is determined by the method under which the shipment is made. If it is billed for collection at the point of destination the charges would be collected by the Union Pacific.

Q. And the whole sum of money would be paid into your treasury?—**A.** Yes, sir.

Q. Is that the ordinary course of business?—A. It is a very general course.

OTHER SOURCES FROM WHICH MONEY IS RECEIVED.

Q. From what other source do you receive money which, in fact, was not earned by the Union Pacific Railway Company and which, in fact, does not belong to the Union Pacific Railway Company?—A. Well, there are not many sources that do not belong to the Union Pacific road. But it is like this: We may, in the month of June, collect a balance that was due us in December. That would go into our receipts.

Q. Into your gross receipts?—A. Yes.

Q. Without any deduction?—A. Without any deduction; without any reference to the earnings for that month.

Q. I repeat: From what other sources does the company receive into its treasury money that does not belong to it, and which it never earns, if there are any?—A. From the sale of coupon tickets, for instance.

COUPON TICKETS.

Q. For instance, if a coupon ticket is sold in Ogden for New York, a through ticket, you receive the entire cost of that transportation, and that money is paid into your treasury?—A. And afterwards drawn out. The same is true of a ticket sold in Omaha, of which we only get the revenue over the bridge. If it is sold for New York or Portland, Me., or San Francisco, or a point in Mexico, or anywhere else, we get the entire revenue, the entire amount, and afterwards pay it to the parties to whom it belongs.

Q. To the roads over which the passenger went, in the journey?—A. Yes, sir; the same is true of freight. But, aside from that, there are large amounts of money continually on our books, in the way of accounts against individuals and companies, that will stand there for six months or a year before they are settled.

RECEIPT OF MONEY NOT EARNED.

Q. Give us an illustration of the process that brings money into receipts that you do not consider you have earned.—A. Take, for instance, rails purchased by the Missouri Pacific; they amounted to a large sum of money. When they were shipped they were billed against that company, but it was six months or longer before the amount was collected. When we did collect it, it went into our receipts; but that had no relation whatever to our earnings. This is but one of a thousand items of a similar character that I might name, some of which might have a direct or indirect bearing upon our earnings, but a very large proportion would not have the least connection with them.

Q. It went into the receipts of the Union Pacific?—A. It went in as gross receipts.

Q. What proportion of that was deducted, if any, before the grand total was struck? In making up your grand total of gross earnings at the end of the year, what proportion of that money, if any, was subtracted from the gross receipts in order to determine the gross earnings?—A. That I could not tell; it would be difficult to tell that.

Q. But a portion of it would be?—A. Might be.

CAR SERVICE ACCOUNT.

Q. You have spoken in relation to the car-service account. You know there are car companies all over the United States who make traffic arrangements with railroads by which their cars are run over the roads on a mileage contract. Are there any such companies doing business over the Union Pacific?—**A.** I could not answer that question definitely, because I am not familiar with the details; I think there are some.

Q. Who would be the proper officer to answer that question and give the information?—**A.** The traffic manager, I think, would be the proper officer.

POOL BALANCES.

By the **CHAIRMAN**:

Q. How much do the pool balances in favor of the Union Pacific amount to in the year 1886?—**A.** I could not answer that off-hand.

The **CHAIRMAN**. You will furnish that?

The **WITNESS**. I will furnish it.

The **CHAIRMAN**. That has been already called for, I believe.

The **WITNESS**. Yes, sir.

Q. How soon will you be able to furnish it?—**A.** The freight statement will not be ready before the middle of next week; the passenger statement I think, very possibly, by Monday.

Q. How soon can you furnish the item of gross receipts for the year 1886?—**A.** Oh, I think we can furnish it within a day. We shall certainly have it by Monday morning.

VOUCHERS FOR EXPENDITURES.

Q. Do you receive a voucher for all of the expenditures made by the Union Pacific Company?—**A.** All expenditures made in the West; yes, sir.

Q. Are there vouchers on file for all expenditures made in the West on account of the Union Pacific Railway Company?—**A.** Yes, sir; unless they have been lost or mislaid. We have a voucher for everything that is paid.

Q. Have you ever had a voucher presented to you for the expenditure of money for any unlawful purpose?—**A.** Not to my recollection.

Q. Would you not recall such an event if it had occurred?—**A.** I am quite sure I should. I have never had any such thing, I am very positive.

Q. Have you ever had any voucher presented to you for the expenditure of money for the influencing of any legislation?—**A.** I do not recollect any.

Q. If such a voucher had been presented would you not recall it?—**A.** I think I should.

AN "INDIA RUBBER ACCOUNT."

Q. How are payments made for expenditures other than actual railroad expenditures, and to what accounts are they charged?

The **WITNESS**. I do not know that I understand your question—as to actual railroad expenditures.

The **CHAIRMAN**. Operating expenditures other than actual railroad expenses.

The WITNESS. I do not know of any other expenses than actual railroad expenses, as far as my connection with the company is concerned.

Q. Have you such an account as an india-rubber account?—No; that is not in our classification.

Q. What corresponds, in your classification, to an india-rubber account?—A. I am sorry to say that I do not understand the term, as applied to accounts.

THE LAND ACCOUNTS.

Q. Have you any control over the land accounts?—A. Yes, sir.

Q. What control have you?—A. To supervise them and see that they are properly kept.

Q. Are they under the auditing department?—A. Yes, to a certain extent.

Q. Will you furnish a list of the books that are kept in that department?—A. Yes, sir.

Q. Where do you charge the land expenses?—A. The expenses of the Union Division land department accounts are charged to the Boston office.

Q. To what account?—A. The Boston office account.

Q. Is that the land account?—A. That is our account. The expenses of the Union Division land department are not paid out of the receipts of sales of land. They are paid by the local treasurer of the railroad company at Omaha.

Q. How are they paid?—A. Out of the current receipts of the company on duly approved vouchers.

Q. Is that a deduction from the gross receipts before the return of the gross earnings?—A. No, sir; it is charged to the Boston office and transferred there as so much money, as paid for account of the Boston office at this point.

Q. Is that part of the operating expenses that are deducted from the gross earnings?—A. No, sir.

LAND VOUCHERS.

The CHAIRMAN. Mr. Mink, how do you make that deduction?

Mr. MINK. Mr. Young's explanation is quite correct. The vouchers for payments made by the company here on account of the land grant to the Union Pacific are sent to Boston as so much money, and are then taken up by us and charged against our current income; they are not included in the operating expenses, but are charged against the current income of the company, the income derived from all sources. The taxes on the lands along the Kansas division and the expenses of conducting the land sales along that division are paid from the proceeds arising from the sale of the trust or granted lands. The mortgages provide, in one case, that the company shall pay the expenses, and, in the other case, for the payment of the expenses by the trustees. In neither case do they enter into the operations of the railroad as such.

DEDUCTION OF LAND EXPENSES FROM NET EARNINGS.

The CHAIRMAN. Are not the land expenses deducted before you ascertain the net earnings?

Mr. MINK. Never. The land expenses of the Union Division, as we term it, are deducted from our current income before we reach the balance of our net income; which is an entirely different term from net earnings.

The CHAIRMAN. Then the net income or the item of net earnings is, virtually, decreased to the extent of the deduction for the expenses of the land account?

Mr. MINK. No, sir; the net income, but not the net earnings.

The CHAIRMAN. Why not?

THE INCOME ACCOUNT.

Mr. MINK. Let us turn to page 88 of our last annual report, which contains the income account. The income of the company is made up, first, of its earnings. Next, the expenses of conducting its business on the railroad, the maintenance of and the taxes on the roadway, excluding the taxes of any lands subject to the land-grant mortgages or lands outside of the operations of the railway. Then any miscellaneous expenses of the company are taken into account. Then follows the interest on the mortgage debt; the interest on the floating debt; then the annual contribution or requirement for the company's sinking funds; the percentage of earnings due the United States; and then the items to which you now refer, namely: Taxes on granted lands, Union Division; and next but one after that is an item for expenses of conducting the land sales along the Union Division. These are the two items referring to this class of expenditures.

The expenses incident to the Kansas lands are paid by the trustees, practically, out of the proceeds of land sales, and do not enter at all as a charge into the general income of the company.

TAXES—STATE, COUNTY, AND CITY.

The second item in that report is detailed at pages 100 and 101. If you will turn to page 101 you will find, under the head of general expenses, an item—the last one under the head of general expenses, entitled "taxes,—state, county, and city." This includes the taxes on the road-bed and station grounds,—all the real estate incident to the operation of the road; but no amounts for taxes on lands subject to the land-grant mortgages. The taxes paid on the entire Union Pacific system of roads are shown on page 125 of the report for 1886; and they amounted to \$1,055,000 for that year. We are estimating them this year at the rate of \$1,100,000, which, it seems to me, is out of all proportion to the amounts imposed on railroad companies generally. It represents an enormous outlay of money to make for this purpose.

LAND EXPENSES NOT CARRIED INTO LAND ACCOUNT.

The CHAIRMAN. Why are the expenses of obtaining the land not carried into the land account, Mr. Mink?

Mr. MINK. On the Union Pacific Division?

The CHAIRMAN. Yes.

Mr. MINK. Because, under the terms of the land-grant mortgage of the Union Pacific Railroad Company, the trust was relieved of the expense incident to the sale of the land, and the payment of the taxes assessed on the land.

The CHAIRMAN. Would not that decrease the general balance of income to the extent of the expense?

Mr. MINK. Yes, sir.

The CHAIRMAN. Would not the Government receive that much less?

Mr. MINK. No, sir.

The CHAIRMAN. Why not?

Mr MINK. Because the computation on which the payment to the United States is made includes, first, the gross earnings.

The CHAIRMAN. Have you the land expense in that item?

Mr. MINK. No, sir.

The CHAIRMAN. Then what?

Mr. MINK. Next the amount paid by the company for betterments, as we term it, and for new equipment, and, next, the interest on the first-mortgage bonds. Those are the only items entering into the computation. Any other payments made by the company are never taken into the account.

STATED AS SEPARATE ITEMS.

The CHAIRMAN. Where are your land expenses charged?

Mr. MINK. They are stated, you will notice, in the account on page 88 of the report, as separate items.

The CHAIRMAN. When you are ascertaining the amount due the Government, after deducting betterments and interest on the first-mortgage bonds, &c., to ascertain the amount due the Government, where, in that item, have you carried, anywhere, the expenses that are charged to current expenses of the railroad?

Mr. MINK. Under the head of operating expenses and taxes.

AN ILLUSTRATION.

The CHAIRMAN. Then the land expenses appear under the head of operating expenses and taxes?

Mr. MINK. No, sir; they do not. I may have misapprehended your question. The percentage of earnings due the United States—the 25 per cent. due the United States—is made up, first, by taking into account the gross earnings derived from the transportation of passengers, freight, mail, and express, and any other miscellaneous revenues that we may happen to have; next, the transportation and maintenance expenditures, and the taxes on the roadway. Those, in brief, comprise the ordinary operating expenses of a railway, and do not include the taxes on our lands or the expense of selling lands. Then follows the amount expended by the company for additional construction, or betterments, and for new equipment, and next, the interest on the first-mortgage bonds. Now, having deducted those various items of expense from the gross earnings, we have remaining what are called the net earnings, 25 per cent. of which is payable to the United States. You see, therefore, that the expense incident to the land department does not enter at all into the computation with the United States.

LAND EXPENSES NOT INCIDENT TO ORDINARY OPERATIONS OF THE ROAD.

Mr. POPPLETON. The question is, if I understand the governor, whether the expenses paid by the railway company, administering the land grant, is not a legitimate charge against the gross earnings in reaching the conclusion.

The CHAIRMAN. Yes; where do you carry them out?

Mr. MINK. For the reason that they have nothing to do with producing the revenue upon which the United States is entitled to a certain percentage. They are not expenses incident to the ordinary operation of the railway,

Commissioner LITTLE. Why do you say these taxes are not incident to the operation of the road?

Mr. MINK. Because the lands are not required by the company in connection with the operation of its railway. They were granted to aid in the construction of the road. The company derived the aid by placing mortgages on them.

GROUND FOR RIGHT OF WAY, ETC.

Commissioner LITTLE. Is not right of way and such necessary grounds as you occupy for depots, side tracks, &c., necessary for the railway?

Mr. MINK. Yes, sir, absolutely necessary, and such lands have been withdrawn from the limits of the land department, and are no longer subject to the trust. They are now in use by the operating department of the railway; and the taxes on such lands are, of course, included in the ordinary operating expenses under the head of "Taxes."

BRANCH ROAD ACCOUNTS.

By the **CHAIRMAN**:

Q. How do you keep your account with the branch roads—the construction of branch roads?—**A.** We keep an account that shows the amount expended for the construction of these lines, showing how much is expended.

Q. When the Union Pacific Railway Company begins a branch road, what is the first intimation, as auditor, that you receive as to the expenditure of moneys?—**A.** Well, as a rule, it is in the shape of estimates from the chief engineer, that so much money has been expended for account of a branch line. It is in the shape of a voucher.

Q. Where do you enter that expenditure?—**A.** It is entered in the books of record in the office.

Q. What do you call the book of record?—**A.** Voucher register.

Q. Do you keep a separate account from the beginning?—**A.** Yes, sir.

Q. For that particular road?—**A.** For that particular road.

Q. Can you produce a book containing an account, for instance, of any one road, say your last road?—**A.** Yes, sir.

The CHAIRMAN. I wish you would do so now while we are on this question of construction.

THE CONSTRUCTION OF BRANCH LINES.

Q. What deduction do you make from the income account or gross receipts of the Union Pacific on account of the construction of branch lines, and when do you make it?—**A.** We do not make any deduction from gross receipts for these purposes. They are in the nature of payments made from our gross cash receipts, and paid on vouchers precisely the same as vouchers for ordinary expenses; the same character of vouchers in every way.

PAID FOR OUT OF GROSS CASH RECEIPTS.

Q. Are any deductions made on account of the construction of branch lines from the gross receipts?—**A.** No, sir; they are paid out of our gross cash receipts; they have no relation to our earnings.

Q. Are they deducted from gross receipts before you ascertain gross earnings?—A. No, sir; they have no relation whatever to gross earnings.

Q. Do you deduct the item expended for the construction of branch lines from gross receipts, before you ascertain gross earnings?—A. No, sir; it is really in the nature of an advance to those lines.

Q. What do you mean by in the nature of an advance?—A. That is to say, we build these lines and pay for them. We pay the vouchers made out by the engineer, and they have no relation or connection with the gross earnings whatever, in any way.

Q. Then the account of the construction of branch lines, as I understand you, is separated entirely from the account of the ordinary operating expenses of the road?—A. Entirely; yes, sir.

AN ILLUSTRATION.

Q. How do you carry over a fund that is not borrowed, but is part of the income of the road, for the purpose of expenditure in the direction of branch lines?—A. Well, perhaps I can best illustrate it in this way: We take out of our current receipts the money to pay the expenditures for construction. Or, if we were short of money, we would make a draft on the treasurer of the company at Boston for it, for enough to pay our current expenditures. We use our net earnings, and after that is exhausted, if we need more money for construction, we expect to draw upon them for it.

Q. Would not a deduction from the current expenses or from the current income be a deduction that, at the end of the year, would affect the gross receipts to such an extent as to enter into the calculation when you made up the gross earnings?—A. No, sir; not the least. They have no connection with them.

Q. If you took money out of the treasury of the Union Pacific Railway for construction purposes, then when, at the end of the year, you ascertained the balance and had not yet paid it back, would not that affect your gross earnings, your cash on hand, in comparison with your gross earnings?—A. It would affect our cash, but would not affect our gross earnings or net earnings in any way. The amount paid for construction is simply the amount borrowed out of our net earnings.

WHAT THE COMPANY'S BOOKS SHOW.

Q. Do your books show that difference in your cash between the gross earnings for the year and the gross expenditures from time to time that you have made on construction account?—A. Our books show expenditures that we have made on construction account, but do not show from what source we obtained the money to go into that particular account.

Q. When you make a loan and borrow money, where do you carry the proceeds of the loan?—A. We carry it to the credit of the account from which we borrowed it.

Q. That is, if it was for a branch line—A. (Interposing.) We make no distinction as to the purpose for which we borrow.

Q. What would be the name of the account for a branch line?—A. We would have no account of money borrowed for a branch line.

MONEY BORROWED TO CONSTRUCT BRANCH LINES.

Q. If a sum of money was borrowed for the construction of a branch line, where would that money appear?—A. The only way we borrow

Commissioner LITTLER. Why do you say these taxes are not incident to the operation of the road?

Mr. MINK. Because the lands are not required by the company in connection with the operation of its railway. They were granted to aid in the construction of the road. The company derived the aid by placing mortgages on them.

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The CHAIRMAN. Suppose we hear him on Monday at 2 o'clock.

Mr. POPPLETON. Very well. He was the purchasing agent at the time of the construction, and he ought to be a pretty good witness to be examined.

Commissioner LITTLE. Then you might inform him that we will examine him on Monday, and ask him to be ready.

Mr. POPPLETON. I will do so. I think he can give the Commission considerable information.

UNION PACIFIC PEOPLE NOT INTERESTED IN CONTRACTS.

By the CHAIRMAN:

Q. Have you ever had a voucher presented to you or to your department in which an officer, director, or employé of the Union Pacific Railway Company was interested in the supplies or contracts for which the voucher was presented?—A. No, sir; not so far as my knowledge of the matter would enable me to determine.

The CHAIRMAN. Of course, other than salaries, I mean.

The WITNESS. No, sir; I have never known of such a transaction.

Q. Under what voucher would an expenditure by the general manager for election purposes appear?—A. I do not remember having seen any such voucher for election purposes.

Q. Have you been auditor during the whole term of Mr. Kimball's connection with the company?—A. No, sir; I have not. I have been here only four years.

Q. Did you ever have a voucher which, on its face, indicated any such expenditure?—A. I have no recollection of ever seeing one, and I am quite sure I would recollect it.

COST OF BRANCH LINES.

Q. What was the actual cost of each of the branch lines of the Union Pacific system?—A. I will furnish a statement of the actual cost, as shown by the books at Omaha.

On investigation I cannot find any letter from the comptroller of the company directing a statement of rebates to be sent to Boston, and I am now satisfied that the instructions were verbal.

ERASTUS YOUNG

The Commission then adjourned to Monday, June 27, 1887, at 10 a.

UNION PACIFIC RAILWAY OFFICES, Omaha, Nebr., Monday, June 27, 1887

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

WILLIAM A. PAXTON, being duly sworn, testified as follows:

The WITNESS. Before being examined, I desire to say that I knew nothing of this Commission coming here, and I left last Sunday to go to Racine, Wis., to see my son graduate at college, and when I heard that this Commission wanted me I came voluntarily.

By the CHAIRMAN:

Question. Where do you reside?—Answer. In Omaha.

Q. What is your business?—**A.** I am in the wholesale grocery business, and in the cattle business, and several other small businesses. I have also considerable real estate interests.

Q. How long have you been in business in Omaha?—**A.** I have been in active business in Omaha not more than twenty years. It has been my place of business, however, for thirty years.

Q. Have you had business dealings with the Union Pacific Railway?—**A.** Yes, sir.

Q. When did you commence?—**A.** My first business with the Union Pacific Railway was, I think, about 1869. I went into the cattle business in 1868 and 1869. I think that was the first business dealing that I had with the road.

Q. What business did you have with it in 1869?—**A.** My business dealings with them have been as a shipper over the road, as a cattle-dealer, since that time.

Q. Did you ship anything else besides cattle?—**A.** Well, yes; but not a great deal, though. It would be in the shape of provisions, wire, and wagons, and that kind of stuff.

Q. Were you interested for yourself or for your company?—**A.** For myself, until December, 1879.

THE OGALALLA LAND AND CATTLE COMPANY.

Q. Then with whom were you interested?—**A.** Since then I have been interested in the cattle business with the Ogalalla Land and Cattle Company.

Q. Who compose that company?—**A.** I should not be able to tell you all of them.

By Commissioner LITTLER :

Q. Is it a corporation?—**A.** Yes, sir; it is a corporation. A. H. Swan, A. H. Bosler, of Carlisle, and others are interested in it. Do you want the full names as far as I can give them?

The CHAIRMAN. Yes.

The WITNESS. (Continuing.) Isaac Waxel, of Chicago; George A. Clark, of New York; Augustus Richard, of New York; C. E. & C. W. Anthony, and divers others whose names I do not remember. Those are the principal men that are interested in the company.

UNION PACIFIC NOT INTERESTED.

Q. Has the Union Pacific Railway Company any interest in that company?—**A.** Not a dollar's worth.

Q. Have any of the officers, directors, or employes of the Union Pacific any interest in the cattle company?—**A.** No, sir; not to my knowledge.

Q. Have they ever had any interest?—**A.** Not to my knowledge; no, sir.

Q. What was the business of the cattle company?—**A.** Simply raising cattle and shipping them to the market; to Chicago.

TERRITORY COVERED BY CATTLE COMPANY.

Q. What territory did it cover?—**A.** It covered a space in Western Nebraska of about fifty or sixty miles on the north side of the North Platte River, 350 miles west of here.

Q. Is the territory within the range of the Union Pacific Railway Company or its branches?—A. Yes. Our ranch runs parallel with the Union Pacific Railway, 30 miles north of it. Our home ranch is about 10 miles north of the road.

Q. Does the cattle company do all its shipping over the Union Pacific?—A. Yes.

REBATES ALLOWED.

Q. What rebate has the Union Pacific allowed to your company?—A. Not a dollar, to my company or to me personally, except one time.

Q. When was that?—A. A good many years ago; that is, from seven to ten or twelve years ago; I do not remember what time it was. There was a cut in rates; that is, the roads were cutting east, and I got a small rebate at that time. I do not remember what it was; a few hundred dollars; it was just to compete with the cut, whatever that was.

Q. What year was that?—A. I could not tell you, sir.

Q. Do you recollect the amount?—A. No, sir; it was a few hundred dollars; I can't recollect the amount.

Q. Was it prior to 1883?—A. Yes, sir.

THE SWAN LAND AND CATTLE COMPANY.

Q. Has the Swan Land and Cattle Company any relation to your company?—A. Mr. Swan, of the Swan Land and Cattle Company, is interested in the Ogalalla Land and Cattle Company.

By Commissioner LITTLER:

Q. He is a stockholder in your company?—A. Yes; but the interests are entirely separate.

OTHER INTERESTS IN CONNECTION WITH UNION PACIFIC.

By the CHAIRMAN:

Q. What other interests have you had in your business dealings with the Union Pacific Railway?—A. Well, I did have quite considerable; but that was simply in a business way, when we started the Union Stock Yards here. I started, or helped to start, that concern, and ran it to a year ago, since which time other parties have been handling it. That is all. Our business interests have been in connection with the stock or cattle interests.

Q. Where did that interest begin?

The WITNESS. The stock-yard interest?

The CHAIRMAN. Yes. At Council Bluffs or here?

The WITNESS. It commenced here in a small way, and from Council Bluffs back here on this side.

COMPLAINT AGAINST UNION PACIFIC.

Q. Was there a complaint made against the Union Pacific Company on account of preferences extended to your company while at Council Bluffs?—A. Well, I don't know that there was any complaint. There was a complaint, I think, too. There were opposition yards on this side of the river, and, in fact, opposition on the other.

Q. Did the State of Iowa investigate the complaint?—A. I think they did; yes, sir. Well, I do not know that they investigated the complaint between the two stock-yard interests. I do not think they did. Did they, Mr. Poppleton?

Mr. POPPLETON. They investigated the complaints made by the people of Council Bluffs for discrimination against their town.

The WITNESS. Yes; I believe that was it.

By the CHAIRMAN:

Q. Well, what was the complaint; you were the subject of investigation?

The WITNESS. No, sir; I was not.

NO PREFERENCE AS A STOCK-YARD COMPANY.

Q. What preference did you enjoy as a stock-yard company?—**A.** I do not know that I enjoyed any preference.

Q. Did other stock-yards companies have the same privilege that you had?

The WITNESS. With the railroad?

The CHAIRMAN. Yes.

The WITNESS. So far as I know. I do not know whether they did or not.

Q. What other stock-yard companies were there?—**A.** There was a stock yard company on this side, of which I was a member. I had \$100 worth of the stock. Mr. Nicholas had a stock yard on this side of the river. I would just like to explain that in my own way, if you will let me.

The CHAIRMAN. Certainly.

FACTS ABOUT THE STOCK YARDS.

The WITNESS. I will just explain, and I am very glad to get a chance to do it. There was a company formed here to start a stock-yard; and we rented the ground from the Union Pacific Railway. The parties came to me and wished me to take an interest with them. I did not think it was the place to start a stock yard. Had I thought so I would not have asked anybody to put in money, but would have done it myself. They insisted so much, however, that I took \$100 of the stock and became president of the company. Mr. Nicholas was building stock yards here at the same time. I think our leases were about the same from the Union Pacific. Both yards were on their lands. We ran those yards a year or two. Then the manager of this road came to me, and Mr. J. H. Swan and a man from Leavenworth, Kans., by the name of Spratly, and asked us to build the yards on the other side of the river. We looked the matter over and did so, and bought the yards that I was president of on this side and moved the yards over there and ran them until three years ago last April. In fact, we are running them yet. And we then built the stock yards on this side, where they are at present, and have been handling them that way ever since. Those are the facts about the stock yards.

Q. Did you have a written lease?—**A.** Yes, sir.

Q. With the company?—**A.** Yes, sir; for the stock yards.

Q. Have you got that lease?—**A.** I think it is among some of our stock-yards' papers.

The CHAIRMAN. Have you a copy, Mr. Mink?

Mr. MINK. I think so. We will try to find it.

REPORT MADE TO GOVERNOR AGAINST UNION PACIFIC.

The Chairman read to the witness the following quotation from a report made to the governor of Iowa in 1886 by a committee at

by him to investigate the complaints of the citizens of Council Bluffs against the Union Pacific Railway Company :

We now come to the consideration of a failure to act on the part of the Union Pacific Railway Company, which we consider censurable, and which may have resulted in serious injury to Council Bluffs and her business interest. The evidence establishes the fact that in 1878 the Union Pacific Railway Company leased ground at Council Bluffs to William Paxton, of Omaha, and required him to erect thereon stock yards, extensive in their character. The term of lease was for sixteen years, the lease, however, not being reduced to writing until 1881, and running for thirteen years from the latter date. In that lease the Union Pacific Railway Company covenanted that all stock in transit over said road should be stopped for unloading at said stock yards, *whenever consigned thereto, or when directed by the shipper, consignee, or owner having authority to control the same in that respect.* The lessee was required to maintain said stock yards in the most approved method, to improve and enlarge the same from time to time, to accommodate and transact business, and enable them to compete successfully with any other stock yards or stock yards' company doing or competing for the same business. Charges were to be made such as to attract and hold all business which can be made tributary thereto, and compete successfully with rival yards, and enable said lessor to control and transport the largest amount of business in the transportation of stock, and to insure the performance of this contract the railway company reserved the right by any authorized agent, designated by the general manager, or other authorized managing officer, to examine the books and accounts of the lessee. If the lessee failed to perform his duties faithfully, the lessor reserved the right to build and maintain its own stock yards at Omaha and Council Bluffs, and also the right to cancel or annul the lease for neglect.

The stock yards erected at Council Bluffs did a very large business in 1878 and 1879. The attention of eastern capitalists was attracted to the point as a convenient one for the erection of packing houses, but for some reason such proposed enterprises were all abandoned. The packing houses were erected at Omaha. Large and commodious stock yards were built and maintained there. The stock yards at Council Bluffs were allowed to go out of repair, and a portion of them were removed to Omaha, their capacity being reduced one-third. The commissioners, in person, visited and inspected both the Council Bluffs and Omaha stock yards, and the contrast between the two yards was very marked. It was shown that at times the hay at the Council Bluffs yards was very bad—some of the witnesses said "rotten." One shipper testified that strenuous efforts were made to compel him to unload at Omaha, and he was compelled to use exertions and threats to have his cattle unloaded at Council Bluffs.

Q. Are the statements in said report, as read to you, true?—A. Well, we did move part of the stock yards away from that side of the river to this side; but it is not true as to the stock yards over there not being kept in good repair. It is a fact that they were kept in good repair and were commodious enough to accommodate everything that was shipped there.

CATTLE AND GRAIN CHARGES AT YARD.

Q. What were your charges?—A. Our charge for hay was \$1 a hundred.

Q. Were there any other charges?—A. When cattle were sold there there was a charge of 20 cents a head.

Q. What else?—A. And the grain charge. I do not know what that was. That would go up and down.

Q. How would you regulate the grain charge?—A. I do not remember that.

By Commissioner LITTLE :

Q. Was it the market price?—A. It was the market price charged by stock-yard companies.

By the CHAIRMAN :

Q. How did the prices that the stock yard charged compare with the local prices?—A. Well, I could not say as to grain; but hay, I say, was a dollar a hundred. I was there but a little of the time.

HIGHER THAN LOCAL RATES.

Q. Were they higher or lower than the local rates?—A. They were higher.

Q. What were the charges at Omaha?—A. It would be about the same price.

Q. Were they the same?—A. Yes. That is, the prices at our present stock-yards that we are running in connection with those over the river are just the same, I think, in every particular.

Q. You name the prices at Council Bluffs as \$1 a hundred for hay and 20 cents a head for selling cattle; can you not give the price for grain?—A. No.

Q. At that time were the prices the same in Omaha as in Council Bluffs?—A. At that time I did not have any interest in the Omaha yard.

Q. At the time you were running the stock-yard at Council Bluffs and the stock-yards in Omaha were the prices the same?—A. I never ran them at those places at the same time until three years ago last April.

Q. That is what I am speaking of.—A. Then the prices were the same, as I understand it.

PRICES HAVE REMAINED THE SAME.

Q. How long have those prices remained?—A. Ever since we opened the yard for business.

Q. Have you ever raised them or put them down at any time?—A. We did not put them down, certainly; but we might have raised them. I do not know about that, however.

PRIVILEGES EXTENDED AT COUNCIL BLUFFS "JUST AS GOOD" AS AT OMAHA.

Q. At the time you were running the stock-yards at Council Bluffs and at Omaha, were the same privileges extended at Council Bluffs as at Omaha for the purpose of unloading?—A. Yes, sir. I do not say the same, but just as good facilities.

Q. What do you mean by "just as good"?—A. The conveniences for unloading and loading were just the same. They might have been a little larger on one side or the other; I do not know.

NOT TRUE THAT SHIPPERS WERE COMPELLED TO UNLOAD AT OMAHA.

Q. Were efforts made to compel shippers to unload cattle at Omaha rather than at Council Bluffs?—A. Not to my knowledge.

Q. Then it is not true, as stated in the testimony taken before the investigating committee, where one shipper testified that he was compelled to unload at Omaha, and was compelled to use exertions and threats to have his cattle unloaded at Council Bluffs?—A. I do not think there is any part of that true; but I was not the manager of the stock-yards on this side at that time. I could not answer positively as to that, but I am almost positive it is not so. I never heard of it as it is, and I am a director in the company, and these things come up in the meetings. I never heard anything of the kind. I know the charge was made by people on this side of the river, but by whom I do not member now.

Q. Was there any competition between the two yards—Council Bluffs and the one at Omaha?—A. Not with ours.

NO OTHER PRIVILEGES THAN THOSE NAMED IN THE LEASE.

Q. What other privileges than those named in the lease with the Union Pacific Railway Company were extended to you by the company?—A. Nothing whatever.

Q. Did you pay the same price for the shipment of cattle as other shippers of cattle?—A. Yes, sir; so far as I know I paid the regular tariff prices.

Q. The open rate?—A. Well, whatever the rate was I paid.

Q. Was the rate public along the line and given to other shippers?—A. I think so; yes, sir, I am satisfied it was.

Q. Did you have a rebate on any other business than cattle and groceries?—A. Not to my knowledge.

Q. Are you connected with a Mr. Gallagher in business?—A. Yes, sir. I want to make an explanation here. I never got a rebate, but I may have had special rates made me on shipping cattle west.

Q. Who would make such special rates?—A. The freight agent of this railroad. I do not think it was the case; but I think that possibly in one or two instances I have had a special rate made me for fencing—a big lot of wire or something of that kind; but I do not know that it was so.

NO SPECIAL RATE ON CATTLE.

Q. Did you ever have a special rate made on shipments of cattle?—A. No.

Q. Did you ever apply for one?—A. Yes, many times.

Q. To whom?—A. To the freight agents of this road.

Q. Did you ever know that other shippers were getting rebates?—A. No, I never did.

Q. Did you ever hear of others getting special rates?—A. Well, I do not know. I have had suspicions, but I never knew of anybody getting a rebate.

Q. Or special rates?—A. I do not know.

Q. If anybody had a special rate or rebate, would it not interfere with your business?—A. I never had a special rate on cattle.

Q. If any one else in the cattle business—any company or individual—had a special rate or rebate from the Union Pacific road would it not interfere with your business, you paying the open rate?—A. I do not know that it would; no, sir. I always felt that I could get as good accommodation as anybody, and that was all I asked for.

Q. If one shipper received a rebate and your company failed to receive a rebate, could you sell and compete equally with the shipper receiving the rebate?—A. Most assuredly not.

Q. Then it would interfere with your business?—A. Most assuredly it would, in the cattle line. But I never had anything of that kind in the cattle business.

By Commissioner LITTLE:

Q. Suppose some other gentleman was receiving a cut, the question that the chairman puts is, would it not interfere with your business?—A. Yes, it would. But I say I do not know of anybody that ever got any rebate of that kind.

By the CHAIRMAN:

Q. I call your attention to the fact that there are a large number of cattle shipments that appear in the books of this company on which

the shippers have received rebates or special rates. Among those shippers are the Swan Land and Cattle Company and the Union Cattle Company, the last-named company receiving one rebate or special rate one in the year 1885 of \$4,704.

The WITNESS. A rebate?

DIFFERENCE BETWEEN SPECIAL RATE AND REBATE.

The CHAIRMAN. Or a special rate, whatever you please to call it. What is the difference?

The WITNESS. In the case of rebate, I believe they get money back; the case of special rate, they pay less than the tariff rate.

Q. Why do you call it special?—A. Because there is a difference between a rebate and a special rate.

Q. What is the difference?—A. One you get in money and in the other case you get a concession in the rate you pay.

Q. Is not the concession worth the money?—A. Well, the concession have got has been very trifling, and I think it has been on wire that have shipped out for fencing purposes.

Q. What was the nature of the concessions that you had?—A. As I told you, it was a special rate on this wire that I had shipped west to Salala, 354 miles west of this place.

VOUCHER OF PAXTON & GALLAGHER.

The CHAIRMAN (to Mr. Kimball). Will you please produce a voucher indicated on page 241, refund of earnings book, for 1885, Paxton & Gallagher, groceries, \$357.05?

The WITNESS. I would not know anything of that item at all.

Q. Who would know?—A. Mr. Gallagher, or the people at the store.

Q. Would that be the case with rebates or other special rates in which I were interested; might those have been extended to other companies in which you were interested and you not know it?—A. It might be the case with that concern of Paxton & Gallagher, because I did not know much about that. It would not be with the cattle company.

Q. Did you make the arrangements with the company?—A. There is no arrangement to make, but just to walk up there and ship.

NOT AFRAID TO TELL THE FACTS.

Q. How did you get the special rates?—A. I have tried to tell you. I do not want to keep a single thing back from you. I want to tell you facts. I am not a bit afraid.

The CHAIRMAN. You have not been charged with that yet.

The WITNESS. No; but I want you to understand that I am not the least timid, or afraid to tell you anything. I never got a rebate on cattle in my life, except the time that I speak of; at one time when there was a cut here on all the roads between my place and Chicago. Then, I think, I got a rebate of possibly \$5 a car. I say that may be so. As for this rebate that was paid to the store—Mr. Gallagher runs that—I do not know anything about it. This is the first time I ever heard of in my life.

Q. Did you have any special rate while you were shipping cattle?—A. Never.

Q. Did you ever apply?—A. Yes,

Q. Then you did not go to the place and ship your cattle without any effort at all, but you applied, from time to time, for special rates?—A. No; not from time to time. When we began the cattle business we thought the rates were high and we tried to get, not a special rate on cattle, but a lower rate than they were charging us.

NO BONUS PAID TO UNION PACIFIC PEOPLE.

Q. Did you ever pay to any officer, employè, or agent of the Union Pacific Railway Company any money or any bonus of any kind for any privileges extended to your company?—A. Never a dollar nor a cent, in any way or under any circumstances.

Q. Have you any suggestions to offer to the Commission or anything to say with reference to the Union Pacific Railway Company?—A. Not a word, sir.

GENERAL SENTIMENT OF THE COMMUNITY.

By Commissioner LITTLER:

Q. You have been in business here a good many years?—A. Yes.

Q. What is the general sentiment of the people of this community in respect to the manner in which this company has treated them in the past, if you know?—A. Well, I will answer that in this way: In a general way people have been very well satisfied; occasionally some shipper or some man that thought he was not treated fairly, or that had a better lay-out than some one else, has been a little annoyed, but in a small way.

Q. What is the general sentiment of business people in this city who have had transactions with this company from year to year and have had for the last twenty years?—A. To go back twenty years would be a little too long for me; but for the last fifteen years the merchants of this town have, I think, as a rule, been very well satisfied with the treatment they have had from the road.

Q. You know of no general complaint as to the management of the road?—A. Well, that is pretty broad.

ONLY ONE GROUND OF COMPLAINT.

Q. I mean by that do the people generally complain about the treatment by the company?—A. All the complaint I ever heard was from merchants of this town. I will just state one point—there has been more complaint over that than any other; for instance, the rate from here to Cheyenne is just the same as it is from Kansas City to Cheyenne; our house of Paxton & Gallagher has had some trouble growing out of that; the distance from Kansas City to Cheyenne is, I think, some 200 miles further than from here to Cheyenne.

Q. That is an exceptional case?—A. Yes, sir.

Q. As I understand you, the general-traffic public has no serious complaint to make of this road. Is that so?—A. That is the way I understand it.

Q. There are individual cases where they have failed to get special privileges and are disposed to complain, as I understand you?—A. Well, I do not want to say special privileges. I do not know that that is the fact in some cases.

Q. I ask you these questions because we are charged with the duty under the act, of ascertaining how this company treats its patrons and serves the public in the regions through which its road runs?—

would like to answer that in this way: That the Union Pacific has treated its patrons as well as the roads east of us have, and the people are as well satisfied with the Union Pacific as they are with any of the roads east of us.

WHY ONE STOCK YARD PROSPERS AND OTHERS FAIL.

By the CHAIRMAN:

Q. How do you account for one stock-yard prospering under relations such as your company had with the Union Pacific Railway Company and another stock-yard failing to succeed because it could not obtain the same relations that you had?

Mr. POPPLETON. What stock-yard do you refer to?

The CHAIRMAN. Any stock-yard that may be competing with him.

Mr. POPPLETON. But one may fail for one reason and another for another.

The CHAIRMAN. Well, let him explain.

The WITNESS. We can start a business in one place and prosper in it, and start the same business in another place and fail on account of location, on account of the place to do business. I suppose you have reference to stock-yards on the other side of the river and the stock-yard on this side—that of Mr. Nicholas. His stock-yard was situated like mine. Each on a big side-hill. Over on the other side of the river we had a flat, nice bottom and a good place to do business. I never asked anybody to do business with us while I ran it. We built the yards and the Union Pacific ran their trains to them just the same as they would do on this side of the river. If a man built on this side of the river he had the same opportunity as on the other side. Speaking of the yards on the other side of the river, and the Council Bluffs complaint that you have read, the people who complained put great stress on our not making that a permanent place. Now, the high water came up there, all over, and we had to change the place. I bought a place for a packing-house there; and after I did that the people who promised to put in the money refused to put the money in after the high water. But that is the place to do the business, on the other side. The yards on the other side are running yet and will accommodate anybody that wants to go there. We do not care where they go. We get the same pay on one side as on the other.

Q. Would any other individual going into the business be accommodated in the same way?—A. I would suppose so.

Q. That is your explanation of the failure of Mr. Nicholas—that he was on the wrong side of the river?—A. Not on the wrong side of the river, but at the wrong place; and so was the other yard.

By Mr. POPPLETON:

Q. It has been stated here before this Commission by Mr. Nicholas that you stated on the platform at Council Bluffs, in the presence of a man named Flannagan (whom, I presume, you may know), in substance, that Nicholas was not doing any business here, and that you proposed to freeze him out of these stock-yards on some terms or in some way. Is there any truth in that?—A. Not a word of it. I never made such a remark to any living man.

NO INSTRUCTIONS TO FAVOR COUNCIL BLUFFS YARD.

By the CHAIRMAN:

Q. Are you acquainted with the firm of Carter & Philpot?—A. No, sir.

Q. Did you ever hear of them?—A. I don't know that I ever did, sir.

Q. Do you recall any instructions by station agents, conductors, or trainmen, or by yardmasters at North Platte, instructing shippers to go through to the Council Bluffs ("Swan") cattle-yards?—A. No, sir; I do not.

Q. Did you ever hear that any such instructions were given out along the road?—A. Never.

Q. What is the amount of rent your company pays to the Union Pacific Company under the lease?

The WITNESS. For the ground on the other side of the river?

The CHAIRMAN. On this side of the river.

The WITNESS. We own our own grounds here.

Q. Do you own any other property; that is, in houses or buildings?—

A. Only the exchanging buildings, barns, offices, &c.

LEASE FROM UNION PACIFIC TO OMAHA UNION STOCK YARDS.

Q. The lease of the Union Pacific Company to the Omaha Union Stock Yards provides that said lessor, the Union Pacific Company, in consideration of the rents, covenants, and agreements hereafter to be paid, have leased and let unto the said lessee the following described lands: Commencing at a point 36 feet west of the north quarter of the south-east quarter section—

The WITNESS (interposing). That is the yard started here many years ago.

The CHAIRMAN. This lease is dated May, 1878.

The WITNESS. Signed by whom?

The CHAIRMAN. It is unsigned, and is for property covering 18 acres of ground.

The WITNESS. I never heard of it; but that is evidently the piece of land up here that we vacated.

Mr. POPPLETON. This is evidently a mistake. This is a duplicate, unsigned. And it states that it is signed by S. H. H. Clark, on the part of the company, and by Mr. Lovett, manager of the yard.

The WITNESS. That is for the 18 acres, I presume.

By the CHAIRMAN:

Q. Are these acres in use now?—A. Not for that purpose.

Q. When did that lease run out?—A. Well, I do not know, really.

Q. For what purpose is that property now used?—A. I do not know. I could not tell you.

Q. Where is the lease for the property you now hold or have from the company?—A. The Union Stock Yard Company only owns one lease on the other side of the river where those stock yards stand, at Council Bluffs.

Q. Was that lease made with the Union Pacific Company?—A. Yes, sir.

Q. Have you any lease for the property over here at all?—A. I have not. I have never seen a lease.

Q. Have you any contract or arrangement?—A. I have not.

Mr. POPPLETON. The Union Pacific Company has no interest in it.

WITNESS HAS NO LEASE WITH THE UNION PACIFIC.

Q. Have you any agreement, contract, or arrangement, in writing or otherwise, with the Union Pacific Company concerning your stock-yard company in Omaha?—A. No, sir; not that I know of.

Q. You would know if you had such an arrangement?—A. I should know. The first year I had none. Mr. McShane has been the president of the company since.

Q. What is his full name?—A. J. H. McShane.

Q. Where does he live?—A. In the city of Omaha.

Q. What business is he in?—A. In the cattle business. He is a Congressman. The Union Pacific Company has not got a dollar's interest in our company. I am ready to say that. I do not know but what our company may have some arrangement with it about trackage or something of that kind.

OMAHA, NEBR., Monday, June 27, 1887.

LEAVITT BURNHAM, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am engaged in the loan and insurance business at present.

Q. Where do you reside?—A. In Omaha.

Q. Have you had business with the Union Pacific Company?—A. In the sense that I have been an employé and officer of the company, I have had.

LAND COMMISSIONER.

Q. When were you an employé?—A. I was land commissioner of the Union Division, as you term it—that is, of the original Union Pacific line—from the 1st of February, 1873, to the 1st of June, 1886.

Q. What were your duties?—A. To handle, sell, and dispose of the lands of the Union Pacific Railway on the Union Division.

Q. What was the policy of the company during your administration as to the sale of lands due to the company?

The WITNESS. You mean the manner of the sale of them?

The CHAIRMAN. Yes.

GENERAL POLICY OF THE COMPANY.

The WITNESS. The general policy of the company as to lands that we termed agricultural lands was to dispose of them to actual settlers. There were other classes of lands. There were agricultural lands, grazing lands, and waste lands, of which we had large quantities. So far as the grazing lands were concerned, the policy was to sell them in large bodies to parties using them for grazing purposes. So far as the waste lands were concerned, they were gradually coming into use for grazing purposes and would, after a while, come into the same general policy as grazing lands.

Q. Were patents taken out after the sale?—A. Not in all cases.

Q. Why not?—A. Because it was not the policy of the company to take them out, as far as I understood.

PATENTING THE LANDS.

Q. What was the instruction, as far as you understood, given. I may say here the of the company with regard to patenting lands?

in their employ was to patent as fast as the lands could be settled or disposed of and the country could be occupied, or used in such a way that there could be a fair and honest utilization of taxation, after being patented.

Q. Were lands patented immediately upon survey?—A. No, sir.

Q. What were your instructions?—A. The instructions were embraced, perhaps, in the suggestion I have made as to the policy of the company. It was a matter of discussion and consideration in various ways, and of correspondence at various times, as to what steps should be taken in regard to the patenting the lands.

ADJACENT LANDS NOT ENTERED.

Q. Were entries made upon the lands of the Union Pacific Railway Company through other individuals in order to acquire title to property adjoining the Union Pacific property?—A. Not to my knowledge, in relation to any lands that I had or handled or disposed of.

Q. Would such an account of lands come under your department?—A. Well, I can hardly conceive of there being such a case as you suggest. There was certainly nothing of the kind so far as I had anything to do with the lands. The lands I had and handled were the lands granted to the railroad company by the act of Congress creating or chartering the road. Those were, substantially, the only ones I ever had or handled or had to do with. There was never anything done, so far as I know, with regard to getting adjacent lands.

Q. Were you land commissioner in 1884?—A. I was, from February 1, 1878, to June 1, 1886.

Q. Who would have a knowledge of such a transaction of the company?—A. That I can hardly say, sir.

The CHAIRMAN. I call for the following papers: Voucher for payment to J. M. Tisdell for cash advanced for prospecting for coal, \$105; voucher for amount paid to Edwin S. Crocker, \$19,206; voucher for amount paid to Beckwith & Co. for coal-land entries, \$3,400; and voucher paid to Walter S. Hurlburt, \$9,615. These seem to be cash entries for coal lands.

WITNESS' CONNECTION WITH ONLY UNION DIVISION.

Q. I ask you, by way of explanation, this question: Whether you have any knowledge of the difference existing between the accounts of the Government Land Department as to the lands unsold, amounting to \$8,000,000, and the land as accounted for by the railroad company, amounting to \$3,000,000? What would be the cause of the difference?—

A. I apprehend that your reference to the Government account takes in the whole Pacific Railway as it now stands. Bear in mind, I had nothing to do with anything but the Union Division, or the original Union Pacific. I included in my estimate of the amount—being, in round numbers, 11,500,000 acres, or about that—all lands that were supposed to be in the grant, whether surveyed or not. There was, as I knew when I left the road, much land that was not surveyed and could not be surveyed at the price paid for the Government survey.

LAND PROCEEDS REMITTED TO TRUSTEE.

Q. What control had you over the proceeds of the land in your accounts?—A. They were remitted immediately to the trustee of the land.

grant mortgage, except for a very brief time, when they were remitted to the treasurer of the company. Mainly, during my time, they were remitted to the trustee of the land-grant mortgage.

Q. Did your department have entire control of the land-grant accounts?—A. No, sir; because they were checked and kept to a certain extent simultaneously in the auditor's office of the road. The transactions of the land department were reported to and were checked in the auditor's office of the railway company; that is, they kept what you might term a "check" or running account of what we kept in our office, only not so full, perhaps.

NO DIVERSION OF LAND PROCEEDS.

Q. During your administration as land commissioner were any of the proceeds resulting from the sale of land, directly or indirectly, used by the Union Pacific Railroad Company or by the Union Pacific Railway Company for the purpose of paying dividends?—A. Not to my knowledge, so far as I had to do with them here. Of course, what happened after they went east I could not say.

Q. Would the diversion of the land proceeds in that direction come under your supervision of accounts?—A. Well, it would not if it took place east. After I had accounted for it there would be the end of it, so far as I was concerned.

Q. Would such a diversion of the proceeds appear in your accounts, west?—A. No; I answer that way because no such diversion ever took place.

Q. But if such diversion ever took place, would it?—A. I can only say as to the fact that such diversion never did appear. I could not say that it should appear or should not appear.

Q. But if such a diversion had been made of the funds in the western accounts, would you have had knowledge of it?—A. Yes, sir; if it had been made here, I should have knowledge of it. I understood you to ask whether, if it had been made east, it would have been reported to me. In that case, no.

Q. During your administration as land commissioner was there a diversion in any other direction than by dividends of the proceeds of the sale of lands?—A. No, sir; none whatever. The proceeds of lands were very rigidly kept and accounted for at all times.

Q. Have you any other information to give to the Commission?—A. No, sir; I think not; except to indicate, generally, the policy and character of business during my administration.

POLICY WITH REGARD TO PATENTS.

By Commissioner LITTLE :

Q. I will get you to state whether or not it was the policy of the railway company, during the time you were commissioner, to defer the application for patents for these lands as long as possible, for the purpose of avoiding the local or State taxation.—A. Well, I can hardly answer it in that way, or other than I undertook to do in the outset, that the policy of the company was to patent as rapidly as the country was settled and as rapidly as there could be an honest utilization of the taxes that should be put upon the lands. We had some very bitter experiences of the non-use of the taxable funds.

LANDS PATENTED ABOUT AS SOLD.

Q. Is it or not true that a large amount of unpatented lands remained unpatented for the reason that to obtain a patent would subject them to heavy local or State taxation?—A. I cannot say as to that now. Up to the time I left the company steps had been taken and preparations made for going on with patenting. That is something within my time; and I cannot tell what has been done since that time.

Q. As a rule those lands were not patented much in advance of their sale to actual settlers?—A. No.

By the CHAIRMAN:

Q. Was that the first time the company had made any preparation for the obtaining of patents?—A. No; it had been going on all these years.

SALES OF LAND.

Q. What special preparation had they been making at the time of your leaving?—A. I speak of it as down to the time of my leaving. During the last two or three years of my administration the sales of land had been very large. Prior to this time some lands near North Platte had, by climatic and other changes, come within the range of agricultural lands. That being the case, we then commenced to sell them to settlers for agricultural purposes. The same policy was then applied to them as had been before applied to the other lands.

Q. Did you patent them as you sold them?—A. We took them by counties, or parts of counties, or so that we could have our patents in one large volume. It was very inconvenient to have patents in a single section or quarter-section. Therefore we would take them up every three or four months, or at reasonable intervals.

Q. Was the patent of a section in anticipation of a sale in that direction?—A. Sometimes it was; but usually not until about the time of the sale.

EXPERIENCE IN CONNECTION WITH TAXES.

Q. What were the experiences you have spoken of in connection with the taxes?—A. Taxes laid upon the road bed and right of way in sections through which it passed, and unorganized sections mostly, where there were heavy stealings. The experience was that the class of people that occupied them up to the time they became agriculturally developed made bad use of the money, and the money paid in taxes was simply stolen. That is all there was of it.

Q. Was the taxing of the road bed due to local legislation?—A. It was taxable under State legislation; has been for many years.

Q. It was under State legislation that the road-bed taxation was imposed?—A. Yes.

NO HOSTILE LEGISLATION.

Q. Was there not local legislation that affected the land through which the road was going—special legislation hostile to the company?—A. No, there would not be; because, under the decisions that have been rendered, no taxation would apply. The Supreme Court held that the lands were not taxable until they were the subject of application for a patent; and, of course, local legislation would not affect them.

Q. After they were patented and still in the hands of the company, was there any hostile local legislation?—A. I think not; I don't know of anything particular.

POLICY IN REGARD TO SCHOOL DISTRICTS.

By Mr. POPPLETON:

Q. If you know, I wish you would explain to the Commission the principle on which the counties of Wyoming, for instance, were organized and existed for years in respect to the road bed.—A. I will state in regard to that—and I might enlarge the answer to the inquiry by referring to school districts and other organizations of a district character that for years the policy apparently, as to school districts was for the authorities to make them of such a character that they would be as long as possible along the line of the road, and as narrow as possible within the line of the limit of the county. In other words, that they might bring as much result in taxation purely. I investigated a district where I found a school district 1 mile wide and 9 miles long.

By the CHAIRMAN:

Q. By whom were the school districts arranged?—A. They were arranged by the county authorities.

SCHOOL DISTRICTS FROM 75 TO 80 MILES LONG.

By Mr. POPPLETON:

Q. Do you not know of one district in Wyoming where there was a school district 75 miles long?—A. Well, I can recall one in Nebraska, in the county of Cheyenne; I do not recall the length of the county of Cheyenne, but, as the school district stood, it was perhaps 75 to 80 miles long. At one time there was one school district that extended the whole length of the county.

Q. Is it not true that commencing with Laramie, Albany, Carbon, Sweetwater, and Uintah, the counties extend from the northern to the southern boundaries of the Territory?—A. I think they do.

Q. And the road crosses them at an average of about 30 or 40 miles north of the Colorado line?—A. Yes.

Q. What is the distance across Wyoming?—A. Some 200 or 300 miles.

Q. Now, do you not know, as a matter of fact, that the county seat of Sweetwater County was about 120 miles from the railroad?—A. I have no doubt of it.

Mr. POPPLETON. They annually gathered from us from \$100,000 to \$150,000 and took it over there to invest.

POLICY TO SECURE LEGITIMATE SETTLEMENTS BY GOOD CITIZENS.

By the CHAIRMAN:

Q. Have you anything else you wish to say?—A. I believe not, only to say that the policy of the company was to secure legitimate settlement of the lands by good citizens, and not for speculation. That was my policy, and one that was seconded earnestly and heartily by the company.

OMAHA, NEBR., *Monday, June 27, 1887.*

WILLIAM A. PAXTON, being further examined, testified as follows:

LEASE OF CATTLE YARD FROM UNION PACIFIC.

By the CHAIRMAN:

Question. I have here a lease made between the Union Pacific Railway Company and William A. Paxton, of Omaha, dated 1st May, 1881, for a tract of land, 663 acres, in the county of Pottawattomie, in the State of Iowa, for stock-yard purposes, in which, among other conditions, it is provided as follows:

And the said lessor, the Union Pacific Railway Company, further agrees not to grant leases or permits of any character to any party or parties without the consent of said lessee, to erect, maintain, and operate stock yards, other than those existing at the present time upon ground or premises of said company, either at Council Bluffs or Omaha, reserving, however, the right to erect, maintain, and operate such yards in its own name, at its own expense, whenever said lessee shall fail to carry on such yards to the satisfaction of the said lessor.

And it is further stipulated and agreed, as part of the consideration of the execution and delivery of the lease on the part of the lessor, the Union Pacific Company, that after the expiration of three years from the date of this lease the said lessor shall have the right and option to purchase one-half of said lease and the yards, structures, erections, improvements, and property, of whatsoever name and nature, accumulated under said lease; and, if then held by a corporation, one-half of the capital stock thereof representing said property at a price equal to the value of the said yards, structures, erections, and property, regardless of the revenue earned by the same, said value to be fixed by mutual agreement; and if the parties hereto fail to agree, by three arbitrators.

It is further agreed that no charge shall be made to said lessee by said lessor for setting into said yards trains or cars loaded with live stock, but the same shall be unloaded at the expense of said lessee; and all connecting railroad companies shall have access to said yards over the tracks of said lessee laid therein for the purpose of taking out cars and trains loaded with live stock.

PREFERENTIAL FEATURES OF LEASE.

Were not the provisions I have read to you of such a preferential nature as to exclude absolutely any other individual or company from engaging in stock-yard business at Council Bluffs?—A. It would, at that particular piece of land. I do not see how it would prohibit them from starting stock yards at any other place. There was a strong talk of doing so at one time there.

Q. How could any individual or company engage in fair competition with you unless they had the same accommodations from the railroad company?—A. They could not on that piece of land, of course.

Q. Or any other piece of land?—A. They could. They could have gone on any piece of land there and started stock-yards.

Q. What part of the company's land could they have gone on?—A. I do not know. The company had several hundred acres of land there.

NO ONE ELSE HAD SAME ACCOMMODATIONS.

Q. What part of the Union Pacific Railway Company's land could any individual or company have gone on and competed with you with these conditions in your lease, unless they had the same accommodations?—A. They could not have done it on that piece of land.

Q. Were there any other companies that had the same accommodations?—A. Not on that side of the river; but there were other stock-yards on that side of the river.

THE LEASE OF 1879.

The CHAIRMAN. Here is a lease dated May 1, 1879, between the Union Pacific Railway Company and W. A. Paxton, of Omaha, Nebr., A. H. Swan, of Cheyenne, Wyo.; and J. W. Spratley, of Leavenworth, Kans., lessees, signed by A. H. Swan, W. A. Paxton, and J. W. Spratley, in which it is provided, "And the said lessor further agrees not to grant leases or permits of any character to any party or parties;" then there are added, in lead pencil, the words "without the consent of the said lessees"——

Mr. POPPLETON. This looks to me like a lease that was drafted and signed by the parties on one side, but was not signed by the company. In the mean time Mr. Paxton bought out his people, and then he wanted his lease.

The WITNESS. That was the fact.

Mr. POPPLETON. I do not recollect, but I have no doubt that was so.

The CHAIRMAN [continues reading]. "To erect, maintain, and operate stock-yards other than those existing at the present time upon the grounds and premises of said company either at Council Bluffs or Omaha, reserving, however, the right to erect, maintain, and operate such yards in its own name and at its own expense whenever said lessee shall fail to carry on said yard to the satisfaction of said lessor."

Q. Are not the advantages in the lease just read the same that you stated in the lease of 1881 to your company?—A. I think so; yes, sir.

Q. When did A. H. Swan's and J. W. Spratley's interest in said lease expire?—A. I could not tell you for a certainty, but as I remember it, I bought Mr. Spratley out within a year, and Mr. Swan was in probably two years, or not to exceed two years.

OMAHA AND COUNCIL BLUFFS STOCK YARDS.

By Commissioner LITTLER:

Q. How many stock-yards are in operation here in Omaha and at Council Bluffs now?—A. Two.

Q. How long have they been in operation?—A. They have been in operation about—this is the fourth year. The yards on the other side have been in operation since 1879.

Q. Who controls the yards?—A. The Union Stock Yards Company.

Q. Of which you are a member?—A. Yes.

Q. Under that lease?—A. Under that lease at Council Bluffs, and on our own land on this side.

Q. What sort of a written agreement have you in regard to the yards on this side, if any?—A. As I said a while ago, I do not know that we have any, unless it be about trackage.

PROTECTION FROM RIVAL YARDS NECESSARY.

By Mr. POPPLETON:

Q. What was the amount of your investments in stock-yards at Council Bluffs at the time this second lease was made, when you went on and completed your yards for business generally. I do not mean to get down to details, but I want to gauge it somewhat?—A. As well as I remember it was nearly a hundred thousand dollars.

Q. Now, would you have made that investment and built those yards except on the condition that the company would not set up a rival to you?—A. Why, *certainly not*.

UNION PACIFIC'S RESERVATION OF RIGHT TO BUILD STOCK YARDS.

Q. What was the object of the provision in the lease which provided that, if the company was not satisfied with your management, they could build yards of their own?—A. If I did not run them to the satisfaction of the company, and the same as all other stock yards were run, and at satisfactory prices, they would build yards themselves.

Q. In other words, they reserved the right to build yards of their own in order to compel you to serve the public properly?—A. Certainly.

Q. Who got the best of that bargain, in your opinion?—A. We got the best of it, of course. That is, as soon as we ran there, nobody else interfered with us in any way. If there was any "best" of it, we got it.

UNION PACIFIC BENEFITED BY CONSTRUCTION OF STOCK YARDS.

Q. What was the effect on the business of the Union Pacific Company of the construction of those large yards and the facilities they gave for the handling of cattle? Did the railroad company make or lose money by it?—A. They made money by it.

Q. How?—A. By getting shipments over the road.

Q. By increasing the business of the road?—A. Yes, sir.

Q. Why would people drive to the road and ship?—A. Because that afforded a market and a good place to ship. It was at the end of the pool-line roads, and it opened quite a market there, for a while.

Q. What was the character of the facilities there for handling stock?—A. Outside of Kansas City they were the best in the country.

DIVIDENDS OF UNION STOCK YARDS.

By Commissioner LITTLER:

Q. I understand that this is a corporation, the Union Stock Yard Company?—A. Yes, sir.

Q. What sort of dividends have you paid on your stock? How has the investment paid?—A. We have paid but very little in the way of dividend. I do not think we have ever declared more than one dividend.

Q. How much was that?—A. I think it was about 4 per cent. It was either 3 or 4 per cent.

Q. When was that?—A. I am not positive. We may have declared two, but I do not think it was more than one. That was two years ago last December.

Q. How are the yards paying now?—A. They are doing very well now.

Q. What dividends are you able to pay now?—A. Well, our capital stock is about \$1,200,000. This is only a guess now as to the probable dividend, but I think we will probably pay 8 per cent.

Q. You say the capital stock is \$1,200,000. What was the actual cost of the plant?—A. I could not tell you.

Q. Approximate it?—A. Probably \$750,000 or \$800,000, or may be pretty near plump up to the amount of the stock. We have built three large packing houses, and built a great deal of railroad track and out-houses.

Q. Are those packing houses a part of the stock yards?—A. Yes, sir.

"WATER" IN THE STOCK.

Q. There is some little "water" in the stock, is there not?—A. Well, I don't know but there is.

Q. About how many hundred thousand dollars?—A. Now, I can tell you how the water in the stock comes, if there is any. The stock yards on the other side (but I am not able to give all the particulars of this) were put into the Union stock yards. And that is the way that we issued the last stock that was issued. Everybody paid par for it. We are now increasing, and everybody is paying par for the increase.

VALUE OF STOCK YARD PROPERTY.

Q. You are increasing the yards here?—A. Yes.

Q. You are not increasing the yards on the other side?—A. No.

Q. You are letting those go down?—A. No; we are keeping them up.

Q. What is the cash value of the stock as it is to-day, approximately?

The WITNESS. The Union Stock-Yard plant?

Commissioner LITTLER. Yes.

The WITNESS. Well, I think it is worth a lot of money.

Commissioner LITTLER. That is rather indefinite. Approximate it within \$50,000 or \$100,000, if you can.

The WITNESS. I do not know that I can do that. I think the stock of the yards on this side of the river could be sold to-day, every dollar of it, on a basis of \$1,250,000.

Q. In other words, it is your judgment, as I understand you, that the property is reasonably worth, in cash, \$1,250,000, as it stands to-day?—A. Yes. And I am low on the price.

Q. I will ask you again as to the dividends. Does that property pay dividends on that sum of money?—A. It will pay a reasonable dividend, I think, this year. But I am not managing it. Mr. McShane can give you these figures. He can give you pretty close to the facts; mine is only a guess.

CATTLE CHARGES.

Q. Have you any other charges against cattle except charges for hay, grain, and yardage?—A. That is all. And I think we are inside other yards on that.

Q. What do you charge on sheep and hogs?—A. I do not remember; but it is less than the charge made in Kansas City or Chicago.

Q. What other stock yards along the Union Pacific or its branches have you any interest in?—A. None whatever.

Q. Are there any other stock yards along the line?—A. There are small yards, like one at North Platte, and such places.

Q. Do you know of any complaint on the part of shippers as to their treatment?—A. None whatever.

Q. Are you interested in any feeding places along the line of the road?—A. None whatever, except at those two places.

Q. What two feeding places are you interested in?—A. Omaha and Council Bluffs.

Q. You refer to the two stock yards here?—A. Yes.

REBATE ALLOWED PAXTON & GALLAGHER.

By the CHAIRMAN:

Q. I show you voucher No. 34702, dated July 1st voucher against the Union Pacific Railway Company

lagher, of Omaha, Nebr., showing a refund on bill of shipments composed of sundries, groceries, and sugar, of 33½ per cent.; also, a voucher, by the same parties, dated July 13, 1885, against the Union Pacific Railway Company, which shows a refund of 12½ per cent. Will you please explain, if you know anything about those items?—A. My partner would probably know more than I do about these; I would not know anything about these, unless I knew where the shipments went to; if these goods were shipped to Norfolk, they would be on the Sioux City and Pacific road, and we could not get into that country with our business; this is the way I understand it; this cut was made to enable us to do business there; we started a branch house at Norfolk, but had to abandon it on account of the differences in the rates.

By Commissioner LITTLER:

Q. Where is Norfolk?—A. Out here in the State, on the Sioux City and Pacific road; and on the Elkhorn Valley road, too.

REBATE TO UNION CATTLE COMPANY.

By the CHAIRMAN:

Q. I call your attention to voucher No. 33949, dated May 1, 1885—"The Union Pacific Railway Co. to the Union Cattle Co., Dr.—showing rebates from \$8 to \$9 and \$10 per car for shipments on cattle amounting in all to \$4,704. Had your company any special rate or rebates at the time that the Union Cattle Company, in 1885, was having these rates?—A. No, sir.

Q. Did you ever hear of the rates allowed to the Union Cattle Company?—A. I think probably I did at the time. I can explain that a little, probably. That is the Sturgis company.

Q. Who was in it?—A. Well, I do not know. Lane and two or three others. Mr. Sturgis is the manager. I think that in 1885 he drove a lot of cattle north to the Sioux City and Pacific road. I can only account for it in this way—I do not know that it is for me to answer, really; but I will answer it in my way, the only way I know how to answer it. He probably got a rate on the Sioux City and Pacific Railroad, and that rate was made probably to even it up.

Mr. POPPLETON. To meet it?

The WITNESS. To meet the rate, yes. I know that in 1884 (or may be it was in 1885), I came very near driving to the Chicago, Burlington and Quincy road for the same purpose.

THE "EVENERS'" ASSOCIATION.

Q. Did you belong to the "Eveners'" Association?—A. No, sir; I was trying to "even up," however.

Q. Did you ever know anything of the Eveners' Association?—A. No, sir. I think that was done in that way.

Q. Who is Mr. Lane and who is Mr. Sturgis?—A. There is a firm of Lane & Sturgis, and a firm of Sturgis & Goodell. I believe they are different firms, however.

LOCATION OF UNION CATTLE COMPANY.

By Commissioner LITTLER:

Q. Where was this Union Cattle Company located—where was their stock at the time they drove to the Sioux City for shipment?—A. They were on the western Wyoming, northwest of Cheyenne.

Q. How far were they from the Sioux City connection?—A. I do not know just how far it was.

Q. Well, about how far?—A. I could not say. From about where I think Sturgis is located it would be some 200 miles; but that is only a guess.

Q. Did they drive their cattle 200 miles?—A. Yes, sir; and some of them drove farther.

Q. In order to get the cut rate?—A. Yes; or in order to get a better rate than the Union Pacific was giving them, or to force the road to give them a better rate.

Q. They did not drive across the Union Pacific?—A. Oh, no; they drove northeast.

STURGIS & LANE.

By Mr. POPPLETON:

Q. As to this firm of Sturgis & Lane, I desire to ask you whether that Lane is any kith or kin to Gardner M. Lane, the assistant to the president of the Union Pacific?—A. I think not. I do not know anything about it; but I do not think he is.

Q. What was your place of shipment on the Union Pacific?—A. Ogallala.

Q. And what was Sturgis'?—A. His was Cheyenne and Laramie and Rock Creek.

Q. And what was the distance?—A. From Cheyenne it would be 140 miles; and from Laramie it would be farther. I think he shipped from all those points. Rock Creek would be about 225 miles.

Q. Then the conditions that would control competition at your point of shipment and at Sturgis' point of shipment might, and frequently would, be different?—A. Yes, sir.

OMAHA, NEBR., *Monday, June 27, 1887.*

MILTON H. GOBLE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am a member of the Pacific Hotel Company.

THE PACIFIC HOTEL COMPANY.

Q. What is the Pacific Hotel Company?—A. They operate the eating houses on the Union Pacific.

Q. What interest has the Union Pacific in that?—A. It interest in the contract.

Q. What interest has the Union Pacific in the profits?—A.

Q. Who has the other half?—A. The members of the firm connected with.

Q. Who are they?—A. J. E. Markel, Thom

Q. How long have you been interested in the
A. Since the 1st of December, 1884.

Q. What was your business prior to this
ing.

WITNESS' FORMER CONNECTION WITH UNION PACIFIC.

Q. With what company were you ?—A. The Union Pacific.

Q. What position did you hold in the Union Pacific ?—A. Purchasing agent.

Q. How long were you purchasing agent ?—A. About three years.

Q. Did you ever hold any other position with the company ?—A. Yes.

Q. What ?—A. Freight auditor.

Q. How long were you freight auditor ?—A. I think about four years.

Q. What other position did you hold ?—A. Previous to that I was private secretary of the general manager.

Q. What general manager ?—A. Mr. Clark.

Q. What other position did you hold ?—A. Previous to that I was a short time in the general auditor's office; I think that would be about six months.

Q. Any other position ?—A. Previous to that I was auditor of the Texas and Pacific during its construction.

Q. Any other position in the Union Pacific ?—A. No; I was in the auditor's office before I went to Texas, and for a short time after I returned.

Q. What was the date of your first connection ?—A. I think it was August 15, 1868.

Q. You were in at the beginning ?—A. Very nearly.

Q. Have you been promoted from the auditorship to an interest in the Pacific Hotel Company ?

The WITNESS: Is that in the line of promotion ?

CAPITAL OF THE HOTEL COMPANY.

Q. What is the capital of the Hotel Company ?—A. We have a cash capital of \$50,000.

Q. How much did the Union Pacific Railway contribute ?—A. They contribute their buildings.

Q. Have you a written contract with them ?—A. Yes, sir.

Q. Have you a copy of that ?—A. I have not.

The CHAIRMAN. Mr. Mink, will you produce a copy, please ?

Mr. MINK. I will send for it.

Q. What did the individuals put in ?—A. They put in cash.

Q. How much cash ?—A. Fifty thousand dollars.

Q. Have you given all the classes of employment that you have been employed in in the Union Pacific Company ?—A. I believe so.

NO MONEY EXPENDED TO INFLUENCE LEGISLATION.

Q. Did you, while holding any of those positions, attend the legislature of Nebraska ?—A. Never.

Q. Have you any knowledge of any expenditure of money during the time you were connected with the Union Pacific Company, for the purpose of influencing legislation, directly or indirectly ?—A. None at all.

Q. Is any officer, director, or employé directly or indirectly interested in the profits of the hotel company ?—A. No, sir.

Q. During the time of your administration as an officer of the company had you any knowledge of any interest that the Union Pacific Railway Company took in legislation ?—A. I had not.

Q. Did you ever hear that they took any interest ?—A. I might have heard of it through the papers. I do not know of any direct interest at all.

MR. KIMBALL'S ALLEGED INTEREST IN ELECTIONS.

Q. Did you ever know that Mr. Kimball, one of the officers, took an interest now and then in the elections?—A. I have heard he did.

Q. Where did you hear that?—A. Through the newspapers.

Q. Is that the only information you ever had of his participation?—That is all.

Q. Did he publish it?—A. I do not know that he did.

Q. What do you mean by hearing it through the newspapers?—A. I have seen it in the papers.

Q. What have you seen?—A. I do not know; I took your question general and answered it that way.

Q. What have you seen in the papers about the interest of the Union Pacific in elections?—A. I cannot speak in general.

Q. Speak in detail then.—A. Simply that he had taken an interest in politics; that is about all I can say. I cannot say anything specific.

Q. What were his politics?—A. That I do not know.

Q. Did you ever hear them mentioned?—A. No, sir.

Q. Have you any suggestion or information to give to the Commission?—A. No.

Q. Did you acquire any information while you were connected with the company?—A. Yes.

Q. Have you any opinion on any information you have ever had in favor of or against the company?—A. I would be supposed to; yes.

Q. Well, what do you know? What information can you give this Commission?—A. I do not think I can give you any.

Q. Because you have not any?—A. Well, if I knew what you wanted, I might be able to give you some information.

OVERCHARGES AND REBATES.

Q. Did you ever hear of any allowance of a rebate by the company during your administration, while you were freight auditor?—A. I have issued vouchers for overcharges.

Q. What do you mean by overcharges?—A. Refunding overcharges on freight collected.

Q. Did you ever issue a refund on account of rebate?—A. Possibly I have. It is a question of what you would call a rebate.

Q. What would you call a rebate?—A. I would call a rebate a cut from a tariff rate.

Q. Would that be a general rate?—A. No.

Q. How would the cut from the tariff rate be allowed—to individuals or to the general public?—A. A rebate would be to individuals.

Q. Were there any such rates allowed, generally, during your time as freight auditor?—A. I do not remember.

Q. Do you recall any individuals who had any special rates or preferences during your time?—A. I do not.

POOLS.

Q. Did you ever hear of a railroad pool during your administration?—A. Yes, sir.

Q. Were there many such agreements made, under pool arrangements, during your time as auditor?

The WITNESS. What arrangements do you mean?

The CHAIRMAN. Pool arrangements with other railroads.

The WITNESS. Oh, yes, sir; quite a number of them.

Q. Were pool balances during your auditorship at any time contributed to or participated in as well by the branch lines as by the main line?—A. I do not remember; but they were if the branch lines were interested in the pool. I think there were one or two pools in which the branch lines were interested; but I cannot remember now.

Q. Can you recall any particular case of that kind?—A. I cannot. I know it was the custom to have the branch lines prorate in everything that they were interested in.

OMAHA, NEBR., *Monday, June 27, 1887.*

P. L. PERINE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am in the real estate and loan business, in Omaha.

Q. How long have you been engaged here in business?—A. In that business, since the 1st of February.

Q. What were you engaged in prior to February?—A. Railroading.

Q. What railroad?—A. The Union Pacific.

Q. What position did you hold in the Union Pacific?—A. I was in the loan department.

Q. How long were you engaged in the loan department?—A. I commenced there in 1869.

DUTIES OF CASHIER.

Q. What position did you hold in the loan department?—A. I was cashier.

Q. What duties did you have as cashier?—A. I had to receive the money that came in, for the selling of lands; and to remit it to the company.

Q. Had you entire control and supervision over the cash account, for the western end—for this division, as distinguished from the Boston end?—A. Yes.

Q. The Kansas division.—A. Yes.

Q. How did you receive the proceeds from the land account?—A. They came in by letter, and were paid over the counter.

Q. What did you do with them?—A. We remitted them to the Boston office; to the trustees.

Q. How often?—A. Sometimes two or three times a week, and as they came in.

Q. In the meantime what did you do with them?—A. They were deposited every day in the bank.

Q. What bank?—A. The Omaha National Bank.

PROCEEDS FROM SALE OF LAND.

Q. During your administration as cashier of the loan department, or at any other time, were the proceeds from the sale of land—the cash in your possession—used by the railroad company for the purpose of paying dividends?—A. Not that I know of.

Q. You would know it if such use was made of the funds?—A. No, sir; I would not know anything about it.

Q. Was the cash at all times remitted by you to the Boston office?—
A. Yes, sir.

Q. Was there ever a diversion of the cash from you to any other source than the Boston office?—A. No, sir.

By Commissioner LITTLE :

Q. To what person did you remit?—A. We remitted most of the time to Mr. Ames, the trustee. For a short time we remitted directly to Mr. McFarland, the treasurer.

By the CHAIRMAN :

Q. Were the remittances you have mentioned the only remittances made by you as cashier to Mr. McFarland and to Mr. Ames?—A. Except some little expenses, like allowances on tickets, &c., under the rules of sale, and commissions.

Q. Upon whose order did you make such remittances?—A. It was in accordance with the rules of the company—the rules on which sales should be made.

Q. Would such remittances be made upon the settlement at the time of the sale?—A. Yes, sir.

Q. Were there any other remittances?—A. No; not that I remember.

Q. Were you employed in any other capacity by the company?—A. No, sir.

ALLEGED IMPROPER USE OF FUNDS TO INFLUENCE LEGISLATION.

Q. Have you any knowledge of any improper use of the funds of the company, over which you had control, or any other funds, for the purpose of influencing legislation?—A. No, sir; I have not.

Q. Did you ever hear of such a charge?

The WITNESS. Of our funds?

The CHAIRMAN. Yes; or any funds of the company.

The WITNESS. Well, I have heard or seen newspaper charges about the funds.

Q. What newspaper charges have you seen?—A. I have seen charges in one or two of the papers here.

Q. What newspapers?—A. The Omaha Bee.

Q. Any other newspapers?—A. I do not recollect.

Q. What were the charges?—A. I could not tell you now, because they were indefinite charges. I suppose you have seen charges in newspapers, and how indefinite they make them. I could not specify any charges.

Q. Were the charges at any time published in the newspapers that you have seen with reference to the use of money true?—A. I do not believe they were. I never believed them.

Q. Do you not know?—A. No; I would have no means of knowing. There was nothing true, so far as concerned the department I was connected with.

Q. Or any other department?—A. I am speaking of my own department now.

ALLEGED PARTICIPATION OF THE UNION PACIFIC IN LEGISLATION.

Q. Do you know of any legislation that the Union Pacific Railway participated in?—A. I do not know of any.

Q. Did you yourself participate in any?—A. I believe in every man assisting to carry forward the principles of his party, and as such I have done it. I never worked for any other men than men of my party.

Q. I am speaking now of the part taken by the Union Pacific Railway as testified to by Mr. Kimball. Did you ever, with Mr. Kimball, or in any way, participate, for the interest of the Union Pacific Company, in any primary or general election, for the purpose of influencing any legislation?—A. No, sir; not outside of my own party.

The CHAIRMAN. I am not speaking of your party principles. Mr. Kimball said he sometimes took part in the elections.

The WITNESS. I used to do so a great deal more in New York City than I have since I have been here. That was a fighting State—New York was.

Q. Have you any suggestion or information to give the Commission?—A. No, sir; I have always done the best I could for the Government and the company.

Q. Did your duties extend, when you were in the land office, any further than the mere adjustment of the cash account?—A. I had to do, of course, more or less with the collections and the sales account.

Q. Were you subject to the commissioner of lands?—A. Yes, sir.

Q. So that the policy of the company with regard to land accounts was subject to the commissioner?—A. Yes.

Q. Who was the land commissioner in your time?—A. The first one was O. S. Davis, and the second one Leavitt Burnham.

THE "LAND TICKET."

By Commissioner LITTLER:

Q. Is there any general complaint among the people here as to their treatment by this company?—A. Well, no, sir; I do not think there is.

Q. You spoke of refunding money to persons who bought land; was there a rule of this company by which they sent purchasers over the line of the road on a cut rate or a full rate, under the agreement that, in case they purchased, their fare should be refunded and should be made a part of the purchase money of the land?—A. Yes, sir; there was an arrangement made with the eastern roads by which what was called a "land ticket" was put on sale in the East, at a low rate; and if the person purchased land, he would be entitled to a certain amount of rebate on that ticket, according to the amount of the purchase.

Q. Not the full amount paid?—A. Not the full amount paid. Not to exceed a certain amount.

Q. That is the kind of ticket you have reference to?—A. Yes.

CHARGES IN THE "BEE."

By Mr. POPPLETON:

Q. You have seen it charged, you say, in the Bee that there had been an improper use of money?—A. Yes.

Q. Did you ever see in the Bee any charge that there had been any misappropriation of the sales of granted lands?—A. Not at all.

Mr. POPPLETON. Even the Bee never got down to that, I think.

OMAHA, NEBR., *Monday, June 27, 1887.*

MILTON H. GOBLE, being further examined, testified as follows :

UNION PACIFIC EATING HOUSES.

By Commissioner LITTLE :

Question. How many eating houses have you along the line?—Answer. We have sixteen, I believe.

By the CHAIRMAN :

Q. Do you come in competition with any other individuals or companies along the line of the road?—A. No, sir.

Q. Are there any boarding-house keepers, eating-house keepers, or restaurant keepers?—A. Not that I know of. Not in the same business with us.

Q. Are you the only restaurant keeper along the line of the road?—A. Yes, sir.

Q. Does that include all the terminals?—A. It does not include Ogden. We run straight from Council Bluffs to Huntington, Oreg.; and then we have two houses in Colorado, off from the main line.

The CHAIRMAN. In a communication of October 19, 1885, directed from the Pacific Hotel Company, Omaha, Nebr., addressed to Mr. S. T. Smith, general superintendent of the Union Pacific Railway Company, and signed by the Pacific Hotel Company ("by M. H. Goble"), the following paragraph occurs :

HALF TARIFF RATES CHARGED HOTEL COMPANY.

"To allay dissatisfaction along the line of road, owing to the fact that outside parties have been informed as to the special rate allowed to the Pacific Hotel Company, the order of the general freight agent making a half rate to be canceled, and all freight thereafter to be billed at full tariff rates, the bill to be rendered against the Pacific Hotel Company to be at half tariff rates, as heretofore."

The WITNESS. That was simply my suggestion.

Q. Why was that suggestion made?—A. On general principles.

Q. What general principles?—A. There was nothing to bring that up at all.

Q. What were the general principles which would apply there?—A. I do not know as that would apply at all in our case, because we were running the only eating houses that are on the line.

Q. What was the dissatisfaction that you referred to?—A. There was none.

Q. What did you mean by "to allay dissatisfaction along the line of the road"?—A. Well, that does not read right; that is all. There was no dissatisfaction to allay; at least, I never heard of any.

Q. What was it that induced you to put such a sentence in your letter?—A. I do not know, sir.

Q. What was the result of this letter of yours to Mr. Smith? Were the bills changed?—A. I think not.

Q. Well, would you not know?—A. No, sir; I think that freight is being billed the same as it was before that letter was written.

NO DISSATISFACTION TO ALLAY.

Q. And do you mean to tell the Commission that when you wrote "letter to allay dissatisfaction along the line of the road, owing"

fact that outside parties had been informed that there had been a special rate allowed to the Pacific Hotel Company, that you did not mean anything at all?—A. Oh, no; but that matter was under discussion, in some way, in some conversation, that there possibly might be such a thing; and that is what that referred to—that it might possibly occur.

Q. What led to the idea that, possibly, something of that kind might occur; that kind of a complaint?—A. That is purely general. Of course there are people along the road that would consider it a basis of complaint. It might be in this way: On the purchase of supplies for our house (and we purchased most of our supplies in the markets, like any other house, in place of buying from Tom, Dick, and Harry along the line) these men, some of them, might think "these men ought to buy their supplies from us."

Q. Was that the reason?—A. That might have had something to do with it.

Q. Did it?—A. We never had any general complaint of that kind.

Q. Did it have anything to do with it?—Well, it might have had, indirectly; I do not remember now.

Q. Were you not allowed these rebates on the shipments of supplies, and did not the people complain, and, to overcome the complaints, did you not have your bills made out at the public rates, and afterwards were you not allowed a reduction by the company?—No, sir; I think not.

Q. Is not that what you mean by your letter?—A. No, sir; there was no complaint that I am aware of. There has been dissatisfaction along the line, at different points, from people who are in business and from whom we did not buy our goods. That was all.

HALF RATES IN THE CONTRACT.

Q. Was it not part of your contract that some of your goods were to be shipped free and some at half rates?

The WITNESS The original contract?

The CHAIRMAN. Yes.

A. I think the original contract was at half rates; I do not remember now.

Q. Do you know what was in the contract?—A. The original contract?

Q. Yes.—A. The original contract, I think, was at half rates.

Q. Did you read the contract?—A. Oh, yes, I read it a number of times.

Q. Who drew up the contract for you?—A. That I do not remember. That contract was drawn up before I had anything to do with it. I went into the company on the start, but the contract and everything of that kind was arranged before I went in.

Q. By whom was the contract arranged?—A. I think by Mr. Swobe and Mr. Markel.

PACIFIC HOTEL COMPANY PAYS NO FREIGHT.

Q. What individual pays the bills of your company for the freight that comes to the different places for transportation?—A. We pay no freight—do you mean over the Union Pacific?

The CHAIRMAN. Yes.

The WITNESS. We pay no freight.

Q. How do you make your settlements?—A. We make our settlements through a subsequent addition to that contract—through a com-

promise. We give the company reduced rates on certain classes of its employes as an offset.

Q. Does the railroad company carry all of your goods free?—A. Yes, sir.

A MATTER OF CONCESSION.

Q. What do you call that, a special rate or rebate, or a preferential rate?—A. I would not call it that under that contract.

Q. What would you call it?—A. It is a matter of concession entirely. The Union Pacific are half owners in that contract and receive half the benefits.

Q. This is another way, in addition to rebate and special rates and preferential rates by contracts and agreements, by which freight is shipped free over the Union Pacific road, is it not?—A. I would not look at it in that light about that, for the reason that there is nobody else on the road shipping in that business.

Q. If the railroad company does not allow the free shipment of this freight to you by way of rebate, preferential rate, or rebate, then it has another method by which it allows you to ship free, under an agreement, has it not?—A. Yes.

Q. Do you have boarders and lodgers?—A. Yes, sir.

Q. Are there any other individuals or companies along the line of the road, in any of the towns through which the road passes, that take boarders or lodgers?—A. I presume there are hotels at different points.

Q. Are the companies in competition with your company?—A. Not directly. Our business, mostly, is to feed the trains; and they have nothing to do with that whatever. In some of our places we have hotels, and we accommodate people.

Q. Are there other hotels at those points?—A. At some of them, and at others not.

MEALS AT SCHEDULE RATES.

Q. Then, if the railroad company transported your supplies free to the points where there were other hotels, how could they successfully compete with your company in their line of business?—A. Because we pay for the transportation of that freight in another way.

Q. How?—A. We have reduced our schedule rates. That contract provides two rates; one of 75 cents per meal and one of 25 cents per meal. We made a concession for having that freight shipped free. The company is more than paid for that concession. There is a circular that should be attached to these papers, if there is not.

The CHAIRMAN. There is a circular here attached.

Afternoon session.

MILTON H. GOBLE, being further examined, testified as follows:

By the CHAIRMAN:

Question. How often do you make settlements with the railroad company?—Answer. We report once a month.

AGREEMENT BETWEEN UNION PACIFIC AND MARKEL, SWOBE & CO.

The CHAIRMAN. The agreement dated December 1, 1884, between the Union Pacific Railway Company and Markel, Swobe & Co., business in Douglas County, Nebraska, referring to the Pacific

Company, contains the following provision: "Said first party (the Union Pacific Railway Company) also agrees to transport all perishable goods, including butter, oysters, &c., in the baggage cars of its trains free of charge, and to pass free over its own lines to the place of employment all necessary help employed by said second party in the management of said eating houses and hotels upon the lines of said second party." In addition to the list of goods contained in the provision I have read to you, what other articles were shipped free over the line of the road?

The WITNESS. At the time that contract went into effect?

The CHAIRMAN. Yes.

The WITNESS. That is all, I believe.

Q. Were you allowed half rates on any other articles?—A. Yes.

Q. What other articles?—A. Everything else that we shipped.

Q. Does your contract apply as well to the branch lines as to the main line?—A. Yes, sir.

Q. All its provisions apply as well to the branch lines as to the main line?—A. Yes, sir.

Q. What consideration were you to render to the company for this allowance of free freight?

The WITNESS. The one made subsequent to the contract?

The CHAIRMAN. Yes.

The WITNESS. We were to make a reduction in our rates to employes.

Q. What reduction did you make?—A. We have a circular that gives a list of it. I think it is attached to those papers that you have.

IMPOSSIBLE FOR ANY EATING HOUSE TO COMPETE.

Q. Under this contract, with its modifications, was it possible for any hotel company or eating house, along the line of the road, to enter successfully into competition with you?—A. Not for any eating house. Nobody could operate an eating house unless the trains were run to it.

By Mr. POPPLETON:

Q. Would it be possible to maintain the eating houses at all the different stations in connection with which you were to give the rates that were given by the company, without the contract and the co-operation of the railway company?—A. No, sir; it would not.

Q. It could only be done at the leading points?—A. Yes, sir.

NECESSITY OF RAILROAD TO CONTROL EATING HOUSES.

Q. State, if you know, whether, as matter of practice and of business, railroad companies do not find it necessary to control eating houses in order to keep them up to the standard that the public demands?—A. That is the case all over the country at the present time, I believe. It is a necessity, certainly, on the Union Pacific.

Q. Why?—A. Because they were formerly so poorly run. Each house was independent, and some of them were very miserable places. We run a house on the principle of efficiency, whether we lose \$500 a month or make \$500.

Q. I will ask you the question whether the eating house service, taken as a whole, was ever before up to the standard that it has been since this contract was made?—A. It never was.

PROFITS OF THE BUSINESS.

By Commissioner LITTLER:

What are your profits per annum under this contract?—A. I think year it was sixty odd thousand dollars.

Your share?—A. No; that was the whole thing.

That was the total profit?—A. Yes.

By Mr. POPPLETON:

How many men give their attention to this as managers on your?—A. There are three of us that give the matter our time and attention.

DISPOSITION OF PROFITS.

By the CHAIRMAN:

You do not know what the railroad company does with its profits?—A. I do not.

The CHAIRMAN. I would like to have you state what becomes of the profits from this business.

Mr. MINK. My recollection is that the amount is credited against the expenditures that were made to put the eating houses in order. But I state that definitely when the statement is received.

The CHAIRMAN. It does not appear at all.

Mr. MINK. I will explain it to you when I get the statement. I know definitely then. I know that that was the arrangement that was made.

The CHAIRMAN. It is an unaccounted item?

Mr. MINK. Yes. It stands in a state of suspense. We spent \$60,000 to put these houses in order, and held that sum in a special account, to be absorbed by the profits we received under the contract.

The CHAIRMAN. How large is your suspense account? What else is in it?

Mr. MINK. Nothing else. That is all.

The CHAIRMAN. Will you produce this suspense account to the Commission?

Mr. MINK. Yes; I have called for it.

MILTON H. GOBLE.

OMAHA, NEBR., *Monday, June 27, 1887.*

W. F. GURLEY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am an attorney.

Where do you reside?—A. I reside in Omaha.

Have you had any business relations with the Union Pacific Railroad Company?—A. No, sir.

Were you ever employed by them?—A. Not by the company.

EMPLOYED BY MR. THURSTON.

By whom were you employed, connected with the company?—A. We have been employed at different times by Mr Thurston.

Who is Mr. Thurston?—A. He is an attorney here in the city.

Is he connected with the Union Pacific Railway Company?—A. Yes, and I suppose he is now.

Q. What was his position?—A. He was one of the attorneys of the road, I believe.

Q. One of the regular attorneys?—A. I believe so; yes.

Q. How were you employed by him?—A. I have looked after various matters for him, connected with the law business at different times. That is, I have tried small cases for him and looked after the continuance of cases, and that kind of work, at different times.

Q. Did he have charge of the trial of causes for the Union Pacific Company?—A. He tried them. I do not know whether he had charge or not.

Q. Were you employed as special counsel?—A. No, sir; I presume not. I have attended to matters for him. My arrangements were personal with him.

Q. Did the Union Pacific Railway Company pay you?—A. No, sir.

Q. Who paid you?—A. I have been paid by him for the work I have done for him.

RAILROAD LEGISLATION IN THE NEBRASKA LEGISLATURE.

Q. Were you employed by Mr. Thurston to visit the capital during the session of the legislature, in the interest of the Union Pacific Railway Company?—A. I was employed by Mr. Thurston one time, to look after certain matters at Lincoln.

Q. What were they?—A. Well, I looked after railroad bills there, to see what time they came up, and of what nature they were—that is, whether they related to railroads or not, in legislation.

Q. When were you employed—how long ago?—A. I was there last winter.

Q. What other session?—A. That is the only session.

Q. How long were you there?—A. I think I was there ninety days.

Q. Was that the entire session?—A. Yes, sir; that covered pretty nearly the entire session, I guess.

Q. What bills were pending before the legislature, that the Union Pacific Railway Company was specially interested in?—A. I do not know, I am sure.

LOOKING AFTER BILLS.

Q. Well, what did you do there?—A. Well, as I say, I looked after the bills, to see when they were introduced, and to see what their nature was, and looked after them generally.

Q. Did you study the bills?—A. Well, I generally made up my mind what the intention of the bill was.

Q. What were the bills?—A. There were quite a number of them. I could not state specifically any particular bill.

Q. Can you name any one of them?—A. I do not think I could; no, sir.

Q. Who was associated with you at Lincoln in watching the interests of the Union Pacific Company?—A. I do not know what other parties were doing there. I know what I was doing. There were a great many people down at Lincoln.

Q. Connected with the Union Pacific Company?—A. I do not know. There were a great many interests represented there.

Q. Do you know of anybody else working with you in or with the interests of the Union Pacific Railway Company?—working alone, so far as I was concerned.

Q. What kind of work did you do?—A. Well, I have
As soon as a bill was introduced I endeavored to find out

it was liable to come up for discussion and passage, and to look after it in a general way.

Q. What did you do to influence the members of the legislature with reference to bills?—A. Nothing more than talk in regard to bills, sometimes.

Q. Did you talk to them individually or collectively?—A. I talked to them individually, not collectively.

THE "OIL ROOM."

Q. Did they have a room in the halls of the legislature known as the "oil room"?—A. I have heard of such a room, but I never saw it to my knowledge.

Q. Where did you hear of it?—A. In the papers; principally through the Bee.

Q. As an actual fact, you do not know of such a room?—A. I do not know of such a room; no, sir.

Q. What did you hear about the "oil room" through the Bee?—A. I simply heard that there was such a room. I never understood what they meant by it, myself.

Q. What was it reported that they did in that room?—A. I do not know that I could tell.

Q. Did they have drinking materials? Was that the allegation?—A. I do not know, really.

Q. Were drinking materials, as matter of fact, provided anywhere in the halls of the legislature?—A. I do not know of any.

Q. Or in the vicinity?—A. I could not say as to that.

Q. Did you ever provide for members of the legislature?—A. No, sir.

Q. Did you ever use any money, directly or indirectly, to influence any legislation?—A. No, sir.

Q. Concerning the Union Pacific Railroad Company?—A. No, sir; nor any other legislation.

PAID BY MR. THURSTON.

Q. How were you paid?—A. I was paid by different parties. I was paid by Mr. Thurston for the work I did for him. I did other work there for other individuals, that I was paid for.

The CHAIRMAN. I am speaking of the Union Pacific Railway Company.

The WITNESS. I have no knowledge of being paid by them. I was employed by Mr. Thurston and was paid by Mr. Thurston.

Q. How much were you paid by Mr. Thurston?—A. I do not remember the exact amount.

Q. Were you paid \$100 a month? I am speaking as to the Union Pacific legislation.—A. I do not remember the exact amount that Mr. Thurston paid me. Perhaps something like \$300 or \$400. Probably about \$400, I guess.

Q. That was the total amount?—A. Yes, that was what he paid me. Then he paid my expenses.

Q. What expenses?—A. Expenses—traveling—living there.

Q. What expenses?—A. Expenses—traveling—living expenses—my board.

NO MONEY USED TO INFLUENCE LEGISLATION.

Q. Have you any knowledge of any expenditures of money or bonus of any kind given to members of the legislature to influence legislation for or against the Union Pacific Railway Company?—A. No, sir; none whatever.

Q. Do you know any individuals that were employed in the same capacity that you were employed?—A. No, sir; I do not know what the arrangements of any other party there were at all. I know my personal arrangements; but outside of that I do not know what arrangements other parties made.

PASSES.

Q. Had you the power to grant passes to members of the legislature or their friends?—A. No, sir.

Q. Did you procure passes through others for members of the legislature?—A. Yes, sir.

Q. And for their friends?—A. Yes; I presume I did, probably.

Q. To what extent did you procure passes?—A. Not a very great extent.

Q. Have you ever procured any other benefits or privileges or preferences from the Union Pacific Railway Company for members of the legislature or their friends?—A. No, sir.

Q. Were your traveling expenses allowed you?—A. I traveled on a pass when I went down there and back.

Q. Were you paid by Mr. Thurston by check?—A. He paid me at different times; I think he gave me some money at one time and a check at another.

Q. Was it his own personal check or a check of the Union Pacific Railway Company?—A. He gave me his personal check.

Q. Did you receipt for the payment by Mr. Thurston to you?—A. I think I did; I am not positive, but I think I did.

Q. In all cases?—A. Well, I am not sure about that; I do not know whether I did or not.

CONCERNING "LOBBYING."

Q. Did you do the lobbying of the Union Pacific Company at the capitol?

The WITNESS. What do you mean by "lobbying"?

The CHAIRMAN. I am examining you.

The WITNESS. I know; but I want to understand the question fully.

The CHAIRMAN. I have put the question. Did you do the lobbying of the Union Pacific Railway Company at the capitol during the session of the legislature?

The WITNESS. I have stated that I was employed by Mr. Thurston to go down there and look after those bills; they were railroad bills; I did so. The employment was from him.

Q. Did you report the result of your work there in writing to Mr. Thurston?—A. No, sir; I made no report at all.

Q. Did you make any communication to Mr. Thurston?—A. Why, I would certainly, at times, make verbal communications. Very often.

MR. THURSTON PRESENT AT LINCOLN.

Q. Would he come to you or would you go to him?—A. I would go to him, generally.

Q. Where was he located at that time?—A. He was there at Lincoln a portion of the time.

Q. Was he there during the whole session of the legislature?—A. No, sir.

Q. Did you ever write to Mr. Thurston?—A. I do not think I did. I am not positive about it.

Q. How long did he stay at the capitol?—A. Well, I could not say exactly. He was there a number of times; I could not say exactly how long.

Q. Did he act in co-operation with you before the individual members of the legislature, or before the committees?—A. I do not know of his going before committees.

Q. Did you appear before committees?—A. No, sir.

DISCUSSING BILLS WITH MEMBERS.

Q. How did you convince the members?—A. I do not know that I convinced any of them. I very often discussed bills that were pending.

Q. Can you name one single bill that you discussed with any one member of the Nebraska legislature?—A. I do not believe I can name a single bill now. There were a great many of them.

Q. It did not make much of an impression on you at the time?—A. It may have, at the time, but it has escaped my memory now.

Q. Did you ever succeed in convincing a member of the legislature that he ought to change his opinion?—A. I do not know that I ever convinced any of them, I am sure.

Q. Did any of them afterwards change their opinions?—A. I cannot say.

Q. How did you observe the result of your work at Lincoln?—A. I do not know that I did observe the result very closely.

"VERBAL COMMUNICATIONS" IN REGARD TO PENDING LEGISLATION.

Q. Did you talk over the result with Mr. Thurston?—A. I do not remember that I did.

Q. What kind of talks would you have with him about your work?—A. What do you mean by talks?

Q. You said, a moment ago, that you would have verbal communications.—A. Yes, I did.

Q. What were they?—A. Simply in respect to what was being done, and what bills were pending, and when they were liable to come to a vote, and that kind of matter.

Q. What other kind of matter?—A. That was all.

Q. Did you talk about what the vote was likely to be?—A. We may have done that.

Q. Did you discuss the probable manner in which members of the legislature would vote?—A. I may have done that; I do not remember. I think very likely.

Q. Did you inform him that certain members would likely change?—A. No, sir; I did not.

Q. Did you ever find any trouble with any members that you had interviews with?

The WITNESS. Trouble?

The CHAIRMAN. Yes.

The WITNESS. In what way?

The CHAIRMAN. In order to secure their support.

The WITNESS. Beyond the fact that I discussed questions with them, there was no more trouble about it. It was a mere discussion of the facts. They voted as they pleased.

Q. Did you report that fact to Mr. Thurston—the fact that you discussed the matter with them and they did about as they pleased?—A. No, sir; I do not know that I did.

Q. What report, on such an occasion, did you make?—A. I was not in the habit of making a report on every conversation. If I met Mr. Thurston I had a conversation with him and, of course, we would be likely to discuss matters that were before the legislature at that time. I cannot remember any particular conversation or any particular thing that was said. There is nothing that I would be liable to remember.

COMPENSATION PAID.

Q. Then, \$400 represents the sum paid to you, and, so far as your knowledge goes, the whole amount of expenditure made by the Union Pacific Railway Company during the session of the legislature of 1887?—

A. The amount that I stated; \$400, or whatever it was (I said about that), I received from Mr. Thurston. That is all I know of that. It was paid to me by him personally.

Q. Did you receive any other sum?—A. That may not have been the exact amount. I cannot remember it.

Q. Did you receive anything else?—A. Whatever the amount was (I could not state it exactly) I did not receive anything beyond that from him. I did work for other parties there besides him.

The CHAIRMAN. I am only asking with respect to the Union Pacific Railway Company.

The WITNESS. I do not remember the exact amount.

The CHAIRMAN. Mr. Mink, I would like you would produce the statement of legal expenses in Mr. Thurston's name, or all the legal expenses for 1887.

Mr. MINK. I will have them produced.

Q. Did you ever write to Mr. Kimball concerning the legislation?—

A. No, sir; I never had any correspondence whatever with Mr. Kimball.

Q. Did you ever meet him at the session of the legislature?—A. I do not think I ever saw him there; no, sir.

Q. Did you ever have a conversation with him in Omaha concerning the legislation of the Union Pacific Company?—A. No, sir.

Q. Did you ever talk with any other of the officers or employes concerning the legislation in the direction of the Union Pacific Company?—

A. I may have talked with some of them. I cannot remember now.

Q. With whom? Name one.—A. I cannot remember now. I think I probably did.

Q. Can you name any one of the individuals connected with the Union Pacific Railway Company that you talked with?—A. I think I probably talked with several of them, but I do not remember the conversations just now.

Q. Can you name one?—A. I think, probably, Mr. Manchester.

Q. Who is Mr. Manchester?—A. He is connected with the road.

Q. In what position?—A. I do not know exactly what his position is.

Q. Where did you meet him?—A. I met him here and at Lincoln, both.

Q. What led to your conversation with Mr. Manchester?—A. I do not remember. I know him personally.

Q. Did you talk with him at the capitol or here in Omaha?—A. I talked with him in both places.

Q. Was he there at the session that you were?—A. He was there a number of times. He was not there right along.

EMPLOYMENT OF DAVID MERCER.

Q. Was there a man there by the name of David Mercer?—A. Yes.

Q. Was he employed in the same capacity with you?—A. I do not know the nature of his employment. He never told me.

Q. Did you have a conversation with him, when he was there, concerning the legislation of the Union Pacific?—A. I have had a number of conversations with him. I do not remember what they were. I do not think I could remember any of them.

Q. Did you have a conversation with Mr. Mercer upon the legislation pending in the legislature of 1887, in which the Union Pacific Railway Company was interested?—A. I think I may have had, yes, sir; but I cannot remember what they were.

Q. Were there any employés of the Union Pacific Railway Company who were members of the legislature in 1887?—A. I do not know as to that.

MEMBERS OF THE LEGISLATURE EMPLOYED BY THE UNION PACIFIC.

Q. Do you know David Knox?—A. Yes; I know who he is.

Q. Was he a member of the legislature?—A. Yes.

Q. Was he not an employé of the Union Pacific Railway Company?—A. I believe he was.

Q. At the same time that he was an employé, he was at Lincoln engaged in legislation?—A. I have heard so.

Q. Do you not know so?—A. No, I do not know.

Q. Do you know Patrick Garvey?—A. Yes.

Q. Was he from Omaha?—A. Yes.

Q. Was he an employé of the Union Pacific?—A. I do not know as to that.

Q. Was he a member of the legislature?—A. Yes.

Q. Do you know James Young?—A. Yes.

Q. Was he a member of the legislature?—A. Yes.

Q. Was he from Omaha?—A. Yes, sir.

Q. Was he an employé of the company?—A. I do not know as to that, whether he was or not, positively.

The CHAIRMAN (to Mr. Mink). How is it as to these two gentlemen?

Mr. MINK. I never heard their names before.

The CHAIRMAN (to Mr. Kimball.) Can you tell us about those gentlemen? You know Mr. Knox, do you not? And Mr. Young?

Mr. KIMBALL. I know Mr. Knox. I do not know Mr. Young.

The CHAIRMAN. Was not Mr. Garvey an employé of the company at the time he was a member of the legislature?

Mr. KIMBALL. I do not know.

The CHAIRMAN. Who would know?

Mr. KIMBALL. The man he works for. [To the witness.] Were they shop men?

The WITNESS. I do not know.

Mr. POPPLETON. If they were among the Union Pacific they were Knights of Labor who were employed in the shop. They ever has control of the motive power or shop roll.

them. I do not know. I have read a good deal in the newspapers about these men being employes, but I do not know whether they were employes or not.

The CHAIRMAN. I would like to have a statement as to those men, whether or not they were members of the legislature: Garvey, Knox, and Young.

Mr. POPPLETON. And any others?

The CHAIRMAN. Any others.

Mr. POPPLETON. There are one or two more, I believe.

The CHAIRMAN. Who are they?

Mr. POPPLETON. I do not know, but I can tell you now who suggested those names.

The CHAIRMAN. We should be glad to have any other names.

Q. Were you employed at any other session of the legislature?—A. No, sir.

METHODS USED TO INFLUENCE LEGISLATION.

Q. This was your first experience in the direction of influencing legislation?—A. It is the first time that I had been to the Nebraska legislature.

Q. Were you ever employed by the Union Pacific Railway Company?—A. No, sir. As I have said before, I have done work for Judge Thurston at different times.

Q. But in any other position were you ever employed by the Union Pacific Railway Company?—A. No, sir.

Q. Did you ever have a conversation with any of the gentlemen I have named (Knox, Young, or Garvey) concerning the legislation of the Union Pacific Railway Company?—A. I may have done so, but I could not be positive as to that.

Q. Did you indicate in any way to them your desire as to how they should vote?—A. No, I do not remember that I did.

Q. Did you ever ask them to vote for or against any particular bill?—A. I do not remember that.

Q. Did you ever ask any member of the legislature to vote for any particular bill in which the Union Pacific Company was interested, or against any particular bill?—A. I do not believe I ever did. As I say, I have talked the matter over with them; but I do not think I ever made any direct request of any of them.

Q. Would you regard that as a rather abrupt method of approaching a member of the legislature?—A. I do not think that that is the proper way to talk to any man, that you want to do a thing. The way to do is to talk with him and advance arguments, if you can.

Mr. POPPLETON. The name of the other man I referred to is Matthieson.

Q. Were you acquainted with Mr. Matthieson, a member of the legislature?—A. Yes; I know him.

Q. Did you have to use any arguments with him or with other Union Pacific Railway men there as to legislation in which the Union Pacific Railway Company was interested?—A. I do not think there was any different method pursued as between them and others.

Q. Did you ever secure situations for any men on the recommendation of men in the legislature or their friends?—A. No, sir.

Q. Did you ever give them letters to Mr. Kimball for employment?—A. No; I know I never did.

ARGUING WITH MEMBERS.

Q. Were more arguments needed with some members of the legislature than with others?—A. Of course there is a difference in men; one could not be so successful, perhaps, with some of them as with others.

Q. What difference did you mark in men that required a different appeal?—A. I do not know that I did mark any special difference. It could be difficult to tell that.

Q. What is the difficulty?—A. Well, I do not know that I could remember now as to individual men, to remember their peculiar manners; the time of conversation with them.

WELL ACQUAINTED WITH MEMBERS.

Q. Did you have a large acquaintance with members of the legislature?—A. I knew most of them.

Q. Were you acquainted with them through Mr. Thurston or through your own personal acquaintance?—A. I had a pretty good personal acquaintance with a number of them. Of course I met others of them while there.

Q. What previous acquaintance had you had with members of the legislature?—A. I had the acquaintance that would, of course, come to man living here as long as I have. I have lived here five or six years; six years, I guess.

Q. In Omaha?—A. In Omaha; and I have been through the State somewhat.

Q. Were you engaged in the political party work?—A. No, sir.

Q. How have you secured this acquaintance outside of Omaha?—A. When I had business in a town I would get acquainted with people.

Q. How did you manage to hit a member of the legislature every time?—A. I did not manage to do that.

PARTICULAR QUALIFICATIONS UNKNOWN.

Q. Then what qualified you for this special work in 1887?—A. I do not know what my particular qualification was. I did not ask that. I was employed, and went.

Q. Did you have an acquaintance with one-third of the members of the legislature of Nebraska at that time?

The WITNESS. Before I went down there?

The CHAIRMAN. Yes.

The WITNESS. I do not believe I did.

Q. Did you have an acquaintance with one-fourth of them?—A. I could not state. I knew quite a number of them. There are one hundred and thirty members of the house; and, of course, I did not know them all; I met them afterwards.

INSTRUCTIONS FROM MR. THURSTON.

Q. What instructions did Mr. Thurston give you?—A. I do not remember any particular instructions.

Q. Did he have any conversation with you before you left?—A. I believe he did; yes, sir.

Q. What was the nature of it?—A. I do not remember that exactly.

Q. What did he tell you to do?—A. To look after these bills and see when they were coming up for discussion; and, as I say, I

to him verbally the situation from time to time, and had these conversations myself.

Q. Did you go up before or just at the time of the opening session of the legislature?—A. Yes, sir.

Q. What instructions did he then give you concerning any bills that were pending?—A. Well, he was up there at the opening of the legislature, I think, himself.

Q. Then this conversation took place there at that time?—A. It may have been. I am not positive as to that. I had a number of conversations with him, and I could not remember any particular one.

MR. THURSTON'S APPEARANCE INSISTED UPON.

The CHAIRMAN. I want to insist, Judge Poppleton, that Mr. Thurston be brought before this Commission.

Mr. POPPLETON. I have no control over him.

The CHAIRMAN. He is an officer of this company, I believe.

Mr. POPPLETON. He is an attorney of this company; but I have no control over him, except to direct him in respect to the legal business of the company; the strictly legal business.

The CHAIRMAN. I give notice now that we shall want him, and I call for the presence of Mr. Thurston, the solicitor of the Union Pacific Company. We have already made an effort to serve a subpoena on him and failed.

Mr. POPPLETON. There is something in terms, Mr. Chairman. Mr. Thurston is not a solicitor of the Union Pacific Company. If he has any title at all, it is as assistant attorney, and, so far as I am concerned, he is detailed to certain business.

The CHAIRMAN. Then we call upon Mr. Thurston, the assistant attorney.

Mr. POPPLETON. We have no power to produce him. His office is in the Omaha National Bank and his residence is well known in this city.

The CHAIRMAN. We have made every effort to find him.

Mr. POPPLETON. I doubt it. I do not mean to say that you do not think you have made every effort, but it is a question in my mind whether your man has.

BILLS IN WHICH THE UNION PACIFIC WERE INTERESTED.

By Commissioner LITTLER:

Q. You say you cannot recollect the subject-matter of any bill that was pending before that legislature in which the Union Pacific Railway Company was interested?—A. No, sir; I do not remember now.

Q. How many bills were there of that character?—A. There was quite a number of bills, but I do not recollect the number.

Q. Was your employment by Mr. Thurston for the purpose of securing affirmative legislation, or defeating supposed unfriendly legislation to the company?—A. My employment by Mr. Thurston was, as I have stated, to look after these bills and report to him (which I did) the time when they were pending, and when they were liable to come up.

NO BILLS INTRODUCED BY FRIENDS OF THE COMPANY.

Q. Do you know of any measure introduced into that legislature by the friends of the Union Pacific Railway Company?—A. I do not remember any.

Q. Can you give a general idea of some of the hostile legislation contained in those bills?—A. No, sir; I could not do it. There was a great number of bills there, and I was interested in other bills besides railway bills, and I could not remember.

Q. Were those bills all numbered?—A. Yes, sir; they were on house files and senate files.

Q. Is it a custom of the secretary of state to keep copies of all measures introduced, whether passed or not?—A. I am not sure as to that. I think he does, however. He keeps on file all that pass, anyhow.

Q. When you received instructions from Mr. Thurston to go to Lincoln, did he say or did you understand that it was on behalf of the Union Pacific Railway Company or on behalf of him individually?—A. He said nothing about it, except that he wanted me to go down there.

Q. You are not certain whether you gave him receipts for the money you got?—A. I am pretty certain I gave him receipts. I am quite sure I did, I do not know whether I gave him receipts every time or not.

Q. I understand you to say that your net compensation was \$400?—A. I think it was about that.

Q. Do you recollect what your expenses were for board bills and such things?—A. No, sir; I do not.

Q. Were they large?—A. I do not remember what they were.

Q. What was the price of board at Lincoln that winter where you boarded?—A. Well, I boarded at the Capitol Hotel.

Q. Is it a pretty good hotel?—A. Well, not very bad. The best, I guess, that there was there.

THE "OIL ROOM."

Q. As to this "oil-room" you spoke of; you say that room was not located in the capitol building?—A. I said I did not know. I had heard of the "oil-room," but I did not know what it was.

Q. Did you understand from the use of that term in connection with that room, that it was a room, somewhere in Lincoln, used for the purpose of getting members into it with the view of negotiating with them for their votes on the passage of measures?—A. My idea of the use of that term, as I have seen it used in the Bee, was that it was a room intended to be used for corrupt purposes.

Q. You say you were never in that room?—A. I never was in the room at all.

Q. Did you ever see any of the other Union Pacific men in there?

The WITNESS. Where?

Commissioner LITTLER. In the oil-room that you speak of.

A. I never was in the oil-room that I know of.

NO MONEY USED TO INFLUENCE LEGISLATION.

Q. Do you know any officer or employé, regular or otherwise, of the Union Pacific Railway Company who was there, using money corruptly for the purpose of influencing legislation?—A. No, sir; I do not know of a single dollar that was ever used that way.

By Mr. POPPLETON.

Q. Have you ever seen this oil-room outside of the Bee newspaper?—A. I think that was the only newspaper I saw it in.

Q. Then you do not know exactly what the Bee means when it talks about the oil-room?—A. No, sir; I do not know.

THE SENATORIAL ELECTION.

Q. It may be imagination; there was something else going on down at Lincoln last winter, was there not? There was a Senatorial election, was there not?—A. Yes.

Q. What was the political complexion of the legislature?—A. It was Republican.

Q. Well, in what ratio?—A. I did know exactly, but I have forgotten that.

Q. Was there not nearly two to one, and even more, between the two parties?—A. Yes, sir; I guess so.

Q. Is it not a fact that you were acquainted with most of the Republican members of the legislature?—A. I stated that I was acquainted with a good many of them; I could not state how many.

Q. Did not that come from the fact that you yourself had been engaged in politics and in canvassing, to a greater or less extent?—A. I had; yes, sir.

Q. When you went to Lincoln at the request of Mr. Thurston you went there under his personal directions, you say?—A. Yes, sir.

LENGTH OF CONTEST.

Q. How long did this Senatorial fight last before they got to legislation at all?—A. I think it was quite a while. I forget how many days it was, from the first day of the session, before they got to a ballot; quite a number; and then, I think, the Senatorial fight covered some four days. There was some little time between the opening of the legislature and the beginning of the ballot for Senator.

Q. I think you said you were a lawyer?—A. Yes.

Q. Do you know of any law of this state that prevents an employé of the Union Pacific Company from becoming a member of the legislature, if he can get elected?—A. I never heard of any.

Q. Do you know of any that prevents a Knight of Labor from becoming a member, if he can get elected?—A. No, sir.

By the CHAIRMAN:

Q. Have you anything else to say to the Commission?—A. I believe I have nothing that would interest them.

The CHAIRMAN. Anything that concerns the Union Pacific Railway Company we will be glad to hear from you.

A. I do not know anything.

OMAHA, NEBR., *Monday, June 27, 1887.*

J. M. EDDY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am a railroad man.

Q. What road are you connected with?—A. With the Omaha Belt Railway at present.

Q. Were you ever connected with the Union Pacific road?—A. Yes, sir; I have been.

Q. How long ago?—A. Well, I have been connected with it at two different times; once from 1866 to 1872 or 1873, I think 1872, and then again directly, in 1875 and 1876, I think it was. Not since then.

Q. In what capacity were you connected with the Union Pacific road?—A. I served in a great many capacities.

HELD VARIOUS POSITIONS IN THE COMPANY.

Q. Commence at the beginning and state what your relations were in 1866.—A. I was first connected with it as receiving clerk; receiving material down on the river. Then I became purchasing agent, and then I went into the engineering department and was chainman, rodman and leveler, and assistant engineer. I was assistant engineer in 1872, at the time I left. Also, at one time, probably for a year or two, I was what was called general town lot agent, for the sale of lots that this company owned. Then, in 1875 or 1876 I located a line for them and built what was known as the Omaha and Republican Valley road for them.

Q. That was 1876?—A. Yes; I went away from here in the fall of 1872 and went to Texas. After that, either in 1876 or 1877, I was general agent, for a time, for the Union Pacific in Denver. I think that was in 1876 or 1877. I have had no connection with the company since then.

Q. What year were you superintendent of construction of the Union Pacific Company?—A. I was superintendent of construction of what was called the Omaha and Republican Valley road. It is a branch road that runs southwest. It was only about 30 or 40 miles long.

ESTIMATE OF COST OF CONSTRUCTING THE UNION PACIFIC.

Q. In 1866, or near that period, did you make an estimate as to the construction of the Union Pacific Railroad, as it crossed the continent?—A. I was in the office where those estimates were made—where profiles were made, and estimates; but if I did anything at all it would be more clerical work. I was connected with the chief engineer's office.

Q. Did you ever hear of any estimate of \$30,000 per mile for the construction of the railroad at that time?—A. No, sir; I never heard any amount or anything of that kind.

THE OMAHA AND REPUBLICAN VALLEY RAILROAD: HOW BUILT.

Q. How was the Omaha and Republican Valley Railroad built?

The WITNESS. In what respect do you mean?

The CHAIRMAN. Was it built by the company? By whose money was it built, I mean?

The WITNESS. I think it was built by the company. I really do not know anything about it, except that I was in the field and built the road. I think that the contracts and all vouchers were paid here in the Omaha office. If they were not, I do not know anything to the contrary.

Q. In what county was the road located, or through what counties did it run?—A. I really could not say, now.

Q. Did it go through Saunders County?—A. Yes; it ran through Saunders County.

Q. Was there an effort made, by private subscription, to raise the money for the construction of that road in that county?—A. " *might have been, but I never heard of any such thing.* T

have been a fund talked of, but I never heard of it at the time, and have not since. This road leaves the Union Pacific at a place called "Valley," out here.

THE SUBSIDY FROM SAUNDERS COUNTY.

Q. Was there a subscription by Saunders County to the company?—

A. There was a subsidy that was given, in case the road reached Wahoo (which was the county seat) at a certain time. That time was very short. The limit was the 1st of January. The first 21 miles were built between the 10th of November and the 1st of January. I was on the ground every day myself, and know but little else except the fact that we got in there and got the subsidy, if there was one; and yet I am not sure that there was one.

Q. Do you know the amount of the subsidy?—A. No; I do not.

Mr. POPPLETON. It was \$140,000 of bonds.

METHOD AND COST OF CONSTRUCTING THE ROAD.

Q. What was the cost of the road?—A. I do not know. It was built under some difficulties. It was built very rapidly, and as cheaply as possible. That is, everything was done to make it cost as little as possible for a permanent road. In fact, it was not what you might call a permanent road until the next spring, on account of the frost in the ground.

Q. What was the estimated cost?—A. I do not think an estimate was ever made on it.

Q. What was the approximate cost?—A. Well, I should have to jump at it. To iron it and tie it, and do the whole thing, I should think, without rolling stock, would cost about \$14,000 or \$15,000. But it might have cost more than that on account of the bridge. I think the bridge made it cost more than that; probably \$16,000 or \$18,000. There was no estimate made, simply because we had no time. We were locating and grading, and building the track all on the same day.

Q. Have you any knowledge of any influence exerted by the Union Pacific Railway Company to force a contribution on the part of Saunders County in the nature of a subsidy?—A. No, sir; I have not.

Q. Have you any information that you can give the Commission concerning the Union Pacific Railway Company?—A. I do not know that I have.

Q. Any suggestion that you can make?—A. I do not know of any suggestion that I have to make.

ITS PRESENT CONDITION.

Q. Have you been over the road lately?—A. Not for six months.

Q. Have you been over its branches?—A. Not all of them. A great many of them I have. Not for six months, though.

Q. What is the general condition of the road, so far as you observed?—

A. My impression is that the physical condition of the road is good; the road-bed and everything, I think, is in good condition. It was so the last time I was over it. I judge by what I have known in the past. I have seen it when it was in very much worse condition than it is now.

Q. Do you speak of the branches?—A. No; I speak of the main line.

Q. What do you say of the branches?—A. I have not been over the branches in a year, I think.

CONDITION OF ITS BRANCHES.

Q. In what condition were they when you did pass over them?—A. They were in very good condition for Nebraska railroads.

Q. Are they up to the standard of Eastern railroads?—A. No, sir.

Q. How far below are they?—A. They are below about 18 inches of gravel. [Laughter.] There is no road west of the Missouri that is as good as the roads east of the Missouri.

The CHAIRMAN. I understood that Mr. Adams was fixing the Eastern standard as the standard of the Union Pacific. That is why I asked. That is true, is it not, Mr. Mink?

Mr. MINK. The eastern standard is being kept in mind all the time.

Q. Had you any business relations with the Union Pacific Railway in 1884 and 1885?—A. Well, I was not connected with them, if that is what you mean.

THE CONSTRUCTION COMPANY.

Q. Do you recall any large payments received from the Union Pacific Company or made by the Union Pacific Company to you during 1884 for grading?—A. No; I do not recall that.

The CHAIRMAN (to Mr. Mink). I wish you would produce voucher No. 41, John M. Eddy, grading, to July 1, 1884, the amount of which is \$13,791.20. Also voucher No. 42, grading, to September 1, \$16,841.50. Or perhaps Mr. Eddy will remember them without the production of the vouchers.

The WITNESS. I remember now what you mean. My name was used in a contract that I did not perform.

Q. Who did the work?—A. A contractor who did the work under me, and the contractor got the money.

Q. Who was the contractor?—A. It was a company, a construction company.

Q. Who composed it?—A. Some parties that lived in Salt Lake, or had headquarters there. It was a grading contract.

SUBSTITUTING NAME OF INDIVIDUAL FOR THE COMPANY.

Q. What was the idea of substituting your name?—A. Well, I suppose it was done at the time to use my name as a matter of convenience in handling the accounts. It was not anything else that I know of.

Q. What would be the convenience to the company?—A. The convenience would be in making a contract with one individual, instead of making various contracts, I suppose. I have done the same thing before in Texas and other places. I suppose that is what it was for; although I do not think I ever asked a question of anybody in regard to it. It was a matter of having a contract with one responsible man, instead of having a great many contracts with, probably, individuals that you were not so well acquainted with, even if they were fully responsible.

DONE ON SUGGESTION OF THE CHIEF ENGINEER.

Q. Who made the request to you to so act?—A. I think that all the conversation that I had was with Mr. Blickensderfer, the chief engineer. I gave Mr. Blickensderfer my power of attorney to sign my name to divers small contracts for ties and little things out there. In

stead of having a number of contracts, it was thought preferable to have me as one contractor. The use of my name was given for the convenience of accounts, I suppose.

Q. Were you acquainted with the people for whom you were put forward, or whom you represented in Idaho—the construction company?—A. I did not represent the construction company.

Q. Whom did you represent?—A. I simply represented myself.

Q. I know, but you represented somebody to whom the Union Pacific Railway Company was paying money.—A. The construction company out there, probably, was representing me.

Q. But they did not appear.—A. I think you will find that they appear on the voucher. I do not remember whether I signed the voucher or whether Mr. Blickensderfer did.

The CHAIRMAN. Well, we will have the vouchers.

Q. Did you ever hear that Mr. Gould threatened to remove the Union Pacific Company shops from Douglass County and from Omaha if the county contributed towards the construction of the Omaha and Republican Valley Railroad under private subscription?—A. No, sir; I never heard of it.

OMAHA, NEBR., *Monday, June 27, 1887.*

FRANK P. HANLON, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am in the banking business now.

Q. Were you ever employed by the Union Pacific Railway Company?—A. I was.

Q. In what position?—A. Special agent.

Q. In what year?—A. From, I think, the year 1872 or 1873, up to two or three years ago.

Q. That would be from 1872 or 1873 up to 1885?—A. Yes.

Q. Continuously?—A. Yes, sir.

DUTIES OF SPECIAL AGENT.

Q. What were your duties as special agent?—A. Going on any business that I was sent on on the line.

Q. What kind of business on the line?—A. Principally in criminal matters.

Q. What do you mean by criminal matters?—A. Well, in secret-service work—detective work.

Q. What kind of detective work?—A. Any cases that might come up that the road was interested in.

Q. What kind of work would the road be interested in?—A. I cannot recall all the different cases.

Q. Can you recall one?—A. Yes, I can recall one; the case of a man named Moore, disposing of tickets over in California.

Q. What other case?—A. I could not recollect them all.

Q. What other kind of criminal cases?—A. Whatever the road was interested in.

Q. What kind of crimes would be committed on the road?—A. Well, the three card-monte men gave the passengers a good deal of trouble.

They worked the passengers up as they went out on the through train. They would take what little they had left.

Q. What other kind of criminal business?—A. That is all, I believe.

Q. That composed your line of duty as special official?—A. Yes.

ASSISTING COUNSEL FOR THE UNION PACIFIC, AT LINCOLN.

Q. Were you ever engaged in Lincoln?—A. Yes.

Q. During the session of the legislature?—A. Not for the past four years.

Q. Were you there prior to four years ago?—A. I have been; yes, sir.

Q. How often?—A. I was there about every session.

Q. What were your duties there?—A. I was down there with Mr. Thurston, assisting him.

Q. What did you do to assist him?—A. Different things.

Q. Did that assistance extend to detecting the crimes that were committed against the Union Pacific?—A. No.

Q. What then?—A. Looking after the interests of the company there.

Q. Looking after their interests in connection with legislation, do you mean?—A. Yes.

Q. How did you look after that?—A. Looking to see how the members felt on the matter of bills that were pending before the legislature.

Q. How did you find that?—A. By conversation with them.

VERBAL REPORTS.

Q. How did you make report?—A. To Mr. Thurston.

Q. What report did you make?—A. To Mr. Thurston, telling him how members were on the bill.

Q. Were the reports in writing?—A. No, sir.

Q. They were verbal?—A. Yes, sir.

Q. Did you use arguments with the members?—A. No; I simply ascertained how they stood. My duties ended there.

Q. How were you paid?—A. By the Union Pacific Company.

Q. In what capacity?—A. Special agent.

Q. Was that your title while at Lincoln?—A. Yes.

Q. What was your compensation while at Lincoln?—A. My salary and expenses.

Q. What was your salary?—A. I think it was \$1,800.

Q. For the session?—A. No, sir.

Q. By the year?—A. Yes, sir.

Q. You were simply detailed for the three months of the legislature for Lincoln?—A. Yes, sir.

Q. What were your expenses?—A. I do not remember now.

Q. What do you include in your expenses?—A. I include my hotel bills generally, and cigars, and anything that comes up in that way.

Q. Hotel bills?—A. Yes; and general expenses pertaining to a thing of that kind.

ENTERTAINING FRIENDS AND MEMBERS.

Q. What general expenses would you have in a matter of that kind?—A. There is a good deal of expense in a matter of that kind. *Entertaining friends that came there.*

Q. Did you entertain friends there at Lincoln ?—Yes, sometimes.

Q. Was the entertaining at the expense of the company ?—A. Generally ; yes, sir.

Q. Would the memers of the legislature be entertained by you ?—A. If they happened to be near where I was they were always welcome.

Q. Were your expenses very large ?—A. Oh, no ; they ran, probably, from \$150 to \$200 a month. We live very moderately down there.

NO MONEY EXPENDED TO INFLUENCE LEGISLATION.

Q. Did you ever expend any money directly or indirectly for the purpose of influencing any legislation for the Union Pacific Railway Company ?—A. No, sir.

Q. Or preventing any legislation ?—A. No, sir ; I never have.

Q. Did you ever know or have you any knowledge of any one expending money for the purpose of preventing legislation ?—A. No personal knowledge ; no, sir.

Q. What other knowledge have you ?—A. No other knowledge. It never came under my observation.

Q. Have you any knowledge ?—A. No, sir ; not any.

Q. Did you have any help while you were there ?—A. Yes ; there were several there.

ALWAYS TEN OR FIFTEEN UNION PACIFIC MEN AROUND.

Q. Whom did you have to help you ?—A. I cannot recall all that were there. There are generally always ten or fifteen men around there to do whatever they are called upon to do.

Q. Were they detailed by the Union Pacific Company ?—A. I cannot say about that. I do not know who they were. They were men that were friends of the company.

Q. Were they working with you ?—A. Well, at times.

Q. How were they paid ?—A. I do not know. I never asked them how they were paid.

Q. What instructions did you receive ?—A. I cannot recall any particular instructions.

Q. Did you ever receive any ?—A. Well, I do not know that I have any particular instructions. At least I cannot recall any now, because it was some time ago.

Q. Did you have any talk with Mr. Thurston before the passage of any bill that was pending ?—A. We talked matters over every day while I was there, each evening.

ASCERTAINING HOW THE MEMBERS STOOD.

Q. What were you talking about ?—A. About the condition of bills that were before the legislature. That was the principal conversation we would have.

Q. Did you report as to the probable vote ?—A. No, sir ; I never paid any attention to that.

Q. What part of the work did you report ?—A. I generally ascertained how the members stood, whether they were adverse to a bill or favorable to it.

Q. Could the vote be ascertained on that showing ?—A. No, not always. It was very changeable down there, sometimes.

Q. How would the vote be affected?

The WITNESS. What vote do you mean?

The CHAIRMAN. Any vote. What would be the cause of the change? I refer to the change you say would be made.

"MEN OFTEN CHANGE THEIR MINDS."

The WITNESS. Men very often change their minds. I do not know what the cause of it is. In the evening they might be in favor of the passage of a bill, and in the morning they might not be so strongly in its favor.

Q. Did you secure promises from members of the legislature on bills?—A. No, sir; I never have.

Q. How have you been able to report about how they stood?—A. By conversing with them.

Q. Did they tell you how they were going to vote?—A. Generally; those I was acquainted with.

Q. How many members were you acquainted with?—A. I cannot recall them all.

Q. How many sessions did you serve?—A. That I could not tell myself.

Q. Were you there for five years—every year prior to 1884?

Mr. POPPLETON. Our sessions are biennial.

The CHAIRMAN. Then were you there every other year for some years before 1884?

The WITNESS. I really could not tell you.

Q. To what department did you render your bill?—A. I do not know any particular department. My name was on the roll and my expense account went in on a regular voucher.

Q. On a regular Union Pacific Railway Company's voucher?—A. Yes.

Q. Were you paid by their check?—A. Yes; when they were paying by checks.

EMPLOYÉS OF THE RAILROAD MEMBERS OF THE LEGISLATURE.

Q. Were there any employés of the Union Pacific Company members of the legislature during the terms you were there?—A. Yes; I think there was.

Q. In every session, did they have their employés?—A. Generally, every session. There was generally one or two from Omaha here; principally from the shops.

Q. Have you any information that you can give the Commission, or suggestions that you have to make?—A. No, sir.

OMAHA, NEBR., *Monday, June 27, 1887.*

J. M. EDDY, being further examined, testified as follows:

CONSTRUCTION COMPANY'S VOUCHER.

By the CHAIRMAN:

Question. I show you voucher No. 7681, dated July 10, 1884, "The Union Pacific Railway Company to John M. Eddy, Dr.," from Vol. 27 of Vouchers. Please explain this voucher.—Answer. I do not know

whether it is the first or second or third of these vouchers is one of these vouchers that is the summary of the whole, or

Q. What does that voucher show?—A. This voucher shows for embankment and clearing that was paid by the Union Pacific Railway Company to this construction company that did the work for their subcontractors.

Q. Who were they?—A. Well, I do not remember the names, I do not remember the title of that contracting company. It is somewhere here.

The CHAIRMAN. I think we ought to have that.

Mr. MINK. I think we can get it from the engineering department.

DEALT WITH IN NAME OF AN INDIVIDUAL.

Mr. POPPLETON. Mr. Blickensderfer will know.

Q. Then I understand your name was used by the construction company for the purpose of dealing with the Union Pacific Company?—A. Well, I would not put it that way. I would say that my name was used by the Union Pacific Railway Company for the purpose of dealing with the construction company.

THE WORK DONE BY THE CONSTRUCTION COMPANY.

Q. But what knowledge would you have of the work done by the construction company?—A. Why, the construction company did the work. I had subcontractors under me. I took the contract to build this road for so much per mile. The contract is on file somewhere here. I got a copy of it myself. And the chief engineer, Mr. Blickensderfer, who was on the ground, let this work to others, using my name as a subcontractor with authority from me to sign my name to the work.

Q. Would you not be liable?—A. Yes.

Q. Would you not ascertain whether the parties were bona fide?—A. I did do that.

THE ARRANGEMENT ONE OF CONVENIENCE.

Q. What knowledge did you gain?—A. The reputation of the parties had at that time. I must have satisfied myself. I remember the question of responsibility came up, and I knew that I was responsible for it. I knew that before I received a voucher they gave to me the receipts from the man that did the work, showing the work was done, and that they had been paid. Then this voucher was used like a drawer in a table, for convenience. I saw none of the money.

Q. Were the payments usually made by check?—A. We know how they were made. Possibly by check from this office, or possibly not.

Q. You would not indorse the checks?—A. No, the checks were made to me, but to the men who did the work. I remember being required from the auditor, or Mr. Blickensderfer, that they show me the receipts, showing that the men received the money, and that they were paid for it. I did that for my own responsibility.

The CHAIRMAN (to Mr. Mink). Would you pay a check to other than the one named in the voucher?

Mr. MINK. Yes, we would, on Mr. Eddy's receipt, or on that of our construction department. These men were working under the immediate supervision of our chief engineer, although not under Mr. Eddy. That is right, is it not, Mr. Eddy?

THE WITNESS. Yes, sir; they were working under Mr. Blickensderfer, as chief engineer, on the ground.

MR. MINK. We paid them, took their receipt, and afterwards took Mr. Eddy's receipt, because we had a contract with Mr. Eddy for the construction of the road.

"A SORT OF SMALL CREDIT MOBILIER."

Q. What position did you hold in the construction department of the Union Pacific Railway Company?—**A.** I was not in the construction department; I was simply in this as the main contractor, a sort of small credit mobilier, I suppose. My name was used as a contractor. I took the contract from the company and then made a contract with others, or Mr. Blickensderfer did for me. It was a small extension up in Idaho. The money was paid to them every month on their estimate.

Q. Did you receive any profits out of this contract?—**A.** No, sir; I did not; I was paid for my services.

Q. Your services as engineer?—**A.** No; I was paid a percentage on the contract.

Q. That was the consideration for the use of your name?—**A.** Yes, sir.

PAID WITH PERCENTAGE, NOT WITH PROFITS.

Q. What was the total cost of that road and the total amount of expenditure?—**A.** I do not remember, though I have all the papers and extracts, and I think a copy of the final estimates, though I am not sure of that. I know I did sign a receipt of the final estimate, showing the entire amount paid for the final account.

Q. What percentage did you receive?—**A.** I do not remember what the percentage was. I believe that it amounted altogether to between \$1,200 and \$1,500. I do not remember what it was. You remember, do you not, Mr. Poppleton?

MR. POPPLETON. No; I do not.

Q. Was that for the whole year or on the contract?—**A.** That was on the contract; for being responsible and knowing these contractors, and for the assistance that I gave in the business.

Q. Was that a percentage by the year or on the whole contract?—**A.** It was on the whole contract.

By MR. POPPLETON:

Q. Are you not mistaken about percentage? Was it not a fixed sum that you were to have?—**A.** It was a fixed sum. But that was based on a percentage. I remember something about it, because I remember that I did not get the percentage that I thought I ought to have.

THE CHAIRMAN. Mr. Mink, I want the company to produce the contract and all the papers bearing on this construction.

MR. POPPLETON. Mr. Eddy is mistaken about there being a construction company.

WORK DONE BY CONTRACTORS; NOT BY A CONSTRUCTION COMPANY.

THE WITNESS. No construction company, but a firm of contractors. My recollection is that they were called the Salt Lake Railway Construction Company, or something of that kind. They were men that I knew at that time.

Q. Who were they?—**A.** I do not remember who they were.

Q. What was the amount of money involved?—A. I think the ~~lin~~ cost about \$70,000, or something like that.

By Mr. POPPLETON:

Q. How many miles of road were there in it?—A. From Hailey to Ketchum.

By the CHAIRMAN:

Q. What other contracts were you interested in in which your name was used?—A. That was all.

Q. Is this the first and last time in which your name was used on the records in that way?—A. Yes, sir; that is the first and last time in connection with this company.

Q. Were the bills I have read to you, for \$16,000 and \$18,000, part of the same contract?—A. Yes; I presume they were. I do not remember. They were monthly estimates. This is the monthly estimate for July, this one that you showed me.

Q. Were you an officer of the Union Pacific Railway Company at that time?—A. No, sir.

THE OMAHA BELT LINE.

Q. What relation did the Belt Line have to the Union Pacific Company during the year 1884?—A. I do not think it had any except connections.

Q. Did the Union Pacific Company have control of the Belt Line?—A. I do not think it did. The general manager of the Union Pacific Railway Company at one time was president of the Belt Line, and at the same time general manager of the Union Pacific.

Q. Was that by reason of the controlling interest of the Union Pacific in the Belt Line?—A. No; I do not think it was. It was one of the schemes that Mr. Clark had for a good long time trying to work it up.

HOW ACQUIRED.

Q. How did they secure the controlling management of the Belt Line without the controlling interest?—A. He was the president of it.

Q. I say, how was that brought about without the controlling interest?—A. I do not think he was president, on account of his being general manager of the Union Pacific. The subscriptions, all that I got, about, were private subscriptions, and were nothing but private subscriptions at that time, 1884.

Q. Was there not an effort on the part of the Union Pacific Company to take possession of the Belt Line?—A. I think there was, sir.

Q. Was not that on the ground of ownership?—A. Well, they used almost any kind of ground they could get to stand on. I think that was one of the grounds. I think they tried to control it on the ground of ownership.

ALLEGED FRAUDULENT DEALINGS.

Q. Was not an allegation brought against Mr. Clark on account of some alleged fraudulent efforts on his part in the organization of that road?—A. I believe there was, and against myself also. I was vice-president of the company.

Q. Did the Union Pacific Company make the allegation?—A. Well, I do not know whether the Union Pacific Company—I do not know whether it was ever made or not. I think if it was ever made Mr. Poppleton, probably, made it.

SUIT BROUGHT TO ACQUIRE CONTROL.

Q. What was the basis of the suit of the Union Pacific Railway Company against the Belt Line?—A. Well, I think one of the arguments that was used was that it had been taken from the control of the Union Pacific unlawfully, illegally, or improperly, and they sought to gain control of it through the courts.

Q. During the time the Union Pacific Company claimed the ownership of the Belt Line, which they brought suit to recover, where you not an officer of the Belt Line?—A. Yes, sir.

Q. Would you regard such a position as you would regard a similar position in a leased line?—A. No, sir.

Q. Why not?—A. Because there was no lease.

Q. Were you not subject to the officers of the Union Pacific?—A. Not after Mr. Clark left the Union Pacific. Well, no, I never was. Up to that time Mr. Clark left the Union Pacific I was called the general manager; that is, I was treated by him (as president of the company) as general manager of the Omaha Belt Railway; and I cannot recall an instance where I received instructions or anything of that kind from any officer of the Union Pacific, as an official of the Union Pacific. I received it from the president of the Omaha Belt Railway. That was the only title that ever was used.

The CHAIRMAN (to Mr. Poppleton). What was the ground on which that suit was brought by the Union Pacific Railway Company against the Belt line?

HISTORY OF BELT LINE.

Mr. POPPLETON. The Belt line was organized and constructed (as far as it had been constructed, at the time the suit was brought) while Mr. Clark was general manager of the road. The directors of the Belt line company were in the employ of the Union Pacific Company, a majority of them—Mr. Clark, Mr. Burnham, and Mr. Thurston. All the work, amounting to from \$100,000 to \$125,000 in amount, that had been done on the Belt line had been paid for by vouchers made against the Union Pacific Railway Company and approved by Mr. Clark in most instances. Possibly in some instances it may not have been so done. The Union Pacific Company always understood that it was their property until Mr. Clark took the position that he did. The original subscriptions to the stock were made, mainly, by Mr. Ames. The stock subscribed was 80,000 shares, I think. Mr. Ames was a subscriber for, I think, 79,800 shares; and the balance of stock was distributed around sufficiently to make these people eligible for officers. After Mr. Clark left the Union Pacific road he took the position that that was his private enterprise, and subscribed the balance of stock, which gave him the majority in his own name. He reorganized the board of directors in such a way that he could control it, and took possession of the road and held it; and it has finally been turned over to the Missouri Pacific. The merits of the controversy, legally, have never been tried out, because, after the suit was commenced, the Union Pacific Company decided not to pursue the struggle any further, believing that the game was not worth the powder, so far as the Union Pacific was concerned.

The CHAIRMAN. What did the Union Pacific do with the interest they had in it?

Mr. POPPLETON. That, I believe, has been adjusted and paid, and Mr. Ames has been repaid the amounts that he advanced on his stock, I believe. Is not that so, Mr. Eddy?

The WITNESS. Yes.

ARBITRATION OF DIFFERENCES.

Mr. POPPLETON. There was some difference between Mr. Clark and the company as to the amount of the expenditures and the justice of the charges that were made against the Belt line for material, &c. That, I think, was arbitrated by Mr. Hayes. It was submitted to Mr. Hayes, and there was, I think, an award made on that.

The WITNESS. I may state that the Omaha Belt line has never been entirely out of the control of the Belt Railway Company. The Union Pacific never had any more control over the Belt line than the Burlington and Missouri, in Nebraska, had.

Mr. POPPLETON. But it had as much control of it as of any of these branch lines, by its board of directors, by virtue of its having its employes in the directory.

RELATIONS OF UNION PACIFIC TO BELT LINE.

The WITNESS. I will make one more remark. I believe, from the construction of the road, nothing has ever been billed, of any name or nature, contracted for for the benefit of the Belt Railway that the Union Pacific has ever been responsible for.

Mr. POPPLETON. Why, then, did Mr. Clark approve vouchers to the amount of \$125,000 against the Union Pacific Company and pay them from the treasury of the Union Pacific Company?

The WITNESS. The Union Pacific need not have paid them if it did not want to.

Mr. POPPLETON. I know the interior history of the Belt line, and I know just what happened the day after Mr. Clark put these articles on file.

The CHAIRMAN. The same relation that the main line holds to the branch lines, had the main line held to the Belt line?

Mr. POPPLETON. I do not mean to say that exactly, but I mean to say that the board of directors of the Belt line was made up by putting Union Pacific employes into it.

The CHAIRMAN. Did the Union Pacific get back at the settlement all that they paid into the Belt line?

Mr. POPPLETON. Yes, in this sense: They did not get back all they claimed, but they got back all that the arbitrator allowed.

The CHAIRMAN. Do you recall the sum?

Mr. POPPLETON. I do not recollect. The original sum was about \$120,000; but how much he allowed I do not know.

The WITNESS. The difference was in charging old steel rails as new—charging a first-class price.

Mr. POPPLETON. And another thing was that after Mr. Clark took possession it was used considerably for switching purposes for the wood men and linseed-oil men. That was put in as a set-off.

The WITNESS. So much a car.

Mr. POPPLETON. Do you recollect what the whole amount of that was?

The WITNESS. No; I do not recollect the amount; \$14,000 or \$15,000, or somewhere about that.

Mr. POPPLETON. I might say that this was the subject of a litigation; and the files of that suit will disclose the respective positions of the parties in respect to that controversy.

HISTORY OF THE DISPUTE.

IRMAN. I just wanted to get the history of the dispute in its all.

PLETON. The dispute simply arose as to whether Mr. Clark, general manager of this company, when organizing that company for himself or for the Union Pacific Company, and whether in subscribing for a great majority of the stock, subscribed for in the interest of the company. He has sworn (and his sworn file) that he made that subscription for the interest of the company and never for his own; and that he never thought of such a

IRMAN. How far did the litigation go?

PLETON. Well, it stopped, largely, at a preliminary stage. When we found that Mr. Clark intended to assert this position, we filed a lien and then we brought suit to restrain him from blocking the road. The bill was answered, and a great deal of expense taken, and a hearing had. The court refused to enjoin the advance of the work, but did enjoin the Belt line from encumbering property in any way until the Union Pacific was paid, or at least until further order of the court, which practically amounted to that stage it was decided that it was best to take the money, and get it, and let the enterprise go. As, while it might be a good deal to Mr. Gould, it was not regarded as of much value to the Union Pacific, and if it was taken by the Union Pacific it would keep it out of Gould's hands. Otherwise the litigation would have gone on. I ought to say, in this connection, that that settlement, was made against my judgment. I believe we had a case which we could have succeeded in the Supreme Court of the United States, but that was my judgment then and is now.

MR. CLARK'S ACTION.

IRMAN. Since you bring Mr. Clark's name in, you ought to tell the gentlemen that Mr. Clark did his best, by letter and every way, to have Mr. Adams take up that property; and he said that it was possibly be held.

PLETON. I am perfectly willing to say that I do not want to go so far as impeaching Mr. Clark's integrity, or fairness, or anything. I simply want to state the facts. I have no doubt it is true that Mr. Clark did correspond with Mr. Adams. I do not know if it was a fact, but I have no doubt it is true. And Mr. Adams has been slow and hesitating about taking up the enterprise. It was when he first came into the road and was not very familiar with it, and when, as I suppose, he was exceedingly cautious as to the consequences that he made. I do not want anything I have said to be taken as the disparagement of Mr. Clark, as my intention has been to state facts; that is all. If the facts hurt, why, that is not my

WHAT WITNESS' CONTRACT COVERED.

THE CHAIRMAN:

Do you any explanation to make of those vouchers, other than that made?—A. No; I do not think I have. The contract between the Union Pacific Railway Company, and the con-

tract between myself and the subcontractors are matters on file; and you can produce them probably, here.

Mr. POPPLETON. Certainly, they can be produced.

The WITNESS. I have a copy of them myself which I will not hesitate to produce if you do not get the other. When you read them you will understand it entirely.

Mr. POPPLETON. The whole transaction is perfectly open and above board. There is one question I would like to ask Mr. Eddy.

The CHAIRMAN. You may do so.

By Mr. POPPLETON:

Q. Your contract covered not only grading but ironing and equipment?—A. Yes, sir.

Q. That is, you took the contract to deliver a completed road?—A. Yes, sir.

WHY UNION PACIFIC DID NOT CONSTRUCT THE ROAD.

By Commissioner LITTLE:

Q. What is the reason this company could not have constructed these ten miles of road without any intervening agency, such as the contract you mention?—A. I do not know any reason why they could not have done it; but, in my judgment, it was very much better for them to have done it the way they did.

Q. You say Colonel Blickensderfer was on the ground superintending it?—A. He was there two or three times.

Q. Did he pay out this money to the subcontractors?—A. Either he or the subengineer immediately under him, or some agent he sent there.

Q. I still do not understand why it was not perfectly safe for the company, through their chief engineer, to go on and pay the bills just as they did pay them through you?—A. Well, the question of responsibility of the contractors, I suppose, would govern it.

Q. How long have you lived in Nebraska and in Omaha?—A. I came into Nebraska in the winter of 1855 and 1856.

Q. To what extent are you acquainted with the people of Nebraska along the line of the Union Pacific and its branches?—A. Well, I am not very well acquainted with them now. I was up to, say, ten years ago, quite well acquainted; in fact, with all the old original "back numbers" in all the towns. I knew them all.

PUBLIC SENTIMENT MIXED AS TO SERVICE OF UNION PACIFIC.

Q. What is the public sentiment of the people along the line of this road as to the sort of service the company furnishes the people?—A. Well, it is mixed. It is like every railroad in that respect, that goes through a town where there is no other railroad. There are a great many people that have complaints. Some of them probably are just, but generally they are unjust. They are all astonished when another fellow builds a railroad there to find that he is just as bad and perhaps worse.

Q. What is your opinion, as a railroad man and knowing something of the modes of business and the rates of transportation charged by the Union Pacific, as to the fairness with which they conduct their business with the public?—A. Well, I am not competent to answer that, because I do not know anything about their rates. I know more about the service than I do about the rates.

NO GENERAL COMPLAINT.

Q. Do you know of any general complaint along the line of this road or its branches anywhere, as to the manner in which the people are being treated by the company?—A. No, sir; I do not. That is, no more than as to the road that I represent here—the Missouri Pacific, or any other railroad.

Q. Do you mean to say that there is a disposition on the part of the people to speak unkindly of any railroad?—A. Well, there is a percentage of people in the West here that never have anything good to say of railroads. It would be very difficult for them to say why it is so, or for anybody else to explain it; that is, according to my observation.

Q. Do you think of any information that would be of interest to the Government or this Commission, which you have not already imparted?—A. No, sir; I do not know of anything.

THE UTAH CONTRACT COMPANY.

By the CHAIRMAN:

Q. (Handing a paper to witness). Will you look at this contract and see if you can recall by reading it any of the names of the people connected with the company who did the work of building that piece of road you have been testifying about?—A. There is another contract; I see the company is called the Utah Contract Company.

Q. Who compose the company?—A. I have forgotten now; they are men that I used to know, though a long time ago. I know that a man named Doremus was superintendent of it; I see that my name is signed to it by Mr. Blickensderfer—he had a power of attorney from me to do so.

The contract is as follows:

CONTRACT BETWEEN JOHN M. EDDY AND THE UTAH CONTRACT COMPANY.

This agreement, made this 11th day of June, A. D. 1884, by and between John M. Eddy, of the first part, and the Utah Contract Company, of the second part, witnesseth: That the said party of the second part agree to do all the grading of the extension of Wood River Branch of Oregon Short Line Railway, Ketchum, together with all aidings, Y's, roadways, ditches, creek channels, or other works connected therewith, or rendered necessary thereby, and also all culverts, bridges, masonry or other work of any kind, as may be required by the engineers in charge of said work, except so much of the bridging as may be assumed by the party of the first part, if any. Said work to be performed in such manner as shall in all respects conform to the annexed specifications and the instructions of the engineers of said Oregon Short Line Railway in charge of said work, and to the following conditions:

(1) The work will be commenced immediately, and be entirely completed by the 1st day of August, 1884.

(2) The work shall be performed under the direction and supervision of the division engineer and his assistants in charge of said work, by whose measurements and calculations the amount of work performed under this contract shall be determined, and who shall have full power to condemn and reject any or all work which in his opinion is unsatisfactory, or does not fully conform to the spirit of this agreement, the whole to be under the supervision and subject to the approval of the chief engineer of the Union Pacific Railway Company. And said chief engineer shall decide all questions which may arise between the parties hereto relative to said work, or its execution, and his decision, in the nature of an award, shall be final and binding upon parties to this contract.

(3) If the said party of the second part shall fail to prosecute the work proper dispatch, the said party of the first part shall have full power to give ten days' notice to the party of the second part by said chief engineer in charge of the work) to put on such additional force of men as in the judgment of the chief engineer of the Union Pacific Railway Company may be necessary to complete the work in the time specified, and to employ such additional necessary forces, and charge the same to the account of the said party of the second part.

to said party on this contract. Or, in case of such failure to prosecute the work with proper dispatch as aforesaid, the said chief engineer may (after giving ten days' notice to said second party) declare said contract forfeited and abandoned, which declaration shall absolve said first party from all obligations under or in any wise growing out of this agreement.

(4) No extra charge shall be claimed or allowed on account of changes in either the line or grade of the road, nor for hindrances or delays in obtaining right of way, nor from any other cause; but in case of delay the contractor will be entitled to an extension of time for the completion of the work, sufficient to compensate for such detention, to be determined by the chief engineer of the Union Pacific Railway Company.

(5) None but competent foremen, mechanics, and workmen shall be employed on said work, and any person or persons whom the party of the first part or the chief engineer of the Union Pacific Railway Company considers incompetent or disorderly, shall be immediately discharged by the party of the second part, and shall not again be employed upon said work without the consent in writing of the chief engineer of the Union Pacific Railway Company.

(6) No part of the work to be performed under this contract shall be sublet or transferred without the written consent of the chief engineer of the Union Pacific Railway Company, and no such written consent shall release the party of the second part from any obligation either to the party of the first part or to the persons employed by the subcontractor; and in all such cases the subcontractors will be considered merely as foremen employed by the party of the second part, and liable to be discharged by the party of the first part, or by the division engineer, for incompetency, neglect of duty, or misconduct.

(7) Said second party shall be subject to the laws of Idaho Territory regarding liens for labor and materials furnished for said work, and shall protect or indemnify said first party against all legal claims or liens against the work for labor or materials furnished said second party; and the said first party may, whenever they may deem it proper or expedient to do so, pay to the laborers or other persons employed by said second party, or who may have furnished materials for said work, out of any moneys due for any monthly or other estimates, any sums due for labor, services, or materials, under this contract, and charge the same to the party of the second part as so much paid on this contract.

It is understood and agreed that there shall be but three classes of excavation, viz: Earth, loose rock, and solid rock.

Solid rock of whichever class shall consist of rock in place, which can only be removed by blasting, and all detached masses or boulders exceeding in size one cubic yard.

Loose rock shall consist of rock in place, whatever its character, which can be removed without the use of gunpowder, or detached masses or boulders exceeding in size one cubic foot, but less than one cubic yard.

Earth shall include all material not included in the classes of loose and solid rock.

In consideration of the faithful performance of said work, and of all the conditions of this agreement, and the specifications hereto attached, said first party promises and agrees to pay said second party as follows:

For grubbing and clearing	per acre..	\$25 00
For earth excavation	per cubic yard..	20
For loose rock excavation	do	
For solid rock—sandstone excavation	do	
Limestone excavation	do	
Lava excavation	do	
Granite excavation	do	
For embankment	do	17½
For riprap	do	

For overhaul per 100 feet per cubic yards three cents.

For wooden box culverts, in place, sixty dollars per 1,000 feet.

Transportation for reasonably required tools, teams, and laborers to be furnished to second party both ways; and for any other work such price as may be fixed by the chief engineer of the Union Pacific Railway Company.

An estimate of the relative value of the work done shall be made on the basis of the prices herein, on or about the last day of each month, by the engineer in charge, subject to the approval of the chief engineer of the Union Pacific Railway Company, and on or about the 20th day of the succeeding month the amount of said estimate, deducting 10 per cent., shall be paid to said party of the second part, said retained percentage to be paid when the work shall have been fully completed as herein provided, and received and accepted by the division engineer in charge of said work, and said acceptance approved by the chief engineer of the Union Pacific Railway Company, and when in addition said second party shall have executed to said first party

ceipt and release in full of all claims and demands whatsoever (either directly or indirectly) arising upon or growing out of this contract or any stipulation thereof, the performance of work under the same.

A testimony whereof, the parties have hereunto set their hands and affixed their seals the day and year first above written in duplicate.

JOHN M. EDDY,
By J. BLICKENSDECKER,
UTAH CONTRACT COMPANY,
By A. F. DOREMUS,
Superintendent.

Grading specifications.

(.) The dimensions of the work in all its parts shall be determined by the chief engineer of the Union Pacific Railway Company, and may be varied from time to time as may deem necessary.

(2) A berme not less than five feet in width shall be left between the slope stakes on embankments and adjacent borrow pits; and no material shall be wasted within ten feet of the slope stakes of cuts.

(3) Loose rock and solid rock, when in place, shall be measured in place, and when bowlders, each separate boulder shall be measured by itself.

(4) Embankments shall be measured in embankment when the same is finished, graded, ready for the track, and accepted, and only the net width and height allowed; any additional height deemed proper, to allow for shrinkage, shall be added by the contractor without being included in the measurement.

(5) All embankments will be paid for, and all material necessarily excavated, either in prism of road, ditches, channels, or elsewhere, shall be placed in the embankment without charge or any allowance therefor, except as embankment, unless the same is necessarily hauled more than one thousand (1,000) feet, in which case a price for overhauling the same into embankment will be allowed in addition to the embankment price, for which overhaul contractors will bid per one hundred feet of overhaul per yard.

(6) No earth excavation, whether in prism of road, ditches, channels, pits, or otherwise, will be paid for unless the material must necessarily be wasted, and then it will be measured in place before being moved. Loose and solid rock excavation will be paid for, but when excavated it shall if required be placed in the embankments without additional charge, and the quantity as measured in place be deducted from the embankment, but if to place it in embankment it is necessarily hauled more than one thousand feet, overhaul will be allowed.

(7) Material borrowed for embankments shall be taken from the places designated by the engineer in charge, and shall in no case be measured in the borrow pit, unless necessity requires the use of rock as borrowed material, in which case the rock shall be measured in place and classified and paid for as rock excavated from the prism of the road, and the quantity, as measured in place, deducted from the embankment; but for any borrowed material necessarily hauled more than one thousand feet the price for overhaul will be allowed in addition to the price for embankment.

(8) All material within the limits of the right of way belongs to the party of the first part, and all work or material upon which an estimate or any payment shall have been made shall be deemed the property of said first party.

(9) Side ditches and surface drains shall be made at all places directed by the engineer in charge; and all borrow pits shall be so left that water will drain off them and leave no stagnant pools.

(10) No stumps, logs, brush, or other perishable matter will be permitted to occupy any portion of the embankments.

(11) In finishing the tops of banks and the bottoms of cuts, care must be taken to leave no cart tracks or other depressions which might lead the water in the direction of the length of the road. As far as practicable embankments will be commenced at all width at bottom, keeping the sides at all times as high as the center, and thus graded up till finished, in layers not more than three feet in thickness.

(12) Commodious passing places for public and private roads shall be made and kept in good condition by the contractor, and he will provide and maintain good and efficient fences for keeping up inclosures and the preservation of crops. The contractor shall be held responsible for trespass or damage to the adjacent properties or to public for any acts or omissions on the part of himself or his subcontractors or employes; and any damage so caused may be paid by the party of the first part and deducted from any moneys due or to become due to the contractor.

(13) Contractors must carefully preserve stakes and bench-marks, and in case of neglect they will be charged with the expense of restoring them.

(14) Contractors shall take all risks from floods and casualties of every kind, or of any loss of material in building embankments in water or in streams, and shall have no claims for loss, damage, or detention thereby.

(16) All damage occasioned by blasting of rocks, in the progress of the work, or any injury done by the contractors or those in their employ to the crops, fences, buildings, or other property of the party of the first part, or of the adjoining land owners or occupants, shall be paid by the contractors, or may be paid by the party of the first part and charged to the contractors.

(16) Contractors shall not, by themselves nor by their agents, give or sell any ardent spirits to their workmen, or any person at or near the line of the railway, nor allow any to be brought to work by the laborers or any other persons.

(17) Contractors must inform themselves of the nature of the soil and character of the work before making their contracts, and no information derived from profiles, maps, plans, or specifications, or from the engineer or his assistants, will relieve contractors from risks or responsibilities or from fulfilling the terms of the contract, and no plea that any work or material has been approved or accepted shall bind the party of the first part to receive or pay for any which is intrinsically bad.

(18) The engineer in charge shall have power to direct the application of force to any portion of the work which in his judgment requires it; and to order the increase or diminution of force to any point he may direct.

(19) Grubbing and clearing shall be of such width as the engineer in charge may direct. In all excavations, and under all embankments of less than two feet in height, the trees and stumps must be grubbed.

(20) Material taken from the enlargement or changing of creek channels or water-courses must be put into embankments, if required by the engineer, subject to the same conditions as any other excavated material.

(21) Whenever necessary, in the opinion of the engineer, embankments shall be protected by riprap; but when stone is excavated from rock cuts and placed in such embankments the same shall be placed on the outside or exposed points to protect embankments; and no allowance be made for riprap.

(22) No material shall be borrowed from between the line of the railway and an adjacent stream, where the natural surface is below high-water mark, and where above high-water mark no borrow pits shall in such cases be excavated to a depth below high-water mark.

The following contract and specifications were also shown witness:

CONTRACT BETWEEN OREGON SHORT LINE RAILWAY AND JOHN M. EDDY.

Memorandum of agreement made this 5th day of June, A. D. 1884, between the Oregon Short Line Railway Company and John M. Eddy, of the city of Omaha, county of Douglas, State of Nebraska, witnesseseth:

That the said Eddy, in consideration of the payments and stipulations hereinafter contained, hereby agrees to construct a railroad from Hailey, Idaho Territory, the terminus of the Oregon Short Line Railway, to Ketchum, in the Territory of Idaho, upon such route and between such points as may be determined upon and designated by said Oregon Short Line Railway Company, such road to be built in accordance with the specifications hereto attached, which are made a part of this agreement, said road to be completed with the necessary complement of station and section houses, water-tanks, round-houses, and turn-tables, machine shops, sidings, &c., in running order, as rapidly as practicable and deliverable to the Oregon Short Line Railway Company in finished sections of not less than 5 miles each.

And said Eddy further agrees to furnish, in addition to the construction of said road, an equipment of motive power and rolling stock adequate to the requirements of the road and its traffic at the time of its completion, and to the satisfaction of the general manager and chief engineer of the same.

In consideration of the building of the said road and the full and complete performance of the stipulations hereinbefore contained said railway company, upon the completion and delivery of said road, as hereinbefore provided, agrees to pay to the said Eddy \$20,000 per mile of the first-mortgage bonds of the said company and \$20,000 per mile of the full paid capital stock of the said company for each and every mile of railroad constructed by the said Eddy aforesaid, said first-mortgage bonds and stock being estimated at par value.

It is further agreed that the said railway company may retain out of the consideration agreed to be paid to said Eddy such an amount of said bonds and stock as it may deem necessary for the purpose of insuring the performance of the stipulations contained in this agreement.

In witness whereof the said railway company has caused the signature of its general manager to be hereto affixed, and its corporate seal to be hereunto attached, and the said Eddy has hereunto set his hand this 5th day of June, A. D. 1884.

OREGON SHORT LINE RAILWAY COMPANY.
By S. H. H. CLARK.
JOHN M. EDDY.

Specifications.

(1) The dimensions of the work in all its parts shall be determined by the chief engineer of the Union Pacific Railway Company, and may be varied from time to time as he may deem necessary.

(2) A berme not less than 5 feet in width shall be left between the slope stakes of embankments and adjacent borrow pits; and no material shall be wasted within 15 feet of the slope stakes of cuts.

(3) Loose rock and solid rock, when in place, shall be measured in place, and when in boulders, each separate boulder shall be measured by itself.

(4) Embankments shall be measured in embankment when the same is finished, settled, ready for the track, and accepted, and only the net width and height allowed; but any additional height deemed proper, to allow for shrinkage, shall be added by the contractor without being included in the measurement.

(5) All embankments will be paid for, and all material necessarily excavated, either from prism of road, ditches, channels, or elsewhere, shall be placed in the embankments without charge or any allowance therefor, except as embankment, unless the same is necessarily hauled more than 1,000 feet, in which case a price for overhauling the same into embankment will be allowed in addition to the embankment price, for which overhaul contractors will bid per 100 feet of overhaul per yard.

(6) No earth excavation, whether in prism of road, ditches, channels, pits, or otherwise, will be paid for unless the material must necessarily be wasted, and then it will be measured in place before being moved. Loose and solid rock excavation will be paid for, but when excavated it shall, if required, be placed in the embankments without additional charge, and the quantity as measured in place be deducted from the embankment, but if to place it in embankment it is necessary to haul more than 1,000 feet, overhaul will be allowed.

(7) Material borrowed for embankments shall be taken from the places designated by the engineer in charge, and shall in no case be measured in the borrow pit, unless necessity requires the use of rock as borrowed material, in which case the rock shall be measured in place and classified and paid for as rock excavated from the prism of the road, and the quantity, as measured in place, deducted from the embankment; but for any borrowed material necessarily hauled more than 1,000 feet the price for overhaul will be allowed in addition to the price for embankment.

(8) All material within the limits of the right of way belongs to the party of the first part, and all work or material upon which an estimate or any payment shall have been made shall be deemed the property of said first party.

(9) Side ditches and surface drains shall be made at all places directed by the engineer in charge, and all borrow pits shall be so left that water will drain off them and leave no stagnant pools.

(10) No stumps, logs, brush, or other perishable matter will be permitted to occupy any portion of the embankments.

(11) In finishing the tops of banks and the bottoms of cuts care must be taken to leave no cart tracks or other depressions which might lead the water in the direction of the length of the road. As far as practicable, embankments will be commenced at full width at bottom, keeping the sides at all times as high as the center, and thus carried up till finished, in layers not more than 3 feet in thickness.

(12) Commodions passing places for public and private roads shall be made and kept in good condition by the contractor, and he will provide and maintain good and sufficient fences for keeping up inclosures and the preservation of crops. The contractor shall be held responsible for trespass or damage to the adjacent properties or the public for any acts or omissions on the part of himself or his subcontractors or employés; and any damage so caused may be paid by the party of the first part, and deducted from any moneys due or to become due to the contractor.

(13) Contractors must carefully preserve stakes and bench-marks, and in case of neglect they will be charged with the expense of restoring them.

(14) Contractors shall take all risks from floods and casualties of every kind, or of possible loss of material in building embankments in water or in streams, and shall make no claims for loss, damage, or detention thereby.

(15) All damages occasioned by blasting of rocks, in the progress of the work, or any injury done by the contractors or those in their employ to the crops, fences, buildings, or other property of the party of the first part, or of the adjoining land owners or occupants, shall be paid by the contractors, or may be paid by the party of the first part and charged to the contractors.

(16) Contractors shall not, by themselves nor by their agents, give or sell any ardent spirits to their workmen, or any person at or near the line of the railway, nor allow any to be brought to the work by the laborers or any other persons.

(17) Contractors must inform themselves of the nature of the soil and character of the work before making their contracts, and no information derived from profiles, maps, plans, or specifications, or from the engineer or his assistants, will relieve con-

tractors from risks or responsibilities or from fulfilling the terms of the contract, and no plea that any work or material has been approved or accepted shall bind the party of the first part to receive or pay for any which is intrinsically bad.

(18) The engineer in charge shall have power to direct the application of force to any portion of the work which in his judgment requires it, and to order the increase or diminution of force at any point he may direct.

(19) Grubbing and clearing shall be of such width as the engineer in charge may direct. In all excavations, and under all embankments of less than 2 feet in height, the trees and stumps must be grubbed.

(20) Material taken from the enlargement or changing of creek channels or water-courses must be put into embankments, if required by the engineer, subject to the same conditions as any other excavated material.

(21) Whenever necessary, in the opinion of the engineer, embankments shall be protected by riprap; but when stone is excavated from rock cuts and placed in such embankments, the same shall be placed on the outside or exposed points, to protect embankments, and no allowance be made for riprap.

(22) No material shall be borrowed from between the line of the railway and an adjacent stream where the natural surface is below high-water mark, and where above high-water mark no borrow pits shall in such cases be excavated to a depth below high-water mark.

The following contract was also shown witness :

CONTRACT BETWEEN CHARLES FRANCIS ADAMS, JR., PRESIDENT, AND JOHN M. EDDY.

Memorandum of contract, made this 5th day of June, 1884, between Charles Francis Adams, jr., of Boston, Mass., as president of the Union Pacific Railway Company, party of the first part, and John M. Eddy, of Omaha, Nebr., party of the second part, witnesseth :

Whereas the Oregon Short Line Railway Company did, on the 5th day of June, 1884, make a written contract with the said John M. Eddy for the construction and equipment of the Oregon Short Line Company from the town of Hailey, in the Territory of Idaho, to Ketchum, in the same Territory, whereby the said Eddy undertook to build and equip the said line according to the terms and specifications of said contract, for the first-mortgage bonds and capital stock issued upon the line so constructed, to the amount of \$20,000 per mile, par value, of the first-mortgage bonds, and \$20,000 per mile, par value, of the capital stock of said company; and

Whereas said Eddy is desirous of raising money to execute the said contract, and the said party of the first part, on behalf of said Union Pacific Railway Company, is willing to advance and furnish the amount necessary to the execution and completion of said work upon the considerations hereinafter stated :

Therefore this contract is made as follows :

In consideration of the stipulations and agreements hereinafter contained, the said party of the first part, as such president and not individually, agrees to advance from time to time, according to the needs of said Eddy in the execution of said contract, all moneys necessary for the construction of said work when the same shall be required by the said Eddy in the prosecution of said work; such advances in no case to exceed the amount actually required for the construction of said road according to the terms of said contract.

In consideration of the foregoing stipulations, and the fulfillment thereof according to their tenor and effect, the said Eddy hereby contracts and agrees, upon receiving the said first-mortgage bonds and capital stock of said Oregon Short Line Railway Company, as stipulated and provided for in said contract with said company for the construction of the road aforesaid, to convey and assign the same, without further or other consideration than a reasonable compensation for his services, not exceeding ——— dollars, to the [said] Charles Francis Adams, jr., as trustee for the said Union Pacific Railway Company, in payment and satisfaction of the cash advances hereinbefore stipulated for; and the said party of the first part hereby agrees to accept the same in full satisfaction of all claims against said Eddy on account of said advances.

In witness whereof the parties have hereunto set their hands the day and year first above written.

CHARLES FRANCIS ADAMS, JR.,
President Union Pacific Railway Company.
JOHN M. EDDY.

The following telegram was submitted :

TELEGRAM FROM MR. ADAMS TO MR. CLARK.

BOSTON, MASS., Aug. 20, 1884.

To S. H. H. CLARK, *Omaha, Nebr.* :

Thought contract between Eddy and the Oregon Short Line in regard to Ketchum extension had been executed. Was it not presented to me? If it has not been executed, you can execute it on behalf of the company.

CHARLES F. ADAMS, JR.

The following letter was submitted :

LETTER FROM SAME TO SAME.

UNION PACIFIC RAILWAY COMPANY
(195 Broadway), New York, August 27, 1884.

MY DEAR SIR : Referring to your favor of the 21st inst., covering memorandum of contract in regard to Hailey extension, I inclose the said contract, duly executed by me. You will be so good as to hand the within contract to Mr. Poppleton, as at my request it has been changed in certain respects to conform to the views I have heretofore expressed to you.

The changes in question have been made under the advice of Judge Dillon, from whose office the present contract came.

I am, very truly, yours,

CHARLES F. ADAMS, JR.,
President.

S. H. H. CLARK, Esq.,
General Manager, Omaha.

The following letter was submitted :

LETTER FROM MR. POPPLETON TO MR. CALLAWAY.

OMAHA, September 5, 1884.

DEAR SIR : Referring to letter of your predecessor of August 30, inclosing to me contract between Charles Francis Adams, jr., president and trustee, with J. M. Eddy, in which I am asked if I have any suggestions to make to them to you, I see no objection to the legal aspects of the contract.

I return (1) President Adams's letter of August 27 to general manager; (2) contract referred to.

Yours, respectfully,

A. J. POPPLETON,
General Attorney.

S. R. CALLAWAY, Esq.,
General Manager, Omaha.

THE PURPOSE OF THE AGREEMENT.

Q. What was the purpose of that last agreement?—A. Well, I should say that the contract itself discovers what the purpose was.

Q. Why was it necessary to make conveyance back to Mr. Adams of this property by this last agreement?—A. I suppose they wanted to be certain they owned it themselves.

Q. Was not the purpose to bond and stock the road to the extent of \$40,000 per mile?—A. Thirty thousand dollars, I think.

The CHAIRMAN. No; \$40,000; \$20,000 in stock, and \$20,000 in bonds, and then give it back to the company at the amount of \$20,000 per mile, whereas you get simply the cost of construction, or \$12,000 per mile.

The WITNESS. It does not say there what the cost is.

Q. Well, but is not that the fact?—A. That part of it is the supposition; but you have not yet discovered what the railroad cost per mile. You say \$12,000.

THE AVERAGE COST OF CONSTRUCTING OREGON SHORT LINE.

Q. Well, what do you say?—A. The vouchers will show. But it is nearer \$30,000 than \$12,000. That is, the equipping and building the road. The final estimates that are on file somewhere will show.

Q. What is the average estimate of the cost of construction? Of course some miles, I suppose, would cost more than others?—A. Well, what do you call the construction of a railroad—the grading and the iron and right of way?

The CHAIRMAN. I am asking you.

Mr. POPPLETON. The thing covered by your contract, which is to construct and equip that road.

The WITNESS. That contract does not state specifically about equipment. The matter of equipment may be anything from \$10,000 to \$30,000. It is one thing to put a road in shape for equipment, and another to equip it.

WHAT WITNESS DID UNDER HIS CONTRACT.

Q. What did you do under this contract—under your contract with Mr. Adams?—A. Graded and made the ties and track, and furnished a certain amount of rolling stock. I do not remember what that was.

Q. Was the road built and equipped by you?—A. Yes. Well, I will not say it was equipped. It was built under my contract and equipped under my contract, too.

Q. What was the total amount of the contract?—A. I do not remember what it was. I should have to refresh my memory.

Q. What was the length of the road covered by your contract?—A. I do not remember the exact length.

Q. Was it the whole 600 miles of the Oregon short line?—A. It was the distance between Hailey and Ketchum.

Q. What was the distance between Hailey and Ketchum?—A. I do not know, exactly.

Mr. POPPLETON. It is about twelve miles.

The WITNESS. About that.

Q. Who had the contract for the Oregon shortline?—A. Oh, that had been built before; I do not know anything about that.

PAPER COST vs. CASH COST.

Q. I want to understand how this stands. Under these contracts the Union Pacific Railway Company received this road that you built in stocks and bonds at \$40,000 per mile. Whereas the actual cost by you was between \$24,000 and \$30,000 per mile. Is that true?—A. Well, I do not say what it was.

Q. Was it \$40,000?—A. I could not say that; and there is no way of my knowing it without knowing how much of this rolling stock was furnished. The Union Pacific bought the rolling stock for this additional extension. I did not buy it.

Q. But under the contract you were to furnish it?—A. Well, I understand that. I mean by not buying it that actually I did not do it. If I had done it I would have remembered it. But the final estimate, the statement of the final results of the contract, has all that in. I do not remember what it was.

Q. When was the contract modified?—A. It never has been modified.

CASH COST FIFTY PER CENT. LESS.

Q. Was the actual cost of the road and its equipment, under the contract, the amount named in the agreement with Mr. Adams?—A. Well,

the sum named in the contract is the par value of stock and bonds which, the probabilities are, were not worth par. If they were worth 50 per cent. it was as much as they were worth.

Q. Then, if it was 50 per cent., the actual cost would be \$20,000, would it?—A. I do not know what the stock or the bonds were.

Q. Well, I have read to you what the stock and bonds were, \$20,000 in bonds and \$20,000 in stock per mile. Was that the actual cost for construction paid to you?—A. I do not understand your question exactly.

Q. What is the difficulty about it?—A. Your question would require me to know the value of the stock and bonds. I do not know what they were worth.

Q. I ask you what was the cost of the construction and equipment of the road you built, under your contract with the Union Pacific Railway Company that I read to you?—A. I can answer that. I answer that I do not know, and would have to refer to the papers on file. The final estimate, which has a statement covering all the cost, would show, I suppose.

The CHAIRMAN. Mr. Mink, I call upon you to produce to the Commission a statement of the actual amount paid to Colonel Eddy as an engineer, on account of this contract.

Mr. MINK. In the way of compensation, or under the contract?

The CHAIRMAN. In the way of compensation and also for construction.

DESCRIPTION OF COUNTRY FROM HAILEY TO KETCHUM.

By Commissioner LITTLE:

Q. Give a description of the country through which these 12 miles of road were built.—A. It is a rough mountainous country.

Q. What are the grades?—A. I do not remember what the maximum grade is.

Q. By what name is that particular piece of road known?—A. It is called the Hailey Extension, I think.

Mr. POPPLETON. It is called the Ketchum Extension.

Q. Did you have the contract for the Wood River branch also?—A. No.

DESCRIPTION OF CONSTRUCTION.

Q. Were there any streams to be crossed, any large bridges to be built?—A. No.

Q. No extensive tressle work or bridge work?—A. No; not very extensive.

Q. Do you know what kind of equipment was put on under this contract?—A. No, I do not.

Q. What does it cost, in cash, to build a road through that sort of country, as this road was built, and equip it in first-class style?—A. Well, I would not offer a guess at the cost of a road in that country without knowing all about it.

Q. Were the cuts through solid rock, or how?—A. There was some rock; but most of it was ordinary work.

Q. Did you have to blast much?—A. I do not remember now whether there was much blasting; but there was some. You could not go far in that country without hitting rock.

Q. What was the highest grade?—A. I do not remember the highest grade was.

Q. When was this work commenced and when completed?—A. It was commenced in June, I think, 1884, and completed that season.

Q. What kind of ties and what kind of iron or steel was used?—A. I do not remember the kind of steel.

Q. Do you know what steel was worth delivered there?—A. I do not.

Q. Do you know what it was worth in the markets?—A. I think it was worth \$33 or \$34 a ton.

Q. What kind of ties were used?—A. I do not remember what they were. I think they were ties made from wood found there.

Q. Do you regard the road, as completed, as a substantial, durable structure?—A. Yes, sir; as much so as any road, probably, that there is in the State.

Q. You still think that the road, with its equipment, must have cost from \$25,000 to—how much?—A. Well, I would simply say, I do not know what it cost with its equipment.

WITNESS' COMPENSATION AND METHOD OF SUPERVISION.

Q. Your entire profits arising from this transaction were \$1,200 or \$1,500, I understand you?—A. I do not say that that was my profits. I was paid for my services as an engineer, and for other business connected with the contract what I suppose would be a percentage; but it was less than \$1,500. That is not my profit, however. There were some miscellaneous expenses, such as traveling expenses.

Q. How much time did you devote to this matter?—A. Well, I devoted, probably, at different times, an hour or two a day; sometimes five minutes; sometimes a day or two.

Q. Were you in that part of the country during the time?—A. Yes; I was there during the time; but I did not give it attention on the ground. Most of my business and most of my work was here in Omaha. In fact, I will say it was all done here, for that that was out there was attended to by men on the ground.

By Mr. POPPLETON:

Q. Figuring the bonds at par and the stock at, say, 30 cents (about the present market price of the Oregon Short Line) makes the amount \$30,000 per mile. Would you regard that as an unusual price for the construction and equipment of the road?—A. Well, I will say this: I would not build and equip the road for the \$20,000 in stock and \$20,000 in bonds and take the chances of getting what I could for the stock and bonds, and I do not think there is any man on the earth that would.

PLAN BY WHICH UNION PACIFIC ACQUIRED CONTROL.

By Commissioner LITTLER:

Q. As I understand, the payment was made in stocks and bonds of the Oregon Short Line?—A. Yes.

The CHAIRMAN. Less the cost of construction. Mr. Adams only got the actual cost, and immediately conveyed back, under this subsequent agreement, the excess of bonds and stock per mile.

Mr. POPPLETON. Mr. Eddy got the stock and bonds and Mr. Adams advanced him the money.

The CHAIRMAN. But Mr. Eddy made, on the same day, an agreement by which Mr. Adams got the difference.

Mr. POPPLETON. Mr. Eddy received the stock and bonds and Mr. Adams advanced the money to perform the contract. Mr. Eddy conveyed the stock and bonds to Mr. Adams in cancellation of that debt.

The CHAIRMAN. One agreement provides for that, less the actual cost.

Mr. POPPLETON. No, there is no "less" about it. The fact was, that Mr. Adams bore the actual expense of twelve miles of road, and in return he got the stock and bonds.

The CHAIRMAN. It looks to me a little like the system pursued by the Credit Mobilier, as has already been testified.

Mr. POPPLETON. There is no resemblance to the Credit Mobilier except that there is a middle party here, who got about \$1,200 or \$1,500.

The CHAIRMAN. I want to say to you, gentlemen, that in Boston Mr. Adams estimated the cost of this road (he may have been mistaken, however) at \$24,000 per mile.

Mr. MINK. That was the whole Oregon Short Line.

The CHAIRMAN. Yes; of which this is a part.

OMAHA, NEBR., Monday, June 27, 1887.

JOHN R. MANCHESTER, being duly sworn and examined, testified as follows:

By the **CHAIRMAN**:

Question. What is your business?—**Answer.** Claim agent of the Union Pacific Railway Company.

Q. How long have you been such?—**A.** Two years.

Q. What were you before?—**A.** Assistant claim agent for two years.

Q. What before that?—**A.** I was county clerk of this county; Douglas County.

DUTIES OF CLAIM AGENTS.

Q. What were your duties as claim agent?—**A.** To settle all classes of claims except for goods in transit; personal injury, stock, fire, &c.

Q. Have you named all the duties that you performed while connected with the Union Pacific Company?—**A.** No. I also purchased the right of way for the company a good deal in this State.

Q. What other duties did you have?—**A.** Anything that might be assigned to me by the superintendent or general attorney.

Q. What has been assigned to you?—**A.** I do not know that I could say; I could tell you a great many things that have been assigned to me.

The CHAIRMAN. Tell us a few. Were you ever assigned to visit Lincoln to look after legislation?

The WITNESS. Not specially; no, sir.

CONCERNING LEGISLATION.

Q. Generally, were you?—**A.** Yes, sir.

Q. How often?—**A.** Whenever the legislature was in session.

Q. How many times have you visited the legislature on behalf of the Union Pacific Company?—**A.** Three times.

Q. At whose request did you go there?—**A.** At the request of Mr. Thurston.

Q. Were you receiving a compensation as employé while there?—**A.** Yes.

Q. What additional compensation did you receive while there?—**A.** Not any.

Q. What was your compensation ?

The WITNESS. At the present time, do you mean ?

The CHAIRMAN. No, at that time.

The WITNESS. Two hundred dollars a month.

Q. How many legislatures did you visit ?—A. I think about five.

Q. Did you stay all through the session ?—A. Yes ; I think I have been there five sessions.

Q. What was your special line there ?—A. To look after the company's interests generally.

NEBRASKA RAILROAD LEGISLATION LAST SESSION.

Q. What interest did they have in the last legislature to look after ?—A. Nothing special, except legislation that might be against the railroad interests.

Q. What legislation was in the last legislature ?—A. There was no legislation when I was there.

Q. What were you doing there then, if there was none ?—A. There was none that passed, I meant to say, that was against their interests at all.

Q. What legislation was presented ?—A. I do not know that I could tell, from memory. There were a good many bills there.

Q. How many bills in which the Union Pacific Railway Company were interested ?—A. I do not know that there was any that they were specially interested in.

Q. What were you doing there then ?—A. To see if there was any.

Q. Was there any ?—A. There was some that I thought they were interested in.

Q. What were they ?—A. Railroad legislation, we called it generally.

Q. Well, name some of it ; name one bill.—A. We knew them, generally, by their numbers ; I do not remember them now.

BILL NO. 192, TO CREATE A COMMISSION.

Q. Name the number of one bill.—A. Number 192, I think, was one bill.

Q. How do you recall the number and not the purpose of the bill ?—A. Well, it was what we term railroad legislation.

Q. In what sense was bill No. 192 railroad legislation ?—A. I could not tell you without referring to the bill ; there were a great many bills.

Q. You do not wish to say to this Commission that you can remember bill No. 192 and cannot remember the subject of the bill ?—A. Yes, sir.

Q. Or the purpose ?—A. Yes, I say it was railroad legislation.

Q. Of what character ?—A. Well, fixing rates.

Q. In what respect ?—A. My recollection now is that bill No. 192 was a bill that provided for a railroad commission and gave them the power of fixing rates.

Q. What else did it contain ?—A. I do not remember ; I could not tell you.

ARGUMENTS USED AGAINST IT.

Q. Did you talk with any of the members about the bill ?—A. I did.

Q. What arguments did you use with reference to the bill ?—A. That I thought it was not to the interest of the State or the people to pass such legislation.

Q. What was not in the interest of the State or the people?—A. That sort of legislation.

Q. What kind of legislation was it?—A. It was such legislation as I speak of. It provided for a railway commission and gave them power that I do not think the legislature ought to put in the hands of a railway commission.

Q. Did it prohibit rebates?—A. That I do not remember.

Q. Did it prohibit discrimination?—A. I think it did.

MANY OTHER BILLS OF SAME CHARACTER.

Q. What else did it contain?—A. There were so many of these bills—a great many of them—that I could not call to memory now and tell you any particular thing that was in any of the bills.

Q. Were they all of the same general character?—A. They were. That is, with perhaps one or two exceptions, I think they were all of the same general character.

Q. Why would you regard a bill preventing a railroad discrimination as an impolitic bill?—A. Well, one reason is the class of men that I have seen put on such commissions.

Q. I am asking you why you regarded as an unwise piece of legislation a bill prohibiting railroad discrimination.

Mr. POPPLETON. That assumes that the bill was on that one subject.

The CHAIRMAN. He has said so.

Mr. POPPLETON. No; I beg pardon. He says the bill provided for a commission and gave the commission the power to fix rates.

The CHAIRMAN. Well, we will go over it again.

Q. Was there any bill in the legislature prohibiting rebates on the part of railroad companies?—A. I could not tell you. I do not remember now.

BILL TO PROHIBIT DISCRIMINATE COMPANY.

Q. Was there a bill in the legislature prohibiting discrimination on the part of the company?—A. I think there was. I would not say positively, though.

Q. Did you discuss such a bill with the members of the legislature?—A. I presume I did, if there was such a bill.

Q. Did you oppose the bill?—A. I could not tell you whether I did or not. I presume I did.

Q. How many bills of the character that you have named were presented to the legislature?

The WITNESS. Of that general character?

The CHAIRMAN. Yes.

The WITNESS. Well, I should say that this last session there were fifteen or twenty, probably.

Q. Were you kept busy?—A. Yes, sir; most of the time.

Q. How often did you see the members?—A. Every day.

Q. In committee or individually?—A. I used my discretion about that. Sometimes I saw them individually; sometimes on the floor of the house.

A LEGISLATIVE "OIL-ROOM."

Q. During your attendance of the legislature did you ever know of such a place as an "oil-room"?

The WITNESS. What kind of oil?

The CHAIRMAN. I am trying to find out. It is something under the name of an oil-room.

The WITNESS. I have seen something about that in the columns of the Omaha Bee, myself, but I do not know where the Bee had its oil-room.

Q. Was there such a place in Lincoln as an oil-room, inside the legislative building or outside?—A. Not that I know of.

Q. Did you ever hear of it?—A. I have read of it here.

Q. Where did you take the members and discuss legislation with them?—A. Sometimes on the floor of the house.

Q. Any other place?—A. It depended on where I met them.

ENTERTAINING LEGISLATORS WITH TALK.

Q. Did you entertain the members?

The WITNESS. How?

The CHAIRMAN. In the way people usually do entertain members of the legislature.

The WITNESS. I entertained them with my talk.

Q. Did you render an account of your expenses to your company?—A. No, sir.

Q. To whom did you render an account?—A. I do not know that I rendered any account. Yes, I think I rendered an account of my expenses to Mr. Thurston.

Q. What were your expenses?—A. Well, I do not remember now. What expenses do you mean?

The CHAIRMAN. The expenses at Lincoln while you were there.

The WITNESS. I think that my hotel expenses, altogether, were probably in the neighborhood of three or four hundred dollars.

Q. How were they paid by Mr. Thurston, in cash or by check?—A. Mr. Thurston paid me by check, I believe.

Q. Did you give a receipt for the check?—A. I do not think I did.

Q. Did you render a bill?—A. Only to Mr. Thurston. I did not make any bill at all, myself, that I know of. I told him what my expenses were, and he paid them.

NEVER USED MONEY TO INFLUENCE LEGISLATION.

Q. Did you ever use any money while you were in the employ of the company in Lincoln, or anywhere else, in influencing legislation by stopping the passage of a bill, or enforcing the passage of a bill, or securing a vote upon it in any way, directly or indirectly?—A. Never.

Q. Have you any knowledge of any person using money for such purposes?—A. No, sir; I have no knowledge of any other person using money for such purposes.

Q. Had you power to grant passes to members of the legislature over the road or its branches?—A. No; I could not say that I had any such power as that.

PROCURED PASSES FOR MEMBERS.

Q. Did you procure passes for members of the legislature over the main line?—A. Yes.

Q. And their friends?—A. Yes; when they asked for them.

Q. How did you get them?—A. From Mr. Thurston.

Q. Was he there?—A. Yes.

Q. Most of the time?—A. Not this winter; he was there part of the time this winter.

Q. Did he have passes in blank which he issued to you for members of the legislature?—A. Yes.

THE NUMBER ISSUED.

Q. How many passes have you issued in one session?—A. I could not say, I am sure, how many.

Q. Fifty?—A. Yes, sir.

Q. A hundred?—A. Yes, sir.

Q. Two hundred?—A. Yes, sir.

Q. Five hundred?—A. No, sir; I do not think I ever issued five hundred.

Q. Four hundred?—A. Yes, sir; I think I have.

Q. Now, what other privileges did you secure for members of the legislature other than passes?—A. Not any privileges at all.

Q. Any advantages?—A. No, sir.

Q. Any preferences?—A. No, sir.

Q. Any appointments? Did you ever ask Mr. Thurston for an appointment for a member of the legislature, or for a friend of a member of the legislature?—A. No, sir; I never did.

Q. To what department were your charges made for your services at Lincoln?—A. I could not say.

Q. Were you ever a member of the legislature?—A. No, sir.

Q. What acquaintance had you with the members of the legislature before you went there the first time?—A. Well, I had an acquaintance with quite a number of them.

Q. How did you secure this acquaintance?—A. By attending a State convention occasionally; having been in politics here, myself, considerably, in Omaha, at times.

NO SPECIAL INSTRUCTION HOW TO ACT.

Q. Did you receive any special instructions when you visited the legislature?—A. No, sir.

Q. Did you ever write Mr. Thurston a letter on the subject of what was going on at Lincoln?—A. No, sir.

Q. Did you ever write to anybody a letter on the subject of what was going on in the legislature?—A. No, sir; I do not think I ever did.

Q. Did you have a conversation with Mr. Kimball with reference to what was going on there?—A. No.

Q. Did you ever meet him there?—A. No.

Q. Did you ever engage in a primary or other election in which you thought the interests of the railroad company were involved?—A. No.

Q. You never assisted Mr. Kimball in any of his movements or direction?—A. No, sir.

Q. Have you any other information that you can give the commission concerning the Union Pacific Railway Company?

The WITNESS. In what respect?

The CHAIRMAN. In any direction.

The WITNESS. I do not know that I have.

PURPOSE OF HOSTILE LEGISLATION

By Commissioner LITTLE:

Q. Did you personally know the several who introduced this so-called hostile legislation?

A. Some of them I did; some of them were strangers to me before I went there.

Q. You may state, if you know, the purpose these gentlemen had in introducing these measures. Was it for the purpose of passing them in good faith, or was it for the purpose of blackmailing railroad companies in some way or other?—A. It was always my opinion that they had several objects in view; one object was to show their constituent at home that they were doing something. Many of them were elected on the issue that they would come down there and see that there was something in the way of railroad legislation. I considered most of the bills buncombe, and they turned out to be such.

NOT GENERALLY PRESSED IN GOOD FAITH.

Q. Did the authors of those bills press their passage in good faith or not?—A. I do not think they did, with very few exceptions, I will say.

Q. Who introduced the bill providing for a railway commission and authorizing the commission to fix maximum rates?—A. I think that was Mr. Agee.

Q. Where does Mr. Agee live?—A. I think he lives in Hamilton County.

Q. From your knowledge of his management of that measure, did he seem to press it in good faith or not?—A. He seemed to press its passage in good faith.

Q. Can you name any other measure, the author of which pressed its passage in good faith? I am, of course, confining my inquiry to the bills affecting railroads.

THE COMMISSION BILL.

A. Watson's bill—the bill that was passed.

Q. What bill was that?—A. That was bill No. 41.

Q. Did that bill finally become a law?—A. Yes, sir. That is to say, it became a law, but not as originally introduced. It passed one house and was amended in the other.

Q. Do you remember the scope of the bill, as introduced and passed by one of the houses?—A. Well, not generally; no.

Q. Did it provide for a commission?—A. Yes, sir.

Q. Did it provide for that commission fixing rates?—A. No, sir; I think not.

Q. By the terms of that bill, who were required to fix the rates, if any were authorized to be fixed?—A. I will not attempt to answer, because I could not say positively. The bill is matter of record and can be easily procured. There were so many of these things that I could not keep them in mind. I do not pretend to keep any of them in mind, except as they come up at the time.

Q. Would the members of the legislature be influenced in any way by your furnishing passes to them and their friends?—A. I do not think so.

PASSES ISSUED BECAUSE ASKED FOR.

Q. Why did you furnish such an enormous number of passes?—A. Simply because they were asked for.

Q. Is that a species of blackmail which the Nebraska legislature levy on you?—A. Well, I know I did not consider it blackmail. It was always customary here to ask for passes and customary to grant them.

Q. What consideration do these members render the company for those passes?—A. I do not know that they render them any.

Q. It amounts to a gratuity, then, on the part of the company?—A. I think it does.

Q. A personal compliment, if you please, to the members of the legislature?—A. Yes.

Q. And the passes which you granted to private persons at their request were of the same character?—A. Of the same character—simply because they requested them.

THE PASS SYSTEM ONEROUS.

Q. Are not such favors becoming very onerous to the railroads, and particularly to the Union Pacific?—A. I think they have been so; but they probably will not be so much so hereafter.

Q. Do you know whether the general officers of this company have at any time protested against the granting of such favors?—A. I do not know personally.

Q. Are the directors, president, and general officers of the road familiar with this sort of business?—A. That I could not say. I presume they are.

Q. What is the custom of your company in relation to paying your expenses in the discharge of your ordinary duties? Do you render a bill of items and have it vouched?—A. Yes, sir.

Q. Can you give the Commission any reason why your expenses at Lincoln were not itemized and vouched in the usual form?—A. I can give no reason, except that I was there at Mr. Thurston's request, and he told me that he would pay my expenses. That was all there was of it.

Q. And he did pay them?—A. He did pay them.

Q. You do not know whether he rendered an account on a voucher for those expenses or not?—A. I could not say.

UNION PACIFIC LIKE OTHER ROADS, AS TO PASSES.

By Mr. POPPLETON:

Q. So far as the issue of legislative passes is concerned, is the practice of the Union Pacific in this State, or has it been, any different from any other railway company?—A. No; it is the same exactly.

Q. How has it compared with other railway companies in the issue of passes?—A. I think that last winter we issued less. I think we were more particular in this respect; that they were all issued from a stub, and a record kept; and I know that the other companies had them there and issued them promiscuously, and kept no record at all. There was a great deal of complaint that they could get passes more easily from other companies than from us.

PASSES ISSUED TO HOSTILE MEMBERS.

By the CHAIRMAN:

Q. Did you grant passes to the members of the legislature who were introducing this obnoxious legislation?—A. Yes, sir.

Q. Did they apply?—A. Just as much as anybody else.

Q. Did they receive them the same as anybody else?—A. Yes, sir; at the same.

Mr. POPPLETON. Generally better.

Q. You have spoken of fifteen or twenty bills of the character you have named. Can you name the people who introduced them?—A. I do not believe I could.

JOHN R. MANCHESTER.

OMAHA, NEBR., *Monday, June 27, 1887.*

P. C. HIMEBAUGH, being duly sworn, and having had propounded to him in writing the following interrogatories, made the answers attached to said several interrogatories, respectively, as follows:

HIMEBAUGH & MERRIAM.

First interrogatory. State your name, occupation, and residence. State title and composition of your firm, giving name of every person who is or has been interested in its profits or a participant therein, directly or indirectly?—Answer. P. O. Himebaugh; grain; Omaha; Himebaugh & Merriam. No person in said firm except P. C. Himebaugh and Nathan Merriam, and never has been, directly or indirectly, except about one year and half, commencing 1882, during which time the firm name was Himebaugh, Merriam & Co., and during which, at same time, Mr. F. Fartell, of Chicago, was a partner with us.

UNION PACIFIC IN NO WAY INTERESTED.

Second interrogatory. Have any directors, officers, or employes of the Union Pacific Railway Company, or of any of its adjunct or auxiliary companies, been interested in or connected with your firm or participants in its profits or recipients of bonuses, donations, or advantages in any form whatever? If so, give details.—A. No.

RELATIONS OF UNION PACIFIC TO HIMEBAUGH & MERRIAM.

Third interrogatory. State in detail the relations borne by yourself or by your firm toward the Union Pacific Railway Company, or toward any company in which said corporation has an interest. If there have been any leases, contracts, agreements, understandings, or undertakings of any kind between either of said companies and you or your firm or in behalf of either, set them forth at length in answer to this question.—A. The Union Pacific Company own the ground on which elevators A and B stand. The Union Pacific Company has no interest in elevator A, but own 60 per cent. of the stock of elevator B, known as the Union Elevator Company of Omaha. Himebaugh & Merriam own 35 per cent. of the stock in said Union Elevator Company, and lease the said elevator from the Union Elevator Company.

REBATES RECEIVED.

Fourth interrogatory. Give an itemized statement of rebates paid to you by the Union Pacific Railway Company from time to time, covering in each item the date and the amount of payment, the date of transportation, the article or articles transported for you or your firm or in behalf of either, the places from which and to which the articles were transported, the open rate which then prevailed, the cut rate or net rate which

was allowed to you or to your firm, the purpose for which such rebate was made, and copies of all letters or papers in possession of yourself or of your firm relating in any manner to any of the transactions covered by said statement?—A. It is absolutely impossible to answer the fourth question, as the data cannot be secured. Much of it was destroyed, considered worthless to keep, and had I the data at hand it would cost us at least \$5,000 to formulate a statement from it, and even then I could not tell what amount the Union Pacific paid for their part of the rebate.

NET RATE AND REBATE RECEIVED.

Fifth interrogatory. State the lowest net rate paid by you or your firm in each year since 1880 and the greatest allowance per 100 pounds in each of the periods mentioned that were conceded to you or your firm on account of service rendered for you or your firm by the Union Pacific Railway Company, or by any company in which that company has an interest. Give the data at which said rate was authorized and the date of transportation covered by said rate.—A. Have no data on which I can answer this fifth question.

CONCERNING ADVANTAGES OTHER THAN REBATES.

Sixth interrogatory. Have you or your firm at any time received any advantage in any form other than rebates from the Union Pacific Railway Company, or from any company in which that corporation has any interest? If so, please describe said advantages, including facilities, and the measure of their value to you or to your firm.—A. Not that I know of.

NO SUCH ADVANTAGES RECEIVED UNDER ANY OTHER NAME.

Seventh interrogatory. Have you or your firm at any time received any rebate or advantage in any form from the Union Pacific Railway Company, or from any company in which that corporation has an interest in the name or names of persons other than those of Himebaugh, Merriam & Co.? If so, give details.—A. No.

OTHERS NOT ALLOWED TO OBTAIN ALLOWANCES OR ADVANTAGES UNDER NAME OF FIRM.

Eighth interrogatory. Have you or your firm at any time aided or allowed others, with or without consideration, to obtain rebates or other advantages from the Union Pacific Railway Company, or from any company in which that corporation has or had an interest, through the use of the name of yourself or of the name of your firm? If so, give details and state the nature of the consideration.—A. Not that I know of.

THE OMAHA ELEVATOR COMPANY THE ONLY COMPETING SHIPPER.

Ninth interrogatory. State the names of those shippers over the Union Pacific Railway system, if there have been any, who have been in active competition with you or your firm in the business of transportation or storage or handling or purchase of grain or other articles. Also length of time during which such competition was maintained on Pacific Railway system, and the periods during which competition with you or your firm over

said lines was suspended.—A. None except the Omaha Elevator Company.

DISASTROUS EFFECT OF INTERSTATE COMMERCE LAW.

Tenth interrogatory. State the effect of the application and operation of the so called inter State commerce law, or of those provisions relating to publicity of rates, pooling, and rebates upon the business of yourself or of your firm.—A. Have made comparatively no shipments since the inter-State law went into effect except from Union Pacific western points here to store.

NO ATTEMPT EVER MADE TO INFLUENCE LEGISLATION.

Eleventh interrogatory. Have you or your firm attempted at any time, in any manner, to influence legislation for or in behalf of the Union Pacific Railway Company, either by the employment of individuals or by the payment of money or by other methods? If so, give details and the names of the person or persons at whose instance said action was taken.—A. Never.

SPECIAL AND OPEN RATES.

Twelfth interrogatory. Furnish an itemized form, with dates and details, of points of arrival and departure, the special rates, as distinguished from open rates or rebates that have been allowed to you or your firm by the Union Pacific Railway Company, or by its adjunct or auxiliary companies. Give the open rate from the same places prevailing on the Union Pacific Railway system when such special rates were given. State also the amount of transportation service performed for you or your firm under such special rates. State also the difference between the payments actually made by you or your firm on account of said special rates and the amounts which would have been paid by you or your firm if payment had been made on the basis of the open rate then prevailing on the Union Pacific Railway system.—A. Impossible to answer this twelfth question for same reasons as stated in fourth and fifth questions.

NO DIVERSION OF SHIPMENTS.

Thirteenth interrogatory. Have the shipments of yourself or your firm over the lines of the Union Pacific Railway system been diverted at any time from the route indicated by you or your associates? Has the Union Pacific Railway Company diverted the shipments of yourself or your firm or of any consignments to you from lines aided in bonds by the Government to lines that were not so aided?—A. No.

FIRM HAS NO HOLDING IN UNION PACIFIC SECURITIES.

Fourteenth interrogatory. What is or has been the extent of the holdings of yourself or your firm in the securities of the Union Pacific Railway Company or in the securities of any company in which that corporation has or had an interest?—A. None.

LOSS BY NOT GIVING REBATES.

Fifteenth and last interrogatory. Is there any other matter or thing within your knowledge in relation to the inquiry authorized by act of

Congress and covered by the annexed letter, which is hereby made a part of this interrogatory? If so, give details.—A. I have known for seven or eight years that the earnings in freight to the Union Pacific Company were very materially less than they would have been had the Union Pacific given from time to time the same rebates as given by other competing lines. The above has positively been proven to their satisfaction after the business in immense quantities was lost.

P. C. HIMEBAUGH.

Witnesses:

ALEX. G. CHARLTON.

ISAAC W. HALL.

Before me, a notary public of Douglas County, personally appeared P. C. Himebaugh, of said county, and whose signature appears attached to the foregoing, and solemnly swore that the answers to the foregoing questions are true to the best of his knowledge and belief.

Witness my hand and notarial seal this 25th day of June, A. D. 1887.

[SEAL.]

THOS. H. MCUAGUE,

Notary Public.

The Commission then adjourned to Tuesday, June 28, 1887, at 10 a. m.

OMAHA, NEBR., *Tuesday, June 28, 1887.*

The Commission met pursuant to adjournment.

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

GEORGE N. CRAWFORD, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am in the real-estate business at present.

Q. Where do you live?—A. In Omaha.

EMPLOYED BY UNION PACIFIC.

Q. Have you ever been employed by the Union Pacific Railway Company?—A. Yes, sir.

Q. When?—A. Some six or seven or ten years ago; I do not remember. I was employed by Mr. Poppleton to prosecute some criminal cases. I am by education a lawyer, though not in active practice now.

Q. Have you been employed in any other capacity by the Union Pacific Railway Company?—A. Not by the company, within my knowledge.

ATTENDED THE LEGISLATURE AS A LOBBYIST.

Q. Have you ever attended the legislature in the interest of the company?—A. I have, by my own volition, except at the last session.

Q. What position or what character did you represent in the last session?—A. Well, to speak plainly, I was lobbying.

Q. At whose solicitation did you go to Lincoln at the last session?—

I did not go to Lincoln at any one's solicitation, but I went there, as interested in the senatorial contest, and, while there, Mr. Vanvort requested me to remain during the session.

Q. Who is Mr. Vandervort?—A. He is a pretty prominent Republican politician in this State.

Q. Has he any connection with the Union Pacific Railway Company?—A. I believe he has, but I do not know for certain.

Q. Had he at that time when he was in Lincoln?—A. He showed me a letter which led me to believe that he was not then in the employ of the Union Pacific Company, but had been prior to that time.

Q. What time in the session of the legislature did you get to Lincoln?—A. I went first, I think, on the second day of the session; came back to Omaha, and went back in a day or two, and remained there most of the time until the close of the session.

Q. What did you do as a lobbyist?

The WITNESS. In what respect?

DUTIES OF A LOBBYIST.

The CHAIRMAN. What are the duties of a lobbyist?

A. Why, they are diversified.

Q. What is the diversity?—A. Almost anything that you can think of to influence men to go the way you want them to; or, in other words, to enlighten members of the legislature; and I assure you that modern legislators need enlightenment.

Q. What influence did you use?—A. Eloquence, persuasiveness. [Laughter.]

Q. How did you exercise your eloquence, individually or collectively?—A. Not collectively, with a party. But I sometimes had three or four of the legislators collected together.

Q. What bills had you?—A. No personal interest.

Q. What interest had you?—A. To influence legislation in the interest of that company.

Q. In what bills had the company an interest that you, as a lobbyist, exercised your eloquence to prevent the passage of?—A. Bills establishing rates of transportation and the appointment of a railway commission.

Q. How many such bills were before the legislature?—A. I do not remember. I did not keep track of them.

Q. Were there any bills to prevent discrimination?—A. I think there were.

RAILROAD MAN FROM PRINCIPLE.

Q. What arguments did you use to prevent the passage of such bills?—A. I believed that all legislation inimical to the interests of the railroad was wrong. I believed it from principle. I have been actuated by that principle. I am opposed to all legislation that is opposed to the interests of railroads. I am a railroad man from principle, though not in the employ of a railroad.

Q. What compensation did you receive?—A. From different sources, probably.

Q. Did you receive any from the Union Pacific Railway Company?—A. Not that I know of.

RECEIVED \$400 FROM MR. THURSTON.

Q. Did you receive any compensation from any one interested in the Union Pacific Railway Company?—A. I received payment from a gentleman, who, I understand, is in the employ of the Union Pacific

Q. What is his name?—A. John M. Thurston.

Q. How much did you receive from him?—A. I could not tell you, altogether. I received at intervals different amounts of money, always in his individual check; and at the close of it I think I received somewhere in the neighborhood of \$400; that was the aggregate.

NO AGREEMENT WITH MR. THURSTON.

Q. Were your salary and expenses included in the aggregate sum of \$400?—A. There was no salary agreed upon. In fact there was no understanding or agreement between Mr. Thurston and myself or any one else as to compensation.

Q. What was the \$400 for?—A. I do not know. I honestly could not tell you. I can give you an opinion.

Q. Was it a gift?—A. I do not know.

Q. Had you any agreement with Mr. Thurston?—A. I stated a moment ago that I had not.

Q. What induced him to give you \$400?—A. I presume it was for services that I had rendered during that session of the legislature.

Q. In the manner you have spoken of, by addressing the legislature?—A. I did not address the legislature.

Q. Individuals of the legislature?—A. I spoke to them, and, if they thought differently from what I did, I endeavored to convince them that they were wrong. In some instances I succeeded and in others I did not.

COUNSELED WITH MR. THURSTON.

Q. Had you instructions from Mr. Thurston?—A. No; I counseled with him.

Q. What was the nature of your counsel?—A. As to the methods best to adopt in opposing legislation inimical to railroads—all railroads.

Q. What methods did he suggest to you?—A. Nothing in particular.

Q. What was the general method? You have stated that he suggested to you methods of influencing legislation.—A. I beg pardon. You misunderstood me. I said I counseled with him.

Q. About what?—A. As to the methods and plans.

Q. Precisely. What was the method that you talked about?—A. It was in a general way.

Q. What was the general way?—A. I cannot describe it.

Q. What was it?—A. The arguments to be made use of.

Q. What arguments did Mr. Thurston suggest to you?—A. I do not remember of anything he suggested to me. He may have done so. It is all gone from my mind. I never bore it in mind. If you will be more pointed in your questions and tell me what you want I will try to answer you.

The CHAIRMAN. I want all you know.

The WITNESS. Concerning what?

The CHAIRMAN. All you know concerning the railroad legislation before the Nebraska legislature.

The WITNESS. If you will be specific I shall tell you what I know.

NOTHING TO CONCEAL.

The CHAIRMAN. I do not know your knowledge. That is why I am questioning you.

The WITNESS. I will give you all I know if you will tell me what you want to know. There is certainly nothing that I did myself that I have any desire to conceal.

Q. Have you anything to conceal that anybody else has done?

The WITNESS. With reference to these matters?

The CHAIRMAN. Yes.

A. No, sir; not a thing.

Q. Did Mr. Thurston furnish you with a brief?

The WITNESS. Brief of what?

The CHAIRMAN. Of the line of argument to use at the legislature?

The WITNESS. No, sir.

Q. Did you make any memorandum?—A. No, sir.

Q. Did you write any letters?

The WITNESS. To whom?

The CHAIRMAN. To Mr. Thurston or anybody else.

The WITNESS. In reference to these matters?

The CHAIRMAN. In reference to the legislation.

The WITNESS. No, sir; not to my knowledge or recollection. I may, possibly, some time when I wanted to communicate with him, have dropped him a note; but I do not know that I have done that.

PASSES SECURED FOR MEMBERS.

Q. Did you secure passes for members of the legislature?—A. Yes; when they requested me.

Q. Who gave you that authority?

The WITNESS. To secure them?

The CHAIRMAN. Yes.

The WITNESS. What do you mean by the term "secure?" I was requested by members of the legislature to ask for the issuance of passes, and I believe I did obtain a few.

Q. Whom did you ask?—A. Mr. Manchester, I think.

Q. Who else?—A. Mr. Vandervort, I think, and perhaps Mr. Thurston.

Q. Were you ever refused?—A. I do not remember of a single instance.

Q. Did you get all the passes?—A. I only went to them at the solicitation of others that desired the passes.

Q. At whose solicitation?—A. I do not remember.

Q. Members of the legislature?—A. Some of them; and some of their friends.

Q. How many passes did you get in a session?—A. I do not remember.

Q. Did you get fifty?—A. I do not think I did. I think probably eight or ten would cover the whole number. I do not think it would reach that number.

ENTERTAINMENT FURNISHED MEMBERS.

Q. Did you entertain members of the legislature?—A. Yes.

Q. What entertainment did you afford them?—A. That which suggested itself to my mind, and that which they seemed to desire.

Q. What suggested itself, generally?—A. It depended a good deal on the character of the men.

Q. As an illustration, what?—A. Social conversation and anecdotes.

Q. That is very interesting. What else?—A. Well specify what you think.

The CHAIRMAN. I am asking you.

The WITNESS. I am endeavoring to answer you.

Q. What other entertainment did you afford the members of the legislature?—A. Sometimes I would ask them to take cigars, and, perhaps, drink wine.

Q. What other entertainment?—A. That is all that I remember.

Q. That covered all the varieties of entertainment afforded the members of the legislature?—A. Yes.

WHO PAID FOR THE ENTERTAINMENT.

Q. Who paid for the entertainment?—A. I paid for some of it myself, individually.

Q. Who paid for the balance?—A. I do not know.

Q. How do you know it was paid for?—A. I do not know that, except that I was told so. I have no personal knowledge.

Q. Who told you so?—A. The proprietor of the hotel. I do not know who paid for it.

Q. Do you not know that it was settled by the authority of the Union Pacific Railway Company?—A. I do not know; I have no means of knowing that, and never asked the question. I do not know even by hearsay. That is the fact. If I did I would tell you frankly.

WITNESS ENTERTAINED IN HIS ROOM.

Q. Were those entertainments furnished by you at your own expense, to vindicate your opinions in the interests of railroads?—A. I do not know why they were furnished, whether to vindicate my own opinions or to vindicate somebody else's. I simply state the fact that I furnished them, and some I paid for myself, and those I did not pay for I don't know who did. I would state here, incidentally, that there were others, perhaps, who occupied my rooms at the time, and what they did I do not know. There was entertainment furnished by some of the parties, I presume.

Q. Did you have a room there?—A. I did, sir.

Q. Were your entertainments generally in the room?—A. Generally.

Q. Where was the room; in a hotel, or near the legislature somewhere?—A. In a hotel.

Q. Were you there the whole session?—A. Most of the time; until within about a week of its close; a few days before the close.

EFFORTS SUCCESSFUL.

Q. Were you successful in preventing the passage of legislation hostile to railroads?—A. That I could not answer. I know that the efforts that were made were successful. I could not speak of myself, or anything about it.

Q. By the efforts made before the legislature, all hostile legislation, what you regarded as hostile legislation, was prevented?—A. Legislation inimical to the Union Pacific Railway Company.

Q. It was all prevented?—A. Almost all of it, I believe.

NO MONEY USED TO PREVENT LEGISLATION.

Q. Did you use any money to prevent legislation inimical to the interests of the Union Pacific Railway?

The WITNESS. What am I to understand by that question? Explain yourself.

Q. Did you ever hear of the use of money before legislatures?—A. Why, yes; certainly.

The CHAIRMAN. Then, what is the difficulty about understanding me when I ask you the question?

The WITNESS. Let me hear the question again.

The question was read as follows:

Q. Did you use any money to prevent legislation inimical to the interests of the Union Pacific Railway?

A. No, unless in the way of expenses.

Q. What do you mean by expenses?—A. Incidental expenses. This matter of entertainment that you spoke of a moment ago.

Q. What else?—A. That is all.

Q. Were they the only incidental expenses that you had there?—A. That is about all; except it may possibly be carriage hire for myself, for my own convenience. Something of that kind.

Q. Do you know of any one else, directly or indirectly, using money in the interest of the Union Pacific Railway to prevent the passage of legislation?—A. Not otherwise than as I have stated. Am I to understand that your question means to imply that money was used to influence members of the legislature? If that is the implication of your question, I emphatically give you but one answer, and that is, no; I never had anything to do with anything of that kind, and never expect to.

NEWSPAPER CHARGES.

Q. Did you ever hear of anybody else having anything to do with anything of that kind?—A. I have read in one newspaper published in this city charges of this character.

Q. Did you hear of them anywhere else?—A. Perhaps in other papers copied from the one I have mentioned.

Q. Did you hear of them anywhere else?—A. I have heard of them in Lincoln and other parts of the State; but I have never known anything as to the truth of them.

Q. You concluded that there was more smoke than fire?—A. Something of that kind. It simply gave some people an opportunity to air their petty grievances.

NO PRIVILEGES APPLIED FOR.

Q. Did you secure any positions for members of the legislature or their friends?—A. No; I never applied for any.

Q. Did you apply for any other privileges to the Union Pacific for the members of the legislature or their friends?

The WITNESS. Other than passes?

The CHAIRMAN. Yes.

A. No, sir; I have no recollection of doing so; I do not think I did; I certainly have not applied for places or positions for any members of the legislature or their friends. I never applied for a position for anybody in the Union Pacific Railway Company except for my son some years ago, and I obtained it.

ASSOCIATES AT LINCOLN.

Q. Who were associated with you in your work at Lincoln?—A. There were a number; I could not tell all; I could name a few.

CHAIRMAN. Do so.

WITNESS. Mr. Vandervort, and, I believe, Mr. Gurley. Mr. B., of course.

CHAIRMAN. You named one a moment ago that you have not named—Mr. Manchester.

WITNESS. Oh, yes; Mr. Manchester.

Who else, now?—A. There was a number. There are some of whom I have forgotten, and others whose names I do not know. They were simply pointed out to me as being there in the interest of the railroads.

WORKED TOGETHER.

How did you co-operate with them?—A. Well, I do not know that I answer that question. That is pretty general.

What is the difficulty about the question?—A. I do not understand. How I "co-operated" with them? What do you mean by "rate?"

Where were you there working together?—A. I presume it might be so that we were working together.

What were your methods of working together?—A. Sometimes if I did to see some member of the legislature, I might ask one of the gentlemen to find him for me, or I would go and see him myself personally. I tell you frankly—

CHAIRMAN (interposing). I hope you are telling everything

WITNESS. Well, I do not see any necessity for that remark. The first time I went to the legislature it was rather in the interest of the general contest. I was opposed to the interests of Mr. Van Wyck, a pretty enthusiastic Democrat, and I wanted to keep the Democrats together. I want to state to you, too, that I did it particularly with a view of defeating Mr. Van Wyck. After that, I was requested by Mr. Vandervort to remain during the remainder of the session, in the interest of the railroads, because I saw that they were badly afflicted by Van Wyck demagogism.

Was this the first session of the legislature that you ever attended? No, sir; I think I have been to every one of them, except one, in 1866 or 1867, either in the inside or outside.

GOVERNED BY CIRCUMSTANCES.

Have your methods always been the same?—A. No, sir; I have been governed by circumstances.

What were the circumstances?—A. By the surroundings.

What were the surroundings?—A. I cannot tell you.

What is the difficulty about telling?—A. Well, I do not remember.

Did you always use the same character of arguments?—A. Yes; I generally use the same arguments at one session that I did at another. Sometimes I would be more persuasive to one member of the legislature than another.

How did you increase your persuasive powers?—A. I became a more eloquent, I think.

Do you grind out your eloquence at will, do you?—A. I believe that to be the attributes of an orator. [Laughter.]

ELOQUENCE THE ONLY ARGUMENT USED.

During these years that you have attended the legislature, and these arguments you have men-

duancements resorted to, to influence the members of the legislature?—A. I cannot tell what any body else has done; I can only speak for myself. If you ask me if I used any other, I say again, emphatically, no.

Q. Have you any knowledge of any one else using money at any time to secure legislation during these years?—A. No, sir; I have no special knowledge.

Q. Have you any general knowledge?—A. Nothing more than that I have read it in the newspapers some time.

Q. Have you heard it at Lincoln at any time?—A. Oh, yes.

Q. Then you have heard of it from other sources than reading it in the newspapers?—A. I have heard of it, but it has been started by the editor of some newspaper in this city; and he has either failed to materialize when the time came or utterly failed in making his proofs.

OPPOSED TO MEDDLING WITH RAILROADS.

Q. During all these years did you go to the legislature at the instance of the Union Pacific Railway authorities?—A. I have no recollection whatever of receiving any compensation from, or having been requested by, any officer of the Union Pacific Railway Company to work in their interests until this last winter, although, as I have told you before, I have always done so. I am opposed to meddling with railroads by legislation. More than that, I came here at a very early day, and I have seen the advantages of railroads over the methods of transportation in use when I came here, and, as a citizen, I felt like fostering those railroads, and for that reason I have been opposed to meddling with them.

Q. Has there been much legislation introduced in those years inimical to railroads?—A. Yes.

Q. What has been the cause of the introduction of such bills?—A. I do not know.

SENTIMENT OF THE STATE.

Q. Has there been any sentiment in the State in that direction?—A. There has been a sentiment, I believe, in that direction; yes.

Q. Were the bills introduced by members of legislatures out of regard to the sentiments of their constituents?—A. That I could not answer, because I am satisfied that it has frequently been the case that where members of the legislature have been elected for purposes of that character they have changed their minds, as wise men frequently do, as to such bills, if it has been shown to them that such bills were inimical to the interests of the people. I have stated frankly all that. Not only is this true as to the Union Pacific Railway but all railroads.

Q. Has there been much of a sentiment in the State that led up to the introduction of these bills in the legislature?—A. Yes, sir; and I have my opinion as to the cause of it.

SPECIES OF DEMAGOGERY.

Q. What is it?—A. That it is a species of demagogery inaugurated by designing politicians to subserve their own political and personal ends.

Q. Does this demagogery lie at the bottom of the opinions of the people in these matters?—A. That I do not say; but I say it has been one of the causes?—A. Demagogues have played on the people so as to lead them to believe that they have been imposed on by the railroads.

It is my opinion that, instead of doing that, they should have fostered the railroads.

DIVISION OF SENTIMENT.

Q. Was such a sentiment very prevalent among the people of Nebraska?—A. I do not know as to that. It was scattered, and I can only give it to you historically.

The CHAIRMAN. That is what I want.

The WITNESS. There seemed to be a division of sentiment in every locality. Sometimes one sentiment would preponderate in one locality and in others another. I am not giving you these things as matter of personal knowledge, however.

Q. Did it enter into the elections in the State, local or general?

The WITNESS. I can only give you my presumption.

The CHAIRMAN. Give us that.

A. I presume that it did.

VOTED THE STRAIGHT DEMOCRATIC TICKET.

Q. Did you participate in elections at the request of the Union Pacific Railway Company, or of its officers or employes?—A. No, sir; because when it came to elections I always voted the Democratic ticket straight [laughter] without regard to railroads. And, so far as interfering in primary elections went, I had nothing to do with them.

Q. How far did the railroad questions divide the State?—A. That I could not tell you. I state again that I have to give you my impressions in a general way. They are simply my impressions.

NUMBER OF BILLS INTRODUCED.

Q. Were the bills introduced in the legislature proportioned to the sentiment that prevailed throughout the State?—A. I could not answer that.

Q. Is that a fair conclusion?—A. I do not know.

Q. How many bills do you recall of a nature inimical to railroads in the last session? Some one here has said twenty. Would twenty be excessive?—A. I do not know as to that. There may have been that many; but, perhaps, most of them covered two or three subjects. Each member of the legislature wanted to go back to his constituents and say that his bill had become law.

Q. The proportion of twenty to the whole number of bills in the legislature would be a fair conclusion?—A. I could not answer that.

Q. What is the difficulty about it?—A. Because I never investigated the subject by statistics. I do not know what the number or proportion would be.

Q. Have you any other information that you can give to the Commission upon the general railroad question?—A. I cannot think of any. If I had I would be glad to do so—to enlighten you.

WITNESS HAZARDS A GUESS.

Q. We would be glad to have "enlightenment." Cannot you give us some of your "enlightenment" here? We would be glad to have some of it.—A. I am afraid I could not convince you. I will hazard the guess, governor, that you have "been there" yourself and know too much about it.

Q. What do you mean by being "there?"—A. I think, perhaps, you have used your influence, in legislatures or elsewhere, for the purpose of influencing legislation. I therefore hazard the guess, and consequently I do not think that I could convince you.

The CHAIRMAN. I want to say to you that I never appeared anywhere in the capacity of a lobbyist. That is a character which is new to me.

THE FURTHER WEST, THE GREATER THE ENLIGHTENMENT.

The WITNESS. Then, you see, the farther west you get the more enlightenment you find, and it will continue so until you get to the Pacific coast; I have been all over.

By Commissioner LITTLER:

Q. What is your age, Mr. Crawford?—A. I am pretty sensitive about my age; but I am 56 years old.

Q. How long have you been a Democrat?—A. Ever since I was twenty-one.

Q. Are you now a member in good standing in the party?—A. I do not know about that; I have not investigated.

Q. But, seriously, are you?—A. I think I ought to be.

Q. How long have you lived here?—A. I came here in 1854.

SENTIMENT IN REGARD TO UNION PACIFIC.

Q. Have you any knowledge as to the sentiment of the people of this State in relation to the Union Pacific Railway Company and the treatment they have received at the hands of that company?—A. Well, sir, I can only answer that question inferentially and by statements that I have heard. I meant my answer to the Chairman to cover that. I have heard complaints made that the Union Pacific Railway Company has not treated the people of this State fairly. Then, on the other hand, I have heard the friends of the railway and of railway enterprises complain that they have been terribly persecuted. I belong to the latter class.

Q. On which side does the sentiment preponderate?—A. It depends a good deal upon localities and the extent of the personal grievances of the men who make the complaints.

CHARACTER OF THOSE INTRODUCING BILLS.

Q. What, if you know, is the character of the authors of these divers bills that have been introduced into the legislature at Lincoln?

The WITNESS. Their personal character?

Commissioner LITTLER. Yes, and their public character.

The WITNESS. That would be inferred from their introduction of the bills.

Commissioner LITTLER. That is a violent presumption. I have been a member myself. [Laughter.]

The WITNESS. So have I. And I sympathize with you. [Renewed laughter.]

Q. Give me the character of the gentlemen who introduced these bills?—A. They were generally men of good character.

Q. Were they, or not, sincere in the introduction of the bills?—A. That I could not tell you.

Q. From their general character, surroundings, and associations, give me your best impression as to whether, as a rule, they were sincere in urging the passage of these measures?—A. I presume they were sincere; and yet might be mistaken.

Q. I understand you to say that, from your knowledge of the people of this State, you have reached the conclusion that it is for the interests of the Commonwealth to foster rather than to persecute the railroad system?—A. Yes; because these are factors in the development of the State.

DEVELOPMENT OF THE RAILROADS.

Commissioner LITTLE. I wish you would explain the development of railroads here.

The WITNESS. When I first came here the only means of transportation we had in this country were mule teams, horse teams, and bull teams. It took us from three to six weeks to reach Denver from Omaha. We do it now in thirty-six hours. Our freights have been all the way from 6 to 25 cents per pound from Omaha to Denver. I do not know what the rates are now, but I presume they are very much less than that.

COST OF TRANSPORTATION.

Commissioner LITTLE. That is one of the subjects of inquiry by this Commission, and I will get you to state all you know as to the cost of transportation prior to the completion of the Union Pacific road.

The WITNESS. I have stated, substantially. In the summer season freight was as low as 5 and 6 cents a pound from the Missouri River to Denver. In the winter season, when it was necessary to go by mule team, I have myself charged all the way from 18 cents to 35 cents per pound for that sort of transportation.

Q. What other advantages, if any, have inured to the people of this State by the railroad system, particularly the Union Pacific?—A. We have a great State here, now, and I do not think it would have been developed without the railroad.

NEBRASKA'S GREATNESS DUE TO UNION PACIFIC.

Q. How much of its greatness do you attribute to the Union Pacific?—A. I might say all of it.

Q. What were lands worth at the time of the introduction of the Union Pacific road?—A. They were worth from the Government, perhaps, from \$1.25 an acre up to \$10 or \$15.

Q. You mean about Omaha?—A. Yes.

Q. What were they worth in the interior?—A. From \$1.25 to \$1.50 an acre.

THE ADVANTAGES TO THE STATE.

Q. What product had you then on the land?—A. There was very little raised except on the line of the road between here and Denver.

Q. What was the population of this Territory at the time of the inception of the Union Pacific Railway?—A. That I could not tell you; I do not remember.

Q. Has the railroad system contributed to the population of the State?—A. I do not think there is any doubt about it. It is not an open question.

Q. What other advantages do you recall accruing to the people of this State by reason of the railway system?—A. My answer to that would be based on the former one. It has developed the State.

Q. Have you any other suggestions to make to this Commission by way of enlightening it as to its duties and the subjects under investigation?—A. I cannot think of any, unless you could suggest something by questions.

By Mr. POPPLETON:

Q. Among what class of people in the State is this sentiment that leads to the introduction of these railroad bills strongest?—A. It is among a class of men who, I believe, have not the means of informing themselves upon the real views of the people, and who really do not know what they want themselves. It is not among the business men, or the men who take an interest in prosecuting enterprises, but among politicians. I have included them among the first class.

Q. What class of politicians?—A. Grangers and men who have been followers of late years of ex-Senator Van Wyck.

INTEREST OF FARMERS ENHANCED.

Q. Do you know what the condition of the land owners and farmers—the cultivators of the soil—in Nebraska was at the time the Union Pacific bill was passed, and what the value of their lands was?—A. Yes, sir; I was somewhat familiar with it.

Q. Is there any class of people, or any class of enterprises that have been so uniformly prosperous and the value of whose property has so uniformly enhanced and appreciated as that of the farmers in this State?—A. No class. I know of numbers of instances where their interests have been enhanced.

Q. Do you know any case of farmers or land owners whose interests have not been subserved by the railroad?—A. No.

LAND VALUES IN SAUNDERS COUNTY.

Q. What was land worth in Saunders County at the time the road was commenced?—A. I would not have given more than the Government price for it; and I would not have given that for the most of it.

Q. Do you not know that most of the Government lands in Saunders County were subject to homestead and pre-emption?—A. Yes.

Q. What are those lands worth now?—A. I should judge, all the way from \$15 to \$40 an acre.

Q. Has that been general throughout the State?—A. Yes.

Q. What has done that?—A. The building of these railroads.

Q. What was the condition of this State in respect to fuel at the time this railroad was commenced?—A. For want of fuel we had to burn corn. We had no timber.

DEVELOPMENT DUE TO UNION PACIFIC.

Q. State whether, in your opinion, this State could ever have been settled without the construction of railroads leading to coal mines to supply the people with fuel?—A. We should not have had the present population for twenty years hence if it had not been for the construction of the Union Pacific Railroad. It has been the means of bringing about that development.

Q. Then your opposition to this hostility to railways, and your opposition to legislation seeking to carry that out, has been based upon your conviction that they were the only salvation of the State?—A. Yes; both on the outside of the legislature and as a member, not only in the State, but in the Territory of Idaho.

FORMERLY OCCUPIED BY INDIANS.

Q. What was the condition of the country between here and Salt Lake at the time the road was commenced in respect to safety?—A. It was dangerous.

Q. Why?—A. Because of Indians.

Q. Where?—A. Along the line of the Union Pacific Railroad.

Q. Is it not a fact that, at the time the Union Pacific Railroad was constructed, the country was occupied for 300 miles west by buffalo and by Indians, to a large extent?—A. I have had two Indian fights myself between here and Denver.

Q. While you were doing what?—A. Freighting.

Q. The trains that moved over the road between here and Denver, Salt Lake City and California, were they really and in fact simple trains, or trains and military expeditions at the same time?—A. Sometimes they were accompanied by military, but they were always under the control of the military.

FORMER DANGER FROM INDIANS.

Q. Did they go always armed and ready to fight?—A. We went one hundred and fifty or two hundred strong, ready to protect ourselves.

Q. What did you do at night?—A. We put out guards and had our members under perfect military control.

Q. Was there any safety in moving through this country in any other way?—A. No, sir; and it was a risk then.

Q. Do you not know, as a matter of fact, that a freight train of the Union Pacific Railway was attacked and burned at Plum Creek, 250 miles west of here?—A. Yes, sir.

EFFECT OF ROAD ON MILITARY POSTS.

Q. What has been the effect of the construction of the road in any other respect—in respect to the disposition of military posts and in respect to classification of the Indian tribes in the West?—A. The rapid transit which is now afforded to troops is so much better than it was before that that I think it has rendered necessary the abandonment of several military posts.

Q. Many posts have been abandoned and smaller garrisons are maintained in others?—A. Yes. I can illustrate that: 200 miles from here, at Kearney, there was a post; 200 miles beyond that, at Cottonwood, was another; 200 miles beyond that, at California Crossing, was another; and at nearly every ranch of 25 or 30 miles apart there was a squad.

Q. Then the result of the construction of the road has been practically the classification of the hostile tribes?—A. There is no doubt about it.

MAILS BY PONY EXPRESS AND STAGE COACH.

Q. How was the mail carried then between here and Denver and San Francisco?—A. It was by pony express and stage coach.

The CHAIRMAN. None of this is questioned.

The WITNESS. It has been questioned, all over and over, in Congress.

Mr. POPPLETON. I know that. I have repeated it myself before Congress and no attention was paid to it. I thought it would be a good thing to have it repeated before this Commission by somebody that knows all about it.

Q. Have you been on the plains, yourself, and are you speaking of this from personal knowledge?—A. Yes; I have owned teams and driven some of them myself.

By the CHAIRMAN:

Q. Is it your opinion that because of this the Union Pacific Railway Company should not pay the \$27,000,000 and other sums due the United States Government?—A. I have not said that. But I believe that the benefits inured to the Government in the saving of expense have been more than the Government has paid out. I believe, however, the company should pay every dollar of this.

DISADVANTAGES OF THE UNION PACIFIC.

Q. You have named the advantages of the Union Pacific, from personal observation. Did you ever hear of any disadvantages?—A. Yes, sir.

Q. What were they?—A. I have heard men complain of disadvantages.

Q. What did they complain of?—A. Freighters and men who have been inured to this western life, when the railroad came in and took their property away from them. They could not follow their occupation.

Q. What else did you hear of?—A. Nothing else.

REBATES.

Q. Did you ever hear of rebates being allowed to one class of shippers to the detriment of another?—A. I have heard it, but I have never investigated it.

Q. When I tell you that it is a fact, demonstrated here by the books of the company, do you consider that an advantage to all shippers?—A. I presume that it worked disadvantageously to some; it could not help doing so; all discriminations do; but I would like to see the man that can conduct any business without discriminating. I would not do it.

Q. If any locality is discriminated against, would it be a disadvantage to the locality discriminated against?—A. That would be an opinion.

Q. If such discrimination is shown in the books of the company, and it is the fact, would that be a disadvantage to the locality discriminated against?—A. It would be a discrimination against the locality, but an advantage to the railroad company.

REQUESTED TO SUBPENA GEORGE W. FROST.

Mr. POPPLETON. I would like to give a name to the Commission of a person to be subpoenaed as a witness as to the cost of material put into the road originally. The name is George W. Frost.

Commissioner LITTLER. Will he come without a subpoena?

Mr. POPPLETON. He was here last Saturday. I presume I can get him here.

The CHAIRMAN. If you will have an affidavit made by him we will take it.

Mr. POPPLETON. Very well. He was the purchasing agent of the company at the time, and I would like to get in his statement in some form, but it will suit me very well to have him go before a notary, make his statement, and swear to it.

Commissioner LITTLER. Yes; and anybody else who may be familiar with the cost of the road.

Mr. POPPLETON. I do not think of any others.

OMAHA, NEBR., *Tuesday, June 28, 1887.*

F. P. HANLON, being further examined, testified as follows:

VOUCHER 40902, TO F. P. HANLON.

The Chairman shows to the witness Union Pacific voucher No. 40902, account of F. P. Hanlon, dated November, 1883, "for hotel bill at Lincoln, eight days, \$35. O. K. J. M. T. Approved. Thomas L. Kimball, A. G. M."

By the CHAIRMAN:

Question. Please explain that voucher.—Answer. I cannot recall just what this was for at that time, because I do not remember. There probably were some other parties there with me, and it includes the entire hotel bill at the time. That is the nearest explanation I can give of the bill. Sometimes there were three or four or half a dozen there at a time, and their bill would go in with mine as a whole.

Q. Was the legislature in session?—A. I do not think it was. The bill would be larger than that if it was.

Q. Can you not tell whether the legislature was in session?—A. It was not. It would not be in session in November.

Q. Where are the hotel bills of that date?—A. I have not got them. I never took any hotel bills.

Q. How was this bill made up?—A. By memorandum made at the time.

Q. Have you got that memorandum?—A. No, sir; I have not.

Q. To whom did you furnish it?—A. To Mr. Thurston, I guess, at the time.

Q. Whose are the initials on there—"J. M. T."?—A. John M. Thurston, I guess.

VOUCHER 41533, TO F. P. HANLON.

The Chairman shows to the witness voucher No. 41533 (reading):

The Union Pacific Railway Company to F. P. Hanlon, Dr.

December 21, 1883. For incidental expenses in December, 1883..... \$125

Q. Please look at that and explain to the Commission, if you can, what incidental expenses you incurred at that time.—A. I cannot recall what those were. There is nothing here to show what they were.

Q. Did you furnish a bill to the company at the time?—A. I had a memorandum to show the amount, whatever it was.

Q. How did you make up your memorandum?—A. I made it up at the end of each month.

HOW BILLS WERE RENDERED.

Q. Did you furnish a copy of your memorandum to Mr. Thurston?—A. I gave him a memorandum of the amount—if that was to Mr. Thurston. Yes; it must have been. I do not recall now what that was for.

Q. Did you always specify the kind of service you rendered?—A. I generally carried, at the time, a memorandum book and noted the expenses daily.

Q. Did you show to Mr. Thurston the incidental expenses you incurred?—A. I did; yes.

Q. Then if the bill to the company does not give the items, it is not the same kind of bill that you gave to him?—A. No; I do not think it is.

Q. You named the purposes?—A. Yes, sir.

Q. Did you generally make out a bill like that?—A. I do not know now.

Q. Is that in your handwriting?—A. No, sir; it is not.

Q. Do you know the handwriting?—A. No; I do not know the handwriting.

Q. Where is the bill that you furnished?—A. I cannot tell.

Q. Did you ever make out a bill, in your handwriting, for incidental expenses without naming the expenses?—A. I would give a memorandum in my handwriting.

Q. Did you ever make out a bill for incidental expenses without naming the expenses incidentally incurred?—A. I do not think I have.

The CHAIRMAN (to Mr. Mink). If you have any other papers showing how that bill was made up by the company, the Commission would like to have them.

Mr. MINK. Mr. Young, the auditor, will know whether there are any other papers.

Mr. YOUNG. We have no other papers in the office.

VOUCHER 12004, TO F. P. HANLON.

The Chairman shows to the witness voucher No. 12004, (reading):

F. P. Hanlon,

Expenses procuring witnesses in Halley and other cases..... \$60

Hotel bill at Lincoln, from January 1 to 31..... 70

Total..... 130

O. K.

J. T. CLARK.

[The \$70 is marked out, and \$70 again written in lead pencil.]

Q. Please examine that bill and state whether the paper read to you is in your handwriting?—A. The top of it is; yes, the dates.

Q. What other part of it is in your handwriting?—A. My signature on the voucher.

Q. Do you recollect making out that bill?—A. I do not. I see my writing there, and the dates.

Q. In whose handwriting is the bottom of the bill?—A. That is Mr. J. T. Clark's.

Q. Who was he?—A. He was general superintendent of the Union Pacific.

Q. What expenses were incurred at Lincoln which are charged in that bill?—A. I cannot recall just what the cases were.

ERASURES AND CORRECTIONS IN A BILL.

Q. Why was the item of expenses to Lincoln stricken out and again inserted?—A. It was a mistake in the figures, probably.

The CHAIRMAN. No, the figures are the same; I call your attention to that fact.

The WITNESS. I do not know how it was. I could not say.

Q. Do you recollect discussing with Mr. Clark about that bill?—A. I cannot recall that. I must have explained, I suppose, whatever it was for at the time.

Q. Did you render an account for that bill?—A. Yes, sir; I would not have got it if I had not.

Q. Did you render it in detail?—A. Probably I did; yes, sir.

The CHAIRMAN. Mr. Mink, the Commission desire to have the original papers in the bill that I have been just questioning the witness about.

Mr. MINK. Mr. Young (the auditor) will make an explanation about it.

MANNER OF KEEPING PAPERS ACCOMPANYING VOUCHERS.

Mr. ERASTUS YOUNG. Prior to 1884 all papers belonging to a voucher or accompanying it were attached to the voucher. Subsequent to that time they were filed in envelopes, separate from the vouchers. In this case, therefore, this represents all papers that we have any record of.

The CHAIRMAN. Do you know the handwriting below Mr. Hanlon's handwriting on that bill? Mr. Hanlon says he dated the bill, but does not know who filled in the lower part of the bill.

The WITNESS. The dates I filled in. Whose writing that is I could not tell [indicating by reference to the voucher].

Q. Do you recall receiving such a sum of money?—A. No, sir; I cannot recollect now. I probably received it, though, or I would not have receipted for it.

VOUCHER 6682, TO F. P. HANLON.

The chairman shows to the witness voucher No. 6682, dated June 30, 1884 (reading):

The Union Pacific Railway Company to F. P. Hanlon, Dr.

Traveling and incidental expenses during the month of June, as special agent.....	\$74.50
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Q. Can you explain the incidental charges in the voucher presented to you?—A. I could not recall what that voucher is for.

Q. Did you furnish a bill for that amount?—A. I must have furnished the items to somebody, whoever made out the vouchers, from my memorandum book; I cannot recall what that particular bill was for.

THE PURPOSE OF THE ENVELOPE ACCOMPANYING VOUCHER.

The CHAIRMAN. I call your attention to the fact that the envelope, according to the system adopted by the company, contains no original or concerning the bill which the witness has just explained.

Mr. YOUNG. The object of having an envelope for every voucher is in order to keep the files straight. Even though we have no papers, we keep the envelopes with the files just the same.

The CHAIRMAN. Where are the original papers given by Mr. Hanlon to the officer who rendered the charge?

Mr. YOUNG. I could not tell you.

Mr. MINK. Do you know whether there ever were any?

Mr. YOUNG. I do not know whether there ever were any.

By Mr. POPPLETON:

Q. Can you recall whether that bill related to any criminal matter, or any investigation that you were detailed to attend to?—A. Why, certainly, that must have been it. That was my bill for expenses. But, whatever it was, I cannot recall what the case was now.

Q. They were services of a detective character?—A. Yes; I was a special agent. But what the case was I cannot recall at this time.

APPROVAL OF VOUCHER 6682.

The CHAIRMAN. Mr. Young, I call your attention to the voucher in the case of 6682. It bears this approval:

The above account has been examined, found correct, and hereby approved for payment.

ERASTUS YOUNG, Auditor.

Was that approval based on the charge above made?

Mr. ERASTUS YOUNG. In that case it is based on the approval of the assistant general manager.

The CHAIRMAN. Do you recall that there were any papers in this case?

Mr. YOUNG. No, sir.

The CHAIRMAN. After the adoption of this system would there be original papers accompanying that bill?

Mr. YOUNG. There might or might not be. Many vouchers have no papers. Wherever there are original papers they are filed.

VOUCHER 3850, TO F. P. HANLON.

The chairman shows to the witness voucher No. 3850, dated April 18, 1884 (reading):

The Union Pacific Railway Company to Frank P. Hanlon, Dr.

April 18. For traveling expenses on special business of the company..... \$150

Q. Do you recollect the charge made in the voucher that is now presented to you?—A. I do not recall the particular case or what those expenses were incurred in.

Q. Did you keep a memorandum of your expenses?—A. I had a memorandum at the time that was made out.

Q. Did you make out a bill to the company from your memorandum?—A. Yes, sir.

Q. Did you do it in every case?—A. In every case where there was a memorandum.

Q. Who approved that bill?—A. That was approved by Mr. Kimball.

The CHAIRMAN (to the auditor). I do not find any original papers with that voucher. Where are they?

Mr. ERASTUS YOUNG. There are none, if they are not there.

VOUCHER 8816, TO F. P. HANLON.

The chairman shows to the witness voucher No. 8816, dated August 23, 1884 (reading):

Union Pacific Railway Company to F. P. Hanlon, Dr.

For incidental and traveling expenses and special services during July and August, 1884.

Q. Please examine that voucher and see if you recall anything connected with it?—A. These are expenses for the number of days in the month that I was out.

Q. What was the nature of your expenses?—A. Hotel bills and incidental traveling bills.

Q. Did you keep a copy of your expenses?—A. Yes; I used to carry a small memorandum, something like that [showing a small pass-book]. At the end of the month I would probably read the items off to some clerk in the office, and the items of the voucher were sent to the general manager, and they were subject to his approval.

ORIGINAL MEMORANDA OF EXPENSES DESTROYED.

Q. What did you do with those books?—A. They are probably waste paper at this time.

Q. Have you any of them in your possession?—A. No, sir.

Q. Were they destroyed?—A. Why, yes. There was no use for them after that.

Q. Did you keep them until the end of the year and then destroy them?—A. Yes; or until the end of the month. After I got the items copied into the voucher I might tear up the memorandum.

Q. In each case, for each month during the term you were employed in special services by the company, did you furnish to the company a memorandum of the charges and the subjects of the charges?—A. Certainly; that is what the vouchers are for.

The CHAIRMAN. I call for the original papers in the case of the voucher presented to the witness, and say that there are none in the envelope.

Mr. ERASTUS YOUNG. Then there are none.

Mr. POPPLETON. Are the expenses connected with that voucher anything more than ordinary expenses, while you were engaged in your detective work?

The WITNESS. That is all, sir.

The CHAIRMAN (to Mr. Mink). Have you furnished all of Mr. Hanlon's vouchers?

Mr. MINK. I think we have.

VOUCHER 4466, TO F. P. HANLON.

The chairman shows the witness voucher No. 4466, dated May 8, 1884 [reading]:

The Union Pacific Railway Company to F. P. Hanlon, Dr.

For expenses, traveling, April; hotel bill at Lincoln \$63.50

CANNOT RECALL EXPENSES.

By the CHAIRMAN:

Q. Do you recall the expenses named in that voucher?—A. I cannot recall, at this time, what they were for.

Q. Did you make a memorandum of the charges named there?—A. They were copied from a memorandum that I had of my expenses.

The CHAIRMAN. I call for the original papers from which this bill was copied, as stated by the witness.

Mr. ERASTUS YOUNG. I have no papers, other than these that may be in the envelope.

The CHAIRMAN. There are no papers in the envelope.

Mr. ERASTUS YOUNG. Then there are none.

By Mr. POPPLETON:

Q. What work were you mainly engaged on during the time of these vouchers?

SECRET SERVICE AND DETECTIVE WORK.

A. In the secret service; detective work; whatever I was detailed to do.

Q. These vouchers cover the expenses of the work you were detailed to do?—A. There may have been a few extra cigars brought in there in some way; none of the bills are very heavy.

By the CHAIRMAN:

Q. Do all the vouchers that I have read to you represent all the sums of money received by you during the years for which they call for charges?—A. That I cannot answer. I do not know anything about it. All I have seen are correct, so far as I know.

By Mr. POPPLETON:

Q. Were you on the pay-roll?—A. Yes, sir.

AMOUNT OF SALARY.

By the CHAIRMAN:

Q. How much did you receive in any one year from the company?—A. That I could not tell.

Q. What was the amount of your salary?—A. From \$100 to \$150 a month.

Q. What was the salary during the session of the legislature?—A. Not any more than it was during the adjournment.

Q. Are your expenses in attendance upon the legislature contained in any of the vouchers I have named to you?—A. Probably some of them may be; yes, my personal expenses.

Q. Did the vouchers include all the sums of money expended by you during the session of the legislature?—A. Yes; all the vouchers are my monthly vouchers.

Q. Were bills rendered to Mr. Thurston?—A. I never rendered any bills to Mr. Thurston.

Q. Did you ever receive any money from Mr. Thurston?—A. I might have borrowed some money from him for my expenses while there. If I did I would pay it back at the first of the month.

Q. Did Mr. Thurston pay you by check?—A. I cannot recall whether it was by check or cash.

Q. Did you render a bill to Mr. Thurston?—A. He made a memorandum of it.

By Mr. POPPLETON:

Q. Now, what are you speaking of—money that you may have borrowed of him?—A. For my personal expenses.

MR. THURSTON MISSING.

The CHAIRMAN. I want to call again for the production of Mr. J. M. Thurston. We have searched the city of Omaha for him. We have sent out in every direction and have failed to find him. He is a very important witness, and it is of the utmost importance that his evidence, at some time, be produced to this Commission.

Mr. POPPLETON. I would like to say right in this same connection that no officer of this company, so far as I know, has any control of Judge Thurston, as to his movements. No officer, so far as I know, knows where he is. No officer of this company, or the company itself, has any process of law by which they can find him or compel him to come here. This Commission has process of law for that purpose; and, in that view, it is unreasonable to call on the comptroller of this company or anybody else connected with it to produce the body of Judge Thurston before this Commission.

The CHAIRMAN. In answer to that, I desire to say on the part of the Commission, that Mr. J. M. Thurston is the assistant attorney of the Union Pacific Railway Company; that the Union Pacific Railway Company authorities have repeatedly, and from time to time, assured the Commission that they had not anything to conceal, and were ready and prepared to offer any evidence, or testimony, or witnesses whatever to enlighten the Commission; that the Commission has made every effort to find this officer of the company by subpoena, and failed; and the Commission now asks, in order to secure information in regard to some expenses charged against the company, the assistance of the officers of the Union Pacific Railway Company to aid the Commission in ascertaining the whereabouts of Mr. J. M. Thurston.

Mr. POPPLETON. I would like to have the statement made on the record, in my name, that, speaking for myself, I am willing and anxious to assist the Commission in finding any witness or in reaching any information which it seeks; and when I learn where Judge Thurston is to be found, I have no hesitation in saying that I will inform the chairman of this Commission. But I am just as ignorant of his whereabouts, or when he left the city, or when he will return, as the chairman is. I do not believe, however, that he is away from the city with any intent of evading the investigation of this Commission. I do not believe that he has done anything that would make it necessary for him to take any such course.

DAILY EXPENSES: HOW PAID.

By Commissioner LITTLE:

Q. I want to ask you something more in relation to your accounts. I understand you to say that it was your custom, in keeping the accounts of the company, to enter in a memorandum book your expenses daily, as they occurred.—A. Yes, sir.

Q. And at the end of the month you would come to the accounting officers and have a voucher made, and get your money. Is that the way it was done?—A. Yes.

Q. To whom did you go usually to have that voucher prepared?—A. To some one of the clerks in the auditor's office.

Q. Did you simply read these items off to the clerk and have him make up the footings, and thus make out the voucher, or did you transcribe the items and furnish him a written memorandum of each case?—A. I read the items off from the memorandum.

DESTRUCTION OF MEMORANDA OF EXPENSES.

Q. Then you never gave the company a written memorandum, but kept it, as I understand?—A. Yes; kept it, and then scratched it out.

Q. What did you do then with the memorandum?—A. Probably tore it up.

Q. At all events you are not able to produce that original memorandum?—A. No, sir; I never kept one more than month in and month out.

Q. And that is the only memorandum you had on which this voucher is based?—A. That is all, sir.

By the CHAIRMAN:

Q. Have you anything to say that you have not said with reference to this company, or your connection with it?—A. No, sir; I do not think I have.

THE KETCHUM EXTENSION: EDDY'S COMPENSATION.

The CHAIRMAN (to Mr. Mink). What calls have you ready?

Mr. MINK. I have voucher No. 7672, in favor of Mr. Eddy, for work done on the Ketchum extension; the voucher being his compensation under the contract referred to by him yesterday.

The CHAIRMAN. It reads: "No. 7672," is dated "June 26, 1885."

The Union Pacific Railway Company to John M. Eddy, Omaha, Dr.

For amount agreed upon in settlement in full of all his claims accruing under a certain contract made by him with Charles Francis Adams, jr., as president of the Union Pacific Railway Company, in respect to the amount of money for the construction of the Oregon Short Line Railway from Hailey to Ketchum, in Idaho, and for all claims against the Union Pacific Railway Company and the Oregon Short Line Railway Company, in and to said contract; and also the contract of even date for the construction of said road from Hailey to Ketchum. It is the intention of the parties that this voucher shall operate as a satisfaction and receipt in full of all demands and claims of said Eddy of every nature and name growing out of said contract \$1,500

Contract dated June 5, 1884, and numbered 397, auditor's office.

Mr. POPPLETON. Those contracts you have?

The CHAIRMAN. Yes; the receipt of Mr. Eddy for the above payment appears on the voucher under date of June 26, 1885. The voucher has also the approval of the officers of the company.

COST OF KETCHUM EXTENSION.

Mr. MINK. I can also inform the Commission that the cost of this extension appears to have been \$190,580.05. That would be included in a detailed statement of the cost of these lines which we are having prepared. The distance was 12 miles.

The CHAIRMAN. That shows that the cost was about \$15,881 per mile.

Mr. POPPLETON. Do you mean to say that that was the total cost of the grading, tieing, ironing, and equipping the road?

Mr. MINK. It is the total cost under that contract.

The CHAIRMAN. In this connection I will state that the capitalization was at the rate of \$40,000 per mile.

Mr. MINK. That is right. Forty thousand dollars a mile is what the Oregon Short Line Company paid to the contractor for building the railway.

STOCK AND BONDS OF THE EXTENSION.

The CHAIRMAN (to Mr. Mink). Did the stock and bonds of the extension contracted for in the name of Mr. Eddy ever pass into his hands?

Mr. MINK. I do not think they did. But papers representing the ownership of the bonds and stock, I feel quite sure, passed through his hands into the hands of the Union Pacific Railway Company, to whom the securities were finally delivered.

The CHAIRMAN. To what papers to you refer?

Mr. MINK. I think there was a power of attorney for the transfer of stock; I cannot tell exactly. The records of the Oregon Short Line Company will show.

The CHAIRMAN. Does not the agreement show all papers that passed?

VOUCHER OF J. M. TISDEL.

Mr. MINK. I submit voucher E, 45958, in favor of J. M. Tidel for \$105:

July 21, 1884, June 15. For cash advanced to J. Hughes for expenses of J. Hughes and D. Thomas, prospecting for coal on Oregon Short Line west of Pocatello, during the months of April, May, and June..... \$105 00

VOUCHER OF WALTER HULBURT.

I also submit voucher E, 50060, in favor of Walter Hulburt, receiver at Cheyenne, for \$9,615:

For amount paid the Government of the United States for the following cash entries of the following lands entered at the local land office at Cheyenne W. T.:

No. 10. Jno. J. Hughes, southeast quarter 26-22-80, 160 acres	\$3,200 00
No. 11. Samuel F. Adams, northeast quarter 26-22-80, 160 acres	3,200 00
No. 12. John Groves, southwest quarter 26-22-80, 160 acres	3,200 00
Board of C. D. Clark and L. R. Morse	9 00
Sleeping-car, C. D. Clark, two nights	4 00
Board on road, C. D. Clark	2 00

I hereby certify that payment of this voucher was made February 7, 1885, in currency, shipped to the First National Bank of Cheyenne, Wyoming, on order of E. Young, auditor, of same date; cashier's number, 4613.

Copies of receipt on file in auditor's office.

This certificate made on account of not being able to obtain Mr. Hulburt's receipt to this voucher.

F. D. BROWN, *Cashier.*

FEBRUARY 20, 1885.

The CHAIRMAN. You have different approvals here.

Mr. ERASTUS YOUNG. Different persons approve the different classes of vouchers.

The CHAIRMAN. Then the usual approval for such vouchers is appended?

Mr. ERASTUS YOUNG. Yes.

COAL LANDS.

The CHAIRMAN. Were those grants included in any of the grants made by the Government to this company? Are these additional lands acquired by the company, where entries are made in the names of strangers?

Mr. POPPLETON. They are coal lands acquired by the company for its use in supplying coal for the operation of its road, made in the name of individuals. These lands are situated at the Carbon mines, in Wyoming, and adjoin mines that the company has been working for ten or fifteen years.

Commissioner LITTLER. These lands are not embraced in the land-grant mortgage, are they?

Mr. POPPLETON. No, sir.

Commissioner LITTLER. Were they public lands?

Mr. POPPLETON. They were public lands subject to entry for the coal, and they were subject to entry by individuals for cash, as was done in this case.

VOUCHER OF BECKWITH & CO.

Mr. MINK. I also submit voucher No. 49856, January 19, 1885, in favor of Beckwith & Co., \$6,400:

For account paid through C. B. Clark, for the following entries of coal lands:
J. M. Tisdell, SW. quarter of section 24, 19, 105; William W. Funk, SE. quarter of section 24, 19, 105.

Total, \$6,400.

Payable to F. D. Brown, cashier.

I certify that the amount of this voucher was paid to Beckwith & Co. January 6, 1885, by cash voucher No. 4326, and that the same was receipted by Beckwith & Co.

F. D. BROWN, *Cashier*.

The receipt of F. D. Brown is appended to the approval of the officers.

The CHAIRMAN. Who composed the firm of Beckwith & Co.?

Mr. POPPLETON. I cannot say that. It is a firm doing business at Evanston, Wyo.

HOW ENTRIES OF COAL LANDS WERE MADE.

The CHAIRMAN. Are these in the nature of lands purchased by the company for coal?

Mr. POPPLETON. Those particular lands I have no personal knowledge of; but that is my understanding.

The CHAIRMAN. In whose name were the entries made?

Mr. POPPLETON. In the name of Tisdell and Funk, I take it.

The CHAIRMAN. Were the entries made at the request of the company?

Mr. POPPLETON. That I could not say. The entries were made, I think, under the direction of D. O. Clark, the head of the coal department. You will notice that my name does not appear on that voucher. I did not have any personal connection with it.

The CHAIRMAN. Where are the original papers on which that voucher was based?

Mr. ERASTUS YOUNG. I presume they are in Mr. Clark's hands, although I do not know.

The CHAIRMAN. Where is Mr. Clark?

Mr. ERASTUS YOUNG. He is in Omaha, in the coal department of the company.

Mr. POPPLETON. There would be no original papers, except papers showing the payment of this money. I know that we have these lands.

THE COMPANY'S ENTRY OF COAL LANDS IN NAMES OF INDIVIDUALS.

The CHAIRMAN. Was it the policy of the company to make entries generally on other public lands in the name of individuals, where coal was located?

Mr. POPPLETON. When lands were known to be coal lands that were considered absolutely necessary for the business of the road, either now or prospectively, to a reasonable extent it was the policy of the company to purchase those lands if they could.

The CHAIRMAN. Why did they use individual names?

Mr. POPPLETON. Under the coal law a corporation cannot purchase coal lands; but individuals may purchase at will.

The CHAIRMAN. What coal law do you refer to?

Mr. POPPLETON. The coal act of Congress.

The CHAIRMAN. Can we get it here?

Mr. POPPLETON. Yes.

The CHAIRMAN. I would like to look at that.

PROVISIONS OF THE COAL ACT.

Mr. POPPLETON. It provides two methods of purchase; one by pre-emption and one by private entry. In the case of private entry there is nothing to do but to pay the money and take the lands. The price is \$10 an acre for lands that are more than 15 miles distant from a railroad and \$20 an acre for lands less than 15 miles. In some cases parties acquire preferential claims by making improvements. If they make \$5,000 worth of improvements they can enter the lands, and that will exclude the lands from purchase by other parties at private sale, if the improvements are made within a reasonable time—I think within a year.

The CHAIRMAN. How much has the company purchased in that way, of coal land, from time to time?

Mr. POPPLETON. I can only say within my own knowledge, about 3,200 acres.

DOUBT WHETHER IT EXCLUDES CORPORATIONS FROM ENTERING COAL LANDS.

The CHAIRMAN. What was the purpose of the act of Congress in preventing corporations from taking out entries of coal lands?

Mr. POPPLETON. The act does not prevent; it is simply silent; it gives the right to individuals to enter, and the right to associations to enter. It is, perhaps, a question whether that was meant to exclude corporations. I know of no test case that settles it, but there is no question of the right of individuals to pay for coal lands.

Commissioner LITTLER. Does the act use the word "individual" or "person?"

Mr. POPPLETON. It says "individual or association."

The CHAIRMAN. If we could get the act of Congress we could put it right in here.

Mr. POPPLETON. I can furnish you the act, but I would rather make a copy of it than furnish you the original.

Mr. Poppleton produces copy of the act referred to.
[It is the act approved March 3, 1873, and forms section 2347 of the Revised Statutes of the United States.]

THE \$2,000,000 LOAN.

Mr. MINK. I produce memorandum in relation to the sterling loans guaranteed by Messrs. Frederick L. Ames, F. Gordon Dexter, Charles F. Adams, jr., and Elisha Atkins.

Commissioner LITTLER. Was that the \$2,000,000 loan that has been spoken of?

Mr. MINK. The largest amount outstanding at any time was about \$2,000,000. These are the loans referred to by Mr. Atkins in his testimony.

Commissioner LITTLER. For the making of which they received \$20,000.

Mr. MINK. Precisely. I have also a memorandum showing the amount of transportation earned by the Central Branch, Union Pacific Railway Company, on Government business and mails, which may as well go into the record now. These papers were called for at Boston.

The CHAIRMAN. Have you appearing anywhere in your report a memorandum showing the land entries paid for by the company and the location of the land?

Mr. MINK. In the annual report, do you mean?

The CHAIRMAN. Yes.

Mr. MINK. No, sir.

The CHAIRMAN. Can you furnish the Commission with a statement of it?

Mr. MINK. I think I can. I will try to do so.

The CHAIRMAN. A statement of all land entries paid for by the company, the location of the lands, and the amounts paid thereon. I want it to include all entries you have made upon lands other than the lands granted to you by the Government.

Commissioner LITTLER. And a description of any lands purchased by you from private individuals. Do you not mean to include that?

The CHAIRMAN. Yes.

Commissioner LITTLER. The object is to get at the lands you have obtained in any way other than from the United States.

The CHAIRMAN. The company has gone out of its way to take, in individual names, lands which apparently were prohibited by the act of Congress from being held by a corporation. I do not mean to say that the act makes such prohibition in fact, but I say it apparently does so.

Mr. MINK. You do not mean held?

The CHAIRMAN. I mean purchased by a corporation.

Mr. POPPLETON. Our theory is that there is no question about the corporate power of a railway company to hold coal lands necessary in connection with its enterprise.

POWER OF THE COMPANY TO MINE COAL.

The CHAIRMAN. Has the company the chartered power to mine coal?
Mr. POPPLETON. Unquestionably, under the power to operate the road.

The CHAIRMAN. And to buy coal lands?

Mr. POPPLETON. I think so. I think it is all involved in the power and duty to maintain and operate a road. This road certainly never could have been operated without the power to mine coal. If the Rock Springs mine was under a combination which should withhold the coal from the company it would be a very serious matter.

The CHAIRMAN. Was the power to mine specifically given?

Mr. POPPLETON. No.

The CHAIRMAN. Or to mine coal lands?

Mr. POPPLETON. No.

Commissioner LITTLER. Was there any power of condemnation in the charter?

Mr. POPPLETON. In the amendatory act there was a power of condemnation.

Commissioner LITTLER. And such additional lands as might be necessary for the operation of the road?

Mr. POPPLETON. No.

Afternoon session.

OMAHA, NEBR., *Tuesday, June 28, 1887.*

WILLIAM M. FLANAGAN, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am cashier of the firm of Harris & Fisher, Omaha, Nebr.

FORMERLY CONNECTED WITH STOCK YARDS.

Q. Have you ever had business relations with the Union Pacific Railway Company?—A. I have been yardmaster of several stock-yards on the line.

Q. What stock-yards?—A. The Omaha stock-yards and the Union stock-yards on this side of the river; I built the Union stock-yards, of which Mr. Paxton was president, a short distance from the town here.

Q. When did you cease to be employed in or connected with the stock-yards?—A. About the year 1881 I ceased to be employed at any stock-yards in this vicinity.

Q. What was the cause of your cessation of that?—A. I got the appointment of superintendent of construction on the water-works here in Omaha.

Q. Were you aware of Mr. Nicholas's relation with the Union Pacific Railway Company?—A. I worked for Mr. Nicholas as yardmaster at his yard for several years.

Q. Did you make the affidavit presented by him to this Commission?—A. I did, sir.

Q. Are the facts set forth in the affidavit true?—A. Yes, sir.

DISCRIMINATIONS.

Q. Do you know of any discrimination by the Union Pacific against Mr. Nicholas that prevented him from engaging in the stock-yard busi-

ness?—A. Well, I only know that there has been a great deal of arbitrary work done. When there was stock shipped to our yards they were arbitrarily run over the river, out of our jurisdiction, by the authority of some one in the Union Pacific Railway Company.

AN ILLUSTRATION.

Q. How do you know that?—A. I have seen the bills and talked with the men who owned the cattle, in one instance. In 1880 there was a man by the name of Robbins at Kearney Junction, Nebr., who had seventeen cars of cattle, and he wanted to bill them to our yard. There was a great war of rates then between the Union Pacific and the Burlington and Missouri. He wanted to take the benefit of the cut-rate from Kearney Junction to our yard with his cattle. He had been in our yard several times. He told the agent at Kearney Junction that he wanted the stock billed for the Omaha yard. The agent said if he did he could not give him the benefit of the cut-rate, but if he would run them to the other yards (on the other side of the river) he could have the benefit of the cut-rate.

Q. That is, the Paxton yards?—A. Yes. And that if he pulled up this side of the river he could not have the benefit of the cut-rate.

Q. What was the difference between the two?—A. Perhaps it would be \$70.

By Commissioner LITTLE:

Q. Per car?—A. Per car; yes, sir.

By the CHAIRMAN:

Q. What did he do?—A. The agent at Kearney Junction did not give him the benefit of the cut-rate, so that he had to bill the cattle over the river.

Q. Was the agent at Kearney the agent of the Union Pacific Railway Company?—A. Yes, sir.

Q. What was his name?—A. I do not remember his name now. It is a good many years ago. But there were a few prominent names of shippers that I can remember. That is all.

ANOTHER ILLUSTRATION.

Q. What other names do you recall?—A. I think there was a man by the name of Ferris that had some cattle addressed to our yard.

Mr. POPPLETON. I would like to know whether this gentleman is speaking from personal knowledge, or otherwise.

The WITNESS. I speak from personal experience. I was yardmaster at the yards. I am not going to state anything that is not literally true, if I know myself.

Mr. POPPLETON. Well, proceed.

The WITNESS. We made an engagement for him, and we engaged with parties to have the cattle taken on this side of the river as feeders. It appears, however, that the railroad people would not bill them into the yards, so that the cattle were billed to run on the other side of the river. That kind of discrimination hurt our business very much. It was done by authority of some one along the road. I do not know who it was. Probably by the authority of the superintendent of the road.

Q. How many other causes do you recall, or was that practice general?—A. No, I cannot say that it was very general; but there were a good many cases of that kind.

INJURIOUS EFFECT OF DISCRIMINATION.

Q. What effect did it have on your business?—A. It injured our business very seriously.

Q. To what extent?—A. Probably \$100 or \$150 a week.

Q. Were you able to go on with the business?—A. Well, we did go on with it. We had a light business, but we had some business.

Q. Were you compelled to go out of the business on account of this discrimination?—A. Yes; we could not pay expenses, and I sought other employment.

SALE OF UNION STOCKYARD TO SWAN & PAXTON.

Q. Have you any other information to give the Commission?—A. I was employed to build the Union stock yards on this side of the river by Mr. Paxton, Mr. Lovett, Mr. Broatch, and Mr. Murphy; and I was yardmaster of that yard nearly two years. This yard was finally sold to Swan & Paxton.

Q. What yard was sold?—A. The Union stock yard on this side of the river.

Q. On the Omaha side of the river?—A. On the Omaha side of the river. So I was employed to help tear up the yards and move them over the river, to commence building them on the other side. I worked there some two or three weeks and had a gang of men there, so as to build the other yard.

PERSONAL GRIEVANCE OF WITNESS.

There was a little personal matter between myself and J. T. Clark that injured me very much; and I felt very much aggrieved over it. Mr. Paxton intimated to me that I was to be his manager or yardmaster over there; and I went over with that intention. Mr. Paxton had informed Mr. Clark here, in Omaha, that I was his man; and that he would not be satisfied with any one else. So I went over with that intention and understanding, that I was to be the yardmaster. I was there about two weeks and had a gang of men, building a fence and laying the water-works, &c., through the yard. Then I found out that there was some gentlemen here belonging to the Rock Island road, and Mr. Bullard of the Northwestern road, and the Swan men, who were not personally acquainted with me, and who wanted somebody else for yardmaster. I presume they used their influence with Mr. Paxton and he came to me, the same day, and asked me how I would like to work under another man—a Mr. Witherow. I told him that Mr. Witherow had been a live-stock agent for the Northwestern road, but that he did not understand anything about the stockyard business and that I was not willing to work under such a man. Mr. Paxton said the matter was not settled yet; but I saw that they were drawing their net around me and wanted to get rid of me. Finally, one morning I saw a group composed of J. T. Clark, Mr. Spratly, Henry Swan, Alexander Swan, and Mr. Paxton. I was standing within 15 or 20 feet of them. They were talking about the stock-yard business.

Q. That is the occasion when you heard the conversation reported in your affidavit?—A. Yes, sir.

The CHAIRMAN. We do not want that; we have that on file.

The WITNESS. That is what I was going to tell. Mr. Clark said, "There is Flanagan, who has been yardmaster of the stock yard on the Lake Shore road at Toledo, Ohio, and of the Union stock yard."

Omaha; and he has 'busted' them up, and if you get him and he will 'bust' you up." I did not like that very well, because I needed the labor.

DISCRIMINATIONS.

Q. What rebate or benefit or discrimination did you know that the Union Pacific Company gave to any shipper, or cattle dealer or stock yard, other than what you have stated?—A. I do not know of any rebate to any particular person.

Q. Do you know of any preferences given to any others than the stock yard you mention?—A. I cannot say that I know of any one.

By Mr. POPPLETON:

Q. Where do you say the man Robbins lives, whom you have mentioned?—A. He lives around Kearney, somewhere at Plum Creek, or somewhere around there.

Q. You say he wanted to bill from Kearney, and the agent would not bill the stock through to the Nicholas yard at the cut-rate, but he would to Council Bluffs?—A. Yes.

Q. How did you hear that?—A. I talked with him in person.

Q. With whom?—A. Robbins.

Q. Then you do not know anything about it except what Robbins himself told you?—A. No.

Q. If he did not tell the truth, then what you have sworn to is not the truth?—A. Well, if you look at it in that light—

Q. (Interposing.) You have been testifying, in respect to Robbins, to what is mere hearsay?—A. No, sir; he told me.

Q. He was not under oath when he told you, was he?—A. No, sir.

Q. Now, about Ferris; where does he live?—A. I do not know where he lives now.

Q. You say you had a contract or arrangement by which his stock was to come in here and be sold as feeders?—A. Yes.

Q. Into the Nicholas yards?—A. Yes.

Q. What is the reason they did not come?—A. Because they would not ship them into the yard.

Q. That is what Mr. Ferris told you?—A. Yes.

Q. So that your knowledge of the Ferris transaction is just the same as Robbins'; that is, what he told you?—A. Yes; I suppose I am under oath, sir.

Mr. POPPLETON. I hope you are; I do not know; I was not here when you began.

The WITNESS. I am under oath, and my reputation for veracity is as good as anybody's.

Mr. POPPLETON. I am simply asking you whether you know what you have been testifying to, or whether it is only what you have heard. Do you not know that Nicholas never had the money to run that business, and that the reason he broke down was that he had no capital, and did not have the good-will of the stockmen?

The WITNESS. He had the good-will of the stockmen. I heard a number of them speak well of him.

Q. How about his capital?—A. Well, I presume he had enough to build the yard.

Q. Do you know whether he had or not?—A. I do not, positively.

Q. Was he not always pinched for money there?—A. I do not know. I always got my pay.

Q. You went into the employment of Nicholas when you left Paxton?—A. Yes.

Q. You never were in his employ before?—A. Yes; a year before.

Q. In connection with the stock-yard?—A. No; but I did some clerking for him.

Q. It was after you lost your place over there that you went to him?—A. I did not lose it. I quit because they were discriminating against me, and there was no just reason for their doing it. That is the only way I had to defend myself.

COMMUNICATION FROM MAYOR OF COUNCIL BLUFFS.

The CHAIRMAN. In answer to communications addressed by the Commission to different leading men of this section of the country, to mayors of cities and to boards of trade, I have received a communication from the mayor of Council Bluffs, which will be read.

The communication is as follows:

EXECUTIVE DEPARTMENT,
Council Bluffs, Iowa, June 28, 1887.

ROBERT E. PATTISON, Esq.,

Chairman Union Pacific Railway Commission, Omaha, Nebr.:

DEAR SIR: Your favor of the 25th instant was duly received and the contents are carefully noted. Upon consultation with some of our leading citizens and a committee of the board of trade, we find that we have no special grievances to present against the Union Pacific Railway Company, and that we are not in possession of such facts, coming within the scope of your inquiry, as to aid you materially in your arduous labors of investigation. However, should you wish any testimony bearing upon any special point, such as we might be able to give, we will gladly appear before your honorable commission and give such information as we possess.

Respectfully, yours,

WM. GRONEWEG,
Mayor.

(Indorsed :) Committee of Board of Trade:

H. M. PUSEN.

LUCIUS WELLS.

The CHAIRMAN. In answer to a similar communication Mr. Edward Rosewater, of Omaha, is here, and we will now hear his statement.

OMAHA, NEBR., *Tuesday, June 28, 1887.*

EDWARD ROSEWATER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am the editor of the Omaha Bee.

Q. How long have you been in business in Omaha?—I have lived in Omaha going on 24 years. I have been engaged in the newspaper business since 1871, when I started the Bee.

Q. During the years that you have resided in Omaha, have you had a knowledge of the business transactions of the Union Pacific Railway Company through their management and general policy?—A. I have had a partial knowledge of some of their business.

THE UNION PACIFIC INFLUENCING LEGISLATION.

Q. What information have you as to their methods in influencing legislation?—A. I have a great deal of information with regard to that.

Q. Will you please give that information to the Commission, commencing at the beginning and coming down to the latest influence exercised by the Union Pacific Railway Company over legislation, whether in counties or in States?—A. My attention was first called to their interference in our political affairs as far back, probably, as 1872 or 1873. In those times the Republican party (as it has been since) was dominant in this State, and its conventions were attended very frequently by officers and employes of the road, and nominations were very often influenced and made through their interference.

THE NEBRASKA CENTRAL RAILROAD COMPANY.

Q. Were they delegates or were they there as officers of the company?—A. They came sometimes as delegates and sometimes as lobbyists. The first very active work that I had noticed here and which brought on a general contest in this State, as between the railroad power and those who opposed it, came on between 1875 and 1876. In 1875 we engaged in a sort of economic-political contest in this State. There were a number of prominent capitalists and business men in Omaha at that time incorporated under the name of the Nebraska Central Railway Company (a narrow-gauge concern, if I am not mistaken), which company designed to extend a road from Omaha to Grand Island, or some point west, through the central portion of the State. It was a contest fought out in this city over a bond proposition.

"THE FEDERAL RING."

A combination was made which was known as the "federal ring." That is, it was composed of all the Government employes and officials, led by the United States Senator then resident here and the employes and officers of the railroad.

Commissioner LITTLER. Give the names.

The WITNESS. The name was Phineas W. Hitchcock. He was then in his fifth year in the senate, and a very active partisan of the Union Pacific Railroad. In fact, it was at that time that this building in which you are now sitting (in pursuance of a bargain that was generally known) was purchased from the senator, or his father-in-law, a man by the name of Dr. Monell. The managers of the road made the purchase, and at the same time a purchase was made by them of a large block of stock in the Omaha Republican. But that was all in connection with the proposition to defeat the issuing of bonds for the narrow-gauge road. By this combination between Senator Hitchcock and his political followers and the forces of the Union Pacific the bond proposition was beaten. As a result of that outcome the road finally projected the Republican Valley branch from here west.

CARRYING BONDS IN THE COUNTIES.

By the CHAIRMAN:

Q. The Union Pacific road?—A. The Union Pacific road. About the same agencies employed in beating the narrow gauge bonds in Omaha were then employed in carrying bonds in other counties. That is, postmasters, postal route agents, Federal officers, and railroad employes were used largely in those counties to carry the bond proposition for the railroad company.

Q. For the construction of branch lines?—A. Of the branch called the Republican Valley line. From that time on the influence of the political ring and the railroad forces became manifest to everybody. In fact, they "pooled their issues," so to speak.

VICTORY OF THE UNION PACIFIC AT LINCOLN.

In 1876 Jay Gould and Sidney Dillon came to Omaha, at the time we held the Republican State convention. I was a delegate in that convention. When we appeared at Lincoln, I think Mr. Clark and Mr. Kimball and a number of the prominent officers of the Union Pacific Company were there, together with all their retinue. Mr. Gould and Mr. Dillon remained here. We had a four-days' pitched battle. When the convention opened we carried the day against the Union Pacific; and when it closed, they had captured the whole convention and nominated the Congressman and the ticket.

"CORRUPTION OF DELEGATES."

A public protest was made on the floor of the convention by Gen. John C. Cowin, who was their candidate for Congress, against the notorious corruption of delegates by these officers in that convention.

Q. How did they corrupt them?—A. They bought them, outright.

Q. With what?—A. With money. I had a list of members; and I now know one of them, at least, who lives in this city, named Fitch, who was in that convention, and was to get, or did get, \$100. He was elected to vote on our side, but he voted on the other side.

Q. How many others got money?—A. I presume they got twenty or thirty members.

Q. Did they buy each one of them for \$100?—A. I have no knowledge of that.

"SOMETHING MORE THAN ORATORY."

Q. How much did they get?—A. It was generally understood that delegates that came there on one side of the question were brought over by something more than oratory.

Q. How do you know that money was paid?—A. In one case a Mr. Patrick O. Hawes told me that John M. Thurston paid \$100 for the vote of that one member I named. Others were bought at the same time.

THE SENATORIAL CONTEST.

After the convention was over the senatorial contest began, and the issue was squarely made all through the State, and especially in this county, as between the railroad forces and the senatorial following of Mr. Hitchcock.

Q. What were the railroad forces—the Union Pacific Company alone, or that company and other railroad companies?—A. Well, I do not know that the company, as such, engaged in it. It was the officers of the company.

RIVALRY OF THE UNION PACIFIC AND BURLINGTON & MISSOURI.

Q. Were other railroad officers engaged besides those of the Union Pacific Company?—A. They were engaged partly on the other side.

In those days there seemed to be a contest between the Burlington and the Union Pacific line. The Burlington opposed Mr. Hitchcock and the Union Pacific supported him. But, independent of that, all those that were opposed to Hitchcock for either personal reasons or generally as a candidate, or on the ground of Federal interference in our politics, combined and acted together as the "field" against Mr. Hitchcock. The field was composed of all those elements. They met, finally, in Lincoln, in January, 1877; and after a very long and very fierce struggle Hitchcock was defeated.

THE BEGINNING OF RAILROAD MANIPULATION OF THE LEGISLATURE.

It was there and then that the first extensive manipulation of the legislature commenced, as far as I can remember. They brought down a very large force of men, both regular employes and hired men, and had them at the hotels.

Q. What were their names?—A. There was John W. Thurston. Mr. Kimball was there at the same time.

Q. What other names?—A. There was also Paul Vandervort, Horace Newman, I think; P. P. Shelby, who is, I believe, in the freight department, and who, I think, was then local agent at the Pacific Railway depot. I think Mr. Markel, their eating-house man, was also there at the time.

Q. Was Mr. Hanlon there?—A. I think Mr. Hanlon was there. I think, however, that he was not at that time a regular employe of the road.

Q. Was S. P. Jones there?—A. He may have been there. He was there off and on.

A NOTORIOUS JURY PACKER AND LOBBYIST.

Q. Was Captain Crawford there?—A. I do not remember Crawford. There was quite a number there who have since left the road. A man by the name of Frank Walter was there, who has now gone to Europe on a trip. He is notorious as a jury packer and lobbyist. It will be impossible at this time—it is so far back—to designate them all. But there were many of them from different parts of the State. They remained not only through the senatorial fight, but all along through the session to prevent any railroad legislation. From that time to this we have had a contest every session.

RAILROAD METHODS: "OIL ROOMS."

Q. What were their methods? What did these men do there?—A. The first thing they would do would be for the company or its officers to hire a large number of rooms at the hotels. Those rooms are what is known in Nebraska as "oil rooms," where they would get whisky and cigars and tell bad stories, and where, in due course of time, when men are in the humor and full of liquor, something can be done with them in regard to defeating bills, &c.

Q. There was such a thing as an "oil room," then?—A. There always has been, every session, for ten years.

Q. How did you know there was such a thing as an "oil room"?—A. I have not been in their "oil rooms," but they were designated to me. I can remember the number of the room (No. 30) at the Capital hotel, at Lincoln, during the session of 1877. There were different rooms

converted into "oil rooms" each week of the session. I was assigned, several times, to the rooms adjoining the "oil room" and heard the orgies through the night. One night I had to get up and get dressed and go down to the clerk and ask him to give me another room.

CHAMPAGNE, BRANDY, AND WHISKEY.

In the morning the hotel corridors were blocked by trays with empty champagne, brandy, and whisky bottles and glasses.

Q. Who had charge of that particular "oil room"?—A. I think, last winter, that was Mr. Vandervort's room.

Q. The No. 30 that you speak of?—A. Mr. Thurston had charge of that.

Q. Was he in command all night?—A. He was in command at that time. That was in 1877. During the session last winter I roomed in No. 16, and their room was No. 14, right adjoining the partition, at the end of the corridor.

ORIGIN OF TITLE OF "OIL ROOM."

Q. Where do they get the title "oil room"?—A. I think Frank Hanlon gave it that name. It meant lubricating the members—oiling the machine and getting it to working.

Q. Did the "oil room" continue in operation during that session, and from 1877 down to the last legislature?—A. Every session of the legislature during that time has had about the same procedure, with some variation.

WHO HAD CHARGE OF THE "OIL ROOM."

Q. Who generally took control of the "oil room," from 1877 down to date?—A. As a general thing, as far as I understood it (without personal knowledge), Mr. Thurston had charge of all that department, such as hiring the men, ordering the refreshments, &c. I understood the bills were all paid through him.

THE "OIL ROOM" FREQUENTLY CHANGED.

Q. Were those places generally designated in Lincoln as "oil rooms"?—A. No; as a general thing they were rather secret. But members always understood that such a number of room was the "oil room." They very often, at the last session, changed the "oil room." They would have different ones every week, so as to deceive persons who were observant, and who might be watching those who went to the room, because it was generally understood that the "boodlers," as we would call them, were going to that room.

"BOODLERS."

Q. Who are "boodlers"?—A. Persons in official life who are willing to sell their votes for money or who barter their influence or votes for value received.

Q. Have you any knowledge of any votes being sold at any legislature of Nebraska for money, the money being expended by the Pacific Railway Company?—A. I have not, of my personal knowledge because those things are not done generally in that way. At

ion the chairman of the railroad committee of the house of representatives was charged with having, I think, \$5,000 or so offered to him to make a certain report, the offer being made to him by E. C. Carnes, who was lieutenant-governor of the State for two years and was very closely allied to the Union Pacific people. He resided in Seward County, in this State, and, as I understood it, had received very large rebates as a grain dealer and shipper, and had also a coal business in some other locality. The investigation brought out some of the facts.

By Commissioner LITTLER:

Q. Was that a legislative investigation?—A. It was a legislative investigation.

By the CHAIRMAN:

Q. What was the name of the chairman of the committee?—A. I think his name was Roberts.

UNION PACIFIC EMPLOYÉS AS LEGISLATORS.

Q. Did the Union Pacific Railway Company have employés who were members of the legislature?—A. Almost every session; or sometimes the members who were not employés before the session became such after the session. That was another way of influencing members. I have known members at different times to get lucrative positions after the session and remain in their employ.

Q. Can you recall any such persons?—A. There was one man at Columbus, I cannot remember his name, who was employed here after the session. He did not want to go home again. I cannot recall the names right off. I could get them if I looked over the list of names. I think a man named Savage has been employed as a railroad attorney, who was a member of the legislature, I think, six years ago. Then there is a man by the name of Thummell.

Mr. POPPLETON. Mr. Savage has never been an attorney of this company. You mean the Savage that has since been connected with the stock yard.

The WITNESS. Yes. There are not so many of them but what I could find them if I looked over the list.

Q. Who were in the last legislature that were connected with the Union Pacific Railway Company?—A. There was a man by the name of Tracey, from North Platte. Then there was Mr. Young, from this city; and there were Knox, Matthieson, and Garvey, all from this county. They had a less number this last time than usual.

AGENTS OF UNION PACIFIC ATTENDING THE LEGISLATURE.

Q. Who represented the Union Pacific Company in looking after the interests of the road at the last legislature, outside of the members?—A. I presume Mr. Thurston did, largely; but there were others. There was a man by the name of Mercer that used to be employed here at headquarters. I forgot to mention Mr. Church Howe. He was more or less employed to represent this road on former occasions.

Q. Was Mr. Gurley there?—A. Yes; but he was not a member.

Q. Was Mr. Manchester there?—A. Yes; and Mr. Shelby and Mr. Vandervort were there. Both railroads sent large numbers there. The Burlington and Missouri road sent a very large force there this last session.

WHAT THEY DID.

Q. What work did these men do there?—A. Principally drinkingisky and telling nasty stories and taking men to brothels, and all at; and having gamblers around them.

Q. Did they appear before committees, and, by argument, attempt to ange or influence the legislation?—A. I do not think any of these ople, except Mr. Thurston himself, have ever appeared before any mmittee.

“CONTINUOUS INTERFERENCE” TO INFLUENCE LEGISLATION.

Q. What other information have you concerning the interference or tempted interference of the Union Pacific Company, at any time, in y of the counties, or elsewhere, to influence legislation?—A. There s been continuous interference right along for many years. It is not bad now as it used to be. There has been a great deal less in the st two years than there formerly had been. Still, they have always d favored parties in different localities who either had rebates or were tained in some manner, who managed the politics in the local counties. ey had Democrats and Republicans alike. These people of course ing supplied with passes, and, in many cases, being authorized to sue passes to others, had free transportation to every locality, and ed their influence in every way possible to manipulate primary meet- gs and carry conventions. The worst of it has been in this city. We ve often had droves of men taken from the shops to vote.

THE CLARKE REGIME.

Q. Under whose management?—A. Principally under the old man- gement; under the Clark régime.

Q. Who marched the men out?—A. They usually had the shop bosses ad certain men whom they picked out (employés of the road) who gave e word of command, practically, to the men. While not directly co- ced they were practically told, in so many words, that it was not very fe not to do it.

GENERAL INTERFERENCE WITH ELECTIONS.

By Commissioner LITTLER:

Q. Were those primary elections that you speak of or general elec- ns?—A. I speak of primary elections. But then there has been general ference with general elections also, so far as that is concerned. ere have been times when the influence and pressure brought to bear men on general elections were quite plain and obvious. I remember e general election in particular at which Mr. Poppleton thinks I ayed a very bad part; but I think I did perfectly right, and would do again.

TEMPTED INSTRUCTION TO RAILROAD EMPLOYEES HOW TO VOTE.

A. I was in my office the day before election; it was a county elec- n, I think, in 1874 or 1875, I am not certain which, and a man came with a piece of paper on which was written about the following mes- ge:

S. H. H. CLARKE:

Please direct the shopmen to vote for Grebe for sheriff.

Mr. POPPLETON. Is that in writing?

The WITNESS. Yes.

Mr. POPPLETON. I insist that Mr. Rosewater shall give the message as it was, because he has not repeated it correctly.

The WITNESS. I simply want to state the facts as they occurred, because they involved me in a controversy about stealing dispatches. I said to the man here at the Western Union office, "Is this a message that came over the wires?" He said, "Yes." "Are you sure of it?" "Yes, sir; I will vouch for it." I said, "Very well." I published that message that afternoon, and made an appeal to the workmen to resent the outrage of being instructed how to vote, because here was a request for the instruction of the general manager of the road to tell the men how to vote and who to vote for at the election.

HOW IT WAS PREVENTED.

Before, however, that publication was made, the same operator came down and brought the original message, and, as I am very well acquainted with Mr. Poppleton's handwriting, and could tell it at a glance at any time, I saw it was genuine. I compared the message with what had been left with me, and found it correct, and made my charge. The charge was resented, of course, as an outrage, and the charge was made that I had gone to the telegraph office and, as I am a sound-reader, that I had heard the message go through, and had stolen it in that way. The fact that instruction was given (or rather it was not given, because Mr. Clark did not give it, finally) brought out the machinery by which the officers of the company sought to dragoon men into supporting particular men for office. In after times it was one of the many methods used to influence men.

CHOOSING BETWEEN DUTY AND BREAD AND BUTTER.

For instance, last winter one of the members, whose name is Young, said to me, "I wish to God I had never been down here to this legislature. I would not advise any man employed by the Union Pacific Railway Company to be here, for it is utterly impossible to resist pressure when a man has to choose between his duty and his bread and butter."

By Commissioner LITTLER:

Q. What Young was that—the auditor of the company?—A. No, the member of the legislature from this district. This interference with our political machinery has been so general that there has been an immense vote on that issue. We have mustered as many as 23,000 votes here for the anti-monopoly ticket.

THE SENATORIAL CONTEST LAST WINTER.

Q. Did the Union Pacific Railway Company participate in the senatorial contests last winter?—A. Not as a company, any more than that Mr. Thurston announced himself as a candidate for senator.

Commissioner LITTLER. He had a right to do that.

The WITNESS. Yes, he was voted for in the Republican caucus, and the men were told in caucus that it was the desire of certain forces that he should be elected. In the caucus two, at least, of the employes voted to have a secret ballot. They had pledged themselves at first to

vote openly, but after they had balloted awhile, motions were made to go into a secret ballot, and it was very singular and significant that all railroad employes voted to go into the secret ballot, except one of them. Now, I do not know whether the railroad company in any way countenanced that movement. That I do not know anything about.

"WHOOPIING UP" THE BOYS.

Q. What part did the general manager have in those elections?—A. Mr. Kimball did not take any part in the last elections, to my knowledge.

Q. Did he ever take any part? He has called our attention to that.—A. Oh, yes, he did; for years he was the head and front of the movement. Of course, Mr. Thurston was in the law department, and when it came to delivering orations, "whooping up" the boys, as the saying is, he was there. But Mr. Kimball was always recognized as a very powerful factor.

Q. What did he do?—A. Well, I was not here, at headquarters, to see exactly what he did do; but I know what he brought about.

BRINGING ABOUT COMPLETE SUBORDINATION.

Q. What did he bring about?—A. He brought about the complete subordination, you might say, of the forces here at headquarters to the railroad forces. I have seen them march one hundred or one hundred and fifty clerks up the street to a primary election, and there the baggage men and clerks of various kinds, of the land department or other departments, were giving out tickets; or they had got the tickets at the departments, and they carried the day, just as the railroad wanted them to do. It had become a force here in politics, so that it took pretty much a combination of every other element to combat them. Whenever the railway people were in the convention, of course everybody related to them voted one way. That showed that they were not exercising their free personal preferences.

CONSTITUTIONAL AMENDMENT OF 1875.

Q. What was the condition that led up to the insertion in the constitution of Nebraska of the amendment of 1875, as to the right of eminent domain?—A. The constitutional amendment of 1875 was made, you remember, probably, during the Granger excitement. There had been a Granger excitement east of here, in Iowa and Wisconsin. The same sentiment largely permeated this State. The Union Pacific Railway have resisted all recognition—or, rather, have refused recognition—of all State authority, claiming that national authority was exclusive over their road, and that the State had no authority over it. This proviso was, I think, inserted with the view of compelling the company to recognize the power of the State to regulate its traffic, the same as other railroads do. If I am rightly informed, they have not exercised the right of eminent domain; yet, as I understand it, for years they would condemn property in the name of the other corporations, but not in the name of the Union Pacific.

THE CONSTITUTION ON THE RIGHT OF EMINENT DOMAIN.

Mr. POPPLETON. But you know there is a constitution that prohibits them from exercising the right of eminent

Commissioner LITTLER. He is talking about that.

Mr. POPPLETON. I thought he did not seem to understand it.

The WITNESS. But our constitution says that all those who do exercise the right of eminent domain shall also recognize the other provisions of the constitution.

Mr. POPPLETON. The words are: "Shall reorganize itself as a corporation under the laws of Nebraska."

The WITNESS. Well, it was under that idea that the company did not acknowledge that the State had any authority over it. It was to controvert that idea.

AMOUNT PAID FOR RIGHT OF WAY.

The CHAIRMAN (to Mr. Mink). Was that \$265, which was the total amount paid for right of way, an amount paid by the main line?

Mr. MINK. I did not look at that statement. Mr. Young, can you tell how that was?

Mr. ERASTUS YOUNG. It was in Nebraska, but I could not tell whether it was in the main line or not. My understanding was that it was the main line, but I could not be positive.

The CHAIRMAN. It must have been the branch lines, because, if I understand it aright, the main line had no right to do it.

Mr. POPPLETON. There never was any such amount paid by the main line. That would be my judgment, at least. There was never any right of way acquired west of Frémont, to amount to anything.

The WITNESS. I do not know anything particular about the right of way; but there is a gentlemen named Boyd, who was a member of the constitutional convention, who could tell why that was inserted in the constitution.

THE NEBRASKA CENTRAL RAILROAD COMPANY.

By the CHAIRMAN:

Q. Did I understand you to say that there was an effort made by private subscription to build a branch line now known as the Omaha and Republican Valley?—A. There was a corporation formed in this city known as the Nebraska Central Railroad Company. I do not remember whether or not they put the words "narrow-gauge" into their papers. I think not. But that corporation secured a proclamation from the commissioners of Douglas County (this county) and had that submitted to a vote on the 13th day of November, 1875. The proposition was to donate to the railroad \$125,000, if I am correct. On November 13, 1875, the election took place; and in that election, of course, the Union Pacific Railway Company made very desperate efforts to defeat the bonds. They succeeded. Then, having defeated the bonds, they submitted propositions to the voters of Saunders, Butler, and Polk Counties. After carrying those bonds in those counties, they constructed what is known as the Omaha and Republican Valley road.

THREATS OF THE UNION PACIFIC.

Q. Were there any threats made at the time by any of the officers or authorities of the Union Pacific Railway Company, in that election, of what they would do in case the county should make a subscription to this road?—A. Yes. It was one of the most exciting contests that ever took place here. In the first place, all the papers in this city

urged and supported the proposition. It was pretty much unanimous in this city that the "Narrow-gauge," as we called it, should be built by Omaha enterprise, but after a proclamation had been issued two of the papers were bought up and turned back and a very exciting contest followed. A dispatch was sent here by Jay Gould to Dr. Miller, then editor of the Omaha Herald, threatening to remove the Union Pacific machine shops from here if the people voted those bonds. That dispatch was used largely to intimidate our people to vote down the bonds. But that is not all that was done. I think Mr. Hanlon afterwards told me that they had had a number of wagons running around the country, driven by employes, crying down monopoly, and there was a good deal of money spent, undoubtedly, to beat that proposition.

GOULD'S THREAT TO RUIN COLUMBUS.

Q. Was there any other threat made, as at Columbus, by any one?—
A. That was another thing altogether. That was some years later. There was a proposition made, I think, to Columbus by the Atchison road, or some road, to build a branch to Columbus. Jay Gould was on the platform of the car as he passed through the town and he told the people that he would ruin their town if they dared to vote those bonds. Notwithstanding that, they did vote them. A station was afterward established a few miles west of Columbus. The Niobrara branch was, I think, to be built from there north, but a tremendous flood came up a year later and swept the entire town out of existence, and finally the railroad managers, finding themselves in that fix, made a new proposition and, I think, induced the people there to give them \$25,000 to make Columbus the terminus of that line.

UNION PACIFIC LAND PURCHASES.

Q. Have you any knowledge as to the purchase of land by the Union Pacific Railway Company?

The WITNESS. In what way?

The CHAIRMAN. Lands purchased in large sections or blocks.—A. I do not know exactly what you mean. Do you mean purchasing rights of way?

Q. Have you any knowledge of purchases made by Mr. Sidney Dillon or Mr. Jay Gould?—A. Yes; they bought 1,200 acres of land over the river, at what I call Dillonville. The people of Council Bluffs resent that name, but it is Dillonville for all that. They wanted to build up a rival town, I think, to Council Bluffs and Omaha both, and did build a few houses. That was supposed to be a part of the scheme that followed the construction of the Missouri River bridge. After the bridge had been built they built a large depot over there on the same ground or in that neighborhood.

DISCRIMINATIONS.

Q. Have you any knowledge of any discrimination on the part of the Union Pacific Railway Company in regard to shippers or localities?—

A. There have been a great many complaints made from time to time as to discrimination, both by localities and by shippers. They have been published from time to time in the Union Pacific States Senate Committee on Interstate Commerce. The last year I gave them a number of instances that appeared in the newspapers by them.

I had the waybills that had been sent to me. There has been a great deal of complaint about coal rates. The price of coal has ranged all the way from Sydney to Omaha at the same price. The people out there, being a short distance only from the coal mines, complained that they had to pay as much to the company for coal as they do 400 miles farther east. A great deal of complaint has arisen also from favoritism to grain and lumber dealers. I remember one grain man in particular, at Grand Island (he is dead now), who complained that he could not get the rates that were given to other shippers, and he was told, point blank, by the superintendent that he was not on their side of politics, and that he could not get their rates. He made a number of complaints without redress.

RAILROAD AND ANTI-RAILROAD REPUBLICANS.

By Commissioner LITTLER:

Q. What were his politics?—A. I think he was a Republican; but not a railroad Republican. We are all divided here, into Railroad Republicans and Anti-railroad Republicans. The division in this State means more things than one. There have been complaints by parties at Columbus. I think a member of the legislature called my attention to them.

OBJECTION TO HEARSAY EVIDENCE.

Mr. POPPLETON. I would like to ask the question whether it is the intention of this Commission to take the testimony of parties who give hearsay narration—what has been told or written to them—or whether there is to be any regard paid to ordinary rules that control the taking of testimony? Of course two-thirds of Mr. Rosewater's testimony, probably 90 per cent. of his testimony, on his own statement, consists of matters that he does not pretend to have any personal knowledge of whatever. He is simply repeating what other people have said. Now, I have raised no objection, because I thought it best, perhaps, to let the tide flow on. But he is reaching a point now where he is giving the Commission the statements not of parties who are living, but of parties who are dead. It is testimony that no court would ever listen to. I do not know what rule this Commission will lay down for itself in that respect; and I rise, in the first place, to get some light on that subject. If the Commission is not ready to give me any light, or simply say "Go on," I have nothing further to say.

SCOPE OF COMMISSION'S INVESTIGATION.

The CHAIRMAN. Speaking for myself, I think the act of Congress constituting the Commission contemplates largely the duties of a court examiner, who reports the testimony entire, with the objections, and then a conclusion can be reached as to the amount of credit to be placed upon the testimony, bearing in mind what is legal and what hearsay evidence or general testimony. One of the provisions of the act calls for information as to efforts to influence legislation in those counties through which the railroad passes. The Commission can only gather the general information. No ordinary rules of evidence would probably bring within the reach of the Commission evidence on that question. There are other points in the act that rules of evidence would absolutely exclude. Therefore, as a Commissioner, I will say that we will hear all the testimony of the complaints, and in the con-

clusion give it such weight as it is entitled to under the circumstances, bearing in mind the objection.

Mr. POPPLETON. That is, in substance, saying that there is no limit to the statements that the witness may make.

The CHAIRMAN. That is it, sir. I do not see how there can be.

NOT BOUND BY RULES OF EVIDENCE.

Commissioner LITTLER. We have from the beginning paid no attention to the rules of evidence. We have found it impossible to do it. But, to counteract that feature, we have allowed counsel for the company to indulge in cross-examination to their hearts' content, to show the character of the testimony. I think, by allowing that latitude, the company is abundantly protected, assuming that the Commissioners are able to discriminate between legal and hearsay evidence.

The CHAIRMAN. Legal evidence would exclude information required by a great many provisions of this bill. Forexample, a provision of the act requires us to ascertain the "sentiment of the locality." How could we gather that under the rules of evidence, unless it was as to how the was matter spoken about in the community?

Mr. POPPLETON. One word further. The chairman says that the Commission will consider the objections. Of course the Commission must be assumed to be familiar with the rules of evidence. Do I understand that the Commission expect me to make the objections?

Commissioner LITTLER. I do not.

Mr. POPPLETON. That is as I understood it. I do not care to take up the time of this Commission by jumping up every time I see or hear anything objectionable.

The CHAIRMAN. The railroad company has been accorded the privilege, and is now accorded the privilege, of furnishing at any time any statements that will in any way aid this Commission in coming to a conclusion.

Mr. POPPLETON. I understand that.

PASSES AND SPECIAL PRIVILEGES TO MEMBERS.

The CHAIRMAN. What were you about to say, Mr. Rosewater?

The WITNESS. I was about to say that a member named Keogh, who lives at Columbus, told me that the member who represented that county in the previous legislature, whose name can be found in the record (I could not remember his exact name), not only had annual passes over the road, but had been accorded very valuable special privileges in shipping. He was in the hardware business. He broke up all his rivals. They could not compete with him. That same complaint has been made largely here through the State—that men who wanted to start in business here, such as lumber or coal merchants, throughout the State, or even in ordinary merchandising, were brought into competition with men who were having inside rates or rebates, and by that means were barred out of competition, practically, so that they could not do business in the locality. There are a number of such firms all through the State. I presume the rebate books will show that.

DISCRIMINATIONS AGAINST THE BEE.

Personally, we do very little shipping. The only shipping we did—running at one time for the period of a year or so—was of newspapers in

small packages to the little stations along the road. At one time the railroad company refused to take ours when they shipped others. But when the Doame law passed I called on Mr. Vining and asked him whether he would still persist in that discrimination, and he concluded that he would not persist in his refusal to ship our papers. After that we had very little difficulty in the way of shipping. I presume there are quite a number of people in this city, if they were not afraid to offend the railroad, that would come here and tell you that in competition with others they were unable to make ends meet.

RELATIONS OF UNION PACIFIC TO THE COMMUNITY.

Q. What has been the relation of the railroad, so far as your knowledge goes, to the interests of the community—this community or any other community—through which it passes?—A. This road, after the first few years of its existence, seemed disposed to get all the traffic would bear. On that principle they would get the highest rate they could possibly get—all that the people would stand; but since they discovered that the local business is the bulk of their traffic, they have been trying to pursue a little more generous policy. In the early period they treated the through traffic as the principal thing, and it made no difference to them whether the communities existed or not.

RELATIONS OF UNION PACIFIC PEOPLE TO ENTERPRISES ALONG THE LINE.

Q. Have you knowledge of any of the officers or directors or employes being interested, directly or indirectly, in any enterprise along the line of the road?—A. That would be very difficult to tell of my own knowledge, because as a general thing these partnerships, if they exist, are kept quiet; and all I could do would be to tell what people told me. I supposed the relations of the railroad here to certain other institutions was generally understood.

THE SMELTING WORKS AND OTHER CONCERNS.

Q. What other institutions?—A. I presume the smelting works, in part. There has been an interest there held by some of the railroad people. There have been interests occasionally in various enterprises along the line of the road.

Commissioner LITTLER. Name them, please.

The WITNESS. As I said, it is a very difficult thing for me to tell you anything that I know of my own knowledge on that score. Because reports, for instance, have been current, time and again, that the eating-houses were owned by parties associated with officers of the road, and that there has been special favoritism shown in connection with them. But I do not know it of my own knowledge. Of course, officers here are more or less interested in the telephone, and different enterprises of that kind, but I do not know that that has any bearing on the traffic of the road.

POOR FACILITIES BETWEEN OMAHA AND COUNCIL BLUFFS.

Q. What have been the facilities and accommodations furnished by the railroad company to the patrons of the road?—A. I think that, in the

main, they have been very bad between here and Council Bluffs. They have been very bad between here and the Council Bluffs depot.

Q. What has been the complaint?—A. In the first place, overcrowded cars, and very often cars that were hardly fit for anybody to be in, have been used in transferring people across the river. There has been a great deal of complaint about the transfer. There have also been complaints from time to time by certain shippers that they could not get cars when somebody else could get them. They would say that one man who was doing a large business in a place could always get cars, while, although they were trying to get cars, no cars could be had, or they were secured so late that practically the merchants could not compete—could not do business.

BRIDGE ACCOUNT.

Q. Have you any knowledge of the bridge accounts of this company that you have spoken of?—A. I have no knowledge, excepting as we have published, from time to time, the income and the expenses of the bridge. We have had quite a controversy over this bridge from time to time. As far as I can recollect, the bridge is bonded for \$2,500,000, and the company realized about \$2,250,000 on the bridge out of the bonds; discounted them in England.

Q. Who discounted them?—A. I think it was Andrew Carnegie, under Thomas A. Scott's administration of the road. It has been generally believed that the bridge did not cost anything like the sum of money it has been bonded for, but in controversies that I have had from time to time it transpired that the income of the bridge, after it was completed—some time in 1872 and for the first six or eight years—varied from \$300,000 to \$700,000 or \$800,000 a year. From that bridge income the bonds ought to have been paid off and the operating expenses also paid.

CHARGES FOR CROSSING THE BRIDGE.

Mr. POPPLETON. Are you speaking now of the gross or net income?

The WITNESS. I am speaking of gross income. I do not know whether my figures would be borne out by your books or not, but it was borne out by the quantity of business done over the bridge. The charge for crossing the bridge for many years was \$10 per car-load, or 5 cents per 100 pounds for freight and 50 cents for each passenger. I think up to 1878 or 1879 the Government paid the same price. I think I made a complaint myself to the Quartermaster-General, and also to the President of the United States, against this overcharge. The act of 1866, which authorizes the construction of railway bridges across navigable streams and regulates the navigation, requires all railroads operating such bridges to make no higher charge for the transportation of freight or passengers for the Government over such bridges than is charged as mileage rate going or coming over the road adjoining the bridges. Now, the mileage rate on the railroad adjoining the bridge in Omaha was 5 cents per mile for quite a long time over the Union Pacific; and the length of the bridge, although the distance to Council Bluffs on the original maps of the company is made to be $4\frac{1}{2}$ or $4\frac{2}{5}$ miles, to what they call the Point O (to which no railroad has ever been built, however), the real distance is $1\frac{1}{2}$ or possibly 2 miles, including its approaches. Computed at 5 cents per mile, the charge should be 10 cents per passenger to the Government. All we used to pay was 10 cents to cross

the river on the ferry-boat; but for more than ten years 50 cents was charged for every man, woman, and child that crossed the bridge either way. I believe that to-day, if I am not mistaken, there is still a 50-cent charge exacted from people who are not fortunate enough to buy tickets at Omaha. A couple of years ago I saw a man in the interior of the State buy a ticket to Council Bluffs, and he had to pay 50 cents for crossing the bridge. When I made my complaint at the Quartermaster's Department, all the accounts that had been furnished up to that time for transporting supplies and military officers had all been charged up at the rate of 50 cents for each person and \$10 per car-load for freight and so much per 100 pounds for every broken car. A change was made afterwards by Quartermaster-General Meigs. Some years later I was in the Quartermaster's office, and the returns, I think, had been made with the same charges, but the Quartermaster's clerk always struck them out and put in other figures. The charges for coal amounted to \$1 per ton on the coal we got from the East; and everybody who used coal had to pay that extra dollar for the coal crossing the bridge. The charge for transporting live stock across the bridge at the rate of \$10 per car-load made a little more than 50 cents on each head of stock. That was an embargo on this whole country.

EFFORTS TO REDUCE BRIDGE CHARGES.

We had bills in Congress several times to get this bridge toll reduced, and the House of Representatives did pass one such bill. We had State conventions passing resolutions denouncing the thing as an outrage, but still it kept on. After a bill had passed one House it would be defeated by the railroad lobby in the other. The last time I called on Commissioner French, of the United States Railway Commission, I drew a bill to make the rate per car \$5, and Senator Saunders, who represented this State at the time, agreed to introduce the bill, but did not do so. The rate, however, has since been reduced, except on broken lots. I think we are still paying 5 cents per 100 pounds on everything we are getting from across the river on broken lots, though I am not certain of that.

\$150,000 TO \$250,000 A YEAR FOR OPERATING BRIDGE.

However, the bridge kept on earning from \$300,000 to \$700,000 a year. Against that, as I understand it, there was charged from \$150,000 to \$200,000 a year for operating it. Now, it always did strike me that nobody could explain, logically, how it could cost \$150,000 a year to operate a railroad bridge between Omaha and Council Bluffs, or "Dillonville." So it seemed to me that in the \$150,000 must have included an enormous number of charges that did not pertain to the legitimate expense of operating the bridge. I presume, though, that the accounts of the company will show, or the vouchers will show, just what was charged up to the expense of operating the bridge. This county paid \$250,000 in bonds to assist the Union Pacific Railroad in building that bridge, so that actually the bridge did not cost them as much as they represented.

By Commissioner LITTLER:

Q. Were these bonds worth about par?—A. They were 10 per cent. bonds. They ought to have been worth par. I do not think they could be bought for par now, if any of them are out.

DIVERSION OF BUSINESS FROM AIDED TO UNAIDED ROADS.

By the CHAIRMAN:

Q. Have you any knowledge of the diversion of any business or any earnings from the aided roads of the Government (like the Union Pacific) to any of its branches or unaided roads?—A. It would be very difficult to tell.

Q. Have you any knowledge on the subject?—A. No; I have no personal knowledge.

PLAN OF SETTLEMENT.

Q. Have you considered the various bills that were introduced in Congress during the last session, from time to time, as to the methods of settlement with the Union Pacific Railway Company?—A. I have considered all the propositions that have from time to time emanated either from the company, or the Government directors, or from Congressmen, that contemplated the funding of the company's debt at a low rate of interest. I appeared before the Committee on Judiciary of the United States Senate, I think three years ago, to protest against any such funding bill being enacted as was then in the hands of Mr. Garland. He was a member of the sub-committee. It was, I think, the Edmunds or the Hoar bill. Do you want my views on that question?

PROPOSED EXTENSION OF TIME.

The CHAIRMAN. We want your views as to the effect of an extension of time by the Government for the payment of the debt of the railroad company—the effect, I mean, in relation to the community through which the road passes.

THE WITNESS. I claimed that it was a great injustice, and would operate as a hardship, on the people that are compelled to be patrons of this great system of railroads, and not only on the people who patronize this road but on those who patronize any transcontinental road, to fund the Union Pacific debt, such as it is now known, and extend the time of payment for sixty or eighty or any number of years.

A LARGE PORTION OF THE UNION PACIFIC DEBT FRAUDULENT.

My reasons for opposing this proposition are, that a large portion of this debt was fraudulently contracted; that it represents quadruple, or perhaps quintuple, the cost of any other road that could be built to duplicate this system; that in funding the indebtedness of the road the Government of the United States proposes to recognize as valid the Credit Mobilier frauds, the thefts and misappropriations of the company under various managements, the mismanaged affairs of the company and the reckless extravagance that has characterized it under various administrations. In recognizing as valid all these fictitious and illegal obligations the Government proposes to place a mortgage upon the earnings and the product not only of this generation but of all the generations that are to follow us.

AN INCUBUS PLACED ON THE PEOPLE BY EXTRAVAGANT MANAGEMENT.

My opposition to this springs from the desire to see these people free from this incubus that has been placed upon them by the extrav-

agance and dishonesty of these various managements. It is for that reason that I say it would be a great outrage and an injustice to the people who are compelled to patronize this road, to go to work and take \$150,000,000 in bonds, or about that sum, independent of the other \$100,000,000, or perhaps more, which already encumber this company on a first mortgage, and say to the people of this western country that they shall be obligated for sixty or eighty years, or an indefinite period, to pay the interest on this enormous indebtedness and to pay gradually every dollar of the principal, and besides that, to pay a reasonable income on fictitious stocks which these companies are now holding as representative of what they pretend to be railroads owned by themselves.

AN INJUSTICE TO THE WESTERN PEOPLE.

If the people of this western section of country, and of the whole United States, are to contribute to the liquidation of these enormous sums of money, borrowed and stolen, it is saying to the people that the Government does not care for their interest as much as it does for the parties who are now owners of that stock. If this stock is in the hands of innocent parties, as has been represented time and again, if it is in the hands of orphans and widows, the responsibility rests with those that made the purchases. The men who would invest the trust money placed in their hands for widows and orphans in property that has been acquired notoriously by every scheme that confidence men can employ are entirely unfit for such trusts, and they should be held personally responsible, and not the people of this western country.

NOT MORE THAN TEN PER CENT. PAID ON THE STOCK.

My idea about these stocks is simply this: That they, in the first place, represent only the value that the company has actually received, and not what is on their face, or what people have paid for them in Wall street. In the next place, if it is true, as I am informed, that not much more than 10 cents on the dollar has ever been paid into the treasury of the company, the excess should first be collected from the parties who hold that stock, and applied to the liquidation of the debt. If, for instance, a national bank organized under the national authority should go into business and any of its officials should embezzle or misappropriate or mismanage its funds, it would not be expected that the Government would levy on the patrons of the bank—the depositors—and compel them to make up the losses sustained by the bank through dishonest management or theft or misfortune. What everybody would expect in such a case would be that the stockholders be first called upon to pay up these losses. If they could not pay up, the stock would be liquidated entirely. And, finally, they would go after the directors, and see if they could not be reached in their private relations to the bank. In some cases, as we know, officers of banks that have mismanaged and misappropriated their funds knowingly have been punished much more severely than by being compelled to restore what they have stolen or misappropriated.

EXTENSION OF RAILROAD DEBT WILL CONTINUE EXTORTION.

I do not see why the power of Congress should be used to rob all the people of this country by levying upon them a continuous tax upon ficti-

tious values; and, further than that, I claim that the extension of the railroad debt of the Union and Central Pacific roads, or of the Union Pacific, will continue during some time, if not almost perpetually, the extortionate and high rates of transportation which are now also charged by competing companies. Because the Union Pacific, weighed down with an enormous debt, would, after collecting its fixed charges, the interest on its bonded debt, and a reasonable amount of dividend on its fictitious stock, be compelled to keep up high rates, and the other railroads that are now competing, such as the Burlington and Missouri and the Atchison and Santa Fé, the Southern Pacific, and every other road going across the continent, would naturally feel justified in keeping up the same rate; and when they should want to cut under, knowing that the Union Pacific could not afford to cut below a certain rate, they could keep up their exorbitant tolls.

THE BURLINGTON SYSTEM.

I believe the Burlington system has been built out of the profits made in Nebraska. I believe the entire Burlington system, west of the Missouri almost, has been built of the money made from land, and that the enormous sums of money made for that road have been made in its extension. They have stocked and bonded the road up to the utmost.

EFFECT OF A LIQUIDATION.

If the Union Pacific road went through a process of liquidation, or whatever you might call it, so that it should get down to an actual valuation of what it would bring in the public market to-day, that road could reduce its rates 50 per cent. and still earn a very reasonable income upon its investment. That would be a great relief to the country. It would give this section fair rates after all these years of exorbitant tolls and oppressive taxation. This State has been enriched by the building of railroads; but it would have been threefold as rich if it had been properly treated. The wealth of this Western country to-day would have been three times what it is if it had not been for the enormous contributions we have been compelled to pay to the railroads.

PLAN OF SETTLEMENT.

Q. What would you propose as a basis of settlement?—A. I have personally gone far enough into the matter. But the first proposition I would make would be this: to do just what any other business man would do if he found himself in a condition to be compelled partly to pay this debt, if he was the indorser of another man's note. He would first see whether the other fellow had anything.

Mr. POPPLETON. But suppose the other man had an incumbrance on his property?

The WITNESS. If the other "fellow" was my wife I would probably let up on her, and let her out of the debt; but in this case the payment must come from the people. That must not be lost sight of.

Q. What is your plan?—A. Well, as I am not a Congressman or Senator and not obliged to solve this problem individually, I have not given the subject such thought as it deserves.

RECOVERY OF MISAPPLIED FUNDS AND PAYMENT OF BALANCE DUE ON STOCK.

Q. Bearing in mind the interests of this community, what plan would you suggest?—A. The private interests of this community (speak

Omaha as a community) might be to go on and keep up this inflation system, and perhaps let the management go on, and let them squander all the money they can in every sort of way; but as a proposition for the people of the Western country and for the United States, who are really to pay this bill finally, my idea would be, first, to attempt to recover every dollar that has been improperly taken out of the road. That may be very difficult to do. If, as I believe, millions of money have been misapplied by the builders of the road originally, and by parties who have controlled it since, the Government should attempt to get all it can out of it. In the next place, if there are \$36,000,000 of stock in the Union Pacific, and only ten cents on the dollar has been paid in, the stockholders should pay in the difference between that amount and the amount that the stock represents on its face; and if they do not so pay it in, then the stock should be wiped out entirely.

Commissioner LITTLER. That, without regard to the fact that the present stockholders paid 100 cents on the dollar for it?

The WITNESS. Without regard to anything. If I buy a stolen horse I have to give it up.

DECISION OF THE SUPREME COURT.

Mr. POPPLETON. Do you not know that the Supreme Court of the United States has decided that that cannot be done?

The WITNESS. If the Supreme Court of the United States wants to do something that is dishonest that is not my affair. My personal opinion is asked for, but my opinion is that this stock represents nothing but highway robbery in the first instance; and having been issued by a set of highwaymen in the first instance, the innocent parties must suffer.

LIQUIDATION OF FIRST MORTGAGE.

Commissioner LITTLER. Assuming that that is all so, give us your plan.

The WITNESS. The first mortgage would be the first thing to liquidate. I presume the first-mortgage bondholders would come in and claim the road, or they would put it on sale. If the road, on that sale, does not bring the amount, the first-mortgage bondholders lose the difference between that and what they paid, and the second mortgage is wiped out altogether, and the people are relieved from paying this money, for it is all the same. If, on the other hand, the first mortgage is satisfied, I want the Government that is going to take this money out of the hands of the people to say at once that there is no further excuse for legalized robbery, or for the expenditure of this money for investigations and millions of money spent every year in looking after these thieves. I would have the road put to a sale, and if it brought more than the first-mortgage bonds, very good.

Mr. POPPLETON. Its debt would in that case be donated to the people of the West.

The WITNESS. Its debt would be donated to the people of the whole United States. There are millions of people traveling over these roads that live east of the Mississippi River. Just as soon as you reduce the fare here for the people of the West, you reduce it for all the people. That is my plan; and it would be the most effective plan to do away with the systematic plundering that has been going on all these years.

RELATIONS OF THE GOVERNMENT AND THE PEOPLE.

Q. Have you any other plan, suggestion, or information to offer to the Commission?—A. There may be a good deal of information that I cannot give without having my attention called to it. Still, so far as solving the plan was concerned, and getting the money, I did not joke very much when I said what I should do if my wife had indorsed a note with me. I regard the Government and the people in the relation of man and wife in this matter. When a divorce is granted it should be perpetual. There should be no more nonsense about it; and, inasmuch as the people are to pay this money, I declare it is perfectly idiotic to go to work and levy a tax on them for 80 years, or, in other words, to authorize the robbing of the people for that length of time.

If this road were sold and the stock wiped out entirely, and the new management had a railroad for what it is worth in the market, they would be able to give us rates of transportation that would revolutionize the western traffic.

HOW THE ROAD CAN BE FORECLOSED.

By Commissioner LITTLE :

Q. Can you tell the Commission how the road can be sold out under foreclosure, so long as the company pays the interest on its first mortgage bonds, and so long as the Supreme Court holds that the money on the bonds is not due until 1897?—A. There is no necessity whatever for the legislation that is contemplated. When 1897 comes, and Congress meets and finds the country in the condition of second mortgage holders, it will be time enough to let the road go to the wall to be sold out, if it cannot be done sooner, although I have an idea that under the report you can make to Congress there could be such a showing made as that the road can be sold out. There was enough under the Lawrence investigation even to show that. But even if that were not so, there is need of legislation now. Let the road go on for ten years longer. I do not think it is 1897, though.

The CHAIRMAN. 1895, 1896, and 1897.

The WITNESS. Very well. I do not, even then, see the necessity of doing anything now. The objection I have to the bill is that it legalizes a fraudulent debt.

GIVE THE DEBT TO THE PEOPLE.

Mr. POPPLETON. You want the Government to give that to—

The WITNESS (interposing). To the people. If the people pay it, why not call it square at once? Go into the market and sell the road for what it will bring, and let it be operated honestly, without any Government interference whatever.

Q. Have you any other suggestion?—A. Nothing now. There are so many things that come up in years of discussion about a matter of this kind that they cannot be thought of on the spur of the moment.

REDUCING CAPITALIZATION OF ROAD TO ACTUAL VALUE.

By Mr. POPPLETON :

Q. If I understand you your plan would be, practically, to let the road go into bankruptcy and be closed out under the mortgages, and

in that way your idea is that the capitalization would be brought down to its actual value when bid in and reorganized; is that it?—A. Yes, sir; that is my idea. My idea is that this railroad should be brought down to the actual investment in it; that is, whatever it might be worth to-day to replace its equipment and track.

Q. But if sold out under foreclosure of course it would go to the highest bidder?—A. Yes.

Q. Is it not a matter of fact that under such foreclosure sales all property goes at a very low figure?—A. Yes.

Q. That being so, then this road, after it had been capitalized on that auction-block system, could afford to make to the people of this country lower rates than its competitors, could it not?—A. Yes; that is what I say. That is one of the objects I would have in view.

HOW FORECLOSURE OF UNION PACIFIC WOULD AFFECT OTHER ROADS.

Q. In other words, you think if this road was driven into bankruptcy by the Government, it would compel these other roads to go into bankruptcy in the long run; is that it?—A. Not necessarily, unless they are encumbered in the same way. I do not believe they are.

Q. Do you believe that there is any transcontinental line that could be operated in competition with an auction-block capitalization of the Union Pacific and Central Pacific roads without going into bankruptcy?—A. I think there are some, because they own their own bonds.

Q. They pay the interest on them, nevertheless?—A. They pay the interest out of their excessive earnings and pay themselves an additional income.

Q. Name the road?—A. The Burlington road for one; the Atchison, Topeka and Santa Fé the second.

Q. So that you think that the Central and Union Pacific roads, as a continental line capitalized upon an auction-block basis, would not seriously impair the value of these other roads or drive them into bankruptcy?—A. If you call their stocks worth what they are quoted at and regard their extravagant capitalization, it might impair it. Every man who owned a block of it might not consider himself worth as much as he was before. It would not drive him into bankruptcy, but would drive him into honesty. That would be all.

Q. If their earnings were not sufficient to pay the interest on their debt and pay their working expenses, they would have to go into bankruptcy, would they not?—A. They would earn a reasonable income.

WHAT THE UNION PACIFIC WOULD BRING UNDER THE HAMMER.

Q. How much do you think the Union Pacific road would bring under the hammer?—A. I have no idea. Probably \$25,000 a mile; probably more.

By Commissioner LITTLER:

Q. Does that include the branch lines?—A. I only speak of the main line and the Kansas Pacific, not the little side branches.

Mr. POPPLETON: That would be just about the first mortgage.

A. Yes, sir; that would not do any harm, would it?

PERSONAL KNOWLEDGE AND HEARSAY TESTIMONY.

By Mr. POPPLETON:

Q. Wherever in your testimony you have personal knowledge of the facts, you have so stated, have you not?—A. Yes, sir.

Q. Very much of your testimony is from hearsay?—A. A good deal of it is from correspondence and verbal communications made to me by other parties.

Q. The chairman of the Commission asked you to bring in that telegram that you say I sent. Will you do that?—A. I will.

DISSOLUTION OF PARTNERSHIP BETWEEN GOVERNMENT AND UNION
PACIFIC.

By the CHAIRMAN:

Q. If I understand you, your idea is to dissolve all partnership between the Government and the railroad at as early a day as possible; certainly in 1897, when the debt becomes due?—A. Yes, sir; just as soon as the first mortgage bonds become due or as soon as the Government can compel a liquidation, I would compel a separation of the interests of the Government and the road, divorce the road and the Government.

By Mr. POPPLETON:

Q. By sacrificing the interests of the road?—A. By getting as much as they can from stockholders and everybody that had been connected with it, and finally letting the road go at whatever it will bring at public sale.

The CHAIRMAN. You will bring the telegram spoken of?

The WITNESS. Yes.

The CHAIRMAN. And submit any other matters or papers that you may wish to present.

The WITNESS. Very well.

EDWARD ROSEWATER.

STATEMENT OF GEORGE L. MILLER, OF OMAHA.

The Chairman submitted the following communication:

OMAHA, NEBR., June 28, 1887.

Hon. ROBERT E. PATTISON,

Chairman of the United States Pacific Railway Commission:

MY DEAR SIR: I received your letter of the 25th instant a day or so ago requesting my views of the relations of the Union Pacific Railroads to the communities through which they pass, and such information or suggestion as I might be pleased to make, within the inquiry which is being made under your direction, into their administration and affairs.

HISTORY OF THE UNION PACIFIC.

I decide to reply by calling your attention to the history of the Union Pacific Railroad, with whose affairs alone I am acquainted, in order that I may possibly enable you to reach a judgment in respect to what has occurred in the progress of this trans-Missouri region under the influence of this great enterprise.

The severe and searching investigation which is now being prosecuted by your Commission in our midst precludes the necessity of any statements from me in respect to the management and policy under which the Union Pacific has been brought to its present position. I may say,

however, in a general way, that the testimony which has been produced in regard to the integrity and intelligence of the officers and men who have had charge of these complicated interests, in which the United States Government and the people of this State and city have been so largely concerned, is what I was sure would be developed when the test should come upon what, I understand, it will be a part of your duty to pronounce judgment. In respect to the broader policy of the Union Pacific, under various directions in New York and Boston, I shall say something perhaps in conclusion. What I wish to do at the outset is to direct the attention of the Commission to the conditions that existed in this trans-Missouri country previous to the advent of the Union Pacific Railroad, and down to certain periods after the railroad had been completed.

NEBRASKA IN 1854.

That I may do this the more effectively, I may say that I became a resident of this Territory soon after its admission to the Union in 1854. At that time there was not a single white inhabitant in this whole region who tilled the soil. It was exclusively under Indian occupation. Public opinion in the country at large and the belief among the few who were then here, was general that this whole land was little better than an agricultural waste. The uplands were regarded as being entirely unproductive. It was many years afterward that confidence was secured whereby settlements were made at any considerable distance from the Missouri River boundary. Since that time our progress has been one of continuous discovery. As long as ten years ago intelligent men held the opinion, which I shared, that west of a line 200 miles distant from Omaha the soil would prove to be sterile and uninhabitable by agriculturists. For quite as long a period before, for a distance of 100 miles east of this limit, vast districts were condemned as being worthless which are now occupied by a comparatively dense and prosperous population.

DISCOVERY OF GOLD IN COLORADO BRINGS TRAFFIC.

You will not expect me to go into statistical statements; I merely give you the general facts. For thirteen years from the first settlement little was done in the way of agriculture. The population was sparse and poor; the people were helpless. Products of the soil had no market. Gold discovery in Colorado brought a traffic across the plains by wagon. Government supplies were furnished the military garrisons of Forts Laramie, Kearney, and other posts by wagon trains from Atchison, Mo. The supplies to miners were carried at enormous cost in the same way from the Missouri River border. I myself received from the Government between \$3 and \$4 per bushel for corn delivered at Fort Laramie, and this was less than the contract price with what were known as Government freighters. In 1862, as post trader at Fort Kearney, I inaugurated the movement of inducing the Government to purchase Army supplies at that post from a small settlement of farmers who had located on the Platte River at Grand Island, 40 miles east of Fort Kearney.

MINERAL DEVELOPMENT IN COLORADO.

This was the first opening of a local market by the Government to the settlements on the frontier of our State. Mineral developments in Colorado caused a slight increase of farmers along the line of the

wagon-way to the Rocky Mountains. This movement of commerce over the plains furnished an additional home market to the few people along the line, which was subsequently the road bed of the Union Pacific Railway. Lands were practically worthless, even at the pre-emption price of \$1.25 per acre, all over this vast area of 70,000 square miles. Even in the vicinity of Omaha there was no market for lands, or for the products of the soil, except what was purely local.

INDIAN WARS AND THE RAILWAY.

Indian wars supervened, driving in the few settlers that were on the western lines of our settlements. It was not in the power of the army to protect them. The commerce of the plains was interrupted in 1863, 1864, and 1865. Men and women were butchered without mercy. There was no confidence. Then came the railway. I pass over the struggle through which it was built in fighting Indians, and all the controversies that arose out of the Credit Mobilier. Men laid tracks with guns on one hand and their materials in the other; night and day the work had to be guarded by themselves, troops being insufficient and inadequate. But the road was completed, and then began the real conquest of the continent.

THE LOCOMOTIVE SUBDUED THE SAVAGE.

The locomotive was, with all respect to the army, the weapon that subdued the savage and gave security to the settlements. You will know, without being told, of the vast influence that was immediately exerted in enabling the Government to supply the troops and concentrate them for the protection of the people.

RELATIVE VALUE OF LAND IN 1869 AND 1887.

In 1869 lands of the Union Pacific in Saunders County, 40 miles west of Omaha, sold for \$4 per acre; they are worth in 1887 from \$20 to \$30 per acre. I speak of unimproved lands. Improved lands are worth, and will bring, from \$50 to \$100 per acre. Lands in Dodge County, next west of Douglas and Omaha, sold from \$5 to \$7.50 per acre; they are worth now even more than they are in Saunders County. Colfax County, next west of Dodge, the same, and Platte County, 90 miles west of Omaha, the same; the highest priced lands, selling for \$7.50 per acre, were very near the line of the road. Lands in 1877 in Platte County, for example, are worth from \$5 to \$30 per acre, unimproved. Lands in Hall County, which is 150 miles west of Omaha, were worth from \$3 to \$5 in those years, and are now worth from \$10 to \$25 per acre. Lands of Hall, Buffalo, and Dawson Counties, when put in market in 1871, were worth \$2.50 per acre, except those right on the road; since the development by the Pacific road they are worth from \$5 to \$20 per acre; alternate sections, you are aware, then belonging to the Government.

RELATIONS OF THE PEOPLE TO THE RAILROAD.

Referring to the relations of the people to this railroad I may say with confidence that from the outset it has been one of sharp and on the part of many people unreasonable antagonism. The Union Pacific Railway is the chief parent, next to the fertility of the soil, of the rapid development and progress of this section of the Union. It brought the

markets of the world to the doors of the farmers upon our remotest borders. In the early operations of the road rates, freight and passenger, were exorbitant. There was little traffic. Settlements had to be planted; population had to be encouraged. The discovery that the whole country was rich in every agricultural essential had to be proclaimed to the people of the old States. This was done by the feeble voice of a feeble press, but more largely by the Union Pacific Company land department, aided by a sister road, the Burlington. The country through which you will pass as you ride over the great railway to the westward; the populous towns and cities; churches and schools, in every enlightened condition of civilization, you cannot fail to observe. It is a very garden of agricultural wealth.

PROSPERITY OF THOSE DEPENDENT ON THE UNION PACIFIC.

Against all complaints and clamor, I protest and declare, as a demonstrated truth, that not in all the world are there communities who work with their hands for a living who are so rich in the comforts, and even luxuries of life, as are those who have depended upon the Union Pacific and other railways in our State for their prosperity. To the stock interest, now so large, the Union Pacific has proven a boon.

HIGH RATES ON SHORT HAULS.

Injustice on the part of the road in the form of high rates on short hauls has undoubtedly existed. Wrongs have been done by local agents by high charges, but, in the main and upon the whole, the road has been an unmixed blessing to our people. Its value to the whole country no man can overestimate. With the incoming of independent lines, competition, conquering combination, has resulted in great advantage to the people, and also to the railways by increasing their volume of business and lowering the rate. This has been done *without* statutory regulation. Commercial law has asserted its own supremacy. The Union Pacific has had to contend first with State assault and the menace of hostile legislation. This has been continuous since our State was admitted. The road has been in an attitude of defense, resisting proposed legislation which, if enacted, would have been more hurtful to the people than it would have been to the railway. Superadded to this comes the Government, with its vast interest and its loan, with demands upon the administration of the road, and with proper inquiry into the Government interests in the property, which, it is only just to say, has been subjected to the speculations of markets and of its owners. The wrongs of the company in dealing with this property you are now investigating, if any wrongs were committed.

FAILURE OF UNION PACIFIC TO OCCUPY TERRITORY.

I will speak of one great mistake which I have always thought was made by the company. It failed to occupy the territory which naturally belonged to it within our own State borders with branch lines as feeders to the main stem, and it seemed to spend its energies and money for the control of the adjacent Territories. The result was that the Chicago and Northwestern on the one side, and Burlington and Missouri on the other, non-aided roads, have taken possession of the rich part of our State. The Union Pacific has been held too much as speculative property to the neglect of this particular feature of what

shall always hold to have been its proper development. One of the results is that the Government, by its action and non-action in Congress, has made the Union Pacific an easy victim of its rivals; it is in a large measure at their mercy. Public opinion, misled to suppose that great wrongs have been committed by the company against the interests of the country and people, aided by Congressional action and non-action, has thrown it into discredit. It cannot borrow money, for that reason, to repair the omissions of the past.

NEEDS OF THE UNION PACIFIC.

I understand that the present administration of President Adams seeks to extend branch lines to recover what they may of traffic that is being diverted to other lines. If your investigations shall show that the company has been falsely charged, as would seem to be the case from testimony developed before you up to the present time, I may be allowed to express the hope that something may be done to restore its credit. What the Union Pacific needs above all things, in my judgment, to-day, is the means of constructing branch lines to restore what has been lost as far as this may now be possible. The safety of the public loan depends upon building up the earnings of the main stem. If these branches can be built, and can be made an additional security for the loan, this is the plain way of accomplishing what seems to be the main object of this investigation.

DIVIDENDS TOO LARGE.

I have the honor to invite your further attention, as follows:

It is no injustice to the Union Pacific Company to say that they have drawn too much money out of the earnings of the railway into the pockets of its stockholders in dividends in the past that should have gone to the better equipment of the roadway, and to the means of repairing its rolling stock. From this cause the road is now suffering, as you will readily see by examining the shops, and the inadequate facilities in Omaha for handling the increasing volume of freight and passengers that is carried over it. Such facilities have at last been projected, but nothing has been done to establish them.

STRENGTHEN THE CREDIT OF THE UNION PACIFIC.

The discredit that has been throw upon the company has made it difficult for them to borrow money for these purposes at rates which they can afford to pay. My suggestion is that anything that this Commission can properly do to strengthen the credit of the company and to compel or secure these advantages will, in my judgment, be a potential agency for the good of the Government and the people.

INTERESTS OF THE PEOPLE FOSTERED.

I cannot close this communication, long as it is, without saying of the Union Pacific that, under my own observation for the past twenty years, it has diligently fostered the interests and enterprises of the people in this city and State, and the great interests of stock-raising on the plains, with a liberal encouragement. The stock yards in Omaha and Council Bluffs, the vast herds on the plains, the silver works with their hundreds of well paid men in Omaha, bear their own testimony to this fact.

Omaha is, to-day, the third stock market in the world, and will be the first within a year largely by its aid.

INTEGRITY OF LOCAL MANAGEMENT.

Among all the charges made against the corporation, none within my knowledge have been made which reflect upon the integrity of the men who control the local management of the great railway; that is to say, so far as I know, they have been absolutely free from any taint of corrupt connection with the business interests of the Union Pacific. They have repelled assault of threatened hostile legislation with energy and success, as it was their duty to do, in my opinion. This has led to scandalous charges, and to angry contentions in which the demagogue of the period has played his full part.

I have the honor to be, very respectfully, your obedient servant,
GEORGE L. MILLER.

The Commission then adjourned to meet at Sioux City, Iowa, Wednesday, June 29, 1887, at 9 a. m.

(The evidence taken at Sioux City will be found in a later volume, in connection with other testimony concerning the Sioux City and Pacific Road.)

OMAHA, NEBR., *Thursday, June 30, 1887.*

The Commission met pursuant to adjournment.

Present, Commissioner Pattison (chairman) and Commissioner Littler.

EATING-HOUSES AND HOTELS.

In compliance with a call of the Commission, Mr. Mink submits the following:

Memorandum in relation to eating-houses and hotels from December 1, 1884, to April 30, 1887.

Improvements on eating-houses and hotels not charged to construction	\$94,428.38
Deduct Union Pacific Railway proportion of net profit of operating hotels:	
For the year 1885 (includes December, 1884)	\$14,311.42
For the year 1886	31,464.30
For the year 1887, January 1 to April 30	4,777.90
	<hr/> 50,553.62
Leaving a balance to debit of the account of eating-houses and hotels of	<hr/> 43,874.74

THOMAS L. KIMBALL, being further examined, testified as follows:

SPECIAL PASSENGER RATES FROM 1880 TO 1887.

The WITNESS. I have several statements to submit this morning, in compliance with calls made by the Commission.

The first is the basis of passenger special rates from 1880 to 1887, the previous basis in figures having been already submitted; that is to say, the figures for the period while I was general passenger and ticket agent have gone into my testimony, and this statement supplements that through the period that I was assistant general manager and general traffic manager.

By Commissioner LITTLEB :

Question. I understand that the schedule of rates now produced covers the period not covered by your former presentations ?—Answer. Yes.

By the CHAIRMAN :

Q. I call your attention to the fact that all of the rates produced are rates of fare in effect subsequent to or about the time of the passage of the Interstate Commerce bill. Is that true ?—A. No; you called for the special rates.

Q. What are those [showing some pamphlet books to the witness] ?—A. Those are the rates now in effect. I have brought the information all down to the present time.

Q. And we have all rates prior to the passage of the Interstate Commerce law ?—A. Yes. In the previous statement that I have filed you have the basis on which the regular and special rates on the main line and all branches were made down to the period that is now covered by this. If there is any omission we will fill it up.

SPECIAL RATES TO EXCURSION PARTIES.

Q. What special rates had you at any time during your administration as an officer of the company, other than the published rates you have given ?—A. We had none, except such as would be made for excursion parties that would be special and exceptional from the tariff. I think during a good deal of that period we had arrangements that were put in effect for a short time to cover a particular occasion—a State fair or convention or something of that sort. That would be by a joint agreement with other roads in Kansas and Nebraska.

FREIGHT TARIFFS.

Q. What other statements have you ?—A. There was a call for a complete line of tariffs on freight, running from the commencement down to the present date, as I understood it.

The CHAIRMAN. Yes.

The WITNESS. So far as I have been able to do so I have got all the old tariffs.

Q. Open and special ?—A. Open and special, everything we had quoted and published.

COMPARATIVE RATES FROM OMAHA WEST.

I have also got a statement showing the comparative rates from Omaha to points west from 1869 to 1887, giving distances and the tariffs in effect at all periods from June 7, 1869, to April 1, 1887, and other data which the Commission will probably find it interesting to examine; that is, a memorandum of the comparative rates from 1880 down, between the main line and the branch lines.

Q. Have you included the rates that have not been published ?
Those rates that have not been published are the rates that y'

get in the rebate statement, as soon as I can get that prepared. That statement, as far as I am able to fix the figures, will show the regular open rate at any given date and the net rate, based on the rebate. That will yet come. It is no part of the statement called for in this call. I would like those old rate sheets returned when you get through with them.

THE COAL AND STONE BUSINESS.

There was a call that has not been answered, as I remember, in relation to our coal business and our stone business. The memorandum does not show any specific interrogatory, but I was asked to be prepared to answer some questions on the subject of our coal business and stone business.

Q. What have you prepared?—A. I have prepared merely a memorandum showing operations of the coal department and the stone department for 1886, with a memorandum showing the date or about the date when the department, now called the coal department of the Union Pacific Railway Company, took charge of the coal business on the Union Pacific line. Prior to that the Wyoming Coal and Mining Company had control of the Union Pacific coal business. That was from July, 1868, to March or April, 1874.

THE WYOMING COAL COMPANY.

Q. Who composed the Wyoming Coal Company?—A. A man by the name of Wardell and his associates.

Q. Who were his associates?—A. I have heard their names mentioned, but I cannot testify to the fact.

Q. Was it not a fact that nine-tenths of that organization was really composed of people connected with the Union Pacific Railway?

Mr. POPPLETON. It was finally held to belong altogether to the Union Pacific. The record in the Supreme Court in the case of Wardell *vs.* the Wyoming Coal Company will give you the bottom facts about it.

The CHAIRMAN. I am familiar with it. I only wanted Mr. Kimball, in connection with his statement of the organization, to state who was in the Wyoming Coal Company that, in 1874, was superseded by the Union Pacific Railway Company.

The WITNESS. Those facts are all I can swear to, because I have no personal knowledge of the composition of the Wyoming Coal Company. I know that Mr. Wardell was in charge of it when I came to the Union Pacific road.

Q. Have you that to produce in the shape of a memorandum?—A. No; what I have prepared as to the stone and coal department will be submitted to-morrow.

INSTRUCTIONS AS TO FREIGHT AND PASSENGER RATES.

Q. What others have you?—A. Written and printed instructions as to freight and passenger rates. I explained, at the time that call was made, that they would be found distributed through my office letter-books; and, as I remember, those letter-books were called for. We had the books examined and marked at all points, commencing at the time that I quoted rates directly from my office, together with direct instructions. I have had them paged, so that if the books are brought in here you can readily refer to them.

Q. Where are the books?—A. They are in my office.

The CHAIRMAN. We would like to have them produced before the Commission.

PASSES: TO WHOM ALLOWED.

Q. What other information have you ready that was called for?—A. There was a call for instructions in relation to the granting of passes.

Instructions for the issuing of passes were general, and passes have been issued as follows:

To actual employes of the company and dependent members of their families.

The officers and employes of other roads, and their families.

To proprietors of Eating Houses.

To news agents.

To persons accompanying live stock.

To members of the Press; account of advertising.

To various State officers; account of complimentaries, and to meet the custom of other roads.

To sheriffs, in lieu of regular fees for services rendered.

To the principal representatives of religious denominations, bishops, and presiding elders.

To Sisters of Charity.

To canvassers and lecturers of the temperance cause.

To representatives in State legislatures, as matter of policy made necessary by similar action of competitors, and frequently, upon the request of members, for their friends.

PASSES TO LIVE STOCK COMPANIES AND FIRMS.

There were other passes, that occur to me now, during that period given, in many cases, to live-stock companies and live-stock firms, where they were raising live-stock, and where their shipments amounted to, say, 50 car-loads a year. One man, for such a firm would be allowed, on account of 50 car-loads, a time or annual pass over the road, taking in such of the territory as his business would require him to travel over on our line between the shipping point and Omaha, or Kansas City, or whatever point he was accustomed to ship to.

ALSO TO ELEVATOR MEN, MERCHANTS, AND MILLERS.

In some cases we have given elevator men, who had elevators at different points, passes to travel to and from those points. In a few instances, to merchants who had several stores, or millers who had different mills, and miners or smelters who had interests at different points, which would occasion frequent trips, we have given season passes or trip passes. But those arrangements were largely the result of joint agreements between our company and other competing roads throughout our territory.

Q. What do you mean by the term "custom of other roads?"

The WITNESS. In respect to granting passes?

The CHAIRMAN. Yes.

A. If the other roads in any State or Territory were accustomed to grant passes to members of the legislature, we would do the same.

AGREEMENT TO RESTRICT PASSES.

In connection with this subject the following circular was submitted by the witness:

Agreement to restrict the issue of free or reduced transportation, adopted October 23, 1884.

At a meeting of general managers, held at the Lakeside Building, in Chicago, October 29, 1884, it was agreed by and between the

Atchison, Topeka and Santa Fé Railroad Company,
Chicago and Alton Railroad Company,
Chicago, Burlington and Quincy Railroad Company,
Chicago, Milwaukee and Saint Paul Railway Company,
Chicago and Northwestern Railway Company,
Chicago, Rock Island and Pacific Railway Company,
Chicago, Saint Paul, Minneapolis and Omaha Railway Company,
Burlington and Missouri River Railroad in Nebraska,
Fremont, Elkhorn and Missouri Valley Railroad Company,
Hannibal and Saint Joseph Railroad Company,
Kansas City, Fort Scott and Gulf Railroad Company,
Kansas City, Saint Joseph and Council Bluffs Railroad Company,
Minneapolis and Saint Louis Railway Company,
Missouri Pacific Railway Company,
Southern Kansas Railway Company,
Sioux City and Pacific Railway Company,
Union Pacific Railway Company,
Wabash, Saint Louis and Pacific Railway Company,
Wisconsin Central Railroad Company—

I. That the issue of free passes by the parties hereto, to merchants, to be forwarded by them to their country customers, shall be entirely discontinued; and no passes shall hereafter be issued in that way.

II. That the parties hereto shall entirely discontinue the practice of allowing their general agents to furnish free passes to merchants, not only at Missouri River points, but at all points.

III. That the object of this agreement is to entirely discontinue the issue of free or reduced transportation for the purpose of controlling or influencing the movement of freight traffic, it being understood that each road through its president, vice-president, or general manager, may exercise its own judgment with reference to furnishing free or reduced transportation to promote local interests on its own line.

[NOTE.—So far as the lines west of the Missouri River are concerned, it was agreed to entirely discontinue the issue of free or reduced transportation for the purpose of influencing the movement of freight or passenger traffic.]

IV. That the issue of non-transferable 1,000-mile tickets at not less than 2 cents per mile may be continued until otherwise agreed, except in the State of Kansas, where no 1,000-mile tickets shall be issued or accepted at less than 3 cents per mile, excepting on the line of the Missouri Pacific Railway, between Kansas City and the Nebraska State line, it being understood that such tickets shall not be sold by any road party hereto, excepting on the written recommendation of the general freight agent, or his duly authorized representative of the road in question.

V. That the rules and regulations now in effect upon the several roads, parties hereto, governing the passage of persons in charge of live stock, east-bound, shall remain in force until they are changed by mutual consent, and that such persons be returned free in the following manner: Live stock contracts shall be surrendered, in place of which a special form of return drover's ticket shall be issued. The form of said ticket shall be that now in use by the Chicago, Burlington and Quincy and Chicago and Northwestern Railway Companies, with the addition that such ticket be so limited as to require the person to whom it is issued to commence its use for a continuous passage within twenty-four hours after the date of its issue.

VI. That parties in charge of rolling-stock be passed in both directions; provided, that one man only shall be passed with each locomotive.

VII. That authority to issue passes for commercial purposes be withdrawn from division officers of all grades, and that all transportation covered by this agreement be issued by the general manager, or the head of the freight department of the respective parties hereto; provided, also, that said division officers, general agents, or other like officers, shall be prohibited from procuring passes over any railroad for the use of persons engaged in commercial business.

[NOTE.—So far as the lines west of the Missouri River are concerned, the words "or passenger" were inserted after the word "freight" in the third line.]

VIII. That this agreement shall be binding upon the parties hereto in all territory where two or more of them have a common interest; provided, however, that in territory where other roads than those parties hereto are located or interested, and such roads are not, or decline to be, governed by the terms of this agreement, then the parties hereto, thus affected, shall be at liberty jointly, or by agreement among themselves, to act in such cases as, in their judgment, the circumstances may require, it being understood that wherever two or more lines cannot agree in the territory where they are interested this agreement shall not be held against any road in cases where it would operate to the prejudice of such road.

IX. That the following rules be adopted relative to the passage of men in charge of live stock, west bound, emigrants' movables, &c.:

LIVE STOCK.

Pass one man in charge of one or two cars; two men in charge of three, four, or five cars; three men in charge of six cars or more. Three men to be the maximum number to be passed in charge of any shipment. No return pass. Provided that, in the case of train loads of cattle shipped to the west for feeding purposes, the lines parties to this agreement shall be at liberty to issue a return pass the same as in the case of east-bound shipments.

EMIGRANTS' MOVABLES—EAST OR WEST BOUND.

No pass to be given unless the car contains horses, mules, cattle, hogs, or sheep, in which event pass one man in charge of one or more cars. No return pass.

POTATOES, APPLES, ONIONS, ETC.—EAST OR WEST BOUND.

Pass one man in charge of one or more cars of potatoes, apples, onions, and like freight, when necessary to have fire in the cars to protect contents from frost. No return pass.

X. That this agreement shall take effect January 1, 1885, subject to thirty days' written notice to the chairman of a desire on the part of either party to be relieved from the obligations of said agreement. Provided further, that any party or parties violating the said agreement shall be subject to the following penalties: \$50 for the first offense; \$100 for the second, and \$500 for the third and each subsequent offense, the money to be paid to the party or parties proving the charge, it being understood and agreed that the arbitrator shall act as a court to decide each cause.

The following resolutions were unanimously adopted:

(1) That annual, time, or trip passes forbidden by the terms of this agreement, issued by any of the roads here represented for the year 1884, excepting exchange passes with other railway companies, shall not be continued after December 31, 1884.

(2) That Mr. George M. Bogue be appointed arbitrator, and that he shall have charge of all matters growing out of this agreement.

(3) That the arbitrator be instructed to have this agreement printed and distributed among the various lines parties thereto.

(4) That the arbitrator be instructed to communicate with the proper representatives of the St. L. & S. F. R'y; B. C. R. & N. R'y; Cent. R'y of Iowa; Wis. Ia. & Neb. R'y; D. M. & Ft. D. R. R.; D. & R. G. R'y; M. L. S. & W. R'y; Mil. & Nor. R. R.; Ill's Cen'l R. R.; Oregon Short Line; D. M. O. & S. R. R.; St. J. & W. R. R.; A. & P. R'y; St. L. F. S. & W. R. R.; St. P. M. & M. R'y; St. P. & D. R. R.; G. B. W. & St. P. R. R., and Ore. R'y & Nav. Co., and endeavor to induce them to become parties to this agreement.

Question was asked as to whether this agreement would be binding upon the parties thereto, provided other roads should decline to join in the agreement.

The sense of the meeting was, that all lines parties to the agreement were obligated to carry out its provisions regardless of whether other parties assented thereto or not.

J. W. MIDGLEY,
Chairman.
GEO. M. BOGUE,
Arbitrator.

ORDER CONCERNING PASSES.

The witness also submitted the following :

[General Order No. 43.]

UNION PACIFIC RAILWAY COMPANY,
OFFICE OF GENERAL SUPERINTENDENT,
Omaha, Nebr., December 23, 1889.

The following order, issued by the general manager, is published for the information and guidance of all concerned :

"The following regulations regarding the issuance of free passes will hereafter be observed :

"Complimentary passes will be issued only from president's office, and from the office of general manager. Those from the president's office will be signed by the president or by the vice-president, Mr. Elisha Atkins.

"Passes in connection with the commercial department will be issued only from the office of the general traffic manager, and will be so countersigned.

"All other departmental officers will be restricted in the issue of passes, to those required by employes traveling upon the business of the Company.

"Telegraphic passes must not be granted or honored except in cases of emergency, when they will be issued by the general manager, reading in one direction only, and countersigned by agents at receiving stations.

"Heads of department will make a return to the auditor of all passes issued, in accordance with previous orders to that effect.

"Passes must in all cases bear the name or names of parties to whom issued, or when it is necessary to make a pass for more than one person, all other persons must be explicitly designated, either by name or relationship, to the person named in the pass."

Conductors will not accept verbal instructions as authority to pass any one, but will collect fare from all persons traveling without a ticket or other proper transportation, and are allowed no discretion in the matter. All persons entitled to travel free will be furnished passes, and fares wrongfully collected will be refunded on application to the proper officers. The fact of being employed by the Union Pacific Railway Company or any other company gives no right to travel free on train. Conductors are instructed to carefully examine all passes, and not assume that persons have passes unless shown. They must know that the passes are of regular issue; that the conditions and limitations are complied with, and, particularly, that conditions on back of pass are acknowledged by signature of holder. When not so acknowledged, holder will be required to sign at first station reached.

Passes will not be changed by indorsements making them transferable, or to include persons not named therein.

Passes must give name or names of parties to whom issued, except when issued for two or more laborers sent over the road, when the number of men will be stated.

Supervisors, roadmasters, and others holding quarterly time-passes (Form D) good for themselves and men, will issue identification slips (Form 2650) to cover transportation of the men, which will be taken up and returned in the manner prescribed for trip passes.

S. T. SMITH,
General Superintendent.

INSTRUCTIONS AS TO TAKING UP PASSES.

The witness also submitted the following :

UNION PACIFIC RAILWAY COMPANY,
OFFICE OF THE GENERAL SUPERINTENDENT,
Omaha, April 4, 1891.

No. 225.

FOR BULLETIN BOARD.

To Conductors :

Conductors are hereby instructed to take up and return under cover to the general manager's office, at Omaha, all outstanding passes which may be presented to them for passage on and after April 5, with the following exceptions, viz :

- (1) Passes issued to employes of this company.
- (2) Passes issued to families of employes (when designated as such.)
- (3) Passes issued to officers and employes of other railroads.
- (4) Passes issued to employes of Pacific Hotel Company.

- (5) Passes issued to managers of other Union Pacific eating-houses.
- (6) Passes issued to employes of Barkalow Bros'. news agency.
- (7) Passes issued to employes of Pullman Palace Car Company.
- (8) Passes issued to employes of Pacific Express Company.
- (9) Passes issued to contractors and their men employed upon work of the Union Pacific Railway Company.
- (10) Passes issued to check agents in the employ of transfer and omnibus companies.
- (11) Passes issued to employes of Western Union Telegraph Company.
- (12) Passes issued to members of the State railway commissions of Kansas, Colorado, and Nebraska, within their respective States.

S. T. SMITH,
General Superintendent.

I think I am prepared to take up this morning the list of rebate vouchers, as to which you called for an explanation.

CALL FOR COST OF GOVERNMENT TRANSPORTATION.

Q. When will you have ready the other information called for?—A. On the average cost per annum of Government transportation from 1850 to the completion of the road, and the average cost since, I should have to ask the Commission to allow me to submit such data as I may be able to work up after your adjournment from here. I cannot do it immediately. Will that be satisfactory?

By Commissioner LITTLER:

Q. Within what time will you do it?—A. I will be able to do it in a week or so.

Q. Will you send it to us?—A. Yes.

Commissioner LITTLER. Very well.

The WITNESS. I shall not be able to give you any of that information immediately.

The CHAIRMAN. We can have a statement made by the Government as to what they paid prior to that time, but the company, I suppose, would want to submit it, in compliance with the call in the act of Congress, what their estimate would be.

Mr. POPPLETON. The company has no means of arriving at that, so far as it applies to the period before the completion of the road. The Government has. If we wanted to do it we would have to go to the Government for that information.

Commissioner LITTLER. I supposed you gentlemen, as old citizens here, would have some personal knowledge, outside of your records, as to the cost of transportation over the Union Pacific road.

Mr. POPPLETON. We wanted to show that by Mr. Crawford the other morning, and the chairman said that that subject had all been gone over.

Commissioner LITTLER. I do not think there are any figures before us on that subject. I do not know myself what it costs to transport freight from the Missouri River westward.

Mr. POPPLETON. The Government figures will show all that. The Government had the lowest bids.

The CHAIRMAN. The Government statistics will show that, as I understand it; but the call for that item of information was inserted in the bill, as I understand it, by the friends of the railroads, so that a comparative statement may be had. If the companies are willing to accept the Government figures, that will be satisfactory to the Commission.

CALL FOR CAR MILEAGE ACCOUNT.

Q. What other statements that have been called for will you be able to produce while we are here?—A. I was called on for the car-mileage account for the past five years. Those records can be produced if the Commission wants them.

Q. When will they be produced?—A. They can be produced now.

Q. Where are they?—A. They are in Mr. Buckingham's office.

Q. Under what "call" are you producing the car-mileage account?—A. I find it under a head given to me: "Car-mileage account for the past five years."

STANDARD OIL ACCOUNT.

Q. Have you the Standard Oil account ready?—A. I have here a memorandum of the car mileage paid the Standard Oil Company and the Continental Oil Company from 1882 to 1886, inclusive:

1882	\$4,231.49
1883	2,980.51
1884	3,922.06
1885	2,313.94
1886	2,038.91

Q. What other companies are paid sums of money on car-mileage account? Is that in your rebate explanation?—A. Yes, that will be explained in that statement.

Q. What other statements have you ready in compliance with calls?—A. Perhaps I had better answer your question as to the payment of car mileage to other companies.

The CHAIRMAN. I do not want that to go in here, if you have it in the rebate statements.

The WITNESS. It will not be directly in that. The companies named in that memorandum were the only ones.

Q. What other statements have you ready in compliance with calls?—A. That is all that I am prepared to submit this morning.

Q. When will you have the others ready?—A. I shall have several of them, probably, this afternoon.

REBATES.

Q. What information have you to give to the Commission in respect to the rebates allowed to the several companies named upon the memorandum given to you?—A. That is very largely answered in the general statements that I have made on the list of rebates submitted. I would like, later, to make some explanations that I have not fully prepared this morning, because I have not got all the data.

The CHAIRMAN. The Commission will hear you on the statement you have before you with reference to rebates.

REBATE TO THE ANACONDA MINING AND SMELTING WORKS.

The WITNESS. On page 1 of the Union Pacific book, entitled "A fund of freight earnings," there is an item reading: "The Anaconda Mining and Smelting Works, Butte and Anaconda, Montana, J. B. Higgins, San Francisco, owner."

This voucher was canceled and another voucher for \$723.07 substituted, being the switching charges on 1,927,900 pounds of ore from the Anaconda Mine, near Butte, to Butte Station, Montana. This ore was

consigned to Swansea, England. It was the intention of the Union Pacific Company to make no switching charge on this shipment, in order to allow the rate to apply direct from the mine to the Missouri River. The rate charged from Butte or the mine to the Missouri River at the time the shipment was made was \$16 per ton.

TRANSCONTINENTAL POOL.

Q. What is the next item of information you have?—A. On page 1 of the same book: "The transcontinental pool, \$6,123.35."

This amount was paid to the Atchison, Topeka and Santa Fé Railroad Company on account of transcontinental pool, it being the Union Pacific Company's earnings in excess of the share of the Union Pacific Company in the pool.

Do you want any further information as to the way such balances occur?

The CHAIRMAN. I thought I would ask you that when we come to consider pool accounts later.

REBATE TO OMAHA & GRANT SMELTING AND REFINING COMPANY.

The WITNESS. The next rebate item is on page 1: "Omaha and Grant Smelting and Refining Company, Omaha, Nebr., \$3,228.95." This amount consisted of a rebate of \$3 per ton on 2,152,639 pounds of bullion from or passing through Denver to Omaha, the nominal rate being \$10 per ton, the special or net rate \$7 per ton. All lines engaged in carrying traffic between Pueblo or Denver, on the one hand, and the Missouri River on the other hand, gave the same special rate to all refiners of bullion for the purpose of bringing about an equitable division of this traffic; and as this special rate was given to several refiners, all in active competition with one another, it necessarily followed that the producers of the ore received the benefit of the rate.

OTHER REFINERS.

Q. What refiners, other than the Omaha and Grant Smelting and Refining Company, had that rate?—A. The Argentine Works at Kansas City, the Chicago Refinery, the Aurora Refinery, and the Pittsburgh. They were all paid the same, either by our company or other companies.

Q. Were there any companies east of Denver that failed to receive a similar rate?—A. No; none that I am aware of. I think they were all paid \$3 rebate. I know of no exception to that rule.

EFFECT OF REBATE.

By Commissioner LITTLER:

Q. The operation of that rebate amounted to an abrogation of the regular tariff on that class of goods?—A. Yes. If it had been published as a special, open rate, it would not have appeared in the rebate accounts at all.

By the CHAIRMAN:

Q. There were no published instructions of any such rate, however?—A. No; it was an understanding between the members of the associa-

tion and the producers of bullion, or the purchasers of bullion. But it was given to all the refiners and all the smelters in Pueblo and in Denver, as I understand it, by all the lines, to all the producers of lead bullion.

SENATOR HILL'S COMPANY.

Q. Was the same rate allowed to Senator Hill's company?—A. Senator Hill did not ship lead bullion at all. He shipped copper matte—copper residue.

Q. What was it that he complained of, that you spoke about in your former testimony?—A. One of the things he complained of was that we charged less on the transportation of silver bullion—that is, lead bullion containing silver and gold—than we charged for copper. The matter was taken up and discussed several times between the lines in the Colorado association, and finally an \$8 open rate was given. That is the open published rate now.

REBATE ON CATTLE SHIPPED FROM CHICAGO.

Q. What is the next item you have?—A. Page 2: "J. A. Jennings, Salt Lake City. \$24. Cattle."

This is an amount of rebate on four cars of cattle shipped from Chicago to Montpelier, Idaho, and was given to equalize the west-bound and east-bound rates. The east bound published tariff at that time being \$190 per car, the west bound \$196, \$6 per car on four cars (\$24) was refunded to him by rebate voucher, so that it went into the rebate account.

Q. Was it, as I understand you, on his application?—A. I presume so. It was the policy of the company, as a rule, to equalize those rates in the stock-growing sections.

ALL SHIPPERS TREATED ALIKE.

Q. Had all of the stock raisers or grazers an equal benefit with Mr. Jennings?—A. This applies to the shipment of blooded bulls put on the ranges out there. All shippers, for the last five years, were treated substantially on the same basis.

Q. Were all shippers of this class of stock actually treated in the same way?—A. Yes.

Q. Did you put out an effort on the part of the company to discover such shippers?—A. Well, it was a general plan, in the adjusting of our west-bound rates, to make them substantially the same as the east-bound on blooded stock, either bulls, cows, or heifers, that were put on those ranges.

APPLICATION MADE FOR REBATE.

Q. How would such shippers know of such a policy of the company unless it was published?—A. It was generally understood among the shippers—the cattle men. It is only an exceptional case that that fact was not in the publications of the company; in the tariffs.

Q. If the company failed to publish it, how was a shipper of the class of stock you have named to ascertain that he was entitled to such a drawback or rebate?—A. Well, nine-tenths of them would apply for it, anyway, on general principles.

Q. To whom would the application be made?—A. It would be made to an assistant freight agent or the general freight agent, or, possibly,

to myself or my assistant. It might be made directly, first, to the station agent, and through him come to the freight department.

FAILURE TO MAKE SUCH APPLICATION.

Q. If the shipper failed to make such an application how would he get the benefit of the rate?—A. If it was by an error we would notify him of it, and make a voucher and refund him the difference between the rate and what he actually paid. Such errors are constantly occurring. Tariffs are issued and reissued. New rules for the application of rates are very often, in error, left out, and old rules left in, by error.

HOW REMEDIED.

Q. In such a shipment, without an application, who will be considered as making the error? If the railway companies waited for an application and there were no instructions to agents, how could such a transaction be regarded as an error?—A. If our general rules, our published rules in respect to most of the Territories were to make our west-bound and east-bound rates the same on blooded stock going west to these cattle men, and it should happen that at one point of delivery, or on one branch of the line, in issuing the tariff for that branch this rule was left out, or the notice to apply east-bound rates on west-bound shipments had failed in its application with that line or branch, it would be an error on the part of the company. When the shipment would be made and called to the attention of the company (as it would be liable to) it would be corrected. It would be corrected in that instance by rebate, and followed immediately by notice, or a reissue of the tariff.

Q. Who would call the attention of the company to the matter?—A. The man that made the shipment, if he knew that he had paid too much.

Q. Suppose he failed to have the knowledge?—A. If he failed, and the company did not notice it, he would be "out."

Q. The company, under such circumstances, generally took as much as it could get?—A. Yes. When the error was on the other side, and we got less than we were entitled to, we never knew of a shipper that came back to refund anything he got.

REBATE TO OMAHA & GRANT SMELTING AND REFINING COMPANY.

Q. What is the next item?—A. Omaha and Grant Smelting and Refining Company, Omaha; page 2, \$1,189. This amount is made up of three different vouchers, the first being a rebate of \$931, as follows: Forty cents per ton on 4,696,620 pounds of ore from Leadville to Denver, for the purpose of aiding in securing for the Union Pacific the carriage from Denver to the Missouri River of the entire bullion product of all ores smelted by the Omaha and Grant Smelting and Refining Company at Denver. Also, in consideration of the fact that the smelters competing with the Omaha and Grant at Pueblo were getting their coke at \$1 a ton less than the Omaha and Grant could get theirs. There were competing smelters at Pueblo that got their coke at \$1 less than the Omaha and Grant people could get coke delivered at Denver. Of course, that cheapened the prices of smelting, so that the Pueblo purchaser of ore could bid higher for it than the Grant people at Denver could do. That was one of the considerations that entered into the allowing of a 40-cent rebate on the ore from Leadville to Denver.

ADVANTAGE OF REBATES TO UNION PACIFIC.

Q. Would not the stockholders of the Union Pacific Railway Company, under such circumstances, be paying for the disadvantages of location of the Omaha and Grant Smelting and Refining Company as to the shipments of coke?—A. If the Omaha and Grant people could not, by this allowance of 40 cents a ton, purchase the ore in Leadville at all, every pound of it would be shipped to Pueblo, and the Union Pacific's stockholders would not get any of those earnings. The product shipped out would go over the Santa Fé or the Burlington, and the stockholders of the Union Pacific would not get any of those earnings.

Q. Will you please give the rate in that case?—A. The rate was \$5, open rate; rebate, 40 cents; so that it would be \$4.60 net.

REBATES ON ORE AND BULLION.

The second item under the same head, \$3.78 on one car of ore from Barratt's station to Omaha, was to correct an error in billing.

Third, A rebate of \$254.30; being 50 cents per ton on 1,017,219 pounds of bullion from Melrose, Mont., to Omaha; given in order to duplicate the rate from Montana points by way of Saint Paul to Chicago.

PACIFIC MAIL SUBSIDY.

Q. What is the next item?—A. Page 2. "Pacific Mail Steamship Company, New York, \$16,822.07."

This amount was paid as the Union Pacific Company's proportion in the transcontinental pool with the Pacific Mail Steamship Company—paid as the Union Pacific Company's share of the carrying capacity of the Pacific Mail steamers, and also as one of the conditions of the pooling arrangement with the Pacific Mail under which that company agrees to maintain passenger and freight rates between New York and San Francisco.

Q. What other companies or individuals contributed to the other shares?—A. All of the lines west of the Missouri River that were in the transcontinental pool. You have all that in the pool memorandum that I gave you.

HOW IT IS DIVIDED.

Q. Will you explain how the charge with reference to the Pacific Mail subsidy is divided?—A. In the refund book for the year 1885, in which the entry is made, the same appears: "Divided between Division A and Division O."

Mr. MINK. It was divided between the main line of the Union Pacific, the Kansas Pacific, and the Denver Pacific divisions.

Q. What part or what share of the subsidy have the branch lines contributed?—A. That I cannot answer. I do not know. It would be a matter that the accounting department would have to deal with entirely, and not I.

BRANCH LINES NOT INTERESTED.

Q. If the divisions are correct, as noted here, the branch lines make no contribution to the sum of \$16,000 that you have read off?—A. We the traffic this arrangement with the Pacific Mail covers is traffic that would come over our main line system, and the branch lines would not cut much of a figure in that business anyway.

Q. In that distribution made here in the book referred to by divisions, there could not have been any contribution to this Pacific Mail pool on the part of branch lines.—A. Well, I do not know. That would be wholly a matter in the hands of the accounting department.

The CHAIRMAN. How is that, Mr. Mink?

Mr. MINK. I know of no reason why any of the branch lines should have borne any part of the subsidy. They derived no benefit from it. On the other hand, the advantages were derived by the main line and the Kansas Pacific line on the south. After the Oregon Short Line was completed, my impression is that it also bore a share of the charge.

Q. If the branch lines received an advantage from the pool, were they required to contribute to the pool?—A. Yes.

Mr. ERASTUS YOUNG. Yes; where the branch line participated in the business, their share in the pool was charged to them.

REBATE TO MURPHY, GRANT & CO.

Q. What is the next item?—A. Murphy, Grant & Co., \$1,568.62; proportion of rebate, paid through the Central Pacific Railroad.

Q. What is the explanation of that?—A. This was paid by an agreement between all the transcontinental lines (the lines that cross the continent) to secure the entire freight shipments of the firm of Murphy, Grant & Co., as against the Isthmus and the Cape Horn routes. Their custom had been to ship their high class goods or the goods they wanted quickly by rail, and to put the great bulk of their tonnage on the ocean, or send it by the Pacific Mail Steamship and Panama Railway line. We agreed to give them a special rate, by rebate, if they would give us their entire business; take it off the ocean and give it all to us. The result of the bargain was that it brought the entire traffic to the railroads, instead of its bulk going by the ocean.

RATE OF REBATE ALLOWED THEM.

Q. What was the rate?—A. I cannot give you the rate just at the time this account was settled.

Q. What was the average rate?—A. I could not give you that.

Q. What is an estimate of the rate?—A. It might be all based on a certain percentage.

Q. How great would be the percentage?—A. I do not want to state *about* what the rate was, when it is possible for me to ascertain *exactly* what it was.

Q. Will you please produce from any memorandum that you may have on record the rate allowed to this company?—A. Yes.

Q. Who composed the company you have named?—A. I know only from the names. I am not personally acquainted with them.

WHO COMPOSE THE FIRM.

Q. Who are they?—A. The gentlemen live in San Francisco—Murphy and Grant. Who the "Company" is I do not know. If you want to know whether this Grant has any connection with the Omaha and Grant Smelting Works, I can tell you it is not the same man.

Q. It is another Grant?—A. It is another Grant.

Q. Who is Mr. Murphy?—A. The original member of the firm is dead.

Q. Was he in any way connected with the "Mary Murphy" mine?—A. No.

REBATES TO OTHER SHIPPERS.

Q. Did other shippers along the line of the road have the same rebate?—A. There were a few houses in San Francisco that had this rebate, and the list increased from year to year; after the system of special rates or rebates was inaugurated it was expanded so that it took in nearly all California. My recollection is that it went up to nearly two thousand houses. But it began with Murphy, Grant & Co. and Levi Strauss & Co.

REBATE TO A. HANAUER.

Q. What is the next item?—A. Page 2. "A. Hanauer, Salt Lake City, \$931.68 on ore"—the shipment being 621,000 pounds of ore from Park City to Salt Lake City; billed at the nominal rate of \$6.50, afterwards reduced to \$3.50 per ton, in order to secure the bullion product to be shipped east over the Union Pacific road.

Q. From what place to what place was the shipment made?—A. From Park City, a local station on the Union Pacific road, to Salt Lake City—to the local smelter there.

REBATE TO STANDARD OIL COMPANY.

Q. What is the next item?—A. Page 2. "Standard Oil Company, San Francisco. \$96.11."

This refers to a car-load of oil shipped from Kansas City to Weiser, Idaho, 23,600 pounds; \$640.75. A rebate of 15 per cent. was given on this shipment as part of an understanding by which we secured the competitive business controlled by that company.

Q. What was the rate?—A. The rebate was 15 per cent. off the rate. The total rate on that shipment was \$640.75.

Q. Was that 15 per cent. off the open published rate?—A. Yes.

THE CONTINENTAL OIL COMPANY.

Q. What other oil companies, in competition with the Standard Oil Company, had such a rebate?—A. The Continental Oil Company.

Q. That was the Standard Oil Company, was it not?—A. That depends on the date. There is nothing to show the date of this shipment, but the Continental Oil Company was a competitor of the Standard Oil Company until December, 1885, I think, when the Continental Oil Company was absorbed by the Standard. I have the date somewhere.

The CHAIRMAN. That is near enough. What other company?

The WITNESS. No other that I think of.

STANDARD OIL COMPANY FURNISHED 50 PER CENT. OF PACIFIC COAST BUSINESS.

Q. Did the Standard Oil Company send all its shipments over the Union Pacific?—A. No. It sent all in certain districts; but the Standard Oil Company gave the Union Pacific 50 per cent. of its entire Pacific coast business.

Q. Was that under the agreement you have spoken of?—A. That was a part of the understanding had with them when we agreed to give them the rebate. We had 50 per cent. of Montana business; and I think at that time all of Utah and half of the State of Colorado.

Q. What roads received the other 50 per cent. ?—A. It was distributed between the competing lines on Colorado business ; the Santa Fé, and the Burlington, and the Northern Pacific took the other 50 per cent. of the Montana business.

POOL ON UTAH BUSINESS.

Q. During that period was there a pool in existence between those companies in Utah and in the sections covered by the agreement you have named ?—A. I have not the dates on this particular shipment ; but there has been a pool on Utah business for a number of years.

Q. Was not the pool able to maintain its rates as against the Standard Oil Company ?

The WITNESS. How do I understand you ?

The CHAIRMAN. Did you have to make that reduction of 15 per cent. ? Were the railroad pools unable to contend with the Standard Oil Company ?

The WITNESS. What have the roads to do with the shipments on the ocean that the Standard Oil Company was making round the Horn year by year ? As part of our bargain we agreed to pay them something on all the business that they did control.

The CHAIRMAN. I am speaking of the Utah business.

The WITNESS. We could not segregate the Utah business, pool or no pool, and say to the Standard Oil Company, "We insist that you shall give us all the business you are shipping to Utah without rebate," because it was a part of the bargain that we should pay them something on Utah to get all their ocean business ; all but an agreed amount. It was a general agreement, so far as our company and any other company was concerned. It was a general agreement to give us a certain percentage of their entire business wherever we could reach it. We paid the discount and got the business.

THE REBATE TO A. HANAUER.

Q. Go back a moment to the item of "A. Hanauer, \$931.68." There is \$363.36 of a foreign overcharge in the refund book. What does that refer to ?—A. That is a division of the earnings or discount between the Utah Central and our company. The rate I read was the total rate to Salt Lake, including the Park City branch.

REBATE TO THE UTAH FORWARDING COMPANY.

Q. The next item is the Utah Forwarding Company. What have you to say as to that ?—A. "The Utah Forwarding Company, of Salt Lake City," \$1,093.51. Salt." I have already given some explanation of that, but I will give this : The Union Pacific Railway Company had an agreement with the consumers of salt for milling purposes at Butte to deliver salt to them at not more than \$23.50 per ton, and, at the same time, had an agreement with the Northern Pacific Railway Company to the effect that salt should not be sold at less than the above figure in Butte, in order to give that company an opportunity to secure some of the salt from Duluth to Helena for milling purposes ; the Northern Pacific shipping from Duluth, on Lake Superior. In order to carry out the two agreements it became necessary for the Union Pacific to buy salt at Ogden, for which we paid \$3.75 per ton on board the cars at that point, and billed the same from Ogden to Butte at \$23.50

per ton, then refunded to the producer of the salt \$3.75 per ton from the freight earnings. This causes the item to appear as a rebate, when in reality it is not a rebate at all, but simply a plan adopted for the purpose of carrying out the two agreements referred to. The salt has been delivered at Butte since the 1st of January, 1886, in the same manner, but at a reduced price of \$15 per ton, the Union Pacific Company paying \$3 for the salt and allowing \$12 for the freight charges. Two or more firms are now engaged in selling salt to the Union Pacific Company at above rates. Shippers, however, can buy the salt from whom they choose and ship at a freight rate of \$12 per ton. This plan of handling the salt business was adopted for the reasons stated, and also for the purpose of preventing the producers of salt from making a corner and running the price up to an unreasonable figure. At one time the price of salt at Ogden was controlled by a corner, so that it was run up to \$6.50 per ton. This plan, which has been carried out by the Union Pacific Company for some years, has prevented such a corner, as our company requires parties contracting to deliver salt to us under a contract; to deliver it at a certain price for a year at a time.

REBATE TO R. S. VAN TASSELL.

Q. What is the item of R. S. Van Tassell?—A. That was a rebate on corn—\$915.10—and was got by making a special rate of 30 cents per hundred pounds on 788,980 pounds of corn and hay shipped from various stations in Nebraska to Cheyenne, as an experiment, for the purpose of demonstrating the practicability of hauling feed from Nebraska points to Wyoming to fatten the cattle, as against hauling the cattle to the feed. That arrangement would give us pay at a reduced rate for hauling the corn to Cheyenne, where it would be fed to the stock, and, when fattened, we would get the haul of the cattle back over the same portion of the line and the whole length of the line to the market. It meant more earnings to the Union Pacific if it succeeded; but it did not succeed.

A CATTLEMAN AT CHEYENNE.

Q. Who is R. S. Van Tassell?—A. A cattle-man living at Cheyenne. He is running the stock yards now at Cheyenne.

Q. Did he enjoy any other preferential rates by agreement, or any contracts as to a stock-yard management—did he then, or at any other time?—A. I do not think of any now. I do not think of any advantage given to him that any other man at Cheyenne did not have, or any other man would not have who would try this experiment.

REBATE TO N. W. WELLS.

Q. What is the next item?—A. "N. W. Wells. Schuyler. \$1,200. Sundries."

This amount should read \$1,238.94, collected from N. W. Wells, for the transportation of sundry shipments of Government supplies from Cheyenne to various points on or reached by the line of the Union Pacific Railway. \$404.92 of this amount was paid to Mr. Wells on account of storage charges collected, and to correct errors in billing. The remaining \$834.07 constitutes a rebate of 10 per cent. of the Union Pacific charges, given for the purpose of securing for our line the transportation of all Indian supplies controlled by Mr. Wells and consigned to various competitive points reached by the Union Pacific road for the year 1884.

Q. Who is Mr. Wells?—A. A gentleman living at Schuyler, Nebr., a partner of Mr. Neiman, of Wells & Neiman.

Q. Is he engaged in supplying Indians with merchandise?—A. Yes; all sorts of supplies.

REBATES ALLOWED TO COMPETITORS.

Q. Has he any competitors in business?—A. He gets his contracts by competitive bids in the first instance.

Q. Have rebates at such rates been allowed to others who have had such contracts?—A. We usually get applications from the bidders for the percentage we will allow them off our rates.

Q. Before the bids?—A. Before the bids. We give sometimes two or three or four of the bidders the percentage that we allow from the open tariff, if they get the contract and give us all the business—the competitive as well as the local.

Q. Do all bidders have the same rate?—A. I think so. I do not remember any case where they were not allowed the same rate, if the conditions were the same.

INDIAN SUPPLIES FURNISHED ON REBATE RATES.

Q. Suppose that a bidder was without the knowledge that such conditions existed as to the 10 per-cent. allowance, could he successfully compete in bidding?—A. That is a presumption that can hardly be entertained in regard to a contract for Indian supplies. The Indian contractors understand that their business is universally done on rebate rates. When we came to the question, recently, whether under the interstate law we could be allowed to give rebates or make special rates, that was submitted to the Interstate Commission by one of the Departments of the Government, I think, and the ruling was that we could make any rates we saw fit, and that the law would not interfere with it.

Mr. POPPLETON. The road could make any rate it saw fit to the contractor, because it inured to the benefit of the Government?

The WITNESS. Yes.

Q. Nevertheless, it would be in the power of the railway manager to fix such a rate, if he was so disposed, as to absolutely exclude any other bidder. That is so, is it not?—A. Unquestionably.

Q. So that it would not be possible unless this rebate or discount was allowed for any other individual to compete in the bidding?—A. It might be true in respect to some of the business, but not in all.

REBATE OBTAINED AFTER BID.

By Commissioner LITTLER:

Q. Would this contractor obtain this rate from the company before he made his bid to the Government for the supplies that he would transport; did he bid for the contract in view of the special rate?—A. I think not. In this case that I refer to he did not get the rate until after he put in his bid.

Q. Did he put in his bid on the regular rate?—A. That I do not know. I know he was the lowest bidder.

Q. What I want to get at is, whether there was any practice between this company and any particular individual or individuals by which it was agreed that before the bids were put in to the Government you

would give this preferential rate so as to enable the bidder to underbid all others and get the contract?—A. No; I do not think that was done. I do not remember any instance where it was the fact. They put in their bids on business that is competed for by possibly half a dozen railways, and then they "work" the roads for the best terms they can get. They say, "Now I have got the contract, and if you do not give me the business at the same rate that I can get from your competitor, I will give it to your competitor."

REFUND TO CENTRAL PACIFIC.

By the CHAIRMAN:

Q. There are seventeen items making up the item "Central Pacific Railroad Company." What explanation have you to give of that? It is on page 3 of the refund book.—A. The explanation I would make, on general principles, would be that these amounts were the overcharges on shipments to various parties, chargeable to the lines east of Ogden.

Mr. ERASTUS YOUNG. That is correct.

REBATE TO S. R. HOWELL & CO.

Q. What is the next item?—A. The next item is, "S. R. Howell & Co., Omaha. \$1,222.69. Sundries."

This is a rebate of 2½ cents per hundred pounds on lumber from Omaha to various points in Nebraska; given for the purpose of equalizing the through rates from Chicago to these Nebraska points, as against the rates from Chicago to Omaha, plus the local rate from Omaha to destination. It is the object of the Union Pacific Company to place Omaha lumber dealers on an equality with Eastern lumber shippers.

ALL LUMBER DEALERS HAD SAME REBATE.

Q. Had all the lumber dealers in Omaha the same rebate?—A. Yes, sir; at that time. I do not know of any exceptions to the rule.

Q. What knowledge had the lumber dealers or shippers of Omaha that you were allowing such a rate?—A. They were generally notified.

Q. Was there a printed or a written notice, or was it a personal notice?—A. That I cannot say. They were probably notified by the canvassing agent.

Q. Was the canvassing agent instructed to call on the lumber shippers of Omaha and give them such information as to rebates?—A. That I cannot tell you—at the date of this shipment. It does not appear when this was made.

The CHAIRMAN. I am not referring to this shipment. I speak generally.

GENERAL POLICY TO PROTECT LUMBER DEALERS.

The WITNESS. Our general policy here was to protect all the lumber dealers on the same basis from time to time. This thing might not have lasted more than a short time—our being obliged to rebate at all to them.

Q. Was that extended to all alike?—A. That is my impression.

Q. Have you any written or other instructions to any special agent, or do you remember any verbally, concerning notices to the lumber shippers of Omaha as to the rebate rates that you have spoken off—

A. No, I do not recall any. Perhaps I ought to state that we have a contracting agent or freight canvasser, who takes his instructions from the general freight office daily. If he finds it necessary to rebate on shipments local from Omaha, lumber or anything else in competition with lines running through from Chicago, in order to equalize the through rate with the through rates of other lines, he would be sent out with this word to lumber dealers and dealers who represent other lines of trade. The representatives of almost all those wholesale establishments come daily to our office, if our men do not call on them.

REFUND TO CHICAGO AND NORTHWESTERN.

Q. What is the next item?—A. "Chicago and Northwestern, Chicago. \$1,744.98. Green fruit." This is a refund of charges from California termini to the Missouri River on 100,000 pounds of green fruit destined to Chicago and points east thereof, in order to refund the amount of charges collected for 2,000 pounds of tonnage on each car to protect the fruit by allowing sufficient air to pass through it, \$944.29 of this being assumed by the Union Pacific between Ogden and the Missouri River, \$802.69 of the amount being charged to and paid by the Central Pacific Railroad.

REFUND TO UTAH FORWARDING COMPANY.

Q. What is the next item?—A. "Utah Forwarding Company, Salt Lake City. \$1,577.57."

Q. As to that you make the same explanation as you have given of the other item?—A. Yes.

Q. Who compose the Utah Forwarding Company?—A. I know only two members of that company. The name of one is Wallace and the other is Lyman.

Q. Do they reside in this section?—A. They reside at Salt Lake City.

REBATE TO WILLOW SPRINGS DISTILLING COMPANY.

Q. What is the next? A. "Willow Springs Distilling Company, Willow Springs, Omaha. Corn. \$2,775.58." This is a rebate at various stations in Nebraska to Omaha, in order to give the Willow Springs Distilling Company at this place the benefit of the Union Pacific Company's proportion of the through rate to Chicago, the Distilling Company agreeing to give the Union Pacific Company the haul of their entire shipments of alcohol to California.

Q. Is that the only distilling company in Omaha?—A. Yes.

REBATE TO "MARY MURPHY" MINE.

Q. What is the next item?—A. It is the "Mary Murphy mine. \$1,700 on ore."

This was a reduction in the rate, from \$8 to \$6 a ton, by rebate on 14,350 pounds of ore from Saint Elmo to Denver, and 198,745 pounds from Saint Elmo to Argo, amounting to \$1,113.10. The remainder of \$1,700 was composed of overcharges caused by error in the billing.

Q. Who compose the company?—A. I do not know the members of that company. They are living at Saint Louis, and a man by the name of Frink, an old railroad man at Saint Louis, is the manager.

REBATE TO THE OMAHA & GRANT SMELTING AND REFINING COMPANY.

Q. What is the next item?—A. "The Omaha and Grant Smelting and Refining Company, Omaha; \$8,391.73."

Q. Is that covered by the explanation you have already made with reference to the rebates allowed to that company?—A. Yes; I have already explained that.

REBATE TO UNION CATTLE COMPANY.

The next item is the "Union Cattle Company. \$4,704." This amount is made up as follows:

Ten dollars per car on 41 cars of cattle from Denver Junction.....	\$410.00
Eight dollars per car on 26 cars of cattle from Rock Creek.....	208.00
On 24 cars of cattle from Rock Creek.....	192.00
Nine dollars per car on 279 cars of cattle from Pine Bluffs.....	2,511.00
Total.....	3,321.00

One thousand three hundred and eighty-three dollars overcharge caused by errors in billing. This rebate was allowed in order to meet the competition of the Sioux City and Pacific Railway Company, on positive proof that the management of the Sioux City and Pacific Company first offered the Union Cattle Company the same net rates that were afterwards given by the Union Pacific Company.

Q. Did the net rates extend to all companies or cattle shippers at that period?—A. They would be extended under like circumstances.

Q. That would be based on the condition that the Sioux City made the same proposition?—A. Yes.

Q. Were all the points that you have named points on the main line, or the branch lines?

The WITNESS. In regard to the cattle shipments?

The CHAIRMAN. Yes, from which shipments were made. The points from which you have read.—A. They are all on the main line, I think.

ALLEGED DISCRIMINATIONS AGAINST SIOUX CITY SHIPPERS.

The CHAIRMAN. I will say here, not probably as bearing on the subject immediately under consideration, but since you have mentioned the Sioux City, that the citizens of Sioux City, in their shipments to Washington Territory, are compelled, as I understand, to pay twice the rates that shippers from Kansas City to the same points in Washington Territory are. Is that true?

The WITNESS. Shipped by what line?

The CHAIRMAN. The Union Pacific.

The WITNESS. No. We cannot quote rates to points in Washington Territory not reached by our line. We would quote rates just as far as our line went, and we would quote just the same rate from Kansas City and Omaha and Sioux City, plus the difference between the Sioux City and Omaha rate, to all the territories that we controlled. That is, substantially, the case.

Q. Taking all the territory you control, would it be a correct statement to say that under the shipping rates, the shipper from Sioux City is compelled to pay twice the amount that a shipper from Kansas City pays?—A. I do not know of any fact on which a statement of that kind

can be made by citizens of Sioux City. I think there must be some misunderstanding about it.

The CHAIRMAN. I understand that such a statement was made by the mayor of Sioux City.

Mr. POPPLETON. Is he a shipper himself?

Commissioner LITTLE. Not that we know of.

The CHAIRMAN. The complaint in Sioux City is that although farther north than Kansas City, the people of Sioux City are compelled to pay much more than the people of Kansas City pay.

Afternoon session.

THOMAS L. KIMBALL, being further examined, testified as follows:

POOL BALANCE.

The WITNESS. I would like to submit the audit office's report of pool balances on passenger business and on freight business.

The papers are as follows:

P R VOL II—24

THE UNION PACIFIC

Statement of pool balances, by years, from February 1,

Year.	Transcontinental.		North lines subsidy.		Montana.	
	Balance due.		Balance due.		Balance due.	
	From.	To.	From.	To.	From.	To.
1880						
1881	\$223,233.28					
1882	161,890.99					
1883	12,718.51		\$5,498.63			\$1,178.36
1884	46,732.68		49,853.65			6,217.06
1885		\$20,441.38	27,163.63		\$3,456.12	
1886						17,550.41
Totals	444,875.46	20,441.38	82,515.91		3,456.12	24,947.83
Balances	424,184.08		82,515.91			21,491.43

COLORADO RAILWAY ASSOCI.

1880		3,910.75		\$87.53		
1881		37,594.62		37.23		
1882		72,235.97		994.71		
1883	8,181.21			802.12		
1884		10,809.23		320.41		695.39
1885	43,748.89					28,147.44
1886	37,153.33					128.25
Totals	89,083.43	124,610.57		2,232.00		20,981.56
Balances		35,527.14		2,232.00		20,981.56

UNION PACIFIC RAIL

Statement of pool balances, by years, from Feb'y

Year.	New Orleans Pacific.		Kearney pool.		McPherson pool.		Northern lines subsidy.	
	Balance due—		Balance due—		Balance due—		Balance due—	
	From.	To.	From.	To.	From.	To.	From.	To.
1880				\$1,688.61		\$6,457.89		
1881				2,225.16		5,790.58		
1882		\$1,046.61	\$66.19			4,831.74		
1883						2,599.55		\$4,696.84
1884								71,943.87
1885								50,376.00
1886								
		1,046.61	66.19	3,913.17		19,679.76	127,016.71	
Net balance		1,046.61		3,852.98		19,679.76	127,016.71	

Year.	Carbondale pool.		Virginia City pool.		Pacific freight pool.		Fremont pool.	
	Balance due—		Balance due—		Balance due—		Balance due—	
	From.	To.	From.	To.	From.	To.	From.	To.
1880		\$723.81						
1881		770.59						
1882					\$422,367.15			
1883			\$4,988.28		21,779.81			
1884			640.48					
1885			(*)					
1886			639.61					\$1,354.37
		1,500.40	6,268.37		444,136.96			1,354.37
Net balance		1,500.40	6,268.37		444,136.96			1,354.37

Year.	Norfolk pool.		B. and M. Cattle pool.		Colorado pool.		Utah Traffic Association.	
	Balance due—		Balance due—		Balance due—		Balance due—	
	From.	To.	From.	To.	From.	To.	From.	To.
1880				\$748.13				
1881				1,955.64				
1882			\$13.13				\$1,861.83	
1883							7,815.35	
1884							24,483.23	
1885					\$4.49			\$54,008.17
1886	\$802.25				\$1,743.28			27,916.66
	802.25		13.13	2,708.77	4.49	1,743.28	34,160.41	22,916.66
Net balance	802.25			2,695.64		1,738.79		57,834.83

* Included in Helena and Butte.

OMAHA, June 29, 1887.

1985

ary 1, 1880, to December 31, 1886, inclusive. Freight.

Lawrence pool.		Atchison, Topeka and Santa Fé cattle pool.		Topeka pool.		Nebraska pool.		Total net balance paid by Union Pacific.
Balance due—		Balance due—		Balance due—		Balance due—		
From.	To.	From.	To.	From.	To.	From.	To.	
\$9.76			\$542.50		\$4,427.90			
							\$7,288.86	
							\$1,188.73	
							\$28,492.44	
9.76			542.50		4,427.90		66,967.53	
9.76			542.50		4,427.90		66,967.53	\$164,444.36

Colorado Railway Association pool.		Oregon pool.		Transcontinental.		C. B. Mo. Pac. pool.		Total net balance paid to Union Pacific.
Balance due—		Balance due—		Balance due—		Balance due—		
From.	To.	From.	To.	From.	To.	From.	To.	
	\$24,681.52						\$10,347.66	
	225,493.82						8,836.91	
	168,676.22							
	20,347.05						\$470.13	
	19,921.65						2,968.36	
\$21,769.56			\$3,645.81	\$25,180.81				
	62,343.70	\$1,985.41	10,912.33	2,508.38				
2,702.50	603,464.96	1,985.41	14,558.14	27,086.19		3,438.49	14,184.57	
	581,761.46		12,572.73	27,086.19			10,748.08	\$129,845.63

Helena and Butte.		Norton Co. pool.		Colorado and Utah Com. points.		Total net balance paid by Union Pacific.
Balance due—		Balance due—		Balance due—		
From.	To.	From.	To.	From.	To.	
			\$148.58			
\$62,437.19						
118,251.57					\$10,632.97	
18,172.59					5,571.93	
	\$115,188.54			\$2,360.48		
327,861.35	115,188.54	148.58		2,360.48	16,204.92	
214,672.81		148.58			13,844.44	\$157,495.53

Grand total paid by Union Pacific.....	\$301,980.77
Grand total paid to Union Pacific.....	129,845.53
Net balance paid by Union Pacific.....	172,094.25

REBATES TO HORN SILVER MINING COMPANY EXPLAINED.

The WITNESS. There was a call made, if I remember correctly, for information concerning the Horn Silver Mining Company. I did not answer that fully. I have since looked up the record of rebates, and I find that in explanation of the vouchers paid the Horn Silver Mining Company to the amount of twenty-odd thousand dollars, in 1883, there was an arrangement to pay \$1.50 per ton rebate on all bullion shipped to the Missouri River, the open rates at that time being \$15 to all shippers. This arrangement began in 1880 and was based upon this condition of facts: That the Horn Silver Company was mainly owned and controlled by some steamship parties in New York City by the name of Franklin & Brown. They wanted their bullion delivered in New York, and they made their own arrangements for the ocean shipments from San Francisco to New York. And as we had an arrangement with the Central Pacific that allowed that company to make its rates from Salt Lake or Ogden to San Francisco 85 per cent. of whatever rate we made from Ogden to Omaha or to any Missouri River point, we found that the rate that they could get by the ocean, combined with the rate of the Central Pacific Company, could and did make a lower rate than we could make. Holding up our tariff to the Missouri River at \$15 and what they would have to pay from the Missouri River to New York, it made a difference of about \$1.50 per ton. We were offered the business if we would reduce the rates, and we agreed to do so by private rebate. The reason we did not make an open rate was that we had no business from that territory at that time that was governed by the same circumstances and conditions. The destination of the other bullion of that section was the Missouri River and other rail points. But the Horn Silver people wanted their bullion treated either in Europe or on the Atlantic coast; and the people who had their bullion refined here, or east of here, had no occasion and no necessity for the reduction. The circumstances were not the same, and it was no unjust discrimination to grant the reduction to the Horn Silver Mining Company while withholding it from the other shippers of bullion. I cannot find that we gave it to anybody else at that time.

By the CHAIRMAN:

Q. Have you a statement of that which you wish to submit?—A. No.

Q. Have you any other statements ready in compliance with our calls?—A. Nothing yet. I have just given you the record. That is all.

REBATES TO BOSTON & COLORADO SMELTING AND REFINING COMPANY.

You asked whether we had given rebates to the Boston and Colorado Smelting and Refining Company. I find that during 1883 we paid the Boston and Colorado Smelting Company at Argo, near Denver, \$67,723.93 by rebates. The reason for making that rebate was that the Boston and Colorado Company had a large quantity of low-grade ore which they satisfied us could not be shipped at the open tariff; while the rich ores from the same camp would stand the open tariff and did not need the reduction that we made for Senator Hill's Company to move them; consequently we made a private arrangement with Senator Hill and treated it as a rebate case. Later we made shipments for the Boston and Colorado Company.

to Argo, running from October, 1886, to April, 1887, on 1,436,484 pounds of ore; total charges at tariff, \$10,112.82; rebates paid on the same, \$2,498 74; reducing the rate from the open tariff at \$12.40 to a net rate of \$10.60. The net rate has since been made the open rate.

Q. Have you any other papers to submit in answer to the calls that have been made?—A. If I remember, you asked me if there were other oil shippers shipping into the Union Pacific territory the same class of goods that the Standard Oil Company was shipping, and you asked the names of those shippers. I will give you that list now.

The CHAIRMAN. If you will give us a list it will save the time of the Commission.

The WITNESS. Then I will have it drawn off separately. As it is now, it is mixed up with other matters.

The CHAIRMAN. Have you any other papers ready now?

REBATE TO WHITTIER & FULLER.

The WITNESS. Here is a call for information as to a rebate paid to Whittier, Fulton & Co. That should be Whittier & Fuller. This was given to protect the current rate on oil from Minneapolis to Los Angeles. The total overcharge was \$9.42 a hundred. Charge of the Union Pacific, \$2.47; leaving a net overcharge of \$6.95; which amount was paid to the consignee.

The CHAIRMAN. The secretary will now read to you the testimony taken at Sioux City relating to the Union Pacific Company.

SIOUX CITY COMPLAINTS.

The secretary read from the testimony of George D. Perkins, of Sioux City, as follows:

Q. Has there been any complaint in the community, of any kind, by reason of discrimination, preferential rates, special rates, or rebates, or contracts of any kind?—A. There has been more or less complaint among our jobbers, as I have heard.

Q. What has been the nature of the complaint?—A. Generally, I think, with reference to some local tariffs. And I have heard some complaints with reference to their inability to get West, complaining of some disadvantages that they labored under in shipping to the far West by reason of their not being regarded as a competitive point in the Union Pacific system.

Q. Has the complaint been as against the Union Pacific rather than against the Sioux City?—A. Not against the Union Pacific, because the Union Pacific has not been understood as having any connection with the place. There has been a good deal of anxiety to get the Union Pacific in from Norfolk here.

Q. What has been the complaint you have referred to by jobbers as to shipments of freight to the West—over what road do you refer to?—A. I presume the shipments would have to go by the Sioux City and Pacific, in connection with the Union Pacific at Omaha or Fremont, or some point on the Union Pacific. But the complaint has been that even Saint Paul or points on the Northern Pacific would be given advantages over shippers here—through shippers.

The secretary read from the statement of Jonas M. Cleland as follows:

Q. Have you any other information to give the Commission?—A. Nothing; but we would like, if the power exists, to have communication with the Union Pacific—to give us a route over the Sioux City and Pacific, in connection with the Union Pacific that would enable our people, especially our pork-packing establishments here, to get their product into the western country at a fair rate.

Q. How do they go—by the Fremont and Elkhorn?—A. No; they would go by the Union Pacific. Kansas City will ship its hog product by way of Saint Paul to Washington Territory from \$20 to \$40 a car cheaper than we can ship it from Sioux City. That is what the men here say to me.

Q. Is that the shorter haul?—A. It is the longer haul from Kansas City, and from \$10 to \$40 cheaper than we can send the same goods to Washington Territory.

Q. What line does it pass over?—A. I suppose the Kansas City, Council Bluffs and Saint Joseph. I do not know.

Q. By what line was the same character of freight passed from Sioux City?—A. That would have to pass over the Sioux City and Saint Paul only.

Q. And by what lines into Washington Territory?—A. The Northern Pacific. Going down the other way from Portland, Oreg., my information is that our rates here would be from \$20 to \$40 a car more than it would be from Omaha.

THE REMEDY NOT WITH UNION PACIFIC.

The WITNESS. I can explain that in brief. The Union Pacific line has no road into Sioux City. The people of Sioux City asked us to pay out of our earnings, or out of our Omaha and Western rate, the cost of getting the property between Sioux City and Omaha. That is all there is of it. If we had a railroad there we could do it.

Q. What connection do they refer to?—A. A connection from the Sioux City line by way of Norfolk, called the Norfolk Branch of the Union Pacific, or by way of Fremont, with the other branch of the Northwestern system.

Q. What would that require on the part of the Union Pacific?—A. It requires about 8 cents a hundred pounds.

Q. But I am speaking of the connection. How would you make that connection with the Sioux City—what would be required?—A. To build from Norfolk to Sioux City, (about 75 to 80 miles); we would have to build that branch; and it would be a very good thing to do, if we had the money.

Q. With that connection, then, could facilities be afforded the citizens of Sioux City, through the Union Pacific system, equal with those of the citizens of Kansas City?—A. Yes; exactly. That would place them on an exact equality with the other Union Pacific towns, or the towns that the Union Pacific reaches.

A QUESTION OF RAILROAD CONNECTION.

Q. Then, as I understand you, the complaint is no question of rates, but a question of railroad connection with Sioux City?—A. Yes. The people of Sioux City asked us to neutralize the disadvantage—instead of paying it themselves—what it costs to get the freight from Sioux City to Omaha.

Mr. POPPLETON. And that statement from Sioux City has no reference whatever to the Union Pacific, because that freight does not touch the Union Pacific system.

The WITNESS. I do not believe he is correct in his figures, anyway.

By the CHAIRMAN:

Q. Has the Union Pacific any connections at all that would take the freight from Kansas City going north and going over to Washington Territory?—A. We might, except that we are out of that business. Our line is the long line and, practically, we are out of that field.

STATEMENT OF REBATES.

Q. How would you carry a piece of freight from Kansas City on your line destined for Washington Territory?—A. If we were to connect with the Northern Pacific we would have to go to the Northern

Division and the make
ad here or o
ceed with

DENVER AND RIO GRANDE RAILROAD COMPANY.

"Denver and Rio Grande Railroad Company, \$10,823.69."—This amount was paid to the Denver and Rio Grande Railroad for the transportation of merchandise between Leadville and Buena Vista during the month of March, 1885, on traffic shipped by way of the Union Pacific road, South Park Branch, between Denver and Leadville, that portion of the Denver and South Park line between Como and Leadville having been blocked at that time by snow.

OMAHA AND GRANT SMELTING AND REFINING COMPANY.

Page 7. "Omaha and Grant Smelting and Refining Company, Omaha, \$5,345.59."—The same explanation applies as before.

SAINT JO AND WESTERN RAILWAY.

Page 7. "Saint Jo and Western Railway, Saint Joseph, Mo., \$553.98. Readjustment of bridge tolls."—As I have nothing to do with the negotiation that lead to the payment of this rebate or refund, I must refer the Commission to the audit department for the full explanation.

Commissioner LITTLER (to Mr. Mink). As to this item just read, the witness refers us to the audit department. Please take a memorandum of that and see what explanation they can give of it.

Mr. MINK. Very well, sir.

CENTRAL PACIFIC RAILWAY COMPANY.

The WITNESS. "Central Pacific Railway Company, San Francisco. Sundries."—This embraces charges on shipments for various parties, chargeable to lines east of Ogden. The same explanation applies as already given.

R. S. VAN TASSEL.

"R. S. Van Tassel, Cheyenne; \$1,243.23, on corn."—The same explanation as already given applies to this.

By Commissioner LITTLER:

Q. That was an experimental shipment, as I remember?—A. Yes; to fatten cattle.

OMAHA AND GRANT SMELTING AND REFINING COMPANY.

Page 9. "Omaha and Grant Smelting and Refining Company, Omaha, \$1,037.69." Page 9. "Omaha Coal, Coke and Lime Company, Omaha, \$347.26."—Rebate given to secure shipments of coal to competitive points.

By the CHAIRMAN:

Q. Who compose the company?—A. I do not know who they are. A man by the name of Charles F. Labagh is one of them.

Q. Is he connected with the Union Pacific?—A. He was, but he left service.

WELLS & NEIMAN.

"Wells & Neiman, Schuyler, \$2,206.16."—This amount of re-
nts of flour from Scuyler to points in Montana, com-

mon to the Northern Pacific and the Union Pacific, where we were compelled to make a special rate as against the Northern Pacific competition; also on shipments from Schuyler to Western Wyoming and Eastern Utah in order to secure the long haul and better rates against similar productions coming from points on the Central Pacific; also from Schuyler to points on the Omaha and Republican Valley as against teaming from Schuyler across to the Omaha and Republican Valley points. The Omaha and Republican Valley runs parallel with the main line near Schuyler.

Q. Was Mr. Wells ever a member of the legislature?—A. Yes, sir.

Q. Was he when he was getting these rebates?—A. That I cannot tell you. My recollection is that Mr. Wells has not been a member of the legislature for eight or ten years, and these accounts do not run back as far as that time.

OMAHA AND GRANT SMELTING AND REFINING COMPANY.

Page 10. "Omaha and Grant Smelting and Refining Company, Omaha, \$108.80."—This is an overcharge of 1 cent per hundred weight upon 1,088,000 pounds of coal from Council Bluffs to Omaha, billed at 3 cents; reduced by rebate to 2 cents, as against a rate that could have been obtained at that time by way of Plattsmouth, over the Burlington and Missouri, into Omaha. This 2-cent rate, or \$4 per car, is the prevailing rate—the open rate now on all shipments from the interior of Iowa.

CENTRAL PACIFIC RAILROAD.

Page 10. "Central Pacific Railroad, San Francisco, \$5,519.36."—The same explanation that has been already given applies to this.

HIMEBAUGH & MERRIAM.

Page 10. "Himebaugh & Merriam, Omaha, \$5,552."—This item is made up of rebates of 47 per cent. of 4 cents per hundred weight on 27,777,975 pounds of grain shipped from various points on the Union Pacific system in Nebraska and consigned to Mississippi River points, 40 per cent. of 4 cents per 100 pounds on 1,391,935 pounds of grain shipped from various points of the Union Pacific system in Nebraska and consigned to Chicago, the remainder of the rebate, namely, 53 per cent. on Mississippi shipments and 60 per cent. on Chicago shipments, having been paid by eastern lines.

OMAHA ELEVATOR AND GRAIN COMPANY.

Page 10. "Omaha Elevator and Grain Company, Omaha, over \$4,000. Corn."—This item consists of a rebate of 4 cents per cwt. on 12,286,000 pounds of corn shipped from various stations on the Union Pacific in Nebraska and destined to Chicago. Sixty per cent. of the above amount was charged to and paid by eastern lines, viz, Union Pacific stands $1\frac{1}{2}$ cents per cwt. and eastern lines $2\frac{1}{10}$ cents per cwt.

R. S. VAN TASSEL.

Page 10. "R. S. Van Tassel, Cheyenne, Wyo., \$1,344.46."—Same explanation as is given on page 2.

PACIFIC MAIL STEAMSHIP COMPANY.

Page 11, "Pacific Mail Steamship Company, New York, \$10,905.40."—This amount was paid to the Pacific Mail Steamship Company as the Union Pacific Company's proportion of the pool between the Pacific Mail Steamship Company and the transcontinental lines for the month of March, 1885.

TRANSCONTINENTAL ASSOCIATION.

Page 11, "Transcontinental Association, November, 1884, \$16,000."—

This amount was paid on account of the transcontinental pool, as follows:

Atchison, Topeka and Santa Fe Railway Company.....	\$3, 676. 39
Burlington and Missouri Railroad in Nebraska	5, 329. 89
Northern Pacific Railroad Company.....	4, 482. 39
Denver and Rio Grande Railway Company.....	2, 639. 31

The Union Pacific having carried more than its allowance in the pool as allotted by the arbitrator to whom the division of traffic was submitted by all lines.

NORTHERN PACIFIC RAILROAD COMPANY.

Page 11, "Northern Pacific Railroad Company, Saint Paul, \$48,027.21. Proportion of earnings for April, 1884."—This amount was paid to the Northern Pacific Company on account of the pool of all competitive traffic between the eastern termini of the Union and Northern Pacific, on the one hand, and Montana common points on the other, and between the Pacific termini of the Union and Northern Pacific and their connections, on the one hand, and Montana common points on the other hand. This item of \$48,027.21 includes the earnings of the Northern Pacific on freight carried by that company, as well as the Union Pacific's excess of the amount allowed it by the pool. Reference would have to be made to the way-bills, which would require ten or fifteen days' work before a segregation of the amount could be made.

HIMEBAUGH & MERRIAM.

Page 11, "Himebaugh & Merriam, Omaha, \$4,000. Grain."—This amount was paid by the Union Pacific to Himebaugh & Merriam, and afterwards collected from the Eastern lines, it being the proportion collected east of Council Bluffs of the 4 cents rebate. The Union Pacific Company merely acted as an agent in this matter for the convenience of shippers and Eastern lines.

BURLINGTON AND MISSOURI RAILROAD IN NEBRASKA.

Page 11, "Burlington and Missouri Railroad in Nebraska, \$3,809.06. Pool earnings."—This amount was paid to the Burlington and Missouri Railroad on account of the pool between Missouri River and competitive points in Nebraska for the month of March, 1885, the Union Pacific having earned the above amount more than its share in the pool.

NORTHERN PACIFIC RAILROAD.

Pacific Railroad, \$3,865.69. Amount of subsidy
—This amount was paid to the Northern

Pacific on account of the transcontinental pool, it being the Union Pacific's proportion of \$35,000 due the Northern Pacific for November, 1894, by all lines engaged in California traffic.

OMAHA ELEVATOR AND GRAIN COMPANY.

Page 12, "Omaha Elevator and Grain Company, Omaha, \$1,277.13. Corn."—This amount is made up by a rebate of 4 cents per 100 pounds on 2,985,000 pounds of corn shipped from various points in Nebraska on Union Pacific, consigned to Chicago, amounting to \$1,194, of which lines east of Missouri River paid 60 per cent. The balance, \$83.13, is the result of overcharges caused by errors in billing.

HIMEBAUGH & MERRIAM.

Page 13, "Himebaugh & Merriam, Omaha, \$1,177.31. Corn."—This amount was paid by the Union Pacific for the Chicago, Rock Island and Pacific on 5,552,900 pounds of corn, being 53 per cent. of 4 cents per 100 pounds, which was afterwards collected from the Chicago, Rock Island and Pacific.

JOHN S. INGLES.

Page 13, "John S. Ingles, San Francisco, \$2,174.83."—This was a rebate paid by Mr. Ingles, who was agent of the Western Trunk Line Association at San Francisco, composed of the Union Pacific, Chicago, Rock Island and Pacific, Chicago, Milwaukee and Saint Paul, Chicago and Northwestern, and Wabash, Saint Louis and Pacific Railways. The money was paid to various shippers as rebates, for the purpose of securing their business to the above association, all of the above lines connecting with the Union Pacific, the Union Pacific bearing its proportion of such rebates on basis of earnings between Chicago and Ogden.

DENVER AND RIO GRANDE RAILWAY COMPANY.

Page 14, "Denver and Rio Grande Railway Company, \$11,889.46. Sundries."—This amount was paid to the Denver and Rio Grande for the transportation of merchandise between Leadville and Buena Vista during the month of April, at which time the Union Pacific Company's South Park line was blockaded with snow between Como and Leadville.

F. KNOWLAND.

Page 14, "F. Knowland, general agent, New York City, \$1,590. Three rebates."—This amount consists of rebates paid by F. Knowland, who is our general agent at New York City, to parties for the purpose of securing their business as against competitive lines.

PACIFIC HOTEL COMPANY.

Page 14, "Pacific Hotel Company, Omaha, \$36.57. Sundries."—This amount consists of a rebate of one-half of our charges on a shipment of groceries from Omaha to Sidney for the Pacific Hotel Company. At the time these shipments were made we were charging one-half rebate their freight for their eating-houses; charges were reduced from to \$36.57 by rebate.

UTAH CENTRAL RAILWAY.

Page 15, "Utah Central Railway, \$2,610.78. Sundries."—This amount consists of rebates and overcharges paid by the Utah Central Railway Company on freight for various persons on account of the Union Pacific on traffic between the Missouri River and points reached by the Utah Central Company.

F. J. KIESEL & CO.

Page 15, "F. J. Kiesel & Co., Ogden, \$1,091.02. Salt."—The Northwestern Forwarding Company, having an arrangement with the Union Pacific to furnish salt at \$3.75 per ton, as stated heretofore, with the understanding that the Union Pacific is to stand the shortage. This rebate was paid to Kiesel & Co., so as to place their company on an equality with the Northwestern Forwarding Company. We agreed to accept the same rate on salt shipped by Kiesel & Co. from Ogden to Butte as we received on salt shipped by the Northwestern Forwarding Company.

PACIFIC MAIL AND STEAMSHIP COMPANY.

Page 15, "F. J. Kiesel & Co., Ogden, \$672.18. Salt."—Same as above.

Page 16, "Pacific Mail and Steamship Company, New York, \$12,508.03. Subsidy for 1885."—This amount was paid on account of pool between the Pacific Mail Steamship Company and transcontinental lines, the Pacific Mail Steamship Company agreeing to maintain the same rates as charged by all-rail lines.

OMAHA AND GRANT SMELTING AND REFINING COMPANY.

Page 16, "Omaha and Grant Smelting and Refining Company, Omaha, \$10,163."—Rebate of \$3 per ton on bullion from or passing through Denver, as explained in former statements.

PHILADELPHIA MINING AND SMELTING COMPANY.

Page 16, "Philadelphia Mining and Smelting Company, Ketchum, Idaho, \$94.72. Coal."—Overcharge caused by error in billing.

HIMEBAUGH AND MERRIAM.

Page 16, "Himebaugh & Merriam, Omaha, \$10,000."—This amount consists of rebate of 4 cents per 100 pounds on grain shipped from points in Nebraska to Chicago, 60 per cent. having been borne by lines east of Missouri River, as explained in former statements.

OMAHA ELEVATOR AND GRAIN COMPANY.

Page 16, "Omaha Elevator and Grain Company, Omaha, \$1,925.25."—This being made up by rebate of 4 cents per 100 pounds on shipments of grain from points on the Union Pacific system in Nebraska to Missouri River, 47 per cent. borne by Union Pacific and 53 per cent. by lines east of Council Bluffs.

GEORGE W. WALTS.

Page 17, "George W. Walts, \$9,973.78. Rebates."—Mr. Walts was formerly general agent of the Union Pacific Company at San Francisco,

and this amount was paid by him to various parties as rebates, in order to duplicate the figures made by our competitors.

STANDARD OIL COMPANY.

Page 17. "Standard Oil Co., Denver, \$203.19, oil."—This is made up by a rebate of 26 cents per 100 pounds on 94,260 pounds of oil from Council Bluffs to Laramie, Wyo., tariff, \$1.31, being reduced to \$1.05. This rebate was given for the purpose of securing competitive traffic of the Standard Oil Company for our line. Difference is accounted for by an undercharge on original billing amounting to \$51.88.

ATLANTIC COAL AND MINING COMPANY.

Page 18. "Altoona Coal and Mining Company, Altoona, Ia, \$406.03, coal."—This was a rebate paid in order to reduce the rate to \$3 per ton from Altoona, Iowa, to Fremont and Norfolk, Nebr., in order to duplicate rates made by the C. and N. W. to the same points. The C. R. I and P. Ry. paid \$115.34 of this amount.

BURLINGTON AND MISSOURI RIVER RAILROAD.

Page 19. "B. and M. R. R. in Nebraska, \$7,732.95."—This amount was paid to the B. and M. on account of pool on traffic between the Missouri River and competitive points in Nebraska for the month of April, 1885, U. P. having carried traffic in excess of its allotment in the pool, the revenue on which amounted to the above figures.

DENVER AND RIO GRANDE RAILWAY COMPANY.

Page 20. "D. and R. G. Ry. Company, Denver, \$13,577.37."—This amount was paid to the D. and R. G. for transportation of freight for the U. P. between Leadville and Buena Vista during the month of May, 1885, the U. Ps' South Park line having been blockaded with snow during the above period.

MARY MURPHY MINING COMPANY.

Page 20. "Mary Murphy Mining Company, \$4,083.25."—This was a rebate of \$2 per ton on 2,263,250 pounds of ore; also, 1,820,000 pounds of ore from Saint Elmo to Denver; the printed tariff of \$8 per ton being reduced to \$6 on this particular ore, on account of its low grade character, and as it would stand no higher rate.

PAYMENTS TO VARIOUS RAILROAD COMPANIES.

Page 21. "Payments to various railroad companies. (Amount not stated on Commission's memorandum)."—These amounts are made up by undercharges collected by the Central Pacific Railroad Company on account of errors in billing, weights, &c., which were afterwards paid by the C. P. R. Co. to the U. P. for lines east of Ogden. We credited lines east of Missouri River with their proportion.

C. BAILEY.

Page 22. "C. Bailey, Schuyler, Nebr., \$1,231.20, sheep."—This was paid on a shipment of 72 cars of sheep, shipped from Be

Island to Schuyler at local rate; stopped at that point to be fattened, and then reshipped from Schuyler to Chicago at local rate; afterwards the party was given the benefit of the through rate from Brady Island to Chicago, plus \$10 per car for stopping to feed. The difference between the combination of the two locals and the through rate from Brady Island to Chicago amounted to \$1,231.20 after first deducting \$10 per car for stoppage to feed.

UTAH FORWARDING COMPANY.

Page 22. "Utah Forwarding Co., \$3,000, coke and salt."—\$295.83 of this amount is overcharges on coke and a commission of 25 cents per ton. This amount was made up as follows: \$255.75, overcharge on account of errors in billing on coke, \$40.08 being commission of 25 cents per ton paid to the Utah Forwarding Co. for buying and selling the coke at figures named by the Union Pacific; \$2,795.46 was paid on account of salt shipments, on the plan heretofore explained. It has been the plan, for some years past, of the Union Pacific to furnish coke at a fixed price, delivered on board cars at the various smelting points on its lines, so that the consumers of coke may depend upon a permanent price, and not be subjected to fluctuations in the price of coke, caused by "corners," strikes, &c.

HIMEBAUGH & MERRIAM.

Page 22. "Himebaugh & Merriam, Omaha, \$2,000, corn."—This consists of rebates of 53 per cent., of 4 cents per 100 pounds, and various overcharges, account of errors in billing occurring on the Wabash Railroad, and which were paid for, charged to, and collected from the Wabash Railroad. It is customary in many such cases for the initial line to settle such claim, as a convenience to shippers and its connections.

OMAHA AND GRANT SMELTING AND REFINING COMPANY.

Page 22. "Omaha and Grant S. & R. Co., Omaha, \$11,000.00, ore." This amount is made up as follows: 40 cents per ton rebate on 4,320,170 pounds of ore from Leadville to Denver, \$864.34, in order to aid in securing the entire product of the Grant Smelter from Denver to the Missouri River, which amounts to about 30,000 tons per year.

Rebate of \$3 per ton on 665,352 pounds of bullion from or passing through Denver to Omaha, \$998.02. This rebate was given in order to duplicate rates made by our competitors, nominal rate being \$10 per ton, actual rate \$7 per ton.

Also, rebate of \$3 per ton on 791,546 pounds of bullion, Denver to Missouri River, \$1,187.32, for reasons stated above.

Also, rebate of 40 cents per ton on 357,090 pounds of ore from Leadville to Denver, \$71.44, for the purpose of securing the entire output of the Grant Smelter.

Also, rebate of \$3.50 per ton on 47,509 pounds of ore from Melrose to Denver, reducing the rate from \$18.50 to \$15 per ton, because the rate from Butte, the longer haul, was based on \$15 per ton at the same time.

Also, rebate of \$4 per ton on 141,740 pounds of ore from Hailey to Denver, \$282.48, in order to secure the bullion product from Denver Missouri River of all ore reduced at the Grant works, comi

points on other lines, as well as Union Pacific line, and for the further purpose of enabling them to purchase low grade ore in Idaho.

Also, rebate of \$3 per ton on 1,446,131 pounds of bullion from Denver to Omaha, \$2,169.20, for the reasons stated before.

Also, rebate of 40 cents per ton on 675,240 pounds of ore from Leadville to Denver, \$135.11, for reasons stated.

Also, rebate of \$3 per ton on 676,760 pounds of bullion from Denver to Omaha, \$1,015.15, for reasons stated.

Also, rebate of \$4 per ton on 166,880 pounds of ore from Hailey to Denver, \$367.19, for reasons stated.

Also, rebate of 40 cents per ton on 1,554,830 pounds of ore from Leadville to Denver, \$311.06, for reasons stated.

Also, rebate of \$3 per ton on 909,427 pounds of bullion from Denver to Omaha, \$1,364.14, for reasons stated.

Also, rebate of 1 cent per 100 pounds on 950,000 pounds of coal from Coal Bluffs to Omaha, \$95, as against Plattsmouth competition, being billed at 3 cents and reduced to 2 cents, which figure is now the open rate.

Also, rebate of \$1 per ton on 71,344 pounds of ore from Red Rock, M. T., to Omaha, \$35.68, it being necessary to make the rate \$1 per ton lower than from Montana common points on account of the low grade ore found in the vicinity of Red Rock; and, also, on account of the shorter haul.

Also, rebate of 1 cent per 100 pounds, Council Bluffs to Omaha, on 680,000 pounds of coal, \$68, for reasons stated.

Also, rebate of 1 cent per 100 pounds on 389,060 pounds of scrap, \$50.90, which also includes an overcharge of \$12 caused by error in billing from Council Bluffs to Omaha, this rate being afterwards made the open tariff rate.

Also, rebate of 1 cent per 100 pounds on 566,400 pounds of coal from Council Bluffs to Omaha, \$55.64, for reasons stated.

Also, rebate of 40 cents per ton on 449,970 pounds of ore from Leadville to Denver, \$90.03, for reasons stated.

Also, rebate of 12½ cents per 100 pounds on 147,050 pounds of slag from Leadville to Denver, \$186.32. This was agreed rate made with the D. & R. G., in order to move the traffic, it being of so low a grade as not to be of sufficient value to pay regular rate of 25 cents, which we charge on ore.

Also, rebate of \$4 per ton on 555,560 pounds of ore from Hailey to Denver, \$1,111.12, for reasons stated.

Also, rebate of 12½ cents per 100 pounds on 246,480 pounds of slag, from Leadville to Denver, \$308.12, for reasons stated.

Also, rebate of 40 cents per ton on 1,150,380 pounds of ore from Leadville to Denver, \$231.31, for reasons stated.

Also rebate of 2 cents per 100 pounds on 25,000 pounds spelter from Council Bluffs to Omaha, \$5, reducing the rate from 5 to 3 cents. This 3-cent rate was afterward made the open tariff rate.

CONTINENTAL TANK LINE COMPANY.

Page 23. "Continental Tank Line Company, Denver, Colo., \$116.45 cars."—This rebate was paid on twelve cars of oil from Council Bluffs to Fremont for the purpose of securing the traffic as against competing line.

CONTINENTAL OIL COMPANY.

Page 23. "Continental Oil Company, Denver, Colo., \$63.96, oil."—This is a rebate of 15 per cent. on one car load of oil from Council Bluffs to Cheyenne for the purpose of securing the competitive traffic controlled by the Continental Oil Company.

KANSAS SMELTING COMPANY.

Page 24. "Kansas Smelting Company, Kansas City, \$490.18."—Five hundred and four thousand four hundred and eighty pounds of ore shipped from Hailey to Kansas City during the months of February, March, and April, 1885.

MARY MURPHY MINING COMPANY.

Page 24. "Mary Murphy Mining Company, Saint Elmo, Colo., \$888, silver ore."—Eight hundred and eighty-eight thousand pounds of ore, Saint Elmo to Denver, billed at \$8 per ton and reduced to \$6, because the traffic would not stand the \$8 rate.

PAXTON, GALLAGHER & CO.

Page 24, "Paxton, Gallagher & Co., Omaha, \$357.05, groceries."—This amount was paid on a shipment of 175,800 pounds of groceries to Norfolk, Nebr., in order to secure the freight as against competing lines.

V. M. C. SILVA.

Page 24, "V. M. C. Silva, Ogden, Utah, \$944.25, hides and pelts."—Two hundred and thirty-two dollars and thirty-five cents of this amount was paid in order to make the same rate from Pocatello as from Ogden to Chicago—the distance being about the same in both cases. Seven hundred and eleven dollars and forty cents on 44,700 pounds hides and pelts from Pocatello to Chicago, billed at \$1,415.40; weight reduced by correction to 44,000 pounds, and rate reduced to \$1.60 per 100 pounds, making the correct charge \$704.00; overcharge of \$711.40.

R. S. VAN TASSEL.

Page 24. "R. S. Van Tassel, Cheyenne, Wyo., \$619.47, oats and corn."—This, same as explained in former cases.

F. J. KEISEL & CO.

Page 24, "F. J. Keisel & Co., Ogden, Utah, \$1,121.01, groceries and sundries."—This amount is the difference between regular tariff and special rates given between Ogden and Pocatello on groceries for the purpose of securing the competitive traffic of F. J. Keisel & Co. between Ogden and the Missouri River—this firm being the most extensive shippers in Ogden.

A. W. BRISTOL.

Page 25, "A. W. Bristol, Wood River, Nebr., \$1,435.20" is an overcharge on a shipment of ——— sheep, billed Denver Junction to Wood River and then billed at 10

River to Chicago. Shipper was given benefit of the through rate Denver Junction to Chicago, plus \$10 per car for stopping to Wood River.

CHICAGO LUMBER COMPANY.

Page 25, "Chicago Lumber Company, Omaha, \$215.35, lumber. Rate of $6\frac{1}{2}$ cents per 100 pounds on 717,710 pounds of lumber from Omaha to Lincoln in order to duplicate through rate from Chicago to Lincoln. The tariff rate was $9\frac{1}{2}$ cents.

HIMBAUGH & MERRIAM.

Page 25, "Himbaugh & Merriam, Omaha, \$2,500, corn."—This consists of a rebate of \$1,098.35, being a rebate of 53 per cent. of 4 cents on 783,340 pounds of corn shipped from various stations on the Union Pacific Railway to Saint Louis, the above amount paid for and charged to the Wabash, Saint Louis & Pacific Railway. Also \$777.85, being a rebate of 53 per cent. of 6 cents on 852,675 pounds of corn shipped from various stations on the Union Pacific Railway to Saint Louis, and charged to the Wabash, Saint Louis & Pacific Railway. A rebate of \$634.88, being a rebate of 53 per cent. of 4 cents on 2,982,000 pounds of grain from various stations on the Union Pacific Railway to Saint Louis. This rebate was paid for and charged to the Wabash, Saint Louis & Pacific Railway.

GEO. W. WALTZ.

Page 25, "Geo. W. Walts, \$9,401.90."—This was money paid to Geo. W. Walts, who was then general agent of the Union Pacific Railway at San Francisco, to various parties as a refund in order to secure their business against competing lines; vouchers for same on file.

MONTANA IMPROVEMENT COMPANY.

Page 26, "Montana Improvement Company, \$1,900, lumber."—The amount was made up of \$517.76, being a rebate of $2\frac{1}{2}$ cents per 100 pounds on 2,071,155 pounds of lumber from Garrison to Butte at a rate of 15 cents per 100 pounds, reduced to $12\frac{1}{2}$ cents. Also \$1,382.24, being a rebate of $2\frac{1}{2}$ cents per 100 pounds on 5,279,400 pounds of lumber from Garrison to Butte; tariff rate 15 cents, reduced to 12 cents. Also rebate of \$87.12 on 193,600 pounds of lumber, Garrison to Butte, being a rebate of $2\frac{1}{2}$ cents per 100 pounds; tariff 15 cents and 12 cents. These rates were given with the understanding that the company would ship a certain amount of lumber during a certain time in competition with lumber produced near Butte. Also for the purpose of encouraging the mining interest at Butte.

REYNOLDS BROS.

Page 26, "Reynolds Bros., Chicago, Ill., \$1,816.09, corn."—This is the difference between the tariff and the following special rates to different points in Kansas which we were obliged to make as against competing lines; 114,970 pounds from Lawrenceburg, reduced to 12 cents per 100 pounds; 27,330 pounds from Talmo, reduced to 12 cents per 100 pounds; 1,524,440 pounds from Belleville, reduced to 12 cents per 100 pounds; 2,036,770 pounds from Concordia, reduced to 12 cents per 100 pounds.

per 100 pounds; 3,868,460 pounds from Clyde, reduced to $11\frac{7}{16}$ cents per 100 pounds.

OMAHA ELEVATOR AND GRAIN COMPANY.

"Omaha Elevator and Grain Company, \$791.35."—This is amount paid account of and charged to the Chicago, Rock Island and Pacific Railway for their proportion of rebate on 4,310,770 pounds of grain from points in Nebraska to Mississippi River.

LEGISLATION IN INTEREST OF COMPANY.

By the CHAIRMAN:

Q. Are you prepare to give us any information concerning the legislation in which you were from time to time interested in the interest of the company?—A. I will prefer to clean up this rebate business and take that up by itself.

The CHAIRMAN. We are prepared to take it up now. We will not ask you for any further rebate information.

Commissioner LITTLER. We are done with the rebate question, as I understand, for the present. Have you any more calls that you can submit?

OVERCHARGE SETTLEMENT.

Mr. MINK. I can now explain the overcharge settlement mentioned by Commissioner Littler a while ago, involving the payment of \$55,398. It represents a settlement between the company, now known as the Saint Joseph and Grand Island, then the Saint Joseph and Western, and the bridge company owning the bridge over the Missouri River at Saint Joseph. The controversy was one concerning the rates of toll.

Commissioner LITTLER. Were those tolls adjusted and the money paid by reason of any contract existing between those two companies?

Mr. MINK. To some extent, yes. It was a settlement under what was claimed to be a contract. The rates were controverted.

Commissioner LITTLER. Does that settlement represent a settlement of differences?

Mr. MINK. It does.

Commissioner LITTLER. In which concessions were made by both companies?

Mr. MINK. I cannot say as to that. At all events the settlement was made. The Union Pacific, of course, on its own account paid no money out in the settlement. We were merely acting as agents.

Commissioner LITTLER. Who represented the Union Pacific in that settlement?

Mr. MINK. I think Mr. Adams on the part of the Saint Joseph Bridge Company, and Mr. Benedict on the part of the Saint Joseph and Western Railroad Company or the successor company.

INFORMATION NOT PRODUCED.

The CHAIRMAN. A great number of calls have been made as to which the information has not yet been produced. One is, How long has the rebate system to the Omaha Elevator Company continued? What have been the rebate rates to the Standard Oil Company? What has been the rate to San Francisco? What allowance was made by the Union Pacific Railway Company, for the return of cars, to other ship-

pers than the Standard Oil Company? What allowance, if any, was made for the return of tank cars of other shippers than the Standard Oil Company? These dates and figures are very important in making up our report.

The WITNESS. A statement of the total amount of rebates it would take some time to make up. I have got part of the data that you want in connection with the grain and the oil business. Now, if you will allow me to treat those interrogatories the same as you do the balance of the rebate memorandum, I will give you all those figures by record, and do it very soon.

The CHAIRMAN. When will they be ready?

The WITNESS. I must have time to do it, but will do it as soon as possible.

The CHAIRMAN. But name your time.

The WITNESS. I will do it in a week; before you get off our line.

The CHAIRMAN. I wish you to bear in mind that we must have them. The calls we have made are very important, and the information ought to be furnished as soon as possible. Do I understand the company to be preparing answers to all calls that have been made?

Mr. ERASTUS YOUNG. Yes, sir; every one of them. It involves a great deal of labor, this going back to original way bills and other original papers.

Mr. POPPLETON. It does not seem to me possible to take up these calls in such a way as to dispose of them, unless they are formulated properly and put into the hands of the officers of the railroad company.

REBATE TO OMAHA ELEVATOR COMPANY.

The CHAIRMAN. Let us have no misunderstanding. On June 22 (to-day is the 30th) I called for information as to how long the rebate system to the Omaha Elevator Company has continued, and when it commenced.

The WITNESS. That date is November 1, 1882.

By the CHAIRMAN:

Q. When did it commence?—A. November 1, 1882.

Q. How long has it continued? You are still continuing it? There is no doubt about that, is there?

The WITNESS. Now!

The CHAIRMAN. Yes.

The WITNESS. No, sir.

Q. Did it continue to April 1?—A. Yes.

Q. From November 1, 1882, to April 1, 1887?—A. Yes; but further examination may show that it commenced prior to November 1, 1882.

COMMENCEMENT OF REBATES TO STANDARD OIL COMPANY.

The CHAIRMAN. Well, you can add that, if you ascertain it to be so. Another question was, "When did the company commence allowing rebates to the Standard Oil Company?" There ought to be no trouble about that.

The WITNESS. So far as I have been able to ascertain the date payments were made to the Continental Oil Company from 1874 to The Standard oil dates I cannot give you at present, but about time in 1884 there was a consolidation, as I understood it, betw Continental Oil Company and the Standard.

Q. How long had the Standard been shipping over the road prior to that date?—A. I should judge about the same period. They were in competition, and we were paying rebates to both of them.

RATE ALLOWED STANDARD OIL COMPANY PRIOR TO 1884.

Q. Another call was, "What was the rate allowed the Standard Oil Company prior to 1884?"—A. That I cannot give you now.

Q. What has been the rate allowed from January 1, 1884, to April 1, 1887, to San Francisco?—A. I cannot give that, because it was a fluctuating rate.

Q. Can you give me an average rate?—A. No.

The CHAIRMAN. You led me into this subject under the idea that you would let me have those.

The WITNESS. Well, you must excuse me, because I have been working night and day.

The CHAIRMAN. If you cannot give the information you must say so.

The WITNESS. But I propose to give you the information as soon as possible. In a general way I may say that the rates went down to 30 cents, and were as high as a dollar per 100 pounds from Chicago.

Q. Is that from January 1, 1884, to April 5, 1887?—A. Yes, sir.

Q. What was the rate allowed the Standard Oil Company prior to 1884?—A. There might have been a hundred different rates during that period. If the Pacific Mail Steamship Company made a bid on the shipment of oil from New York to San Francisco, and we made a bid, it might drop our rate 5 cents a hundred, or considerably more.

Q. Can you give any fixed rate up to that time?

The WITNESS. The open published tariff?

The CHAIRMAN. No, the net rate. Can you give the fluctuations of the rate?

The WITNESS. I cannot give you that from memory.

The CHAIRMAN. I called for that eight days ago.

The WITNESS. We have got to go back over several years of record in order to get the rate.

The CHAIRMAN. Let us understand whether you intend to give the Commission the rates or not. Let us have yes or no on that subject.

The WITNESS. I intend to give the Commission the rate.

The CHAIRMAN. Do you think you can get it?

The WITNESS. I think I can.

Q. What was the rate of rebate given to the Standard Oil Company prior to January 1, 1884, and what was the rate from January 1, 1884, to April 1, 1887, from Omaha or Council Bluffs through to San Francisco?

—A. It is in the hands of a clerk to make up from the record.

ALLOWANCE FOR RETURN OF CARS TO OTHER SHIPPERS.

The CHAIRMAN. Another of the questions already asked was, "What allowance was made by the Union Pacific Railway Company for the return of cars for other shippers than the Standard Oil Company?"

Mr. POPPLETON. There was a "car-service statement" put in here that I supposed answered that.

The CHAIRMAN. Does that cover other shippers?

The WITNESS. Yes.

The CHAIRMAN. All of them?

same rule for the return of cars applies in all

Q. Now let us understand. Do you mean to say that other shippers had the same rate for the return of cars that the Standard Oil Company had?—A. That is what our record shows, except some rebate that has been paid in the last year, as I remember; those I am having looked up. They were charges refunded.

Q. Were they refunded to the Standard Oil Company?—A. I think so.

Q. Who else were they refunded to?—A. It was either the Standard or the Continental, I don't know which; but I can find out.

The CHAIRMAN. Now I understand you are to produce, then, the allowance made by the Union Pacific for the return of cars for other shippers than the Standard Oil Company?

The WITNESS. If any, yes.

RULE FOR RETURN OF CARS UNIFORM.

Mr. POPPLETON. Has not that been answered?

The WITNESS. I think it has gone in already.

Mr. POPPLETON. In what statement has it gone in?

The WITNESS. I have stated that our rule for the return of loaded or empty oil-cars was the same with respect to all companies.

Mr. POPPLETON. Was it applied to all companies alike?

The WITNESS. It was applied to all companies with the exception of some cases in the last twelve months where, my recollection is, the charge was refunded to the company—the Standard Oil or the Continental.

THE CONSOLIDATED TANK COMPANY.

By the CHAIRMAN:

Q. What about the Consolidated Tank Company?—A. It would be in the name of the Continental or Consolidated.

Q. There are amounts stated in your books as for both companies, the Continental and the Standard. How is that?

The WITNESS. The tank line and the Standard Oil Company always mean the same thing, as I understand it. The Continental was a rival company.

The CHAIRMAN. They do not appear in your accounts as the same. Does your statement contain the amounts paid to the Tank Line Company?

The WITNESS. That is as I understand it.

The CHAIRMAN. Then, in addition to the Standard Oil Company and the Continental Company, for those years there should be added, as I understand it, the Tank Line Company.

The WITNESS. The Tank Line was the name of a style of cars.

The CHAIRMAN. But they are charged in your books as separate companies, and I want to know if you have included both in this statement.

The WITNESS. I take it for granted that it includes both.

The CHAIRMAN. Then we will accept the statement produced as in answer to that call.

Mr. POPPLETON. So that that disposes of the question of car mileage for the "Standard" business?

RETURN OF TANK CARS TO OTHER SHIPPERS.

The CHAIRMAN. Yes. What amount was charged, if anything, for return of tank cars of other shippers than the Standard?

The WITNESS. I have no recollection of any other shippers that had the same equipment as the lines I spoke of—the Tank Line Companies that were in the business at that time.

The CHAIRMAN. Then that ought not to be difficult to answer.

The WITNESS. No.

The CHAIRMAN. Then, as to the question, "What amount, if any, was charged for the return of tank cars for other shippers than the Standard," I understand your answer to be, "Not any." Is that right?

The WITNESS. There may have been an occasional tank car of a private company, but I have no recollection of anything of that kind.

The CHAIRMAN. Will you furnish an answer to the call?

The WITNESS. Yes. How far back would you like the answer to that question to go?

The CHAIRMAN. Since you made the charges.

The WITNESS. We have to go through the same records to find one entry as to find a thousand, and it is an enormous amount of work. And that is a trifling and insignificant matter anyway.

Mr. POPPLETON. And still to make a detailed statement of it, it would be necessary to go over the entire books and accounts?

The WITNESS. Yes.

Mr. POPPLETON. Now, is it worth while to do that as long as the witness says, in a general way, that there is very little of it?

The WITNESS. So little of it that it is insignificant.

The CHAIRMAN. Commissioner Littler, what do you think of that?

Commissioner LITTLER. If it is going to involve so much labor and is a trifling matter, I do not believe it would pay the Government to insist upon it.

The CHAIRMAN. Will you give us the information for five years?

BUT FEW EXCEPTIONS TO UNIFORMITY OF RULE ABOUT RETURN OF CARS.

The WITNESS. So far as the boiler tank equipment of any and all companies is concerned, the rule for their return has been uniform and open to everybody, and if there are any exceptions to that rule they are rare exceptions. The only ones that I can recall are a few refunds that have been made within the last twelve months to the Standard Company, or some of its associate lines. I think that rule has been uniform on all roads.

Q. Would it be difficult for you, as traffic manager, to recall the fact that you charged for the return of an empty tank car to any other company than the Standard Oil Company?—A. We have charged all in some portions of our territory and have brought all free in others. We have been governed in that respect by the rules that obtain on other roads that we have been competing with, generally, a uniform rule is adopted by roads engaged in competitive business. They agree to return all tank cars free, and then they agree to charge on all tank cars.

NO DISCRIMINATION AGAINST OTHER TANK COMPANIES.

Commissioner LITTLER. What we are trying to get at is whether you have discriminated in favor of one tank company as against another.

The WITNESS. I do not think we have, except that when we made our bargain with the Standard people for a certain amount or an increase of their business in our local territory, we agreed that we would bring back certain cars free that we had heretofore been charging for.

Mr. POPPLETON. Whom does that discriminate against? What companies do not enjoy that same rate; that is the essential point.

The CHAIRMAN. That is it.

Commissioner LITTLE. And what companies did enjoy the benefits of discrimination.

The CHAIRMAN. I put it that way. What amount was charged, if anything, for the return of tank cars of shippers other than the Standard Oil Company?

The WITNESS. I cannot recall that there were any other companies running tank cars in that territory at the time.

THE CALL FOR TOTAL AMOUNT OF REBATES ALLOWED STANDARD OIL.

The CHAIRMAN. We shall have to ask you to answer that for five years, if it is a difficult one to answer for all the time. What amount was charged, if anything, for the return of the cars of shippers other than the Standard Oil Company? Another question already asked is: "What was the total amount of rebates allowed the Standard Oil Company since the beginning of rebate allowance?" That was called for eight days ago—June 12.

Mr. MINK. I think that question has already gone to our freight auditor's office to be answered.

The CHAIRMAN. Will Mr. Mink say that we are to have it answered or not?

Mr. ERASTUS YOUNG. I understand that the clerks are doing all they can. They are hunting up the records.

The CHAIRMAN. Then I understand that that question will be answered?

Mr. ERASTUS YOUNG. Yes; it will be answered.

Commissioner LITTLE. And you will send it to us?

Mr. ERASTUS YOUNG. Yes.

THE CALL FOR TAXES ON LAND.

The CHAIRMAN. There was a call made June 20, as follows: "What would have been the amount of taxes paid if the company had applied for patents as soon as the land was surveyed, assuming that patents would have been granted as applied for?"

Mr. POPPLETON. The true thing to say is that the company has not the data to make such a statement. But if the Government will give a statement of the dates when the lands were surveyed, the computation can be made. We have no means of knowing when these lands were surveyed.

Commissioner LITTLE. But as to unsurveyed lands no computation can be made, of course.

The CHAIRMAN. Do you intend to give us any further answer?

Mr. POPPLETON. I do not see how we can. But, of course, the commission has the power to ask for that information from the Government in respect to the time when those surveys were made of the granted lands, and then, of course, it is a relatively simple matter to make that computation.

THE CALL FOR REBATE CONTRACTS.

The CHAIRMAN. There was a call on Mr. Young, the auditor, made June 20, for copies of the rebate contracts.

The WITNESS. I think I can state the situation so that you will understand it. In nearly all the cases where arrangements are made for special rates by associations of railroads, the understanding is that each railroad company generally can cut the published rate or it can maintain the open rate and settle by rebate, the net rate carrying the same result. Arrangements for rebate are ordinarily made this way: An application is made for a rebate either in person or by letter (the current rebates I am talking about), and the agent or representative of the traffic department who authorizes the rebate simply tells the freight auditor to recognize a certain net rate by rebate. That is all there is of it.

The CHAIRMAN. Then the answer would be, you have no contracts.

The WITNESS. I wanted to explain why we did not have them in the form of written contracts.

The CHAIRMAN. Then that is disposed of.

There was a call made for a report written by Mr. Kimball, submitted to the president of the Union Pacific Railway Company and published, descriptive of the country tributary to the Union Pacific.

The WITNESS. I would explain that the only form in which I have that data is in a copy of an advertising pamphlet or book that we have issued since 1878, or beginning with, I think, 1878. The data in respect to the resources of the country along the line of the Union Pacific road and its proposed tributaries or branches was carefully formulated and put into the hands of a gentleman to edit and write up in popular form.

Q. Have you got it?—A. Yes.

Q. Will you give it to us?—A. Yes. Here it is [handing a pamphlet to the Chairman].

The CHAIRMAN. There was a call for all reports made by Mr. Kimball, or for his correspondence, as to the business resources of the country through which the Union Pacific contemplated building?

The WITNESS. That pamphlet is the only form in which the facts have been preserved, on which I can lay my hands now.

THE DIARY FINALLY PRODUCED.

Q. Have you your diary?—A. I have it; yes.

Q. Will you give us any information from it concerning any matters in which the Union Pacific Railway Company is interested?—A. My diary is simply a personal diary, and contains nothing relating to the business or the accounts of the Union Pacific Railway, or the affairs of the Union Pacific Railway. It is simply a personal, family diary; but I have been able to locate what I suppose are the dates that you want to get.

Q. Do you mean the information that you said your diary would help you to give?—A. Yes. This was in connection with legislative matters, was it not, that the question was asked?

The CHAIRMAN. Yes.

The WITNESS. On the 12th of February, 1879, I and the general freight agent, Mr. E. P. Vining, appeared before a legislative committee on railroad legislation at Lincoln. On February 8, 1881, we also appeared before a legislative committee on the same matter. My recollection is that at that time we were discussing the Doane bill and other matters that were before the legislature. At Topeka, on the 16th of February, 1881, Mr. Vining and myself talked to committees, and so did Messrs. Williams and Usher, the attorneys of the Union

Pacific Company in Kansas. At Lincoln, in February, 1885, I appeared before a legislative committee to discuss railroad bills that were then pending. These are the dates that I can fix and confirm by my diary, when I appeared before legislative committees in connection with proposed legislation.

NO BEARING ON LEGISLATIVE MATTERS.

Q. What information have you in your diary other than you have given to this Commission, as to when you appeared formally before legislative committees or used your influence, spoken of in your former testimony, in the interest of the Union Pacific Railway?—A. Nothing having any bearing on legislative matters. No dates or data.

Q. Have you any names in your diary in connection with the Union Pacific Railway business or company?

The WITNESS. In that connection?

The CHAIRMAN. Yes.—A. I may have. In this case I have given the names that appear in the diary in that connection.

Q. Have you any entry in your diary of any payment of money or any promise made to any one on account of influencing legislation or any other matters in behalf of the Union Pacific Railway Company?—A. None at all.

Q. You have given the Commission all that your diary contains on that subject?—A. In that connection, yes.

The CHAIRMAN. That was not very difficult to do. What other connection have you spoken of?

The WITNESS. None.

Q. You have just said "in that connection." What other connection would you refer to?—A. I have given you the dates that occur in my diary which enable me to fix my connection with legislative matters by that diary.

Q. Have you given us the entries in the diary?

The WITNESS. What do you mean by the entries in the diary?

The CHAIRMAN. Under those dates.

The WITNESS. I have given you the dates that the entries in the diary enable me to fix, and I can give you the exact language, if that will do you any good.

The CHAIRMAN. We want anything in your diary that bears, directly or indirectly, upon the business or relations of the Union Pacific Railway Company.

The WITNESS. You have got all that I can give you on that subject.

CALL FOR KIMBALL LETTERS.

The CHAIRMAN. There was a call for copies of letters, if any, written by Mr. Kimball to members of the legislature regarding the business of the Union Pacific Railway Company.

The WITNESS. I would like to submit a report of what I said to the legislative committee on the subject of railroad legislation.

The CHAIRMAN. There is no objection to that. We will take it.

The WITNESS. That will show the kind of influence that I was exercising over them.

Q. Have you any copies of letters written to members of the legislature regarding the business of the Union Pacific Railway Company?

The WITNESS. Does your question say letters to members of the legis-

The CHAIRMAN. Yes.

The WITNESS. I could not find any. But I have a letter to an attorney of the company.

Mr. POPPLETON. Then this is purely irrelevant.

CONSTRUCTIVE MILEAGE.

The CHAIRMAN. Purely.

A call was made for a record of the cost of service on which rates of constructive mileage were based.

Mr. POPPLETON. That is, as between the Trunk Line and the branches?

The CHAIRMAN. Yes, sir. I mean by that to get the basis by which Mr. Kimball fixed his original figures in 1881.

Mr. MINK. It would be difficult to make a statement of that character. I can file a statement showing how constructive mileage affects the parent road and its branches.

The CHAIRMAN. What is the difficulty about it?

Mr. MINK. I understand your question to be as to the relative cost of performing the service on the branch lines, compared with the cost of performing it on the main line at the time the constructive mileage rates were fixed.

The CHAIRMAN. And the rates still in operation.

Mr. MINK. So far as they are still in operation I can show you the cost instantly.

Mr. POPPLETON. In other words, there is no data which will show the cost of service at the time these rates were first established?

Mr. MINK. None that I know of, or that is presently available.

The WITNESS. There could not be any made, either.

COST OF OPERATING MAIN AND BRANCH LINES.

Mr. MINK. The annual report of 1886, page 22, shows that the cost of operating the main line of our railroad, including taxes, was 58 per cent. of the gross earnings, while on the branches it was as high as 83 percent. I made a memorandum some days since (I am not sure whether or not it has gone into the record) in which I withdrew from the earnings of the auxiliary lines the amounts allowed them under the constructive mileage rule in excess of the amounts that would have been allowed them on a pro rata basis. If those amounts are added to the earnings of the main line and deducted from the earnings of the branches the percentage of expense would be 88 per cent. for the branch lines to about 56 per cent. for the main line. Whatever statement I may make must be predicated upon some such general statement as I am now making to you.

The WITNESS. That would be the auxiliary system right through?

Mr. MINK. That is the auxiliary system as a whole. The expense of operation is therefore nearly 50 per cent. greater on the branch lines than it is on the main line.

POPULATION COVERED BY UNION PACIFIC SYSTEM.

The CHAIRMAN. What have you to say in answer to the question as to what was the population of the territory of the Union Pacific and branch lines on which constructive mileage was based?

The WITNESS. It was taken from the census report of 1880, of territory, by counties, through which the Union Pacific Railway passed. I have a list of the counties.

The CHAIRMAN. We will take your estimate.

The WITNESS. That would be an average. I should say Omaha Elevator Company and the Himebaugh and Merriam charges would be 1 cent per ton per mile as the lowest average to the Standard Oil Company, the great bulk of its business being continental and carried at very low rates, would probably more than one-half to three-fourths of a cent per ton per mile average. The Union Cattle Company's business would, I should run about a cent and a quarter, while the Omaha and Grant would average in the neighborhood of eight-tenths of a cent per mile. I mean the lowest of the rates—the average of the lowest. I imagine that the total tonnage of all these concerns will show earnings than the figures I have named, but, taking their lowest rates during that period, the average of those lowest rates would be approximately what I have given.

The CHAIRMAN. One gentleman here testified that for two years continuously there was 1 cent per 100 pounds allowed to the Omaha Elevator Company.

The WITNESS. That was a rebate for each 100 pounds that transferred.

POOL EARNINGS.

The CHAIRMAN. There was a call made for a statement showing amount of passenger earnings derived from pool balances amount from ordinary business.

The WITNESS. Also freight earnings derived from pools amount from ordinary business?

Mr. POPPLETON. By ordinary business you meant business of pools?

The CHAIRMAN. Yes.

Mr. MINK. We will try to file an answer to that.

The CHAIRMAN. I will accept either the answer that you will

Commissioner LITTLER. Please furnish to the Commission a statement showing the amount of subsidies or donations voted in aid of each of the branch lines by counties, cities, towns, and townships in the States and counties through which the Union Pacific runs.

OMAHA BRIDGE.

Q. Is the bridge at Omaha a part of the main line?

Mr. POPPLETON. Yes.

The WITNESS. We are treating it as part of the main line.

Commissioner LITTLER. I will include in that question, then, the Omaha bridge and the main line.

Mr. POPPLETON. This \$250,000 that Mr. Rosewater spoke of the other day, that was donated in aid of the bridge, was given to the company to induce it to locate the bridge at Omaha, after it was located at Child's Mill, below here; and it was supposed to represent the greater cost of building at one place instead of the other. So that it was in no sense a donation. It was an act of self-preservation on the part of this community.

Commissioner LITTLER. You will please give the Commission information as to what disposition the Union Pacific Railway Company made of such aid as I have mentioned in my last interrogatory. By the constitution of this State I understand that the State is prohibited from granting aid to a railroad.

Mr. POPPLETON. The State, as such, is; but counties and municipalities are authorized to give aid.

DISPOSITION OF AID.

Commissioner LITTLER. If you have received aid from any State I want you to state it.

Mr. POPPLETON. There was never a dollar, in money or land, received in that way, although in this State there was considerable land given away to railroads, and neither the Union Pacific nor any branch of it got a cent of it.

The CHAIRMAN. There was a call made for a statement showing land entries paid for by the companies, and the location of the land.

Mr. ERASTUS YOUNG. That will be furnished.

The CHAIRMAN. There was a call made for vouchers in Mr. Thurston's name, and other legal expenses.

Mr. MINK. They have been presented, and are about the room somewhere.

The CHAIRMAN. A call was made for the names of all persons, employés of the company, who were members of the legislature.

Mr. POPPLETON. For the legislature of 1887 the names have already been given.

DIVERSION OF FREIGHT TO SANTE FÉ ROAD.

By the CHAIRMAN:

Q. Is it true that, within the last six weeks or, possibly, sixty days (I am not sure as to the date), 300 cars of through freight were billed to go over the Union Pacific, at Kansas City, and were taken from the Union Pacific and sent over the Santa Fé?—A. I will make a memorandum of that question and give you the answer. I have no knowledge of that fact. But where does the question come from?

The CHAIRMAN. It is my question to you.

Mr. POPPLETON. Taken in what way?

The CHAIRMAN. What is the policy of diverting to the Santa Fé 300 cars billed to go over the Union Pacific, a Government aided?

The WITNESS. I do not know that there is any such fact.

Mr. POPPLETON. If the 300 cars were taken over the Santa Fé question does not convey any idea as to whether it was done by co or without consent or against knowledge.

The CHAIRMAN. Is it true that, within the last sixty days, 300 of through freight which had been billed to go over the Union Pacific at Kansas City, were taken from the Union Pacific, or Kansas Pacific, and sent over the Santa Fé. Would such a thing be possible in the management of the Union Pacific?

The WITNESS. No; I do not think it would be possible to that extent.

Q. Well, to what extent?—A. It might occur to this extent—

Mr. POPPLETON. What, 300 cars?

The WITNESS. I say no. But I say that freight offered to the Union Pacific Company might find us without equipment to move it, and might have to turn it over to the Santa Fé Company if we did not have the equipment, because the shipper would not consent to our keeping it indefinitely. Sometimes it happens that an intervening carrier takes it away from the road that originally secured the freight; but I do not understand that this is such a case.

Q. Have fifty cars, representing through freight billed to go over the Union Pacific, at any time been diverted to go over the Santa Fé?

—A. I have no knowledge of such a fact.

Q. Who would have knowledge of such a fact?

The WITNESS. This inquiry is limited to sixty days, is it?

The CHAIRMAN. No. I only take that as an illustration, because it is given to me as a fact that that diversion that I have given to you occurred within sixty days.

The WITNESS. It is not true. I do not think there is any substantial foundation for the statement.

Q. Within three months?—A. No.

Q. At any time?—A. I do not recall any facts that would warrant such a statement.

By Commissioner LITTLER:

Q. In the history of the road?—A. In the history of the road less we were washed out. More than that number of cars have been given to us from the Santa Fé.

Q. How many cars have been diverted at any time—how many have been sent over the Santa Fé under a pool arrangement, for example?—A. I do not remember any case where we have diverted freight to the Santa Fé road for California, and no case anywhere else to me within the last two years.

DIVERSIONS TO AND FROM UNION PACIFIC.

Q. Has it occurred with any other road at any point, at any time in the history of the Union Pacific?—A. A great many car loads of freight have been diverted to the Union Pacific road, and shipments have been diverted during the pool period from the Union Pacific road to other lines. And the reason for that is, that it is cheaper for the road to let them stand the expense of hauling it than it is to pay the balance in net cash.

Mr. POPPLETON (to the chairman). You say that that was stated to you as a fact. Now, where was this freight from? Do you mean that it was loaded in cars and billed from Saint Louis or Chicago or any point out of Kansas City, or is the question aimed at the consent of the Union Pacific to do or to allow such a thing to be done?

The CHAIRMAN. That is precisely what I am at.

Mr. POPPLETON. Whoever has given those facts must have given out the fact as to whether it was freight billed out from Kansas City and diverted there, or whether it was through freight and diverted at Kansas City. Is there any objection to disclosing that fact?

The CHAIRMAN. I have no fact to disclose except the question to this company. That would appear somewhere if true. Is it true?

The WITNESS. You can take as my answer that it is not true.

Mr. POPPLETON. That question would mean freight that had been loaded on a Union Pacific car and billed by a Union Pacific route.

The CHAIRMAN. Yes, sir.

Mr. POPPLETON. I do not believe any such thing is possible.

The CHAIRMAN. I am asking for information.

Mr. POPPLETON. Yes, and I only wanted to know what kind of information you wanted.

The CHAIRMAN. I wrote it down, so as to be sure of the point, whether within six weeks or sixty days or six months, 300 cars of through freight had been billed to go over the Union Pacific at Kansas City—whether cars so billed were taken from the Union Pacific and sent over the Santa Fé.

A NAKED, ABLE-BODIED LIAR.

Mr. POPPLETON. We would like to have the name of the witness by whom we can prove the fact of that diversion, if it is true. If you want to serve this company, give us the name.

Mr. MINK. Some one's head will go off.

The WITNESS. It is not true.

Mr. POPPLETON. If any man has made such a representation it would be worth thousands of dollars to know who that man is; to know whether he has even the semblance of truth, or whether he is simply a naked, able-bodied liar, seeking to deceive this Commission.

The CHAIRMAN. What is your answer, Mr. Kimball? You are the witness.

The WITNESS. I answer, no.

Q. Has there been any such diversion of freight from the Union Pacific at any time, at any point, and to what extent, under your pool agreements?

The WITNESS. How do I understand the question—during the whole period of our pool business?

The CHAIRMAN. Yes.

The WITNESS. You ask, have there been 300 car loads, or any number of car loads?

The CHAIRMAN. You have answered about the 300 car loads and said it was not true.

The WITNESS. Do you mean, have there been diversions from the Union Pacific during the existence of our pool?

The CHAIRMAN. Yes.

The WITNESS. I answer that there have been.

Q. To what extent?—A. That I cannot say. I apprehend that, on the whole, considerably more freight has been diverted to the Union

Pacific road by other lines than has been diverted from the Union Pacific.

Q. What percentage of freight of the Union Pacific has been diverted, under pool agreements, over other roads?—A. That would require an examination of the records to show; and it would take some time to do it, too.

Q. Will you produce for the Commission a statement of the actual amount of diversion of traffic from the Union Pacific, under pool agreements over other roads?

The WITNESS: To and from—do you put it in that way?

The CHAIRMAN. Yes.

A. I will do the best I can.

HIMEBAUGH & MERRIAM.

Q. Is it true that Himebaugh & Merriam are now receiving a preference of two cents per bushel on joint tariff on shipments from any point on the Union Pacific Railway to Chicago or to any other eastern point?—A. They are not receiving a cent from any point on the Union Pacific system.

Q. Who is O. P. Mason?—A. He is a lawyer at Lincoln and secretary of the State railway commission.

PAY FOR POLITICAL SPEECHES.

Q. Was he at any time paid money by this company, when not in its employ, for making political speeches?—A. Never to my knowledge.

Q. Who would have knowledge of such a thing?—A. I do not believe anybody would.

Q. Was such a person as O. P. Mason paid \$1,000 each for speeches he delivered in the Third Congressional district in behalf of the railroad company's candidate?—A. Not within my knowledge.

Q. Within whose knowledge?—A. I cannot tell you, because I never heard of it except in the newspapers.

Q. Who ought to know if such a payment was made?

The WITNESS. Is it alleged that it was paid by this company?

The CHAIRMAN. Yes.

The WITNESS. I do not know. I do not believe a word of it to start with.

By Commissioner LITTLE:

Q. The auditor of the company would have to know, would he not?—A. Yes; I think he would have to know.

By Mr. POPPLETON:

Q. Is it not a fact that Mason has always been hostile to this company, even in his official capacity?—A. Generally, and particularly so at this time.

The CHAIRMAN. Suppose you add to the data you have to furnish any memorandum or data you have of the diversion of freight from the Union Pacific over the Central Pacific.

The WITNESS. I will see if I have anything that I can present to the Commission on that subject.

COAL DISCRIMINATION DENIED.

I called the attention of the Commission to a newspaper publication, a letter written to an Omaha paper from North Platte, Nebr., in which

it is charged that the Union Pacific Company charges for Rock Springs coal delivered at North Platte \$1 per ton more than it charges for the same coal delivered in Omaha. It is not true, and has not been for years.

ALLEGED SALT DEAL.

It is also charged by implication that the Union Pacific Company has some inside salt deal by which we have a private agent who goes out and sells salt over the line. We have no arrangement of that sort in this part of the country. We have none anywhere. The statement in respect to the salt business is an entire misapprehension of the facts on the part of the writer of the letter.

THOS. L. KIMBALL.

REBATES, OVERCHARGES, AND REFUNDS.

The following statements were submitted:

Statement showing rebates and overcharges paid annually to the Consolidated Tank Line Company during years of 1882 to June 22, 1887, inclusive, and also gross earnings on same business.

Date.	Earnings.	Rebate, &c.
1882.....	\$112.15	\$45.18
1883.....	12,311.69	340.34
1884.....	1,896.49	201.79
1885.....	11,687.59	2,659.63
1886.....	16,881.93	3,592.06
1887.....	24,320.54	5,526.67
Total.....	66,210.39	12,365.67

Statement showing rebates and overcharges paid annually to the Continental Oil Company during the years 1881 to 1887, inclusive, and also gross earnings on same business.

Date.	Rebate, &c.	Earnings.
1881.....	\$12,313.66	\$29,104.46
1882.....	27,876.64	63,487.56
1883.....	7,661.84	33,207.13
1884.....	3,567.27	9,182.06
1885.....	4,687.16	43,172.84
1886.....	14,834.23	138,968.37
1887.....	10,649.69	63,038.44
Total.....	81,529.49	380,161.86

Statement showing rebates and overcharges paid to the Standard Oil Company during 1880 to 1887, inclusive, also gross earnings on same business.

Date.	Earnings.	Rebate, &c.
1880.....	\$967.20	\$212.16
1881.....	2,345.15	514.42
1882.....	415.13	212.03
1883.....	816.90	420.20
1884.....	3,262.57	806.23
1885.....	11,783.52	2,459.78
1886.....	34,945.82	4,718.17
1887.....	5,275.76	990.65
Total.....	59,811.75	10,828.24

Statement of charges refunded annually to the Standard Oil Company, account of empty oil tanks returned.

Year.	Refund.
1880.....	\$131.90
83.....	56.60
84.....	80.20
85.....	529.55
86.....	51.75
Total.....	850.00

Statement of charges refunded on empty oil tanks returned, account Continental Oil Company during the following years.

Date.	Amount.
1884.....	\$339.55
1885.....	151.65
1886.....	998.30
Total.....	1,489.50

The Commission then adjourned to Friday, July 1, 1887, at 9.30 a. m.

UNION PACIFIC RAILWAY OFFICES,
Omaha, Nebr., Friday, July 1, 1887.

The Commission met at 9.30 a. m. Present: Commissioner Pattison (chairman) and Commissioner Littler.

Mr. POPPLETON. Mr. Chairman, Mr. Day, the chairman of the railway commission of Iowa, is here; and if the Commission could take him up early I would be glad.

The CHAIRMAN. We will examine him in a few minutes. Mr. Rosewater is here now with the telegram which he mentioned on the day when he testified before the Commission, and if you wish to examine him now, you may do so.

Mr. POPPLETON. I do not care to examine him; but I would like to see the telegram that he spoke about.

EDWARD ROSEWATER, being further examined, testified as follows:

By the CHAIRMAN:

Question. Have you the telegram which you mentioned in your testimony the other day?—Answer. I have.

Q. Will you produce it?—A. Yes, sir; here it is. [Producing paper.]

Q. Is this the original?—A. This is the copy I made from the publication made in the Omaha Bee on, I think, the same date as the dispatch. It was published in the Bee, as well as in the Republican, on the same day, and I have copied the dispatch from the paper.

The telegram is as follows:

[Telegram.]

OMAHA, NEBR., October 13, 1873.

S. H. H. CLARK or T. L. KIMBALL, *Denver*:

The vote of the shops will probably decide the election, and it is said it will go solid against Grebe for sheriff. He has served the road better than any sheriff we ever had. Can't you give this vote? I think you should if possible. If you agree, instruct proper parties to give him the vote, and send me copy of your telegram.

A. J. POPPLETON.

ENTRIES ON UNGRANTED LANDS.

Q. What information can you give the Commission concerning entries made by the Union Pacific Railway Company upon lands other than the lands granted by the Government to the company, and their methods as to making such entries?—A. I have no information, directly personal, as to any land entries by the railroad company. They have acquired lands at different times, as I am told, under condemnation process for a bridge and right of way in the city, but I do not know of any private entries.

Q. During Mr. Schurz's administration as Secretary of the Interior, do you recall the fact of his decision with reference to the land question, raised, indirectly, by the Union Pacific Company?—A. I recall a case that was made in Kansas, if I remember correctly, known as the Dudymot claim, which was brought into the Land Department of the Government and ruled upon by Secretary Schurz. I think it was in 1873. The charter of the Union Pacific Railway Company made all lands of their land grant not disposed of within five years after the completion of the road subject to pre-emption at \$2.50 per acre.

Mr. POPPLETON. That was three years instead of five.

EJECTMENT SUITS.

The WITNESS. Well, I may have been mistaken about that. I know that in 1877 the time had expired within which the pre-emption was supposed to have been made, or could have been made. The Secretary ruled on the Dudymot case in 1878, that the lands coming under that act (I suppose in Kansas as well as in Nebraska) were subject to public entry. Shortly after that a party by the name of William H. Platt, who was an attorney of the Union Pacific Railroad at Grand Island, took possession of a quarter section of land under this order of pre-emption granted by Mr. Schurz. Thereupon the Union Pacific Railway Company made a legal process to eject him from the land, as I understood it. The case was carried into Judge Dundy's court, the United States district court for Nebraska. Mr. Poppleton appeared for the Union Pacific Railroad Company and Mr. Eleazor Wakeley, who was there as an assistant attorney of the Union Pacific Railroad Company, appeared on behalf of Platt. The case was made up on this issue, and the judge ruled that Platt had no right to pre-empt the land under the charter provision. This case was carried up to the higher court, and, finally, the Supreme Court affirmed the decision of Judge Dundy; although the case, as I have often charged, was made up by the Union Pacific and its attorneys.

Commissioner LITLER. Is not that part of the record of the case?

Mr. POPPLETON. Certainly it is.

The WITNESS. After this case had been decided, the order of the Secretary of the Interior (if I remember correctly) was to be

the lands were made only subject to sale by the Union Pacific Company, on the ruling that the land-grant bond was a disposal of the land. I did not know, however, until last winter that the case made up by the railroad company's attorneys was not upon an unpatented piece of land, but had been made upon a piece of land for which a patent had been issued; so that the decision did not involve any unpatented land, but land that had already passed from the control of the Government. This fact was stated to me by Commissioner Sparks himself. At the same time that this case was pending in the courts there were, I think, other cases that did touch the right of the railroad to exclusive control of the sale of the unpatented part of the land grant. I do not know whether any of these cases have yet been decided by the Supreme Court.

CASE OF AUGUST ARNDT.

By Mr. POPPLETON:

Q. Just name any case that involved that question.—A. The case of August Arndt. He was a citizen of Saunders County, Nebraska, and did take, I think, a quarter section of Union Pacific land that was not patented and did make pre-emption entry for that land. A litigation began in the United States court, and in the winter or late in the fall of 1881 the case was about to be tried in the courts, or called up in the courts in Omaha, when August Arndt was arrested on the charge of assassinating the clerk of the district court, Watson B. Smith. Arndt was taken to jail, and no person, not even his wife, was allowed to see him or converse with him. He was kept in jail for some time, until the grand jury made an investigation, and they, failing to find any proof that he was the assassin, discharged him.

Mr. Arndt told me that at the time of his arrest he had the documents and papers relating to his land claims in a trunk in the hotel in which he was stopping in this city. That trunk was taken by some officers pretending to look after evidence in the assassination case, and the documents that bore upon this railroad land were stolen and carried away, and when he recovered his trunk the papers were missing. But that was not the end of the case. Arndt was rearrested in January, I think, 1883, on the charge of threatening the life of Judge Dundy on account of this treatment. He was taken to Lincoln, tried, and convicted of this crime, although the judge himself testified that he had not any fear and did not believe that Arndt had made any such threat. But there had been some letters written by Arndt which had been construed to be such threats. He was imprisoned for some months. The Farmers' Alliance of Saunders County had a meeting and denounced that treatment and asked Senator Van Wyck to present a petition to the President of the United States for his pardon. I do not know whether such a petition was presented or not; but Arndt has since told me that he and his lawyers had full confidence in establishing his rights to the pre-emption, and that he had a clear case, in which a question that has not yet been passed upon might have been tested.

By the CHAIRMAN:

INFLUENCE ON FEDERAL OFFICERS.

Q. Was the Union Pacific Railroad Company connected with the case?
 A. It was a case against the Union Pacific Railroad Company in some way; I do not know the exact way.

By Commissioner LITTLER :

Q. How do you connect the Union Pacific Railway Company or any of its officers with these criminal proceedings ?—A. They have managed, in some way, to have a great deal of influence upon the court officers in this State.

Q. These Union Pacific officers ?—A. Yes, sir; and Mr. Thurston in particular. The court officers here, and the United States marshal and his deputies, have had annual passes, and charged the Government ten cents a mile for every mile they traveled on those passes. Those passes amount to thousands and thousands of dollars.

Q. Do you know that in making up the mileage account the marshal is compelled to swear that he traveled no part of the way on a free pass ?—A. I do not know that; but I do know that the marshal and his deputies traveled on a free pass. I saw one deputy, myself, so traveling, and he told me that he had to divide his fee for traveling with the marshal.

Commissioner LITTLER. He ought to be prosecuted before the grand jury for that.

The WITNESS. I have nothing to do with that.

LANDS UNPATENTED.

By the CHAIRMAN :

Q. What other information can you give to the Commission on the land question ?—A. Nothing more than this, that for many years our people have attempted to compel the company to take out their land grant patents. We have petitioned and we have had acts of Congress passed through one House or the other House, but there has always been a very active interference by the Union Pacific officers to prevent the passage of any such act of Congress as would give the right to tax the lands. This opposition has done very great damage to the people of this State. It has changed the burdens from the railroad company, who own these vast tracts of land, and put them upon those of other land and property owners and compelled them to pay all the tax.

By Commissioner LITTLER :

Q. How long has that practice (referring to the marshal) been in force here ?—A. I believe it has been in force here ever since the railroads have been running politics in Nebraska.

Q. How long has that been ?—A. Twelve or fifteen years. It has been done under all the marshals, and all the marshals have shown a very active subserviency to the railroad.

RAILROAD PASSES.

By Mr. POPPLETON :

Q. Has the practice of the Union Pacific Railway Company in respect to issuing passes to public officers in this State been any different from that of other railroads ?—A. I do not know what the practice of other roads has been; but I claim that all our roads are wrong. They have all been operating against the public interest by a wholesale use of passes.

Q. Do you know whether the United States marshals have had passes on other roads ?—A. Yes; I saw the passes.

Q. Have you any doubt that they have been treated substantially alike by the different roads ?—A. No, sir.

PLATT TRACT.

Q. Do you not know that the tract of ground involved in the Platt case was actually occupied by Platt and had been actually occupied by him prior to any other person who ever settled on it, and that that was the reason why he set up his claim of pre-emption and was enabled to set it up?—A. I do not know of my own knowledge anything of the kind. I only understood that at the time he took possession—

Q. (Interposing.) You say he took possession?—A. Yes.

Q. Now, do you not know that he had been in the occupancy of it for years?—A. That is possible. I did not know it at the time it was pending in the courts. I simply knew it was a test case brought for the purpose—

Q. But what you testified to was that he went into possession of this tract of land after Mr. Schurz made this decision. Now, I ask you if you do not know that that is untrue, and that he had been in the occupancy of the ground for ten or fifteen years?—A. I do not know that; and if he had been in possession for ten or fifteen years it was his ground, and I do not see what the road had to do with it. It certainly was his if the Government had given him a patent for it. If the Government had issued a patent after these three years had expired and Mr. Schurz's decision was correct, that patent was annulled.

THE ARNDT CASE.

Q. As to the August Arndt case do you not know that Judge Miller decided that Arndt had no title ever to that land?—A. It was decided after papers that were important to him had been stolen, and it was after that affidavit and in consequence of it.

Q. That is about as true as anything else you have testified to, is it?—A. Yes; it is true.

Q. Then, if it should turn out that Arndt's arrest was after that decision, you would have testified to what would be false, would you not?—A. Not necessarily.

Q. If it should turn out that that was decided before Arndt was arrested for killing Watson B. Smith, then your testimony on that subject would not be true, would it?—A. Then I might be mistaken; but there was a case pending against the Union Pacific road, and it was to be tried, when he was arrested.

Q. Do you know anything about this except what Arndt told you?—A. Nothing more than what he and his lawyers have said.

Q. Do you not know that Arndt has been repeatedly impeached in court by swarms of witnesses who said they would not believe him under oath?—A. I do not know anything about it.

Q. Do you not know that he is an avowed anarchist and assassin—that is to say, that he believes in assassination as a remedy for civil wrongs and avows it?—A. I do not know anything of the kind.

PERSONAL HOSTILITY OF WITNESS.

Q. Now, is it not a fact that since you started the Bee you have been individually in a chronic state of hostility to the railroads, and that that had been your stock in trade and the stock in trade of your newspaper?—A. I will deny that in toto. I have been simply opposed to the methods which the railroads of this State have pursued and the policy they have carried on that has been oppressive to the people, inter-

fering with the political affairs of the State and the rights of their patrons, in violation of their charter obligations.

Q. You admit, then, that you have been in opposition to them?—A. I have not been in opposition to the railroads, but in opposition to the men who manage the railroads and to their methods.

Q. Have you not assailed almost every manager of the Burlington and Missouri and of the Union Pacific Railway Company, who has had charge here up to the time that Mr. Callaway came into office?—A. No, sir; I do not remember that I assailed Mr. Touzalin; he was the manager of the Burlington road before Mr. Callaway came in. I have not assailed any of them except when their conduct and that of their subordinate was criminally dishonest and dangerous to the public safety.

Q. Is Mr. Touzalin the only man you can think of that you have not assailed?—A. There are numbers of other men that I could mention.

Q. Mention all you can.—A. You speak of the managers of railroads. I have not assailed any of the managers of half a dozen roads on the other side of the river except, perhaps, the Northwestern, that has robbed our people by favoritism and discrimination.

Q. You were professionally a telegraph operator, originally?—A. Yes; for thirteen years.

Q. Where were you employed in that business when the war broke out?—A. I was employed, when the war broke out, in the State of Alabama.

TELEGRAPH OPERATOR WITHIN REBEL LINES.

Q. You were an operator within the lines of the Southern Confederacy, then, at the time the war broke out?—A. Yes, sir; I was an operator, working for the Southwestern Telegraph Company.

Q. Is it not a fact that you have been repeatedly charged with being a member of a committee who received Jeff. Davis at Montgomery when he went there to take possession of the Southern Confederacy?—A. I have not only been charged with it, but it is true. Now, I want to answer this question fully.

The CHAIRMAN. Let the witness explain.

Mr. POPPLETON. After he gets through answering my questions he can explain.

The WITNESS. I want to explain it now, because it is a matter that has been charged frequently, and there are parties who have been convicted of libel here in the courts for charging me with being a rebel and a rebel spy.

Q. Who are they?—A. Casper E. Yost is one and Fred. Nye is another, both of them editors of the Republican.

The CHAIRMAN. The war is over.

Mr. POPPLETON. Well, I do not know; there is some talk of a return of the flags.

The CHAIRMAN. Well, if you bring up that issue you had better let us know whether you are going to wave the bloody shirt.

WAR REMINISCENCES.

The WITNESS. The facts are these: I was located from July, 1859, until March, 1861. When Jeff Stevenson, a United States Senator, representing the State of Mississippi, called at the telegraph office in Montgomery, Ala., I made his acquaintance. It was in that way that I made his acquaintance. He was president of the Southern Confederacy.

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gomery. Stevenson, Ala., at that time was a very small place, with only, perhaps, four or five hundred people living there. It so happened that no person in the place had ever met Davis or could point him out. He arrived at night at 10 o'clock on the train. A committee was appointed by the citizens who wanted him to make a speech. They added me to the committee simply to go and introduce him, or point him out. I went into the car and pointed him out. That was my whole connection with the matter. If that was any crime, you can make the most of it.

WORKING FOR UNCLE SAM.

Q. From there, after you got through the rebel lines, where did you go to work then?—A. For Uncle Sam. I enlisted at Wheeling, W. Va., took the oath, entered the United States army, and went with General Fremont through the entire campaign of West Virginia. After that I was assigned to the navy-yard at Washington, with Commodore Dahlgren, and in the latter part of July, 1862, I made an application to General Pope to accompany him on the way to Richmond, and I was assigned to his staff. I accompanied Gen. Pope through the entire campaign, from Warrenton to the Rapidan, and back to Bull Run. I was at the battle of Bull Run. After that I was assigned to the War Department, and remained there until I came to this country.

Q. So that you were the confidential operator of Halleck and Stanton and Lincoln during the Virginia campaign, were you not?—A. Yes.

Q. Now, can you tell me why it was and how it happened that Lee had such complete and exhaustive information of the plans of those three men? Do you know anything about that?—A. That may not enter into this investigation, but I will answer it. It was notorious when I was in the War Department that there were leaks in that Department, and that there were dispatches sent; that submarine wires had been laid across at Fredericksburg, for instance, at the time that Fredericksburg had been besieged by Burnside, and that information was smuggled across to the rebels through the lines by wire, in some way. Suspicion rested upon the wives of certain army officers who were southern women, and who, in connection with other southern people, managed to carry information through the lines.

Q. Do you not know, as matter of fact, and have not the rebel archives disclosed the fact, that telegrams passed from the War Department and were in the possession of Lee?—A. That is possible. I have not examined the archives.

Q. How long did you stay in the War Department?—A. Until the summer of 1863, when I came here. After the battle of Bull Run, in 1862, I took my place in the War Department and remained there until I came here.

Q. You were not there, then, previous to the battle of Gettysburg?—A. No, sir; I was in Omaha when the battle of Gettysburg took place. No, come to think of it, I did not get here until a few weeks later. I was in Cleveland at that time.

Q. General Longstreet says that when he got ready to move towards Gettysburg he sent his spy towards Washington, and that he came back with complete plans of the disposition of Meade's army in its advance on Gettysburg. Do you know anything about how that information got to him?—A. No; I would not know, certainly. How should I know? I was charged with being a rebel spy, and I brought suit and had it tried in this county two years ago, and at that trial I produced a deposition of General Anson Stager, chief of the United States

Military Telegraph Corps, stating that he had had the fullest confidence in my loyalty and integrity. My people all lived in Ohio and I went south as a freesoiler. I do not think that anybody can attach any sympathy with the rebellion to me. The fact is, the whole story originated in this building. All the schemes of persecution and falsehood that have ever originated against me have originated in these Union Pacific Railroad headquarters, from men who wanted to trample me under their feet, and from organs.

Q. But you admit these facts to be true?—A. I admit that I was in the Army and risked my life for my country, and that is more than can be said of many men about here, like Thurston and others that I could name.

Q. Do you know the name of the operator who sent that telegram which had been produced here?—A. I know what became of him, but I do not remember his name.

Q. What became of the operator that gave you the dispatch I sent to Manager Clarke?—He was discharged by the Western Union Company, he enlisted in the regular army, and served in the army about five years. He finally became a vagabond, and passed through here, and went down to Saint Louis in a dissipated condition. That is all I know about him.

Q. Was his name Bailey or Boylan?—A. His name was Barker, if I remember aright.

Q. Now, what did you pay that fellow for that dispatch?—A. I never paid him a dollar for the dispatch nor anything connected with the dispatch.

Q. Did you take it off the wires yourself?—A. I will tell you the whole story. I did not pay him anything. When he was discharged, a collection was made up by the Republican committee here, and I contributed my part to it, to send him away from Omaha.

Q. Now, if he ever made the statement, afterwards, that he never would have given you that dispatch—that he had no idea of giving it to anybody until you corrupted him and offered him \$100 for it, was it true or false?—A. If he ever made that statement it was an infernal lie, that is all; because I did not know anything about the dispatch passing over the wire until the man brought it into my office. When the man brought it into my office I should have been very foolish not to use it to defeat the Democratic ticket, which I did. The dispatch suited my purpose. He was never betrayed, so far as I am concerned. He asked me just one thing, and that was that I should not betray him. The Western Union manager attempted to discharge all the operators in the office. Then he came forward and said, "I am the guilty party; I do not want my colleagues discharged." He gave himself away. In fact, there were two operators involved, and the Republican committee made up enough money to pay their fare to Saint Louis.

Q. If he ever made the statement that he had a standing arrangement with you to give you every telegram that would be to your advantage to use against the Union Pacific Railway Company, is that true?—A. I never had any conversation with that man, and do not remember of ever having any intercourse with him until he brought that dispatch. And he was drunk when he brought it; and it was probably mainly because he was drunk that he got it into his head that there was a chance to publish the fact that he was a Republican; and he probably thought that there was a chance to defeat the Democrats, and he brought the dispatch down. There is no truth whatever in the statement that I ever had any intercourse with him or arranged with anybody to give

ination, has destroyed the business of parties who have attempted to do mining. There is Jake Morrow, for instance, for one, and Wardell for another, who had mines in the neighborhood of Rock Springs. I have also been told that Wyoming coal was bought at almost nothing and carried out there in order to break up these parties, clear across in the neighborhood of Cheyenne, and delivered there at a much lower price than parties who were mining coal in Wyoming could deliver it at.

HOW THE GOVERNMENT IS FLEECE.

There is another thing that was particularly wrong, to my mind, and that is that the Government has paid \$14 per ton, if I remember rightly, for carrying coal from Rock Springs to Omaha, when coal can be bought for \$10.50 in Omaha. This I had from the man who was quartermaster's clerk, and kept the accounts between the Government and the road. The Government consumed a large quantity of coal here. This coal was bought from the contractors out there who were really employés of the Union Pacific Company—Beckwith & Quinn, out at the mines, and then brought in here; so that it costs more than double. But the records will show what that is. The quartermaster's clerk told me that.

By Commissioner LITTLER:

Q. What is his name?—A. His name is Patrick. He is now in Washington City. He is a Democrat, and has been trying to get a position in the Department since Cleveland came into power. His brother was, I think, at one time general passenger agent of the Rock Island Road.

BECKWITH & QUINN.

By the CHAIRMAN:

Q. Who were Beckwith & Quinn?—A. I think that that is merely a sham firm. I think the firm itself is simply made up of men who got so much for the mining of coal for the company in Wyoming. I think they are employés, and nothing more than employés, of the Union Pacific Company.

The CHAIRMAN (to Mr. Mink). I wish you would produce any contracts you have between the company and Beckwith & Quinn.

Q. Have you any other information that you can give to the Commission?—A. Nothing particular, unless something should be called out by a question.

By Mr. POPPLETON:

Q. Was not this man Patrick habitually drunk when not on duty? Was he not a common loafer?—A. I know he was not a loafer. He was in the Government employ for a great many years; but he was addicted to drinking.

EDWARD ROSEWATER.

Mr. Mink produced the following copy of a contract with E & Quinn:

Agreement made and entered into this 24th day of December, A. D. 1 Beckwith, Quinn & Co., of Evanston, Wyoming Territory, of the first Union Pacific Railroad Company, of the second part: Witnesseth:

The parties of the first part hereby agree to furnish to the party of the all the Chinese laborers requisite for the complete working of their on the line of the Union Pacific Railroad, at the same prices

and conditions as stated in a certain contract for similar service made by Sisson, Wallace & Co., for and in behalf of Chinese laborers, with the Rocky Mountain Coal and Mining Company, a copy of which is hereto attached and made part of this agreement.

The said parties of the first part further agree to furnish to the said party of the second part, upon a reasonable notice from their general superintendent, a sufficient number of Chinese laborers for the repairs of the track of the Union Pacific Railroad, or such portion thereof, in addition to that which is now being worked by Chinamen, as the party of the second part may require.

It is hereby mutually understood and agreed:

First. That all of the Chinese laborers so furnished by the parties of the first part for the purposes named shall be delivered by them to the Union Pacific Railroad Company at Ogden free from all expense to it, and that free transportation shall be afforded by the Union Pacific Railroad Company for all such Chinese laborers to and from all points on its line, wherever their services may be required.

Second. That the surplus Chinese required and employed in the mines during the winter season shall be transferred in the spring to the repairs of track of the said Union Pacific Railroad, and continued there at the prices now allowed upon the company rolls for such labor during the summer, and until their services are again required in the coal-mines.

Third. That all mining tools required by the Chinese in their labors under this contract, and which are furnished by the said Beckwith, Quinn & Co., shall be charged at cost price only, with freight added, the said party of the second part hereby reserving the right at any time to provide same at their own cost and expense.

Fourth. The said Beckwith, Quinn & Co. shall become responsible to the said Union Pacific Railroad Company for all water furnished by it to white miners, and all other parties excepting Chinamen, and shall account for same at the present prices; also for all coal delivered to Chinese or white miners; and further agree that no extra charge will be made by them for delivering water or coal as above.

The said party of the second part hereby agrees, in consideration of the premises aforesaid, to pay to the said parties of the first part the amount of the rolls for Chinese labor so furnished by them, at and after the rates named in the Rocky Mountain Coal and Iron Company contract hereto attached, regularly on the 15th day of each month next succeeding that in which said labor has been performed; such payment shall be made in the same manner as the present track rolls for Chinese labor.

The party of the second part hereby agrees to sell to the said Beckwith, Quinn & Co. all the present stock of supplies, tools, store furniture, and fixtures contained in their store at Rock Springs, Wyoming Territory, on the following terms and conditions, viz:

For all staple articles, such as groceries and other goods bought on thirty days' time, the invoice cost thereof as ascertained from an inventory made about November 1, 1875, with freight added; for all other merchandise and supplies not within the classification of staples, a deduction of 10 per cent. from the inventory prices referred to shall be made.

For all store furniture and fixtures the prices shall be fixed by M. H. Goble and A. C. Beckwith, whose appraisal shall be final.

The value of said stock of supplies, tools, &c., shall be ascertained by said Goble and Beckwith in an inventory to be taken by them on or before the 1st of January, 1876, and payments made for the same shall be made by the parties of the first part to the party of the second part, as follows:

The aggregate value of the stock as ascertained shall be divided into fifteen equal payments, one of which shall be deducted commencing with January, 1876, from the pay-rolls for Chinese labor of each and every succeeding month, in consecutive order, until the full amount of same shall have been deducted and paid to the said Union Pacific Railroad Company.

The said party of the second part hereby further agrees to rent to the said Beckwith, Quinn & Co. their store-house and appurtenances at Rock Springs for the monthly rental of \$100, and this amount shall also be deducted from the Chinese pay-rolls each month in the settlement of the joint accounts.

It is hereby mutually understood and agreed that this contract shall take effect on the 1st of January, 1876, and continue in force so long as it may operate to the mutual advantage of the parties hereto, but may be terminated by either upon giving a written notice of ninety days.

BECKWITH, QUINN & CO.
THE UNION PACIFIC R. R. Co.,
By S. H. CLARK, *General Superintendent.*

In presence of:
A. D. CLARKE,
O. H. EARLE,
CHAS. STONE.

[*Executed in duplicate.*]

OMAHA, NEBR., *Friday, July 1, 1887.*

PETER A. DEY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where do you reside?—Answer. I live in Iowa.

Q. You are president of the board of railway commissioners of that State?—A. Yes, sir.

Q. Have you ever had any relations with the Union Pacific Railway Company?—A. Yes, sir.

ORIGINAL SURVEY OF LINE OF ROAD.

Q. In what respect?—A. In 1862, after the organization of the company, I was sent out by certain gentlemen who proposed to interest themselves in the project.

Q. Who were they?—A. Henry Farnham was one, Mr. Durant was another, and General Dix was one of the gentlemen interested. I was sent out, and made a reconnaissance from this point to Salt Lake. I went to Denver and across the mountains, and followed north until I found what I supposed to be a practical line, and I followed it up till I reached the Salt Lake Valley. I came back in the fall and made a report. Mr. Farnham paid me for my services and time, and the matter ended, until the summer of 1863. Mr. Durant made some efforts to organize the company. The original parties who sent me out seemed not to take hold of the matter. Mr. Durant, I think, himself, almost started the organization. He sent me out here to make surveys during the summer and fall of 1863. I made surveys from this point over into the Platte Valley, and also a survey from the foot of the mountains over into Laramie plains, and also surveyed the pass into the main chain of mountains. That I did in 1863. The company was organized, I think, somewhere about the 1st of November, 1863; I continued in their employ until the 1st of November, 1864, when I was appointed chief engineer of the road, and held the position of chief engineer in 1865, when I resigned and left the road; and I have had no connection with them since.

ESTIMATED COST.

Q. What was the cause of your resignation?—A. I made the surveys and an estimate, I think (it is a good while since my attention has been called to it). I know I made the surveys, and I think I made an estimate to the one hundredth meridian, which is a point in the Platte Valley. I made an estimate of the cost of building that road. I submitted it, with maps, to the parties in New York. In the fall, or late in the season, I was notified from New York that there were parties there who claimed that my estimates were very much too low, and that the Platte Valley was subject to inundation. The profile I had shown showed no heavy embankments, and the work was extremely light. I was told that there were parties in New York who said the Platte Valley was flooded for several feet in depth, and my estimates were entirely too low. I explained that the Platte never was a troublesome stream and that the valley was wide. But I was, however, instructed to make an estimate of an embankment several feet high and a number of feet above the surface, and certain other matters on the line between here and the Elkhorn River, reducing grades to a very low grade—a grade that was really impracticable; I did so. It increased the amount very

largely. In December, I think it was, or else it was some time late in the fall, I received a copy (sent by Mr. Durant) of the contract made with Mr. Hoxie. Prices and labor of every description were then higher than I have ever known in my experience as a railroad engineer. They were almost double what I have ever known. My estimate of the cost was liberal, and it was \$30,000 a mile.

ESTIMATES NEARLY DOUBLED.

Q. That was your first estimate?—A. Yes; this second estimate very largely increased it.

Q. Did your first estimate include equipment?—A. Yes, sir; the equipment, however, was based upon the equipment and station buildings of perhaps \$5,000 a mile. I will not say that it was that, but it was a certain amount per mile for station buildings and equipment. It strikes me that it was a little more than \$5,000 a mile.

Mr. POPPLETON. \$7,500?

The WITNESS. Yes; \$7,500. This contract that was sent to me, executed by Mr. Hoxie, was for the amount of \$50,000 per mile. In that there was a clause that the iron delivered at Omaha should not cost more than \$130 per ton; that the station buildings and equipment should not be more than a fixed amount. My recollection is that it was considerably less than my estimate, and that no bridge should cost more than a certain amount. Everything was scaled down in this contract. Then there was a rate at which the securities of the company—this first mortgage on the road, the mortgage on the lands, and I think the Government subsidy—were to be taken, some of them at a price less than par value. I think the land grant was 75 cents on the dollar and the other 80. It occurred to me that my second estimate had been used as a justification for making this contract, which was largely in excess of the value of the work. I had known General Dix, who was the president of the company, and Mr. Cisco, who was treasurer. I had known of these gentlemen and had a very high respect for them. I felt that I was being placed in the position of making an estimate that was not true for the sake of making a contract for something that was not to be done. I felt somewhat indignant about it, and I resigned my position and closed my connection with the company, and have had nothing to do with them from that day forward.

Q. I understand you that your first estimate was \$30,000 a mile?—A. About \$30,000 a mile.

Q. The contract returned to you, after you had forwarded your estimate, had been raised to \$50,000 per mile?—A. Yes, sir.

Q. And, in your judgment, it was an attempt to raise the price for the purpose of some one's profiting by the difference between \$30,000 and \$50,000 on that contract?—A. Yes.

Q. And for that reason you resigned?—A. Yes.

By Commissioner LITTLE:

Q. It is set out in the report of the Wilson committee in full, is it not?—A. Yes.

Mr. POPPLETON. Was the contract extended to the one hundredth meridian?

The WITNESS. Not when I resigned. The copy that was furnished to me was for 100 miles.

THE WILSON COMMITTEE.

Q. Were you ever before the Wilson committee?—A. Yes, sir; my testimony is in full there.

Q. Did you report the estimate of \$30,000 a mile?—A. I think I did, but it was so long ago that I cannot recall that.

Q. Have you any records preserved of the estimate upon which you based your calculation of \$30,000 per mile as the cost of the road?—A. I cannot tell, really, whether I have or not. I think I have my correspondence and all matters connected with that somewhere at home. But it is a thing I have hardly thought of for twenty years, and I can hardly tell whether I have or not.

EXTRACT FROM THE WILSON REPORT.

Mr. POPPLETON. This is in the Wilson report.

The WITNESS. Is it?

Mr. Poppleton read from page 5 of the report of the Wilson committee to the House of Representatives of the United States, as follows:

* Peter A. Dey, then engineer-in-chief, testifies that before this contract was made he had certified and estimated the 100 miles embraced in it, and that upon a full estimate he had made the cost not to exceed \$30,000 per mile; that after this, Mr. Rees, an agent and director of the company, came there and directed him to make a larger estimate, putting heavy embankments where none were required, which he did, making an estimate of about \$50,000 per mile.

By the CHAIRMAN:

Q. Have you any other information that you can give the Commission?—A. I think not.

Q. Have you any information that you can give the Commission with respect to rebates or pools?—A. No.

ESTIMATE FOR ROAD THROUGH TOOELE VALLEY.

By Commissioner LITTLER:

Q. Did you estimate for any other portion of the road?—A. My idea is that I estimated to the one hundredth meridian. During the summer of 1864 I connected the lines to Salt Lake, with the exception of the space from the one hundredth meridian to the foot of the mountain. That was up the Tooele Valley which was plain country; and it was not considered necessary to estimate it, because \$10,000 per mile would cover the whole work, in embankment.

Q. Have you any general knowledge of the incumbrances upon this property?—A. No, sir; I heard during the examination of that Wilson committee a good deal of testimony.

HOW TO SECURE GOVERNMENT.

Q. Assuming that this road is mortgaged for a good deal more than it is worth, what suggestion have you to make to the Commission in connection with any additional legislation by Congress looking to securing the Government indebtedness? I ask you this as a railway man.—A. If you want my opinion as a railroad man, I would say that any scheme that the Government can make—any extension of time that the Government can make to secure its indebtedness ought to be made. I will give you my reason for it. My estimate for this work to the foot of the mountains, at the time that labor and material were double what they are now and have been since, was \$30,000 a mile. I believe that that road could be paralleled to-day (I mean the construction could be paralleled to-day) for considerably less than \$20,000.

Q. Including equipment?—A. Oh, no.

Q. And if their income would not sustain their capitalization they would have to go into bankruptcy?—A. Of course.

Q. What would be the effect on the industries of the State as to general passenger and freight traffic?—A. I think the general effect would be demoralizing.

Q. In what respect?—A. Whenever you attempt to do business at a loss it upsets everything. It cannot be done for a great while. It disorganizes business and gives a great deal of trouble; and in the end it comes back to something like an arrangement to get something out of the business. I do not think it is possible for any running railway to be operated successfully unless it was earning something.

ADVANTAGES OF POOLS.

By the CHAIRMAN :

Q. Who are benefited by the pools?—A. Why, the roads that are running.

Q. What benefit do the people derive?—A. The only benefit that the public get from pools is a sort of uniformity of rates. I think I can express my idea in this respect. I am not an advocate of pools, but I think I can express what I believe to be the effect of them. You take the railroads and get them into contests; get them quarreling over rates. Take a point like Omaha. Every merchant here is obliged to sell (and stock up) largely at the low rates. He is compelled to sell what he has on hand at a loss. During the existence of a rate war he loses the freights he has paid on the stock on hand. There is a sort of unsettling of business that is always disastrous.

Q. On the other hand, does not the pooling arrangement put the merchant at the mercy of an arbitrary rate made by the railroad manager?—A. Yes, sir. There are objections to pooling and there are objections to contests of this kind.

Q. What effect, in your judgment as a railroad man, has constructive mileage allowance upon the management of railroads?

CONSTRUCTIVE MILEAGE DEFINED.

The WITNESS. Suppose you give me an exact idea of what you mean by the term "constructive mileage?"

The CHAIRMAN. I understand that, for instance, on the Union Pacific, if there is a 30-mile branch line and a piece of freight runs over that 30-mile branch and also passes over, say, 50 miles of the main line, which would make 80 miles altogether, the smaller or branch line would participate to the extent of one-half in the freight receipts. Would that be a benefit to the main line or to the branch line?—A. I should think to both.

Q. In what regard?—A. You cannot sustain a branch line with its local business if you have a pro rate. There is no branch line that can sustain itself on a local business. The main line is valuable because these branch lines gather up the business in car-load lots.

Q. The effect, however, in this case is that the Union Pacific main line supports the branch line to the extent of the constructive mileage allowance in order to get it back in the freight that would come over it?—A. My idea is this: You might have a branch line coming in at Cheyenne with freight destined for Omaha. All the freight of that branch line, in my judgment, could be carried to Omaha just as cheap and probably cheaper than it could be to points one or two hundred

miles from here, because there would be no freight to be hauled back. In other words, if you conclude to load back you would have to haul the cars here empty; after they were unloaded you would have to haul them here for loads back. Our Iowa freight west has been for five or six years a little larger than freight east, although they very nearly balance. So that, to a great extent, the amount of haulage of empty cars was very large. In my judgment, if you can load from these branches through to the terminus of your road and load your cars back the whole distance, you can carry the freight really cheaper than you could carrying it part of the way.

RATE OF WAGON TRANSPORTATION.

By Mr. POPPLETON:

Q. Have you any recollection, Mr. Dey, by which you can state what the prevailing rate of wagon transportation was from Missouri River to the West?—A. Yes, sir.

Q. If you can, please state it.—A. To supply my parties I paid from 16 to 20 cents a pound for freight from the Missouri River to points on the Black Hills, north of Denver. I paid 25 cents a pound for the rations to support my men out to Fort Saunders, and I paid 30 cents for freight that I sent to Salt Lake to supply my men. I might have paid a little more than the average price, but I think not. I loaded my teams with all the supplies that they could manage to carry, and then I left supplies at various points that were accessible to them when they were making their surveys. About 30 cents a pound to Salt Lake was as low as I have heard of its being done.

Q. That was in what year?—A. 1863 and 1864.

Q. How was transportation conducted?—A. By teams—cattle, mules, and horses.

By Commissioner LITTLER:

Q. Have you any accurate knowledge of the amount of discount that the railroad companies suffered on the Government subsidy bonds?—A. My recollection is that it is in the Hoxie contract.

Commissioner LITTLER. I do not want you to state anything that is in the Hoxie contract; but something outside of that, if you know.

The WITNESS. Then I cannot tell you.

OMAHA, NEBR., *Friday, July 1, 1887.*

JOHN A. MCSHANE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am connected with the Union Stock Yards Company in this city, and am in the live-stock business.

Q. How long have you been in the live-stock business?—A. About sixteen years.

Q. Where do you reside, in Omaha?—A. Yes.

Q. You are at present the member of Congress from this district?—

A. Yes.

BUSINESS RELATIONS WITH THE

Q. Have you had business relations with the Union Stock Yards Company?—A. Yes.

(Railroad)

Q. During how many years?—A. I have had business relations with them since 1872.

Q. Your business consists in shipment of freight?—A. Shipping cattle.

Q. What have been the facilities and accommodations afforded you as a shipper?—A. They have been very good.

Q. Have you had any preferential rates, rebates, or special rates?—A. None that I ever knew of.

Q. Did your firm always pay the open rate?—A. Yes. The live-stock rate was always a published special rate. It was a special rate that was published.

Q. All shippers of cattle enjoyed the same rate?—A. As far as I know, they did.

COMPLAINTS AGAINST SPECIAL RATES.

Q. Did you ever hear of any complaints with reference to the management of the Union Pacific Railway as to special rates or rebates, or as to discriminations against persons or communities?—A. Yes, I have heard complaints.

Q. What has been the nature of the complaints?—A. I never heard any particular complaint with reference to the business that I was connected with; but other businesses. I have heard rumors, to which I paid no attention, and, consequently, cannot recall any special case.

Q. What have been the rumors?—A. That there were discriminations against persons and localities. But the rumors that I have heard have been mostly, I think, in our State legislatures.

EFFORTS TO INFLUENCE LEGISLATION.

Q. Have you had any knowledge of the participation of the Union Pacific Railway Company in efforts to obtain legislation or prevent legislation?—A. I presume that they have taken part in preventing legislation that was against their interests. All corporations in this State, I think, have been represented at the capitol to prevent legislation that was injurious to them.

PLAN OF SETTLEMENT.

Q. Have you considered the different plans that have from time to time been presented to Congress with reference to the settlement of the debt due the Government by the roads that have been aided by bonds from the Government?—A. I have never considered the subject very much.

Q. Have you considered the question of the financial ability of the companies to meet the debt, or the methods by which a settlement could be made by the companies with the Government at the time of, or before, maturity?—A. I think that the first-mortgage bonds of the Pacific Railroad, at maturity, will take the property, and that the Government's lien and the stockholders' interests will be wiped out. I do not think the stockholders or any holders of second liens will ever get anything out of the property by foreclosure.

What suggestion have you to make to the Commission with reference to a settlement, under such circumstances?

Mr. POPPLETON. Let me suggest, Mr. Chairman, that in view of Mr. McShane's official position, and as a matter that he must act upon in

that character, it might be well for the Commission to waive those questions, unless he should be perfectly willing to answer them.

The WITNESS. I should prefer not to commit myself on any basis of settlement on this matter until such time as the papers are all before the public. I should then have a basis on which to form an opinion.

The CHAIRMAN. We have no objections to that, although quite a number of public men have appeared before this Commission who did not hesitate to express their opinions.

Mr. POPPLETON. Yes; but an opinion on this subject, to be of any value, must be made up after thoughtful examination of data carefully obtained.

The WITNESS. My opinion, as I have stated, with reference to the condition of the Government lien and the stockholders' interests, is based upon the observation of years. It is just what I believe and have believed for some time would be the outcome; but how to overcome it and what plan to adopt to save the Government its lien—that is a problem that I cannot now solve.

Q. Have you any information or suggestion to give to the Commission with regard to the matters as to which it is seeking information concerning the Union Pacific Railway?—A. I believe not.

Mr. POPPLETON. Will you let me make an explanation of that Platt case right here?

The CHAIRMAN. Suppose you put a full explanation of that case in writing and submit it?

Mr. POPPLETON. Very well, I will do that.

OMAHA, NEBR., *Friday, July 1, 1887.*

ANTON GSANTNER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where do you reside?—Answer. In Omaha.

Q. How long have you lived here?—A. Twenty-one years.

Q. Were you ever employed by the Union Pacific Railway Company?—A. I was.

Q. Where?—A. In the car shop, as draftsman.

INTERMEDIARY IN LAND PURCHASE.

Q. Was your name used by the Union Pacific Railway Company in the purchase of lands?—A. My name was used, but I do not think it was for headquarters. I do not know anything about it only what Mr. Gordon told me.

Q. What Mr. Gordon?—A. John H. Gordon.

Q. What did he tell you?—A. He told me they were going after coal out in Utah and they wanted all those outside sections. That is what my name was used for.

Q. Did you sign any papers?—A. I did.

Q. Who presented you with papers?—A. Mr. Gordon.

Q. Did you know what was in the papers?—A. No.

Q. How do you know that they were in connection with land?—A. Because he told me afterwards. I wanted to find out where my name went to, and then he told me.

The CHAIRMAN (to Mr. Mink). Where is Mr. Gordon?

Mr. MINK. I never heard of him.

Mr. POPPLETON. There was such a man once in the shops, but he is not there now.

Q. You do not know what he did with your name, do you?—A. Only what he told me.

Q. How many papers did you sign?—A. Only one.

Q. Did you ever see a deed?—A. No.

Q. You never got any paper back?—A. No.

Q. Did you never hear of the matter afterward?—A. Never.

The CHAIRMAN. Mr. Thurston telegraphs as follows:

"Can best meet the Commission in New York in September, at any date they may name."

OMAHA, NEBR., Friday, July 1, 1887.

ERASTUS YOUNG, being further examined, testified as follows:

The WITNESS. I produce, in answer to the calls of the Commission, a statement of gross receipts of the Kansas Pacific Railway from November 23, 1876, to 1880. I have not any books of the Kansas Pacific prior to that date.

GROSS CASH RECEIPTS OF KANSAS PACIFIC.

Statement of the gross cash receipts of the Kansas Pacific Railway Company from November 23, 1876, to June 18, 1880, inclusive.

1876 (November 23 to December 31)	\$238,812.52
1877	5,376,545.39
1878	5,759,446.32
1879	6,027,951.54
1880 (January 1 to June 18)	1,576,193.50
Total amount	18,978,949.27

I also present a statement of the gross receipts of the Union Pacific Railroad Company from the year 1868 to January 31, 1880.

Statement of the gross cash receipts of the Union Pacific Railroad Company from 1868 to 1879 and January, 1880.

1868	\$8,433,394.13
1869	11,481,054.74
1870	8,836,006.86
1871	7,791,003.47
1872	10,720,758.84
1873	12,662,682.92
1874	13,663,033.38
1875	15,200,621.78
1876	17,409,302.88
1877	19,467,894.66
1878	18,369,589.97
1879	21,492,656.39
1880 (January)	3,050,271.57
Total amount	168,578,271

I also present a statement of the gross receipts of the Union Pacific Railway Company from February 1, 1880, to January 23, 1887.

Statement of the gross cash receipts of the Union Pacific Railway Company from February 1, 1880, to June 23, 1887.

1880 (February 1 to December 31)	\$32,690,833.18
1881	44,542,132.37
1882	45,288,286.91
1883	41,644,442.38
1884	36,593,025.59
1885	36,743,527.22
1886	38,923,187.32
1887 (to June 23)	19,363,936.35
Total amount	295,789,370.32

GROSS RECEIPTS AND GROSS CASH RECEIPTS.

The CHAIRMAN. I must call your attention to the fact that that is not a full answer to the call of the Commission. It is so only in part. I called for the gross receipts of the company, and you have given me the gross cash receipts.

The WITNESS. I do not know that I clearly understand your question. What is the difference between the gross receipts and the gross cash receipts?

The CHAIRMAN. Do the statements that you have furnished this Commission, under the head of gross cash receipts, contain all receipts of the Union Pacific Railway Company, of every kind and character?

The WITNESS. They do contain the receipts of every kind and character by the Union Pacific Company.

Q. Do they contain all credits?—A. I do not know that I can state it in that shape at all. It is impracticable for me to state the gross credit receipts. I have stated the gross business receipts.

Q. Does the statement furnished to the Commission under the head of gross cash receipts represent all forms of receipts of any kind whatsoever?—A. It does not.

FULL STATEMENT OF ALL RECEIPTS DEMANDED.

The CHAIRMAN. That is precisely what I thought. I want, and now call for, all forms of receipts that enter into the making up of your gross receipts, other than the statements you have furnished containing gross cash receipts.

The WITNESS. That is the only statement that I can furnish.

The CHAIRMAN. I call for them; that was my original call.

The WITNESS. I have here a statement of gross receipts by credits for one year.

The CHAIRMAN. I call your attention to the fact that when this call was made, nearly a week ago, it was for the gross receipts of the Union Pacific Railway Company. In answer to the call the company has produced the gross cash receipts, which is not an answer to the call at all.

FULL STATEMENT OF RECEIPTS FOR ONE YEAR.

The WITNESS. Here is a statement of gross receipts, irrespective of cash—a statement that includes cash and everything—for a single year.

Statement of gross receipts and gross earnings of the Union Pacific system for the year 1886.

Gross freight receipts	\$21,969,409.39	
Less amount paid foreign roads their proportions on interchange business	\$2,122,896.85	
Less drawback (rebates, overcharges, pools, &c.)	1,257,768.08	
		3,380,664.93
Gross freight earnings	18,588,744.46	
Gross passenger receipts	7,666,733.50	
Less amount paid foreign roads their proportion of joint ticket sales	1,178,654.44	
Less refunds, pools, &c	391,841.70	
		1,570,496.14
Gross passenger earnings	6,096,237.36	
Mail earnings	819,593.47	
Express earnings	661,253.42	
Car-service earnings	42,587.68	
Rent of buildings	40,463.06	
Miscellaneous earnings	354,918.03	
Total gross earnings, 1886	26,603,797.48	

The WITNESS. My understanding of your question at that time was that you wanted a statement of the gross cash receipts on which the gross earnings, as reported to Boston, were determined. I told you in my testimony that we could not make a statement of receipts that would correspond to our earnings; that earnings and receipts did not have any relation to each other.

Q. Have you produced to the Commission all forms of receipts by the Union Pacific Railway Company, of any character or of any kind whatever, that go to make up your item of general gross receipts?

The WITNESS. That go to make up the earnings?

The CHAIRMAN. That go to make up the item of gross receipts.

A. We have no such item as gross receipts.

Q. I repeat. Do the statements under the term of gross cash receipts and the statement of gross receipts and gross earnings, submitted in answer to the call for the gross receipts of the company, represent all forms of receipts of any kind whatever, in cash or otherwise, received by the Union Pacific Railway Company?—A. They include all receipts of the Union Pacific Railway Company from any source in one form or another.

Q. Of course you do not mean to say that the receipts of the Pacific Hotel are here?—A. Our proportion of the earnings of the Pacific Hotel Company is in there.

OTHER STATEMENTS SUBMITTED.

Mr. MINK. I submit a statement of the taxes paid on the lands granted to the Union Pacific Railway Company. I also submit a copy of the pool agreement between the Chicago, Milwaukee and Saint Paul Railway Company, the Chicago and Northwestern Railway Company, the Union Pacific Railway Company, and others, of date 15th May, 1885.

OMAHA, NEBR., *Friday, July 1, 1887.*

THOMAS L. KIMBALL, being further examined, testified as follows:

STATISTICAL AND OTHER INFORMATION.

By the CHAIRMAN:

Question. Have you any further papers you wish to submit to the Commission?—Answer. I have a table showing the population for 1880 of the counties on the consolidated lines and all the branches, giving the names of the counties and the branches that run through those counties. It is as follows:

Population, by counties, in 1880, as per statements herewith.

	Population, by counties.	Present num- ber of miles operated.
Union Division	226,345	1,041.61
Kansas Division	342,477	642.96
Leavenworth Branch	54,055	54.00
Cheyenne Division	50,639	166.00
Union Pacific Railway, consolidated.		1,824.58
Omaha and Republican Valley Railroad.....	108,049	288.00
Omaha, Niobrara and Black Hills Railroad.....	20,482	114.87
Oregon Short Line	20,537	651.00
Laramie, North Park and Pacific	4,426	11.25
Colorado Central	80,021	327.76
Denver, South Park and Pacific Railroad	93,187	325.32
Greeley, Salt Lake and Pacific Railroad.....	10,538	54.00
Denver and Boulder Valley	42,182	27.00
Golden, Boulder and Caribou Railway (now in D., M. and B. R. R.)		
Georgetown, Breckenridge and Leadville Railway		4.00
Denver, Marshall and Boulder Railroad.....		26.75
Denver and Middle Park Railroad.....		4.50
Echo and Park City Railway	4,921	31.00
Salt Lake and Western Railway	25,944	58.00
Utah and Northern Railway	36,301	498.00
Montana Railway	8,876	
Lawrence and Emporia Railway	70,435	30.00
Junction City and Fort Kearney Railway	64,821	87.00
Solomon Railroad	53,812	87.00
Salina and Southwestern Railway	30,951	25.00
Kansas Central Railroad	139,647	165.00
Manhattan and Blue Valley Railroad	42,916	56.00
Salina, Lincoln and Western Railroad	22,390	34.00

The WITNESS. As the branch lines frequently run through a number of the same counties with the main lines, it became necessary to repeat the population of same in tables showing population of branch and main lines, to get anything like a proper result.

Population by counties, 1880.

	Population.		Population.
<i>Union Division.</i>		<i>Kansas Division, main line—Cont'd.</i>	
IOWA.		KANSAS.	
Pottawattamie County	39,850	Wyandotte	19,143
NEBRASKA.		Leavenworth	32,355
<i>North side of Platte River:</i>		Douglas	21,700
Douglas	37,645	Jefferson	15,563
Sarpy	4,481	Shawnee	29,093
Dodge	11,263	Jackson	10,718
Colfax	6,588	Pottawattamie	16,350
Platte	9,511	Riley	10,430
Merrick	5,341	Davis	6,094
Buffalo	7,531	Dickinson	15,251
Cheyenne	1,558	Saline	13,808
	83,918	Ellsworth	8,494
<i>South side of Platte River:</i>		Russell	7,351
Saundera	15,810	Ellis	6,179
Butler	9,194	Trego	2,535
Polk	6,846	Gove	1,196
Hamilton	8,267	Logan	
Kearney	4,072	Wallace	680
Phelps	2,447		217,846
Gasper	1,673		
	48,309	COLORADO.	
<i>Both sides of Platte River:</i>		Bent	1,654
Hall	8,572	Elbert	1,708
Dawson	2,900	Arapahoe	38,014
Lincoln	3,632		42,006
Keith	194		
	15,307	<i>Total Kansas Division, main line</i>	
WYOMING.			342,177
Laramie	6,409	<i>Leavenworth Branch.</i>	
Albany	4,626	KANSAS.	
Carbon	3,438	Leavenworth	32,355
Sweetwater	2,561	Douglas	21,700
Uinta	2,879		54,055
	19,913	<i>Denver Pacific.</i>	
UTAH.		WYOMING.	
Summit	4,921	Laramie	6,409
Jordan	1,783		
Weber	12,344	COLORADO.	
	19,048	Weld	5,646
<i>Total Union Division</i>		Arapahoe	38,644
	226,845		44,290
<i>Kansas Division, main line.</i>		<i>Total Denver Pacific</i>	
MISSOURI.			50,699
Jackson	82,325		

BRANCH LINES.

<i>Omaha and Republican Valley Railroad.*</i>		<i>Omaha and Republican Valley Railroad—Continued.</i>	
NEBRASKA.		NEBRASKA—continued.	
<i>From Valley Station:</i>		<i>From Grand Island:</i>	
Saundera	15,810	Hall	8,572
Butler	9,194	Howard	4,391
Polk	6,846	Greeley	1,461
Lancaster	28,000	Sherman	2,061
Gage	13,164	Valley	2,324
	78,104		18,809
			91,913

* The Omaha and Republican Valley Railroad was not built south of Beatrice nor north of Grand Island in 1880.

Population by counties, 1880—Continued.

BRANCH LINES—Continued.

	Population.		Population.
Manhattan and Blue Valley Railroad.		Salina and Southwestern Railway.	
KANSAS.		KANSAS.	
Riley	10,430	Salina	18,806
Pottawatomie	16,350	McPherson	17,143
Marshall	16,136		
Total	42,916	Total	30,951
Junction City and Fort Kearney Railroad.		Salina, Lincoln and Western Railway.	
KANSAS.		KANSAS.	
Davis	6,994	Salina	18,806
Dickinson	15,251	Lincoln	8,582
Clay	12,320		
Cloud	15,343	Total	22,390
Republic	14,913		
Total	64,821	Kansas Central.	
Solemon Railroad.		KANSAS.	
KANSAS.		Leavenworth	32,355
Dickinson	15,251	Jefferson	15,563
Ottawa	10,807	Atchison	28,068
Cloud	15,343	Jackson	10,718
Mitchell	14,911	Pottawatomie	16,350
Total	55,812	Riley	10,430
		Clay	12,320
		Cloud	15,343
		Total	139,647

The WITNESS. In reply to your question as to the rates charged on oil in tank cars for the Continental and Standard Oil Companies I would say that those rates were as follows:

- 1878.—\$1.25 per hundred from Cleveland to San Francisco.
 1879.—\$1.20 from Cleveland, \$1.10 from Pittsburgh. In cases, 90 cents per hundred from Cleveland; 95 cents per hundred from Pittsburgh.
 1880.—Same as 1879.
 1881.—7½ cents per gallon* from New York, 7¼ from Pittsburgh, 7 from Cleveland, 6¾ from Chicago.
 1882.—Same as 1881.
 1883.—Same.
 1884.—Same.
 1885.—8½ cents from Cleveland, Pittsburg, and Buffalo; 7¼ from Chicago.
 1886.—Same as 1885 up to October 26; rates have been fluctuating since that time.

The WITNESS. The above special rates were given for the purpose of securing the greater portion of the shipment of oil by the Standard and Continental Oil Companies consigned to the Pacific coast as against the water routes, and for considerations that no other persons or firms were able to comply with.

You inquired as to the net special rate on dry goods for Murphy, Grant & Co., and Levi Straus & Co. Those ranged from \$1.17 per hundred to \$2.90 per hundred, according to classification, from the Missouri River to San Francisco. During the war, in rates on trans-continental business, all lines carried all freight coming from the East at about 26 cents per hundred from the Missouri River to San Francisco.

* 7½ pounds to gallon.

BASIS FOR DIVIDING RATES; UNION PACIFIC SYSTEM.

I will now answer your interrogatory as to the basis for dividing rates on the Union Pacific system.

When a through rate over a line composed of two or more roads is the sum of the local rates of the various roads constituting such through line, each road naturally receives its local rate in the division of the through rate; or, expressed in another way, each road takes out just what it puts into the rate. But when, for any reason, the through rate is made less than the sum of locals, another basis of division must be agreed on by the parties in interest.

The basis most commonly adopted by independent roads—the local tariffs of which are calculated upon the same or nearly the same rate per mile—is called “*a mileage prorate*,” that is, each road receives such a proportion of the through rate as its mileage bears to the total mileage over which the business is carried. For example, the line A, with a length of 100 miles, unites in a through rate with the line B, the length of which is 300 miles, the combined mileage being 400 miles. The mileage of A is one-fourth of the total mileage, that of B three-fourths. A receives one-fourth and B three-fourths of the through rate.

A second method of division is called “*a prorate per rate*,” by which each road in interest receives such a proportion of the through rate as its local rate is of the sum of the local rates of all the roads composing the through line. For example, the road A, in the case just mentioned, might have a local rate of \$5, based on 5 cents per mile, and the road B a local rate of \$9, based on 3 cents per mile. The sum of these local rates is \$14, of which the local rate of A is five-fourteenths and of B nine-fourteenths, and A and B would receive, respectively, five-fourteenths and nine-fourteenths of any through rate which might be made less than \$14, the sum of the locals.

A third method of division is based upon what is called “*constructive mileage*,” that is, the division is made upon the actual mileage of one road, while the mileage of another road is increased by a certain agreed proportion. For example, in the case previously cited, the mileage of A might be increased one-half, making it 150 miles. This added to the actual mileage of B, 300 miles, would make a total of 450 miles, of which A's assumed distance is one-third, and B's two-thirds, and the through rate would be apportioned accordingly.

An “*arbitrary rate*” is the local rate of one portion of a through line which does not share with the other portions in the reduction necessary to make a through rate less than the sum of the locals. If, in the case last cited, the local rate of A were \$3, and that of B were \$6, and in the division of a through rate of \$8.50, A were allowed its full local of \$3, this \$3 would be called an arbitrary rate. The rate between Council Bluffs and Omaha, and the rates on many other bridges throughout the country, are always arbitrary, suffering no discount in the division of through rates, no matter how low these may be made. The reduction in such cases is all borne by the other members of the through line.

In the division of the earnings of the Union Pacific system the local rates of certain branches are treated as arbitrary in certain cases, either because the through rate is based on the local rate of the branch, or because the reduction in the through rate is not made in any respect for the advantage of the branch, but wholly for the benefit of the main line or other branches. For example, the passenger rate from Omaha to Leadville is \$27.25, which is the sum of the rates from Omaha to Denver, \$18.50, and Denver to Leadville, \$8.75. In the

division of this through rate the Denver and South Park branch receives its local rate, \$8.75, as arbitrary, being precisely the amount it contributed to the rate. Before the Denver, South Park and Pacific Railroad was acquired by the Union Pacific, the Denver, South Park and Pacific interchanged business at Denver with the Union Pacific, the Burlington and Missouri River, and the Atchison, Topeka and Santa Fé Railroads, and it received its full local rate as an arbitrary on all such business. Since its absorption by the Union Pacific the same basis of division has been continued as was previously in force, except that since the Denver and Rio Grande line has been in operation through to Utah in competition with the line formed by the Union Pacific and South Park, a constructive mileage division has been adopted with respect to business affected by such competition.

The rate from Kansas City to Denver is \$18.50, and the rate from Denver to Georgetown is \$2.75, while the rate from Kansas City to Georgetown is \$20.60. If this rate were made \$21.25, the sum of the locals, instead of \$20.60, a passenger could buy a ticket from Kansas City to Denver over a rival line, then buy again Denver to Georgetown and complete the trip at the same cost as if he had bought a through ticket over the Union Pacific. The reduced rate secures the business to the Union Pacific east of Denver. If the passenger used a rival line to Denver the branch would receive its full local rate from Denver to Georgetown. The reduction is therefore made wholly for the benefit of the main line, and that line should stand the loss while the branch should receive its local rate as an arbitrary.

A method of divisions is sometimes adopted which differs from any of those described above, and is based upon peculiar circumstances of a particular case, or is simply the result of a compromise between opposing interests. Such basis is called an arbitrary division. The division agreed upon between the Union Pacific Railway and the Colorado Central Railroad, when the latter was an independent road managed by its own officers, was of this nature.

Under that agreement the Colorado Central received 25 per cent. of the through rate between Omaha and Denver and the Union Pacific 75 per cent. After the Colorado Central was leased by the Union Pacific and the constructive mileage basis of division adopted, the proportion of the former was reduced from 25 to 20 per cent.

In the examples I have cited, passenger rates are used, but the principles outlined apply in an equal degree to freight traffic.

As I understand the chairman's question, when he asked me to define the different bases of dividing rates, you desire my opinion as to the propriety and equity of each, in its application to the Union Pacific system, where all are in use.

First, the mileage pro rata principle for distributing earnings seems to me proper and equitable when all the circumstances and conditions of the interchanging roads are substantially similar, as is the case where we apply it—on our main line of the Union Division east of Cheyenne, and Kansas Division east of Denver. There seems to have been an impression in the minds of congressmen when this investigation was ordered and since in the public press, that the dealings of the Union Pacific Company with its branches on other than a strict mileage pro rata basis for dividing joint earnings are in violation of a generally recognized and binding rule of practice under all circumstances among the railways of the country. This is not the case. No such universal rule has been established, either by law or custom, nor can it be without the rankest *injustice to the weaker roads*, and I know of v

system of roads that will more aptly illustrate this than ours. The volume of business, average length of haul, the proportion of earnings per mile of road to the cost of receiving, storing, and handling of shipments is out of all reasonable proportion, against the branch system and in favor of the parent company, and no reasonable man or intelligent arbitrator would, in my judgment, accord to the latter equal mileage rates.

For the year 1886 the operating expenses of the main line, including taxes, were 57.75 per cent.; excluding taxes, 54.40 per cent. of the gross earnings. The operating expenses of the auxiliary lines, including taxes, were 83.26 per cent.; excluding taxes, 78.06 per cent. of the gross earnings. The gross earnings per mile of the main line, \$9,717.12; net earnings per mile, \$4,105.27. The gross earnings per mile of the auxiliary lines were \$3,239.58; net earnings per mile, \$485.62. These figures show conclusively that the average cost of performing a given service on the branch lines is much greater than on the main line, and the item of cost must certainly be considered in determining an equitable division of the earnings.

When for any reason one member of a through line receives on its local business a higher rate per mile than another member, or when the cost of performing service is greater upon one road than upon another, a division on an exact mileage basis is never regarded as equitable by the road having the higher rate and subject to the greater expense, and probably would not be so regarded by any disinterested person. If, for example, a through rate which yields two cents per mile from starting point to destination is made over two roads, one of which has a local rate of two cents per mile and the other a local rate of three cents per mile, a division on a mileage basis would allow the first road its full local rate and all the reduction would be sustained by the second road. In a majority of such cases the most equitable division would be a pro-rate per rate, by which each road would sustain the same percentage of loss from its local rate.

During the time the constructive mileage division has been used on the Union Pacific, the average local tariff rates per mile west of Cheyenne have been 50 per cent. greater than the average local rates east of Cheyenne and Denver, so that this division has produced almost exactly the same results as would have been obtained from a division on the basis of rates. The same is true with respect to most of our lines in Colorado, Wyoming, and the territory west. Competition with the main lines of other companies, legislative enactments, and other causes have prevented the maintenance of local rates on branch lines in Kansas and Nebraska higher than the main line rates.

It is true that in the East the mileage basis of division between independent roads is now generally adopted, for two reasons—first, because local rates of all roads in that section are nearly the same; and second, because the roads having the lower rates are generally the stronger roads, and have been able to force this basis upon their weaker connections. When the local rates west of Chicago were generally higher than the local rates east of that point, the roads east endeavored to force a mileage division in all cases, while the western roads strenuously resisted it and claimed a division on the basis of local rates.

It is a part of the common practice in the division of passenger rates east of the Missouri River, that no road shall in any case receive more than its local rate; but this is not observed in all cases—notably in that of the New York Central road, which receives on nearly all through first-class business a greater proportion than its local tariff.

On business between Chicago and Buffalo, via Suspension Bridge, the line between Suspension Bridge and Buffalo receives its full local rate. These instances, among others that could be mentioned, support the statement that there is no basis of division universally recognized and adopted as equitable east of the Missouri River; but that the basis used in each case is a matter of a separate and special agreement.

Until recently, through passenger rates, embracing rates east of the Missouri River and rates west, have generally been made the sums of locals, and each road has received in division its full tariff. There have been a number of exceptions to this rule, however. Out of the through emigrant rate of \$65 from New York to San Francisco, made to meet rates offered by the steamship lines, the roads east of the Missouri River allowed the line west, for a period of ten years or more, \$45, the former accepting \$20. This, in effect, was a division giving the Pacific roads a constructive mileage nearly 50 per cent. greater than their actual mileage, although the term "constructive mileage" was not used in the agreements between the roads.

The most conspicuous departure from a prorate per mile division is seen in the arrangements made between eastern lines and the Pacific roads on freight traffic. A strict mileage division would give the lines east of Chicago 29.43 per cent., the lines from Chicago to the Missouri River 14.82 per cent., and the Pacific roads 55.75 per cent. of the through rate between New York and San Francisco. On the opening of the Pacific roads, in 1869, the divisions were established by agreement as follows: East of Chicago, 20 per cent.; Chicago to Missouri River, 12 per cent.; Pacific roads, 68 per cent. By this agreement the Pacific roads not only received a large arbitrary division, but the lines between Chicago and Missouri River received more than a pro rate per mile division of the earnings accruing between the Missouri River and New York.

At the same time the divisions established between Chicago and Missouri River gave the Pacific roads 85 per cent. of the through rate, whereas a mileage division would have given them but 78.88 per cent.

In 1870 the proportion of the Pacific roads was reduced to 66 per cent. of the through rate between New York and San Francisco. No change was made in the divisions between Chicago and San Francisco, and the basis as stated has remained in force ever since.

The present agreed divisions between the Union Pacific Company and its connections at Council Bluffs on freight traffic to and from Chicago are as follows: On Nebraska business east of the meridian of Plum Creek, 231 miles west of Omaha, the Union Pacific receives 40 per cent. of the through rate. On business to and from points west of Plum Creek the Union Pacific is allowed a constructive mileage of one and one-half to one, while the eastern roads are allowed actual mileage only. A strict mileage division would give the Union Pacific 31.77 per cent. on Plum Creek, which percentage would be lessened at each station east until at Papillion it would be only 3.29 per cent.

No stronger proof could be presented that a mileage prorate is not regarded by the expert railway men of the country as equitable even between independent roads under all circumstances than that arrangements giving the Pacific roads arbitrary divisions have been sanctioned during a period of eighteen years by the managers of all the important roads between the Missouri River and the Atlantic seaboard, when their own interest would lead them to an opposite conclusion if the evidence of its injustice were not overwhelming. It is absurd to suppose that these men have been actuated by motives of charity to take money from the treasuries of their own companies and bestow it upon the Paci-

roads. And if a mileage prorate is confessedly unfair as between independent roads, each of which is striving to obtain the largest possible income from its traffic, it is still more unjust as between the different members of the same system, where absolute equity, so far as it can be determined, should govern.

The branch roads are constructed in most instances not simply for the earnings which may be derived from the traffic over those roads alone, but principally for the earnings which are obtained on the main line from the business secured by means of the branches. The latter could not exist as independent business enterprises. Furthermore, they surrender absolutely to the main line all business for which the two would be competitors if independent. The Utah and Northern road, for example, if independent, might secure, in connection with the Northern Pacific, a considerable share of the traffic of Utah which it now relinquishes wholly to the main line, or it might secure a long haul on much other business to and from the southern portion of the road, which it now turns over to the main line, with but a short haul for itself.

On account of such sacrifices the branch roads are entitled to receive in divisions such increased proportions as will repay them substantially for what they have surrendered.

The Union Pacific Company is not alone in the policy of allowing its branch roads a constructive mileage in division. The Kansas Pacific Railway Company, previous to its consolidation with, or control by, the Union Pacific, while it was operated by its owners and while it was managed by receivers under the appointment and direction of the United States Court, allowed its branches the same constructive mileage in the division of earnings that has been allowed by the Union Pacific Company.

The Chicago, Rock Island and Pacific Railroad, the Missouri Pacific, the Illinois Central, and many other roads apportion earnings between their main lines and certain branches on an arbitrary or constructive mileage basis. The Chicago, Burlington and Quincy allows all its branches which it does not wholly own a large constructive mileage.

In his letter of the 11th instant, addressed to me, Mr. E. P. Ripley, general freight agent of the Chicago, Burlington and Quincy road says:

Our custom is as regards branches which we (the Chicago, Burlington and Quincy Railroad) own outright to divide earnings on a strict mileage prorate as between such branches and the main line. Of course, this is not fair to the branch, and there are many cases where this process results in showing that the branch does not earn operating expenses and interest, and sometimes not even operating expenses, when, as a matter of fact, the business, taken as a whole, is profitable to the system.

Our course, however, is entirely different in the case of roads of which we own a majority or controlling interest in the stock.

In such cases our divisions give them a very large constructive mileage, and are intended, as nearly as may be, to represent the divisions to which those roads would naturally be entitled or which they might be able to get if they were wholly independent of us, and could make such arrangements as they might elect with other and competing lines.

Owning outright as many branches as we do, you can readily see that to make divisions other than a prorate with each branch would be productive of such an extensive amount of book-keeping as to make the arrangement very expensive, and as the Chicago, Burlington and Quincy must pay all the deficit, if any, and receives into its treasury the profit, if any, it is entirely immaterial how the books are kept; whereas in the case of roads which we do not own outright we must, in order to treat them fairly, give them substantially the same divisions as if they were wholly independent.

The reasons given by Mr. Ripley undoubtedly apply in the case of other roads which allow their branches only a mileage division, namely,

that such division involves less work in the accounting department, and the results are unimportant in view of the fact that the parent company in any case receives the entire profit or sustains the entire loss.

In what has already been said I have attempted to show that considerations of pure equity require that the branch system should receive a larger proportion of joint earnings than a mileage division would secure, and I will again call your attention to the terms which the branches might make with other and rival lines if they were independent of Union Pacific control. I have not the least doubt that competitors of the Union Pacific would gladly contract with these branch roads, in consideration of receiving all the business controlled by them, to allow them much more favorable divisions than they now receive. Viewed from this standpoint, the present arrangements between our main line and branches seem to me decidedly illiberal to the latter.

Statements already presented show that during the month of January, 1887, the main-line earnings were \$29,591.13 less than they would have been if divisions with branch roads had been made on the basis of actual mileage, but that of this amount \$18,445.51 was received from connecting lines under the operation of the constructive mileage principle. The deduction from main-line earnings was therefore only \$11,145.62, while the main line received from connecting lines in the same way, \$31,080.61, a net gain to it of \$19,934.99 for the month, equivalent to \$297,982.16 for the year. If any action of the Government should require mileage divisions to be made between the different members of the Union Pacific system, it would be impossible to maintain the present divisions with connecting lines, and the earnings of the company would suffer an annual loss, taking the results for January, 1887, as a basis of calculation, of \$297,982.16 on the main line, and \$442,318.58 on the branches, a total annual loss to the entire system of \$740,300.74.

Having advocated for the past sixteen years the policy of occupying the territory naturally tributary to the Union Pacific line by a complete system of branches, and believing, as I now do, more firmly than ever that the life of the main line itself depends upon the prompt opening of these affluents of commerce to make good the drains upon it by new and powerful rivals, I most earnestly hope no step will be taken by the Government to prevent the building of new branches or to cripple those we now have. With 25 per cent. of our net earnings locked up in the Government sinking fund, the company's treasury empty, the right to guarantee branch-line securities denied to it, the only chance remaining to secure the means of building needed branches lies in the assurance of just and fair treatment of them by the parent company. Enforce the equal mileage distribution of earnings against proposed branches and no prudent man would invest a dollar in their securities.

DEMAND FOR BRANCH LINES.

Mr. POPPLETON. I would like to put in a paper and ask Mr. Kimball a single question in respect to it.

By Mr. POPPLETON:

Q. Will you state what the paper is that I now show you?—A. A preamble and resolution unanimously adopted by the Board of Trade of Omaha, April 28, 1886, in respect to branch lines of the Union Railway; also a copy of a bill that was recommended in a memorial of members of Congress, which memorial was generally signed

munities through the Union Pacific system, and forwarded to the proper representatives in Congress.

PREAMBLE AND RESOLUTION OF OMAHA BOARD OF TRADE.

The paper is as follows:

OMAHA BOARD OF TRADE,
Omaha, Nebr., April 28, 1886.

The following preamble and resolutions were unanimously adopted by this board at a special meeting held this date:

Whereas extensive new sections of country, tributary to the Union Pacific Railway Company, is being rapidly settled up, and branch lines of other railroad companies are being projected and now in process of construction into such territory, while the Union Pacific Railway Company is prohibited by the laws of Congress from an equal opportunity to assist in building branch lines into such territory, for the protection of its own business, and thereby to the great injury of the future business interests of the city of Omaha and all of Nebraska; and further,

That it becomes imperative that such legislative action shall be immediately taken by Congress as will remove the present restrictions and enable the construction of such branch lines this present year, as a longer delay will defeat, in a great measure, the object sought to be obtained: Therefore, be it

Resolved by the Board of Trade of the City of Omaha, That our Senators and Representatives from Nebraska, at Washington, be requested to urge upon Congress the immediate passage of the bill herewith attached, which is intended to secure the relief needed to commence the immediate construction of such branch lines by the Union Pacific Railway Company; and it is further

Resolved, That a copy of these resolutions, together with the proposed bill, be forwarded to the important business cities of Nebraska and Wyoming, and that when approved and signed by the business men of those communities they be requested to return the same to the secretary of the Omaha Board of Trade.

MAX MEYER, *President*.

Attest:

G. M. NATTINGER, *Secretary*.

BILL PROPOSED BY OMAHA BOARD OF TRADE.

A BILL to enable the Union Pacific Railway Company to aid the construction of branch lines and extensions for the purpose of protecting traffic and territory naturally tributary thereto.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled: SECTION 1. That the Union Pacific Railway Company is hereby authorized and empowered to lease, purchase, or make operating or traffic arrangements with any railroad built by any other railroad company organized and existing under the laws of any State or Territory; or aid such company in the construction of its road by subscription to its capital stock, or guarantee of its first-mortgage bonds, or otherwise, for the purpose of forming a connection of said road with said Union Pacific Railway; and for the purpose of building and acquiring such branches, extensions and feeders thereof as will enable it to secure and hold the traffic and business naturally tributary to said Union Pacific Railway: *Provided*, That such aid shall not be furnished, and such lease, purchase or arrangement shall not be valid until the same shall have been ratified by two-thirds of the stockholders of said railway companies: *And provided further*, That this act shall not authorize the Union Pacific Railway Company to aid, lease, purchase, or make any other arrangement with any railway company to an amount in excess of the actual cost to said company of its road, equipment, and appurtenances.

SEC. 2. Congress reserves to itself the right to alter, amend, or repeal this act whenever the public interests may require it, but such repeal shall not affect the validity of any action taken under the power by this act granted prior to such repeal.

OMAHA, NEBR., *Friday, July 1, 1887.*

D. O. CLARK, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where are you employed?—Answer. By the Union Pacific Company.

Q. In what position?—A. Superintendent of the coal department.

Q. How long have you been in that position?—A. Since 1874.

Q. What department of the Union Pacific Railway did you occupy before that?—A. I was with the Wyoming Coal Company.

WYOMING COAL COMPANY.

Q. How long were you with the company?—A. Since its organization, in 1873.

Q. By whom were you employed?—A. I was employed by J. H. Godfrey originally.

Q. Who composed the Wyoming Coal Company; it was really the Union Pacific, was it not?—A. That is something I am not able to answer. I do not know who the stockholders were.

Q. As superintendent of the coal department, what are your duties?—A. To produce the coal and ship it on orders.

Q. What do you do with reference to producing coal?—A. Employ the men.

Q. It takes more than men to produce coal, does it not?—A. It takes men and material.

Q. Did you acquire lands?—A. Most of our mines are on land grant lands.

Q. What have you off the land-grant lands?—A. One or two claim mines are on what were originally Government lands.

Q. How have you acquired them?—A. They are now in the hands of the Government. I have not been in my jurisdiction of all the mining titles.

LANDS ACQUIRED BY THE COMPANY.

Q. Have you acquired any titles since the organization of the coal department?—A. I am not sure, but I have not acquired any.

Q. Who has acquired them?—A. I am not sure, but I could answer that question. I could not.

Q. Has it been by purchase?—A. Yes, sir.

Q. Does the company survey?—A. Yes, sir; they have acquired—and then you put men on. In the old days, they were opened before the mine was opened. They were opened at the best place to open.

Q. How did you make a knowledge of the lands had been made?—A. If you want to open a mine, you acquire of the Land Department whether you have any title to them and such a piece of land.

Q. And then, if you have no title, what takes place?—A. We do not usually open it unless they have title to it.

OTHER TESTIMONY.

Q. Your duties then are to push out and ascertain lands?—A. No, sir.

Q. How does a company get knowledge as to opening the land?—A. We always endeavor to find a location on company lands, if possible.

Q. And when they are not on company land?—A. That case has not come up recently.

Q. When the case does come up, what?—A. I do not know what will happen. We should endeavor to get a title to it, I suppose, in some way.

Q. Have you had such a case?—A. No. We have had one case where the land was taken up as indemnity land. That was at Carbon. Before we opened up the mine it was taken as indemnity land.

Q. How many mines is the company now operating?—A. Seven mines.

Q. Where are they located?—A. Two at Carbon, four at Rock Springs, and one at Almy or Evanston.

Q. How often do you make returns, in your department, to the company?—A. We make reports every month. The accounts of the department are all kept in the auditor's office.

PRICE OF COAL.

Q. Have you any control of the price of coal?

The WITNESS. As to the selling price?

The CHAIRMAN. Yes.

A. Well, yes, to a certain extent. The company's coal is supposed to be furnished at what it costs placed on the cars.

Q. What rates have been fixed by you or the department as to the price of coal to points of shipment?—A. I do not know that I quite understand that question. There is a regular published freight rate on coal at all points on the Union Pacific. It varies, of course, at different places.

Q. Have the coal shippers at every point on the Union Pacific system had the same rates?—A. They all had the same rates.

NO REBATES EXCEPT IN SUMMER.

Q. Have there been any rebates, preferential rate, special rate, or favor of any kind shown to one dealer, as against another, in the Union Pacific system?—A. No, sir. The only favoritism we show them at all is during the months of June, July, and August, when we give them a rebate for storing a certain amount of coal which they are to carry until the winter season; and we give that to them all.

Q. Do the Union Pacific mines furnish all the coal used by the company?—A. No, sir.

Q. From what other source do they get coal?—A. Most of it, I believe, from Iowa; that comes through the supply department, and I do not have anything particular to do with it.

Q. What proportion is supplied by the coal department of the whole amount used by the company?—A. I could not say, because I do not know what number of tons they purchase.

Mr. POPPLETON. Will you let Mr. Clark state here the reason for this rebate in the summer months?

The CHAIRMAN. Yes.

EXPLANATION OF REBATE IN SUMMER.

The WITNESS. It is simply because during the late fall and early winter the stock and grain shipments are all going over the road and

have not equipment enough to supply the shipments. This coal is put in, and the rebate is simply to pay them for carrying the stock of coal for the three months.

By Mr. POPPLETON:

Q. That is, you carry the coal at a season of the year when you can carry it cheaper than at any other?—A. Yes; it is more of a favor to us than it is to them. We have to force most of them to do it.

COAL HIGHER AT MINES THAN AT OMAHA,

By the CHAIRMAN:

Q. Is it true that coal was at any time sold at a higher price per ton near the mining point than it was in Omaha?—A. Not that I remember of.

Q. Do you know of any instance where coal was ever sold at a higher price at the mining point than it was sold at Omaha?—A. No, sir; our price at the mine has always been the same.

By Commissioner LITTLE:

Q. One witness has stated that this company, in order to break down some coal dealers away out towards the mines, shipped Iowa coal from Omaha out there and sold it at a less price than it could be produced for there. That is about the substance of it.

The WITNESS. I do not think that would be done; not in our department, certainly. The only time I remember that Iowa coal was sent out was when we had strikes or something of that kind, when we could not furnish the coal.

By the CHAIRMAN:

Q. Have you any other information to give the Commission?—A. Not that I know of.

OMAHA, NEBB., *July 1, 1887.*

A. J. POPPLETON, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your connection with the Union Pacific Railway Company?—Answer. I am general attorney of the company.

Q. When did your engagement commence?—A. That engagement commenced at the time of the consolidation. My original connection with the road commenced on the 1st of December, 1863. From that time up to the 1st of January, 1869, I was paid simply for what I did, and I had no control or concern about the company's business except as called on; and I think I was never called upon to certify vouchers. From the 1st of July, 1869, up to the 1st of January, 1880, I had a separate office and worked upon a salary, and was concerned, to a greater or less extent, in the general control of the business; but during that time I was not expected to sign any vouchers except such as grew out of the transactions that went through my hands. Since the 1st of January, 1880, my connection has been closer. I have had an office in the company's building, and a great many transactions have gone through my hands that did not before. I state that, so that the Commission may understand clearly my relation to the depart-

By Commissioner LITTLER:

Q. Then, in the examination of these legal expense vouchers, we shall have to confine ourselves, so far as you are concerned, to vouchers from 1880 down?—A. Pretty largely. You will find, possibly, some back of that.

VOUCHER 5227 OF M. B. HOXIE.

By the CHAIRMAN:

Q. I show you Voucher 5227:

The Union Pacific Company to M. B. Hoxie, Dr.

LINCOLN, February 8, 1869.

For cash paid on account of legislation in regard to railroad rates, &c., at Lincoln \$1,000

Will you please explain that?—A. I can make no explanation of it. My name does not appear upon it. I had no connection with it.

Q. Who can explain it?—A. I do not know of anybody, unless it would be Mr. Hoxie or Mr. Snyder. Mr. Snyder at that time was general superintendent of the road. He is now employed on some road in Texas.

Q. Where is Mr. Hoxie?—A. That I cannot say. He lived at Schuyler, in this State, but it has been two or three years since I have seen him.

VOUCHER 5471 OF M. B. HOXIE.

Q. I show you Voucher No. 5471 for \$1,800:

The Union Pacific Company to M. B. Hoxie.

FEBRUARY 27, 1869.

For services at Lincoln during the session of the legislature, January and February, 1869 \$1,000
For balances due expenses 800
Approved.

W. SNYDER.

Can you explain that?—A. That voucher is in my handwriting. It appears to have been approved and paid by Mr. Snyder. I cannot recall now what that refers to, but it was probably some pending bill regulating rates on the Union Pacific.

Q. Who was Mr. M. B. Hoxie?—A. Mr. M. B. Hoxie was a brother of Mr. H. M. Hoxie, the general manager of the Gould roads.

Q. Was Mr. M. B. Hoxie a lawyer?—A. Yes.

Q. Was he a member of the legislature at that time?—A. No; I think not.

Q. What would those expenses be for?—A. I cannot tell you that.

Q. Were you paid a salary in 1869?—A. I was paid a salary either from the 1st of July or the 1st of January. I made the new arrangement on the 4th day of July; but I cannot now recollect whether it went back to the 1st of January or commenced from the 1st of July.

Q. Do you recollect the amount of your salary at that day?—A. \$10,000, and has been ever since that time, until October 1, 1885.

Q. Who was Charles H. Hempstead?—A. A resident of Salt Lake City.

Q. Was he an attorney?—A. Yes.

VOUCHER 23029, OF WELLS BREWER.

Q. I show you voucher No. 23029.

The Union Pacific Railroad Company, Dr., to Wells Brewer, of Lone Tree.

March 10, 1873. For services as attorney for company in Merrick County, and amounts paid to assistants for traveling expenses..... \$1,000

What was the character of the services rendered by Mr. Brewer?—A. I am unable to state.

Q. Was he an attorney of the company at that time?—A. Not regularly employed.

Q. Were there any cases of the Union Pacific Company pending in that section of the State at that time?—A. I cannot answer positively in that respect; but I do not recollect any case that was pending at that time.

Q. Do you recall any legal service rendered by him?—A. Not that I have any knowledge of.

Commissioner LITTLE. Who approved the voucher?

The CHAIRMAN. It is marked "Examined. Correct. S. H. H. Clark."

Q. What authority had the general manager for the approval of legal expense bills?—A. I suppose he had every authority. He was general superintendent at that time, I think, instead of general manager.

The CHAIRMAN. The voucher indicates him to have been their "general superintendent."

The WITNESS. He was in control here, recognized as having power to do what he pleased.

Q. Were you subject to his control?—A. Yes; as far as concerned the legal business.

VOUCHER OF M. H. SESSIONS.

Q. I show you voucher No. 32646.

The Union Pacific Railroad Company to M. H. Sessions, Dr., Lincoln, Nebr., 1875.

For retainer and professional services in defense of charges against agents of Union Pacific Railroad Company, in conducting election in Merrick County as to the proposed donation of \$180,000 bonds, in aid of the construction of the Midland Pacific Railroad to Lone Tree..... \$300

That voucher is certified as correct by A. J. Poppleton, attorney, and approved by S. H. H. Clark. Will you please explain it?

A. The Union Pacific Company has 44 miles of railway in Merrick County. The Midland Pacific Company, which was a company building from Nebraska to Lincoln, and then projecting an extension to connect with the Union Pacific at Central City in Merrick, submitted a proposition for a bond subsidy to aid that road in extending itself to Central City to a connection with the Union Pacific. Of course the Union Pacific was opposed to that, as it did not care to be taxed annually for twenty years to help build that road to a competing p on its own line. That election occurred. I do not recollect whether bonds were carried or not; my impression is that they were def After that was through with, the agent at that point had a charge made against him, I don't recollect now what it Sessions was employed to look after it.

Q. It grew out of the election?—A. It grew out is to my mind a perfectly legitimate expenditure pany.

VOUCHERS OF J. M. THURSTON.

Q. I show you voucher No. 32649.

The Union Pacific Railway Company to J. M. Thurston, Dr.

OMAHA, NEBR., August 7, 1885.

For professional services in opposing the issue of bonds to the Midland Pacific Railroad Company in Merrick County, by public speeches to the people of that county..... \$325
Cash paid expenses 10

235

Approved by "A. J. Poppleton" and "S. H. H. Clark."

Will you please explain that voucher?—A. That is part of the same transaction. My recollection is that at that time Mr. Thurston was not regularly employed by the road. He was employed to do that, and did it and was paid for it. He did it, too, with considerable effect, I think.

Q. I show you voucher No. 39680.

The Union Pacific Railway Company to J. M. Thurston, Dr.

1887. Legal services at Lincoln: Four weeks in January and February..... \$500
Approved by "S. H. H. Clark" and "John M. Thurston."

Please examine that voucher and say whether you recall those services.—A. No; I do not. The supreme court meets at Lincoln, and the Federal court holds a session at Lincoln, in the month of January. But my name is not on that voucher and I have no personal knowledge in respect to it.

Q. I show you voucher No. 50563.

The Union Pacific Railroad Company to John M. Thurston, Dr.

January 31, 1879. For amount of payments for special service and for expenses incurred upon business of the company..... \$500

Can you explain that?—A. My name is not on that voucher.

VOUCHER OF F. P. KENNARD.

Q. I show you voucher No. 50798.

The Union Pacific Railroad Company to F. P. Kennard, Dr.

February 15, 1879. For services as attorney, November, 1878, to February, 1879. \$800

Who is Mr. Kennard?—A. Mr. Kennard is a resident of Lincoln and a lawyer.

Q. Was he retained by the company professionally?—A. He was employed by the company in acquiring right of way on the Omaha and Republican Valley road, when it was extended from Wahoo to Lincoln, and south of there. Beyond that, I have no knowledge of his employment.

Q. Who was William R. Steele?—A. He was a lawyer in Cheyenne, Wyo., who was regularly retained in Wyoming until he was elected Delegate in Congress.

Q. When was that?—A. It must have been from 1869 or 1870 up to about 1876, or along there. I cannot give the dates. When Mr. Steele was elected Delegate Mr. Corlett took his place. Steele now lives in Deadwood.

VOUCHER OF WILLIAM R. STEELE.

Q. I show you voucher No. 50816:

The Union Pacific Railway Company to William R. Steele, of Cheyenne, Wyoming, Dr.

January 31, 1879. To salary for quarter year ending January 31, 1879..... \$500

Was that during the time that he was a Delegate from that Territory in Congress?—A. No, sir.

Q. Was it after?—A. I think not, but I will not answer that without looking up the records. I am not certain but that after Mr. Steele was defeated he took his old place for a year or two. Mr. Corlett beat him; but I can say this, that that voucher was not for any illegitimate purpose. If there is an honest man on the face of the earth Mr. Steele is that man.

The CHAIRMAN. The only question is whether it was paid to him while he was a Delegate in Congress?

The WITNESS. Not a dollar was paid to him while he was in Congress. There is not money enough in the United States to induce him to accept pay at such a time.

Q. That same explanation applies to Mr. Corlett?—A. Yes.

VOUCHER OF JOHN M. THURSTON.

Q. I show you voucher No. 51044:

The Union Pacific Railroad Company to John M. Thurston, Dr.

February 28, 1879. For amounts paid for board, traveling and other expenses, and disbursements on business of the company..... \$500

Can you recall the services rendered in the case of that voucher?—A. My name is not on that voucher. I do not recall anything about it.

The CHAIRMAN (to Mr. Erastus Young). Would you regard that voucher as a sufficient authority to pay that sum?

Mr. ERASTUS YOUNG. I should regard that as a good voucher under many circumstances.

The CHAIRMAN. Does it state what it is for?

Mr. ERASTUS YOUNG. Many vouchers do not state what they are for.

The CHAIRMAN. Are you in the habit of paying vouchers that do not state the services?

Mr. ERASTUS YOUNG. Vouchers do not always give the details of the service.

The CHAIRMAN. Do I understand you to say, as auditor of the road, that many of your vouchers appear in that shape?

Mr. ERASTUS YOUNG. No, sir; I do not think there are many of them. I do not know that there are any in now in that shape. But it is a common practice to pay vouchers in that shape, paying them on the warrant of the officer authorized to order them paid.

Commissioner LITTLE. When a voucher is approved by the general manager of the company and sent to you for payment, have you any discretion about it?

Mr. ERASTUS YOUNG. If we had any idea that there was anything wrong about it we might refer it to higher authority; but as we would pay vouchers on the approval of the general manager

Commissioner LITTLE. Without any further approval?

Mr. ERASTUS YOUNG. Yes.

VOUCHER 52274, OF J. M. THURSTON.

Q. I show you voucher No. 52274, dated May 31, 1879:

N. SHELTON, *Cashier*:

Please pay to J. M. Thurston, to be accounted for, \$2,400.

J. W. GARRETT, *Auditor*.

And:

Received of Union Pacific Railroad Company \$2,400, in full of above account, May 31, 1879.

J. M. THURSTON.

The signature is then crossed out, in red ink.

VOUCHER OF S. H. H. CLARK.

JUNE 9, 1879.

N. SHELTON:

Please pay to S. H. H. Clark \$2,000, to be accounted for.

J. W. GARRETT, *Auditor*.

Received of Union Pacific Company \$——, in full of above account.

S. H. H. CLARK, *General Manager*.

The signature is crossed out, in red ink.

GENERAL VOUCHER.

Then there is a general voucher at the end, reading:

June 29, 1879. For expenses incurred and money disbursed upon business
of the company from April 22 \$6,262.35

Marked below (in a different handwriting), "legal expenses."

The voucher is receipted by John M. Thurston and approved by S. H. H. Clark. Do you know anything of it?—A. I have no knowledge of that voucher. My name does not appear on it.

Afternoon session.

JOHN J. DICKEY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am superintendent of telegraph of the Union Pacific Company and also of the Western Union lines along the Union Pacific road.

Q. Are you employed by the Union Pacific?—A. Yes, sir.

Q. They pay your salary?—A. Half of it.

Q. Who pays the other half?—A. The Western Union. The salary is divided.

Q. Then you are acting in conjunction with the Western Union as well as the Union Pacific?—A. Yes; the contract between the two companies provides for a joint superintendency.

TELEPHONE COMPANY.

Q. Is there a telephone company connected with the telegraph company?—A. No; I am a stockholder and director in the telephone company, but it is not under my direction at all.

Q. Is it worked in connection with the telegraph company?—A. Well, that depends on what is meant by connection. We have a connection between the telegraph office and the telegraph exchange, for the purpose of handling business.

Q. Who are representatives of the telephone company?—A. Mr. S. H. Clark is the president, I am vice-president, and Mr. Kortz is secretary and treasurer. Mr. Flemon Drake is the general manager of the telephone company.

Q. Has the Union Pacific Company any interest in the telephone company?—A. They have no interest in it.

Q. Have any of its officers or employes any interest in the telephone company?

The WITNESS. Any of the officers or employes of the Union Pacific?

The CHAIRMAN. Yes.

The WITNESS. I think some of them are stockholders of the Union Pacific Company. *

UNION PACIFIC OFFICIALS INTERESTED.

Q. What officers of the Union Pacific Company are interested in the telephone company?—A. Mr. Kimball has some stock in it; I have stock in it; I do not recall any others that have stock in it.

Q. Where does the telephone company have its office?—A. At Omaha. Their headquarters are here.

Q. Where in this city are their headquarters?—A. On Fifteenth street, between Farnham and Douglas.

Q. Is that the headquarters of the telegraph company?—A. No, sir; the telegraph company's headquarters for this district are in Thirteenth street.

Q. Have the telephone company the use of the poles of the telegraph company?—A. No.

Q. Have they separate poles?—A. Yes.

Q. Has that always been the case?—A. Yes.

Q. Have you any other information that you can give to the Commission?

The WITNESS. In regard to the telephone company?

The CHAIRMAN. No; the telegraph company.

The WITNESS. I would be glad to give any information that you can suggest. I do not think of anything that I could suggest. I am familiar with the relations of the telephone and telegraph company.

Q. Has the telegraph company any contract with the telephone company?—A. No.

NO BUSINESS RELATIONS BETWEEN TELEGRAPH AND TELEPHONE COMPANIES.

Q. Has it any business relation whatever with the telephone company?—A. The local telephone company and the telegraph company have no contract at all, but there is a contract between the Bell Telephone Company at Boston and the Western Union Company, that covers all the business of the United States.

Q. But have the telephone company any interest in the Union Pacific Telegraph Company that you have mentioned?—A. No. They have not. They have tried to make a contract with the railroad company for a number of years, but have not succeeded in doing so.

RETURNS OF TELEGRAPH DEPARTMENT.

Q. How do you make your returns as superintendent of the telegraph department?—A. The reports of officers come in to me at the end of the month and remittances are made to the local treasurer of the Union Pacific Railroad. I make up a statement of the business from the reports made in the auditor's office. They go to the auditor of the Union Pacific Company and settlements are made on those accounts.

Q. Are all your business relations governed by the contract between the Union Pacific Company and the Telegraph Company?—A. Yes, sir; I am governed by that entirely in my administration of the telegraph department.

DIVISION OF PROFITS.

Q. How are the profits divided?—A. The gross receipts at the railroad offices or stations are divided equally—50 per cent. to each company. Each company has its own line over the main line of the Union Pacific, you understand. There are two sets of lines; and under this contract they are operated at joint expense, and there is a division of receipts made, according to the contract.

MONTHLY SETTLEMENTS AND GROSS RECEIPTS.

Q. How often do you make cash settlements with the company?—A. Once a month. I do not handle any of the cash, but I make my reports once a month.

Q. Do you know about the annual returns?—A. Yes, sir. The gross receipts for last year were about \$120,000.

Q. That was for the Western Union and the Union Pacific?—A. That was the gross receipts of the joint offices.

UNION PACIFIC'S PROPORTION.

Q. What were the net amounts paid over to the Union Pacific?—A. I have got a memorandum of it that I made on the probability that you would want to know something about that. For last year the Union Pacific proportion was \$57,600.66.

Q. That was for 1886?—A. Yes.

FOR OTHER YEARS.

Q. What of 1885?—A. \$53,604.82.

Q. Have you any other statement there covering different years?—A. I have, from 1878. That was before the present arrangement went into effect. For 1878 our total receipts were only \$15,833. I would like to have you notice that this is the only arrangement that the Union Pacific made that they have found profitable.

The witness presented a statement of telegraph receipts and disbursements of the Union Pacific Company, as follows:

Statement of telegraph receipts and disbursements, Union Pacific Railway.

Year.	Receipts.				Credits.			
	This line.	Other lines.	Miscellaneous.	Total.	Government messages.	Paid other lines.	Miscellaneous.	Total.
1878.....	\$15,833.10	\$2,027.93	\$431.80	\$18,295.83	\$1,698.41	\$1,917.62	\$2,441.89	\$6,055.92
1879.....	18,009.83	2,993.46	610.68	22,213.97	2,158.58	2,905.55	2,253.90	7,318.09
1880.....	39,643.14	4,770.03	1,795.20	46,188.37	1,340.12	4,255.23	3,495.03	9,091.28
1881.....	82,106.65	3,783.11	4,938.30	90,828.06	914.47	3,998.94	12,169.25	18,082.66
1882.....	98,188.78	1,441.27	6,638.52	106,268.57	490.95	722.60	3,448.75	4,916.38
1883.....	107,912.60	1,600.43	6,050.83	115,572.86	405.75	1,225.09	3,765.30	5,456.25
1884.....	105,708.96	1,262.76	7,711.77	114,683.49	502.76	1,065.27	2,537.42	4,705.45
1885.....	110,777.71	1,301.43	5,284.34	117,363.48	847.11	1,734.20	2,896.79	5,478.10
1886.....	119,128.02	1,339.38	8,733.76	129,201.16				6,914.54

Year.	Net receipts.	Western Union proportion.	Union Pacific proportion.
1878.....	\$12,239.91		
1879.....	14,805.98		
1880.....	37,097.09		
1881.....	73,745.40		
1882.....	96,689.89	\$30,236.22	\$16,453.67
1883.....	110,116.63	57,304.01	52,812.62
1884.....	109,078.04	57,450.32	52,527.72
1885.....	111,885.38	58,280.56	53,604.82
1886.....	122,296.62	64,685.96	57,600.66

OMAHA, NEBR., Friday, July 1, 1887.

ERASTUS YOUNG, being further examined, testified as follows:

The WITNESS. I produce a schednle of books of account in use in the accounting department of the Union Pacific Railway Company at Omaha, July 1, 1887.

By the CHAIRMAN:

Question. Have you any other statements ready?—Answer. Not just now.

Q. When will you have them ready?—A. I think I shall have part of them ready this afternoon.

LAND DEPARTMENT LEGAL EXPENSES.

Mr. MINK. I submit a statement of the legal expenses incident to the land department of the Union Division of the Union Pacific Railway Company, from 1863 down; and a similar statement with reference to the legal expenses of the land department of the Kansas Division from 1863 down.

GROSS RECEIPTS.

Mr. POPPLETON. Mr. Young raises a question as to the call made by the Commission in respect to the gross receipts. There seems to be a difficulty on his part, and, as I understand, Mr. Mink shares it, in apprehending precisely what the Commission wants in this respect. Now cannot the Commission frame, in writing, a question that will guide for those gentlemen in that respect and let them answer the best they can; and when they have made the best answer they must rest on that.

The CHAIRMAN. I cannot see how we can make to call for the gross receipts of the Union Pacific

Mr. POPPLETON. That is, you mean the gross amount made up of all the particular items that have come into the possession of the company, whether money or property, land, or otherwise.

The CHAIRMAN. Yes, gross receipts; what they call receipts.

Mr. POPPLETON. That would be everything that has come into possession of the company from the organization to the present time. But the gross receipts of its business is, it seems to me, what you want, or do you want everything that has come into its possession?

The CHAIRMAN. I want an annual statement of its gross receipts.

Mr. POPPLETON. I am not book-keeper enough, I suppose, to comprehend the situation.

The CHAIRMAN. I cannot see how I can make it any clearer than to ask for a statement of the gross annual receipts.

Mr. POPPLETON. Of what?

The CHAIRMAN. Of the company.

Mr. POPPLETON. From what sources?

The CHAIRMAN. From all sources.

Mr. POPPLETON. That means literally everything that has come into their possession, whether the receipts of their business or not.

AS DISTINGUISHED FROM GROSS EARNINGS.

The CHAIRMAN. As distinct from the gross earnings. The company reports a certain amount as "gross earnings." I want to subtract the gross earnings from the gross receipts.

Mr. POPPLETON. Then you want the gross receipts that are made a basis for gross earnings?

The CHAIRMAN. Yes.

Mr. POPPLETON. And then you can strike the difference between the gross earnings and the gross receipts.

The WITNESS. That is precisely what the last statement I have handed in shows, only it is for one year.

Mr. POPPLETON. And if that is extended over the other years that will be sufficient, will it?

The CHAIRMAN. Yes. We would like very much to have it.

The WITNESS. It is a question of labor only.

Mr. POPPLETON. I understand that the Commission is satisfied with the statement that Mr. Young has made for a single year, and that a like statement for the other years would be satisfactory.

The CHAIRMAN. We made a call for a statement showing the annual gross receipts.

Mr. POPPLETON. I do not understand that the act calls for anything of that kind.

Commissioner LITTLER. Here is what the act says:

And what amounts have been deducted from the gross earnings of any of said aided railroad companies, by their general freight and passenger agents or auditors, by way of rebate, percentage of business done, constructive mileage, monthly or other payment, on any pooling or rate arrangement, contract, or agreement.

Mr. POPPLETON. I do not see anything stated there about "gross receipts."

LARGE DISCREPANCIES BETWEEN GROSS RECEIPTS AND GROSS EARNINGS.

The CHAIRMAN. But this Commission discovers that there are millions of dollars' difference between gross earnings and gross receipts,

and they want to know where they are and what they are. If this company does not explain them the Commission can only report its sentiments. It is with the company entirely.

Mr. POPPLETON. The object of my rising was to explain the difference between the chairman of this Commission, or the Commission, and the chief of the auditing department. It seems now that we have found it. Therefore let Mr. Young go to work.

The CHAIRMAN. I ascertain, in the consideration of your accounts, that there is a difference in your statement; that in your annual report you state gross earnings, and that that does not contain the gross receipts. As a Commissioner I want to know what the balances are. If the company does not care to submit an explanation of that difference, the company must finally submit to my interpretation of the difference.

Mr. POPPLETON. The answer is that one year's such statement is ready furnished. If the Commission will designate what they want in that direction we will supply it.

By Commissioner LITTLER :

Q. Will you furnish a statement running over the entire business of the company?—A. Yes.

ERASTUS YOUNG.

OMAHA, NEBR., *Friday, July 1, 1887.*

A. J. POPPLETON, being further examined, testified as follows :

VOUCHERS OF J. M. THURSTON.

By the CHAIRMAN :

Question. I show you voucher No. 55322 :

The Union Pacific Railroad Company to J. M. Thurston, Dr.

Sept. 30, 1879. For expenses and disbursements upon business of Company... \$542.75

Will you please explain that?—A. I can make no explanation of that voucher. My name is not on it.

Q. I show you voucher No. 57626 :

The Union Pacific Railroad Company to John M. Thurston, Dr.

Dec. 31, 1879. For additional compensation to date, as per agreement of November 1, with S. H. H. Clark, general manager \$1,000

Can you explain that?

A. My answer would be the same in respect to that.

Q. I show you voucher No. 6634 :

Union Pacific Railway Company to John M. Thurston, Dr.

Aug. 31, 1880. Paid out on purchase of suits of Patterson *et al. vs. The Union Pacific Railroad*, at Sterling, Ill. \$80

Can you explain that?

A. My name is not on that voucher.

"PURCHASE OF SUITS."

Q. What would the term "purchase of suits" mean?
A. I do not know what it would mean. There were suits pending.

Mr. POPPLETON. That is, you mean the gross amount made up of all the particular items that have come into the possession of the company, whether money or property, land, or otherwise.

The CHAIRMAN. Yes, gross receipts; what they call receipts.

Mr. POPPLETON. That would be everything that has come into possession of the company from the organization to the present time. But the gross receipts of its business is, it seems to me, what you want, or do you want everything that has come into its possession?

The CHAIRMAN. I want an annual statement of its gross receipts.

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The CHAIRMAN. I cannot see how I can make it any clearer than to ask for a statement of the gross annual receipts.

Mr. POPPLETON. Of what?

The CHAIRMAN. Of the company.

Mr. POPPLETON. From what sources?

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AS DISTINGUISHED FROM GROSS EARNINGS.

The CHAIRMAN. As distinct from the gross earnings. The company reports a certain amount as "gross earnings." I want to subtract the gross earnings from the gross receipts.

Mr. POPPLETON. Then you want the gross receipts that are made a basis for gross earnings?

The CHAIRMAN. Yes.

Mr. POPPLETON. And then you can strike the difference between the gross earnings and the gross receipts.

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LARGE DISCREPANCIES BETWEEN GROSS RECEIPTS AND GROSS EARNINGS.

The CHAIRMAN. But this Commission discovers that there are millions of dollars' difference between gross earnings and gross receipts.

In this voucher the following statement appears :

to services rendered in the case of the Union Pacific Railroad against W. H. Platt (Platt against the Union Pacific Railroad, in which the suit was to settle the pre-emption right of the Union Pacific Railroad to land. We charged, and supposed we were to get, \$1,000 for this, and honestly supposed this was our due, but in October S. H. Clark said that on the settlement of the business of 1880 he would add the additional sum of \$500, which we agreed to take in settlement of the matter. Hence we got \$500.

Q. Is the Platt named in this case the Platt referred to by Mr. Rosewater?—A. Yes.

The CHAIRMAN. Were the attorneys on both sides paid by the Union Pacific Railway Company?

The WITNESS. Yes.

The CHAIRMAN. This was a sort of an amicable suit?

The WITNESS. I will explain. When Secretary Schurz's decision was made, the effect of which, upon his theory, was to subject all the land that had been earned, and not sold, in three years, to pre-emption, of course that raised a question, and a very important one, that affected the entire land grant. The first thing that happened after this decision was rendered was that a person named Rosenbaum (or some Jewish name; I cannot remember it now) filed on a piece of land (at Grand Island, where Platt lives) under that ruling, and claimed to be entitled to take it under that ruling. When we came to investigate, we found that if it did not belong to the Union Pacific Company beyond all controversy it did belong to Platt, because he was the first settler on it, and he had not exercised his right of pre-emption. All that he had to do was to file his claim. We said to Platt, "If this land is not ours it is yours, and if it is not ours we would rather you would have it than any man who has not been on it until this day, but gets it by pure force of a legal technicality, if he gets it at all." These suits grew out of that. They were prosecuted in good faith, and every fact on both sides was presented. It went up to the Supreme Court of the United States, and the Supreme Court decided in favor of the railway company.

Q. The purpose of the suit and the interest that the company took in it was to get a ruling against the Interior Department?—A. Yes; and to get an authoritative declaration from the Supreme Court of the United States to settle the matter of the land grant, which would affect our interests very much. I am not able to say at this minute whether Mr. Rosewater is correct in his statement that a patent had actually been issued; but if it had been actually issued it had been issued under circumstances where it would have been absolutely void. Mr. Schurz's ruling was correct.

VOUCHER 17775 OF J. M. THURSTON.

Q. I show you voucher No. 17775:

The Union Pacific Railway Company to John M. Thurston, Dr.

Aug. 30, 1881. Special services from June 1 to September 1, 1881	\$500
and disbursements and expenses on special services	185

Please look at that voucher and state what special services were considered.—A. I cannot make the statement. My voucher, and I know nothing in respect to it, the

VOUCHER 19846 OF M. J. REILLY.

Q. I show you voucher No. 19846 :

The Union Pacific Railway Company to M. J. Reilly, Dr.

Oct. 31. For services and expenses while engaged on special service, from August 19 to Oct. 31, 1881. 67 days, \$6 per day \$402

What special service was Mr. Reilly engaged in ?—A. I cannot say; that is a Kansas Division voucher also.

VOUCHERS OF JOHN M. THURSTON.

Q. I show you voucher No. 19922:

The Union Pacific Railway Company to John M. Thurston, Dr.

Oct. 31, 1881. Special services as attorney in September and October..... \$33.33

What special service does that refer to ?—A. I cannot say; as far as I know this voucher may be for Mr. Thurston's salary.

Q. You would not call that "special," though ?—A. No; I would not call it so; but my recollection is that the pay-rolls show that he was paid on a pay-roll at that time.

Q. I show you voucher No. 22951:

The Union Pacific Railway Company to John M. Thurston, Dr.

Jan. 31, 1882. Services as attorney on special service, October 31, to date.... \$50

Q. What special service does that refer to ?—A. I make the same answer to that as to the last preceding question.

Q. That would not be for salary, would it ?—A. I would not think so; but it is possible that it might be.

Mr. ERASTUS YOUNG. My impression is that at that time all attorneys were paid on voucher and not on pay-rolls. No salaries of attorneys were paid on pay-rolls at that time.

Q. I show you voucher No. 24707:

Union Pacific Railway Company to John M. Thurston, Dr.

April 30, 1882. To services as attorney on special service from January 31 to date \$30

Do you make the same explanation with reference to that ?—A. Yes.

Q. Are you acquainted with George H. Thummell, of Grand Island ?—A. Yes.

Q. Was he an attorney of the company in 1882 ?—A. I think he was, and prior to that, a local attorney who attended to whatever he was specially directed to do in that vicinity.

Q. He was regularly employed by the company, was he ?—A. Yes, I think I may say so; but he was not a salaried attorney, and he was not expected to pay any attention to the affairs of the company unless he was directed to do so in some particular case.

Q. Was he a member of the legislature ?—A. He has been a member of the legislature; but whether he was at that time or not I could not say. I do not think he ever acted in the capacity of attorney for the company when he was a member of the legislature.

Q. When was he a member of the legislature ?—A. I cannot say; will not make any statement about that. Mr. Shelby says he was

the legislature in 1877. I have no doubt that is true; but he may possibly have been in at some other time.

VOUCHER 33986, OF T. S. M'MURRAY.

Q. I show you voucher No. 33986:

Union Pacific Railway Company to Land Department, Dr.

For T. S. McMurray's salary and expenses for January \$185.25

Was that an employment in the nature of an attorneyship for the company?—A. T. S. McMurray originally came into the employment of the Union Pacific Company as tax agent. He served some time as tax agent and then resigned and went home to Philadelphia and lived there a year. Then he came back on the road, under my appointment, under the title of special agent of the law department. This belongs to his tax agency, and it represents the proportion of his time and salary, I suppose, that was employed in attending to the tax department so far as the lands were concerned.

Mr. MINK. So far as the railroad was concerned. Evidently the whole amount was paid by the land department, and this voucher was presented to the railroad company.

The WITNESS. Yes.

VOUCHER 34134, OF J. G. M'INTYRE.

Q. I show you voucher No. 34134:

The Union Pacific Railroad Company in account with "The Arlington," J. G. McIntyre, proprietor, Lincoln, Nebr.

June 31, 1883:

January 31, rooms 9 and 10 with 31 days' board.....	\$186.00
Rooms 31 and 32, 31 days' board.....	231.50
February 2, 7, 9, and 10, board 20½ days.....	139.15
Fires.....	43.35

Total..... 600.00

VOUCHER OF JOHN M. THURSTON.

Attached to that is a voucher:

The Union Pacific Railway Company to John M. Thurston, Dr.

Hotel bill of self and employes accompanying at Lincoln, for January and February \$600

Do you know what that was for?—A. I have no personal knowledge of that voucher.

VOUCHER 34236, OF GEORGE M. CRAWFORD.

Q. I show you voucher No. 34236:

Union Pacific Railway Company to George M. Crawford

March 2, 1883. Special services as attorney in February ...

What services were rendered by Mr. Crawford?

My name is not on the voucher.

The CHAIRMAN. He is the gentleman who was a lobbyist.

The WITNESS. He is a gentleman you have examined on the stand here.

Q. He stated that he was a lobbyist?—A. I do not know what he stated. He is the same gentleman that you have examined under that name.

VOUCHER 34237, OF FRANK P. IRELAND.

Q. I show you voucher No. 34237:

Union Pacific Railway Company to Frank P. Ireland, Dr.

March 3. Services as attorney, in full, on special employment for the months of January and February	\$500
Expenses in said time.....	100
Total	600

Who was Mr. Ireland?—A. He is a lawyer living at Nebraska City, I believe.

Q. Was he a member of the legislature?—A. That I cannot say.

Q. What special services did he render for the company?—A. I cannot say. I have no knowledge of those services.

VOUCHER 34238, OF W. M. ROBERTSON.

Q. I show you voucher No. 34238:

The Union Pacific Railway Company to W. M. Robertson, of Madison, Dr.

March 3, 1883. Special services as attorney in the month of February.....	\$100
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Was Mr. Robertson a member of the legislature?—A. I cannot say whether he was at that time; I think he has been at some time.

Q. What special services did he render?—A. I cannot say. He is a lawyer, living at Madison, in this State.

Q. Belonging to the legal department of the Union Pacific Railway Company?—A. Not in the regular legal department. He has been occasionally employed to attend to particular suits.

Q. Does Mr. Crawford belong to the legal department of the Union Pacific Company?—A. No, sir; but he has been employed to attend to particular suits.

VOUCHER 34422, OF C. L. LAMB.

Q. I show you voucher No. 34422:

The Union Pacific Railway Company to C. L. Lamb, of Stanton, Dr.

March 13, 1883. Services as attorney on special service in the month of January.....	\$100
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Was Mr. Lamb a member of the legislature?—A. I do not know.

Q. Did he belong to the legal staff of the Union Pacific Railway Company?—A. Not the regular legal staff.

Q. What special services did he render?—A. I do not know.

VOUCHER 34635, OF LOREN CLARK.

Q. I show you voucher No. 34635:

The Union Pacific Railway Company to Loren Clark, of Albion, Dr.

March 3, 1883. Special services at Lincoln in the months of January and February upon employment of J. M. Thurston, assistant attorney..... \$200

Was Mr. Clark a member of the legislature?—A. I cannot say.

Q. Did he belong to the Union Pacific staff?—A. Not the regular legal staff.

Q. What services did he render at Lincoln during the year?—A. I have no knowledge.

Q. Would such employment pass under your supervision as the attorney in charge of the legal department?—A. It depends altogether upon what the services were, and, possibly, upon some other things. Possibly the general manager or general superintendent at that time, if he had any particular business to be attended to, in a case of emergency, would employ a man to do it, but the ordinary course would be for it to pass under my supervision.

VOUCHER 34686, OF N. K. GRIGGS.

Q. I show you voucher No. 34686:

The Union Pacific Railway Company to N. K. Griggs, Dr.

March 30, 1883. Services as attorney in the month of February, in special employment..... \$100

What services were those?—A. I know nothing about that employment.

Q. Was Mr. Griggs a member of the legislature?—A. I think not, at that time. I know he has been a member of the legislature, but I do not think he was at that time.

Q. Have you any knowledge of the special services?—A. None whatever.

Q. When was Mr. Corlett a Delegate in Congress?—A. I cannot give the date. I would not speak on that subject, because there are public records that will show that. Mr. Corlett was never on the Union Pacific road as attorney while he was a member of Congress.

VOUCHER 40048, OF GEORGE H. ROBERTS.

Q. I show you voucher No. 40048:

The Union Pacific Railway Company to General George H. Roberts, Omaha, Nebr., Dr.

Nov. 2, 1883. Services August 1 to November 1, 1883, 3 months, at \$100 \$300

By order of S. H. H. Clark.

Approved, A. J. Poppleton.

Was General Roberts an attorney of the company?—A. General Roberts was a lawyer who settled in the southwestern portion of the State, but he determined to remove to Idaho. When he went there we had no representative in that country at that time, and an arrangement was made with him that for a year after he reached there he should be paid \$100 per month by the Union Pacific Company. That was to be in consideration of anything that we might have for him to do there if we chose to use him as an attorney, and I think this is one installment of the compensation.

Q. He was regularly employed, then?—A. He was the one—that section that we had in authority. It resulted that

but little for anybody to do there. That arrangement ran for a year and he was paid at that rate. Then it was discontinued.

F. E. SICKLES.

Q. Who is F. E. Sickles, for whom vouchers have not been produced for payments of several sums of money?—A. He was at one time superintendent of this road. He was the engineer who planned the old bridge. He was a civil engineer. But F. E. Sickles was an inventor and engineer—a mechanical engineer.

Q. How was he employed in connection with the legal department?—A. Some years ago a party named Richards, whose counsel was George Harding, of Philadelphia, brought suit against the Union Pacific Company for the alleged infringement of a snow-plow patent, and also for an injunction restraining the company from using the plows it had been using for a number of years, and which had been constructed by its own master mechanic. The trial of that suit and the preparation of it involved a great deal of labor, and, of course, necessitated an expert. Mr. Sidney Dillon employed F. E. Sickles to do that part of the work, and these disbursements to him are either for his services or expenses in that connection. It finally came to a hearing before Judge McCrary, at Keokuk, Iowa, and there were, at that time, between fifty and sixty models that Mr. Sickles had gathered up, and there were two volumes of testimony of 700 printed pages each; and the result of his work was that he gave me the materials out of which I was enabled to defeat that suit. And an equal amount of money was never better expended so far as Mr. Sickles was concerned.

The CHAIRMAN. That is sufficient explanation of that.

VOUCHERS OF J. M. THURSTON.

Q. I show you voucher No. 30038:

The Union Pacific Railway Company to J. M. Thurston, Dr.

March 31, 1884. To services as attorney from December 1, 1883, to April 1, 1884..... \$926.66

What special services were those?—A. I cannot state.

Q. Was that on account of salary?—A. I cannot say whether it was or not.

Q. I show you voucher No. 6944:

The Union Pacific Railway Company to John M. Thurston, Dr.

June 30, 1884. For services as attorney for the months of April, May, and June. \$500

What was that for?—A. I can give you no explanation except what I have given, but my opinion is that that is his salary. Why it should be put in that special form is more than I can say, but I have no doubt it is his salary.

Mr. ERASTUS YOUNG. The circumstances, as I understand them, were that he was paid \$250 on the pay-roll, and then every two or three months he was given a certain amount more. That went along for a year or more. Every quarter, for a period, he was paid \$500 a quarter, or \$2,000 a year. At that time the attorneys were not all on the pay-rolls.

VOUCHERS NOT PRODUCED.

The CHAIRMAN. The following vouchers have not been produced : No. 8068, \$975.60; No. 28435, \$738.50; No. 28434, \$2,358.49; No. 40636, \$833.

The WITNESS. Voucher No. 8068 is for expenses paid by J. M. Ham in New York, in connection with the snow-plow case; paid, undoubtedly, to F. E. Sickles.

THE TELEGRAM CONCERNING EMPLOYÉS' VOTES.

While I am on the stand I want to say a single word with reference to the telegram that Mr. Rosewater has put in evidence. That telegram was sent solely with reference to the candidate for sheriff, as will be noticed. We had been troubled for years with three-card monte men, who infested our trains, and we had the greatest possible difficulty in protecting passengers from their depredations. This man Grebe had been more successful than any other man we had ever had in protecting our property and dealing with those gamblers. In what I did to bring about his election I was moved by that fact alone, and by the fact that a property like this is very much affected by an efficient administration of the law. That was my aim, and not with the view of influencing elections generally, and not with the idea that anybody was to be coerced, but with the belief that if the situation was explained to the employés they would be willing, in the interest of the company, to support him for that office. My judgment of the man has been vindicated by the fact that there has not been an administration of the sheriff's office from that day to this that has not been compelled to make him a deputy sheriff until the last two months. He has been in the continuous service of the sheriff's office from that time to the present; and if I had the same thing to do over again I should do the same thing to-day if I thought it would effect anything.

A. J. POPPLETON.

OMAHA, NEBR., *Friday, July 1, 1887.*

THOMAS L. KIMBALL, being further examined, testified as follows:

POOL DIVERSIONS.

The WITNESS. There was a call made for diversions of earnings in the various pools. The figures are as follows:

Summary of earnings on freight diverted to and from the Union Pacific Railway, account of various pools during the year 1882 to 1886, inclusive.

Description of pool.	To Union Pacific Railway.	From Union Pacific Railway.
Colorado Railway Association, 1882 to 1886, inclusive	\$105, 873. 01	\$15, 962. 17
Western Colorado Railway Association (D. S. P. & P. R. R.), 1882 and 1886, inclusive	439, 147. 84	8 "
Utah Traffic Association, 1884 to 1886, inclusive	20, 512. 38	42 "
Colorado-Utah, common points, 1884 to 1886, inclusive	1, 107. 44
Total	566, 640. 67

Net gain to Union Pacific Railway, account of diversions, \$500, 335. 67.

By the CHAIRMAN:

Question. Upon what basis did you make up this paper?—Answer. From the pool statistics kept in the traffic department.

Q. Does the statement show the diversions from all the pools during that period?—A. All that we have any record of diversions in. The statements of pool tonnage show the amount diverted, and the road to which, and from which, the diversions are made.

By Commissioner LITTLER:

Q. What do you mean by "diversions" in that sense?—A. I mean that, ordinarily, if a line has a given percentage allotted to it in a pool, and its tonnage overruns that percentage, it does not want to haul the freight, because if it does it will have to pay the money it receives for transporting freight to the road that was short, and it is better to turn the freight over and let the other road haul it.

STATEMENTS PRODUCED IN RESPONSE TO CALLS.

Q. Have you any other call?—A. I have here statements as follows: First. A statement showing rebates and overcharges paid annually to the Consolidated Tank Line Company from 1882 down to June 22, 1887, inclusive; and also gross earnings on the business on which the rebate was paid.

The WITNESS. I have a like statement as to the Continental Company from 1881 to 1887.

The WITNESS. I have a similar statement for the Standard Oil Company from 1880 to 1887.

The WITNESS. I have a like statement of charges refunded annually to the Standard Oil Company, account of empty oil tanks returned, from 1880 to 1886.

The WITNESS. I have also a statement of charges refunded on empty oil tanks, return account of the Continental Oil Company, from 1884 to 1886.

NO RETURNS OF TANK CARS.

The WITNESS. One of your calls was in regard to what amount was allowed, if any, for return of tank cars for any other company than the Standard Oil Company. As to that I say that the car accountant reports that he finds no record of any other tank cars during that period.

On my memorandum I have an entry as to the coal and stone business. The following is a brief statement of the operations of the coal business for 1886:

COAL DEPARTMENT, UNION PACIFIC RAILWAY.

The Wyoming Coal and Mining Company had control of the Union Pacific coal business from July, 1868, to March or April, 1874. The Union Pacific coal department has existed from March or April, 1874.

The Union Coal Company is a consolidation of Welch Coal and Mining Company, South Park Coal Company, Gunnison Land, Mining and Transportation Company, Colorado Coal Company, and Saint Louis and Denver Land and Mining Company.

The consolidation was made to simplify the keeping of the accounts.—All belong to the Union Pacific Railway Company.

Operations of coal department for 1886.

	Mine.			Distribution.	
	Tons.	Lbs.		Tons.	Lbs.
Carbon	214, 235	600	Company	433, 345	1, 700
Rock Spring	859, 238	373	Commercial	348, 659	1, 873
Almy	158, 618	500	At mines	5, 206	600
Grass Creek	29, 131	900			
Nut coal	23, 365	1, 100		785, 212	173
Purchased*	882	600	On side-track December 31	258	1, 900
Total	785, 471	73	Total	785, 471	73

* Purchased coal not included in expenses or receipts.

Receipts for coal	\$1, 257, 178. 87
Expenses, including taxes	1, 161, 565. 52
	95, 612. 85
Freight earnings on commercial coal in 1886, exclusive of Union Coal Company's coal.	1, 510, 958. 12

Operations of the Union Coal Company for 1886.

	Mined.			Distribution.	
	Tons.	Lbs.		Tons.	Lbs.
Baldwin	29, 845	1, 800	Company	85, 437	700
Como	24, 207	800	Commercial	48, 298	700
Purchased*	30, 407	1, 600	At mines	737	800
Total	84, 461	200	Total	84, 461	200

* Purchased coal not included in receipts or expenses.

Gross earnings	\$124, 130. 10
Expenses, including taxes	135, 481. 06
Loss	*11, 350. 96
Freight earnings on commercial coal of the Union Coal Company in 1886	120, 909. 15
Monthly average number of employes	1, 586

The following figures show the operations of the stone department for 1886:

Stone department, 1886.

	No. cars shipped.
Commercial use	8, 303
Company's use	1, 342
	4, 645
Freight earnings	\$84, 352. 94
Stone sold from Stout	120, 938. 39
Stone sold from Lyons	20, 744. 52
	141, 682. 91
Amount of commercial business	109, 191. 87

SUMMARY, 1886.

Stone sold in 1886	\$141, 682. 91
Stone in stock in 1886	24, 697. 68
Tools and machinery on hand	18, 838. 99
Rent collected at Stout	1, 200. 00
Profit of Denver yard	5, 328. 94
Amount of labor in 1886	\$132, 804. 85
Cost of tools and machinery, 1886	4, 978. 70
	137, 7
Stone in stock January 1, 1887	48, 592. 95
Stone purchased January 1, 1887	11, 228. 07

Difference

*On account of fire at Como,

the Omaha and Republican Valley would pay freight to the main line between Omaha and the junction point, 25 miles out.

The CHAIRMAN. The general effect, however, of such a charge would be to decrease the percentage of the earnings of the road. That is, that would be the effect of increasing the price by reason of the freight charge and handling charge as against the price paid for the car—would decrease the earnings of the company just the percentage of expense that was involved in the difference?

Mr. ERASTUS YOUNG. No, sir; yet it would depend on the line upon which it was used. So far as the system is concerned it is simply a charge of one branch against the other. It increases the earnings of one line and increases the expense of the other, the result being no difference in net earnings so far as the company is concerned.

Commissioner LITTLE. If the main line hauled a great deal of freight to be used on the branch line it would increase the earnings of the main line?

Mr. ERASTUS YOUNG. Yes, and it would increase the expenses of the branch line.

The CHAIRMAN. Have you a bill that you could conveniently produce to the Commission to illustrate that?

Mr. ERASTUS YOUNG. No, sir; I should have to go to our accounts for it. The original material is charged to our store department and billed out by that department as used.

The CHAIRMAN. The discrepancy, then, between the original bill, rendered by the party from whom you purchased the material, and the price at which it is invoiced is explained by the difference in freight and handling?

Mr. ERASTUS YOUNG. The cost of freight and the expense of handling. That covers all that I know of.

DIVERSION OF FREIGHT.

Q. You have produced here a statement of the diversion of freight from 1880 to 1886. Can you not produce a statement from the organization to date?—A. I do not think such a thing ever occurred until the period of that statement.

Q. Does the statement that you produce contain all the diversion?—

A. There was none prior, to my knowledge.

Q. As you were general manager or assistant at that time, connected with the road, you would have had a knowledge if there had been a diversion prior?—A. Yes, I think so; but I do not know of an instance in which it occurred.

Q. Who would have such a knowledge?—A. I should be quite as likely to know it as any one here.

Q. Have you any accounts that will show?—A. No, I do not think so. I do not believe it ever happened. There was no reason why it should happen until a pool was formed.

Q. Have you any books or any accounts or any memoranda on which you based the statement with reference to the diversion of earnings prior to the date you have given the Commission?—A. No, sir; I have not.

VOUCHERS OF JOHN M. THURSTON.

Mr. Mink produces vouchers Nos. 40639, 28434, and 28435. Voucher 40639 is as follows :

The Union Pacific Railway Company to John M. Thurston.

November 30, 1883. Special services, July 1 to date \$533.33

Voucher No. 28434 is a settlement of legal charges and expenses divided between the Denver Pacific and the Kansas Pacific—amounting to \$15,827.29, of which the legal expense item is \$2,358.49.

Voucher No. 28435 being for the share of the Union Pacific Railway Company in the legal expenses as between the Denver Pacific Railway Company and the Union Pacific Railway Company, the share of the Union Pacific being \$738.50.

The CHAIRMAN. I call for a statement showing a division of the items of miscellaneous earnings charged in the annual report from year to year, from the consolidation down to date.

Commissioner LITTLER. Any suggestions or presentations that either of you gentlemen may have to make to the Commission we would be glad to have.

The CHAIRMAN. I understood that Judge Poppleton would make a statement.

Mr. POPPLETON. I said I would make one in relation to the Platt case. Is it necessary now, after the explanation I have made?

The CHAIRMAN. I think not.

Mr. POPPLETON. There was nothing else to do, and Platt happened to be in a position by virtue of which he became the instrument by which we could get our property.

Commissioner LITTLER. While we have been exacting with the officers and have been anxious to get to the bottom of your affairs, we are equally interested to hear what the company's officers have to say.

Mr. POPPLETON. My feeling about the matter has been this, that this matter is in the keeping of people who are superior to me in command; hence I have no fixed opinion to give, although I have strong views in regard to it both in respect to its management and to Congressional action.

Commissioner LITTLER. It is our duty to submit to Congress such views as we may have; and if you have fixed views on the subject we would be glad to hear them now.

Mr. POPPLETON. I think I will not say anything now. If I decide to do so hereafter I will put it in black and white, in the form of a communication to the Commission.

The CHAIRMAN. I want to thank the officers of this department for the kindness and courtesy extended by them to the Commission during its stay here. I believe that every facility necessary to aid us in any way in the investigation required by the act of Congress has been afforded the Commission by the company. We thank the gentlemen, one and all, connected with this department.

Commissioner LITTLER. I fully concur in that expression.

The CHAIRMAN. There being no further business, the Commission stands adjourned subject to call.

The Commission then adjourned, to meet upon the call of the chair

COLUMBUS, NEBR., *Saturday, July 2, 1887.*

At 9.30 a. m. the Commission met upon the call of the chair. Present: Commissioner Pattison (chairman) and Commissioner Littler.

JAMES E. NORTH, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. You are mayor of this town, I believe?—Answer. Yes.

Q. How long have you been mayor?—A. Since the 1st of April last.

Q. What is your business here?—A. Coal and real estate. I am also in the grain business.

Q. How long have you lived here?—A. Thirty-one years.

COMPLAINTS AGAINST MANAGEMENT.

Q. During that time have you heard of any complaints as to the facilities and accommodations afforded by the Union Pacific Railway Company to the people of this community?—A. Yes, sir; I have heard some complaint.

Q. What have you heard?—A. Well, for the last five years, before they put up this station, the facilities for the traveling public were very poor. Since they have put up this station there is no complaint on that head.

Q. Was there any complaint about favors being shown to any class of shippers?—A. There may have been, but I do not know of any.

COMPLAINTS AS TO REBATES AND SPECIAL RATES.

Q. Did you hear of any complaints of rebates allowed to one class of shippers against another?—A. I do not know, but I have heard men make that assertion—that they supposed some classes of shippers were getting rebates. But I never knew of any, as matter of fact, myself.

Q. How many grain elevators are there here?—A. Two.

Q. Have you heard anything as to special rates being given to one class of shippers as against another?—A. Ever since the elevators were started in Omaha there has been a feeling among the grain men that the Omaha grain men were having an advantage over the country shippers. I have never heard that any grain men, living here, were allowed any rates that others had not.

Q. No secret rates?—A. None that I know of.

Q. No shipper was given an advantage by the Union Pacific Railway Company over another?—A. No, sir, I think not.

Q. All had equal accommodations?—A. So far as I know they had.

RELATIONS OF ROAD TO THE COMMUNITY.

Q. Is there any other information you can give us as to the community's relation to this railroad?—A. Of course, the relation of the community to the Union Pacific Railway is very much the same as it is to any other road, I suppose, where they are wholly dependent on one road. This community for a great number of years was entirely dependent on the Union Pacific Railway for transportation. We now have another road here, a branch of the Burlington and Missouri Railroad, that comes in here from Lincoln. While the rates have not been better, perhaps, when that road came in, at the same time there is a little less cause people have the advantage of the

Q. Are the rates about the same as they were prior to the Burlington and Missouri Railroad coming in?—A. Grain rates are a little higher now on account of the interstate commerce law.

Q. Has the Union Pacific Railway Company any interest in grain, other than a railway interest? Have they purchased grain here through their agents?—A. No, sir.

Q. Can you give us any other information?—A. I do not know that I can.

Q. All your people are happy and contented with the railroad service?—A. I have not heard any complaint, as I say, lately. There may have been some, but I have not heard any.

By Commissioner LITTLER:

Q. Where is your elevator located?—A. At Platte Centre, 12 miles northwest of here.

Q. On this branch road?—A. Yes.

Q. Have you any special rates?—A. No, sir.

Q. Not one?—A. No, sir.

RATES ON CORN AND WHEAT.

Q. What is the rate per hundred on corn and wheat from your station here to Omaha?—A. I cannot tell you the rate on corn, but I can tell you the rate on wheat.

The CHAIRMAN. Tell us that.

The WITNESS. The rate on wheat now is 29 cents a hundred.

Q. What is wheat and corn worth here now?—A. They are paying 20 and 21 cents for corn.

Q. What is the character of the land in this country with reference to its productive quality?—A. Very good, indeed.

Q. Is it all adapted to growing grain?—A. Yes, sir; nearly all of it.

Q. Do you know what proportion of the land is under cultivation in this region?—A. Not over 30 or 35 per cent. of it.

VALUE OF LANDS.

Q. What are uncultivated lands worth here?—A. From \$8 to \$15 an acre.

Q. And improved farms, what are they worth?—A. From \$15 to \$40.

Q. In what business do the people generally engage here?—A. Raising grain and stock.

Q. Is this regarded as a good stock region?—A. Yes.

Q. Do tame grasses grow here?—A. Yes.

Q. And when the country is all brought under cultivation it will necessarily bring a very large business to this company?—A. Very large.

COLUMBUS, NEBR., *Saturday, July 2, 1887.*

CARL KRAMER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. When were you mayor of Columbus?—Answer. Last year from April, 1886, to April, 1887.

Q. What was your business prior to that time?—A. I am a mer-

Q. How long have you resided here?—A. Ten years.

Q. Were you a shipper over the Union Pacific Railway prior to acting as mayor, or during that term?—A. Yes.

FACILITIES AFFORDED.

Q. What have been the facilities afforded to this community by the Union Pacific Railway Company?—A. Very fair.

Q. Were they ever unfair?—A. No, sir; not that I know of.

Q. Have all the citizens, all the shippers, been treated alike?—A. In my line, I think so; yes, sir.

Q. In any other line?—A. I do not know of any other line than my own. Our goods are known as first-class goods—merchandise; and the rate is uniform, I think, to everybody.

Q. Did you pay the open, published, rate?—A. Always.

Q. Did you ever hear any shippers complain of another class of shippers being allowed a special rate?—A. Not in our line; no, sir.

Q. The citizens of Columbus, here, have been satisfied with the railroad facilities?—A. Yes, sir; but they sometimes think that the rate from Chicago to Omaha is lower than from Chicago to Columbus.

Q. That is to say, the charges to one place are higher than to the other?—A. The rate from Chicago here is \$1.31. It was so before the interstate commerce law. Now it is \$1.30. I think the rate from Chicago to Omaha is 86 cents per one hundred, and from Omaha it is about 40 cents.

AMOUNTS OF LOCAL AND THROUGH TRAFFIC.

Q. What is the local traffic here—freight and passenger? Is it large or small?—A. I think there is a large local trade from here. Columbus, I think, has always been quite a good local trading point.

Q. Has the local passenger and freight trade been along the main line as well as the branch line?—A. Yes.

Q. Is there as large a local freight and passenger traffic on the main line as on the branch line?—A. The branch line here, as I understand, is doing a large local business; larger in proportion, perhaps, than the main line.

Q. What do you mean by that?—A. What I mean by that is this: I do not know that that has anything to do with this case, but these offices do a very large business. We had a local store, for instance, in Genoa, 22 miles from here, on the branch, and we shipped a good deal to that place.

Q. Taking an equal distance on the main line and on the branch line, how does the local traffic on the main line compare with the traffic, for the same distance, on the branch line, freight and passenger?

The WITNESS. Do you mean with reference to the amount of business done or the charges made?

The CHAIRMAN. The amount of business. From your observation, I mean.

The WITNESS. Perhaps I am not a competent witness in that respect.

Q. Why not?—A. The officers of the road could tell, by their books statistics, just what they do.

• CHAIRMAN. That is true. But we want your observation as a here, as to the traffic.

WIT

• the branch roads are doing a very profitable business every year. So far

as Columbus is concerned, I think they do a larger local business on that than on the main line.

RATES ON BRANCHES AND ON MAIN LINE.

Q. You speak of rates on the main and the branch line. What is the difference in the rates—in the local tariff?—A. I do not know exactly.

Q. Does the railway company here, through its employés, ever participate, as a company, in election?—A. No, sir.

Q. Did you ever hear of any complaint in that direction?—A. No, sir.

Q. During the last five years, since the Burlington and Missouri Railroad has been in here, what agency has the Union Pacific Railway used in securing trade?—A. The Union Pacific Railway Company has made less effort to get our trade than the Burlington and Missouri Railroad.

Q. How do you account for that?—A. They are a little more independent, I think.

Q. Independent what of?—A. Whether they get our trade or not.

Q. The Union Pacific?—A. Yes.

Q. Do I understand by that they are indifferent whether they get your trade or not?—A. Well, for the last few years we have not shipped much over the Union Pacific. We used to ship altogether over the Union Pacific. We had a claim against them that they did not make good, but they have made it good lately.

Q. What claim?—A. A small claim for goods that became damaged.

Q. Any other?—A. No.

PUBLIC PREFERENCE OF ROADS.

Q. How do you account for the citizens as a community going from the Union Pacific Railway to the Burlington and Missouri Railroad?—A. I do not think they have done so as a community.

Q. How do you account for the Burlington and Missouri Railroad getting more of the trade than the Union Pacific?—A. Well, the Burlington and Missouri Railroad gets considerable trade, but I think, as a rule, the people here patronize the Union Pacific Railway more than the Burlington and Missouri Railroad.

RATES TOO HIGH TO TRANSACT BUSINESS.

Q. Have you ever heard of any citizen or class of citizens not being able to get rates over the Union Pacific Railway such as to enable them to transact their business properly?—A. At the time we had the packing house here I heard complaints of that kind, but it is so long ago that I do not remember just what they were.

Q. How long is it since that packing house was here?—A. Five or six years.

Q. Who were in that?—A. Mr. Gerard, John H. Henry, and others.

Q. What complaint did the packing-house people make?—A. That they could not compete with Omaha in rates, or something of that kind.

Q. To what point?—A. To points South.

Q. For what reason?—A. That the rates were not as low to points south as Omaha could get. But that is something I do not know any about myself. It is only hearsay.

Q. That is, that the packing house could not go on profitably with its business because it could not get the same rates to points South as the Omaha shippers?—A. Yes.

Q. Do you know what points South?—A. I cannot tell you that. I do not remember.

Q. How long did the complaints continue?—A. I cannot tell you exactly. People talked about that more or less all along.

Q. Are those men all in business here now?—A. Yes.

Q. What is the name of the firm?—A. Leander Gerard and R. H. Henry.

Q. Have you any other information that you can give the Commission?—A. No.

COLUMBUS, NEBR., *Saturday July 2, 1887.*

LEANDER GERARD, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Banking. I am president of the Columbus State Bank.

Q. How long have you been in business in Columbus?—A. Since 1867.

Q. Have you had any business relations of any kind with the Union Pacific Railway Company?—A. I have made very few shipments over the road. My business is not such as comes in their line of business.

Q. Were you in the packing business?—A. We were interested in the Columbus Packing Company for a time; but we have not been packing during the last two years.

HIGH RATES PREVENT BUSINESS.

Q. During the time you were in the business did you have any difficulty in securing rates from the Union Pacific Railway Company?—A. Not about securing rates, but about securing rates that we could live on. We could get rates, but they were so high that there was not any money in them, and we had to quit.

Q. Did you go out of business because you failed to secure rates such as would enable you to ship with profit?—A. Yes; that was the reason.

Q. What were the rates at that time?—A. I think that from here to Papillion (in shipping to Saint Louis and the South) we had to pay the Union Pacific 35 cents a hundred pounds.

By Commissioner LITTLER:

Q. How far is Papillion from here?—A. About 70 or 80 miles.

By the CHAIRMAN:

Q. Over what road?—A. The Union Pacific.

BUSINESS COMPETITION.

Q. Had you any competitor in business?—A. Only at Omaha, and other points. Our rate from here to Papillion was 30 or 35 cents. It was 5 cents higher from here to Papillion than it was from Omaha to Papillion. We wanted to get a better rate than that. They would see if they could get the road runni

about 5 cents for us; but they did not succeed in getting it. It is about 500 miles from Papillion to Memphis.

Q. Is Papillion on the main line?—A. Yes, sir. That is where the Missouri Pacific connected with the main line. Freight would go down to Papillion, and from there the Missouri Pacific would take it south to Memphis and southern points. We thought that that was a little extravagant—the rate from here down. The rate from here to Papillion was charged by the Union Pacific, and from Papillion to Memphis the rate was charged by the Missouri Pacific, another road.

PROPORTION OF LOCAL RATES TOO HIGH.

By Commissioner LITTLER:

Q. What was the through rate?—A. The through rate was 55 cents, I think.

Q. And 30 or 35 cents was the rate from here to Papillion?—A. Yes. If it was 55 cents, 35 cents of it was from here to Papillion. I have forgotten whether it was 55 or 60 cents, but it was 5 cents more from here to Papillion than from Papillion to Memphis. It must be 500 miles.

Q. How far is Papillion from Omaha?—A. I cannot say.

Mr. DICKINSON. It is about 16 miles from Omaha to Papillion.

By the CHAIRMAN:

Q. Were there any other packing houses in this vicinity?—A. I think not.

Q. Were you the only one?—A. I think we were the only one.

Q. How long did you make a struggle to keep up?—A. Three or four years, I think. You could ship your live hogs from Omaha for less money per pound, with the meat that they would make, than we could by killing them and shipping them down there when killed. So that it gave the Omaha companies a great advantage over us.

WHAT FORCED THE PACKING TRADE TO OMAHA.

Q. The effect, then, was to concentrate the packing trade in Omaha?—A. Yes.

Q. There could be no packing house successful and profitable with those rates along the line of the Union Pacific Railway, outside of Omaha?—A. No, sir; there could not. The difference in the rate would be a good live profit between shipping live hogs and dead ones.

Q. Where was the live stock landed, at Omaha?—A. I do not remember about that. You could ship to Boyd's or to the Bluffs. At that time this Union Stock Yard was not started. The bulk of the hogs that left this part of the country at that time went either to Council Bluffs, Stewart's, or to Boyd's.

Q. What year was that?—A. I think we commenced in 1880 and ran three years. I may be mistaken about the year, without looking at our books, but I think that was the year we commenced.

Q. Were Stewart's and Boyd's stock yards competing stock yards?—A. They were packing houses.

Q. They had small stock-yards?—A. They had yards where they received their stock. I think that hogs were shipped from the stock-yards at Council Bluffs, and buyers bought them at the stock-yards. Boyd usually unloaded them at his own yards.

Q. Did you go out of business before the Burlington and Missouri Railroad got in here?—A. No, sir; the Burlington and Missouri Railroad was in here at the time, and we shipped some over the Burlington and Missouri Railroad.

BETTER RATE SECURED THROUGH COMPETITION.

Q. So that, as far as rates were concerned, there was no more advantage going over the Burlington and Missouri Railroad than over the Union Pacific Railway?—A. Well, the first year we commenced to ship the Burlington and Missouri Railroad gave us a better rate at first. We shipped a few cars over that road, and then some of the men that were interested with us thought, as we were on the Union Pacific line, and the switch was running to our packing-house, and the Union Pacific Company agreed to give us a rebate back of enough to make it the same rate, that we had better ship over the Union Pacific. So the balance of that winter we shipped on the Union Pacific, but we never got the rebate. So we were out that much.

Q. Did you ever make any application?—A. I should say we did.

Q. To whom did you make it?—A. To the authorities over at Omaha. I did not attend to that part of the business; Mr. Wiggins did.

Q. Did you make application to Mr. Kimball, the manager?—A. I do not know exactly. But they agreed to allow us the rebate and afterwards said the papers were lost. The matter was delayed and put off from one time to another, and we never got it.

Q. What was the answer, finally, from them?—A. I cannot tell you myself; I do not remember now.

RATES THE SAME ON COMPETITIVE ROADS.

Q. What did you do when you found that they were not going to give you a rebate?—A. The next year the roads were both the same on rates. They got the Burlington and Missouri road to make the same rates, so that there was no rebate about it, and it made no difference which road we shipped on.

Q. Did the Union Pacific Railway Company come down to the Burlington and Missouri Company's rates, or did the Burlington and Missouri Company come down to the Union Pacific Company's rates?—A. My recollection is that it was the Union Pacific rate.

Q. They pooled their business and their rates?—A. I do not know about the pools or the business, but I do know that we did not get a rate that was worth anything to us.

COMPETITION NO ADVANTAGE.

Q. Then the facilities arising from the fact of a competing line coming in here have not been of any advantage to this community, so far as your business transactions were concerned?—A. I do not think they have. Perhaps if there had not been any other road in here their rates might have been still higher. I do not know that, because our business did not commence until after the Burlington and Missouri road came in here.

Q. Has the growth of the population here been proportionately greater since the Burlington and Missouri Railroad came in here, as compared with what it was with the single road—the Union Pacific?—A. I hardly know what to say about that; I would not know what to base a proportion on.

Q. Do you know whether, at any time, they undertook, in election matters, to exercise an influence by the granting of any special rates to merchants?—A. I could not say as to that. I have heard talk of that kind, but I do not know anything about it, and of course I cannot tell you from mere hearsay.

PRESSURE ON MERCHANTS.

Q. Were any of the merchants deterred from doing what they would otherwise have done by the manifestation of power on the part of this railway company?—A. That would be a hard question for me to answer. I could only give my opinion.

Q. What is your opinion?—A. My opinion is that they did exercise a great influence over the merchants and shippers in this part of the country and throughout the country, by the idea that if they did not do as they wanted them to they would discriminate against them; there was that idea. Whether there was anything in it or not I do not know, but that was the general impression. The fellow that was on "the inside" and was friendly to the company politically was supposed to have a great deal better chance.

ADVANTAGES EXTENDED TO FRIENDLY MERCHANTS.

Q. Is it your opinion, or was it the feeling out here, that those merchants or shippers had better rates than others?—A. I spoke more particularly of men that handled large shipments—lumber dealers or grain dealers. Other merchants did not, I think, cut much of a figure in it any way; but the idea was that men that were friendly to them would have advantages and privileges in the matter of establishing yards or elevators.

By Commissioner LITTLER:

Q. Was that only public rumor or do you refer to any particular ones?—A. Not being in the business myself, I have no opportunity of knowing personally. I was not shipping or doing that kind of business. You could often see that politicians and fellows that were active had advantages.

PREFERENTIAL RATES, ETC.

By the CHAIRMAN:

Q. Was there any complaint of one elevator shipper having a rate lower than another, by way of rebate or preferential rate or special rate?—A. There was great complaint about that all the time.

Q. By reason of special rebates being made to one elevator company as against another that was charged the open rate?—A. You would hear that sort of complaint all the time; but, of course, whether there was anything in it or not I do not know; you never could satisfy everybody, anyway.

Q. Have there been a number of cattle shippers here?—A. Yes; quite a number.

Q. Have there been any complaints among that class of people?—A. The same complaints as among the others; some men thought that others were getting the advantage of them in the matter; but those are matters that no man could tell anything about that does not know; I could not tell.

Q. How many cattle shippers have you here?—A. There is a number that come in and ship more or less cattle here.

Q. Do they deal as a firm or individually?—A. Individually, mostly.

Q. Can you give us some of the names?—A. There is Mr. Wiggins, Mr. D. Anderson, Mr. George Willard, Mr. James Fraser, and Mr. Ransdell.

Q. Have you any other information that you can give the Commission?—A. I do not know of any that is of any importance.

By Commissioner LITTLER :

Q. What is the rate now from here to Omaha compared with what it was when you were in business—the through rate on hogs, dead or alive?—A. I do not know their rate on meat now, because there is none being shipped. I have not looked at their published rate.

Q. What effect does the interstate commerce law have on their rates here?—A. I cannot tell you that.

Q. You are not in the shipping business now at all?—A. No; it is something that I know only by hearing our customers speak about it. It seems to me that it is a little lower to Omaha than before the interstate commerce law.

NO GENERAL COMPLAINTS AT PRESENT.

Q. Has there been any general complaint in the community about the treatment of this company at present?—A. I think not. I think the feeling about the company here in the community here is better than it was—better in the last two or three years.

Q. Is that because of change in the management?—A. I think so. I think the feeling was more from their engaging in politics than anything else.

Q. Do you know of any general or special complaint existing in this community against the company at present?—A. I do not.

By the CHAIRMAN:

Q. Did these complaints continue up to two years ago?—A. I think that is about the date. I do not remember the exact date. Before the interstate commerce law came in there was considerable complaint; but since then the fellows do not have passes, and there does not seem to have been so much complaint.

PASSENGER AND FREIGHT ACCOMMODATIONS.

Q. How have the accommodations been along the road, as to passenger and freight facilities in the cars, during your residence here, so far as your observation has gone?—A. They have been pretty good. Of course there have been times when they could not give cars to ship the grain; but, as a rule, they have done pretty well, and the passengers' cars and accommodations have been pretty good—as good as you would find generally.

COLUMBUS, NEBR., *Saturday, July 2, 1887.*

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

By the CHAIRMAN:

Question. What is your firm?—Answer. Hegel & Co.

Q. What is your business?—A. Produce, butter, eggs, fruit, &c.

Q. How long have you been in business in Columbus?—A. Six years.

Q. Have you been a shipper over the Union Pacific Railway?—A. Yes.

Q. To what extent?—A. Considerably, during the last two years.

FACILITIES AND RATES.

Q. What accommodations have you had in the line of shipments?—A. The accommodations were all right.

Q. What kind of rates have you had?—A. Well, we were dissatisfied in some respects.

Q. What were you dissatisfied with about the rates?—A. We had always had higher rates than Omaha had; but since the interstate commerce law has been in effect we have been badly affected by that.

Q. Prior to the interstate commerce bill, what were your rates from here?—A. To California we had \$1.05.

Q. What were the Omaha rates?—A. \$1.05.

Q. That is, you paid the same rate from this point as the shipper from Omaha paid?—A. Yes. Some years we had \$2 to pay; but the last year before this law took effect we had \$1.05.

Q. During all these years, prior to the passage of the interstate commerce law (say prior to the 1st of April, 1887), the shipper from Omaha to San Francisco shipped at a rate equal to your rate from here to San Francisco?—A. Yes.

Q. Did you ever complain to the company about the rates?—A. No; I do not think I did.

Q. Did you ever write to the company about the charges?—A. I did; yes.

\$5,000 PENALTY FOR ALTERING RATES.

Q. What did they say in answer?—A. The last letter I wrote to Mr. Kimball was answered, saying that they could not make any other rate, and that they were under a penalty of \$5,000 if they should alter the rates. I could not do anything further with them, and so I let the thing go. They have been having in Omaha, lately, a \$1.40 rate, where they charged us \$3, to San Francisco, unless we would ship the car, bill it to Omaha, and then rebill it to San Francisco; and then probably our rates would be \$1.70.

Q. Did Mr. Kimball write you to that effect?—A. Yes, sir.

Q. Have you got his letter?—A. Yes, sir.

Q. Will you produce it here?—A. Yes. It would not mention that, particularly; that we could get the rate if we shipped down to Omaha.

Q. But I understood that his letter was to the effect that if you made your shipment to California, you could do it to advantage by shipping from Columbus to Omaha and then from Omaha to California?—A. Yes.

Q. What is the difference in the rate?—A. The difference between \$3 and \$1.70.

Q. So that you could ship to San Francisco from a point east of you for \$1.70 what you were charged \$3 for from here?—A. Yes.

Q. How long did that continue in effect?—A. That was before the interstate commerce law.

Q. How long did that continue; ever since you have been in business?—A. No; only this spring.

Q. But prior to April 1, how long had this arrangement continued?—A. Since April 1, I think, it took effect. We had the \$1.05 rate last year and last winter.

Q. How long before April 1 had the rates you have spoken of continued; for how many years?—A. I think we had, for about twelve or fifteen months, a \$1.05 rate, and then, prior to that, we had a \$2.10 rate.

PROHIBITIVE RATES.

Q. What has been the effect on your business?—A. The rates were too high for us. We could not ship unless we ran our goods down to Omaha, and that would be considerable expense.

Q. The effect of the rates was to destroy your profit?—A. Yes. We shipped 1 car-load out there under the high rate and that hurt our business considerably, because we could not ship any more to that point.

Q. How many other dealers are there in the same business you are engaged in?—A. There is one firm here that started in this spring.

Q. Have they made the same complaints?—A. I do not think they shipped any in that way. But Mr. Ransdell has been shipping here for six or seven years, with the exception of the last two years.

Q. Did you ever have any special rate allowed you by the company?—A. Not that I know of.

DISCRIMINATION AGAINST COLUMBUS.

Q. Did you ever apply for a rebate?—A. No.

Q. Did you ever have a pass?—A. I did not. I applied for passes, but I could not get them.

Q. You were not a politician?—A. No. That is the point.

Q. Did you ever have any preference given you by the company?—A. No.

Q. Have you any other information that you can give the Commission?—A. We would like to have rates like the rest of the cities have, so that we could live and do business.

Q. The effect is a discrimination against this community in favor of Omaha?—A. Yes.

Q. Can you give us any other information? Have you ever heard of any other complaints in this community as against the methods of the Union Pacific Railway Company?—A. Well, there have been complaints made, but I am not posted well enough on it to express myself. I have heard complaints; but I do not know anything of them personally.

MAJORITY FAVOR UNION PACIFIC.

Q. What have been the advantages to the community of having two roads instead of one road?—A. Well, I think the majority of the people here are in favor of the Union Pacific road. I do not think they have been particularly in favor of the Burlington and Missouri road.

Q. But has Columbus been better for having two roads?—A. I do not think it has. The Burlington and Missouri Railroad benefited some special shippers here.

Q. Is there competition between the two roads or are the rates about the same?—A. About the same; unless they give special rates to some shippers.

Q. So that they keep the rates about the same, even though they have two roads?—A. Yes.

Q. They make the rates about the same all the time, unless there is some special rate allowed?—A. Yes; that is it. It has not changed in my knowledge.

COLUMBUS, NEBR., *Saturday, July 2, 1887.*

WILLIAM T. RANDELL, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am in the produce business.

Q. How long have you been in business in Columbus?—A. Since January, 1877.

Q. Have you been a shipper over the Union Pacific Railroad?—A. Yes, sir.

Q. In what direction?—A. To San Francisco, Denver, and Omaha.

SHIPPING RATES.

Q. What have been the rates, as to the shipments which you made, to California and other points to which you shipped?—A. During last year I was out of business here. I did not pack any at all during that year. Previous to that the rates varied from \$1.05 to \$2.55.

Q. Is that on the hundred pounds?—A. Yes. The rates were different at different times. I was not in business here last summer and did not pack any or ship any during last year.

Q. How did the rates among the same class of shippers at Columbus compare with the rates at Omaha?—A. As a rule, I think they were the same from here to San Francisco as from Omaha to San Francisco.

Q. How did it affect your business?—A. When I had the same rates as Omaha had I consider that I was as well off as they were there.

REBATES.

Q. Did you ever receive a rebate or special rate from the company?—A. I received a rebate; yes.

Q. What rebate?—A. From Norfolk to this point.

Q. Did you have a rebate from any other point?—A. I believe not.

Q. How many other shippers had a rebate?—A. I do not know.

Q. Did you ever hear of any having it?—A. I suppose I did. I brought produce from Norfolk that would naturally have gone over the Northwestern road. The rate from Norfolk most of the time was the same as from Columbus. The local rate I paid was refunded to me, but it amounted to nothing, because stuff going over the road to San Francisco from here would be the same as from Norfolk.

Q. You would not have any advantage over competitors?—A. The competitor at Norfolk had the same rates that I had, even if I paid the local rate and got the rebate back. If the rate was \$2.10 from Norfolk it would be \$2.10 from Columbus, and if I paid anything from Columbus to Norfolk the shipper at Norfolk would have the advantage of me of just the amount of the local rate.

Q. Did you apply for rebate?—A. Yes, sir.

Q. To whom?—A. I believe I applied first to Mr. Monroe.

Q. Is he the agent here?—A. No; at Omaha.

Q. Who was he?—A. General freight agent.

Q. When was that?—A. He was assistant general freight agent when I applied.

Q. What year was that?—A. I think that was in 1883.

ADVANTAGES OVER COMPETING RATES.

Q. Was it an advantage to your business that a shipper from Omaha could ship to San Francisco on equal terms with you from this point to San Francisco?—A. Well, you see, when stuff goes from here to Omaha they have to pay 30 to 40 cents a hundred to get it there, and in sending it there they lose on it, because it is so perishable. They have to send it there in the hot cars, and I do not think it does any good to go there. Therefore I think that I have the advantage over them at the same rate.

Q. From the fact that it is a perishable article?—A. Yes; from the fact that it is a perishable article.

Q. And that you were nearer to the point of destination?—A. Yes, I was nearer to the point of destination.

Q. Have you heard any complaints here?—A. There are always complaints.

TWO ROADS NO ADVANTAGE TO COMMUNITY.

Q. What have been the benefits to the community by the coming in of two roads here?—A. None that I can see.

Q. Has there been any increase of population or prosperity by having two roads rather than one?—A. I do not think so.

Q. Do the roads have about the same rates?—A. Yes, I believe so.

Q. There is no cutting or competition from having two roads?—A. None that I see.

Q. The community got no advantage by having two roads?—A. None that I saw.

Q. Were there any published rates of competition?—A. I never saw any.

Q. Have you any other information you can give the Commission?—A. No, sir.

The CHAIRMAN. Mr. Mink, have you any questions to ask the witness?

Mr. MINK. No, sir.

Q. Have you a letter from Mr. Kimball as to rates?—A. Yes.

The CHAIRMAN. I wish you would let the Commission have it, if it relates to the business of the Union Pacific Railway.

The WITNESS. It is with reference to business, but it is as to the time from the 1st of April.

The CHAIRMAN. Are there any other gentlemen here that can give the Commission any information as to the amount of passenger or freight rates of the Union Pacific Railway Company, or as to the relations of the road to the community?

(No response.)

The Commission then adjourned, to meet upon the call of the chair.

GRAND ISLAND, NEBR., *Saturday, July 2, 1887.*

At 7 p. m. the Commission met, upon the call of the chair.

Present, Commissioner Pattison (chairman) and Commissioner Little.

O. A. ABBOTT, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am an attorney.

Q. How long have you been a resident of Grand Island?—A. A little over twenty years.

Q. Have you been lieutenant-governor of the State?—A. Yes.

Q. Have you ever had any business relations with the Union Pacific Railway?—A. I think not. I may have assisted in one or two petty lawsuits, and had one or two lawsuits against them.

Q. When were you elected lieutenant-governor of Nebraska?—A. In 1876.

Q. What was the term?—A. Two years.

Q. Did you serve more than one term?—A. No.

FACILITIES AFFORDED.

Q. What have been the facilities and accommodations afforded by the Union Pacific Railway Company to the citizens of Grand Island and its immediate vicinity?—A. The railway facilities have been good. If you ask me as to the question of rates and charges, I am not an expert on that.

Q. Have there been any complaints in that community?—A. Yes, sir.

Q. What has been the nature of them?—A. Complaints have been made of excessive rates at different times. I do not know, however, whether there has been any more complaint than is ordinarily heard against all railroad companies.

Q. How many railroads come in here?—A. The Union Pacific and the Chicago, Burlington and Quincy.

Q. When did the Chicago, Burlington and Quincy first enter here?—A. I think in the summer of 1885.

COMPETING ROADS MAINTAIN RATES.

Q. Have there been any changes of rate since the Chicago, Burlington and Quincy came in—any change in the passenger or freight rates?—A. I do not know about the freight rates. I think there have been in the passenger rates; but I do not think there has been any reduction.

Q. Do both companies charge about the same rates?—A. Yes; I think so.

Q. Has there been any rivalry or competition between them?—A. I think not, beyond the rivalry to get business. I do not think they cut rates.

Q. They work together under a pool arrangement, do they?—A. I do not know anything about that, but they maintain rates.

Q. Under an agreement?—A. I do not know.

Q. During your residence here I understand you that you have never heard any complaints other than a mere general complaint?—A. No.

Q. Has there been any complaint of preferential rates or advantages given to one shipper as against another?—A. Not that I know of. There might have been and I not know it.

Q. Did you ever hear of such a complaint?—A. I do not know that I ever did.

GRAIN ELEVATORS.

Q. Have you an elevator company here?—A. There have been different people here operating grain, but no elevator company. There is one elevator on the Burlington and Missouri road, and I think

the Union Pacific line, of what you would call elevators, and several that you would call "shovel houses," houses where they move direct from the same elevation into the car.

Q. What are the names of the two elevators on the Union Pacific?—A. One was operated by Wasmer and the other by Hedde. I do not know whether they are operated now at all. Our grain trade is not so large as it was awhile ago.

Q. Have you any cattle shippers here?—A. A good many.

Q. Have they complained about the rates charged by the Union Pacific Railway Company?—A. Well, I do not think they do. I know this, in regard to shippers, that they are recognized, some of them, as men who generally ship by the Union Pacific, and others as men who generally ship over the Burlington and Quincy.

Q. But prior to the time the Burlington and Quincy was here, how was it?—A. None, that I know of.

PARTICIPATION IN ELECTIONS.

Q. During your residence here have you heard of any complaints as to the participation of the Union Pacific Company's employes in elections?—A. Yes; sometimes when one fellow would get beaten, and sometimes when another fellow would get beaten.

Q. That was after election, was it?—A. Yes, generally.

Q. Did you ever hear of any complaints before elections?—A. I do not know that I did. I do not know but there may have been somebody saying that the railroad vote went one way, or something of that kind.

Q. It was very general, what you heard?—A. Yes.

Q. Did you ever hear of any participation by the Union Pacific Railway Company in the political affairs of the State?—A. Well; I have heard it charged, I think, as to the Union Pacific Railway Company. I imagine it was something like it was in the case of the Van Wyck election last year.

INFLUENCING LEGISLATION.

Q. You never heard of their being at Lincoln or having any of their representatives participating in the legislation of Nebraska, and influencing it in that way?—A. The representative men of the road? To influence legislation? Oh, yes; the newspapers would be full of it, once in awhile, saying the railroad lobbyists were there working against the interests of the people.

Q. Did you ever have any information, outside of newspapers, showing that the Union Pacific employes were at Lincoln attempting to influence legislation?—A. I have heard it from the papers.

Q. That was the only way you heard it?—A. Yes.

PUBLIC SENTIMENT AS TO MANAGEMENT.

Q. What has been the sentiment of the community here, so far as you know, through which the Union Pacific Railway runs, as to its conduct and management of the business?—A. It is a little difficult to answer that question. Time was, when I came here, when it cost \$15.50 for a ticket from Grand Island to Omaha and the same back. Now it is down to about \$4, I think. The rates have gone down as the country has got older. Now that the country has grown up, the rates have decreased

right along with the growth of the country from the beginning till now.

Q. They voluntarily decreased their rates, did they?—A. Yes. No State legislation has decreased rates. The Doane law has been the only law, I believe.

Q. The Union Pacific people, as a rule, have anticipated the wishes of the people and have always reduced, as to freights and passengers, have they?—A. Well, I do not know about that. There are some people whose demands are very large, and others who do not demand so much. I judge simply from the history of the past, taking the rate from the time when the trip from here to Omaha was \$15.50. But they probably make more money now at a \$4 rate than they did then, because then there were few traveling. Now a good many people travel.

VOLUNTARY REDUCTION IN RATES.

Q. Was it the desire of the Union Pacific Company to reduce rates, or was it the competition that reduced the rates?—A. It was done before there was any competition. The rates that are now fixed are a slight reduction on the rates that were in operation before the legislature passed a bill restricting passenger rates.

Q. Have you any information or suggestion that you can give the Commission concerning the Union Pacific Railway Company, its management, or its relations to the Government, or its relations to the community here?—A. None with regard to its relations with the Government, that I know of; and there is only one proposition, in regard to our community here, that would please us. We have paid considerable bonds to build those shops here, and they have not run them quite as lively as we thought they would. Whether it would be within the bounds of the railway company to increase the business in those shops is more than I know.

CITY AND COUNTY AID.

Q. What aid did this city give to the Union Pacific Railway Company?—A. There was no city here, and it gave no aid to the Union Pacific Company proper. The community gave aid to the Saint Joseph and Hastings, and to the building of the road north, and the building of the shops in connection with it.

Q. What was the amount?—A. The aid given the Saint Joseph and Grand Island road was \$75,000 of 6 per cent. bonds, and to the road north, \$50,000.

Q. Was there a contribution by the county?—A. The \$75,000 was by the county; and the \$50,000 was by the precinct in which this city is situated, and not by the county at large.

Q. Was there any contribution in property, such as town lots? Commissioner LITTLER. Or private subscriptions?

A. No; none at all.

AID TO SHOPS.

Q. Was the \$75,000 included in the aid to the shops?—A. No; \$50,000 was included in the aid to the shops. There was no local rate, suppose, to give aid to the shops at. It was voted for the building of a road north; and one of the purposes was to give a certain amount of money for the building of shops. I do not remember the exact amount now. That was the aid to the shops. What we

ance in regard to employment in the shops. There has not been as much work or benefit as was generally anticipated.

Q. Did the Union Pacific Railway Company participate in the general election as to the bond contribution?—A. No; I think not. I think some men in connection with the road were in favor and I think some men in connection with the road were probably against it; but they voted on the proposition for the shop bonds practically unanimously; and so it was with the Saint Joseph and Grand Island, in this town—very nearly so. There were but few scattering votes against it.

REBATES OR SPECIAL RATES.

Q. Do you know of any discrimination on the part of the Union Pacific Railway Company against any class of shippers in the community?—A. No, sir.

Q. Do you know of any allowance of rebates or special rates or preferential rates?—A. Not to individual shippers.

Q. Or classes?—A. Or classes. In times past the company has helped the town, in giving lots for school-houses, and assisted in building public buildings, in the way of rates; but I do not know anything of the kind as to classes. There may have been, however, a preference given to men in the coal trade. I do not know how that was. It might be that they owned the coal. There have always been two or three or more dealers in the coal.

REBATES ON COAL.

Q. How many dealers have you here in coal?—A. I think three now.

Q. How many did you have before the Burlington and Missouri came here?—A. Two, I think, then.

Q. What are the names of the people who represent the Union Pacific Railway Company?

The WITNESS. In the coal trade here?

The CHAIRMAN. Yes.

The WITNESS. Mr. Myers and Mr. Eggie.

Q. Had they any competitors prior to the entry of the Burlington and Missouri into this place?—A. No, sir.

Q. Had any of the individual citizens—the two you have named—any competitors in the coal business?—A. I do not know that they were representing the Union Pacific Railway Company. They were dealers in coal on its lands and had a right of way, and received all their coal from lands of the company. I cannot say that it was as a representative of the company. I think that when individual shippers wanted to buy coal it was furnished them. I think that the school district and others bought that way, and I think Wasmer and others bought their coal direct.

ALL COAL DEALERS TREATED EQUALLY.

Q. That is to say, any individual citizen of Grand Island could enter into the coal business and have the same preference, if any was given, or have the same open rate, as any other individual citizen; and the Union Pacific Railway Company would give the same facilities to all like?—A. I think so. I do not know whether a man could send a car-load as low as a man who sent a lot of car-loads. But I know that the shippers who wanted to send car-loads of coal could get it shipped.

The CHAIRMAN. I need hardly inform you that the Union Pacific Railway Company has been for years regularly granting rebates and preferential rates to individuals in different localities. That is pretty general. So that if this community has not had any such, it is rather an exception.

The WITNESS. I do not know anything as to that.

Q. Do I understand you that you have, from time to time, represented the railroad company in litigation?—A. No, I do not think I have. There was once or twice, I think, in some petty matter, that I may have represented it.

PLAN OF SETTLEMENT.

By Commissioner LITTLER:

Q. Have you any suggestions to make to the Commission in relation to the indebtedness of this company and any legislation, if any, that this Commission ought to recommend? It is part of our duty to recommend to the President of the United States a basis of settlement, or some basis upon which the debt to the Government will ultimately be secured and paid. Have you any suggestions to make to us on that subject?—A. I have none, except the one that would be made in the case of a man that had a poor debtor. The road cost much more to build than it would cost to-day; and if the Government did not get a dollar of the debt, yet, in my judgment, the giving of the aid to the Union Pacific Railroad was as good an investment as the Government could make of its funds.

PUBLIC SENTIMENT.

Q. What is the sentiment of the people of the community on the subject?—A. The sentiment is divided. Some men would like to see the Union Pacific crushed out—sold out; and I don't know whether they would even like to see it maintained; but I do not think that that feeling is general. I do not think that any considerable portion of them would be in favor of the release of the debt, and I do not know that I would be in favor of that. Yet if the question should come up whether we should extend the aid to the road that was extended to it at the time it was extended, with the certain knowledge that we should never get it back, I should vote for the aid, with the idea that it was the best investment that the Government ever made of its money.

Q. Have you anything else to suggest?—A. No, sir; nothing that I know of.

BRANCH LINES INJUDICIOUS INVESTMENTS.

By the CHAIRMAN:

Q. You would grant this extension notwithstanding the fact that the Union Pacific Railway Company, from 1874 to 1884, has paid nearly \$30,000,000 in dividends to the people who made investments in it, and built 2,600 miles of branch lines?—A. Well, I am inclined to think that the results of those branch lines have been to make the road poorer than it was before. As I understand, some of those branch lines were very injudicious investments, and not at all profitable to the Union Pacific Company. I, myself, would not have built them. I would not have built any Oregon Short Lines, nor roads in Nebraska or Kansas. I would not have gone anywhere to build roads except where there was trade.

GRAND ISLAND, NEBR., *Saturday, July 2, 1887.*

W. H. PLATT, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am an attorney.

Q. How long have you resided in Grand Island?—A. Over twenty years.

Q. Have you had any business relations with the Union Pacific Railway Company?—A. I have.

Q. What have been your relations to it?—A. I have attended to considerable business for it, as attorney in this locality.

Q. How long have you represented it?—A. Well, our firm, the firm of Thummell & Platt, has done so for several years.

THE PLATT LAND GRANT CASE.

Q. Were you, or some one connected with you, the gentleman that was engaged in the land grant case—the Platt case?—A. Yes, sir; I am the man myself.

Q. What was the nature of that suit; that is, was it a friendly or was it a hostile contest between you and the Union Pacific Railway Company?—A. I intended to get the land if I could.

Q. Was it at your instance that the suit was commenced?—A. Yes.

Q. Had you any consultation with or suggestion from the Union Pacific Railway Company?—A. No, sir; not until after I filed upon the land.

Q. You were paid by the Union Pacific Railway Company?—A. No, sir; I was not.

Q. Were you never paid the sum of \$1,000?—A. No, sir; I was not.

Q. Nor anybody representing you?—A. No, sir; not to my knowledge.

DENIAL OF RECEIPT OF MONEY ON A VOUCHER PRODUCED.

The CHAIRMAN. I only want to say to you that the voucher was shown to us the day before yesterday as having been paid to Mr. Platt by the Union Pacific Railway Company.

The WITNESS. I never received it.

The CHAIRMAN. And that that was the understanding between Mr. Platt, through his attorneys representing him, and the Union Pacific attorney. So Judge Poppleton stated to this Commission. Is that true?

The WITNESS. No, sir; not as to me.

Q. Then you never received anything?—A. No.

Q. And no one received anything for you?—A. Not to my knowledge.

Q. Would you not know?—A. I think I would if I had got it.

Q. But if some one else got it for you you might not have a knowledge of the fact that they might pervert that to their own purposes?—A. I might not.

Q. Did you ever hear that the Union Pacific Railway Company paid for that?—A. No, I did not.

Q. Is it a surprise to you to know?—A. No, sir; not particularly.

SENTIMENT OF THE COMMUNITY.

Q. What information or suggestion can you give to this Commission concerning the sentiment in the community here in reference to the Union

Pacific Railway Company?—A. Well, I do not know that I could give you anything any further than Governor Abbott has given you.

Q. Have you heard of any complaints?—A. No special complaints.

Q. Have you ever heard of any complaint of railroad discrimination as against one class in the community?—A. No definite complaint. I have never heard any particular person in this town making a complaint.

Q. Have you ever heard of any rebates having been given to anybody?—A. No, sir; my business is such that I might not have heard them if they were made.

FACILITIES AND ACCOMMODATIONS.

Q. What is the feeling in the community as to the facilities and accommodations given to the community by the Union Pacific Railway Company?—A. They have always been very good. Of course there are some people that will always complain. There has been no general complaint.

INTERFERENCE IN ELECTIONS.

Q. Have they ever participated or interfered in any way in the general or local elections?—A. Not to my knowledge—not to amount to anything. Of course the employes of the road take sides like the rest of the people; no more, so far as I know.

Q. They would take sides as individuals rather than as employes of the company?—A. Yes.

Q. Have you ever been a member of the legislature?—A. No.

Q. Would it be a surprise to you if I were to tell you that the general officers admit that they have, now and then, taken hold in general elections?—A. Well, no, it would not be a surprise to me. But I know if any of the railroad people participated in the elections here I would know, because I am something of a politician myself.

Q. Have you ever heard of their taking part in the elections in Nebraska?—A. I have heard it.

Q. Has it not been an issue?—A. I do not think it has; no, sir. There is a rivalry between railroads, possibly, more than between the people and the railroads.

Q. Then if it assumed any shape it would be where one railway company would be pitted against the Union Pacific Railway Company, and the citizens would take sides against one or the other?—A. Yes.

Q. That is the only contest you have known?—A. I have never known of contests in which the Union Pacific Railway Company would have their men take sides against any particular man. That is what I mean.

RELATIONS OF THE ROAD TO THE PEOPLE.

Q. Have you anything to say as to the relation of the Union Pacific Railway Company to the people?—A. Nothing more than Mr. Abbott has told you. It is a fact that the people of this town gave \$50,000 for the building of a railroad here and, in connection with that, for the erection and maintenance of these shops. We do not believe that the shops have been maintained as they should have been maintained. " money was given, however, and the shops were built honestly, I th but we do not think the company is maintaining its part of the co That is all the fault the citizens of Grand Island and as at Union Pacific Railway Company. The Union Pacific

good to the community. It has assisted the schools and assisted the community when the grasshoppers were bad; assisted largely in the carrying freight, and in other ways.

EFFECT OF A SECOND ROAD ON GRAND ISLAND.

Q. From your observation, has the city of Grand Island grown in population and property more under one road than under two?—A. That is hard to tell.

Q. Taking the period when there was but one road here, and then the same number of years when you have had two, how is it?—A. For several years we have been visited by the grasshoppers, and it was very difficult for the people to maintain themselves here at all. For the last several years, however, the country has been growing up; the rainfall has increased and the country has settled rapidly. I do not believe myself to-day that the building of competing roads is any particular reason for the building up of the country more rapidly than when the Union Pacific alone was here. There may be booms in other parts of the country or State, but this part of the country has never been either blessed or cursed with what may be called booms. It has got along quietly. When the Burlington and Missouri came here they came quietly. The freight rates have not been changed by their coming here. They are about the same, as I understand it. The Union Pacific Railroad has reduced its rates, as Governor Abbott has said, and I presume they deemed it their best interest to do it. It was not done by legislation.

VOLUNTARY REDUCTION OF RATES.

The CHAIRMAN. It is a new experience to me, in the East, to have railroad companies reduce rates voluntarily. They do not generally do that until they are compelled.

The WITNESS. That might be. They might have seen the handwriting on the wall, possibly, and may have, on that account, reduced their rates.

OPPOSITION TO THE BURLINGTON & MISSOURI.

Q. Was there any opposition to the Burlington and Missouri Railroad coming here?—A. No particular opposition. Some of the citizens did not like them to come through a certain part of the city; that was all.

Q. Did the Union Pacific Railway Company oppose them?—A. Yes; they opposed their crossing their main line.

Q. Did you assist them, as attorney?—A. I did, sir. I assisted in drawing an injunction to cross. We told them that if they would go a little further east they could cross, and welcome, but they crossed at such a place that we considered it a damage at the time.

By Commissioner LITTLER:

Q. Was that a damage to the city of Grand Island, or to the road?—A. To the road. They crossed right at the head of a hill; and the engineers of the Union Pacific road said it was a great damage to have to stop their trains on that hill.

HISTORY OF THE PLATT MATTER.

Commissioner LITTLER. I wish you would give a more detailed history of the matter of this Platt land transaction, inasmuch as the

seems to me some difference between your statements and Judge Poppleton's.

The WITNESS. It was several years ago, and I was attending at that time to a good deal of business with the United States Land Office and, of course, was conversant with the decision of Secretary Schurz. I thought the decision was a good decision and that the company had not complied with the law. Therefore, knowing that this piece of land which ran right through the town here was susceptible of pre-emption, I pre-empted it.

HOW THE CASE GOT OUT OF COURT.

Commissioner LITTLE. Tell us particularly how that case finally got out of court, whether by compromise or how.

The WITNESS. It was decided by the Supreme Court of the United States.

Q. Were there any subsequent negotiations between yourself and the company in relation to the costs growing out of the litigation?—A. No, sir; there was not.

Q. Who paid the costs of the litigation?—A. I presume the Union Pacific Railroad Company. I knew nothing about it.

Q. Were you represented by counsel or did you defend yourself?—A. I was defended by Judge Wakeley.

PAY OF COUNSEL.

Q. If the Union Pacific Railway Company paid Judge Wakeley, that is a matter you know nothing about?—A. They certainly never paid me.

Q. Or your partner?—A. That I cannot say.

Q. Did you have any conversation or conference with them in relation to the costs of the suit after it was closed?—A. No, sir; I never had a word with them about it since.

Q. My attention is called to the fact that your firm, perhaps, wrote a letter to Superintendent Clark, calling his attention to some proposition or agreement which he had made, either prior to the final decision of the case or after it was decided, by which he had agreed to pay a certain sum of money. Do you know anything of writing such a letter?—A. No, sir; I do not. I did not write it.

Q. Or your partner?—A. I do not know anything about it. I did not write it.

Commissioner LITTLE. The letter, I think, was written by Thummell & Platt, or was so signed?

The WITNESS. I did not write it and I have no knowledge of it, if it was so done.

Q. Do you mean to say that the money did not inure to your personal benefit and that you have no knowledge of it?—A. I have no knowledge of it.

And that no agreement was then made between Judge Poppleton and yourself, or at any time prior?—A. No, sir.

Or any other officer of the Union Pacific Railroad?—A. No,

or say to you that you were entitled to be protected in the possession of it?—A.

Judge Poppleton said something like this to me: that he would rather have a friend of the road get it than an enemy; and, while they would maintain their rights and win that land if they could do it, yet that if I got it, I should have it the same as anybody else.

Q. Was it at his suggestion that you took a patent on it?—A. No, sir; it was not. I had commenced it before having anything to say to anybody about it.

GRAND ISLAND, NEBR., *Saturday, July 2, 1887.*

FREDERICK HEDDE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am the editor of the Grand Island Independent, but I have been in considerable other business before—the mercantile business.

Q. How long have you been engaged in the newspaper business?—A. Four years, and a little over.

Q. What was your business before that?—A. I was a merchant; and before that a farmer.

Q. How long have you resided in Grand Island?—A. As long as the white men have been living here—thirty years.

Q. You were here, then, at the time of the construction of the Union Pacific Railway?—A. Yes, and before that a good deal.

SENTIMENT OF THE COMMUNITY.

Q. What is the feeling of the community here with reference to the facilities and accommodations afforded by the Union Pacific Railway Company?—A. As a general thing, I believe they are pretty good; but I do not believe they are equal for every man. At least I think that, myself.

DISCRIMINATIONS AGAINST INDIVIDUALS.

Q. Have there been discriminations against individuals in the community?—A. Yes, sir; I know that there have been discriminations against myself.

Q. To what extent?—A. I was at one time in several kinds of business. Among others, I was in the lumber business. I kept a lumber yard; and another gentleman by the name of Wiseman had a lumber yard. We did not have the pleasure of knowing Mr. Vining, then general freight agent. He charged such high rates that we could not compete with Hastings. They favored Hastings, which was the competing town, to such an extent that we could not compete with them; the consequence was that the Union Pacific Railway Company lost a great deal of business. Men went to Hastings and bought all their heavy articles there, because it was so much cheaper. It paid men to bring from Hastings salt and apples and such things and sell them here to the merchants, because we could not buy car-loads and get them as cheap as the men got them from the Hastings merchants, after they had got them over here. The same thing prevailed in the salt business and the grain business. The result was that men went from Grand Island to Hastings and bought their lumber and grain and salt and all other heavy articles there. The result of it was that the Union Pacific Railway Company lost a great

deal of their trade. Finally Mr. Vining found that out himself, though he was not very smart in finding out such things. Then he concluded to tell Mr. Clark, the general superintendent, that it was the fault of the merchants of Grand Island, especially of Hedde and Wiseman, who bought grain and lumber. And he induced Mr. Clark (this I have from Mr. Clark himself) to favor somebody else to put up a lumber yard.

PRIVATE REBATE GIVEN TO START A LUMBER YARD.

They induced the clerk of Mr. Wiseman to start a lumber yard and gave him a considerable rebate against us. It is about eight years since this occurred. I believe they gave him about \$8 or \$10 a car. It was enough, so that we could not compete with him. It was impossible. The result of that was that the whole community of merchants got on our side. They had all complaints of one kind or another. We presented these complaints in a written paper to Mr. Clark. Mr. Clark gave us a hearing here and afterwards in Omaha. Mr. Vining was there a few minutes. He did not like to be there very long it seems. But Mr. Clark said he had been misinformed and that he would give us some relief. We then got a rebate until the rebate rate was abolished altogether. But that was only the result of the strong fight that the community of Grand Island made. Of course it could not last long; and, finally, they raised the rates again and the old complaint of extravagant rates has lasted from that time until now. I believe that the same was true of the grain business. I have felt these things, but it is very hard to get at the exact facts about such matters. The result was that I sold my elevator and gave up my lumber business.

Q. The rebate system and the discriminations compelled you to give up?—A. That is what I believe.

Q. Who were the principal grain shippers here at that time?—A. Myself and Mr. Wiseman and a man by the name of Wells, who was in the employ, I think, of the Union Pacific Railroad, as far as I know.

Q. Was it the Wells of Wells & Neimann?—A. I do not know.

REBATES OR SPECIAL RATES.

Q. Have you a knowledge that Mr. Wells, during these years, was receiving a rebate or special rate on his grain shipments over the Union Pacific road?—A. I could not tell for certain.

Q. Did he continue in business?—A. No, I think he left after two seasons.

Q. Where did he go to?—A. To Omaha. He worked there in the neighborhood of the bridge, I believe.

FACILITIES FOR TRANSPORTATION.

Q. What have you to say as to facilities?—A. The system at that time was under an agent who is not here now. They distributed between the three or four grain shippers who were here the cars which were on hand. If they had eight cars they would say, "You can get through, you can get through," &c. But then, in the course of the day a lot of cars were emptied, and all those cars went to a man who was favored; and he got eight or ten cars during the day, while Mr. Wiseman and I were absolutely treated the same as nobody.

Q. So that under those circumstances it was impossible for you to continue to do business?—A. Yes; I had a hard time here in the time

of that agent, and told him right out that he was favoring other men; and he then gave me a car. I said, "Now you see that this man is loading the cars"—a man by the name of Wasmer.

Q. To whom were the cars being given at that time?—A. To other merchants here; and especially at that time to Mr. Charles Wasmer. I never went with that agent around to the saloons, and did not treat him to cigars or anything of that kind, because I never do that.

EFFECT OF DISCRIMINATION ON THE COMMUNITY.

Q. What effect had that discrimination or rebate system on the community at large?—A. It had effect, especially, only on those that traded in grain and lumber. On the other hand, I do not think that any rebates or any discrimination was made against those that shipped in small quantities.

DISCRIMINATION AGAINST TOWNS.

Q. What knowledge have you of any preference being given to coal shippers?—A. I do not know anything about it. With regard to rebates I might say that Grand Island was discriminated against by giving Kearney, 40 miles away, the same rates that Grand Island had. I do not know whether it is the same yet.

Q. How long ago was that?—A. Six or seven years ago. Kearney was preferred this way: That they had the same rates for the longer distance that we had to Grand Island.

COMPARISON OF RATES.

Q. How did your rates from this point to points on the Pacific coast, in the past, compare with the rates that were allowed to the citizens of Omaha to the same Pacific points?—A. I know that in Omaha they had the same rates we had from here.

Q. That is to say, a shipper from Omaha shipped to San Francisco at the same rate that the citizens of Grand Island did?—A. I have no personal experience of that, but I always understood that they had just the same rates. But there was hardly any shipping done from here to San Francisco at that time.

Q. Was that the open, published rate?—A. I believe it was.

INFLUENCING ELECTIONS.

Q. Have you any knowledge of the participation in, or the influencing of, elections on the part of the Union Pacific Railway Company's employes and its officers?—A. Yes, sir; they controlled everything in politics. You could not elect a constable without the permission of the Union Pacific officers; and one of those gentlemen went so far as to write "I could elect my yellow dog to an office." And that yellow dog is living yet.

Q. How long had they continued in that line of business?—A. Until they found out that they could not carry it through.

Q. Was that true, from your observation, from the beginning of the settlement of this part of the country?—A. Yes; all the time, except that I was away for a year and a half or so. What happened in that time I could not tell, but while I have been here it was so.

Q. What was the custom as to that?—**A.** They took their men to the polls and made them vote; and they were so dependent, then, on these superior men that they did what they were ordered to do. That is what Mr. Kimball calls expressing a wish and not an instruction, but I call it an order; because these men knew very well that if they did not comply with those "wishes" they were destroyed.

PARTICIPATION IN PRIMARY ELECTIONS.

Q. Did they participate as well in the primary elections as in the general elections?—**A.** Not so much in the primary elections. What do you call the primary elections?

The **CHAIRMAN.** The preliminary elections.

The **WITNESS.** Oh, well, of course, yes; because that was a very important thing.

Q. They were now on one side and then on the other; was that it, politically?

The **WITNESS.** Do you mean that they took part with Democrats and Republicans?

The **CHAIRMAN.** Yes.

A. Well, they were on both sides. Messrs. Thummell and Platt were their agents; Mr. Platt was a Democrat and worked the Democratic party, and Mr. Thummell was a Republican and he worked the Republican party.

Q. It was the Union Pacific party all the time?—**A.** It was always the Union Pacific party that was on top.

Q. Did any of the employes or officers use any money to influence elections during the events you have recited here?—**A.** I could not tell. They may have done that, but I could not prove anything of the kind.

METHODS OF INFLUENCING LEGISLATION.

Q. Did they participate in the State elections for the purpose of influencing legislation?—**A.** Well, of course that was more important than the city elections. That controlled that whole thing. That is just what made me an editor. I proposed to fight them, and that started me to be an editor. Since that time their control has not been so strong as it used to be.

Q. What were their methods in influencing legislation; how did they go about it?—**A.** They elected a man of whom they were sure; and when a man was elected that was not a Union Pacific man they gave him a pass when he went away, and when he came back he was a Union Pacific man you see.

Q. Have you a government here in the shape of a city council?—**A.** Yes, sir.

LEGISLATION IN CITY COUNCIL.

Q. Has there been any legislation in your council with reference to the Union Pacific Railway Company, as to right of way or anything of that sort?—**A.** Well, yes; there was some trouble in regard to the coming in of the Burlington and Missouri Railroad. The council would not allow them the right of way through the streets for a long while. There was a fight about their coming in here. The Union Pacific Railway Company tried to prevent it as much as they possibly could, and they influenced the council. I believe the mayor too, at that time, was opposed to it; but I do not know who was mayor at that time. I

there was a strong fight in the council; but finally they came in and crossed here.

Q. Did the Union Pacific Railway Company's employes make an effort to influence the council in its judgment as to the admission of this road through the city?—A. I cannot tell; I have not been in the secrets of that thing; but the counsel for the company worked at that time pretty hard. I do not remember exactly, but I think it was a little before the election, and the old council was on the side of the Union Pacific Company, and tried to prevent the coming in of the Burlington and Missouri Railroad, and the new council granted permission to the Burlington and Missouri Railroad to come in. For a long time I have not thought of this thing.

COMPARISON OF BUSINESS ON BRANCH AND MAIN LINE.

Q. How does the support of the road, in freight and passenger traffic on the main line, locally, compare with the freight and passenger traffic on the branch line, taking the same distance traveled?—A. The main line exceeds the branch, I believe, ten times.

Q. Taking the same distance on the main line as on the branch line, is the freight and passenger traffic as great on the main line, locally, as it is on the branch line?—A. It is considerably larger, because we receive, in Grand Island here, a large amount of freight; and there is a special train every day to Omaha, going down every morning and coming back every evening. That shows that the amount of freight going and coming here is very large.

Q. Is it not a branch line that goes out from Grand Island?—A. Oh, yes.

Q. How long is it?—A. It has been here several years.

Q. How many miles long is it?—A. It must be about 65 miles.

Q. Taking the same distance on the main line as on the Omaha and Republican Valley line, is the local traffic as great, in passengers and freight, on the main line as it is on the branch line—the Omaha and Republican Valley?—A. I believe it is considerably larger on the main line. Of course I have no special knowledge on that. That is only my opinion.

RATES ON MAIN AND BRANCH LINES.

Q. Have you any knowledge as to the rate per mile on the main line and on the branch lines?—A. Yes; I have from experience.

Q. What is the difference?—A. On the main line they charge about three times as much as they do on any line in the east, and on the branch lines they charge about twice as much as they do on the main line. I have had a great deal of experience in that thing, because I have shipped lots of things, of grain and lumber, from Illinois and Ohio, and the freight that had to be paid, say from Ohio or the northern part of Wisconsin or Iowa to Council Bluffs, was generally about the same amount which again was charged by the Union Pacific Railway Company from Council Bluffs to here, while the distance from Ohio to Council Bluffs was about three or four times as great as the distance from Council Bluffs to here. It was only 150 miles from Council Bluffs to here, while the distance from where I shipped might have been 600 miles. In former times I could tell exactly how much they charged from the point of shipment to Council Bluffs, and how much was charged by the Union Pacific Railway Company to this point, because then there was no pool between this road and the outside road. They had a different charge for the

transportation to Council Bluffs, and then a different charge, which they called a local charge, to Council Bluffs. I knew exactly how much I paid on this road and how much on the Council Bluffs road. As a general rule it was the same thing. Sometimes they charged a little more, sometimes a little less, than other roads. I remember one time I shipped a cargo of nails from Pittsburgh here, and the rate from Pittsburgh to Saint Louis and from Saint Louis to Council Bluffs by rail was not any larger (I believe a little smaller) than the amount the Union Pacific Railway Company charged from Council Bluffs to here. The other distance was about 1,500 miles—from Pittsburgh to Council Bluffs—while the distance from here to Council Bluffs was 150. That was the way they treated us. When they commenced pooling with the other roads, then we could not tell how much was charged by one road and how much by the other, because they only had one rate from the point of shipment to Grand Island. That is the way they had of concealing it. In the old times they would say, "Well, what are you going to do about it?" But in later times they thought, perhaps, it was a little prudent not to let people know. On shorter distances the rates are considerably higher yet. The rate for lumber would be 14 cents a hundred from Chicago to Council Bluffs, and the rate from here to Saint Paul, which is only 25 miles, is also 14 cents a hundred feet.

DIVERSION OF TRAFFIC.

Q. Have you any knowledge of the diversion of traffic from the Union Pacific line to the Saint Joseph and Grand Island?—A. No; I have not.

Q. Have you any knowledge at all on that question?—A. No.

Q. Whether freight has been taken or whether passengers have been induced to go to the Missouri River by way of Saint Joseph and Grand Island, as against the Union Pacific?—A. No, sir; I have no knowledge of that.

Q. Have you any opinion as to the settlement of the Government with the Union Pacific Railway Company or the other aided roads?—A. Yes; I have.

Q. Will you please give it to the Commission?—A. Yes; I have no objection at all.

PLAN OF SETTLEMENT.

The CHAIRMAN. We should be glad to hear you.

The WITNESS. I think it would be entirely wrong towards the people to continue the tyranny of the road over the people as it at present exists. If the time is extended sixty or ninety years, or whatever it may be, it is very doubtful whether the roads will pay any more than they have done. They have avoided the obligation to the Government so far, and they will continue to do so, and in the mean time we shall be in their hands as much as we ever have been. We shall be compelled to pay extravagant rates. I think it would be the most terrible wrong that Congress could do to us here, and to the whole United States, to grant that extension. They ought to foreclose the mortgage as soon as the mortgage is in a condition to foreclose. Other companies could then buy the road; and if the United States thinks it would be better to let it go, they may do that. But I think it would be better for the Government to buy in the road and run it themselves. In that way they could easily make enough to pay off their second mortgage. They have been swindled out of the first mortgage, and the second mortgage will

not be paid unless it be done that way. At the same time you could reduce rates 50 per cent., I believe, and benefit the whole country; not only here in Nebraska, but all those who ship over the road, and would have a very wholesome influence on all the other roads, too. I do not see why the United States Government should not be able to run a road just as well as stock gamblers named Gould or Vanderbilt. The Government is just as able as anybody. It has been done, too, by other governments. I know it is done in Germany; and they charge there according to the distance, and not seven or ten times what they ought to charge. I believe our Government is able to do that business just as well as the people who are running it only for their own selfishness.

A SETTLEMENT BENEFICIAL TO THE COMMUNITY.

Q. Would the effect be beneficial to this community to make such a settlement on the part of the Government as you suggest?—A. I believe it would. In this community of Nebraska do you mean?

The CHAIRMAN. Yes.

The WITNESS. Yes, sir; and all other communities existing along the road. The Government can run a post-office department and it could just as well run a railroad department; and it will have to come to that, because I am sure it will become impossible to control these roads. We have an experience in the interstate commerce law. The railroads are fighting over the law and they will be fighting all the time until it comes to the point.

Q. Have you any other information to give to the Commission?—A. I think not.

Q. How old are you?—A. Sixty-nine years old.

Mr. PLATT. I desire to ask a question or two in behalf of the road? Commissioner LITTLER. Proceed, sir.

AN "ANTI-MONOPOLY" NEWSPAPER.

By Mr. PLATT:

Q. What is the character of the paper you publish now?—A. An independent Republican paper.

Q. It is termed an "anti-monopoly" paper, is it not?—A. It may be termed an "anti-monopoly" paper. It is opposed to the rule of the railroad which I have just described.

Q. You have, through your paper, more bitterly opposed the Burlington and Missouri road than you have the Union Pacific, have you not?—A. No; I have opposed both of them so far as they are wrong. I first favored the Burlington and Missouri Railroad so far as to favor their coming in, and then I have fought them the same as the Union Pacific Railway Company, because they have been just as wrong.

PASSES FOR NEWSPAPER EDITORS.

Q. Is it not a fact that your editor has always had passes over the Union Pacific road?—A. No, sir; I have never had a pass.

Q. Your editor, Mr. Mobley?—A. I do not know that he ever had a pass.

Q. Do you not know that, during the last session of the legislature, Mr. Mobley secured passes over the Union Pacific Railway in the interest of Van Wyck?—A. I believe he did.

Q. You were strongly in the interest of Van Wyck, were you not?—
A. Yes, sir.

The CHAIRMAN (to Mr. Platt). Do you represent the company as attorney before us?

Mr. PLATT. Yes, sir.

GRAND ISLAND, NEBR., *Saturday, July 2, 1887.*

SETH P. MOBLEY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. My business at present is manager of the Independent, at Grand Island.

Q. How long have you been a resident of Grand Island?—A. About eighteen or nineteen years.

Q. How long have you been connected with the Independent?—A. With the exception of a year, for eighteen years.

Q. Have you had any business relation with the Union Pacific Railway Company?—A. Nothing, outside of what any other man of business here has—nothing special. I have been doing what necessary shipping I have to do over the road.

Q. What character of goods did you ship?—A. Printing materials, stock and stationery used in that business only.

DISCRIMINATIONS AND REBATES.

Q. During your shipments of freight have you observed any discriminations or rebates or preferential rates that have been allowed by the Union Pacific Railway Company, by contract or agreement or otherwise, to one class of shippers against another?—A. No, sir; as far as my knowledge went I never had any rebates; and I have known of none. In the printing business we do not do very heavy shipping, and we have not had rebates.

Q. Have there been any complaints in the community concerning rebates or discriminations?—A. Yes, from time to time; more or less all the time.

DISCRIMINATION IN THE COAL TRADE.

Q. What has been the nature of them?—A. Occasionally they complained in the coal business that it left no chance for competition, because there were only certain men allowed in the business; and the different dealers in grain and lumber have, from time to time, complained; but I know nothing of it personally.

Q. Who allowed coal dealers to go into the business?—A. They got the consent of the railroad company. They had to get the consent of the railroad company.

Q. Why did they have to get the consent?—A. I do not know that I can explain that. All the coal men have had their coal yards on the right of way of the company, and it has been the general understanding that they did not allow a man to deal in coal unless he had the consent of the company.

Q. That is to say, unless the consent of the company was given it would be impossible for a citizen to engage in business with any hope of success?—A. In the coal business; that has been my understanding.

Q. Did that arise from the fact that they could not get a fair chance?—
A. Well, I know that when a man buys out one of these coal men he has to go to Omaha to see if he can become his successor.

Q. Where do they go to in Omaha?—A. That I cannot say.

Q. Do they go to the Union Pacific Railway Company?—A. To the Union Pacific Railway Company. I believe the company owns the coal fields.

OTHER DISCRIMINATIONS.

Q. What other discriminations do you know of?—A. When it comes to that, I do not know of any; but I have heard of it in grain and lumber. I do not know whether it was true or not.

Q. Was there a Chicago lumber company here?—A. I think there is such a company now here.

Q. Who compose the company?—A. That I cannot say.

Q. Do they do most of the business?—A. I do not believe they do.

Q. How long have they been in business here?—A. Two or three years, I think.

Q. Do they ship over the Union Pacific Railway?—A. I think so. They are located on the Union Pacific.

PARTICIPATION IN ELECTIONS.

Q. What information can you give the Commission concerning the participation of the Union Pacific Railway Company in the influencing of elections?—A. As to the Union Pacific proper, I do not know.

Q. How is it as to the employes?—A. Well, they have generally taken a pretty active hand in politics here.

Q. In what way—what have been their methods?—A. They would get together and talk the matter up, as to whom they wanted, and would then go to the primaries and get the fellows there that were for them, and then go to the polls and make up their votes.

Q. Did each man there make up his opinion as he would generally as to the individual or as to the measure proper to be voted for, or was he influenced by his company relation?—A. Well, I think that in some cases he was influenced by the company relations. But that I cannot say. They generally acted harmoniously together—all the boys. I have never heard any of them complain that they were forced to vote, but I know they have generally voted pretty solid in any election in which they took part.

DIVISION OF TRAFFIC.

Q. Have you any information concerning the diversion of the traffic to Grand Island from the Union Pacific?—A. No; I have not any knowledge of anything of that kind.

EFFECT OF BURLINGTON AND MISSOURI RIVER RAILROAD ON TARIFFS.

Q. Have you any knowledge as to the rates since the Burlington and Missouri Railroad has been in here, as compared with the time before they were in here?—A. I do not think there has been any material change. That is, so far as our shipments are concerned there has not.

Q. Has each company charged about the same rates?—A. About the same thing.

Q. As to freight and passengers?—A. I think so. I think it is exactly the same.

Q. Has there ever been any competition while they have been in here?—A. Not that I have heard of.

Q. Did the rates go down or up when the Burlington and Missouri Railroad came in?—A. I think they remained the same.

Q. Were they high or low when the Burlington and Missouri Company came in?—A. I am not a railroad man and cannot say; but comparing them with the rates of other roads they were generally high enough. The rates were a good deal higher than they were on other roads east of us. Of course I do not know what it costs to run cars.

Q. Did the citizens look for a reduction of the rates when the Burlington and Missouri Railroad came in here?—A. Some did and some did not. Some knew how those things were worked.

Q. How did it work?—A. The companies maintained rates. In that respect they got along wonderfully.

Q. Have you any other information that you can give to the Commission?—A. No; I do not know much about railroads.

COMPLAINT AS TO RAILROAD SHOPS.

Q. Have you anything, as to the community here, that would be of service to the Commission in relation to the treatment of the community by the Union Pacific Railway Company?—A. Nothing in particular that I know of, except that there is some complaint here about the employment of the men in the shops, and also the removal of machinery from them. It was the understanding when the shops were aided to be built that they would be manned, but some time after the shops were opened quite an amount of machinery was taken up to Montana, or somewhere, and some to Saint Joseph, and the shops are worked in name only. The men employed here are very few. There are complaints made in regard to that, and we are endeavoring to have our share of the work done at this place.

By Commissioner LITTLER :

Q. What complaints, if any, exist at this present time against this company, other than what you have mentioned?—A. I think at the present time there is less complaint. There has been less complaint for the last few months than for a long time.

CHANGE OF MANAGEMENT

Q. The management of this road has changed somewhat since the troubles and discriminations you have mentioned, has it not?—A. I believe there has been some change in the management. And another thing, a good many people came to the conclusion that it did not do any good to complain. It did not accomplish anything. Complaints were only wasted.

Q. Are the freights lower or higher now that they were prior to the 1st of April?—A. I cannot say. When the freight bill has come into our office it has been paid.

Q. What effect has the interstate commerce act had on freights in this community?—A. I cannot say.

Q. How long have you been editor of the paper?—A. I formerly edited the paper from its foundation in 1869 until 1882. Then I was out for a year, and then I have been manager and associate editor since that time.

Q. Have you any suggestions to make to the Commission in relation to what disposition the Government should make of its debt against

this company?—A. No, sir; I would not feel competent to suggest any course in that respect.

Commissioner LITTLE (to Mr. Platt). Do you wish to ask this witness any questions?

Mr. PLATT. No, sir.

The CHAIRMAN. Mr. Mink, do you wish to ask this witness any questions?

Mr. MINK. No, sir.

The CHAIRMAN. Mr. Bromley, do you wish to ask any?

Mr. BROMLEY. No, sir.

The CHAIRMAN. Mr. Potter, do you wish to ask any?

Mr. POTTER. No, sir.

Commissioner LITTLE (to Mr. Platt). I understand you are acting for the company?

Mr. PLATT. The auditor requested me to represent them.

The CHAIRMAN. Is there any gentleman here who has any information to give to the Commission?

(No response.)

At 9.30 p. m. the Commission adjourned, to meet upon the call of the Chair.

LINCOLN, NEBR., *Monday, July 4, 1887.*

At 9 a. m. the Commission met, upon the call of the chair.

Present, Commissioner Pattison (chairman) and Commissioner Littler.

CHARLES H. GERE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am editor of the State Journal newspaper

Q. How long have you resided in Lincoln?—A. I have resided here since the spring of 1868.

Q. Have you ever had any business relations with the Union Pacific Railway Company?—A. Nothing more than that our firm has done some shipping over the Union Pacific road.

SENTIMENT OF THE COMMUNITY.

Q. Have you a knowledge of the sentiment that prevails in this community as to the relations of the railroad to the community?—A. Yes, sir; I suppose I have. This community has always, I believe, been on terms of friendship with the Union Pacific Railway Company. Occasionally they have had disputes about rates or something of that kind, but nothing of very serious import.

EFFECT OF POOLS ON SHIPMENTS.

Q. What has been the dispute as to the rates?—A. The fact was that after the Union Pacific Company built its line in here the rates were pooled. Previous to that time there had been a competition between the Burlington and Missouri and the Atchison and Nebraska, but about the time that the Union Pacific Railway was built in here the Atchison and Nebraska road was bought by the Burlington and Missouri Company

and then the competition ceased. Lincoln, after that, had a pool rate, and the rate was advanced somewhat.

Q. That is, the Union Pacific Company pooled with the Burlington and Missouri Company?—A. Yes.

Q. What effect had the pool on shipments? Did it lower or raise the rates?—A. It raised the rates.

Q. What percentage?—A. I do not believe I can tell exactly, now. This was back in 1870. But my impression is that the raise on first-class freight was about 10 cents.

Mr. RAYMOND. Fourteen cents.

By Commissioner LITTLER:

Q. Which of those roads ran here first, which second, and which last?—A. The Burlington and Missouri was the first road in here, and the Midland and Pacific was the second. That was very soon absorbed by the Burlington and Missouri Railroad. The Atchison and Nebraska was the third, and the Republican Valley branch was the fourth.

Q. That was the last?—A. Well, there have been two roads put in since.

Q. How long has the pooling system continued?—A. The pool was made about the time that the Union Pacific Railway began operations.

DISCRIMINATION AGAINST INDIVIDUALS.

Q. Was there any complaint as to discrimination between individual shippers during the period you have mentioned?—A. Nothing specific. It was always whispered about or talked about that some firms got rebates, but I am not aware that any individuals of a class of shippers were discriminated against. I think that probably all the shippers here got about the same rates. That is my impression.

Q. How many elevators have you here?—A. We have two, I think.

Q. Who are the owners?—A. Mr. Lowry owns one, I think, and Mr. Brown the other.

Q. How are they located as to the roads?—A. I cannot say; I am not personally informed as to the exact location of the elevators.

SPECIAL AND PRIVATE RATES.

Q. Have you any knowledge as to complaints with reference to discriminations or special rates, private rates, agreements, or contracts by which individual shippers profited as against their competitors in the community here?—A. No, sir; I have not. I know this, that there has been a good deal of complaint about an advantage being given to elevators in small towns on each side of this town in the matter of shipping; though whether these complaints are well grounded or not I am not certain. But there have been complaints made of that kind; that towns east and west and north and south on the various lines could have a little better rate for grain than we could at Lincoln.

DISCRIMINATIONS AGAINST COMMUNITIES.

Q. Have discriminations been made against this community by¹¹ Union Pacific Railway Company in favor of other sections?—A. I am not certain about the Union Pacific Company being particularly involved in those complaints. I think it is a general complaint against all the lines, that at times they have given shippers in small towns

side of Lincoln a better rate for grain than they have given to Lincoln shippers.

Q. To what point?—A. To Chicago.

Q. That is to say, they have given shippers beyond Lincoln a better rate to Chicago than they have to shippers at Lincoln?—A. Yes. The Union Pacific Company, the Burlington and Missouri Company, and the Midland Pacific, and at present the Missouri Pacific and the Northwestern roads, all have Chicago connections, of course, and all have towns on their lines outside of Lincoln—a little outside—not far away from the city, from which shipments can be made as well as from Lincoln to Chicago. But I have found, in my experience, that complaints of that kind are made in every town in the State, that the "next town" has a better rate than it has.

DIVERSION OF TRAFFIC.

Q. Have diversions been made, to your knowledge, by the Union Pacific Railway Company over the road by way of Marysville, as against that part of the road to Omaha on the Union Pacific line?—A. Not that I know of.

Q. What facilities and accommodations have been afforded by the Union Pacific Railway Company to this community for shippers of freight and for passenger traffic?—A. As good, I think, as the nature of their depot accommodations would admit of. Their depot or station is situated across the tracks of the Burlington and Missouri Railroad, and are necessarily not quite as accessible as they should be, and their grounds are somewhat limited. But I have never heard any complaints of shippers against those accommodations.

INFLUENCING LEGISLATION.

Q. Have there been any complaints, to your knowledge, as to attempts on the part of the Union Pacific Railway Company to influence legislation or interfere in any way with the politics of the State or city or locality?—A. There has been a good deal of talk of such things, of course, but I am not aware of how far the complaint is justified. I know that some of the officers and employes of the Union Pacific Railroad have always been here, and been very active, apparently, in influencing legislation. Perhaps no more so, however, than those of other companies.

INTERFERENCE IN ELECTIONS.

Q. Did the officers and employes of the Union Pacific Railway Company take as much interest in general legislation as they took in railroad legislation?—A. No, sir.

Q. Their attention was directed to the railroad legislation pending in the legislature?—A. Yes.

Q. Have the officers and employes of the Union Pacific Railway Company, to your knowledge, participated in conventions of either party?—A. Oh, yes.

Q. Has their participation been in the direction of their political bias or in the direction of the railroad interests?—A. They were, of course, primarily political. These gentlemen always were strong advocates of some candidates—worked for the nomination of certain candidates for State officers, and also in the Presidential nomination they were quite active; some of their employes or officers were in the State conventions

for the selection of delegations to the national conventions, the Republican national convention especially; I do not know whether they had any representation in the national Democratic conventions, but Republican conventions, as I remember, have always had, or almost always, somebody in them connected with the Union Pacific Railroad, as members, or something of that sort.

PLAN OF SETTLEMENT.

Q. Have you considered the question of the settlement of the Government lien on these Pacific railroads from any standpoint, such as an immediate settlement, or an extension of time for the payment of the amounts due?—A. I have given the matter some consideration.

Q. What is your opinion as to a settlement?—A. I have always been in favor of giving them time to pay off their bonded indebtedness.

Q. What effect would such a settlement have on the interests of such a community as this, or on this particular community?—A. Well, perhaps no direct influence. The indirect influence of a settlement would be to give us, as we think, better rates; because the company could better afford to charge lower rates if they were released from this indebtedness, or if they had paid it off, than they are able to give us now. I do not know that there is any particular feeling, however, in the community on that subject.

The CHAIRMAN. We were asking for your own thought on the subject.

The WITNESS. That is my feeling.

POOLS.

By Commissioner LITTLE:

Q. Are there any railroad pools in existence here now?—A. There is simply an agreement. A pool, as I understand it, is where the earnings of the railroad are divided according to a certain percentage. I do not think there is any such thing now, but simply an understanding as to rates.

Q. Is there any arrangement now, here, between the railroads by which the traffic is to be divided on a percentage?—A. None that I know of.

Q. Is there an agreement by which they are to maintain rates?—A. Yes, sir; there is no doubt about that.

Q. What is the difference, practically, between a pool and an agreement to maintain rates?—A. Practically there is no difference, except to shippers who may have some reason for desiring their freight shipped over a certain road. Under the pool the shipper has no choice. He is obliged to send it over the road that the pool selects; but, practically, as to rates it is about the same if they have an agreement to maintain rates.

Q. Do you understand that either under the pooling system or under the present system the railways compel a shipper to ship his products over whatever line the pool pleases?—A. That is my understanding of the whole pooling arrangement.

EFFECT OF INTERSTATE COMMERCE LAW.

Q. Does that exist now, as you understand it?—A. No.

Q. What has been the practical effect of the interstate commerce law on pooling and upon rates in this State, to your knowledge?—A. The only practical effect so far has been an increase on long-haul rates.

Q. Take that law all-in-all, in its operations, is it favorable to the people or not?—A. While it is enforced, according to my understanding of it, it is favorable to the people; but the temporary suspension of the fourth section of the law has had the effect of increasing our rates instead of decreasing them.

Q. With the strict enforcement of the fourth section of the act, what would be the effect on the traffic in this country?—A. I think the effect would be beneficial generally.

EXTENSION OF TIME.

Q. Why do you say that an extension should be given to this company for the payment of its debt?—A. I say it simply from the reason that if the company was compelled to pay its debt according to the original contract it would be bankrupted and sold out.

Q. We have had a number of witnesses before us who, in answer to that question, have favored the immediate foreclosure of the mortgage on its maturity and the selling out of the property. Do you concur in that policy or not?—A. I do not think that would be the best for the country. I think the result of foreclosing the mortgage on the main line would be that the Union Pacific Railway Company would take the branch lines and have connections, and it would have a line of its own.

Q. In other words, it would break up the Union Pacific system as now organized?—A. Yes.

MAIN LINE AND BRANCHES SHOULD BE UNDER ONE MANAGEMENT.

Q. Do you think it for the permanent good of the people of the section through which the Union Pacific Railway and branch lines run that they should be run under one management?—A. I think the longer the line and the greater the consolidation the cheaper they could do business.

Q. What reason do you assign for that view?—A. Because consolidated lines get along with a great deal less of the high-priced service. It is on the same principle that a large business can always be transacted on a less percentage than a small business.

Q. Your theory is that under one management this entire system could be run at a comparatively smaller cost?—A. Yes; much more economically.

By the CHAIRMAN:

Q. Have you any other information or suggestion to give to the Commission?—A. No, sir.

LINCOLN, NEBR., *Monday, July 4, 1887.*

O. P. MASON, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What position are you now holding?—Answer. I am one of the secretaries of the railroad commission of the State of Nebraska.

Q. How long have you resided in Lincoln?—A. Twelve years.

REBATES AND SPECIAL RATES.

Q. Have there been any complaints in this community, to your knowledge, with reference to rebates, special rates, preferential rates, or dis-

eliminations on the part of the Union Pacific Railway Company?—A. No specific complaints in that regard. There has been some talk—general complaint.

DISCRIMINATION AGAINST WAY FREIGHTS.

Q. What has been the nature of the general complaints?—A. That there were those who were favored with special rates. Whether that is so or not I do not know. They do, at the present time, under the present tariff, discriminate against this place on through freight from the Pacific coast. For instance, way freight that pays \$1.70 from the Pacific coast to Omaha in some instances pays \$3 and upwards to Lincoln. The present rates, therefore, discriminate against Lincoln and, in some classes of freight, the rates from San Francisco, as I have shown, discriminate against this place. So, also, grain from Lincoln to San Francisco would pay a higher rate, far in excess of the mileage.

Q. Far in excess of the mileage?—A. Yes, sir; in excess of the increase of mileage. And when the attention of the company has been called to it they have cited the suspension of the fourth clause of the interstate commerce act, I believe, as their justification.

Q. How much greater is the distance to San Francisco from Omaha than it is from Lincoln?—A. Very little farther; perhaps some 20 miles.

INTERSTATE COMMERCE LAW INCREASES WAY-FREIGHT RATES.

Q. Were those rates you have named prevailing prior to the passage of the interstate commerce bill?—A. Not to the extent they do now. The effect of that bill has been to increase the rates actually paid from 20 to 33 per cent. Lumber, prior to the interstate commerce law, was delivered in this State at 10 cents per hundred pounds, and in some cases as low as 8 cents, while the open rate was 20 cents to the Missouri River, the same as now. A rebate from 10 to 12 cents a hundred pounds was given, so that the lumber was actually brought within the State, from eastern commercial points for that commodity, at about 10 cents per hundred pounds. Under the operation of the interstate commerce law the rate is now 20 cents on lumber. Other commodities of traffic are in about the same proportion.

Q. Were the rates you have named, and the differences, prevailing prior to April 1, 1887?—A. No, sir; to no great extent. The rate actually paid on lumber at this place by wholesale merchants, prior to April 5, was from 14 to 16 cents per hundred pounds. The rate actually paid since the passage of the interstate commerce law has been 26 cents per hundred pounds. About the same proportion prevails throughout the State.

Q. Were there open rates and special rates prior to the interstate commerce law?—A. The open or quoted rates were the same; but rebates were given on all the roads on lumber, as I said, from 10 to 12 cents per hundred pounds to Missouri River points.

Q. Were all shippers equally benefited by the rebate?—A. That I cannot say. I think they were. The wholesale men were, I think, generally so; perhaps universally so. Where individuals ordered lumber themselves they perhaps paid the tariff rate, which was the same as now.

RAILWAY COMMISSION OF NEBRASKA.

Q. How long have you been a member of the railway commission of Nebraska?—A. Since October last.

Q. Were your powers, as a member of that commission, to inquire into special rates, rebates, and discriminations?—A. Yes, sir.

Q. What information, during your term, did you obtain with reference to those particular subjects, as to the Union Pacific Railway Company?—A. The commission never made inquiry as to rebates. They did make some inquiries as to discriminations on specific complaints made. The authority of the commission is confined to the investigation of specific complaints. They have jurisdiction only on complaint made. On complaint made they have power to inquire into that particular case. They have no general jurisdiction, under the law, to inquire generally into rates or rebates.

Q. Have many complaints been made?—A. Quite a number; perhaps against the Union Pacific Railway Company some ten or fifteen during that time.

COMPLAINTS AGAINST THE ROAD.

Q. What was the nature of the complaints made against the Union Pacific Railway Company?—A. In some two or three instances that the charged for delivering goods at those particular points an increase on the tariff from Omaha to that point, while the goods did not go to Omaha, but came direct to Norfolk, the point being some 8 miles from Norfolk. Instead of charging the tariff rate from Norfolk to the place of delivery they charged the rate from Omaha to the point of delivery, some 100 miles or more.

Q. What was the result of the investigation?—A. They refunded the excess and said they would not do so any more. There is now a complaint, however, on file, in which I understand it is said they have been doing so.

Q. Has there been a diversion of freight by way of Omaha, as against the Marysville way, by the Union Pacific?—A. Not to my knowledge. I have no knowledge on that subject.

PUBLIC SENTIMENT.

Q. What has been the general complaint, or what has been the general sentiment prevailing throughout the State, with reference to the administration and conduct of this business of the Union Pacific Railway Company?

The WITNESS. You speak now of public sentiment and the mind of the people?

The CHAIRMAN. Yes.

The WITNESS. There is a general impression that they do not attend entirely to the business of transportation, but meddle in outside matters. For instance, the road is, I believe, at the present time the owner of water power at Blue Springs, which I guess is the best water power in the State. They have a depot there. A great many people think that railroads are not organized to manage water powers. I think they have improved it, and rent the power at a low rate at the present time. Some general complaints of that character are made.

Q. What do they use the water power for?—A. That water is used in manufacturing flour, and manufacturing stone, and manufacturing some articles of wood ware.

Q. In what else do you hear that they go outside of their proper administration?—A. Well, an answer to that question would require reference to memoranda that have been taken as we have had occasion

to go over their line. Most of the roads in this State have connected with the road, or within the organization of the road, what they call a town site company, that fixes the town sites, lays them out, and sells the lots. That is a source of irritation in the public mind and a means of speculation on the part of those who are within the organization of the town site company, which is generally made up of the railroad owners.

RAILWAY OFFICERS AND TOWN SITE COMPANIES.

Q. Are the officers of the Union Pacific Railway Company engaged in town site companies?—A. That I cannot say. I do not know who constitute the town site companies of either of the roads. I speak of the general fact of their doing this thing.

Q. Are there any town site companies connected with the Union Pacific Railway Company?—A. I think the town site company lays out their towns on their new branches, and is an organization within the railroad company.

Q. Who compose the town site company?—A. That I cannot say.

Commissioner LITTLER. Refer us to some particular town that has been laid out and managed by the officers of the Union Pacific Railway Company.

The WITNESS. That I cannot do. It is not managed by the officers of the Union Pacific Railway. They have their local agents, who sell the lots. I know that complaints come in on all the lines of road in reference to this outside management of town sites.

Q. Have you any memoranda or information that you can give to the Commission going to show that the Union Pacific Company has been engaged in town site companies?—A. Not the company.

Commissioner LITTLER. Or the officers of the company.

The CHAIRMAN. The officers, employes, or anybody who holds official relation to the company.

The WITNESS. I think I can.

The CHAIRMAN. Will you furnish such information to the Commission?

The WITNESS. I will.

EFFECT OF TOWN SITE COMPANIES ON COMMUNITIES.

Q. What is the effect of such a town site company on the community?—

A. It fixes the station and locates the business at that place; sometimes, perhaps, with a proper regard to the interests of the company and the settlement. Sometimes it is, perhaps, with somewhat of a disregard of that interest, where they cannot get the land on an arrangement satisfactory to their judgment.

Q. Does the railway company take an interest in the lots?—A. No, sir. If I understand correctly it is done in this way: A corporation is generally organized, known in some cases as the "South Platte Land Company," in other cases as the "Northwestern Land Company," in other cases other land companies. That corporation manages the town site business; has its president and secretary. That is made up of the men that constitute the railroad company; but it is an independent corporation.

Q. Can you furnish the name of any one officer, employe, agent, or director of the Union Pacific Railway Company engaged in any such business?

The WITNESS. You mean of its branches or the main line?

The CHAIRMAN. Yes.

The WITNESS. At the present time?

The CHAIRMAN. Yes, or any time within twenty years.

The WITNESS. Yes, I can.

Q. Will you furnish such information and make it an exhibit, to be attached to your testimony?—A. I will.

INTERFERENCE IN PRIMARY ELECTIONS.

Q. You have named the water power and the town site business, and what else?—A. When the exigencies of the case require it they are generally charged with the running of "gravel trains," to change the results in primary elections. But I have never run "gravel trains" myself. I have seen them come in occasionally to the primaries so as to change the results.

Q. What are their methods of changing the results?—A. Men generally come in in a mass, in charge of the man who has control of the "gravel train;" and they usually take themselves away "silently" like the Arabs.

Q. Do they spend money for that purpose?—A. That I cannot say.

Q. Do they direct their energies to the railroad interests rather than the political interests of the community?—A. Well, I should presume that they do.

Q. They operate through both parties, you think?—A. I do not think it makes any difference to them. It is their own interest that they are looking after, as they regard it.

INFLUENCING LEGISLATION.

Q. Have they at any time attempted to influence legislation?—A. Well, I should say yes. I should say that that attempt was made, and not denied last year, at the last session of the legislature. The State Railroad Commission, I think, recommended that it be invested with power to fix rates upon complaint made within the State. That was opposed by not only the Union Pacific Railway Company but by all railroads alike. And I guess they acted as a unit. I think they used whatever influence was necessary to accomplish results. There was a bill introduced in the legislature, regulating, to some extent, telegraphic and telephonic communication. But after the general meeting of the managers these respective bills died a felon's death.

Q. What were their methods in influencing legislation?—A. Well, sir, I was not in their confidence. They are such methods, however, as men who combine to accomplish a result usually use. They had their managers, their men who came in contact with members, and who apply whatever methods are most successful to accomplish the result desired.

Q. Was money expended by them?—A. I know of no money being expended.

Q. Were passes distributed by them?—A. I think it was not difficult to obtain passes from any of the roads through one of the numerous watchmen appointed to watch their interests.

FACILITIES AND ACCOMMODATIONS.

Q. What have been the facilities and accommodations afforded here by the Union Pacific Railway Company?—A. I think they have been

all that could be expected, considering the volume of traffic and considering that the road was a branch road and a new one. There have been some complaints of delays of shipments; but, on investigation, there was some cause for delay. So far, however, as the facilities furnished by that road are concerned, the road is comparatively new; it is growing, and it has been reasonably sufficient to accommodate the volume of business.

COMPARISON OF BUSINESS OF MAIN AND BRANCH LINES.

Q. How does the volume of traffic, passenger and freight, on this local branch line compare with the local volume of freight and passenger traffic, for the same distance, on the main line?—A. I would not think it compared very favorably. The volume of local traffic to this point would be divided between, perhaps, two or three roads, whereas on the main line of their road the whole volume of traffic belonging to that community would go over that main line. Again, the country has but recently been settled so far as to have a farmer on every quarter section, say, from Valley to Lincoln, and it is not as well settled as it is along the main line this side of Grand Island, and I should think it would not compare very favorably with the main line for local traffic, both for passengers and freights.

LAND SPECULATORS.

Q. Are some sections of the land along the line of road held by speculators?—A. Some of them are, but at the present time comparatively few.

Q. Have the speculators who have been holding lands for the purpose of arise been any of the town site companies that you have named?—A. Not to my knowledge. The land was entered at an earlier day, by another class of speculators, not railroad men.

FACILITIES THROUGHOUT THE STATE.

Q. Do the facilities and accommodations you have spoken of as to Lincoln extend throughout the State?—A. I think their facilities are all that reasonably could be expected when the newness of the country and the sparseness of population are taken into account. There are occasional complaints of the want of depot facilities and shipping facilities, but those are at points that the road has recently reached; and those demands, in every instance when attention has been called to the matter, have been complied with, or the demands of the local commission have been complied with, within a very reasonably short time after attention was called to the complaints.

Q. Does your remark also apply to the main line?—A. Yes.

EFFECT OF MULTIPLICATION OF ROADS ON FREIGHT RATES.

Q. From your knowledge and experience, have the rates been higher here with two roads than they were with one?—A. No, sir. Up to the time that the Atchison and Nebraska was sold to the Burlington and Missouri this particular community had lower rates than since that sale. The rate, for instance, from Saint Louis to Lincoln was the same as to Omaha, and that necessitated about the same rate from Chicago. After that transfer, and the consolidation of the Atchison and Nebraska w

the Burlington and Missouri (or the Chicago, Burlington and Quincy), rates have been put up at Lincoln, and the rate has been from four to ten cents higher per hundred pounds, depending on the class of freight, since that transfer than it was before, compared with what are called Missouri River rates. In making rates these companies all combine. No one company fixes the rate. They take the Missouri River as a rate-basing line to north and west of that point arbitrarily.

Q. The effect, then, of the multiplication of railroads in a community is rather in the direction of a fixed rate, by the companies combining, as against a competing or cutting rate?—A. That seems to be true in this State. In the beginning, you understand, we had wagon roads and wagon rates. When the railroads began, the business was slight and the rates were high, and as the country has settled the rates have been constantly coming downwards, not, I think, owing to the multiplicity of roads, but owing to the increased volume of traffic, thus enabling the carrier to actually do the work for less.

COMPETITION IN RATES BETWEEN ROADS.

Q. Have there ever been in this community any competing rates, as between the companies?—A. I think, up to the time I speak of (I do not remember the date of the transfer now without reference to some figures)—I think, up to the time of the transfer of the Atchison and Nebraska to the Burlington and Missouri, there was a pretty sharp competition at that time as to rates between the Chicago and Saint Louis lines, and the tendency was to beat down rates, but since that there is no such tendency in this community.

Q. They have been pooled rates?—A. Yes; they have been, in the language of Mr. Kimball, "agreed" rates.

POOLS.

Q. What chance has a shipper as against a railroad pool?—A. My answer to that question would be that the advantage of a pool is to maintain rates and to give no one shipper an advantage over another, provided the rates are maintained. The difficulty is that the pool fixes the rate and requires everybody to come to that rate.

Q. Did you ever know of a pool that maintained its rate?—A. I think, practically, this western pool across Iowa maintained its rate pretty well. When they gave rebates on lumber (as I have spoken of) it seemed to be the same rebate, no matter what road you shipped over. If they were giving 10 cents rebate over one road, either road gave that, and if they were giving 12 cents, either road gave that. Perhaps that is not true in every case, but I think that was generally the case with the wholesale dealers.

PLAN OF SETTLEMENT.

Q. If you have considered the question at all, what conclusion have you reached as to a plan of settlement or payment by these companies that have been aided by the Government from time to time?—A. Of course the matter has been thought of and discussed. My thought has been about this: As I understand matters at the present time, the Union Pacific Railway Company is in debt about \$105,000 or \$110,000 to the mile; the Central Pacific still more. They are struggling to earn interest and pay fixed charges upon that enormous debt. The lines,

perhaps, could be paralleled for \$25,000 a mile. And while the present state of things exists the struggle will go on, to earn money to keep that interest and pay fixed charges. While that struggle goes on the tendency will be to keep up rates. Whereas, if the road was reduced in its capitalization by a sale, so that it would be simply required to earn what the property was worth, what it cost, the tendency, it seems to me, would be to work down rates. In that view, as a business proposition, I have been led to the conclusion that it would be best for the people that the matter be closed at once. If brought to the figure of actual cost, or what the property was worth, then you have some basis on which to fix rates. But if you are to fix rates on the basis that the property is worth \$105,000 or \$110,000 per mile, it is ruinous to the shippers, and in the end, it seems to me, it must be alike ruinous to owners of property.

EFFECT OF A SETTLEMENT ON THE PEOPLE.

By Commissioner LITTLER :

Q. While that would be a good thing for the people of Nebraska and all districts west of here, what effect would it have on the debt due the Government?—A. Well, the Government would be out, I should think, and they will be out, anyhow. Can this property earn money to pay that Government debt of \$30,000 a mile and the accumulated interest? (The mountain divisions are more than \$30,000 a mile.) It seems to me it is like the case of a man who is irredeemably bankrupt. The sooner he closes up and comes to a settlement, the better for the man and everybody else. So it is with the Union Pacific Railway Company.

MR. GOULD'S OFFER.

Q. Mr. Gould, I understand, offered the Government his check for \$30,000,000 for his debt. Would you advise this Commission, as the representative of the Government, to make such a recommendation to Congress as would result in the total loss of the debt due the Government?—A. Not if they could sell and get \$30,000,000 for the benefit of the Government.

Q. Or any reasonable sum?—A. Or any reasonable sum. But it is a question of requiring the people to pay such rates as to enable the company to pay this enormous debt, or the Government at once laying down the debt and the people having reasonable rates in the country at large. As between the two, I prefer that this generation and the coming one should have reasonable rates, based on the actual value of the property, rather than that the struggle should go on, in the attempt to pay this \$110,000 per mile.

BENEFITS TO THE WHOLE COMMUNITY.

By the CHAIRMAN :

Q. The benefits would accrue to whole communities?—A. Yes, sir. In the latter case the benefit would be to the whole people of the United States; those who are in business now and those who will be in business hereafter.

Q. Would you regard that as a reasonable settlement?

The WITNESS. What settlement?

The CHAIRMAN. The settlement of the debt you have spoken of.

A. Well, that is a difficult question to answer. If I have a creditor who is *irrevocably bankrupt*, it may be well for me to charge my debt

to profit and loss and carry on my business without respect to that. So with the Government. It is better, in my judgment, to do that than have this struggle go on—the attempt to earn on that mileage \$110,000 per mile, which could not be done without oppressing everybody along the line of the road and everybody that shipped a pound of freight. It would be better to cancel it at once and base charges on the actual cost. In my opinion, I think it is the same with the Government in that regard as with an individual.

BASIS OF SETTLEMENT, THE MARGIN OVER FIRST MORTGAGE.

By Commissioner LITTLER :

Q. Do I understand you to say to this Commission that if you were representing the Government of the United States you would ascertain what margin there is in this property over and above first-mortgage bonds, and that you would favor the settlement of the Government debt for a sum equivalent to the margin?—A. I would. And then reduce the rates to correspond—to meet the expense of the operation of the road and a reasonable interest on the actual value of the property—not on its cost, you understand.

Q. I understand. The actual value of the property, provided it had a value over and above its first-mortgage bonds, would be that sum of money which it would bring over and above the first-mortgage bonds.—A. Yes, sir.

VALUE OF ROAD PER MILE.

Q. Give us your opinion as to what this property is worth per mile, equipped as it is to-day.—A. Well, I would rather be excused as to that. I should only voice the judgment and views of the engineers that I have spoken with—the first engineer of the road, Mr. Peter A. Dey, and other engineers of the road. My judgment would be of very little value, perhaps. I suppose at the present time, and at the present price of iron, the road could be paralleled and equipped for between \$25,000 and \$30,000 per mile.

Q. That is the main line you speak of?—A. Yes; and the branch lines, \$25,000 per mile. In saying that I only voice the opinion of those whom I regard as competent engineers.

LOWER FREIGHT RATES AS TRAFFIC INCREASES.

By the CHAIRMAN :

Q. There is one question I would like to have you answer, if you have knowledge and can recall; that is, as to the rates prior to the construction of the Omaha and Republican Valley Railroad, from Lincoln to Valley, as compared with the rates subsequently.—A. I could not recall without an examination of records and business transactions; but I can say generally that a careful examination of the rates would show that the tendency in the rate has been downward as the volume of traffic increases. Of course in a new country, when roads are first opened, if they do not charge a high rate it does not pay operating expenses, but as the volume of traffic increases it soon changes the balance. It must be borne in mind that since 1870 most of the country west of this has been settled and brought into cultivation, and the volume of traffic has wonderfully increased. It has increased amazingly, especially from east to west. When this road first opened, the

volume of traffic (because of grain shipments) from west to east would be in excess of the volume of traffic from east to west. But as the country settled up a change took place, and now the volume in all parts of the country from east to west is 100 per cent., when the volume from west to east is 60 per cent. A railroad when first opened earns but little; but the tendency in rates all the time, with the increased volume of traffic, is downward. The difficulty that presents itself in this State, and what the people of the State most desire relief in regard to, is this: Taking the whole freight bills, they are from 20 per cent. to 33 per cent. higher—that is, the actual amount paid for freights is that much greater—since the passage of the Interstate Commerce law than they were before, because rebates are cut off. That is very oppressive on the industries of the State.

The CHAIRMAN. I wish you would send us copies of your reports, if you have them printed.

The WITNESS. I will.

LINCOLN, NEBR., *Monday, July 4, 1887.*

A. J. SAWYER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. How long have you been mayor of this city?—Answer. Since last April.

Q. Were you engaged in business prior to that time?—A. Yes.

Q. What was the nature of your business?—A. Attorney at law.

Q. You have been a resident here how long?—A. Twelve years.

COMPLAINTS AGAINST THE ROAD.

Q. What complaints, if any, exist in the community as to the business relations of this community with reference to the Union Pacific Railway Company?—A. The general complaint is that the freights to Lincoln from the Pacific coast are considerably higher than to Omaha.

Q. How long has this state of affairs existed?—A. I think, for the most part, since the going into effect of the interstate commerce bill.

Q. What was the condition prior to that?—A. Prior to that, if am correctly informed, while they charged more to Lincoln than to Omaha, yet by a system of rebates freights were equalized.

REBATES.

Q. Were the rebates general to all shippers?—A. I cannot say as to that. The larger shippers, I think, had rebates; but whether they were general I cannot say.

Q. You have heard the testimony given here this morning by the gentlemen who have preceded you. Are you prepared to corroborate what they have said generally?—A. I think so. There have been individual complaints that have come to my knowledge during these years, before the passage of the interstate commerce bill, the same general complaints. But I know of two specific complaints.

A SPECIFIC COMPLAINT.

One that I might mention was made about a year or two ago by a gentleman living in Boston, who shipped over the Union Pacific Railway a

number of car-loads of iron posts, at an agreed rate of freight, to some point in the West (I do not remember what) where he had a large body of land which he was fencing. When the cars arrived at their destination the company taxed him a very much higher rate of freight than had been agreed upon; and before he could obtain his posts he had to replevin. This was some time before President Adams took office. Afterward he made complaint before President Adams, and the matter was then referred to the attorneys at Omaha and they ordered the removal of the case from the State court to the Federal court; and Mr. Braugh (who was the complainant), rather than prosecute the case further, finally dismissed it. But he was quite emphatic, and said he had to pay an extortion of several hundred dollars, if my memory serves me rightly. That was one instance.

ANOTHER INSTANCE.

Another instance was that of a gentleman who went from here to Oregon. He arranged that his freight should be shipped to the Pacific coast at an amount agreed upon. When the goods got there the rate was double what they had agreed upon. He was a poor man; and before he could get his freight relieved he was obliged to pay double the agreed price. He wrote to me to investigate the matter; and, finally, succeeded in getting back a portion of it, through Mr. Miller, the agent here; but then it was largely in excess of the proper rates. Those were the only two specific complaints that I know of over the Union Pacific.

On the 4th of April of this year I, myself, shipped four or five cars of lumber over the Burlington and Missouri Railroad. My consignor wrote me that he had arranged with the company to send the lumber through at the old rate, which I think he informed me was 26 cents. On the arrival of the lumber they presented to me bills calling for 29½ cents.

By Commissioner LITTLER:

Q. Did this lumber come over any portion of the Union Pacific Railway?—A. No, I think not. I understood you were asking generally as to discriminations.

Commissioner LITTLER. We confine our inquiry to the Union Pacific Railway and its branches.

The WITNESS. This did not go over the Union Pacific.

GIVING PASSES TO JURORS

By the CHAIRMAN:

Q. Can you supplement the statements already given with any additional information?—A. I do not know that I have any additional information, any more than to say that one of the grievous complaints among the people here has been the favoritism shown by the company in the distribution of passes and favors. We find in the courts, both the State and Federal courts, that these favors are carried to a considerable extent, particularly in the giving of passes to jurors. When cases are commenced here between the companies and the people they are generally referred to the Federal court, and where they are tried by a jury the jury are favored by the company with passes; and in my opinion it is not promotive of the ends of justice.

Q. What favors have they granted other than passes? Have they ever granted rebates for the purpose of getting favors?—A. I do not

know that I can give any specific cases, but there is a general rumor that men who will work in their interests will receive rebates.

Q. What other favors have been granted from time to time?—A. Those who are particularly favorable to the company not only receive passes for themselves, but for their families.

INFLUENCING LEGISLATION.

Q. What knowledge have you as to the efforts of the Union Pacific Railway Company in influencing legislation?—A. My knowledge on that subject is simply general. I think that it is generally understood that the Union Pacific Railway Company, when a United States Senator has been elected, is always on hand with its political strikers in full force. Particularly last winter they were well represented here. Men from all over the State were brought here in their interest.

Q. What were their methods in attempting to influence the legislature?—A. The methods that are usually employed in such cases.

Q. Was there an expenditure of money on the part of the company?—A. I never saw any money paid. But they had men of influence from all over the State here, and a legislator with whom such a man was acquainted was singled out for him to work with. They exerted all the influence they could bring to bear in that way.

By Commissioner LITTLER:

Q. Are you now speaking of all the railroads, or of this particular one?—A. I am speaking now of this particular one, since you confine me to this. Of course that was not confined to this particular road.

PLAN OF SETTLEMENT.

By the CHAIRMAN:

Q. Have you considered the question of the settlement with the Government by the Union Pacific Railway Company?—A. I have thought some of it.

Q. What conclusion have you reached as to the best method of settlement by this company with the Government as to the debt?—A. I have thought that the best way was to allow them to continue on and pay off, if possible; as the bulk of the freight is growing larger and larger and the traffic becoming greater and greater, population settling up along its lines, I have been in hopes that they would be enabled to meet the demand on them and pay up, if they only had a fair show. I was in favor of the extension of the line by branches, in order that they might meet their obligation. I am in favor of giving them all the show we can.

By Commissioner LITTLER:

Q. Are you in favor of extending the time for payment if it becomes necessary?—A. Yes, sir.

EFFECT OF A SETTLEMENT ON THE COMMUNITY.

By the CHAIRMAN:

Q. In your judgment, what effect would such a settlement be to the community?—A. What the community wants is better roads. I am inclined to think that such a settlement would give better roads and therefore give better satisfaction.

Q. How could such a settlement affect the rates?

The WITNESS. Such a settlement, rather than a foreclosure?

EFFECT OF SETTLEMENT ON RATES.

The CHAIRMAN. I am speaking of the settlement you have suggested. How would it affect the rates?

A. I think that, in all probability, if they are permitted to extend their lines and time is given them, rather than press them to the wall, the natural tendency would be, that they could then give better rates. If they are forced to meet their payments immediately, they have got to earn more money to do it and to meet their interest. If longer time is given them, they can reduce the rates. But I think that the interstate commerce law, if the fourth section is enforced, is going to benefit the people.

EFFECT OF SETTLEMENT ON POOLS.

Q. If the extension is to be granted, how could the Union Pacific Railway Company change rates without the consent of the other companies with whom they have pooled rates, both passenger and freight?—

A. I think they would be, perhaps, more inclined to agree to a reduction.

Q. That is, the Union Pacific Company would agree?—A. Yes.

Q. Would the other companies?—A. Well, they have all got to agree before a pool can be entered into; and if you put it in a condition so that it is prepared for a concession, you have accomplished one step.

Q. That suggestion would be made by you, notwithstanding the fact that the Union Pacific Railway Company had, in a period of ten years, declared dividends amounting to nearly \$7,000,000 and built 2,700 miles of branch lines?—A. I do not know that that would change the view.

LINCOLN, NEBR., *Monday, July 4, 1887.*

JOSEPH C. McBRIDE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am in the real estate business at present.

Q. How long have you been in that business?—A. About a year and a half.

Q. How long have you resided in Lincoln?—A. Twelve years.

SENTIMENT OF COMMUNITY.

Q. What is the sentiment prevailing in Lincoln concerning the treatment of the community by the Union Pacific Railway Company, as to business matters, especially as to shipments?—A. I think it is about as stated by Mr. Sawyer. There have been some complaints; probably more along the line of the road in the small towns than here.

NATURE OF COMPLAINTS.

Q. What has been the nature of the complaints?—A. It has been that there was an exorbitant rate of freight—an exorbitant tariff.

Q. How long have the complaints continued?—A. I think fifteen years—since I have been in the State.

Q. Have the railroads discriminated as against shippers, one against the other?—A. They have been accused of that.

DISCRIMINATION AGAINST COMMUNITIES.

Q. Has this community been discriminated against?—A. As I am informed, it has been, in regard to the charges of the Union Pacific Railway Company on goods.

Q. That is, to points beyond the rates are lower than to Lincoln?—A. Yes; not only shipments from there, in this direction, but shipments from here in that direction.

DISCRIMINATIONS AGAINST INDIVIDUALS.

Q. Have there been complaints as to discriminations against individuals?—A. I do not know whether they have existed in this locality or not. There have been in the surrounding towns and counties, I think.

Q. What has been the nature of the complaints?—A. I remember a long discussion and quite an amount of talk over coal and lumber in Butler County, David City, and along there.

FACILITIES AND ACCOMMODATIONS.

Q. What have been the facilities and accommodations that have been afforded by the Union Pacific Railway Company with reference to passengers and freights?—A. I am not competent to testify on that point, for the reason that I do not know much about it. I have not been engaged in a business that would bring those matters to my knowledge.

Q. Have you been engaged in real estate business along the line of the road?—A. I bought quite a large lot of their land a few years ago.

TOWN-SITE COMPANIES.

Q. Have you any knowledge of the town-site companies?—A. I bought some of their town lots.

Q. On the line of the Union Pacific road?—A. On the branch from here to Omaha.

Q. Who compose the town-site company that you bought of?—A. I never noticed. I have got the deed in my office, but I did not notice it.

By Commissioner LITTLER:

Q. With whom did you deal?—A. I dealt with different parties. When I went to them about town lots they referred me to a Mr. Frank Smith, and when I went to him I asked him to submit me a proposition as to what they would take for lots in Weston. He notified me, after a few days, and I bought them.

By the CHAIRMAN:

Q. How long ago was this?—A. About a year ago last August or September.

Q. Where is the land located?—A. It is in Saunders County, between here and Omaha; a little town called Weston.

COMPANY NOT INTERESTED IN TOWN-SITES.

Q. Have you any knowledge of the town-site companies disposing of land in other localities?—A. No, sir; I do not think they have a town

site company, for the reason that I talked with the officers and tried to get a town-site company to take in men who had been handling their western lands very largely. Mr. Burnham was then land commissioner, and he told me that the officers had never organized a town-site company, for the reason, he said, and the only reason, that the Union Pacific Railway, being a subsidized line, was subject to Congressional investigation, and they did not care to have the officers of the company mixed up with it. I also talked with Mr. Thurston, who was assistant attorney of the company, and he and others talked favorably of it for several months, but finally it fell through. This was only last year.

DONATIONS OF LANDS FOR DEPOTS, ETC.

Q. Has the railroad company, through individuals, participated in the holding of land and the disposal of it?—A. My judgment of it is that, without looking at papers that I have in my possession, in some cases where they built to a town that was already established, or where they located a town-site on some other party's land, they got part of the town lots in addition to depot grounds and such things as that. But whether they held them as part of the legitimate property of the road, or whether they were held by some of the officers for their own profit, of course I could not tell. I will submit my deed if it will be of any service.

The CHAIRMAN. We would like to have the names.

The WITNESS. It is signed by some one, but I really do not remember whom. I will submit it to you.

CITY AID TO ROAD.

Q. Has there been any aid afforded by the city of Lincoln to the Union Pacific Railway Company in the way of contribution of bonds?—A. No, I think not.

Q. Or by lots for station purposes?—A. I do not know. There may have been.

PLAN OF SETTLEMENT.

Q. Have you considered the question of a settlement and adjustment between the railroad company and the Government?—A. I have read the various opinions expressed through the newspapers, and have read opinions expressed by individuals on the subject.

Q. Have you formed an opinion?—A. Well, yes, my judgment would be that it would probably be a good thing to have the road closed out, and have it put into the hands of men who would conduct it on business principles, where they would be satisfied with a decent interest on the amount of money that was invested.

INFLUENCING LEGISLATION.

Q. Have you any knowledge as to the efforts of the company in the direction of influencing legislation?—A. I have some.

Q. What knowledge have you?—A. I have been familiar with the officers of the road for twelve or fourteen years, and know it was their constant practice to give passes to members and persons that they had here to influence members. They had also, undoubtedly, a very large roll. That is, I have had it from the lips of men who knew. They had men paid by the day here last winter, and their sole business was to influence members of the legislature.

USE OF MONEY.

Q. Have you had any knowledge of the use of money by them for that purpose?—A. I never saw any money paid out by them, of course.

Q. Had they headquarters here?—A. Yes.

Q. Were they here during the whole session?—A. Yes.

Q. Was their attention directed to questions affecting railroads?—A. Yes; and to the election of a United States Senator.

Q. This interest they took without regard to party?—A. Yes, as a general thing. I do not think the railroad companies care which political parties win. I know it has been conceded universally that in counties where the Democratic party is in the majority they have paid attention almost wholly to the election of friendly members to the legislature who are Democrats, and in Republican counties they try to elect friendly Republicans.

RAILWAY LEGISLATION.

By Commissioner LITTLE :

Q. I want to get a little more information about this railway legislation. Did this effort to influence legislation confine itself to the Union Pacific Railway Company, or was it a general railroad interest that confederated and combined here in the interest of railroads generally?—A. It was general. Other roads took hold. There were more here last winter from the Fremont and Elkhorn than ever before. Each company had some one here that was bossing the gang.

Q. Each of the important companies in the State?—A. Yes, sir. Mr. Thurston seemed to be bossing the gang for the Union Pacific Railway Company.

MONEY TO INFLUENCE LEGISLATION.

Q. You say you do not know of their paying money to influence legislation?—A. I say I did not see them pay it.

Q. Well, do you know that they paid it?—A. I am as well satisfied of it as I am that I live; but, of course, I cannot swear to it.

Q. How did you reach that conclusion?—A. I saw a list. I want to say this, however, that in my judgment the Union Pacific Railway Company did not spend much money last winter; but I think the Burlington and Missouri Railroad spent considerable money.

A "YEA AND NAY" LIST.

By the CHAIRMAN :

Q. What was the list you were going to give?—A. I say I saw a list in the hands of a prominent politician here, a "Yea and Nay" list, that was checked off, of speckled fellows; some members he said he could control, that he had pleasant relations with, and so on. That was in the Senatorial election, however.

A GRAND "COMBINE."

By Commissioner LITTLE :

Q. Was it in relation to the Senatorial election exclusively?—A. Well, my experience has been somewhat extensive in such matters. I have had more or less to do with politicians since I have been a resident of the State. They combine. It is a grand "combine" of

way around in these matters. For instance, in the election of a Senator the railroad company would put out their best workers; and once they get a member in their power they are apt to utilize him, then, upon almost anything.

Q. Vote him right through?—A. Yes. Then they will change off a little. If they lack a few votes they will take in some other power that lacks a few votes, and they will utilize that. The Senatorial election, the railroad legislation, the Omaha charter bill, and one or two other measures I am satisfied, made a combination that, I think, made them strong enough to put them through.

Q. Getting a sort of omnibus interest?—A. Yes.

Q. That made them strong enough to put that through?—A. Yes.

Q. Including the United States Senators?—A. Yes.

THE "COMBINE" VOTE THE SLATE STRAIGHT.

Q. And the members of that "combine" would vote that slate right through?—A. Yes. Of course they would not be able to control all on everything, but there would be enough as to each to put them through.

By the CHAIRMAN:

Q. Who was the prominent politician who had the list?—A. It was Mr. Stout.

Q. Who is Mr. Stout?—A. He is a man who has shipped heavily over the Union Pacific Railway and the Burlington and Missouri Railroad, here, for a number of years. He owns stone quarries east of here, and to the northeast.

Q. Did he ever sell any stone quarries to the Union Pacific Railway Company?—A. I am not sure about that. I rather think he did.

The CHAIRMAN. Are the stone quarries already referred to the stone quarries purchased of Mr. Stout?

Mr. MINK. I cannot tell you, Mr. Chairman. I think they are located to the south.

The WITNESS. I think they are the same.

Q. Does Mr. Stout live there?—A. Yes.

THE PART MR. STOUT TOOK.

Q. What part did Mr. Stout take here?—A. He only had a few conversations with me. I was friendly to General Van Wyck's interests, and those interests were not likely to combine. Mr. Thurston was a candidate for Senator, himself. I had talked with him as to how Mr. Van Wyck's interest would go in the event that it would break up. Of course Mr. Thurston was anxious, in case it did break up, to get all the strength he could from that side.

THE ROAD ACTIVE IN THE SENATORIAL ELECTION.

Q. What would be the interest of the Union Pacific Railway Company, or any company, in getting into the United States Senate?—A. I could not fully determine that. I suppose they had interests in the national legislature where it would be to their advantage to have parties there friendly to them, and specially friendly. They have also taken a very active part in the election of United States Senator.

THE PART MR. THURSTON TOOK.

Q. What part did Mr. Thurston take?—A. He was managing the Union Pacific interests here; at the same time, as I say, he was a candidate, in a quiet way, for Senator himself. I think he managed their politics as far as he was able to, to prevent an election until they should be all tired of their original candidates, and he might probably be a compromise candidate, and a successful one.

COMPLAINT OF THE AGRICULTURAL INTERESTS.

Q. Has there been any complaint, to your knowledge, from the agricultural interests as to discrimination against them in grain shipments?—A. Yes; I think it is probably true that a farmer could not ship a car-load of grain within five or eight cents as cheap as a shipper can. I know those that have tried have always lost money in it—trying to ship direct to Chicago.

By Commissioner LITTLER:

Q. Trying to ship their own grain?—A. Yes.

By the CHAIRMAN:

Q. What was the reason?—A. They could not get rates.

REBATES.

Q. Was there not a published, open rate?—A. Yes; but there were rebates.

Q. What knowledge have you on that subject?—A. I remember reading the testimony of Mr. Carnes, of Seward County, which was taken here several years ago before the legislature. It was in relation to complaints, I think, filed by Mr. S. S. Reynolds, who was at one time a partner of Mr. Carnes. It developed finally that Mr. Carnes was getting rebates frequently, and Reynolds was compelled to abandon his business.

LOSSES BY REBATES.

Q. Then, if the agricultural interests were to ship openly at the open rates published by the Union Pacific Company, they would be losers, because there was a rebate or preferential rate given by the company to preferred shippers that enabled them to sell at a lower rate in the market?—A. Yes.

Q. Have you any other information that you can give us?—A. Not that I am aware of.

LINCOLN, NEBR., *Monday, July 4, 1887.*

ISAAC M. RAYMOND, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I

member of

wholesale grocery house of Raymond, Broth

How long have you been in business here?

During that time have you had bus

ific Railway Company?—A. I have

The CHAIRMAN. I make my inquiries especially with reference to the Union Pacific Railway Company.

The WITNESS. Yes, sir.

FACILITIES AND ACCOMMODATIONS.

Q. What facilities or accommodations have been afforded to you as a shipper over the Union Pacific Railway during the time you have been in business here?

The WITNESS. What do you mean by facilities—terminal facilities?

The CHAIRMAN. Terminal facilities and general facilities.

TERMINAL FACILITIES.

A. The terminal facilities at this point are only fair. The general treatment of the Union Pacific Company to the shippers of Lincoln, in my opinion, has not been generous or on an equality with that afforded to other points of like importance. I will illustrate. I think the Republican Valley branch of the Union Pacific Railway was built in here about 1880 or 1881. At that time Mr. Shelby and Mr. Kimball and other officers made Lincoln a visit and said that Lincoln should always be placed on the same basis as Omaha, on business from the Pacific coast, as to rates. That was maintained for three years. The published, open tariff was the same from Lincoln as from Omaha to the Pacific coast.

RATES TO OMAHA AND LINCOLN ON SUGAR.

When Mr. Spreckels, of San Francisco (the great sugar man), came into this Missouri River market to dispose of his sugar there was a special rate of 50 cents per 100 pounds made. That rate was made to include Lincoln. It included also Omaha, Nebraska City, Saint Joseph, Atchison, Kansas City, and Leavenworth. I think those were the main towns that were doing a shipping business at that time. Also the special commodity rate on canned goods was the same to Lincoln as to Omaha. Lincoln is somewhat the rival of Omaha in the way of jobbing and distributing goods. The Omaha merchants wrote a letter to Mr. Spreckels in regard to this business and asked him if it was not in his power to quote the price one-eighth of a cent higher on sugar to Lincoln than to Omaha. He said he would not do it. I have his letter, somewhere, now. The Omaha jobbers immediately appealed to Mr. Kimball. Mr. Kimball immediately saw a way out of it, and he struck Lincoln from that tariff and ordered that the sugar should be shipped to Omaha, and that Lincoln should be charged the local rate from there to Lincoln. That continued for some months, and the citizens got a little indignant and tried to do something about it, but nothing could be done. Finally we had a committee go to a meeting of the agents at Denver, and there we had the rate reduced from 19 to 16 cents. That continued for a year or so. Finally, a little while before the interstate commerce law went into effect, the Union Pacific Railway Company quoted the rates the same. Since that time they have refused to take sugar to Lincoln unless it was shipped to Omaha and then shipped from Omaha here. I have a few bills of lading of sugar consigned to Raymond Bros. & Co., Lincoln. They read "Raymond & Bros., Lincoln." The freight bills are at the office. They are charged 16 cents per 100 pounds to Omaha, and 5 cents from there to Lincoln.

By Commissioner LITTLER:

Q. Is it any further from here to the Pacific coast, by rail, than it is from Omaha to the Pacific coast?—A. It may be a few miles, 20 miles, possibly; but the distance is so little more that it makes no difference in the freight, because they would take it to Nebraska City or Council Bluffs and pay the arbitrary rate. All have the same.

EFFECT ON SUGAR BUSINESS IN LINCOLN.

By the CHAIRMAN:

Q. What effect has it had on your business?—A. It has almost ruined our business in the way of sugar, for the reason that the Omaha merchants can ship sugar to every point west of us, where we cannot make cost on it, because the Union Pacific rate is the same, or a little less, at points west of us, as at Lincoln. They have the advantage of us and it is the destruction of our business. It is the same way in California canned goods.

Q. What goods?—A. Anything that comes from the Pacific—beef, honey, &c.

By Commissioner LITTLER:

Q. How far is it from here to Omaha by the Union Pacific line?—A. The way they run, it is 95 miles, I think.

LOCAL FREIGHT RATES.

Q. Is, or not, 60 cents a hundred a high local rate, independent of any other consideration?—A. That 60 cents per hundred is from San Francisco to Omaha.

Q. How much is the local rate from Omaha to Lincoln?—A. Fifteen cents per 100 pounds by car-loads.

Q. Then the Omaha merchants have an advantage of 15 cents per 100 pounds over you here?—A. Yes.

Q. Is, or not, 15 cents a hundred pounds a very fair profit for handling goods at wholesale?—A. Yes, sir; it is on that commodity. Six cents a hundred is.

REBATES.

By the CHAIRMAN:

Q. During the time we are speaking of, have there been any rebates allowed to any shippers in your line of business in Lincoln?—A. I will tell you what rebate I got. When they changed the rate from San Francisco to Lincoln, making us pay the rate to Omaha, plus the local rate back to Lincoln, I paid it and put in my claim for the overcharge. They held it for two years or over. They made several overtures to me to settle at 6 cents a hundred, where they charged 19. I refused. I finally put it in the hands of a lawyer, and he put himself in communication with them, and they finally paid it.

But it has been a constant annoyance to the business interests of this community all the time, to get fair, equitable, and just rates, equal to of other towns, as to this western business. I am free to say that Union Pacific Company favors Kansas City and other cities to the detriment of this State. They have used to do so.

Their rates are made

in section.

EFFECT ON COMMUNITIES.

Q. What general effect has it on the communities that are so discriminated against by those rates?—A. It increases the cost of all the material they use and all the provisions they consume. It increases the cost of sugar 15 cents a hundred pounds, and, of course, that increases the cost to the consumer.

By Commissioner LITTLER:

Q. Does most of your sugar come from California here?—A. At certain times of the year it all does.

SPECIAL RATES.

By the CHAIRMAN:

Q. Have complaints been made of special or discriminating rates made by the Union Pacific Railway Company in favor of certain shippers as against others?—A. Not that I have heard of.

By Commissioner LITTLER:

Q. Is that rate you have spoken of the prevailing rate in all places about here?—A. I presume it is.

Q. And is the rate at Lincoln the same to all men who ship car loads all jobbers?—A. I presume it is; that is, since the 5th of April.

RATES FROM LINCOLN TO CALIFORNIA.

Q. Upon what principle of commercial dealing do the wholesale men of Lincoln claim the same rates from California as the Omaha people get?—A. Because we have other routes to California. The Chicago, Burlington and Quincy furnishes a through route to California, and they refuse to take sugar to Lincoln.

Q. Why is that?—A. Because of the combination.

Q. Is it a pool?—A. I do not know that it is a pool particularly, but it is a combination.

Q. Do you mean that the Burlington and Missouri system, at the California end, refuses to receive this class of freight for shipment over its lines?—A. It does, to Lincoln. I have a letter in my pocket, I think, from Mr. Miller, the general freight agent of the Burlington road, declining. He says, "I see no way for you to do but to ship 'flat' to the river, and pay the local freight back." I asked for the same rate that Omaha had, on a shipment of 3,000 cases of California canned goods.

By the CHAIRMAN:

Q. What is the date of that letter?—A. June 13, 1887.

FORMER TARIFFS.

Q. Was that the condition of affairs prior to April 1?—A. The tariffs at that time were openly quoted 5 to 6 cents higher on that class of goods to Omaha, but as to anything that came over the Burlington and Missouri not a single shipper has ever been successful in getting a rebate back. It was untenable to haul the goods right through our town and then bring them back. How other shippers have been treated I do not know. You can readily see how it would work to have railroads discriminating against a place in that way. If a man sees a published rate and then finds that they have discriminated against the town he

will not come in there and start a business; he will go where they give the cheaper rates.

AGREEMENT AS TO SUGAR FREIGHTS.

Q. Do I understand you that there was an agreement between the Burlington and Missouri Railroad Company and the Union Pacific Railway Company that the Burlington and Missouri should not carry any shipments of sugar from California to Lincoln?—A. Well, I should infer, from the correspondence I have had, that there was an agreement of that kind.

Q. How long had that system continued?—A. Since the 5th of April. The people of Lincoln look upon the Union Pacific Railway as the natural transcontinental route. It is a broad gauge all the way through. The Denver and Rio Grande being a narrow gauge it necessitates the transfer of everything into their cars. Other things being equal, the Union Pacific Railway is the natural route across. If rates were fair and equitable to the city of Lincoln and to the city of Omaha from the Pacific coast, the Union Pacific Railway would get the business in connection with the Central Pacific. It makes the quickest time. This sugar is at the depot here now. It left San Francisco June 23, and part of it arrived here last Saturday, July 2; I understand that it is all here; there are some fifteen cars. Other merchants have bought some at the same time. We do not propose to pay this freight bill; we cannot afford to pay it.

DISCRIMINATIONS.

Q. What other information can you give the Commission in respect to discriminations?—A. I would state this, in regard to discrimination against the city of Lincoln, that before April 5, the Union Pacific Railway Company, with the Omaha and Republican Valley Company, down to Marysville, formed a through line to Kansas, City Saint Joseph and Atchison. They took thousands of car loads of freight that way, right through the city of Lincoln. If freight was being hauled from Saint Paul to Kansas City for 10 cents per 100 pounds, say, they refused to make that same rate to Lincoln. They refused to switch off a car load of freight here on those terms, though the freight was carried through this city to Kansas City. Since the 5th of April that line has been abandoned. They do not solicit business that way any more, and the Missouri Pacific now takes that business. The only reason why, I think, they abandoned it is that if they quoted 30 cents per 100 from Chicago to Kansas City by that line they would have to quote that rate to Lincoln.

DISCRIMINATION AGAINST CERTAIN CITIES.

Q. By that route how much farther is it from Chicago and Saint Paul to Kansas City than it is from Lincoln?—A. I do not know how many miles farther. It would be a good many miles farther from Saint Paul to Kansas City than to Lincoln. I presume it would be fully the difference between Lincoln and Kansas City.

Q. In other words, I understand you that they were willing, while that system was prevailing, to haul that class of goods 200 miles farther for a less sum than they would have done had they gone to Omaha and other towns?—A. Yes; they did it.

Q. How did that affect Lincoln?—A. It affected Lincoln very much. It was a great disadvantage to Lincoln, south of us much the advantage to Omaha and other towns.

DIVERSION OF FREIGHTS.

Q. Has there been a diversion of freight by the Union Pacific people down by way of Marysville, as against Omaha, towards the main line?—A. That I do not know.

Q. I mean soliciting freight—the local traffic, to go down to Saint Joseph instead of going up to Omaha on the main line, for the purpose of shipment east or west?—A. I have no knowledge of that. I do not know.

The CHAIRMAN. Under the act of Congress, the question is as to the diversion of freight to an aided road rather than an unaided road. What other information, if any, can you give to the Commission?

The WITNESS. I do not know that there is anything except the discriminations against the city of Lincoln.

LOCAL BUSINESS.

By Commissioner LITTLER:

Q. Have you mentioned them all?—A. I do not know that I have. In regard to local business, it has been demonstrated here that under the arrangements which the Union Pacific Railway Company have with the lines east of the Missouri River, their Chicago connections, &c., a shipment of ten car loads of freight from Chicago to Lincoln, distributed over their line from Lincoln, would make them much more money than if it was distributed from Omaha. For instance, the Union Pacific Railway Company, whatever the rate is at Lincoln, gets 40 per cent., probably, of the through rate, while on the freight from Omaha it would only get the local rate out of the city of Omaha. If that freight was brought into the city of Lincoln they would get 40 per cent. of the through business and the regular rate, local.

Q. That 40 per cent. would have to be an agreed rate over the lines over which it passes?—A. Oh, yes; there is such an agreed rate as that. It is always agreed.

Q. Why do you assume that this company could make such an agreement as that?—A. Because they have it now, and it has always been that way.

Q. Then, as I understand you, there is and always has been an agreement between the Union Pacific Railway and the roads east of Chicago with which it connects, by which the Union Pacific Railway Company has for a long time received 40 per cent. of all freight passing beyond Omaha over its line?—A. Yes, sir; 40 per cent. or more. Sometimes it is more, I understand.

Q. Without regard to the distance over which it is hauled?—A. I presume that as the distance increases they get more.

Q. Do you mean that 40 per cent. is the lowest rate accepted by the Union Pacific Railway Company?—A. I mean to inform the Commission that 40 per cent. is the amount exacted on Lincoln business, and also, I think, on Wahoo business, but as it goes farther west they probably insist on a larger percentage.

EFFECT OF POOLS.

By the CHAIRMAN:

Q. What effect has the pooling of rates on a community?—A. An honest pool or an honest agreement as to rates, based on the commercial importance of a town, I think, would be no detriment to a community.

Q. What do you mean by an honest pool?—A. I mean an honest pool, where there is no rebate allowed, or any advantage to any particular shipper.

Q. Did you ever know of such a pool?—A. I do not know that I ever did.

Q. Then there never was an honest pool?—A. I do not think there ever was.

Q. Preferential rates by contracts or agreements are detrimental to the community whenever made, are they not?—A. That is a fact when there are two or more men in the same class of business in a community, one receiving a special rate and the other not.

COMPARISON OF RATES.

Q. How do rates compare now on the several lines into Lincoln with the time when you had but one line into Lincoln?—A. They are about the same. From 1873 to 1880 Lincoln was on an Omaha basis. That is, we received the same rates, say, to New Orleans, as Omaha did. When the roads became multiplied here the rates were advanced, and they have been advanced, so far as the open rate was concerned, ever since. During that time there have been cuts in freight rates that have placed Lincoln in the old position again.

INFLUENCING LEGISLATION.

Q. What information can you give to the Commission as to efforts on the part of the Union Pacific Railway Company to influence legislation?—A. Nothing more than was said by the others. They use all sorts of ways and means to accomplish their ends.

Q. Have they, through their officers and employes, participated in conventions and elections?

INTERFERING IN ELECTIONS.

A. They have been in conventions and elections. I look on that in this light, that if a railway company goes to a legislator and tenders him a pass for his family or friends, they at that time tender him money, substantially. It is the same as money, because it would cost money to buy that transportation. I think the main influence in legislation has been in that regard; favors shown that way, largely; free transportation given to a man and all his friends and relatives, good perhaps for a year, or with the promise that any request of that kind will be granted at any time. There may be other means used, of course. It is commonly understood here, when the legislature is in session, that nobody need pay a dollar of railroad fare, if anybody has the audacity to ask a member of the legislature for a pass, or anybody connected with the "lobby."

PLAN OF SETTLEMENT.

Q. Have you considered the question of the adjustment of the debt of the Union Pacific Railway Company and the other aided roads?—A. I have, to a limited extent.

Q. What is your judgment in regard to it?—A. I would treat it as I would any other business transaction.

Q. How would that be?—A. If the Government has a mortgage against the railroad company and that mortgage is due (either first or second mortgage) I would foreclose it and take the property.

By Commissioner LITTLER:

Q. Suppose the mortgage is not due until 1895 or 1897, what would you do?—A. If I could compromise some way to get the road in possession I would do it.

EFFECT ON THE COMMUNITY.

By the CHAIRMAN:

Q. What effect would that have on the community?—A. I think it would have a good effect if the Government would take the road and run it for fifteen or twenty years and then sell it out to some body. It would run it on a just financial basis. The Government can borrow money better than any individual or railroad corporation. She could float an amount of indebtedness on that line at 2 per cent. where individuals or corporations would have to pay 4 or 5. I think the Government could take that road and run it and after a period of twenty-five years the first-mortgage bonds would be absolutely paid and she would still have the road. Then, of course, if she cared to let it out she would be that much ahead. Cheapness of money enters largely into this question. Who can furnish the money cheapest to carry this great debt? The Government can do it cheapest of any. If the bonds are to pay even 4 per cent. the Government could do it one-half of that. I would, for my part, like to see the experiment of the Government taking the running of the road for twenty or twenty-five years.

LINCOLN, NEBR., *Monday, July 4, 188*

ALFRED E. HARGREAVES, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am a wholesale grocer, of Hargreaves Bros.

Q. How long have you been in business here?—A. Since 1876.

Q. You have heard the testimony of the gentlemen that have been before us this morning?—A. Yes.

Q. Do you corroborate the facts given here with reference to the Union Pacific Railway Company?—A. Yes, sir; I do.

Q. Have you any additional information that you can give the Commission?—A. I do not think I have anything more than what Mr. Raymond spoke of.

EFFECT OF DISCRIMINATION ON SUGAR.

Q. Have you, in your business, felt the effect of the discrimination on sugar, spoken of by the last witness?—A. Yes.

Q. What effect has it had on your business?—A. That we have a margin at all on sugar. We ordinarily handle it for nothing at all.

Q. It ordinarily puts you out of business on that article?—A. Yes.

EFFECT ON OTHER ARTICLES.

Q. To what other shipments does it apply?—A. We are extensively engaged in the fruit business, and every car load of it that we get has

BUSINESS RELATIONS WITH THE COMMUNITY.

Q. Have you any information that you can give this Commission concerning the business relations of this railroad company to the community here?—A. As far as I know the officials here are all very well liked by the citizens for gentlemanliness.

Q. How are the prices liked?—A. There seems to be considerable complaint about the Saint Joseph and Grand Island being considerably high.

Q. Are the rates of the Union Pacific Company the same as the Saint Joseph and Grand Island?—A. They are not, as far as I can tell. There are gentlemen here that ship more goods than I do, and can tell better.

CUTTING RATES.

Q. Are the roads cutting each other in the rates?—A. That I do not know.

Q. Did you ever hear of it?—A. No, sir; I never heard of cutting.

Q. Then there seems to be some difference in charges here?—A. Yes, sir; it seems so.

Q. How much difference?—A. That I cannot tell exactly. I suppose it depends on the character of goods shipped. When I get goods shipped from Kansas City by way of Saint Joseph it costs me more than when I get goods direct.

Q. How much nearer is Omaha than Kansas City?—A. That I could not tell exactly. I suppose the distance is about the same, or very near the same.

Q. Have you any other information that you can give the Commission?—A. No, sir.

FACILITIES FOR SHIPPING GRAIN.

Q. What are the facilities here for shipping grain? Do you have much grain brought in here?—A. Considerably so; yes.

Q. How many grain elevators have you here?—A. We have only two now. One was burned up this spring.

Q. Where are they?—A. One is across the river, at Perry Hutchinson's mills, and one is up here, north of the depot—called the Farmers' Elevator.

Q. Are they both on the Union Pacific road?—A. On the Grand Island.

Q. Have you heard any complaints by the elevator men as to discriminations, or anything of that sort?—A. I have not.

Q. Is there room for another elevator?—A. It seems to me there is. We had one burned down this spring, and none has been built since.

Q. Why does not some one else engage in the business?—A. I do not know.

Q. Have you heard of any explanation of it?—A. No.

Q. Have there been any complaints by the farmers in the community as to their inability to ship here?—A. Yes; there is lots of complaint about high rates generally, not about the facilities.

Q. Is it about rates of the Union Pacific Company?—A. They do not mean any one in particular. Lately there have been bonds talked of for a railroad, and about high rates, but no particular railroad was mentioned.

Q. How long has that been?—A. I do not know exactly. Not very long.

- Q. Was it prior to the 1st of April?—A. No; since the 1st of April.
 Q. How did the rates during 1886 compare with the rates in 1885?—
 A. I do not know, sir.

CATTLE SHIPMENTS.

- Q. Are there any stock shippers here—cattle shippers?—A. Yes, sir.
 Q. How many?—A. Well, there are at present two; only one, though, that does any extensive shipping.
 Q. What is the name of the man?—A. John Degnan.
 Q. Has he a stock yard?—A. Yes.
 Q. Is it on the railroad company's property?—A. I am not certain whether it is, or whether it is on the street.
 Q. Is there room for only one stock yard?—A. Not at the same place, or location.
 Q. No; but anywhere here in the neighborhood?—A. I presume there is, outside of the limits. I do not know, hardly, that there is, inside the limits.
 Q. Has there been any complaint of excessive charge by this one cattle shipper?—A. No, sir; there has not.
 Q. On what lines does he ship?—A. Mostly to Omaha.

COAL SHIPMENTS.

- Q. How many coal shippers have you in Marysville?—A. Two.
 Q. What is the population here?—A. About 2,700, I think.
 Q. Has there been any complaint as to the coal shippers having any reference from the railway company in their rates?—A. No, sir; not that I know of.
 Q. Did you ever hear of a private rate being charged by the railway company here, as against the open, published rate?—A. No, sir; I never have.

MARYSVILLE, KANS., *Monday, July 4, 1887.*

HENRY D. WATTERSON, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

- Question. What is your business?—Answer. Selling goods; I am a merchant.
 Q. How long have you resided here?—A. Over twenty-seven years.
 Q. Have you had business dealings with the Union Pacific Railway Company?—A. Not much.

COMPLAINTS AGAINST THE COMPANY.

- Q. Have you had any complaints in this community as to the business dealings of the railroad company?

WITNESS. Of the Union Pacific Company; do you mean by that Grand and Island Company?

CHAIRMAN. Yes.

WITNESS. My business has been nearly all with the Grand Isl-

and the Saint José and Grand Island is a leased line of the Union Pacific railway?—A. Yes.

COMPLAINTS AS TO CHARGES.

Q. Have there been any complaints in this community as to the charges for freights or passengers?—A. I have heard but little.

Q. What have you heard?—A. I have not heard anything lately; but here, some time ago—not very long, either—I used to hear a good deal of complaint that the rates of shipment for stocks and grain, &c., were much cheaper on the Central Branch than on this road. I investigated the matter a little, to ascertain why the stock-buyers and cattle-buyers and grain-buyers could not pay as much here as on the Central Branch, and they universally told me that the rates were cheaper on that road than they were on this, and that they were not able to pay so much. I know that the price of grain and the price of hogs were cheaper on that road than on the Saint José and Grand Island. I know but very little about the North and South road, for I have had very little to do with it.

By Commissioner LITTLE :

Q. What do you call the North and South road?—A. It was called, originally, the Marysville and Blue Valley.

Q. What do you call it now?—A. The Omaha and Republican Valley, now.

By the CHAIRMAN :

Q. The complaint was that the rates from Saint Joseph to Marysville were higher than over the Central Branch of the Union Pacific; was that it?—A. That is what I understood them to say; I do not know of it myself, only I have been told so by different parties.

DISCRIMINATIONS.

Q. Do you know of any discriminations here by the railroad company as against the individual shippers of Marysville?—A. No, sir; I do not.

Q. Did you ever hear of them?—A. I do not think I ever did.

Q. Did you ever hear of one citizen being favored more than another, in charges?—A. I have heard a good deal of supposition; but it was only supposition. I could not find out a man who could say that he knew so and so.

Q. Were there any citizens of Marysville that had any advantages over any other shipper by reason of lower rates?—A. Not that I know of.

Q. Did you ever hear of any rates or agreements made for one class of citizens or shippers as against another?—A. No.

Q. Have there ever been any discriminations by the railroad company in favor of or against any one class of citizens or shippers?—A. Not that I know of.

Q. Have there been any complaints among the citizens on that subject?—A. No, sir.

COMPLAINTS AMONG FARMERS.

Q. Have there been any complaints among the farmers as to their shipments?—A. I have heard a good deal of growling.

Q. Of growling about what?—A. That the rates were too high.

Q. Do all the railroad companies coming in here charge alike?—A. They do.

Q. So that it made no difference as to whether there was one railroad or whether there were two or three; they all pooled?—A. They have all had the same rates.

Q. Have you any suggestion to make to the Commission, or any information that you can give it?—A. I have not. I have given this matter but very little thought, indeed.

MARYSVILLE, KANS., *Monday, July 4, 1887.*

I. C. WENTZ, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Buying grain.

Q. How long have you been in business here?—A. About four years.

FACILITIES OFFERED.

Q. What facilities have you had over the road controlled by the Union Pacific Company as to shipments?

The WITNESS. That is, you mean cars and such as that?

The CHAIRMAN. Yes; cars and sidings and accommodations.—A. We have never had any trouble.

Q. How has it been as to freight rates?—A. I am not shipping now. I have bought grain here for Himebaugh & Merriam, of Omaha. I used to be agent for them here for three years; but they put up an elevator, and since then we have never been able to do any business here. They claimed they could not let me pay enough to do business with.

GRAIN FACILITIES.

Q. Have Himebaugh & Merriam an elevator here now?—A. Yes; they have a warehouse here. I have it rented from them now. The main elevator they had here burned down. That was a large elevator and held about 30,000 bushels.

Q. Were you trying to compete with them?—A. Oh, no; I was buying for them. They cut my prices.

Q. Were you buying for yourself?—A. Yes; I am buying now from Saint Joseph.

Q. What rates did Himebaugh & Merriam pay?—A. I do not know.

Q. Did they pay the open rate?—A. I do not know.

REBATES.

The CHAIRMAN. I can tell you that they did not. They had a rebate from the company.

The WITNESS. Well, if they did, they never told me; and they did not do business after that time.

Q. The effect, if they had a rebate, would be that no other shipper could ship against them, if the other shipper did not get the rebate. Would not that be the effect?—A. Well, I do not know what effect it would have. I shipped direct for farmers here a good while, and we never had any rebate.

Q. If Himebaugh & Merriam had a rebate, how could you compete with them?—A. After they commenced here we did not do any; we did to them.

Q. The effect of that was to compel everybody to deal with Himebaugh & Merriam; was that it?—A. That is the way it looked to me.

Q. What other complaints were made here?—A. I do not know as that was a complaint. The farmers were perfectly satisfied to get on the track here what they could get at Chicago.

Q. Himebaugh & Merriam had no competitors, had they, here?—A. Oh, yes; Hutchinson has a large elevator here.

Q. On the same road?—A. Well, no; not on the same road.

Q. Did they have any competitors on the same road?—A. They had one man.

Q. How long did he last?—A. He was doing business for a year.

COMPLAINTS AS TO CHARGES.

Q. Have there been any complaints of charges being allowed the stock-yard company, or favorable rates being given to some one?—A. We have two stock shipping parties here; one shipping to Omaha and the other to Saint Joseph, and one is always complaining against the other, that the other is getting better rates.

Q. Have there been any complaints, to your knowledge, about discriminations by the company against any shipper?—A. No, sir.

Q. Have you any other information you can give to the Commission?—A. No; not that I know of.

COMBINATIONS OF FARMERS.

By Commissioner LITTLER:

Q. Is it not true that the farmers have combined together and built an elevator, in order to try and break the monopoly?—A. Well, yes; I was one of the main movers in that myself. Previous to that, Hutchinson was the only elevator man here, and we did not think he was paying enough, not as much as he ought to have paid. We put up our own elevator and commenced buying for ourselves; then Himebaugh & Merriam commenced buying on the track here, and Gregg Brothers of Saint Joseph commenced buying here. When Himebaugh & Merriam commenced doing business here we could do better to sell our grain to them.

Q. You found that you could not compete with Himebaugh & Merriam?—A. Yes; we found that out right away.

Q. They paid you more than you could get in the market by shipping yourself?—A. Yes, sir.

FREIGHT RATES.

By the CHAIRMAN:

Q. How have freights been—have they been high or low?—A. Last winter they were low. Our published rate here, I believe, has always been 32 cents, has it not?

Mr. LONERGAN (railroad station agent). It was 32 cents until the farmers complained that they could not ship their corn, and then the company reduced the rates to 27 cents—made a reduction of 5 cents, to enable the farmers to move their corn.

The WITNESS. That was so; but it went back again.

Mr. LONERGAN. It went back again when the market justified the raising of the rate.

GRAIN PRICES.

By Commissioner LITTLER:

Q. What are you paying now for corn?—A. Twenty-two cents.

Q. What are you paying for wheat?—A. Twenty cents for oats and 22 cents for corn. There is no wheat here.

Mr. LONERGAN. With the permission of the Commission I will say that there is no wheat here. Mr. Hutchinson has telegraphed to Chicago to see if he cannot get wheat to carry on his mill.

Q. What is the capacity of his mill?—A. From 230 to 300 bushels per day.

Q. What is the rate for shipping in here from Chicago?—A. That is what we are trying to find out by telegraph.

Q. That is a new element in your business here, is it?

Mr. LONERGAN. It is something we are trying to find out.

The CHAIRMAN. What percentage of land is under cultivation in this county?

Mr. LONERGAN. I believe about two-thirds.

Q. What is the average price of land in this county?—A. About \$25 an acre.

Q. Are the people of this region reasonably prosperous, notwithstanding these rates?—A. I guess they are, about as well as they are in any part of the State.

INTERFERENCE IN ELECTIONS.

Q. Have the railroads been connected in any way with elections in this place, through their employes or officials?—A. Not that I know of.

Q. Have they in any way participated in attempts to influence elections?—A. I never heard of it.

Q. Have the rates by both railroads been the same here?—A. As far as I know, they have.

CUTTING OF RATES.

Q. Has there ever been any competition—any cutting of rates?—A. All the time I have thought there was, last winter. Hutchinson was on the Saint Joseph and Western, and went on the Union Pacific. He paid more for corn than we could pay. Whether he got it on a cut or not I cannot say. I was then buying for Himebaugh & Merriam. I wrote to them asking if they were paying that, and they wrote that they could not pay that. So we did nothing.

Q. The effect of that was to drive it over the other road?—A. Yes, sir.

Q. Have you any other information you can give the Commission?—A. No, sir.

MARYSVILLE, KANS., *Monday, July 4, 1887.*

WILLIAM BERKER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Newspaper man and postmaster combined.

Q. How long have you been a citizen of Marysville?—A. Seven years.

Q. How long have you been publishing a newspaper?—A. Six years.

FACILITIES AND ACCOMMODATIONS.

Q. Have you at any time heard complaints as to facilities and accommodations?—A. I think I have.

Q. What has been the nature of them?—A. High rates.

Q. How long have the complaints lasted?—A. All the time.

Q. Have both companies had the same rates?—A. Yes; the same complaints have been made against both.

Q. The rates have generally been the same?—A. Yes.

Q. In the time you have been here have the rates decreased or increased proportionately?—A. They have been pretty much the same, except since the interstate commerce bill went into effect there was more complaint than before in regard to shipping farther than Saint Joseph and so on.

Q. Prior to that time had there been complaints?—A. I have paid nearly as much, by 5 cents, to ship freight (newspapers) from Chicago to Saint Joseph as from Saint Joseph to Marysville.

Q. How long have the rates existed with reference to that charge?—A. A long time.

DISCRIMINATIONS AGAINST SHIPPERS.

Q. Have there been complaints made of discriminations against particular shippers?—A. We cannot tell as to discriminations. We have tried to get elevators here, and the man that has an elevator here has tried his level best not to have us do it. We have had meetings of citizens to get elevators, and he always had his henchmen here to vote it down. The man that was on the stand before me kept ignorant of it.

Q. When Himebaugh & Merriam moved in and built their elevator they had no opposition—no trouble.—A. There was at the start, but I guess they pretty soon arranged the matter.

Q. What was the opposition at the start?—A. It was like the case of men selling in stores, I suppose. One would try and beat the other; and then they would have a conclusion to have things go on smoother, and make the same rates.

DISCRIMINATION AGAINST MARYSVILLE.

Q. Have there been any discriminations against Marysville in favor of other points?—A. I cannot say anything as to that. I think the company did not charge any more from here than other points on the road.

Q. Did Marysville make any contribution in the way of bonds or town lots to the company for station purposes?—A. The county gave \$100,000 of bonds. I am speaking now of the Omaha and Grand Island. And a little branch road got \$15,000.

Q. Making \$115,000 for the two?—A. Yes.

INTERFERENCE IN ELECTIONS.

Q. Have there been any complaints in the community as to the Union Pacific Company exercising any influence in elections?—A. Mr. Loneragan is the agent here, and he always says, "Vote as you please." He is a Democrat; but he has always said, "Vote as you please."

Q. Have the farmers and other shippers here complained of the rates?—A. You ought to have been here last week when there was talk of building a new railroad.

RAILROADS ROBBING THE PEOPLE.

Q. What was the talk ?—A. Oh, great God, I could not tell you all—that the railroads were robbing the people.

Q. How robbing them ?—A. By high freights.

Q. Were the complaints just ?—A. Well, that I do not know.

Q. Were the complaints just ?—A. The farmers had said that they would have to work for the railroads exclusively. The railroads take three-fifths of the farmers' receipts. One-fifth is left for interest and one-fifth left to live on.

Q. Have you any other information to give the Commission ?—A. I have none. But I think it is quite a good thing that the Commission came around. It is the first time in the history of the United States that a United States commission came around here to see how the farmers were getting on.

PASSES.

Q. Have you heard anything about passes being issued here ?—A. I had a pass right along until the 1st of April.

Q. Was it a general rule for the company to issue passes ?—A. Well, I put a time card in for pay, and of course I received my pass regularly.

Q. Were there any other citizens that received passes ?—A. Oh, lots of them. Every shipper got a pass.

Q. Does the town of Marysville do much shipping ?—A. There are several men—that ship.

PRINCIPAL SHIPMENTS.

Q. What products come in here for the purpose of shipment ?—A. Grain—corn, mostly. I do not think there is any wheat shipped out here. Mr. Hutchinson has a large mill and consumes all the wheat.

Q. Any cattle ?—A. Yes; lots of cattle.

Q. Where to ?—A. To Kansas City, Saint Joseph, and Chicago.

DIVISIONS OF SHIPMENTS.

Q. How are the shipments on the railroads divided ? Do the railroads controlled by the Union Pacific Company have a fair share of the agents ?—A. There is only one agent here for them, and he says "take our choice."

Q. One agent for the whole ?—A. For the whole concern.

Q. It is the same as if it was all one concern ?—A. Yes, exactly; the same family.

Q. When they fix a rate there is no appeal ?—A. You have got to take it as they make it. There is no kicking about it. Either pay or keep it at home.

INTERFERENCE IN ELECTIONS.

Q. Have the railroads, at any time, interfered in the political contests that took place here ?—A. No; not as far as I know; except what Mr. Morgan has said.

Q. Then the railroad question has not been as much of a factor in the State of Kansas as in Nebraska ?—A. Not up here.

Q. You are very near the line ?—A. Pretty near; it is a good thing. This is a prohibition State. [Laughter].

Have you any other information you can give us ?—A. No, sir.

MARYSVILLE, KANS., *Monday, July 4, 1887.*

W. S. GLASS, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Attorney at law.

Q. How long have you resided in Marysville?—A. Nearly eight years.

Q. Were you a member of the legislature last year?—A. Yes, sir; and in 1882.

COMPLAINTS AGAINST RAILROADS.

Q. Do you know of any complaints existing in this community against the railroads, especially those controlled by the Union Pacific Railway Company, with regard to charges on shipments of freight or passengers?—A. I have heard a good deal of complaint on the part of the farmers. In serving as a member of the legislature I received a great many petitions setting forth, in a general manner, complaints and grievances that they had of extortionate rates. Of course, not being in the shipping business myself, and not knowing much about it, I only learned a few facts. I went before the railroad commission of the State of Kansas—constituted by the State—and presented some of these facts and complaints, and asked why we could not get better rates over the Saint Joseph and Western. As you have been told here, along the Missouri Pacific, or Central Branch as it is called, it is claimed that shipments of freight were made at a lower rate, so that they were enabled, in that country, to draw the grain from here down there, and that this railroad was not affording them as good rates. I went before the commission and asked them about it. They said the Saint Joseph and Western was peculiarly situated and under peculiar circumstances; that they could hardly fix rates for them; that they had been fixing rates for the Atchison, Topeka and Santa Fé; but they had not been able to ascertain whether or not this Saint Joseph and Western was a paying road. That was the reason they gave me for their failure to do better in the way of rates for the people here. I can give you, as a mere rumor, the statement that the Saint Joseph and Grand Island, being under the control of the Missouri Pacific, received its material, that is, its coal and oil and all that material that entered into the running of the road, from the Union Pacific at high rates; that is, at higher rates than the goods could be bought in the market; and that the main line (or some part of the Union Pacific system) took the earnings, in great part, of the Saint Joseph and Western so as to render it a less paying property. In that way I reasoned that the rates were held up here. In other words, that our State railroad board did not take control and fix rates. Still, I do not know that those are facts.

COMPARISON OF RATES.

Q. As to the rates over these two roads; have those on the Central Branch road continued lower than on the Saint Joseph and Grand Island?—A. I think so. The Missouri Pacific lies entirely within the State of Kansas, and they have fixed certain lower rates. At least all our shippers and merchants complain that they could not compete with the merchants and shippers of the Central Branch. We have no connection with that road. It is a parallel line with us, about 12 miles off; and the people, the merchants and shippers on that line could afford to pay higher rates for any products or sell their goods higher than on this line.

Q. The effect of that exclusion on this community is to affect prices?—A. Yes; I have heard that complaint generally. Products of farmers nearer to Marysville than to this line have been drawn to that place rather than to Marysville.

Q. That is, have been drawn by the Central Branch of the Union Pacific Railroad?—A. Yes; controlled by the Missouri Pacific.

Q. How long has that continued?—A. That has continued as long as I have given any attention to the matter; probably four or five years. I am not a shipper, but I give you what the general complaint is.

REBATES.

Q. Have there been any other complaints?—A. Well, as gentlemen have testified here, there have been mutterings continually that certain persons here were receiving rebates and that others could not compete with them in the shipment of products from this point. I have heard it intimated that grain buyers and stock buyers both had rebates from here over the general public.

Q. That is, that there has been an open, published rate and then a private rate?—A. Well, it is a private rate in some ways. I do not know how they got it. I have been led to believe that it has not been so much in force of late as it was some time back.

INFLUENCING LEGISLATION.

Q. Has the railroad controlled by the Union Pacific Company attempted in any way to influence legislation?—A. Not to my knowledge. I probably saw some things wherein I believed they were trying to influence legislation, but not particularly, except as lobbyists do, at the legislature. I have never known them to take any hand in politics. It was generally understood at the legislature that there were certain men on the floor that were representatives of the Union Pacific Railway Company's interest.

Q. Do you recall their names?—A. I can give you one, if you desire it.

The CHAIRMAN. Yes.

The WITNESS. Colonel Veale, of Shawnee County.

Q. Was he a member of the legislature?—A. Yes; he was a member of the legislature.

Q. What did he do toward advancing the interests of the Union Pacific Railway?—A. He advocated any project that was in their interests on the floor in eloquent terms.

DISCRIMINATION BETWEEN COAL DEALERS.

Q. Have there been any complaints in this community as to the preferences given to coal shippers, or any one coal shipper over another?—A. No, sir; I believe not.

Q. Where do you get your coal from here?—A. A great portion of it from Missouri. We get some of it from Pennsylvania—the hard coal. There is also Colorado and Wyoming coal shipped here to some extent.

Q. What lines do they come from?—A. From the Union Pacific. I am not informed whether they come from the Union Pacific lines or not, but they come over the Union Pacific line.

Q. What do you pay for coal here?—A. About \$6.50 or \$7 a ton for coal in the winter time. Last winter hard coal ran from \$12 to

about \$11 to \$14 is the price at which hard coal has run.

THE LUMBER TRADE.

Q. Have you any lumber shippers here?—A. We have three lumber yards.

Q. Are they all on the road controlled by the Union Pacific Company?—A. We have none except those that are controlled by the Union Pacific Company.

Q. What are the rates?—A. I cannot tell you that. I do not know.

Q. Have there been any complaints between them as to the rates charged?—A. No, sir; I have not heard of any. I have not heard any complaints as to a difference of rates between the two lines, both being Union Pacific lines.

Q. But, have there been any complaints as between the lumber shippers themselves?—A. No; I think not. Their prices range about the same; and I suppose they get rates about the same.

KANSAS RAILWAY COMMISSION.

Q. Have you any other information that you can give this Commission?—A. No; I believe nothing further.

Q. I understood you to say you were an attorney?—A. Yes, sir.

Q. Have you a railway commission in this State?—A. Yes, sir.

Q. Are you familiar with its powers?—A. To some extent, yes.

Q. You spoke awhile ago about there being a different rate on this road 12 miles below here from this one. It is not the duty of your railroad commission to fix maximum rates all over the State on all railroads?—A. I believe it is their duty to recommend it.

Q. To whom?—A. To the governor, I believe, and the legislature.

Q. Then they have not the power to fix rates?—A. They have no power. They can enter into an investigation of the rates and determine what should be reasonable rates, and then give that rate to the railroad company; and if the railroad company fails to comply with that, the Commission shall report to the governor and the legislature. That is about all the power the Commission has.

Q. Do they make a schedule of rates for all the railroads in the State?—A. Only on complaint.

Q. Then they have no power by virtue of their office to fix maximum rates?—A. No, sir; I do not so understand it. In fact I know they do not; because I remember the fight was very bitter when that bill was up in the legislature. They stripped the proposed bill of any such feature.

Q. Then of what account is your railroad commission?—A. To gather statistics; that is about all.

MARYSVILLE, KANS., *Monday, July 4, 1887.*

WILLIAM A. MOORE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. The lumber business.

Q. How long have been in business in Marysville?—A. Twelve years.

FREIGHT RATES.

Q. Have there been any complaints as to rates during the time you have been a shipper over the Union Pacific roads?—A. No; no complaint, only that rates were high.

Q. Have the rates always been about the same?—A. They have been the same from Omaha and Saint Joseph, I believe, ever since I have been here. There has been one cent of reduction, I believe, since I came here.

Q. Have you always paid the open rate?—A. Yes, sir.

DISCRIMINATION AGAINST INDIVIDUALS.

Q. Do you know of any discriminations by the railroad company against individual shippers in establishing rates?—A. No; I think I do not. One man told me that he got a lower rate on some articles that he shipped, but I do not know the fact.

Q. You have heard the testimony of the gentlemen who preceded you?—A. No, sir; I just stepped in a moment since.

FACILITIES AFFORDED.

Q. What have been the facilities and accommodations afforded by the Union Pacific road?

The WITNESS. In the way of cars, &c.?

The CHAIRMAN. Yes.

The WITNESS. We have had no difficulty, so far as I am concerned, in shipping to Chicago very frequently. Last year I shipped altogether by way of Omaha over the Union Pacific Railway, and have had no trouble on that subject.

DISCRIMINATION AGAINST COMMUNITIES.

Q. Has there been any discrimination as against communities in this neighborhood?—A. I do not know of any. If there have been any I have not heard of it.

Q. Have you heard of any complaints?—A. Nothing except that the rates were high.

Q. Did you ever make an appeal for the reduction of the rates?—A. I never did, personally. I had a partner before this year. I think he did, but we did not get any reduction.

Q. How many competitors have you in the business?—A. Two.

Q. Have you any information to give the Commission as to rates or accommodations afforded by the Union Pacific Railway Company?—A. No, I do not know that I have. I just accidentally stepped in here; I had not thought about it.

The CHAIRMAN. Is there any other gentleman here that can give us any information on the subject which the Commission is investigating? (No response.)

The Commission then adjourned, to meet upon the call of the chair.

SAINT JOSEPH, Mo., *Monday, July 4, 1887.*

At 9.30 p. m. the Commission met, upon the call of the chair.

Present, Commissioner Pattison (chairman) and Commissioner Littler.

THOMAS H. DOYLE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. How long have you been mayor of Saint Joseph?—Answer. Since April, 1886; a little over one year.

Q. How long have you resided in Saint Joseph?—A. Since March, 1869.

Q. What business were you in prior to holding the position of mayor?—

A. In the practice of medicine; physician and surgeon.

NUMBER OF RAILROADS AT SAINT JOSEPH.

Q. How many railroads come into Saint Joseph?—A. We have the Hannibal and Saint Joseph, the Kansas City, Saint Joseph and Council Bluffs, the Chicago, Burlington and Quincy, the Missouri Pacific, the Chicago and Rock Island, the Chicago, Kansas and Nebraska, running west of that, which is virtually the Chicago and Rock Island, the Grand Island Road, and the Saint Joseph and Saint Louis.

Q. What is the population of Saint Joseph?—A. About 60,000.

FACILITIES AFFORDED.

Q. Have there been any complaints in this community with reference to the facilities or accommodations afforded by the Saint Joseph and Grand Island to the public?—A. No, sir; I have not been in a position to know whether there have been any complaints. There have been none directly, to my knowledge; because, as I tell you, I have but little to do with railroads, my business being such that I am not brought into contact with the railroads unless I want to travel somewhere. I have never made it my business to inquire into the manner in which people have been treated by the different railroads, and, consequently, I have never made it my business to ascertain.

Q. Have there been any expressions of sentiment with reference to the business relations of the railroad to the community?—A. I have never heard anything, particularly.

Q. Have there been any complaints as to the freight rates or passenger rates charged by the Saint Joseph Railroad?—A. I have never heard any such.

DISCRIMINATION AGAINST COMMUNITIES.

Q. Have there been any complaints as to discriminations against this city in favor of other localities?—A. That is another question that I am not posted on; because, as I say, my business is such that I have hardly anything to do with railroads; and I do not remember to have heard anything particularly as to whether this road has favored the city or worked against it.

Q. Have you any knowledge as to the freight rates or passenger rates?—A. No, sir; I have not.

Q. Have you any knowledge as to the difference between the rates of the companies?—A. No, sir.

Q. Have you any knowledge whether they have charged the same, or whether one charges more or less than another?—A. No, sir; I have not.

Q. Have you any knowledge as to the attempts on the part of railroad companies, the Saint Joseph and Grand Island in particular, to interfere in the political conventions of the State?—A. No, sir; I have not.

INFLUENCING LEGISLATION.

Q. Have you any knowledge as to the railroad companies attempting to influence legislation?

The WITNESS. The Saint Joseph and Grand Island ?

The CHAIRMAN. Yes.

The WITNESS. No, sir ; I have not.

Q. When you speak of the Saint Joseph and Grand Island, you speak of the Union Pacific ?—A. I understand it is a branch of that road.

Q. Have you any knowledge as to where the Commission could gather any information on this question ?—A. Yes, sir ; I believe I have. I think I could tell you of people that would be better posted and better able to give evidence on that matter than myself.

Q. Who are they ?—A. Almost any of our wholesale men. We have some big wholesale business done here ; almost the entire wholesale business of the country northwest of us. Saint Joseph does the biggest wholesale trade of any city on the Missouri River in boots, shoes, dry goods, groceries, and hardware, and consequently our shippers are in a position to know those who discriminate, because they do business over every road. They have houses and correspondents everywhere between here and Yankton. Some of them have houses in Atchison, in Omaha, in Wichita, and Pueblo. Saint Joseph is the head center of the wholesale business of this western country ; that is, west of Chicago and Saint Louis.

Q. Have you a board of trade here ?—A. Yes.

BOARD OF TRADE DISCUSSION AS TO FREIGHT RATES.

Q. Has there ever been a discussion in the board of trade with reference to rates ?—A. Yes ; and while I am a member of the board of trade, it is very seldom that I attend a meeting, as it is not in my line, unless it affects the city.

Q. What discussion took place in the board of trade with reference to rates ?—A. I cannot tell you, indeed.

Q. Who is the president of the board of trade ?—A. H. R. W. Hartwick.

Q. Where does he reside ?—A. He lives in Saint Joseph, on Main street.

Q. Have you any suggestion or information that you can give the Commission with reference to the Union Pacific Railway Company ?—A. No, sir ; I have not.

PLAN OF SETTLEMENT.

By Commissioner LITTLER :

Q. Have you considered the several propositions before Congress for adjusting the claim of the United States against this company ?—A. No, sir ; I have not.

By the CHAIRMAN :

Q. And you have no opinion as to what legislation ought to be adopted on that subject ?—A. No.

Q. Can you put us in communication with any persons that could give us information on that subject ?—A. I do not think I could. I did not receive your telegram until 6 o'clock this evening, and being the Fourth of July, nearly everybody was out of reach. I did reach a few prominent wholesale men. I did reach Mr. McCord, one of our largest capitalists and wholesale dealers, and also Mr. Steele, who was at one time president of the Saint Joseph and Denver road. Mr. Steele was here as the evening wore on and you did not arrive, he went home. McCord went home also.

Q. Do they live far from here?—A. Yes, sir; Mr. McCord lives out in the extreme northwestern end of the city, and Mr. Steele in the heart of the city.

DISCRIMINATIONS AND SPECIAL RATES.

Q. Has there been, through the public press or by public meetings, or in any way, any discussion of the question of discrimination or special rates on the Union Pacific Railway Company?

The WITNESS. With reference to the Saint Joseph and Grand Island?

The CHAIRMAN. Yes.

A. I do not think there has been any up before the board of trade.

Q. You are speaking now of a period as far back as you can recall?—

A. Yes, sir.

By Commissioner LITTLE:

Q. Is this Saint Joseph and Grand Island regarded as an important road in this city?—A. It is regarded as one of the most important in this city. I am told there is a larger amount of grain shipped over that road, in proportion to its length, than over the Atchison, Topeka and Santa Fé.

Commissioner LITTLE. Will you send those gentlemen a notification to meet us at Kansas City?

The WITNESS. They are not likely to go very much out of their way.

Commissioner LITTLE. They are, if they have any serious complaints.

The WITNESS. Oh, yes; they have branch houses in Kansas City, and can be represented there.

CUTTING OF RATES.

Q. Have you heard anything of the cutting of rates between the railroad companies here?—A. I have not heard of any. I think the Saint Joseph men can get as good rates as any men on top of the ground.

Q. Then you have not had any complaints?—A. No, sir; I have not heard of any.

The Commission then adjourned, to meet upon the call of the chair.

ATCHISON, KANS., *Tuesday, July 5, 1887.*

The Commission met upon the call of the chair, all the Commissioners being present.

G. W. GLICK, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Are you a resident of Atchison?—Answer. Yes, sir.

Q. How long have you been a resident?—A. Twenty-eight years.

Q. What business are you engaged in?—A. I am a farmer, and stock raiser, and pension agent.

Q. You were elected governor in 1882, were you not?—A. Yes, sir.

Q. How long did you serve?—A. Two years.

COMPLAINTS OF DISCRIMINATIONS AND EXCESSIVE RATES.

Q. Have there been any complaints in this community in reference to the business relations of the Central Branch Union Pacific to the com-

munity as regards freight or passenger rates?—A. There has been a great deal of complaint about the discrimination in freight bills.

Q. When did the complaints exist; were they prior to the 1st of April?—A. Yes, sir.

Q. What were the nature of the complaints?—A. The nature of the complaints was that the rates were high, and that they were constantly discriminating between individuals, giving rebates and drawbacks to one class of men in business, while they were refusing them to another.

Q. How long had the discriminations continued?—A. They had continued for a long time.

Q. Were the complaints general against all the roads?—A. Generally so; yes, sir. Perhaps I had better explain a matter right here that comes in that connection. In 1883 the public clamor for railroad regulation was so great that our legislature passed a law regulating the railroads, and providing for the appointment of a commission, to which they gave the power to fix or control rates. Complaint was made against the Central Branch Railroad Company, and, on the hearing, the Commission took charge of the matter and fixed the rates, making a very material reduction in them. Since that time there has been but very little complaint about the rates; but there has been a great deal of complaint about discrimination.

REBATES AND DRAWBACKS.

Q. In that way?—A. For allowing rebates and drawbacks to parties, and allowing parties who were shipping east of this point to have a great deal less rate than those who shipped to this point.

By Commissioner ANDERSON:

Q. Can you give us the names of the parties?—A. No, sir; I cannot.

Q. Or of parties making complaints?—A. On being selected as executive there was a great deal of complaint made to me by citizens of this place and citizens along the line of the road. I visited the road and had a conversation with Mr. Hayes, who was general manager of the line, and got him to make some reductions and changes in the rates, which the people advised me were satisfactory if they were lived up to. I subsequently learned that they were not lived up to as had been proposed.

FACILITIES AFFORDED.

By the CHAIRMAN:

Q. What have been the facilities and accommodations afforded by the Central Branch Union Pacific to the community for the purposes of shipments and for passenger travel?—A. I think their facilities were about as good as the necessities of the business required. They would often run six to eight or ten freight trains each way on the road.

INTERFERING IN ELECTIONS.

Q. Have the officers or employes of the Central Branch Union Pacific taken part in any way in an attempt to influence legislation?—A. The Central Branch Railroad, in fact the entire railroad system of this country, undertook to run the politics of the State, and they have done so in controlling legislatures and local politics, especially in the election of members of the legislature and State officers, and, particularly, the Governor.

Q. How long has that continued?—A. I do not think they have done much in that direction since the election of 1882.

Q. Prior to that time how was it?—A. Prior to that time they generally managed the campaigns, or at least it was so understood.

Q. Do you mean the primaries and the general elections?—A. Yes, sir; and they have controlled newspapers. They have established some newspapers. The Central Branch is no different from any other railroad in the State. It probably took a more active part than some of the roads.

Q. Has the board of trade in this section taken any action with reference to the discrimination you have spoken of?—A. I do not think they have.

Q. Have the citizens taken any action by public meetings or otherwise?—A. I do not know of any action taken since the time that I referred to, when I went to Saint Louis at the request of the citizens here. That was at the request of the board of trade and of individuals.

By Commissioner ANDERSON:

Q. When was that?—A. That was in 1883, March or April.

SENTIMENT OF THE COMMUNITY.

By the CHAIRMAN:

Q. What is the feeling in this community with reference to the railroad?—A. Since the railroad commission has been provided for in this State public sentiment has almost entirely changed towards the road. The commission have very large power in their control and regulation of the railroads, and when they have been called upon they have generally acted, and, I think, in 90 per cent. of their decisions they have made rulings in favor of the people as against the roads.

Q. Prior to the organization of the commission what was the condition of affairs?

The WITNESS. In what respect?

The CHAIRMAN. With reference to the railroads. What has been the feeling of the people?

The WITNESS. The feeling of the people was very bitter against the railroads.

By Commissioner ANDERSON:

Q. Against all of them?—A. All of them.

By the CHAIRMAN: .

Q. What did it arise out of?—A. Out of the excessive rates and the continual interference in politics, making war upon individuals and making fights for men, and almost waging a war of extermination against the citizen who had the courage to attempt to resist them.

DISCRIMINATIONS IN GENERAL.

Q. Was there a fear on the part of the citizens to express an opinion?—A. Yes, sir. While I was governor of the State, citizens here who were discriminated against would take me around a building and off from corners, and would say to me that they were afraid of the employés reporting them, and that that would injure their business through discrimination by the railroads.

Q. Did that exist to a very large extent in the community?—A. To a very large extent; yes, sir.

By Commissioner ANDERSON:

Q. If you cannot name the persons affected by this discrimination, can you name the articles of commerce in favor of or against which it was used?—A. It was confined principally to grain and stock.

Q. Was the discrimination purely personal, or was it also local, so as to favor certain localities as against others?—A. It was both personal and local.

Q. Do you recall the names of any persons who have suffered from discrimination against them by giving more favorable rates to their rivals in business?—A. I do not recollect the names very well and I could not give you names. I could give you instances.

DISCRIMINATION AS TO BARBED WIRE.

Q. Will you give us some instances?—A. There was a party at Blue Rapids (I think that was the location) who shipped large quantities of barbed wire. He got rates and drawbacks so that he could drive all competitors west of here nearly out of business. When the commission fixed the rates they knew nothing about the matter, and the rate on barbed wire was fixed at a rate higher than he had been paying under his private arrangement with the company. He then made complaint, and letters were written to me on the subject. I referred it to the commission, and they investigated the matter and found that he had a private rate which enabled him to ship barbed wire to his point of business and sell it at a much less rate than anybody else could lay it on the ground at the regular rates. A gentleman informed me that in shipping wheat here he was charged \$15 a car more than other parties shipping at the same point. I am speaking of the Central Branch. He threatened to commence suit and they refunded him \$15 a car on three car-loads of wheat.

NUMEROUS COMPLAINTS.

Q. Were instances of that character very numerous during that period?—A. Yes, sir; I became cognizant of them through my official position. I received a great many letters, hundreds of them, from people along the line of the road making those complaints.

Q. When was this?—A. 1883.

Q. What officer of the Central Branch had charge of the fixing of these rates at that time?—A. I suppose the general manager at Saint Louis or the general freight agent.

Q. Do you know of any officers of the company who have had business relations with the company? I am referring to their private matters.—A. No, sir; I do not.

Q. Was there much ore transported over the Central Branch?—A. Nothing but coal; coal is transported; no other minerals.

Q. Is it transported from the West to the East?—A. From the East to the West.

Q. It is simply delivered for use on the line of the road?—A. Delivered for use on the line. Of course there are large quantities of that. A country has most of its fuel supplied from those points.

SALE OF THE ROAD TO MR. GOULD.

Q. Do you know anything of the transaction that occurred in 1880, when this road was sold first to Mr. Gould and then to the Union Pa-

cific?—A. No, sir; I know nothing about that except from newspaper report.

Q. Do you know Mr. Oliver Ames, of Massachusetts, personally?—A. No, sir.

Q. Or Mr. Gould?—A. I have met them, but I have no acquaintance with them.

Q. Have you any personal knowledge of the amount of traffic done on this road?—A. The traffic is very large.

Q. What are the chief items?—A. I learned from the superintendent some years ago that he ran eighteen freight trains a day. The greater portion of the traffic is stock and grain going to the East, and merchandise and coal going to the West.

Q. Can you tell us what the population along the line of the road is that depends on the road for the receipt and delivery of merchandise?—A. I could not give you the exact figures as to that. You can get that from the secretary of our State Board of Agriculture. He can give the statistics of every county along the line of the road.

KANSAS RAILROAD COMMISSION.

Q. Did I understand you to say, generally, that these different causes of complaint, referring to personal or local discrimination and inequitable rebates, have substantially ceased since the establishment of your State railroad commission?—A. Yes, sir. If it has not ceased I do not know anything about it. I have not been in a position where I would be likely to know much about them.

PLAN OF SETTLEMENT.

By Commissioner LITTLE:

Q. Have you any suggestion to make to this Commission as to the settlement between the Government and this company?—A. I have thought about that a great deal, simply as an individual. It is a matter that has been running through my own mind.

Commissioner LITTLE. We would be glad to have your opinions.

The WITNESS. I do not think that the Central Branch, or that system of road with which it is connected, could pay the Government debt. I think the development produced in the West here by the building of those roads has more than compensated the Government for the outlay. It has received a sufficient amount in return to warrant it in canceling that indebtedness without any injury to the country. Of course those benefits are mainly indirect, though they are partly direct in the transportation of mails and supplies to the West and to the Army.

Q. Do you think, because the Government enabled these roads to pioneer the railway system to the Pacific coast, that the benefits inuring directly and indirectly to the people of the localities as well as to the people at large would justify the Government in a cancellation of the whole or of a part of the debt?—A. Yes, sir; I do.

ROAD NOT ABLE TO PAY GOVERNMENT DEBT.

Q. Why do you say that this road, with all its immense traffic, is not able to pay the Government debt?—A. My reason is this: It was built at a very early day, when it was an expensive work. It has passed out of the original hands of the projectors and proprietors, and whoever holds it now holds it as an investment, for which they paid

its value. Their income from it is perhaps nothing more than an income from ordinary business investments.

Q. How far do you reflect the sentiment of the people of the State in the views you have expressed?—A. I do not know.

Q. Has the subject been one of discussion here?—A. No; I never heard it discussed.

Commissioner ANDERSON. The press has had articles on the subject.

The WITNESS. I have never read one that I recollect. I have never read an article in the press on the subject. In fact, I do not have much time to read, except to look through the telegraphic dispatches.

Q. What is your business?—A. I am the pension agent for the western district. It keeps me very busy.

CENTRAL BRANCH TRAFFIC.

By the CHAIRMAN:

Q. Are you familiar with the traffic, freight and passenger, that passes over the Central Branch, Union Pacific?—A. I might say that I was familiar, and then again I am not familiar. I know there is a very large amount of freight business done over the road. The country is developing very fast, and is settling up very rapidly, and that makes a large business.

Q. Has it been a growing business?—A. Yes, sir; from year to year.

Q. Does it develop in proportion to the capital and population that locates along the line of the road in this State?—A. Yes, sir; I think it does; but it may not get its full share of development on account of the large number of roads that have been built in competition with it. The Kansas Central, the Central Branch, the Saint Joseph and Denver, and the Kansas Pacific, four railroads within the distance of sixty miles, all paralleled each other. Since that, the Burlington and Missouri have built lines in competition with those four roads.

DIFFERENCE IN RATES OF COMPETING ROADS.

Q. Have you any knowledge of the difference in rates between those lines?—A. No, sir.

Q. Do you know whether or not they work under an agreement or pool-rate?—A. No, sir, I do not. They used to pool everything at this point. But whether there is anything pooled now I cannot say.

Q. Prior to April 1st, 1877, were all the roads pooling at this point?—A. The passenger rates are fixed by law. It was three cents a mile. About their pool arrangement, I do not know anything now.

Q. Was there any difference between the lines coming into Atchison as to the freight rates?—A. The freight rates on the Atchison, Topeka, and Santa Fé road, both in and out, were considered and understood to be lower than on the Central Branch.

Q. Was that for the same distance of haul?—A. Yes, sir.

Q. Can you give us any other information or any suggestion that would be of service to the Commission?—A. I do not know that I could, without having my attention called to some matter.

Q. How does the traffic of the road to-day compare with the traffic prior to 1880?—A. I think it is increasing.

ATCHISON, KANS., *Tuesday, July 5, 1887.*

W. B. DODDRIDGE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am superintendent of the Western Division of the Missouri Pacific road; commencing at Kansas City and including Kansas City to Portland, Nebr., and the Central Branch Division.

Q. In the lines you have named, the Central Branch Union Pacific Road is included?—A. Yes, sir.

Q. How long have you been manager?—A. Since April 1.

Q. Whom did you succeed?—A. W. W. Fagan.

Q. What position did you hold in the road prior to your present position?—A. I held none. I was not connected with the roads.

Q. Had you any information concerning the Central Branch road prior to that time?—A. Not any.

Q. With what road were you connected?—A. Formerly I was with the Union Pacific.

Q. In what department?—A. In the operating department, the western end of the Union Pacific. I had charge of the Idaho Division at one time.

Q. How long were you in the employ of the Union Pacific?—A. Eighteen years.

Q. Then your knowledge of the Central Branch, Union Pacific, is from April 1, 1887?—A. Yes, sir.

Q. What knowledge have you of the rates prior to April 1, 1887, of the Central Branch, Union Pacific?

The WITNESS. The rates of freight?

The CHAIRMAN. Yes; or passenger rates.

A. I have no knowledge of that at all. That is to say, that portion of the business does not come under my jurisdiction, and I know nothing scarcely about the tariff rates in this part of the country.

DUTIES AS GENERAL MANAGER.

Q. What are your duties as general manager?—A. I have charge of the maintenance of way and conducting of transportation.

Q. Do the officers on the Central Branch, Union Pacific, report to you through the general office?—A. They all do, with the exception of the agents of the line, with reference to matters connected with the commercial department. Those reports do not pass through me.

Q. Are appeals made to you by agents of the roads along the line for rates?—A. They are not.

Q. Are they forwarded to you by the agents, and by you forwarded to the general offices?—A. No, sir.

Q. What reports do the officers make to you?—A. They make all the reports relative to the practical part of their duties. For instance, I have the control of the appointment of the local agents and of the employes at the stations, and have charge of the discipline of the stations.

By Commissioner ANDERSON:

Q. Do they report the receipts of money to you?—A. They do not; no, sir.

Mr. MINK. They report operations entirely.

The WITNESS. They report those things direct to the heads of the departments that have control of those branches.

By the CHAIRMAN:

Q. Where are the heads of departments?—A. On Central Branch, they are at Saint Louis. The officers are the treasurer, the auditor, and traffic manager on the Missouri Pacific system.

By Commissioner ANDERSON:

Q. Do you mean local officers, such as station agents, report to Saint Louis?—A. There is what is termed a division freight agent, that has something to do with the rates, stationed at Atchison.

Q. What is his name?—A. His name is W. H. Garrett.

By the CHAIRMAN:

Where is Mr. Garrett?—A. His office is at Atchison, at the depot, but whether he is in town I am not informed.

Q. Will you have him meet us at Kansas City during the next three days?—A. Yes, sir.

The CHAIRMAN. Have him appear before the Commission on Thursday.

The WITNESS. Very well; I will do so.

Q. What other officers are there here at Atchison?—A. No others at Atchison.

Q. Do you issue instructions to the officers along the line?—A. Only those that are subordinate to me in the operating department. I issue no instructions with reference to the tariff or rates.

Q. Is the gentleman you have named the one who does that?—A. Yes, sir.

Q. Are appeals made to him along the line with reference to rates?—A. They are. He represents the traffic department.

CONDITION OF TRACK.

By Commissioner LITTLE:

Q. I will ask you to state the condition of the track. How much steel and how much iron is there?—A. There are 169 miles of steel rail on the Central Branch, laid on the main line from Atchison west. The balance of the road is laid with 50, 54, and 56-pound iron rail.

Q. Is that on the western end of the road?—A. Yes, sir; and on the branches running north. There are three branches of the Central Branch Road.

Q. How long has this steel been down?—A. They commenced to lay these steel rails in 1882, and they have been laid from time to time since then; each year a portion.

Q. Are you still replacing the iron with steel?—A. Yes, sir.

STEEL TO REPLACE IRON.

Q. Is it the purpose of the company to replace all the iron with steel?—A. The policy of the company is to gradually replace it all.

Q. Within what time?—A. I do not know that I can definitely answer that question, but we laid last year 16 miles, and there have been about 50 miles laid since. Arrangements have been made for 35 miles additional steel rails to be laid this season.

Q. When that is completed how much will then remain of iron?—A. Approximately 166 miles.

Q. Will remain?—A. Will remain of iron.

Q. What is the condition of your track, and what is the character of ballast you have?—A. The general condition of the track is fair. The main line, Atchison to Downs—

By Commissioner ANDERSON:

Q. Is not Waterville the terminus?—A. Waterville is the terminus of the Government section. I do not understand that you have asked me these questions with reference to the Government section only.

By Commissioner LITTLER:

Q. No; I desire to know the condition of the whole line, with a view of determining something as to the capacity of the whole line, including the branch, for the traffic. Is the entire subsidized portion of this line laid in steel?—A. It is; yes, sir.

Q. What is the condition of the track?—A. The condition of the road from Atchison to Downs is fairly good. It is the best part of the line.

Q. Is that the subsidy part?—A. It includes the subsidy part and 103 miles beyond. On the branches lying north of the main line the iron is, I should say, half worn out. The iron track west of Downs, on the North Solomon section, for 50 miles, is about the same as branches running north. The balance of that branch for 25 miles is laid with chair iron, and pretty well worn.

CHARACTER OF BUILDINGS, ETC.

Q. What is the character of the buildings, the water tanks, and stations?—A. The buildings that are being put up now will average with the other railroads of the country. The old original buildings of the Central Branch are small, and not very good.

Q. Are you replacing these old buildings with better ones?—A. We are, gradually, as the business warrants.

CHARACTER OF COUNTRY.

Q. What is the character of the country through which this Central Branch runs?—A. The country is a rolling, agricultural district.

Q. What per cent. of the lands tributary to this road are in cultivation?—A. That is a question that I am hardly in a position to answer without having looked into it. I have not given the matter any special investigation. I would say, in connection with that question, that the agricultural reports of the State of Kansas for the year 1886 give this information to the acre, in that year.

Q. I suppose that report will give the information in relation to each county in the State, but it will not show how much of the lands tributary to any particular road are in cultivation, will it?—A. The agricultural report gives a map of each county. By taking that report, and taking the counties through which the Central Branch road runs, the statistics may be ascertained correctly.

LOCAL TRAFFIC.

Q. What proportion of the traffic of this subsidized road is of a local character?—A. I should judge about 25 per cent.

Q. Does that proportion bear the same proportion to the earnings, or is it more?—A. I presume that it bears the same proportion to the earnings.

By Commissioner ANDERSON :

Q. Do you mean that the earnings of the subsidized portion is about 25 per cent. of the earnings of the whole road ?—A. No; I do not mean that, because over the subsidized portion of the road all of the traffic of the entire line passes. The subsidized portion of the road is the main stem, and is the east end of it; and all the traffic of the Central Branch passing out through that gateway, the business of that part of the line is probably three or four times greater than any other portion.

Q. You mean for the same length, do you not ?—A. For the same mileage.

By Commissioner LITTLER :

Q. I will ask you again to state what proportion of the earnings arise from local traffic ?—A. I will say that not more than 25 per cent. of the earnings of the subsidized portion comes from business that is local to that portion of the line.

Q. Do you mean business which arises on that portion of the line ?—A. Yes, sir; because there are 300 miles of road that are furnishing business for that portion of the line, although the country is just as good on that first 100 miles as along any other part of the line.

EARNINGS OF SUBSIDIZED LINE.

Q. What proportion of the entire earnings of the system are properly to be credited to the subsidized portion of the line ?—A. I do not think I am in a position to answer that question without investigating it.

Q. Do you keep an account of the earnings of this road per mile ?—A. I believe such an account is kept in the auditor's office.

Q. Is that kept at Saint Louis ?—A. At Saint Louis.

Q. Can you furnish the Commission with copies of the reports of the company ?—A. I would suggest that copies of those reports be obtained from the Saint Louis officials.

Mr. MINK. Separate accounts are kept of the subsidized line. At least that has been true during the last few years.

Q. What was your position in the Union Pacific before you came here ?—A. The last position I held with the Union Pacific was general superintendent of the Idaho Division.

Q. You resided then in Idaho, did you ?—A. In Utah, at Ogden.

Q. Did you know anything about the affairs of the company at headquarters then ?—A. No, sir.

NUMBER OF COMPETING LINES.

By the CHAIRMAN :

Q. How many lines have you competing with the Central Branch ?—A. We have five. Shall I state them ?

The CHAIRMAN. Yes.

The WITNESS. The Burlington and Missouri, in Nebraska; the Chicago, Kansas and Nebraska, which is an extension of the Chicago, Rock Island and Pacific; the Union Pacific, Kansas Division; the Saint Joseph, Grand Island and Western; the Kansas Central. Those roads are all competitors for business in this State.

Q. Have you any connection with the Saint Joseph and Grand Island ?—A. No, sir.

Q. How far are you from the Saint Joseph and Grand Island ?—A. nearest point I am aware of is 18 miles.

Q. Do you go into the territory of the Saint Joseph and Grand Island for business?—A. Yes, sir.

Q. How much business do you draw?—A. That I do not know.

FREIGHT AND PASSENGER POOLS.

Q. Has there been a pool of these roads as to Atchison, with reference to freight and passenger traffic?—A. I do not know.

Q. Do you all have the same rates?—A. I believe they work on some sort of agreed rates. There is some kind of agreement with regard to rates, I believe, but I am not informed definitely on that subject.

Q. Is the freight rate over the Central Branch Union Pacific a lower rate than that over the Saint Joseph and Grand Island from Marysville, coming east?—A. I do not know about that.

By Commissioner ANDERSON:

Q. Can Mr. Garrett answer those questions?—A. Yes, sir; he can answer those questions.

The Commission then adjourned to meet upon the call of the chair.

TOPEKA, KANS., *Tuesday, July 5, 1887.*

The Commission met upon the call of the chair, all the Commissioners being present.

EDWARD WILDER, being duly sworn and examined, testified as follows:

PACIFIC MAIL SUBSIDY.

By the CHAIRMAN:

Question. You have some information that this Commission would like to secure from you with reference to the Pacific mail steamship subsidy. If you have no objections, we will take what information you can give us under oath. Where do you reside?—Answer. At Topeka.

Q. What is your business?—A. I am treasurer of the Atchison, Topeka and Santa Fé Railroad.

Q. How long have you been connected with the road?—A. Since 1871.

Q. Have you been filling your present position since that time?—A. As assistant treasurer or treasurer.

CONTRIBUTION OF ROAD TO SUBSIDY.

Q. During your connection with the road did the company contribute to the Pacific steamship subsidy?—A. Yes, sir; there were certain payments made to them.

Q. When was that?—A. That is beyond my memory. I do not pretend to carry those things in my head.

Q. How long had it continued?—A. It would be merely guesswork to tell you that.

Q. Will you give us your guess?—A. I think until within a year or two; a couple of years.

Q. What has been the annual payment?—A. I could not give you any idea of it.

BENEFITS TO ROAD.

Q. What have been the benefits to your road by reason of your contribution?—A. That is a matter that I should rather have the traffic department explain. It is simply my duty to pay whatever is approved by the proper officers, and the wisdom or propriety of the amounts or payments or contract are not for my discussion.

Q. Have you ever said to anybody at any time that you believed that it was money thrown away, and that you could not see the benefits at all of a contribution made by your road to the Pacific mail steamship subsidy?—A. I do not think I ever made any such statement. It would be entirely outside of my duties to do so.

Q. Have you any information in relation to it?—A. Practically no information; no exact information. I only know that we contributed, and that whatever I was directed to pay I paid; but I never kept any track of it.

Q. As I understand, it is asserted that contributions made by the Atchison, Topeka and Santa Fé Road to this subsidy have been virtually of no service whatever, and it amounts to money thrown away from year to year, and it has been said that some such assertions have been made by you. Is that true?—A. As I said before, I do not think I ever made any such statements.

Q. Of course, if you ever did make such statement, you would know it, would you not?—A. I would know it if I made it on any important occasion. I would not make such a statement as that in a court or before a commission or to anybody of authority; but I might make a great many statements incidentally in conversation with friends, unofficially, that would pass out of my mind after I made them, especially if it was a year or two afterwards.

Q. Did you ever make such a statement to a friend?—A. Not that I recollect.

NATURE OF TRAFFIC SEEKING WATER ROUTE.

By Commissioner ANDERSON:

Q. Have you any information in regard to the nature of the traffic that seeks the water route? I refer now to transcontinental traffic between the two oceans.—A. No, sir; it is entirely out of my department, and whatever I might know about it would be merely hearsay. It is a matter that the traffic department handles entirely.

Q. Have you never seen the figures showing the amount of different kinds of traffic so as to enable you to form some judgment as to what effect this water competition has on the through business done by the transcontinental railroads?—A. No, sir; I have never seen them.

Q. Have you never examined into the subject at all?—A. No, sir.

Q. Who, connected with your railroad, would be most familiar with it?—A. Mr. Goddard.

Q. Where can he be seen?—A. I do not know whether he is at home now or not. He was at home on Sunday.

Q. Do you mean at Topeka?—A. Yes, sir; he lives here. Mr. Goddard is our traffic manager.

Q. Do these same remarks you make in regard to your want of familiarity with the subject apply to all questions of local traffic as between your roads and the other roads of Kansas?—A. I have never given any study to the subject of traffic. As I say, it is not in my jurisdiction, and the natural relations of the treasurer are not such as to lead him to the

study of it, because it is not in the line of his promotion or in the line of his duties or ambition at all. My mind has never been turned that way. If I was an operating man I should have to study those subjects. I have never been in the operating line. I have always been in the other part, the official part, since I was a boy.

The Commission then adjourned, to meet upon the call of the chair.

LEAVENWORTH, KANS., Wednesday, July 6, 1887.

The Commission met upon the call of the chair, all the Commissioners being present.

SHAW F. NEELY, being duly sworn and examined, testified as follows:

By the **CHAIRMAN**:

Question. You are mayor of Leavenworth?—Answer. Yes, sir.

Q. How long have you been mayor?—A. I am serving my third term.

Q. What is the length of the term?—A. Two years.

Q. You are in your sixth year?—A. My fifth year.

Q. What business have you been engaged in?—A. Practicing medicine.

Q. How long have you resided here?—A. I have been here since the spring of 1869.

NUMBER OF ROADS AT LEAVENWORTH.

Q. How many railroads come into Leavenworth?—A. We have by consolidation—they put them together so frequently here I have to stop to think. We have the Missouri Pacific, the branch of the Kansas Pacific, or the Union Pacific.

By Commissioner **ANDERSON**:

Q. Called the Leavenworth Branch?—A. Yes, sir; the Leavenworth, Topeka and Southwestern, which is owned jointly by the Santa Fé and the Union Pacific. We have also the Rock Island, a branch of the Wyandotte and Northwestern, and the Leavenworth, Northern and Southern. Then we have the Chicago, Burlington and Quincy, across the river, at East Leavenworth; also the Kansas Central, a narrow gauge.

By the **CHAIRMAN**:

Q. Are there any others?—A. That is all.

FACILITIES AFFORDED.

Q. Have you a board of trade?—A. We have a board of trade and a merchants' and manufacturers' bureau.

Q. What have been the facilities afforded by the roads controlled by the Union Pacific Railroad Company?—A. Not first class.

Q. Have there been any complaints in the community as to the facilities?—A. Yes, sir.

NATURE OF COMPLAINTS.

Q. What has been the nature of the complaints?—A. There has been complaint as to the manner of running the trains over the Lawrence

Branch, as we term it, of the Union Pacific. The Leavenworth and Lawrence Branch will better express it. You will notice by that map that our county extends as far south as the Kansas River, familiarly known as the Kaw River. By referring to the time table of the Union Pacific you will notice that the passenger train leaves here in the morning and returns in the evening. I will not attempt to state the times, because I do not remember them. But that arrangement gives the people of our county no facilities for getting to town. It is very natural that the residents all along the line of this road would desire to come here to pay their taxes and do their trading, this being the county seat of the county in which they reside; but the road has been operated the other way ever since I have known anything about it. There is a "plug" train, a mixed train, that is run the other way, in the other direction; that is, leaving Lawrence and coming here; but they spend so much time on the road, and give such poor facilities for travel, that when the people do desire to come here they prefer to come in their own conveyances. However, on this matter I would prefer to have you take the testimony of some persons who live out along the line and do business in the city of Leavenworth. Complaint has been made time and again on this matter, but it has never been remedied.

EFFECT ON BUSINESS INTERESTS OF MANNER OF RUNNING LEAVENWORTH BRANCH.

Q. What has been the effect upon the business interests of Leavenworth?—A. It could not be other than prejudicial. It has had the effect of alienating the people in the southern end of the county from this city, and they seek to transact their business elsewhere—in Lawrence and in Kansas City, Mo., even. Our community gave to that road or voted to that road \$250,000 in bonds; and one of the conditions in that vote was that we were to have the same facilities for transacting business that Kansas City had. The claim is made by the road, or by the representatives of the road, that the branch does not pay; but the counter-claim is made by this community that they do not operate it to pay, which I firmly believe.

Q. What is your reason for such a belief?—A. For the reason that I just stated. That is one of the most formidable.

MOTIVE FOR FAILURE TO PROVIDE FACILITIES.

Q. What is the motive that inspires the people of the railroad not to run the road in such manner as to make it profitable?—A. I do not know that I can assign those reasons. I might make statements concerning the running of the Kansas Central road, which is part of that system of roads. That road seems to be operated on the same plan. It seems to be operated not so much in the interest of the whole line here as it is in the interest of the main line. It seems to me that as to this branch road the trains are started out from Leavenworth slowly with the view to make connections with the through trains, and that no trains are run in the interest of or for the accommodation of the community. Considering our railroad connections here at Leavenworth, we have very little through business for the Kansas Pacific road, I should suppose.

VOLUME OF BUSINESS.

Q. What is the volume of local business along this Lawrence Branch?—A. A great deal of it has been driven away by the manner of operat-

ing the road. They do not encourage local business. Of course there is a great deal of local business. I do not know exactly what the volume is, as I seldom ride over the road. The last time a complaint was heard by the railroad commissioners at Topeka, made by the board of trade of Leavenworth, I came down from Topeka, and rather than ride down by the "plug" train our party went to Kansas City and came over the Missouri Pacific. That is frequently done. They go through to Kansas City and come up the Missouri Pacific.

TRADE DIVERTED FROM THE BRANCH TO THE MAIN LINE.

Q. Do they divert the trade of the branch line of Lawrence to Leavenworth over the main line to Kansas City?—A. Yes, sir; and then again, the effect has been to divert trade from this line over the Leavenworth, Topeka and Southwestern road, which is being operated no better than formerly. They started to operate their road in the same way but they are now trying to accommodate the people. Complaint was made against the operation of that road; but they have now remedied that trouble, and are now running the road in the interest of the community.

By Commissioner ANDERSON:

Q. Do they go over substantially the same territory as the Leavenworth Branch?—A. No; they run west. They come to Topeka, however. They run through counties west. It goes through Jefferson County, and strikes the river at Topeka.

By Commissioner LITTLER:

Q. Have these complaints been made to the Commission?—A. These complaints I speak of have been made to the Commission.

Q. What action did they take?—A. They ruled against us very recently.

Q. On what ground?—A. That the road did not pay; that it did not pay to operate the road.

PROTEST OF BOARD OF TRADE.

Q. Was there a protest of the board of trade?—A. Yes, sir.

By the CHAIRMAN:

Q. Was that a printed protest?—A. I think not; still, I can furnish you with a copy of it.

Q. Will you furnish to the Commission a copy of the protest of the board of trade of Leavenworth?—A. Yes, sir.

Q. Who is president of the board of trade?—A. Alexander Caldwell.

Q. Is he in the city?—A. I think he is.

INSUFFICIENCY OF ACCOMMODATION.

Q. What other complaints have existed with reference to the facilities and accommodations afforded?—A. The complaint, I believe I stated, was as to the insufficiency of the accommodations. As to this "plug" train, I do not know what the accommodation of the car is now, but six months ago or a year ago it was in a horrid condition. It was hardly fit for the people to ride in.

Q. Have there been any complaints in the community, among the shippers, with reference to special rates being allowed to one shipper as against another?—A. I do not know. The complaint was made

the community with reference to connections made with the Southern Kansas system of roads at Lawrence. That complaint is still being made; they do not operate this line so as to make connections with what we call the southeastern train in Kansas. They operate the road so that there is a break; they do not make connections there, and our trade is allowed to lay over there on account of that break. I can bring a gentleman here who is more familiar with that than I am.

Q. How long is your freight compelled to wait before it reaches Leavenworth?

The WITNESS. Going out?

The CHAIRMAN. Yes.

The WITNESS. It would necessarily be compelled to lie over there a day—twenty-four hours. That is my recollection of it. I heard that statement made. Then at some points further south I think there is a break caused by reason of this first break, so that there is a delay there, or there has been. But now that these new roads have been constructed, the probabilities are that there will be better facilities for doing business in that particular part of the State.

NO COMPETITION AS TO RATES.

Q. Has there been any competition as to the rates between the railroads, or have they generally pooled their freight and passenger rates?—A. There was no road to compete with us in that direction.

Q. You have named several roads coming into Leavenworth. Have the rates of freight charged per mile been about the same on all the roads?—A. As these Western roads reach different districts of territory, I do not know that there has been any particular pool. That is, I have not been familiar with it. All three of these Western roads, the Leavenworth Branch, the Leavenworth, Topeka and Southwestern Branch, and the Kansas Central, have all been operated practically in the Union Pacific interest. So I suppose they have been operated in harmony. But the Missouri Pacific, running north, has had different rates, I presume. They have pooled as to eastern rates, I presume. They to all river points, I understand. We have received during the past year or two, according to my understanding, practically the same rates that Kansas City and Atchison and Saint Joseph have received, and perhaps lower rates.

DISCRIMINATIONS AGAINST COMMUNITIES.

Q. Have there been discriminations, or complaints of discriminations, I refer to communities throughout the State, in favor of one and against another community?—A. The complaint has been that this system of road in question has discriminated in favor of Kansas City as against this community. That complaint has been of long standing. I have not heard so much about it recently as I did a few years ago.

The CHAIRMAN. It has not been remedied, I understand you, however?

The WITNESS. I think not; although, on that point, I am not quite sure. I am not familiar with the freight rates.

ATTEMPTS TO INFLUENCE ELECTIONS.

Q. Has there been any complaint as to attempts of railroads to influence elections, either local or general?—A. I have not heard of any

complaints in this community. I have not known, in fact, of the Union Pacific taking any interest in our local elections. If they did, I would naturally know something about it; but I have not heard anything of the kind. I have heard general remarks about their taking interest in State elections; but whether that be true or not I am not prepared to state.

KANSAS CENTRAL OPERATED IN INTEREST OF KANSAS PACIFIC BRANCH.

Q. Have you any other information that you can give the Commission?—A. I desire to speak of the Kansas Central, the narrow-gauge railroad. It is generally understood in this community that that road is not operated as it might be, and my opinion, based upon very good reasons, is that the west end of the road is operated in the interest of the Kansas Pacific Branch, as we term it—the Kansas branch of the Union Pacific. The trade of the west end is diverted over the line running north, the main road—the Junction City and Fort Garrison, I think it is called; and in their operation of the passenger trains, we have got to lie over at the point where the break is made. We lose about twenty-four hours there. It is almost impossible for us to reach that territory. If we desire to reach the territory west of that point, we are compelled to leave here and go by way of Junction City. We cannot get out over the Kansas Central.

Q. Why?—A. They operate the east end of the road to that point so as to make a break, and not to make connections, and our passengers are compelled to lie over for twenty-four hours.

Q. Where do they make that break?—A. At Clay Centre.

By Commissioner ANDERSON:

Q. That is on this branch road?—A. Yes, sir; it is on this road.

By the CHAIRMAN:

Q. So that, as I understand, if you wish to reach points west of Clay Centre, you are compelled to go by way of Junction City, and go beyond?—A. Yes, sir. We are compelled to take that road. There, again, the road is operated in the interest of the main line.

Q. Have you any other information to give?—A. I will state that we also aided that road, and they agreed to give us good facilities for doing business. A reference to the time table of that road will explain this whole matter. You will see, by the running of the trains, that that break is made at that point. As regards freight facilities on that road, I have not heard any definite complaint.

Q. The complaints have all been with reference to passenger traffic?—A. Yes, sir. I think that complaints were made at one time; but my recollection is that that was remedied. But I notified Bitman and Taylor to be here, and they can inform you on this point. I notified Mr. Taylor and Mr. Todd to call upon you this morning, at your request, and if there be anything of that kind they can state it fully.

PLAN OF SETTLEMENT.

Q. Have you considered the question of the adjustment of the debt of the Union Pacific Railroad Company to the Government, or that of any of the bond-aided railroads?—A. I have not considered it very fully, only in a general way. I suppose some of these apparent discriminations on the branches were to aid the general showing of the main lines.

that have been aided by the Government. I understand that this branch has been aided by the Government. I presume the road has been compelled, or the management has, to make that showing to the Government.

Q. I speak with reference to the roads generally, as to the methods of settlement at the time of the maturity of the bonds in 1897. I ask whether an immediate settlement and extension to the several roads aided by the Government would be best, in your opinion?—A. I believe the general opinion of the Western people here, who have given the matter any thought, is that the Government ought to give them an extension. There is no doubt, in my mind, considering the present cost of building railroads, but what the branches of the Union Pacific road are bonded so heavily that they cannot afford to pay at this time, and I do not think the Government ought to require them. That is my individual opinion, and is the opinion expressed by almost everybody that I have heard make any expression of opinion on that point.

BENEFICIAL EFFECT OF EXTENSION.

Q. What would be the effect on the community of an extension of the debt? Have you considered that question?—A. I think the immediate effect of an extension, on the community, would be, of course, to put the company in better financial condition and enable it to fortify its system of roads by a legitimate system of extension. There is no question but what the road has been crippled; that is, in the way of making proper extensions in the West; and other systems of roads have taken advantage of that and entered the territory that naturally belonged to the Union Pacific system of roads, as I understand it, in the West. We speak of railroad territory here. A few years ago we understand they mapped out territory and divided it up, and considered it as their holding; but that has been broken up now, and encroached upon by the different systems in a mutual way; and we feel that the Union Pacific has not been enabled, because of its financial embarrassments, to compete with the other systems of roads. We also feel, as a Western community, that the Government ought to be lenient. While we have our own complaints to make against the Union Pacific, we do not feel that the Government ought to press that system of roads.

Q. Have you any other suggestions to make?—A. I have none whatever.

LEAVENWORTH, KANS., *Wednesday, July 6, 1887.*

HENRY SCHINDLER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am correspondent of the Kansas City Times.

Q. How long have you resided in Leavenworth?—A. Thirteen years.

Q. Have you any knowledge of any complaints that have existed in the community? I refer to the roads controlled by the Union Pacific Railroad Company.—A. Yes, sir.

DISCRIMINATION AGAINST LEAVENWORTH.

Q. Will you please state them to the Commission?—A. The road, as I understand, and knew it formerly, has been operated in the interest

of the citizens of Leavenworth. That is, in the interest of the road itself. Since it has come into the hands of the management of the Union Pacific, all of the business has been diverted as much as possible over the main line of the Union Pacific to Kansas City instead of going over the main line entire to Leavenworth. The running time of the trains has been changed, so that where the trains used to leave here at 10.15 in the morning for the West, now they leave in the afternoon, and only run as far as Garrison. Only one crew is used for the passenger trains. Formerly there were two crews, and the trains went clear to the end of the road. Now they only run to Garrison, and come back the next day at 11.15. All this was done for the purpose of cutting down the expenses of the narrow gauge, and to put all the business on the main line of the Union Pacific from Clay Center and other points above that.

FACTS CITED IN PETITION FOR RECEIVER.

I knew nothing of this, of course, as a matter of fact, until I went to the court-house and there found an application filed by a number of bondholders for the appointment of a receiver, in which all these statements were set forth, and I published them, of course, as I found them there, in the Kansas City Times.

By Commissioner ANDERSON :

Q. The bondholders of what road?—A. Of the Kansas Central road, representing some \$500,000 worth of bonds. Since then I understand that Mr. Smith, who was the principal one of the local bondholders, has been to New York, and a settlement has been made with him by the Union Pacific. They had defaulted on their bonds, I think, for April, and the petition set forth that the Union Pacific was wrecking the road for the purpose of getting all the business on the main line of the Union Pacific, in order to show as big a traffic for that line as possible, and then, when they had completed the job, they wanted to sell the road. I spoke to Mr. Smith since then, and he told me that he had been to New York, and was there but a day when everything was settled—that is, as far as they cared for at that time. What has been done with the petition since then, of course, I do not know; but it is on file in the office of the clerk of the district court. The property which it stated was to have been bought by the Union Pacific, or by the Kansas Central, is a large brick building below here, used as a freight depot now, and is in the hands of Dillon and Ames under a deed of trust, and they now claim it is owned by the Union Pacific instead of by the Kansas Central. The petition sets forth that they have put down iron rails taken from their main line—second-hand iron—and charged for it to the road as new iron. They have taken their Colorado narrow gauge engines and put them down here almost as new engines—charged for them as such. That is about all that the petition contains. I only know that from the petition.

By the CHAIRMAN :

Q. When was the petition filed?—A. It is filed with the clerk of the district court.

Q. When?—A. About three weeks ago.

By Commissioner ANDERSON :

Q. Is it printed?—A. No, sir; but I told a gentleman last night that I thought that petition should be obtained by the Commission while

re, as it would be, perhaps, better evidence than anything that would be said.

Mr. CHARLES FRANCIS ADAMS. We will furnish a copy of it. It is a complaint and foreclosure.

EFFECT OF DISCRIMINATION UPON THE COMMUNITY.

By the CHAIRMAN:

Q. What has been the effect of the diversion of traffic over the main line upon Leavenworth and surrounding community?—A. It has injured the business of the merchants a great deal. In conversation with them they have earned that from them.

Q. How has it injured them?—A. In place of getting the traffic from the surrounding towns, which are naturally tributary to Leavenworth, it goes the other way, to Kansas City. Formerly all of the trade of the towns lying along the Kansas Central, beyond Clay Center or Garrison, came to Leavenworth, and instead of that, it is all going to Kansas City over the main line, because it is the longest haul.

Q. What other complaints have you knowledge of with reference to the Union Pacific road?—A. I do not know that I have any other; I only know these because my business leads me to them.

Q. Have you any knowledge of any special or preferential rates being granted to individual shippers?—A. No, sir; I have not.

Q. Have you any knowledge of the participation by the officers or employes of the Union Pacific road in influencing legislation?—A. No, sir; the offices or headquarters were to be located at Leavenworth, according to the charter; but everything has been moved to Omaha.

The CHAIRMAN. I refer to the employes of the road that are here.

The WITNESS. Yes, sir; it has all been taken to Omaha.

Q. Have you any other information that you can give to the Commission?—A. I have not.

LEAVENWORTH, KANS., *Wednesday, July 6, 1887.*

EDWARD STILLING, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Are you holding a public position now in Leavenworth?—Answer. No, sir; I have never held any public position here; I have been a practicing lawyer since 1863.

Q. How long have you been a resident here?—A. Since 1863; since about this time of the year 1863.

LEAVENWORTH COMPLAINTS.

Q. Have you any knowledge of any complaints in the community with reference to the roads controlled by the Union Pacific Railway?—

Yes, sir; I think I have.

Q. Will you state them to the Commission?—A. As far as this community is concerned, they have very great complaints. About the time the road was being commenced, and the various aids the aid required to be given were given.

AID GRANTED BY THE COUNTY.

Q. What were the aids?—A. The Congressional aid for the main line does not extend to here; but they had the charter for the Delaware

Diminished Reserve, or a very large portion of it, lying in the southern part of this county, and a part in Wyandotte County, which they were to get for building the road from Leavenworth west. This, as I understand, was the end of the main line of the original road as chartered by the legislature. They had a right to build a branch road to Wyandotte down the river. After they commenced grading here first they went down the river bottom. They came to the people of Leavenworth and asked them to give \$250,000 of bonds to aid in building this branch as to which they were already in treaty with the Delaware Diminished Reserve Indians.

By Commissioner LITTLER:

Q. Do you mean county bonds?—A. Yes, sir; the county gave them \$250,000 in bonds on their promise that this part of the road should be run and operated in the future just the same as the other part. They never kept that promise, I think, for a day, and do not do it now. Of course it did not create a good sort of feeling in this part of the community towards that road.

COMPLAINTS OF THE "PLUG" AND "MIXED" TRAINS.

Q. How far do they run?—A. They run a "plug" train from Lawrence to Leavenworth, connecting with certain of their east and west passenger trains on the line of the road up and down the Kansas River. Then they run what is called a mixed train; part passenger and part freight. I think they run three, if not more, passenger trains up and down the Kansas River, and to their terminus, right along.

MERCHANTS LEAVE BECAUSE OF DISCRIMINATION AGAINST LEAVENWORTH.

Q. What has been the effect of such management upon this community and the surrounding community?—A. The discrimination that has been made against this place and in favor of Kansas City has had the effect to compel merchants to leave here and go there. That was about the only railroad outlet that either place had for some time. The effect of that operation has been very disastrous to these people right along, and it is so now. They do not accommodate the business on the line of the road. It is some 36 miles to Lawrence. They do not run trains now so as to accommodate the business along that line, and the result is that the farmers and business men come into this place by wagon from places 30 miles away. The road runs a train out here in the morning and back in the evening, and the business men of the community cannot conveniently get to their county seat. This is the county seat for business thirty-odd miles along that road. They run that freight train there and back on the same day, and the business men cannot do their business in that way.

Q. How great is the population between Leavenworth and Lawrence along the line?—A. It is a dense farming population. There are three very considerable trading posts—Fairmount, Tonganoxie, and Reno.

THE KANSAS CENTRAL "SCALPED."

Q. Have you any knowledge of the management of the Kansas Central road, narrow gauge?—A. Yes, sir; I know something about that, too. I was connected with that road as attorney, and helped to get it

built as far as it was built. I knew pretty well the condition of that road when the Union Pacific got it, in 1882, I think it was. For the first year, or about that length of time, while Mr. W. A. Kelley had the management (he was a railroad man here), that road was pretty well managed. From that time on, I think, to use an expression that I understand the superintendent has used, it has been "scalped" by the Union Pacific road.

Q. In what way?—A. In this way: They have so neglected to keep it up, so as to accommodate the public along the line, that there is a universal complaint of the public along the line of the road that they are not accommodated. They already own a road crossing the Kansas Central road at Clay. The business of the Kansas Central road from that point west, from the time they acquired it, was principally diverted to and brought down on their main line, and the connections were abandoned for all parts east of that on the Kansas Central road to the portions west. About a year ago, perhaps more, they completed a road up the Blue Valley, about 50 miles this side of the terminus of the Kansas Central road.

DIVERSION OF TRAFFIC.

By Commissioner ANDERSON:

Q. You mean the westerly terminus?—A. Yes, sir; the westerly terminus of the Kansas Central road. Since that time the business of that road has, for some distance this side of and all beyond that point, been diverted down the Blue Valley to the other road.

By the CHAIRMAN:

Q. To the main line?—A. The business of this other road; yes. As I understand, from an investigation I made awhile ago, there has been no such connection with the passenger trains that a passenger from this end of that road could go west by way of Garrison without lying over seventeen or eighteen hours on that road. The consequence was it threw all the business off on the main line to Kansas City. That has been, of course, very injurious to our business community here at Leavenworth, who have done a great deal to build that road, because, in allowing the road to run down at this end, it has rendered the road of very much less value to the business community here; not half as much as it was before.

CONTRIBUTION OF LEAVENWORTH TO KANSAS CENTRAL ROAD.

Q. What was the local contribution of Leavenworth to the Kansas Central road?—A. Leavenworth gave, originally, \$250,000 in bonds to the Union Pacific road, then called, I believe, the Kansas Pacific—Leavenworth, Pawnee and Western originally; but I am not sure about that. But they got in return for it \$250,000 in stock of that road, as was required under the law. When the Kansas Central road was built they gave that in aid of the building of the Kansas Central road.

By Commissioner ANDERSON:

Q. Gave that stock?—A. That stock.

Q. Can you tell us what date that was?—A. My impression is that the road was built in 1872 as far as Holton. It was 1872 or 1873.

Q. How far is that?—A. That is 56 miles. The road now, I believe, is 170 miles long.

RATES.

By the CHAIRMAN :

Q. Have there been any complaints with reference to special rates that have been given to individual shippers ?—A. I have heard remarks made about those things, but I am not in any business that would lead me to know exactly about them. A merchant would know about the rates. I have heard that was the fact; but I do not know it myself.

Q. Has there been any cutting of rates between the railroad companies coming into Leavenworth ?—A. That I do not know.

Q. Are the rates about the same on all the roads running out of and coming into Leavenworth ?—A. I do not know about that. I know nothing about the rates for carrying, or anything of that kind. I never had anything to do with mercantile business or shipments along the line of road.

Q. Have you any knowledge of employes of the road located here at Leavenworth attempting to influence local or general legislation ?—A. No, sir; I have not.

Q. Have you any other information that you can give to the Commission ?—A. I do not think of anything else.

By Commissioner ANDERSON :

Q. Was not this subject of the management of trains on the Kansas Central and on the Leavenworth Branch placed before your State commission and made the subject of a formal complaint ?—A. I have understood it was. Mr. Moore, who is the secretary of the board of trade, can tell more about that than I can. I have heard that it was. It is pending there now. I am not connected with the board of trade.

TRANSFER OF KANSAS CENTRAL TO UNION PACIFIC.

Q. Were you residing here, and an attorney for this company, at the time of the transfer of the Kansas Central to the Union Pacific ?—A. No, sir; I never was the attorney of the Union Pacific Company.

Q. Were you the attorney of the Kansas Central at that time ?—A. I was attorney of the Kansas Central, not at the time the contract was made, but at the time the stock was transferred.

Q. From whom to whom ?—A. Transferred from the county. I mean at the time the stock was transferred from the Kansas Central to the Union Pacific.

Commissioner ANDERSON. I am speaking of the time the Kansas Central was purchased by the Union Pacific.

The WITNESS. Yes, sir, I was attorney of the company, but I think you are not right about how the stock was transferred.

Q. Were you attorney for the company in 1880 ?—A. Yes, sir.

Q. Do you recollect the occasion when Mr. Jay Gould came out to examine both the Kansas Central and the Central Branch ?—A. I remember his being here and going over the road. I do not remember any particulars about it.

EXTENSION BUILT BY GARRISON.

Q. Do you know who was building the Kansas Central at that time ?—A. The WITNESS. In 1880 ?

Commissioner ANDERSON. In 1879 and 1880. On the 7th of November, 1879, if you want the exact date.

ITNESS. At that time, I think—I may be wrong about dates—was built. The extension was made to Owaga. The road was by Mr. Garrison. He bought a half interest in it, or, perhaps, of the shareholders, he had a half interest. He assisted in it to the town of Garrison.

It town is named after him?—A. Named after him. That was the time.

At that time were you familiar with the business of the Kansas

—A. Oh, yes; I was.

TRANSFER TO JAY GOULD.

you know, as a matter of fact, that Commodore Garrison transferred interest in that road to Mr. Gould in 1879?—A. I understood transferred that at the time Mr. Gould bought the Missouri Pa-

you know anything of those negotiations and transactions?—sir. I was not present at any of them. That was the general finding.

Do you know nothing personally about it?—A. No, sir; I know personally about it.

Who was the principal counsel of the Kansas Central at that time?—A. I was, here. I guess I was the only one.

Do you have no records that will show the fact of that transfer, and the circumstances attending it?—A. I have not. I do not know where the records of the Kansas Central are. I understood they were at

Commissioner ANDERSON. I refer to your personal records, in your capacity as an attorney?

ITNESS. No, sir; I have nothing at all. I had nothing to do with the transfer at all. That was done, I think, in New York.

Commissioner LITTLE:

How was this transfer effected? Was it by consolidation, or by purchase of the stock?—A. The original mortgage on the road was foreclosed, and was bought in by Mr. Smith and Mr. Garrison. They reorganized the road, Mr. Garrison taking a half interest, and then they went on with the construction of it. About the time of the sale of the Missouri Pacific road, or the reported sale of it, Mr. Gould, I think, acquired the other half interest from Mr. Garrison.

How was the road organized as a Kansas corporation, was it?—A. Yes, sir. Under the general incorporation laws?—A. Yes, sir.

What was the new capital?—A. I do not remember that, but I have a copy of the charter in my office, and I will send it over here if you wish to see it.

Do you wish to see it. Did you prepare the papers?—A. Yes, sir. I think I did.

ISSUE OF NEW STOCK.

Did you have anything to do with the issuing of the new stock?—A. I had nothing to do with that. The secretary of the company issued that, and I do not think I ever saw the records as to that. Do you know what proportion Mr. Gould received of the stock?—A. I know from the reports of the company only—that he took Garrison's share, when he bought the Missouri Pacific road.

Q. Was that immediately after, or soon after, the purchase by Mr. Gould of the Missouri Pacific?—A. My understanding was that it was a part of the same purchase. Garrison bought this interest because it would be tributary to the Missouri Pacific, and when Mr. Gould bought the Missouri Pacific, Mr. Garrison required him, as I understand it, to take this interest with the Missouri Pacific, as a thing attached to it.

By Commissioner ANDERSON:

Q. Who was this other gentleman who was interested with Mr. Garrison?—A. Mr. Smith.

Q. Is he living?—A. He is right here in the city, building railroads.

Q. What is his name?—A. Leonard T. Smith.

LEAVENWORTH, KANS., *Wednesday, July 6, 1887.*

ALEXANDER CALDWELL, being duly sworn and examined, testifies as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am president of the Kansas Manufacturing Company.

Q. How long have you been engaged in business?—A. About fourteen years in that business.

Q. Are you the present presiding officer of the board of trade?—A. Yes, sir.

COMPLAINTS AGAINST KANSAS CENTRAL MANAGEMENT.

Q. Have you any knowledge of any complaints existing in Leavenworth, or in the surrounding communities, concerning the roads controlled by the Union Pacific Railroad?—A. Yes, sir; to some extent.

Q. What is the nature of the complaint?—A. There is some complaint about the operation of the Kansas Central road. It is a narrow-gauge road that runs westward from Leavenworth. It is complained that it is not operated in the interest of Leavenworth, or in the interest of the road. It is intersected at Clay Centre by a part of the main line that runs down to Junction City; and also at Blue River, near Garrison. The complaint is that trade is diverted on those cross lines, and taken down to the main line and carried to Kansas City. That is, the trade which is naturally tributary to Leavenworth, which assisted in building the road. That is all the complaint I know of on that line.

DIVERSION OF TRADE FROM LACK OF ACCOMMODATIONS.

Q. Has trade been diverted by reason of the failure of the Kansas Central to provide proper accommodation?—A. I think so; at least we think it has been diverted by the management of the Union Pacific so as to carry the bulk of the trade on the main line to Kansas City instead of to Leavenworth. That is the local complaint.

Q. Have the Union Pacific officers, through their agents, solicited trade by way of Clay Centre, over the main line as against the Kansas Central?—A. I do not know that to be the fact. I only know that the complaint is that trade goes that way, and I am satisfied it does so, because the trade does not come here.

Q. Are the citizens, because of bad accommodations, compelled to send freight over the main line from Clay Centre to that section?—A. Yes, sir; I think so. All the way down to Junction City it has to be sent over the main line.

Q. What effect has the diversion upon Leavenworth and the territory at this end of the State?—A. It has the effect to deprive Leavenworth of a good deal of trade that ought to come here, and I think it retards the development of the Kansas Central main line.

COMPLAINT OF MANAGEMENT OF LAWRENCE BRANCH.

Q. What other complaints have existed in the community?—A. There has been some complaint as to the operation of the Lawrence Branch, from Leavenworth to Lawrence; that that branch was not operated in the interest of Leavenworth as it should be. Most of that road was built through Leavenworth County, and this is the county seat, and we think it ought to be run so as to accommodate the traveling public and to give Leavenworth what it ought to get out of that line.

By Commissioner LITTLER:

Q. Did you hear the testimony of the mayor on that subject?—A. No, sir; I did not.

By the CHAIRMAN:

Q. What effect has the management of that Lawrence Branch had upon Leavenworth and the territory through which it passes? Has it compelled the citizens to send goods by way of Kansas City, and then to Leavenworth?—A. No, I think not; to some extent it may have done so.

DELAY IN TRANSPORTATION.

Q. To what extent?—A. For instance, the transportation of goods is very slow by way of Lawrence; frequently there are delays at Lawrence. They are sometimes delayed a long time before they are shipped south or west. That has happened frequently. We have had complaints of that kind come to our board of trade, and we have investigated them, and have asked for redress, but we have not got it.

Q. What has been the answer of the railroad authorities?—A. I do not recollect their answer now. But we have had some communications with them through the board of trade, and they promised to do better, and to give us better facilities at times, and promised to try to avoid any delay at Lawrence or elsewhere; but the delay continued all the same. Those are simply local complaints. Of course our people would like this Lawrence Branch to be operated so as to give all the facilities that could be reasonably expected. Leavenworth contributed to the building of that road, I think, \$250,000; and by the terms of the contract, or the terms upon which the road received the bonds, it was to be operated in all respects as the main line was operated.

Q. What other complaints have you any knowledge of?—A. I have none. These are simply local matters that I speak of.

LOCAL LEGISLATION.

Q. Has there at any time been any legislation in the councils of the city with reference to railroads?—A. I do not know of any.

Q. Has there been any local hostile legislation on the part of councils of your city as against the railroad?—A. Not that I know of. The

board of trade and the city council have at times asked for better facilities, but I do not know of any hostile measures that have been taken.

Q. Have you any knowledge as to the efforts of the Union Pacific Railroad employes, or those of roads controlled by the Union Pacific Railroad Company, to influence local or general elections?—A. I have not.

Q. Has there been any complaint in that direction?—A. None that I know of.

LOCAL AID GRANTED UPON AGREEMENT AS TO TRAINS SERVICE.

By Commissioner LITTLER:

Q. You spoke a moment ago about a contract by which the people of this county voted this aid. What do you mean by that? Was there ever a written contract between the company and the county, specifying the manner in which they would run trains and do business with this city?—A. Yes, sir; there was a submission to the voters of the county as to the bonds, by which they were to vote \$250,000 bonds, and under which the company was to complete the road from Lawrence to Leavenworth within a specified time.

Q. The only contract was embodied in the terms of submission of the vote?—A. I think so.

Q. You do not know of anything else?—A. That is all.

PLAN OF SETTLEMENT.

By the CHAIRMAN:

Q. Have you considered the question of a settlement by the roads aided by the Government with the Government at the time of the maturity of the bond?—A. I have thought a little on that subject, but have given it very little attention for the reason that my mind was occupied with other matters.

Q. Have you formed any opinion?—A. Yes, sir.

Q. Will you give the Commission the benefit of your thought?—A. Generally, I think, the building of the Union Pacific Railroad has been a great benefit to the country, and the branch lines that have been built have been of great benefit to the country, and that the country and the road would be benefited by the building of more branch lines to protect the territory. I think they are bound to do that in self-protection; and if I were managing it, or were arranging it for the Government I would certainly give the company all the time necessary to pay the debt, with reasonable interest, and would give them an opportunity to build all the branch lines that the interest of the road might require. I know that other systems are making inroads upon their territory and cutting them off here and there; and as long as the Union Pacific Railroad's hands are tied by the Government I do not think they can protect themselves.

UNION PACIFIC'S HANDS TIED.

Q. How are their hands tied?—A. I think they are tied if they are not permitted to borrow money and build branch lines. I am only speaking of what in my mind would be the policy to pursue to make the road ultimately valuable. It would appear to me that if the Government could have a mortgage upon the main line and all the branches, could afford to give time to pay the debt.

DIVIDENDS.

Q. Are you of that opinion, notwithstanding the railroad company declared dividends from 1874 to 1884, of nearly \$30,000,000?—A. It might have been wrong for the railroad company to declare those dividends when they owed the Government, but what I mean is that the Government should give them time enough to pay up, and the road should use all its means to pay its debts.

FAVORABLE EFFECT OF EXTENSION OF TIME.

Q. What effect would such an extension as you suggest, of the time the road is to pay, have upon this community?—A. I do not think it would be an unfavorable one. All this community wants is to have facilities for traffic. I presume the road would be in better condition to afford that if they had opportunities to extend and build branch lines to cover their territory and had money enough to give us better facilities.

Q. Have you any other suggestions to make with reference to the settlement?—A. I have not.

LEAVENWORTH, KANS., *Wednesday, July 6, 1887.*

H. MILES MOORE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Lawyer by profession.

Q. How long have you resided in Leavenworth?—A. Since June, 1851. I helped to found this town. I named it, I think. I have the papers in my possession of the original town; all the maps connected with it.

Q. Are you the present secretary of the board of trade?—A. I am.

Q. How long have you been secretary?—A. It is five or six years since we organized. Mr. Caldwell has been president and I have been secretary since our organization.

LEAVENWORTH COMPLAINTS.

Q. Have you any knowledge of complaints existing in the vicinity of Leavenworth as to the facilities afforded by the roads under control of the Union Pacific Company?—A. There has been considerable complaint made by the people along the line of the road on the Lawrence branch. There was a petition prepared some time ago, which I think was referred to the chairman of our railroad committee, Mr. Todd, which was sent to the railroad commission. There was also a resolution introduced here in the board of trade, of which I have a copy, referring to the original contract made for the building of this road, stating what they were to do in regard to this matter.

The CHAIRMAN. Suppose you read the resolution right here.

The WITNESS. This was on the 21st of June, 1886, and occurs in our proceedings. That was the time it was before the board, when formal complaint was made. [The witness then read the language of the contract referred to.] Upon those instructions those resolutions were forwarded to our railroad commissioners by a letter from me

BROUGHT BEFORE STATE RAILROAD COMMISSION.

Q. What action did the commission take?—A. They retained it in their possession until some time in May, 1887. We did not hear from them definitely, and then, by directions of the board of trade, I was instructed to write to them again and ask them to make a report on this matter. There was then a good deal of complaint made by our freight shippers. I wrote to them and they replied after a while. Their whole correspondence is here. They finally declined to accede to our request. That was the upshot of the whole matter after a long correspondence with them.

By Commissioner ANDERSON:

Q. Did they render a decision in writing?—A. Yes, sir.

Q. Have you it?—A. Yes, sir. They say nothing about the matter of freights. It is simply upon this question of passenger traffic. Our committee of the board of trade, of which Mr. Todd was chairman, examined their report, and was not satisfied with the make-up of how they got at their figures there, and I was instructed to write them for a fuller statement. In answer to that they sent back a lot of papers which were furnished to them, I believe, by the railroad companies or the freight departments.

COMPLAINTS NOT REMEDIED.

By the CHAIRMAN:

Q. Have the complaints been remedied at all?—A. No, sir; not so far as the passenger matter is concerned.

Q. They exist to-day, then?—A. I believe they do. Mr. Todd there, who is chairman of the railroad committee, is a wholesale merchant here in Leavenworth, and is very familiar with the matter, and probably had more to do with it than anybody else; and, so far as freight is concerned, he can give more information on that subject than I can.

EFFECT OF KANSAS CENTRAL MANAGEMENT UPON LEAVENWORTH.

Q. What knowledge have you as to the management of the Kansas Central road, as it affects this community?—A. The same complaint exists with regard to passenger and freight traffic over that road. They have not run their passenger trains to suit our people, and there have been complaints, I believe, largely among our freight men, the shippers, that the road delays the freight west of Garrison twenty-four hours. They delay it at Garrison twenty-four hours before they forward it. Everything seems to be diverted since the building of what is known in this country as the Blue Valley road, where it intersects west of that, down that road on to the Kansas Pacific road or Union Pacific.

Q. What has been the effect upon Leavenworth of the diversion of traffic?—A. It has stopped all travel, pretty nearly, except so far out as Garrison, and perhaps Holton and some little towns out there.

Q. Have you any knowledge of discrimination in rates in favor of individuals?—A. No, sir; I have not.

Q. Have you any other information that you can give the Commission?—A. No, sir; I think not.

Q. Will you furnish the Commission with a copy of the contract that you have just read so that we can have it, and will you forward it to Kansas City?—A. I will.

Q. Also, the report of the State commission in answer to your protest or application?—A. Yes, sir.

DECISION OF RAILROAD COMMISSION.

Commissioner ANDERSON. I will simply call your attention, Mr. Chairman, to the fact that this decision of the railroad commission appears to have been very carefully made, and after an examination of the actual business done by the Leavenworth branch, and with an evident desire to promote the facilities of the business, if they could find any reasonable way of doing it; but, as far as I make it out, their refusal is based on the fact that the figures of the business show that the alterations called for could only be effected at a positive loss of money to the company operating this branch.

The WITNESS. I think that gentlemen a little more familiar with it than I am, and who have examined the whole matter, will testify on this subject, and show that they have made up the figures out of a large amount of money that should not come into the calculation. They have evidently, to my mind, charged the whole business up to Leavenworth. Here is the fort, which gets a large amount of freight traffic over that road, and the penitentiary is also here, and the coal shaft also, and all that sort of thing; and everything appears to be charged up to Leavenworth.

Commissioner ANDERSON. I will read this sentence from the conclusion of the report: "From this statement it will be perceived that at the time the complaint of the board of trade was made to us, the passenger business was actually diminishing on this road instead of increasing and demanding for its accommodation increased facilities."

THE "PLUG" TRAIN.

The WITNESS. I should think it would, for the reason that they ran the mixed train, "the plug train," with cattle and hogs and everything else into the town, and, as was very justly remarked, the advantage the hogs had was that they got into the town first. They landed at about 11 o'clock, sometimes 2 or 3 o'clock, and then would go back again in an hour or two after that. Nobody could come into Leavenworth and do business under that state of things.

By the CHAIRMAN:

Q. Will you furnish the Commission with a copy of this decision of the railroad commission?—A. Yes, sir.

LEAVENWORTH, KANS., *Wednesday, July 6, 1887.*

W. M. TODD, being duly sworn and examined, testified as follows:

Question. What is your business?—Answer. Wholesale grocery business.

Q. How long have you resided in Leavenworth?—A. Thirty years.

Q. Have you been engaged in business during those years?—A. For the last twenty years I have been in this same business.

Q. Have you any knowledge of any complaint with reference to the management of roads controlled by the Union Pacific Railroad Company?—A. Yes, sir.

FREIGHTS DELAYED.

Q. What are they?—A. I have knowledge as to both our own business and as a member of the board of trade. I know that our freights are subject to delays of from two to three and even five days longer in transit than they are from Kansas City to their destination to western points. We have had occasion to go before the railroad company with these complaints a great many times. They make an effort to, and do temporarily, overcome this difficulty, which shows that it could be always overcome if it received the proper attention. Our freights then for a time reached their destination on good time. But no later than last week one of our traveling men was home and told me that the freight was suffering great delay again, and that he was receiving many complaints. That is on the Lawrence branch.

Q. Where does the delay take place?—A. It is pretty hard to say. We sometimes think that it is at Lawrence. Then it may be on some of the other divisions. We are unable to locate a delay. We know that the delay does not take place here. Our goods are shipped and loaded promptly and leave here the same day, that is, when they get to the station a reasonable length of time before the train goes.

Q. To what points are the shipments made?—A. All along the line and branches, from Leavenworth west as far as Lawrence, Kans.

Q. What effect has this had upon your business?—A. A very depressing effect.

Q. Have other shippers here made the same complaint?—A. Yes, sir; they have. One other wholesale grocery house here has had the same complaint.

Q. How long has it existed?—A. It has existed for the last five or six or ten years.

INSUFFICIENT TRAINS AND INCONVENIENT HOURS.

Q. Have you any knowledge as to any other complaint?—A. We have knowledge of complaints as to the passenger traffic on the branch road between here and Lawrence. That branch is not operated, I think, to favor people coming to Leavenworth. If they want to come in here on any business that they could transact in four or five or six hours, and go home, as they ought to, from the county seat of their county in one day, they are unable to do it. The train that arrives here in the morning is a mixed train and reaches here between 11 and 1 o'clock.

Then they stop down below here and switch around and wait, and the passenger has to wait and be bumped around, or have to walk to town. Then the train leaves about 2 o'clock, and people cannot do their business here.

PRIVATE CONVEYANCES PREFERRED.

They usually come in wagons, in order to have time in which to do their business. The road runs a great many accommodation trains to Kansas City with which this branch has no connection whatever. If you want to go west there is only one train to go on each day, and if you leave in the afternoon train you have to wait at Lawrence three or four or five hours, or perhaps longer, to catch a train running to Kansas City. They make no connections at all. That was the basis of our complaint to the State commission. The statement, as rendered by the railroad company, shows an actual loss in the operating of this Leavenworth branch. They have rendered an itemized statement

for six months, which we have here. These papers are all here. In making up the expense of operating this road there are, as I think, a great many things included in those papers that do not belong to us. For instance, there is fencing of the road; that comes in for six months. I do not think they have to fence the road every month. There is a charge of from \$1,000 to \$1,500 for repairing engines every month for 30 miles of road.

IMPROPER CHARGES AGAINST OPERATING EXPENSES.

Q. What other expense?—A. Here is one of their statements right here. It is a statement of earnings and expenses of Leavenworth and Lawrence branch for the month of April, 1886 and 1885, "conducting transportation." There are "books, printing, and stationery," for 1886, \$81.83. For 1885, in the month of May, \$168.17. "Cleaning and inspecting cars," \$63.93. This is for 1886.

Q. We want the items that you think have been improperly charged in operating expenses in order to show that this road has not been profitable?—A. That is what I understood your question to be. Here are the expenses that occur. This is only my supposition. "Repairs on locomotive" for the month of May were \$451.62. That same item of expense occurs every month, only it is larger in some months than in others. "Repairs on fences and cattle-guards \$1,082.37 for one month. Of course if those same charges did not occur every month I would not think anything of it, but for six months the same charges occur every month. They have not got more than three or four locomotives on the road, and they would have to be buying a locomotive every month, it seems to me. Then there is another item here, "taxes." The taxes for the month are \$800, a clean \$800, and no cents to it at all. Every month the taxes are itemized and they are never less than that a month.

SPECIAL RATES.

Q. Have there been any complaints as to discriminations or special rates granted to shippers?—A. No, sir; not that I am aware of. We have had no trouble in shipping our goods. Our rates have been the same. We have no trouble in that respect. The great trouble we suffer from and are suffering from greatly—worse to-day than ever before—is the operating of the road. Our goods are taken when they have nothing else to do.

Q. Did you hear the testimony of the gentlemen who preceded you with reference to the management of the Kansas Central?—A. Yes, sir.

PETITIONS TO BOARD OF TRADE TO ACT.

Q. Do you corroborate the facts testified to by them?—A. Yes, sir; most emphatically. I have petitions in my possession, up at the store, signed by the residents of every town along that line of road, regarding the operating of that road, and urging and begging us as a board of trade to do what we could and have better accommodations given to them. I forwarded all those things to the railroad company at Omaha. They respectfully referred them to their superintendent, Mr. Brinkerhoff, at Kansas City, and he referred them back to somebody else (and I finally got hold of them again), saying that they had investigated the matter, and that the people were well satisfied. I forwarded all of those petitions, with some thousand or

fifteen hundred names signed to them, I guess, on a rough estimate. The road ignored them. Afterward their agent came to me. This matter was in the papers. He said that he had received a request from the freight department of the Union Pacific Railroad that we lay that matter before them. I did make them a statement of it, but I have had no reply from them at all.

FREIGHT TRANSPORTATION "SIMPLY OUTRAGEOUS."

In regard to the freight transportation on the Kansas Central Railroad, it is simply outrageous. Our goods that leave here promptly at 6 o'clock in the morning go as far west as Garrison, and have suffered an outrageous delay of 23 hours, simply waiting for a train with a freight car attached to go on to Clay Centre and other points. Lately we have been forced to ship our goods to Clay Centre around by Lawrence in order to get them ahead of time over the Kansas Central to points west of Clay Centre. I believe all this is brought about to accommodate the Blue Valley road connecting with the main line at Manhattan. When that train comes along these goods of ours that have been laying at Garrison for so many hours are loaded and go on west.

Q. Have you any other information that you can give the Commission?—A. No, sir; I have not.

Q. Or any suggestions?—A. No, sir.

LEAVENWORTH, KANS., *Wednesday, July 6, 1887.*

LEONARD T. SMITH, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your occupation?—Answer. Farmer.

Q. Where do you reside?—A. Here in Leavenworth.

Q. How long have you resided here?—A. Thirty years.

Q. What familiarity have you with railroad building?—A. I have been connected some time with them; for some twenty-odd years.

Q. With what railroad?—A. I was connected with building the road from Kansas City to Leavenworth, called the Missouri River, Leavenworth, Atchison and Northwestern Railroad, now a part of the Missouri Pacific.

Q. Any others?—A. The Kansas Central. I am building a road now, the Leavenworth, Northern and Southern.

INSUFFICIENT FACILITIES BY KANSAS CENTRAL.

Q. Are you familiar with the management of these roads?—A. Some; yes, sir.

Q. In reference to the Kansas Central, we have been informed that there is complaint here that its management does not afford facilities to this town that the town desires. What have you to say?—A. I think that is true. I think the road, as operated at the present time, is very injurious to this section of the country; not only to this town, but all along the line. The train on this road leaves here now after all trains come in that come in the morning, and no train goes out until 4.30, I think it is. It makes the mails all late. After you get out 50 miles or 100 miles the passenger train lays over for twenty hours.

Q. How can it be rectified?—A. I think changing the trains would rectify that; and it would be to the interest of the road. I may be mistaken, but it looks to me to be largely to the interest of the road to change the time of the trains.

ALSO BY LAWRENCE BRANCH.

Q. We have heard the same complaint with regard to the Lawrence branch, more especially with reference to freight. Do you know anything about that?—A. Yes, sir; some. I have heard read some of the testimony here, and I think what has been said is, to a certain extent, true. But there are some things to be taken into consideration. The Union Pacific's hands have been tied; and you might also consider the fact that they are poor. They have had no facilities to work with economy and to do their business. While it may seem to be a matter of expense, I do not think there has been any disposition to injure the town.

By the CHAIRMAN:

Q. How have the Union Pacific's hands been tied?—A. I think they have had pretty hard work to get along and make their earnings keep up, under the competition that they have now.

Q. How long has that been the condition of things?—A. Three or four years, and perhaps longer. It is a fact that a road, where it is a branch, cannot make the same business that it could in connection with the through or trunk road. If this Lawrence branch was run and operated without changing cars or trains, and so there was no delay, it would be better for Leavenworth. Sometimes the road has been at fault in the delay of freights. But there is no reason why they should not have the same facilities here for shipping supplies as are had in any other town.

By Commissioner ANDERSON:

Q. It is your judgment that if this subject receives proper attention it can, at least to some extent, be rectified by the Union Pacific?—A. I have no doubt of it.

ASSOCIATED WITH GARRISON IN CONSTRUCTION OF KANSAS CENTRAL.

Q. You say you constructed some portion of the Kansas Central?—A. Yes, sir.

Q. What portion?—A. Nearly the entire length of it.

Q. Did you know Commodore Garrison?—A. Yes, sir.

Q. Were you associated with him in that enterprise?—A. Yes, sir.

Q. With whom was your construction contract made?—A. I was president of the company always while it was being built. Commodore Garrison and myself bought in the road. It was sold on mortgage.

Q. When?—A. It was sold, I think, in 1879.

Q. How long before Commodore Garrison sold the Missouri Pacific to Mr. Gould was it that you bought in the Kansas Central?—A. Commodore Garrison had the road about, I think, six months; perhaps longer. He sold out in November, I think.

Q. He sold in November, 1879, did he not?—A. November it was; yes, sir. Then it was in the spring of 1879 that we bought in the road—1878 or 1879.

Q. After that what was the nature of your ownership? Did the company pass out of existence?—A. No, sir.

Q. Was it reorganized?—A. Yes, sir; Commodore Garrison retaining a half interest and I and my associates retaining the other half.

Q. That is, between you, you owned all the bonds and all the stock?—
A. Yes, sir.

ITS ACQUISITION BY JAY GOULD.

Q. Who negotiated the transfer of Commodore Garrison's interest to Mr. Jay Gould?—A. Commodore Garrison.

Q. Did you take any part in it?—A. No, sir; I was telegraphed to to come on to New York after the trade was made and closed up. I went on there, and I was to approve the transaction, as Garrison told me, or otherwise it would break up the trade, as far as the Kansas Central was concerned. But they agreed, or the commodore agreed with me, to go on and build the road, and I told the commodore he had done exactly right. He had a large interest, while I had a small interest at stake, speaking of the Missouri Pacific. You know he sold that at the same time.

Q. You had an interest in the Missouri Pacific also, did you not?—A. No, sir; I was a director.

Q. What do you mean when you refer to his having a large interest?—A. The trade was made, including the Kansas Central and the Missouri Pacific, all in one, and he had a large interest because he had the Missouri Pacific.

Q. Did the trade include your interest in the Kansas Central also?—A. No, sir.

Q. You retained that?—A. We retained that, and went on building. We built out to Garrison. The town was named after the commodore. It was completed after the trade was made, in the spring.

NEGOTIATIONS WITH GOULD IN NEW YORK.

Q. Who did you see when you went on to New York?—A. I saw Commodore Garrison and Mr. Gould and Mr. Dillon and most all the Union Pacific people in New York at the time.

Q. Do you remember whether your visit to New York was before or after the consolidation?—A. It was before. I sold them our Kansas Pacific stock.

Q. You sold what?—A. The old company had \$250,000 of the Union Pacific stock that they got in exchange for their bonds in this branch. I sold them to Mr. Gould on this visit.

Q. Do you remember the price?—A. Somewhere about 80. I could not tell exactly.

Q. Can you fix the exact date in any way?—A. No, sir; not without my books.

The CHAIRMAN. We will take a memorandum from you in writing if you can fix it from your books.

The WITNESS. Yes, sir; I can do that.

Q. At the same time and on the same occasion when you sold this stock to Mr. Gould you approved of the transfer of Commodore Garrison's interest in bonds and stock to Mr. Gould?—A. Yes, sir; Mr. Garrison left a note at the hotel to see him first, and we went down, and my remark to him was that he had done perfectly right.

Q. Did he make any statement in regard to his having required Mr. Gould to take the Kansas Central at the same time or in connection with the Missouri Pacific, or what was said about that?—A. The trade was all one. It was \$3,800,000 that he received for the whole interest.

Q. Was the apportionment of so much for the Kansas Central and so much for the Missouri Pacific merely a matter of convenience?—

He gave just what it cost Commodore Garrison. Commodore Garrison turned it in and said, "I will charge you nothing on this, only you are to carry out the extension we agreed to make." Commodore Garrison concluded to go on, but the Union Pacific did not go on for a year or two. I think we commenced again in 1881 or 1882. I could not remember all those dates without referring to them.

ACQUISITION OF THE PROPERTY BY THE UNION PACIFIC.

Q. How soon after the transaction was closed in New York were you informed that the property had been passed over to the Union Pacific and they were to be the purchasers?—**A.** I do not know. I should say three or four months; perhaps longer than that. I do not remember.

Q. You came back here supposing Mr. Gould was going on with Mr. Garrison's work?—**A.** Yes, sir; with that understanding we did go on and build to this town called Garrison.

Q. When you returned to Leavenworth your impression was that Mr. Gould was to go on with the work, was it?—**A.** Yes, sir.

Q. And not the Union Pacific Company?—**A.** No; not the Union Pacific.

Q. Afterwards you learned that the Union Pacific had acquired it?—**A.** Yes, sir; in fact I knew right away, in the course of a month, any way, that the Union Pacific was going to have the Kansas Central, as Mr. Gould had stated that he bought that and turned it over to the Union Pacific. Mr. Gould, after buying this, came out and made a trip over the Central Branch, and I went with him.

MR. GOULD'S WESTERN VISIT.

Q. Are you quite sure whether Mr. Gould's visit was before or after he bought the Central Branch?—**A.** Both trades were made at about the same time—the Central Branch and Kansas Central.

Commissioner ANDERSON. Mr. Gould's visit here, as he states, was before the purchase of the Central Branch.

The WITNESS. I guess it was agreed upon, but perhaps not closed up.

Commissioner ANDERSON. Mr. Gould, in his evidence, told an amusing story about his coming out here and seeing freight trains poking their noses out at every corner to make a great show of business?

The WITNESS. Yes, sir; I was the one who got the story off on Mr. Gould. Mr. Pomeroy came out and he kept pitching into me about the narrow gauge and my little road, as he called it; and while going along, before we got to Atchison, I thought I would give Pomeroy a little dose. We sat there in the cars, and there was a band of music and stages at every station, and on the side tracks everything was headed East. They were tooting away there, and he said they were doing a great amount of business. As a joke on Pomeroy, I said to Mr. Gould, "Did you notice the trains are all headed East?" I said, "I do not believe there is anything in them; Mr. Pomeroy has probably prepared this for you two weeks before you came on."

COST OF ROAD.

Q. Can you tell us what the bonds that were sold to Mr. Gould had cost; that is, what the cost of your road was?—**A.** Just the actual cost. Mr. Garrison took the bonds and advanced the money, after bidding the road in, as long as he held it. Then Mr. Gould took it right off his

hands and the bonds were transferred to Mr. Gould, or the Union Pacific, and put in that office, and they advanced the money, taking the bonds and giving the money at \$8,000 a mile. That is the bonded indebtedness now on the Kansas Central.

Q. Do your books show just what the cost of that road was to you when you bought it in?—A. Our books are all in the hands of the Union Pacific. After I sold out my interest they took all the books up to Omaha.

Q. The construction books also?—A. Yes, sir. We built the road without any contractor. The company built it, and they drew on them for the money.

Q. Do not your books show approximately what it had cost at the time you bought it in?—A. Somewhere in the neighborhood of \$400,000.

Q. For the whole interest—yours and Mr. Garrison's both?—A. Yes, sir; that was as far as Omega. The road was bought in at that.

Q. Was there any money expended on the road between the time you bought it in and the time Mr. Garrison passed it over to Mr. Gould, during those six months?—A. There was. Mr. Gould assumed that indebtedness and took the bonds. Mr. Garrison had bonds at par. The Union Pacific did the same thing. They made Mr. Garrison do it in this purchase; but he turned over the bonds to Mr. Gould or the Union Pacific.

THE PURCHASE PRICE.

Q. Please state again what the whole price paid to Mr. Garrison was?

The WITNESS. You mean the present bonded indebtedness?

Commissioner ANDERSON. No, the amount he paid.

A. Three million eight hundred thousand is my present recollection; I think that was the entire amount.

Q. What did you get that figure from; is it from your memory only?—A. Yes, sir.

Q. And from information given to you by whom?—A. I saw it in the papers; and I was familiar with the checks, &c., and it was talked about when I was in New York.

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Q. Can you tell me how much was expended on it between April and November, 1879?—A. No, sir; not without referring to the books, I could not. We built 35 miles of road. There was at least \$20,000 to \$22,000 a mile expended. It was pretty rough country we built through, but I could not tell the amount without reference to the books.

Q. When you say \$22,000 a mile, do you mean in bonds or in money?—A. Money. The bonds were issued for it at par. The money was for every dollar that was spent.

CASH COST OF CONSTRUCTION.

Commissioner ANDERSON. I am talking about what it cost you in money to pay the engineers and workmen who graded the road, and the cost of the iron, ties, &c.

The WITNESS. Well, I should say, from memory, it was about \$22,000 a mile. It might have gone up to \$25,000. The books show that.

Commissioner ANDERSON. Mr. Adams, can you tell me?

ADAMS. I do not know.

MINK. The books are all at Boston. Mr. Smith says the company its own road, and if that is true the books will show it. I think \$479,000.

WITNESS. I think I can explain that to you. The road was bid much less than what it cost. The first 50 miles of it cost a great of money. We paid \$100 a ton for iron rails. The road was used on a mortgage, and was bought in, as I say, for in the neighborhood of \$400,000, when there were about 80 miles of road completed.

Not having much to do with it lately, the particulars are all out of mind. We put a mortgage of \$8,000 a mile on the entire road. It is very far out of the way—not over \$25,000 or \$30,000—in saying the indebtedness was over \$800,000. We used up what the road brought in in paying off its debts, and the road was \$150,000 behind in completing it to Meltonville, the floating debt, and since then, as I stand from their reports, it runs behind.

Commissioner ANDERSON. The point of inquiry is really to test the accuracy of a statement made that the interest bought from Commodore Garrison in November, 1879, in the Kansas Central was passed to the Union Pacific at the same price at which it was purchased, the price charged to the Union Pacific in money for that interest \$479,000.

WITNESS. That must be correct, then.

Commissioner ANDERSON. We do not know. We thought that you tell us.

WITNESS. I could not tell without the books. It must be correct. I know it is. There was no profit to Mr. Garrison. He said that. He did not ask any profit, and they stepped into his shoes. Garrison did not ask any profit?—A. No, sir; he said they could take the Kansas Central at just what it cost him.

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Do you know anything about the Central Branch, except from this you made over the road?—A. No, sir; except hearsay. I talked Pomeroy and others in New York.

PLAN OF SETTLEMENT.

Have you given the subject of the adjustment between the Union Pacific Railway Company, as subsidized, and the United States Government, any consideration?—A. Yes, sir; I have thought of it, and I have said about it considerably to different persons.

Will you kindly give us what, in your judgment, would be fair and proper and practicable?—A. I think, as the road has been a pioneer road and as it has settled up this country, if the Government never got paid for it it would be well paid. If the company was not compensated off this debt, but simply the interest, say 2 per cent.

It would be a great help to the company and to the country.

I will fix up the road and build branches, which I believe is the best position to do. As it is, there are roads that can be

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It is to be taken up by other roads, such as the Chicago and North

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Q. Can you tell me how much was expended on it between April and November, 1879?—A. No, sir; not without referring to the books, I could not. We built 35 miles of road. There was at least \$20,000 to \$22,000 a mile expended. It was pretty rough country we built through, but I could not tell the amount without reference to the books.

Q. When you say \$22,000 a mile, do you mean in bonds or in money?—A. Money. The bonds were issued for it at par. The money was for every dollar that was spent.

CASH COST OF CONSTRUCTION.

Commissioner ANDERSON. I am talking about what it cost you in money to pay the engineers and workmen who graded the road, and the cost of the iron, ties, &c.

The WITNESS. Well, I should say, from memory, it was about \$22,000 a mile. It might have gone up to \$25,000. The books show that.

Commissioner ANDERSON. Mr. Adams, can you tell me?

Mr. ADAMS. I do not know.

Mr. MINK. The books are all at Boston. Mr. Smith says the company built its own road, and if that is true the books will show it. I think it was \$479,000.

The WITNESS. I think I can explain that to you. The road was bid in for much less than what it cost. The first 50 miles of it cost a great deal of money. We paid \$100 a ton for iron rails. The road was foreclosed on a mortgage, and was bought in, as I say, for in the neighborhood of \$400,000, when there were about 80 miles of road completed, or 84. Not having much to do with it lately, the particulars are all out of my mind. We put a mortgage of \$8,000 a mile on the entire road. I am not very far out of the way—not over \$25,000 or \$30,000—in saying that the indebtedness was over \$800,000. We used up what the road brought in in paying off its debts, and the road was \$150,000 behind in completing it to Meltonville, the floating debt, and since then, as I understand from their reports, it runs behind.

Commissioner ANDERSON. The point of inquiry is really to test the accuracy of a statement made that the interest bought from Commodore Garrison in November, 1879, in the Kansas Central was passed over to the Union Pacific at the same price at which it was purchased, and the price charged to the Union Pacific in money for that interest was \$479,000.

The WITNESS. That must be correct, then.

Commissioner ANDERSON. We do not know. We thought that you could tell us.

The WITNESS. I could not tell without the books. It must be correct. I know it is. There was no profit to Mr. Garrison. He said that to me. He did not ask any profit, and they stepped into his shoes.

Q. Garrison did not ask any profit?—A. No, sir; he said they could have the Kansas Central at just what it cost him.

Q. We want to know whether Mr. Gould asked any profit?—A. I do not think he did. I think he turned in the Kansas Central and took just what it cost him.

Q. Do you know anything about the Central Branch, except from this trip you made over the road?—A. No, sir; except hearsay. I talked with Pomeroy and others in New York.

PLAN OF SETTLEMENT.

Q. Have you given the subject of the adjustment between the Union Pacific Railway Company, as subsidized, and the United States Government, any consideration?—A. Yes, sir; I have thought of it, and talked about it considerably to different persons.

Q. Will you kindly give us what, in your judgment, would be fair and proper and practicable?—A. I think, as the road has been a pioneer road, and as it has settled up this country, if the Government never got a cent for it it would be well paid. If the company was not compelled to pay off this debt, but simply the interest, say 2 per cent., or 2½ per cent., it would be a great help to the company and to the country. It would fix up the road and build branches, which I believe there is a disposition to do. As it is, there are roads that can be built for one-third or one-fourth of what it cost to build that road. If the territory is to be taken up by other roads, such as the Chicago, Burlington and Quincy, and the Santa Fé and other roads, I cannot see how the Union Pacific can live. It is an important road to this country.

By the CHAIRMAN:

What difference does it make to these people whether they are ed by the Union Pacific or any other road?—A. Nothing, except a lry. This road goes through a very fine country, and the branches t could be built would make great feeders to the road, and would p the company out. You cannot always get a trunk line that can ne to the right place to suit all. This was the pioneer road to the est, and I have always had a great deal of sympathy and good feel- g for it.

By Commissioner LITTLE:

Q. How far do you reflect the views of the people of Kansas and Ne- aska?—A. I can only speak for myself.

By Commissioner ANDERSON:

Q. Mr. Littler means, how do they generally talk?—A. I believe the ople here in Kansas would be glad to see what I say take place.

By Commissioner LITTLE:

Q. Has it been a subject of discussion among you?—A. It has a great- of al; yes. I believe the people of Nebraska and Kansas, or any part of e West, would be very glad to see it. I do not know why they should t.

POOR FACILITIES OF LAWRENCE BRANCH.

By the CHAIRMAN:

Q. Did the disadvantages on this Lawrence Branch continue during e year 1883, that you have spoken of?—A. Yes, sir.

Q. During that year, do you not know that the Union Pacific Rail- ay Company was declaring a dividend of 7 per cent. to its stock- lders?—A. Yes, sir; I believe they did.

Q. If they supplied any part of the dividends to the improvement of is branch road, could they not have corrected the difficulty at that ne?—A. Yes, sir; and they can yet.

Q. Then it was not on account of any financial embarrassment?—A. A. o; not altogether. You cannot make 30 miles of a road keep up its n end. If that road ran into Chicago, or into Saint Louis, it would a part of a line, and it would be a paying road. I would like very ach to see them sell it. I will make an offer for it.

Q. Have you any other information to give that would be of benefit the Commission?—A. Not that I know of that will be of benefit.

L. T. SMITH.

The CHAIRMAN. If there is any other gentleman here that can give e Commission any information concerning these roads we would be d to hear it. (No response.)

The following letter was subsequently received:

LETTER FROM L. T. SMITH.

Leavenworth, Northern and Southern Railway Company. L. T. Smith, president. Office, 101 Dela- a- ware street.]

LEAVENWORTH, KANS., September 2, 1887.

AE. P. YOUNG, Esq.,

Secretary, New York:

Upon reflection I find that my estimate of the cost of the road from to \$22,000 per mile was somewhat too high, and now cost of that portion.

Answering your marginal notation as to the date of selling the \$250,000 Kansas Pacific stock to Mr. Gould, I can now state that it was on the 20th of November, 1879.

Very respectfully,

L. T. SMITH.

The Commission then adjourned to meet upon the call of the Chair.

LEAVENWORTH, KANS., *Wednesday, July 6, 1887.*

The Commission met upon the call of the chair, all the Commissioners being present.

JAMES C. STONE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Are you a resident here?—Answer. A resident of Leavenworth County.

Q. How long have you resided here?—A. Since October, 1858.

INCEPTION OF LEAVENWORTH, PAWNEE, AND WESTERN.

Q. When you first came here the Kansas Pacific was known as the Leavenworth, Pawnee and Western, was it not?—A. When I first came here there was nothing. The Leavenworth, Pawnee and Western was a mere paper charter, given like many others were given by the Kansas legislature. They were just lying on the statute books, none of them being used.

Q. Who first became interested with you in the development of that charter?—A. Mr. J. H. McDowell.

Q. Of where?—A. Of Leavenworth, and Col. A. J. Isaacs, and General Thomas Ewing. General Ewing, however, came in later. He came in after we got it under way.

Q. What was the scheme in its inception?—A. In its inception it was a scheme to build a railroad from Leavenworth to Lawrence. Our views were not very extensive at the start.

Q. When was the first construction started?—A. We went to work first and got the first Delaware treaty made and confirmed, by which those lands which came up then to within six miles of Leavenworth were sold to the Leavenworth, Pawnee and Western Railroad Company, to be used for the purpose of constructing that road.

ENLARGEMENT OF THE SCHEME.

We found, after we made the treaty, that, although the lands were valuable, the country was so new to enterprises of that kind that this one was too small to engage the attention of capitalists. Kansas was then a long ways from New York. We went on and enlarged the enterprise. We made a treaty with the Pottawatamie Indians, by which we bought 550,000 acres of land northwest of Topeka. The Delaware treaty, I believe, covered 225,000 acres. It has been twenty odd years since my attention has been called to this, and you must excuse any mistakes I may make. We found that the enterprise was still too small; that there was not enough of it to engage the attention of capitalists; so we determined to see if we could not put it into a Pacific railroad scheme and

engage the attention of the whole country. We drew up the first Pacific railroad bill and worked it through Congress.

Q. Did this enlargement of your scheme cover the period from 1858 until the bill in Congress was passed?—A. It covered the period from the latter part of 1859 until the bill was passed. There was nothing done about it in 1858, at all. It was in 1859 and 1860.

CAPITAL STOCK.

Q. What was the capital stock of the company?—A. The capital stock of the Pawnee road was originally \$5,000,000, with the right to add \$5,000,000 more for the construction of branches, making \$10,000,000 altogether.

Q. What bonds were issued, if any, before the passage of the bill in Congress?—A. There were no bonds issued, so far as I can recollect. I know there were not, in fact. There could not have been, because under that bill the United States had the first lien on the road.

Q. You mean the Government had the first lien until it gave authority to place a lien ahead of the Government lien?—A. That was the first bill.

Q. When did the construction of this road commence from Kansas City westward?—A. It was commenced from Kansas City and Leavenworth at the same time.

Q. And before the bill was passed in Congress in 1862?—A. No; after the passage of the first bill.

Q. Was that after it was passed?—A. After it was passed.

ISSUE OF STOCK.

Q. When was the stock issued? I do not mean in what year, but with reference to the act of Congress.—A. I do not know whether all the stock was ever issued. What do you mean by "issued?" Do you mean when were the certificates made out?

Q. When were the certificates made out and delivered to any person with power to use them?—A. I guess it must have been about—it is pretty hard to date it now.

Q. Was it before the act of Congress of 1862 was passed?—A. Yes, before the act of Congress.

Q. By whom were the certificates signed?—A. By Mr. McDowell, as president of the road, and also by the secretary, of course.

Q. What was his name?—A. Samuel Denman.

Q. And by them they were delivered to whom? Was there an agent for the transfer of the stock?—A. It was all issued in my name. I should suppose that I had charge of it; but it was a joint concern.

Q. Did you have the control of all the certificates of stock in the first instance?—A. Yes. Of course I had that control in connection with these other gentlemen. I would not have had power to dispose of it without their consent.

CONGRESSIONAL LEGISLATION.

Q. Do you remember the session of Congress at which the law of 1862 was passed?—A. Yes; 1862.

Q. Was the vote for that bill for a long while uncertain?—A. Yes.

Q. Who was in Washington?—A. I was.

Q. Who else?

The WITNESS. Who had the bill?

The CHAIRMAN. Who else had charge of it to represent the interests of your company? Mr. Ewing?

A. No; Mr. Ewing was not there at the beginning. He was there before the bill finally passed the Senate, I think. He was not there when it was before the House at all.

Q. We have a statement furnished us from a Washington paper, I believe, which contains a number of curious entries relating to the alleged disposition of this stock with reference to the passage of this bill of 1862. You are familiar with that publication, I suppose?—A. I am; but have no means of knowing whether it is a correct copy of the paper from which it purports to be taken.

LIST SHOWING DISPOSITION OF STOCK.

The statement is as follows:

- R. McBratney, 2,000 shares, \$13,000. "Supposed to be for S. C. Pomeroy."
W. W. Gaylord, 2,000 shares, \$100,000. "Supposed to be for S. C. Pomeroy. Think you understand this, gentlemen."
E. W. Chase, Chaseville, N. Y., 1,000 shares, \$50,000. "But little service rendered, mostly blackmail."
Henry Bennett, Elmira, N. Y., 20,000 shares, \$1,000,000. Supposed to be for H. Bennett, J. P. Usher, Caleb Smith, and R. W. Thompson. "Usher and Bennett right. Let Smith and Thompson 'slide.'"
G. W. Weston, Washington, 200 shares, \$10,000. "Services rendered."
Henry Bennett, Elmira, N. Y., two issues, one of 200 shares and one of 2,300, aggregating \$1,125,000. "Right."
Margall, 600 shares, \$30,000. "Know nothing about it."
J. M. Shackelford, Kentucky, 300 shares, \$15,000. "Right."
C. W. Chase, Chaseville, N. Y., 800 shares, \$40,000. (See note above.) (The note is, "but little service rendered, mostly blackmail.")
S. Reynolds, 400 shares, \$20,000.
"Right," 200 shares, \$10,000; supposed to be for C. Mitchell, of Indiana.
Hon. T. L. Price, Missouri, 500 shares, \$25,000. "Right."
J. F. Cowan, 3,900 shares, \$195,000. "Supposed to be for T. Stevens. See note." (The note reads: "If any of this stock, or land, or money furnished this man is really for Mr. Thaddens Stevens, that part ought to be respected. This man Cowan still retains in his hands several certificates which have been liquidated.")
R. W. Latham, 100 shares, \$5,000. "Right."
Bridges, 100 shares, \$5,000. "Know nothing about him."
Mrs. Wallis, of New York Herald, 400 shares, \$20,000. "Right."
Thirington, 100 shares, \$5,000.00. "Do not know."
J. M. Winshell, 100 shares, \$5,000. "Right."
N. H. Marston, 400 shares, \$20,000; Lathrop, 200 shares, \$25,000; King, 300 shares, \$15,000; Brown, Simpson, Kansas, \$13,000. "Blackmail."
R. S. Stevens, Kansas, 330 shares, \$16,500. (No remarks.)
General J. Cooker, 80 shares, \$4,000. "Right."
S. W. Johnson, Kansas, 400 shares, \$20,000. "Right."
B. F. Camp, New York City, and others, \$20,000. "Cut Camp to the red." "Supposed to be for Carlisle, of Virginia."
J. P. Usher, 10,000 shares, \$500,000.
C. Babcock, Kansas, 1,400 shares, \$70,000. "Supposed to be for Wilkinson. Act in reference to the future."
J. F. Cowan, Pennsylvania, 200 shares, \$100,000. "Supposed to be for T. Stevens and others." (See note on him.)
F. P. Stanton, Kansas, 100 shares, \$15,000. "No obligation for the past—look to the future."
Cheever, Washington, D. C., 500 shares, \$25,000. "Supposed to be for Simmons of Rhode Island. The services contemplated were not rendered in full." See Judge Thomas Ewing, Jr.
R. W. Latham, 300 shares, \$15,000. "Supposed to be for Simmons, of Rhode Island. See note on Cheever."
H. F. Bennett, California, 100 shares, \$5,000. "Right."
Whitely, New York Herald, 100 shares, \$5,000. "Right."
Martin, California, 400 shares, \$20,000. "Do not know."

Franchatt, New York, 2,000 shares, \$100,000. "Right."
 J. N. Cutts, 100 shares, \$5,000. "No service."
 Hon. J. S. Rollins, Missouri, 500 shares, \$25,000. "Right."
 Ross, Fletcher, Holliday, and Stinson, Kansas, 2,400 shares, \$120,000. "Hold over them in terror."
 Fielding Johnson, 100 shares, \$5,000. "Right."
 C. Adams, 200 shares, \$10,000. "General Lane's son-in-law. Right."
 W. W. Bachus, Leavenworth, 50 shares, \$2,500. "Right."
 General J. H. Lane, 9,400 shares, \$470,000. "Right."
 J. Moran, Missouri, 400 shares, \$20,000. "No service."
 Josiah Miller, Kansas, 100 shares, \$5,000. "Right."
 Chester Howard, 100 issued, \$5,000. "General Lane's friend. Right."
 Seventy thousand one hundred and forty shares (\$3,507,000) of this stock was subject to assessment; 13,020 shares, (\$651,000) not so subject. The total amount of the fund is 83,160 shares, or \$4,158,000.

STATEMENT OF ASSETS AND LIABILITIES.

This document is supplemented by another, showing the assets and liabilities of the concern, April 13, 1863, and made up by J. C. Stone.

ASSETS.

Messrs. Ross, Steel & Co., contracts overdrawn.....	\$467.00
James Goodin.....	150.00
William Lisbaugh, bad money.....	15.00
Dr. R. Southwick, note.....	35.63
Large iron safe and office furniture.....	500.00
	<hr/> 1,167.63

LIABILITIES.

J. F. Cavan, of Pennsylvania, five notes of \$1,000.....	\$5,000.00
R. G. Corwin, Dayton, Ohio. "Shove him".....	10,000.00
R. W. Thompson. "Shove him".....	5,000.00
Balance due certain Pottawatomie chiefs. "All right".....	1,883.00
Whitley, New York Herald. "All right".....	200.00
General James Cooper, Fredericktown, Md. "All right".....	1,000.00
Mark Delehay, surveyor-general of Kansas. "All right".....	333.33
Sylvester Medbury, Columbus, Ohio. "All right".....	250.00
Clark, Gruber & Co., supposed overdrawn bank account. "All right".....	1,715.45

DELAWARE LANDS.

In the same report is the following schedule of Delaware lands conveyed and contracted to be conveyed by the road:

The number of shares conveyed, 11,441.50.
 R. McBratney (General Pomeroy's friend), a contract, for 2,500. He has selected and received a quit-claim for all but 640.
 S. A. Simpson, Kansas, has a contract for "blackmail," \$320.
 Thomas G. Gladding and others, Leavenworth. "All right," \$2,500.
 W. P. Dole, Commissioner of Indian Affairs. See Ewing, \$1,280.
 R. W. Latham, Washington, D. C. Attorney's fees.
 Editor of Leavenworth Conservative, and brother of our M. C. "Right."

NOTE.—We find a memorandum made by Judge Ewing of 500 acres of Delaware land to one Lathrop, but do not know the terms or conditions of the contract with him, and whether there is such a contract.

POTTAWATOMIE LANDS.

Then is disclosed the Pottawatomie lands, "contracted to be conveyed to sundry persons:"

R. McBratney, register of the land office, Junction City, Kans. Pomeroy's friend.....	\$2,500.00
Lathrop.....	500.00
W. Latham, Washington, D. C.....	106.00

F. P. Stanton, Kansas	\$646. 00
W. P. Dole, Commissioner of Indian Affairs	1, 280. 00
Pottawatomie men	1, 920. 00
W. W. Ross, Pottawatomie agent	320. 00
For Catholic mission on Pottawatomie Reservation	960. 00
C. E. Mix, Indian officer, Washington, D. C.	640. 00
Ash White	320. 00
Total	9, 240. 00

GOVERNMENT LANDS.

The whole concluding with the Government lands disposed of:

R. McBratney, register of land office, Junction City	\$20, 000. 00
E. W. Chase, New York	5, 000. 00
J. F. Cowan	2, 500. 00
Marsten, New Hampshire	2, 000. 00
Lathrop	3, 000. 00
Brown, supposey to be Forney's friend	5, 000. 00
Bridges	500. 00
Thorington	2, 500. 00
Jones, Forney's friend	1, 280. 00
C. A. Trowbridge, Detroit	2, 000. 00
J. F. Cowan, for persons unknown	5, 000. 00
Cheever, of Washington, supposed to be for Simmons of Rhode Island ...	10, 000. 00
R. W. Latham. Supposed to be for Simmons of Rhode Island	1, 000. 00
W. P. Dole, Commissioner of Indian Affairs	3, 840. 00
Total	66, 260. 00

AUTHENTICITY OF THE STATEMENT.

Q. Can you tell me what degree of truth there is in the article as published, and especially as to the remarks contained in the newspaper opposite the persons' names to whom the different lots of stock appear to have been given?—A. I do not know anything about the newspaper remarks or whether the alleged copy is correct. Mr. McBratney was a citizen of Junction City, and was supposed to to have some influence about these matters. At one time he was a very zealous worker in the matter, and those shares were turned over to him for his work.

Q. He was not a member of Congress?—A. No; he was not a member of Congress. I did not deliver them myself, and, of course, cannot tell. I will explain the notes which appear opposite the respective amounts of stock. I will tell you exactly how that was done.

Q. In whose handwriting are the notes that you refer to in the original paper?—A. I expect they are in my own.

ORIGIN OF STATEMENT.

Q. You did prepare a similar statement to that?—A. I did. It occurred in this way. After the transfer to Hallett and Fremont, Hallett came to me one day and said that a great deal of this stock had been given out to various parties, and he had no list. He did not know where it was. There was a list in the books of the company; but it was not accessible just for the moment, and he asked me if I could sit down, and from recollection, as near as I could, make an imperfect list of it, so as to give him an idea how to operate, and let him know where the stock was, for information. My recollection was especially called to that afterwards, and therefore I recollect it better than a great many other things. Mr. Hallett was there; also Col. Isaacs, Mr. McDowell, and Mr. S. A. Stinson.

Q. Where was that?—A. In New York. I sat down and did the writing, and the others made suggestions as we went along. I wrote down just such names as I could recollect. For instance, I wrote "R. McBratney, 2,000 shares." Hallett said, "Just make a note of that; I think that was for Pomeroy." I wrote that. This was a confidential paper for his information, and this was his own note. So it was with every one of them. "Gaylord," he said; "I think that was for Pomeroy." Those notes are his suggestions and his suppositions. He asked me to put them down for his benefit. That is the way that occurred, exactly.

Q. Is Mr. Hallett living?—A. He is dead. He was killed at Wyandotte during the construction of the road.

Q. You knew who S. C. Pomeroy was, did you not?—A. He was a Senator from Kansas at that time. McBratney was a personal friend of his.

STOCK GIVEN FOR SERVICES.

Q. How did you come to part with the stock that you had in your hands?—A. It was just as I told you. McBratney was there at work, trying to help us to get the bill through the House of Representatives, and that much stock was given to him as his pay. We had no other way of paying him.

Q. With reference to these original deliveries, as stated in this paper before you, in these notes which you say were the suggestions of Mr. Hallett, you know that these statements, as to deliveries to McBratney, Gaylord, Chase, and others are substantially correct, do you not?—A. Oh, yes. They were correct as nearly as I could recollect at the time. The list was made from recollection. It was not intended to be anything more than a mere memorandum.

Commissioner ANDERSON. I refer to these words that you say you marked down opposite the name of W. H. Gaylord, for instance. "Think you understand this, gentlemen."

The WITNESS. That is Mr. Hallett's suggestion. Gaylord was a brother-in-law of Pomeroy's.

Q. You must have known what those words referred to?—A. That is what they referred to.

Q. In adding the words, "Think you understand this, gentlemen," what do you mean that was intended for?—A. It was for those who were sitting around the table. That was Mr. Hallett's remark, and I wrote it. A careless memorandum, that was.

Q. Who was Mr. Gaylord?—A. A brother-in-law of Mr. Pomeroy.

Q. Was he a Representative?—A. No.

Q. Where did he live?—A. He lived in New York.

Q. Is he living now?—A. I do not know whether he is or not.

SHARES GIVEN TO E. W. CHASE.

Q. "E. W. Chase, Chaseville, N. Y., 1,000 shares." That stock you say you delivered to Mr. Chase?—A. Yes, it was delivered to him by some one connected with the road.

Q. Where was that delivered?—A. In Washington. Chase was an ex-member of Congress, and was there assisting in the passage of the bill.

Q. He was not a member at the time?—A. Not a member at the time.

Q. When you gave him that stock, what conversation did you have with Mr. Chase? Of course I know you cannot remember it at this time in detail.—A. I do not know that I gave it to him. I do not think I did. I think it was one of the others that gave it to him. I may have given it, but I cannot recollect it now.

Q. The remark which was added are the words, "But little service rendered; mostly blackmail." What did you understand that to refer to?—A. That meant that Mr. Chase had been supposed to be very servicable at the beginning, but it turned out that he had not done much.

Q. The expression "blackmail" would imply that he threatened to make some disclosure unless you gave him the stock, would it not?—

Oh, no. That was long after the stock was given; a year or two afterwards.

THE WORK HE DID.

Q. It would, in any event, indicate that some pressure had been brought to bear on you to get the stock. Do you remember anything of that kind in connection with Mr. Chase?—A. No; I do not recollect anything of the sort at all.

Q. Did you see Chase frequently?—A. Yes; he was in Washington. This was long afterwards.

Q. Did he report to you what he was doing?—A. Yes; he used to report that he was accomplishing a great deal in the way of convincing people that the bill ought to pass. But I think we came to the conclusion he was mistaken about that; that he did not do anything.

Q. You do not recollect any threat made by Mr. Chase, or any indirect method by which he compelled you to give this stock to him against your will?—A. Oh, no, the stock was given long before that.

Q. By the expression "blackmail" means what?—A. That simply means that it was done without consideration. He did not do anything.

Q. That no consideration was given or rendered?—A. Yes.

Q. He made no threats?—A. No, he never made any threats that I know of. If he did, it would not amount to anything. We did not care.

Q. What market value did this stock have at the time?—A. None.

Q. You could not do anything with it except in this way?—A. No.

Q. Was he a member of Congress?—A. He was not.

SHARES GIVEN TO HENRY BENNETT.

Q. "Henry Bennett, Elmira, N. Y., 20,000 shares." Did you know him at this time?—A. Yes.

Q. Was he a member of Congress?—A. He was not.

Q. What connection had he with Congress or what influence had he with Congress?—A. I do not know. Mr. Bennett was an old man at that time, and he was introduced to me by Mr. Usher; he was represented to me as a man of great practical wisdom, one who would be extremely useful. He was, in fact, the man who drew the Pacific bill which passed. He was a good draftsman and a good lawyer; said to be. I think Mr. Usher studied law with him.

Q. Is Mr. Bennett dead?—A. Yes, he died long ago. He really had more charge of it than anybody else, and was very much trusted in the whole business.

Q. Did you see him from time to time?—A. Yes, I saw him very often.

DONATIONS TO CONGRESSMEN DISCOURAGED.

Q. Did Mr. Bennett ever say to you that he had disposed of any of these shares by giving them to any member of Congress?—A. I might

as well tell you at the start that I told every man who had any stock around there at the beginning that if anything of that sort was ever done, I wanted nothing to do with it; that I should not do it myself, and should not advise it, and should not countenance it if they did it, and if any of them thought proper to do it on their own account, I wanted them to say nothing to me about it. I never knew it.

Q. Assuming that you had any part in it?—**A.** If I had I would not hesitate to avow it.

The CHAIRMAN. The fact that it was alluded to in that way shows that it was possible that the stock would be put to that use.

The WITNESS. I did not think that members of Congress were absolutely invulnerable. That was my opinion of them. But I wanted nothing to do with it. I made up my mind I would not. I did come to suspect afterward that some stock had been used in that way, but it was merely a suspicion, and I had no proof of it.

Q. Did you examine subsequent transfers on your books to see whether any member of Congress, or other persons who might possibly represent them, came to be stockholders?—**A.** So long as I had control of the books there was nothing of that kind.

"USHER AND BENNETT RIGHT; LET SMITH AND THOMPSON SLIDE."

The CHAIRMAN. The note relating to the one million dollars of stock is as follows: "Supposed to be for H. Bennett, J. P. Usher, Caleb Smith, and R. W. Thompson. Usher and Bennett right. Let Smith and Thompson slide."

The WITNESS. That is Mr. Hallett's comment.

Q. Which of these gentlemen were members of Congress?—**A.** None of them were.

Q. Is this Judge Usher?—**A.** Yes.

Q. H. Bennett was who?—**A.** The old man I spoke of awhile ago from New York.

Q. The same Bennett you have testified about?—**A.** Yes.

Q. Who were Smith and Thompson?—**A.** Smith was an Indiana politician. He was Secretary of the Interior at one time. Thompson was formerly a member of Congress.

By Commissioner LITTLER:

Q. Was that "Dick" Thompson?—**A.** Yes.

Q. He was Secretary of the Navy under President Arthur?—**A.** Yes; he was. That was afterwards.

By Commissioner ANDERSON:

Q. These words, "Let Smith and Thompson slide," mean what?—**A.** That Hallett thought that neither Smith nor Thompson had done any service, and Colonel Isaacs and myself had a transaction with Mr. Thompson in which we thought that he did not behave very well, and we did not feel very kindly to him.

Q. If I understand you right, you still had control of this million dollars of stock at the time this note was made?—**A.** The million dollars stock had been given to Bennett at the time the bill was passed.

HALLET AND FRÉMONT IN CONTROL OF THE ENTEPREISE.

Q. When were these comments made; after the bill was passed?—**A.** They were made after the transfer to Hallett and Frémont.

By Commissioner LITTLER :

Q. Was that after the bill was passed ?—A. Oh, yes; long after. A year after.

Q. How could you let Smith and Thompson slide unless you could control the stock which they held ?—A. Hallett and Frémont had control of the enterprise.

Q. This memorandum was intended for whose use ?—A. Hallett and Frémont's. In fact it was Hallett's own memorandum, that part of it.

Q. What services had Usher rendered in connection with the passage of this bill ?—A. The same that a great many had. He tried to explain it, I suppose, to members of Congress and urged its passage, being a Western man, and he had a great deal of influence with it.

Q. Were these 20,000 shares of stock passed to Mr. Bennett on the books of the company ?—A. I cannot tell you; I think not.

CANNOT IDENTIFY THE TRANSFERS.

Q. Is there any way of identifying them ?—A. I do not think any of these transfers were made upon the books—I think they simply held the certificates—as long as the books were open to me.

Q. Do you remember whether these 20,000 shares were transferred to Mr. H. Bennett in one certificate, or in a few large certificates ?—A. No; I do not, but I should think that would be probable. I could not recollect now.

Q. Do you know whether you indorsed it in blank on the back or indorsed it to "H. Bennett" ?—A. I do not. I do not recollect now.

Q. Have you any memoranda from which that certificate or those certificates can be identified ?—A. I do not think I have. I can look and see.

Q. If you could see the certificates themselves would you know them ?—A. I would know the handwriting.

Q. I mean, whether you could pick out from a mass of certificates that are referred to in this paper the particular certificates or the certificate representing the 20,000 shares transferred to Henry Bennett ?—A. That would be just like all the balance, except, perhaps, there might be a difference in date, or something of that kind.

Commissioner LITTLER. There might be a difference in amount; 20,000 shares is a large amount.

The WITNESS. I know, but you see we were handling large amounts.

EMPLOYMENT OF G. W. WESTON.

Q. "G. W. Weston, Washington, 200 shares, \$10,000." Who was he ?—A. He was from Maine. He was supposed to be very familiar with public men from that part of the country, and could exercise some influence with them.

Q. Was he a member of Congress ?—A. No.

Q. Did you deliver that stock to him ?—A. Yes.

Q. You saw him from time to time ?—A. Yes.

Q. What kind of a report did these gentlemen make—take Mr. Weston's case? Did he state what he was doing ?—A. He would say, "Well, last night I had an interview with Mr. Fessenden, and we talked over the whole matter. He made certain objections, which I made certain way; and last week I saw so and so, and he made certain objections." That was about the usual amount of it.

Q. Do you mean to say that in no case did any of these gentlemen report that some advantage was expected by some member of Congress in some shape, way, or form?—A. They never made any report of that kind to me.

Q. Either by procuring some influence to be worked for measures that such members might be in favor of, by log-rolling, or some such method?—A. No; there was no attempt to get influence with any other scheme, any further than to unite with the California parties, who, at the same time, were getting up their scheme at the other end of the road. I do not think there was ever any attempt to unite with anything else at all. If there was, I knew nothing about it.

HENRY BENNETT.

Q. The next is "Henry Bennett, Elmira, N. Y., two issues, one of 200 shares and one of 2,300, aggregating \$1,125,000." That is the same Henry Bennett?—A. The same Henry Bennett.

Q. Were those shares of stock to which I have just referred issued at the same time as the other lot, the 20,000 shares?—A. I suppose so. I do not know now. Do you mean issued to me?

The CHAIRMAN. Issued to Mr. Bennett.

The WITNESS. I do not know, really. I cannot tell you.

Q. The note is "Right." That, again, you say is Mr. Hallett's memorandum?—A. Yes; those are all Mr. Hallett's notes.

WITNESS KNOWS NOTHING OF MARGALL.

Q. Then we have "Margall, 600 shares." Do you know what that refers to?—A. I do not know.

Q. The note is, "Know nothing about it." Do you remember whether there was some inquiry between you and Mr. Hallett about that at that time?—A. I do not recollect anything about it. I do not recollect any such name at all. It has passed out of my mind altogether. I suppose I probably knew at the time who he was.

The CHAIRMAN. Probably not, since Mr. Hallett's note is "Know nothing about it."

The WITNESS. Either he or I knew nothing about it. Those are all his notes.

EMPLOYMENT OF J. M. SHACKLEFORD.

Q. "J. M. Shackelford, Kentucky, 300 shares, \$15,000." What does that mean?—A. He had influence in Washington, and was acquainted with all the members of Congress from Kentucky, and agreed to remain there.

Q. He was not a member of Congress?—A. No.

Q. Did he reside in Washington?—A. No.

Q. Did he come on at your request?—A. He happened to be there, and agreed to remain and help the work in case we gave him that amount of stock.

Q. Did you know him before this time?—A. Yes; I knew him very well.

Q. He agreed to remain until the bill was passed?—A. He agreed to remain as long as he could, and I think he did remain until the bill was passed.

C. W. CHASE.

Q. "C. W. Chase, Chaseville, N. Y., 800 shares, \$40,000." Who is that?—A. That is the same Chase.

Q. The same Chase who was referred to before?—A. Yes.

Q. What is your explanation about the note, "Mostly blackmail?"—
A. It is the same as the other.

Q. That it means that same thing?—A. Yes.

Q. That he failed to render any services?—A. He failed to render any services that amounted to anything.

Q. How does it happen that he received two issues, one of 1,000 shares and one of 800?—A. I do not know how that happened.

Q. Do I understand that all of this stock still remained under the control of Fremont and Hallett at this time?—A. No; Fremont and Hallett controlled a majority of the stock, and in that way controlled the enterprise.

Q. Did they control the question whether this stock should be delivered to Mr. Chase or not?—A. No, it had been already delivered.

STOCK CONTROLLED BY HALLET AND FREMONT.

Q. A moment ago I asked you that same question, as to an explanation of the note, "Let Smith and Thompson slide," and you explained it by saying that the Fremont and Hallett combination still could control that stock through Henry Bennett, and prevent it being delivered to Smith and Thompson, did you not?—A. Oh, no; you misunderstood me. They could not control that stock, because it had been already issued and was in Bennett's hands; but the question was, whether Hallett and Fremont should make this stock which had been issued valuable or should make it worthless, which they had the power to do.

Q. How?—A. They had control of the whole enterprise and had a majority of the stock.

Q. How could they "let Smith and Thompson slide," except withholding the stock which they otherwise could get?—A. I suppose they had their own way in regard to that. I did not have it to do, and of course it did not concern me at all.

Q. Did I understand you to say that you knew Mr. Chase personally?—A. Yes.

Q. Had you known him before this visit to Washington?—A. I had not.

Q. Do you remember by whom you were introduced to him?—A. I do not. I should think probably by Mr. Bennett, but I would not be at all certain of that.

Q. Had Mr. Bennett great familiarity with all those gentlemen?—A. He seemed to have.

Q. Both with the lobbyists and the members of Congress?—A. He seemed to have.

WITNESS CONSULTED WITH BENNETT.

Q. Did he direct you as to what you were to do or did you each hunt on your own hook?—A. I guess each did what he thought was best. We consulted about it frequently.

Q. Very frequently, I suppose.—A. Yes.

Q. Every day?—A. Yes; every day, I should think.

Q. Can you recollect the form of consultations and reports you made? I mean especially with reference to the gaining of votes or the favorable opinion of the Congressmen.—A. I gave you an illustration of that a little while ago, when you were asking about Mr. Weston. It was substantially about the same with Mr. Bennett. He would report, "I

have seen so-and-so." He had a large acquaintance with members of Congress. My own acquaintance was limited and I did not extend it much. He would say, "I saw Mr. So-and-So and he seemed to be struck favorably with certain features of the enterprise." Some thought it was too large a sum and some did not. We devised means to meet the objections.

EMPLOYMENT OF S. REYNOLDS.

Q. "S. Reynolds, 400 shares, \$20,000." Who was Mr. Reynolds?—A. I cannot recall at the moment. I do not recollect him.

Q. The note says, "Right, 200 shares, \$10,000; supposed to be for C. Mitchell, of Indiana." Who was Mr. Mitchell?—A. He was a member of Congress from Indiana.

Q. When you wrote that you knew, of course, that it meant to imply that Mr. Mitchell had got the benefit of 200 shares of this stock, did you not?—A. That is what Mr. Hallett thought.

Q. There were present at that meeting, I understand, yourself, Mr. Hallett, Mr. McDowell, and any others?—A. Colonel Isaacs and Mr. Stinson.

T. L. PRICE.

Q. "T. L. Price, Missouri, 500 shares, \$25,000." Was he ex-governor of Missouri?—A. No.

Q. What Mr. Price was that?—A. This was General Price—Thomas L. Price. He was lieutenant-governor of Missouri, I believe, once. He was a prominent man in Missouri. He was afterwards a member of Congress. He was not, I think, a member at that time.

Q. Did you know him personally?—A. Yes.

Q. Did you see him in Washington?—A. Yes.

Q. And did you confer with him in the same manner in regard to his work?—A. Yes.

Q. How long after the bill was passed was it that those notes were made? The same winter?—A. Oh, no; the bill was passed—does any gentleman recollect when the bill was passed?

Mr. MINK. In July, I think it was—July 1, 1862.

The WITNESS. Those notes were made in the fall of 1863.

J. F. COWAN.

Q. "J. F. Cowan, 3,900 shares, \$195,000." Who was Mr. Cowan?—A. Cowan was a Pennsylvanian; "Judge Cowan" they called him.

Q. He was not a member of Congress?—A. No; not a member of Congress.

Q. Had you known him before?—A. I had not.

Q. Do you know who presented him to you?—A. I think he was an acquaintance of Colonel Isaacs.

Q. And he was supposed to be familiar with gentlemen in Washington?—A. Yes.

Q. Both lobbyists and members?—A. Yes.

By the CHAIRMAN:

Q. Was he in the United States Senate?—A. No.

"SUPPOSED TO BE THADDEUS STEVENS."

Q. "Supposed to be for T. Stevens." Does that mean Thaddeus Stevens?—A. That is meant for Thaddeus Stevens.

Q. I then find the following words under this same item: "If any of this stock or land or money promised this man is really for Mr. Thaddeus Stevens, that part ought to be respected. This man Cowan still retains in his hands several certificates which have been liquidated." Do you remember writing that note?—A. No; I do not recollect that special note.

Q. Do you remember feeling any surprise at the suggestion that some of this stock was to go to Mr. Thaddeus Stevens?—A. No; I was not in a condition of mind to be surprised very much.

Q. You were prepared to hear anything?—A. Anything at all.

Q. That is, the result of your operations in Washington and your constant conferences on this subject had led you to the conclusion that while you did not personally know anything about it, you were prepared to hear that anybody had received stock?—A. I will give the history of that myself. Not that, by any means; but what I had heard afterwards, after the whole thing was over, led me to suspect that there was more irregularity than I had expected at the time.

Q. But after the passage of the bill and before those notes were made was not that so?—A. Yes; besides, those were Mr. Hallett's statements, and not mine.

Q. Can you tell us what it was you heard, after the bill was passed, that made you feel that you would be surprised at nothing in regard to the Congressmen?—A. I can hardly recollect it at this time.

MEMORANDA AS TO THADDEUS STEPHENS' STOCK.

Q. Are you not satisfied, after reading this note, that at the time these notes were made up quite a large portion of the stock still remained under the control of Hallett and Fremont? The words I call your attention to are these: "This man Cowan still retains in his hands several certificates which have been liquidated."—A. I do not know what that means. I cannot think now what it could have meant. I was trying to think, when you read it, what it could have meant.

The CHAIRMAN. I call your attention to the rest of the note, which says, "If any of this stock or land or money promised this man is really for Thaddeus Stevens, that part ought to be respected."

The WITNESS. That meant just this: Mr. Stevens had been a very warm advocate of the bill and had done as much as almost any other one man in getting it through, and I suppose Mr. Hallett thought that that being the fact, if any of it was due to him he ought to have it. That is what I suppose. He would very naturally feel that way.

Commissioner LITTLE. It seems to imply that this stock was still, as to a portion of it, under the control of Hallett and Fremont.

The WITNESS. It might have been so.

EMPLOYMENT OF MARSTON, LATHROP, KING, AND BROWN.

Q. "N. H. Marston, 400 shares, \$20,000.

"Lathrop, 200 shares, \$35,000.

"King, 300 shares, \$15,000.

"Brown, 1,000 shares, \$15,000."

Do you know who these people, Marston, Lathrop, King, and Brown, were?—A. Lathrop was a Virginian who was there, and who had some relation to the parties who were supposed to have influence. Marston I was trying to recollect. I think he was a Virginian, too, but I will not be sure at all.

Q. "Jones, 100 shares, \$5,000. Supposed to be Forney's friend." Do you remember that?—A. That is Hallett's note; I do not know who he was.

C. A. TROWBRIDGE.

Q. "C. A. Trowbridge, Detroit, 2,400 issued, \$120,000." Who was Trowbridge?—A. Trowbridge was from Detroit; he belonged to the Trowbridge family of that city.

Q. Did you know him personally?—A. I knew him very well.

Q. Did you give him this stock?—A. I suppose I did.

Q. This word "issued," after the figures "\$24,000," is equivalent to "delivered," is it not?—A. I suppose so.

Q. What peculiar capacity had Mr. Trowbridge, if any?—A. The same as these other gentlemen had.

Q. Did he also report to you?—A. Yes.

Q. And the same style of conversation occurred as to what he had been doing?—A. Yes.

F. JUDAH.

Q. "F. Judah, 1,200 shares, \$60,000." Who was he?—A. He was one of the California railroad men.

Q. Do you remember who introduced you to him?—A. No, I do not.

Q. He did not live in Washington, did he?—A. No, he lived in California.

Q. Did all of these gentlemen, as a part of their agreement when this stock was delivered, agree to remain in Washington as long as it was necessary?—A. No; some of them only agreed to remain a certain time and others agreed to remain until the end of the session. There were different arrangements with every one.

BRIGGES.

Q. "Briggs, 40 shares, \$2,000." The note is "Don't know." Do you remember that?—A. You see, a great many of these arrangements were made by other people.

WILSON, OF NEW YORK TIMES.

Q. "Wilson, New York Times, 200 shares, \$10,000." What was Mr. Wilson?—A. He was one of the writers for that paper.

Q. Did you give him that stock?—A. I suppose I did, but I could not be sure.

Q. Did you see him frequently, or occasionally, about it?—A. I saw him occasionally; not very often.

Q. What was the position of the New York Times?—A. It was favorable. All the New York papers were favorable; all the large papers were.

N. J. PARROTT.

Q. "N. J. Parrott, 500 shares, \$25,000." Who was Mr. Parrott?—A. He was a Kansas man; he is dead now. He was a Territorial Delegate afterwards.

Q. Was he a friend of yours?—A. Yes.

Q. He was not Territorial Delegate at that time at that time. Conway, from Lawrence, was I think. I think it was before that he was De

Q. Did you give him that 500 shares?—A. No, I think that was an affair of Colonel Isaacs for some services Parrott rendered.

SIMPSON, OF KANSAS.

Q. "Simpson, Kansas, 260 shares." Who was he?—A. Mr. Simpson was a banker in Lawrence, and he lives in Kansas City now. He is a real-estate dealer.

Q. Did you have personal acquaintance with him?—A. Yes.

Q. Did you give him that stock?—A. I think Colonel Isaacs did that, too; I am not sure.

Q. The remark is "blackmail." Does that mean the same thing stated before, that he had rendered no services?—A. That was a transaction of Colonel Isaacs, and I think he reported afterwards that he and Simpson had disagreed about it, and he thought he had not behaved well over it, and he thought he should not have it. I never had any dealings with Simpson at all.

POWER OF HALLETT AND FREMONT TO RENDER STOCK WORTHLESS.

Q. I ask you once more with regard to your explanation that he thought he ought not to have it, whether it does not appear clearly from these notes that Hallett and Fremont substantially had control of this stock and could prevent anybody getting it who had not earned it?—A. I think these parties, nearly all, had their certificates of stock; but I think it was in the power of Hallett and Fremont, the enterprise not being commenced, to do anything, and it really being in the air yet, to render it worthless. The fact is they did render almost all that stock worthless afterwards, or at least the railroad company did.

Q. By the bonds that were put on the road?—A. No.

Q. How?—A. Let me see if I can get it in a connected shape, so as to make it understood by you. My understanding in regard to this matter, which I merely state on hearsay, is that at a subsequent period the board of directors elected under the stock referred to in the memorandum from which you have been quoting, took certain measures, the precise legal force of which I am not able to state, by which the interests of the parties to whom the stock had first been delivered were substantially extinguished or ignored under a sale made by the said board of directors. You can get all that from the books of the company if they are in existence.

EMPLOYMENT OF R. S. STEVENS.

Q. "R. S. Stevens, Kansas, 330 shares, \$16,500." Who was he?—A. He was a citizen of Lawrence, and a man of a great deal of prominence in Kansas.

Q. Did you give him that stock?—A. I did not. That was a transaction of Colonel Isaacs. I am informed that it is the same Robert S. Stevens who was a member of the last Congress, and who resides at Attica, in the State of New York.

GENERAL J. COOPER.

Q. "General J. Cooper, 80 shares, \$4,000." Do you know him?—A. Yes; he was an ex-Senator from Maryland. He and Humphrey Marshall were partners.

Q. Did you know him at the time you gave him the stock?—A. Yes; Marshall introduced me to him.

Q. You think you gave him any stock?—A. I think I did.

S. W. JOHNSON.

Q. "S. W. Johnson, Kansas, 400 shares, \$20,000." Who was he?—A. He was Judge Johnson at that time.

Q. Is he living now?—A. I think he is. I think he is living in Washington.

Q. Do you know him personally?—A. Yes.

Q. Do you remember whether the stock was given to him for any purpose differing from the other cases?—A. No, I do not. I do not think I gave it to him.

B. F. CAMP AND OTHERS.

Q. "B. F. Camp, New York City, and others, 300 shares, \$150,000." It either must be 3,000 shares or \$15,000. Do you know what it was?—A. No.

Q. Who was he?—A. A man that was down at Washington frequently, and who professed to have some influence.

Q. Had you met him before?—A. I had not.

Q. Did you meet him often?—A. Not often.

Q. Do you know who he was?—A. I think he was Mr. Bennett's man. He had a great many men that I did not know.

Q. "B. F. Camp, New York City, and others, \$20,000. (Cut Camp to the red.)" What does that mean?—A. I suppose Hallett had something against him.

Q. That means to stamp him out entirely?—A. I suppose that is what he means. I formed a very bad opinion of him.

Q. The note also says, "Supposed to be for Carlisle, of Virginia." What does that mean?—A. I do not know; it was somebody who knew his relations with these men.

Q. What Carlisle is that—J. Mandeville Carlisle?

The WITNESS. What Carlisle was in Congress at that time?

The CHAIRMAN. I do not remember. Do you know what Carlisle that refers to.

A. I do not; that was a member of Congress, either in the House or in the Senate.

J. P. USHER.

Q. "J. P. Usher, 10,000 shares, \$500,000." Do you remember that entry?—A. Yes.

Q. Who gave him that stock?—A. I do not know; I suppose they all consented to do it for some reason; all of these things were given by consent.

Q. Did Mr. Usher make any special report of what he had done with all this stock that he seems to have got?—A. I suppose he did.

Q. In writing?—A. Not that I have seen.

Q. You are sure it was not in writing?—A. Not that I have seen.

C. BABCOCK.

Q. "C. Babcock, Kansas, 1,400 shares, A. Babcock was a Lawrence man.

he?—

Q. Was he a friend of yours ?—A. Yes.

Q. You knew him at this time ?—A. Yes.

Q. You knew what he could do in the way of influencing legislation ?—A. Yes; he was a shrewd, sensible man.

Q. Was he well acquainted with members from this district ?—A. Yes.

Q. Do you know whether you gave him that stock, 1,400 shares ?—A. No; I do not recollect; I think probably I may have done it.

Q. "Supposed to be for Wilkinson." Who was he ?—A. A Senator from Minnesota, I think; Babcock had some relations with him, I do not know what; that was the reason of the supposition.

Q. The note also says: "Act in reference to the future." What does that mean ?—A. I do not know; I suppose you could guess about that as easily as I could; I should think that that meant that Mr. Wilkinson was a member of the Senate, and it would depend upon the way he behaved; that is what I suppose it meant.

VALUE OF STOCK DEPENDED ON HALLETT AND FREMONT.

The CHAIRMAN. Again I call your attention to the fact that all the indications to be gathered from these notes are that Hallett and Fremont could control the payment of or use to be made of this stock at the time these notes were made; that is to say, in calling in all this stock or reissuing new stock, or engineering the enterprise generally, they could make the stock valuable or not, as they thought proper.

The WITNESS. I suppose anybody could do that or not, as they pleased, that had the control they had.

Q. "J. F. Cowan, Pennsylvania, 200 shares, \$10,000." Who is he ?—A. The same Cowan.

The CHAIRMAN. The note is again, "Supposed to be for T. Stevens and others."

The WITNESS. The same note.

Q. The same explanation applies ?—A. Yes.

EMPLOYMENT OF F. P. STANTON.

Q. "F. P. Stanton, Kansas, 100 shares, \$5,000." Who was he ?—A. He was secretary of the Territory here when Walker was governor, and had been a member of Congress from Tennessee. He was a man of prominence.

Q. Did you know him ?—A. Yes.

Q. Do you think you gave him his stock ?—A. I do not think I did. I may possibly have done so; but I do not think I did, from the fact that my acquaintance with him was very limited.

The CHAIRMAN. The note is, "No obligations for the past; look to the future."

The WITNESS. I suppose he probably had not done much, and it was a question what was to be done hereafter. They expected more legislation; they wanted the bill altered.

CHEEVER, OF WASHINGTON, D. C.

Q. "Cheever, Washington, D. C., 500 shares, \$25,000." Who was he ?—A. He was one of Bennett's men, I think.

Q. Did he live in Washington ?—A. No.

The CHAIRMAN. It would so appear here.

The WITNESS. He was a Rhode Island man. I do not think he lived in Washington.

CHAIRMAN. The note is, "Supposed to be for Simmons, Rhode

WITNESS. It may be that was where I got the idea that he lived on the Island. I surely knew him.

The note also says, "For services contemplated, but not rendered

See Judge Thomas Ewing, jr." Does that recall anything to

you?—A. No, it does not. I never had anything to do with him.

Was there any conversation at that meeting in which it was stated

it had been expected from Mr. Cheever, and what he had failed to

do? I do not know. There was not much conversation there. Each

of his say, and it was written down right along.

Were the five who were present took part in the discussion, I sup-

pose.

These notes which you have described as Mr. Hallett's notes were

entirely conclusions derived from the conversation of all the five to-

where were they not?—A. They were nearly all Hallett's suggestions,

occasionally there would be a suggestion from somebody else. Most

of them were his.

Did you ever talk to Mr. Thomas Ewing about this man Cheever

or not, that you can now remember?—A. I do not recollect it, if I

R. W. LATHAM.

R. W. Latham, 300 shares, \$15,000." Who was he?—A. That is R. W. Latham.

The note is also, "Supposed to be for Simmons of Rhode Island."

Did it happen that that hypothesis was made with reference to two

of them?—A. I do not know.

Where was Latham from?—A. Virginia, originally. He was from

Richmond, New York, and nearly everywhere about that time.

H. F. BENNETT.

H. F. Bennett, California, 100 shares, \$5,000." Did you know

him?—A. There is some mistake about that. There was a Bennett there

in Colorado.

Did you know him?—A. Yes.

When had known him before this transaction?—A. I did not know

before that.

Whose man was he?—A. Bennett was a Territorial Delegate from

Colorado, if I am not mistaken. I think the way that thing happened

after the session of Congress was over Mr. Clark, of Leavenworth,

came around and reported that Bennett had been very kind and had

done a great deal for the railroad, and asked that we give him that

and it was handed to Mr. Clark.

What Mr. Clark was that?—A. The banker here.

What was his full name?—A. A. M. Clark.

Is he still living?—A. No. I think that was the way that thing

happened. You must exercise a great deal of charity about those state-

ments of mine. These things occurred twenty-five years or thirty years

ago. I have not had my attention specially called to them since.

WHITELY, OF NEW YORK HERALD.

Whitely, New York Herald, 100 shares, \$5,000." What Whitely

was?—A. I was going to ask if he was a Washington correspondent for the Herald.

Mr. BROMLEY. Yes, sir.

Q. Did you know him?—A. I presume I did.

Q. Did you give him that stock?—A. I suppose I did. I do not recollect.

MARTIN, FRANCHOT, AND CUTTS.

Q. "Martin, California, 400 shares, \$20,000." The note is, "Don't know." What does that mean?—A. I do not recollect him.

Q. "Franchot, New York, 2,000 shares, \$100,000." Who is he?—A. That is one of Bennett's operations.

Q. You knew Franchot, did you not?—A. Very slightly.

Q. Was he Bennett's man?—A. Yes.

Q. Was Franchot a member of Congress at the time?—A. I do not think he was. I will not be sure. You can find that out.

Q. "J. N. Cutts, 100 shares, \$5,000." Did you know him?—A. I do not recollect him.

HON. J. S. ROLLINS.

Q. "No services," is the note. "Hon. J. S. Rollins, Missouri, 500 shares, \$25,000." Who was he?—A. Rollins was a member of Congress at the time the bill was passed and did as much as any one man in the passage of the bill. He never wanted anything at all or had anything to do with the stock. After Congress had adjourned and the whole thing had been settled I sent him a certificate of the stock for \$25,000. It was not given by any arrangement at all. I did that myself.

Q. Is Mr. Rollins alive?—A. He is.

Q. Where does he live?—A. Columbia, Mo.

Q. Do you know the future history of that stock?—A. I do not.

Q. Had you known Rollins before that session of Congress?—A. Yes.

Q. Were your relations with him, personally, friendly?—A. Very.

Q. You never heard whether he got stock for that in the reorganization?—A. I never knew. I do not think he did.

C. ADAMS.

Q. "C. Adams, 200 shares, \$10,000." Did you know Mr. Adams?—A. Yes.

Q. Who is he?—A. He is a Kansas man. He was a son-in-law of General Lane.

Q. General Lane?—A. Yes.

Q. Is he alive?—A. I do not know whether he is or not. I never knew him. I never saw him but once in my life.

ROSS, FLETCHER, HOLLIDAY, AND STINSON, OF TOPEKA, KANS.

Q. I find four names, "Ross, Fletcher, Holliday, and Stinson, Kansas, 2,400 shares, \$120,000." Who were these gentlemen?—A. They are a number of gentlemen in Topeka. Ross is a brother of Governor Ross, of New Mexico. He is dead.

Q. Ross is dead?—A. Yes; Ross is dead. Colonel Halliday is a Topeka man. Fletcher is a Topeka man. I think he is dead. And Stinson was a Topeka Stinson—another Stinson.

Q. Was he any relation to the man who was in the room at the time with you?—A. No; none at all. Those parties assisted in arranging the Pottawatomie treaty. They assisted in getting up that treaty by which those lands were acquired that I was telling you about. This was

supposed to compensate them for the trouble they had taken in the matter.

The CHAIRMAN. The note opposite their names is underscored, "Hold over them in terror."

The WITNESS. Hallett had some reason for that, I suppose. I do not know what.

Q. Are you sure they were not in Washington?—A. No. I do not think any of them had anything to do with the passage of the bill.

Q. Was there no legislation pending in Kansas that you were then interested in?—A. Not that I know of.

Q. The words must have referred to some services that you expected in the future, did they not?—A. That Hallett expected. I had no expectation about it.

The CHAIRMAN. I mean the gentlemen in the room?

The WITNESS. I suppose so as to Hallett.

Q. Was there any question made as to the title to the lands that they had been interested in getting title to?—A. No; I do not think there had been any question ever raised up to that time. If there had been, I do not recollect it now.

Q. You do not know what that refers to?—A. No.

FIELDING JOHNSON, W. W. BACHUS, AND J. H. LANE.

Q. "Fielding Johnson, 100 shares, \$5,000." Who was he?—A. I think he was a Kansas man, but do not remember precisely who he was.

Q. "W. W. Bachus, Leavenworth, 50 shares, \$2,500." Who was he?—A. He claimed that he had rendered some service.

Q. That did not relate to Washington?—A. No.

Q. "General J. H. Lane, 9,400 shares, \$470,000." What services did that stock cover?—A. I do not know. That arrangement was made between him and Colonel Isaacs. I had nothing to do with it. It was simply handed over to Isaacs.

Q. Was Lane in Congress at that time?—A. He was Senator at that time.

Q. Is Colonel Isaacs alive?—A. He is not.

Q. Is McDowell alive?—A. He is dead.

Q. Is Stinson alive?—A. Stinson is dead.

Q. All of them are dead but yourself?—A. All dead but me. I do not think General Frémont was present. I am almost sure he was not.

J. MORAN, JOSIAH MILLER, AND CHESTER HOWARD.

Q. "J. Moran, Missouri, 400 shares, \$20,000." Who was he?—A. That was somebody else's transaction. I do not recollect.

Q. "Josiah Miller, Kansas, 100 shares, \$5,000." Who was he?—A. I do not recollect even the name.

Q. "Chester Howard, 100 shares, \$5,000." Do you remember him? The note is "General Lane's friend."—A. I cannot recall it. A great many of these transactions I had nothing to do with, and I have forgotten the name, if I had anything to do with it.

STATEMENT AS TO ADDITIONAL STOCK

Q. There is then the following note: "Seventy and forty shares (\$3,507,000) of this stock was

(13,020 shares) \$651,000 not so subject; the total amount of the fund is 86,160 shares, or \$4,158,000." That note was also in your handwriting, I suppose?—A. I do not recollect.

Q. What is referred to as "fund" here?—A. I do not know what it means.

Q. Does it not refer to the total of the stock, the detailed account of which precedes it?—A. I cannot tell you now. I do not know whether that is correct or not. I could not tell you what it did mean. It looks there as if that \$4,137,000, or whatever it is, was the sum of what had preceded it. I do not know whether it is the fact or not. I can tell by adding it up.

ASSETS AND LIABILITIES.

Q. The last note I have read is supplemented by a statement showing the assets and liabilities of the concern April 13, 1863, made up by J. O. Stone, so stated. Do you recollect making that statement?—A. I have no recollection about it now. I suppose it is taken from the books of the company, probably.

Q. Do you remember whether there was a statement of assets and liabilities in your handwriting present in that room?—A. No; I do not recollect.

Q. Have you seen that paper since you were in that room with these other gentlemen?—A. I never have.

Q. Did you see the publication in the Post when it came out?—A. I think it came out in some New York paper first.

Q. You saw it when it came out in the papers?—A. Yes.

Q. Did you know that General Frémont had those papers?—A. I did not. I never thought anything about that paper afterwards. It was a mere memorandum. I was not in this country when it came out, but somebody sent me a copy.

LIABILITIES: J. F. COWAN, \$1,000.

Q. Among the liabilities I find stated, "J. F. Cowan, Pennsylvania, five notes of \$1,000." That is the same Cowan that had the stock?—A. Yes.

Q. What were those notes given for?—A. I suppose for services.

Q. The same transactions as were stated in relation to the stock?—A. Yes.

R. G. CORWIN, \$10,000.

Q. The next is "R. G. Corwin, Dayton, Ohio." Do you know who he was?—A. Yes.

Q. That was for \$10,000. What was that?—A. I had nothing to do with that transaction. I do not know anything about it.

Q. The note is, "Shove him." What does that mean?—A. I do not know. I cannot tell you that. That was somebody else's transaction. I had nothing in the way of business at all with him.

Q. Can you state how he, the holder of a note against the company, could be "shoved"?—A. No; I do not know what it means. I suppose the parties knew at the time.

R. W. THOMPSON, \$5,000.

Q. "R. W. Thompson, \$5,000." Who was he?—A. That was the same Mr. Thompson, of Indiana, that was referred to before.

Q. The same remark is opposite his name, "Shove him." What does it mean?—A. That, I understand—

Q. Will you please explain that?—A. Mr. Thompson was a friend of Colonel Isaacs. He introduced me to him, and he made arrangements with him by which he was to assist in securing the Pottawatomie treaty, I believe, or some Indian transaction. No; it was some change that we wanted made in the terms of the contract with the Delaware Indians. Something of that sort. I cannot recall precisely now just what it was. I suppose it is not material what it was; but it was something or other. He agreed to do it for \$5,000. That is to say, that the company should pay him \$5,000—the Leavenworth, Pawnee and Western Company—when the company was in condition to pay it, when the transaction was completed. He drew up a note to be signed, and Colonel Isaacs brought it down to me with his signature to it.

CONTROVERSY WITH THOMPSON.

Q. Whose signature?—A. His own, Isaacs'; and he asked me to sign my own name and McDowell's as the executive committee. I recollect that transaction very distinctly, as you will see before we get through. The obligation read, "The undersigned, the executive committee of the Leavenworth, Pawnee and Western Railroad, agree," &c. Colonel Isaacs, being the attorney of the company, said: "Colonel is this all right? I do not like the looks of it exactly." "Yes, sir," he said, "that is all right," I signed it. He took it back, and when he came back—he was a careless man about business—he remarked, "That is all right, except for one thing; it is an individual obligation." Said I, "If it is, I did not intend to sign any individual obligation, and I will not do it. I do not intend to obligate myself for this company." He went back and saw Thompson, and Thompson came down to our rooms. We talked it over, perhaps not in the best humor in the world. I told him positively and emphatically that I would repudiate the whole transaction and I would not do it; and he said he would change it. He did make some change in it; but it was not sufficient. Thompson left the note with a banking house in Terre Haute, and they sent it to New York to Winslow, Lanier & Co., and suit was brought on it, and service obtained some time when Isaacs and myself were both in New York. The suit remained there for some years; I do not know how long. It was finally dismissed at their cost. That was the controversy with Thompson. That \$5,000 shows there as an obligation of the company. He tried to make it a personal one.

Q. Do you remember who Thompson's lawyers were in New York?—A. If I could hear the name I think I would know, but I do not believe I could state it from memory. I know who our attorney was. He was a South Carolina man who has considerable prominence at the bar in New York.

Q. What was his name?—A. John E. Burrill.

ENTRIES MARKED "ALL RIGHT."

Q. I find this entry: "Balance due certain Pottawat 1883," with the remark "All right." What is that?—A. I what that is.

Q. "Whitely, New York Herald. All right. that?—A. That is the same Whitely you referred

Q. "General James Cooper, Frederick, Md. All right. \$1,000." What was that?—A. That is the same Cooper.

Q. The same Cooper who received stock?—A. Yes; he was a partner with Humphrey Marshall, attorney in Washington.

Q. "Mark Delehay, surveyor-general of Kansas," marked "All right. \$593.32." What was that?—A. I think that was money that Delehay claimed to have expended in surveys outside of the official surveys.

STATEMENT OF LANDS CONTRACTED TO BE CONVEYED BY ROAD.

Q. Then there follows a statement of acres of lands surveyed and contracted to be conveyed by the road: "The number of acres conveyed, 11,441.50." Then comes the statement, "R. McBratney (General Pomeroy's friend), a contract for 2,500. He has selected and received a quitclaim for all but 640." Do you remember anything about that transaction?—A. No; I recollect that there was some land conveyed to McBratney; but I do not recollect the particulars.

Q. Do you know on what consideration?—A. That is a part of the same transaction that occurs first there.

Q. Were these same matters discussed in this room where you all were present?—A. No; there was no discussion at all.

Q. I mean these matters were reported to these gentlemen who were there present?—A. Yes.

Q. The general object was to show what funds and assets of the company had been expended in the general purpose of getting the bill through?—A. Yes.

S. A. SIMPSON, 320 ACRES.

Q. "S. A. Simpson, Kansas, 320 acres." What is that?—A. That is the same Simpson.

Q. The note is, "Has a contract for blackmail." What does that mean?—A. That was a transaction of Colonel Isaacs. I do not know anything about it.

THOMAS G. GLADDING, 2,500 ACRES.

Q. "Thomas G. Gladding, 2,500 acres." What is that?—A. Gladding had been at work about the office a good deal, and that was supposed to be his compensation for what he had done.

W. P. DOLE, 1,200 ACRES.

Q. "W. P. Dole, Commissioner of Indian Affairs, 1,200 acres." What was that?—A. He was Commissioner of Indian Affairs under Mr. Lincoln.

Q. He was an official in Washington?—A. Yes.

Q. Do you know whether he received those lands?—A. No; I do not. I had nothing to do with that transaction. I do not think he did; but I am not sure at all.

Q. The note says, "C. Ewing." Was he a friend of Ewing?—A. I suppose so. I suppose he must have been. It was an affair of those other persons.

Q. Look at that statement and tell me whether the figures indicate dollars or acres?—A. I do not know. I think it refers to acres.

Q. Six hundred and forty would appear to be a complete section, would it not?—A. I think they must have been meant for acres.

Q. The first entry indicates that the figure is what has not been conveyed, stating that the party had received all except that. Do you understand the following figures to be what had not been conveyed in the same way, or do you not remember anything about it?—A. I do not recollect. I cannot say what that 11,441.50 means. That may mean acres.

R. W. LATHAM.

Q. "R. W. Lathan, Washington, D. C." The amount is not stated here. Why is that so?—A. That is the same Lathan.

Q. Was there any land conveyed to him?—A. I do not know; if there was any conveyance it was after I left the concern.

Q. Was he a member of Congress?—A. No; it is the same Lathan we were talking about at first.

Q. "Editor of the Leavenworth Conservative, and brother of our M. C." What do the words "M. C." mean?—A. It means ordinarily member of Congress.

Q. Who was referred to as the editor of the Leavenworth Conservative?—A. The only editor of the paper I recollect anything about was Wilder, who had a brother that was a member of Congress. There was nobody else of that relation that I know of.

Q. Did he receive land?—A. Not that I know of; he may have got it afterwards.

POTTAWATOMIE LANDS.

Q. There follows a statement of Pottawatomie lands contracted to be conveyed to certain persons. Will you please read the list and see if it is correct as far as your memory serves you?—A. I could not tell you whether it is correct or not. It is impossible after this lapse of time to recollect. I know in a general way there was some land contracted for, but how much, and whether it is correct or not, it would be impossible to tell.

F. P. STANTON.

Q. I find among other names F. P. Stanton, Kansas. Who was he?—A. The same F. P. Stanton that you had before; formerly secretary of the Territory.

C. E. MIX, INDIAN OFFICE.

Q. "C. E. Mix;" who was he?—A. He was chief clerk in the Indian Office.

Q. It says, "Indian Office, Washington, D. C., 640;" who was Mix?—A. He was in the Indian Office in Washington and was chief clerk for a good while, and I think he was a Commissioner of Indian Affairs afterwards.

Q. What was that land to be conveyed to him for?—A. I do not know; I do not know anything about those transactions at all.

ASH WHITE.

Q. "Ash White;" do you remember him?—A. There was the name of White who was clerk in the Indian Office who was as Ash White; that is all I know about him.

Q. The paper then states, "The whole concluding with lands disposed of;" what does that mean?—A. That donated by Congress to the railroad company.

"MARSTON," OF NEW HAMPSHIRE, BROWN AND CHEEVER, OF WASHINGTON.

Q. "Marston, New Hampshire, 2,000 acres;" who is he?—A. That is the name you had before and I could not recall him at all. That was somebody else's operation.

Q. Who was "Brown, supposed to be Forney's friend, 5,000 acres"?—A. I do not know.

Q. "Cheever, of Washington, supposed to be for Simmons, Rhode Island, 10,000 acres;" is that the same person we had before?—A. That is the same Cheever. The only man of all those men that I ever had much communication with was Bennett; most of the others I knew very little of, and many of them I did not know at all.

WITNESS SUBSCRIBED FOR STOCK.

Q. Do you remember how it was that those \$5,000,000 of stock were issued to you; do you remember the fact that you subscribed for the whole amount?—A. Yes. There was a good deal of stock subscribed on the old books of the Pawnee Company. I was trying to recollect how much, but I do not believe I can. There was a considerable subscription, I know. There was an effort on the part of other parties here, whose names are on those books as stockholders and who never did anything or had anything to do with it, to get control of the company, and we were trying to prevent everything of that kind.

Q. You never, as a matter of fact, paid any money for the subscriptions, did you?—A. I paid out all the expenses of the company, you know.

Q. What was paid was paid for account of the company?—A. Yes.

Q. Was it reimbursed by the company?—A. No; it never was to me. Yes, a portion of it was, too. It never was paid by the company. It was paid in this way: We sold our stock to Hallett and Fremont, and when the payments were made to us my associates in the matter paid me a portion of my expenses. The company never paid anything.

Q. You understood that you held these \$5,000,000 of stock as trustee or agent for the company?—A. Yes; everything was done by order of the executive committee of the company; I did not hold it individually at all and never claimed to.

LAND GRANT COMMITTEE.

Q. Do you remember that a resolution was passed by the board constituting Ewing, Alexander, Macaulay, Isaacs, and Boyle, and any other members of the board of directors of said company who may visit Washington, a committee to procure a grant of land from Congress to aid in the construction of said road?—A. No. I imagine if you look at the date of that you will find that it is long before the date of these transactions we are talking about.

Q. Do you remember that such a resolution as that was passed?—A. There may have been, but that was before I had any connection with the company at all, if there was any such resolution at all.

Q. Subsequently was the power given to yourself and Mr. Ewing?—A. Yes.

EXECUTIVE COMMITTEE APPOINTED.

The CHAIRMAN. I read from the minutes of November 3, 1860:

The following resolutions were then offered in writing by J. C. Stone, and were unanimously adopted by the board, to wit:

"First. Resolved, That an executive committee of three persons, including the president, be appointed. Second. That it shall be the duty of this committee to make

contracts, borrow money, conclude mortgages, appoint agents, and do all other acts which in their judgment may be necessary and proper for the interests of the company."

Amos Rees, esq., then proposed the names of A. J. Isaacs and J. C. Stone to act as an executive committee in conjunction with the president.

THOS. EWING, JR., AN ADDITIONAL MEMBER OF COMMITTEE.

I read to you from the minutes of April 11, 1861:

On motion of J. C. Stone, it was resolved that Thomas Ewing, jr., be added to the executive committee, and that he have, during the months of April and May, 1861, all the power of the executive committee, and especially the power to make, execute, and deliver, on behalf of the company, any and all bonds of the company, and to sell the same and secure payment of the same by mortgage of any or all of the lands of the company, and also to make contracts for the construction of the company and for furnishing money to pay for the lands of the company and for professional services in the best interests of the company at Washington and elsewhere.

Q. Do you remember the passage of those two resolutions?—A. I recollect the fact that there were such resolutions. That is all. I recollect the general fact that power was conferred.

AUTHORIZING ISSUANCE OF CERTIFICATES OF STOCK.

Q. I find, from the minutes of July 1, 1861, that a resolution was passed providing that the vice-president, the president being absent, and secretary be authorized to issue, on demand, to Robert S. Stevens certificate of stock in the company marked paid to the amount of \$16,666.66; also a certificate in like manner and for a like amount to Samuel N. Simpson; and also a certificate in like manner and for a like amount to Charles Robinson. Who were those gentlemen?—A. The same Stevens and Simpson you referred to above in the other matter.

Q. Do you know whether that stock was issued for the same consideration?—A. I do not; I had nothing to do with that.

APPOINTMENT OF A GENERAL AGENT.

Q. I read to you also a resolution dated June 27, 1862, in connection with the rest of the testimony:

Resolved, That James C. Stone is hereby appointed agent of the company until October 1 next, 1862, with power to borrow money and make contracts, execute mortgages, and to sell, mortgage, or encumber the land of this company, and to receive and receipt for the money or other consideration he may receive from such sale, mortgage, or incumbrance, and to do all other acts which in his judgment may be necessary and proper for the general interests of the company, as fully and effectually as the board of directors or other officers of the company could do the same, and to execute any contract for the purpose contemplated by the Pacific Railroad bill recently passed by Congress.

Does this show anything as to how this stock was frozen out afterwards?—A. I do not know. That was merely a power to put the company on its feet; to get to work so as to build the road.

By Commissioner LITTLE:

Q. When did you sever your connection with that company?—A. I think it was in the fall of 1863; I think it was; I am not sure.

Q. That was after the passage of the bill incorporating the Union Pacific Railroad?—A. Yes; after the passage of the first bill.

Q. Do you recollect the date of the passage of that bill?—A. I was going to say I thought it was July.

The CHAIRMAN. July 1, 1862.

Q. Was this \$5,000,000 of stock, which was distributed in the manner you have indicated, of any value subsequently? Did it ever become of any value?—A. I do not think it ever did.

Q. What became of it?—A. I do not know.

NOTHING PAID TO INFLUENCE MEMBERS OF CONGRESS.

Q. Did you have any person pay to any member of Congress or to any officer of the United States anything of value either in this stock or in lands, or money or other valuable thing, as a consideration for his influence and support of the act of 1862?—A. I never did.

Q. Do you personally know of any such person having received anything of value for such service?—A. I do not.

Q. Directly or indirectly?—A. I do not know of any such transaction. As I said before, I may have had my suspicions aroused afterwards, but I do not know of any such transaction.

J. C. STONE.

LEAVENWORTH, KANS., *Wednesday, July 6, 1887.*

DANIEL R. ANTHONY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. You are a resident of Leavenworth?—Answer. I am.

Q. How long have you resided here?—A. Thirty years.

Q. What has been your business?—A. I have been in the real-estate business and insurance, and for the last twenty years have been connected with newspapers.

A GOVERNMENT DIRECTOR.

Q. Were you connected with the Union Pacific Railway Company?—A. I was two years ago.

Q. How?—A. As Government director for one year.

Q. Did you report to Congress the result of your inspection and observations?—A. Yes, sir.

Q. Have you anything to add to the report that you submitted to Congress for 1884 in the way of suggestions to this Commission?—A. I can hardly say that I have anything to add. I have no special interest in it, any more than as a citizen, at this time.

The CHAIRMAN. But your report as Government director was the result of a good deal of personal observation, I suppose.

DIFFICULTY OF LEARNING ALL THE DETAILS OF RAILROADING.

The WITNESS. Yes, sir; I will say to you, as to that report, that I came to the position as a stranger, unfamiliar with the business of railroading except in the general sense; and while I was familiar with every detail, perhaps, as a newspaper man, from the commencement of the road up to the present time, yet I found that as a Government director, charged with the duty of reporting, twelve months was hardly sufficient time for me to acquaint myself with the details sufficiently to make such a report as would be creditable to anybody, and that, so far as I was concerned, I acknowledge my incompetency to fill the bill; to make a report that would be intelligent. And that was rendered the more so

because of the organization and management and procedure in building, and everything connected with it, and the further fact that Congress and the whole people were familiar almost with every fact connected with it. I felt my own weakness in that respect; that it was beyond my powers to make a report that would have any weight, or that would be felt; so far as the report is concerned that would be my feeling in regard to it.

PAST IRREGULARITIES BEYOND REMEDY—BRIGHTER PROSPECTS FOR FUTURE.

I have learned one thing, perhaps, that was not expressed in the report; and possibly it might be well to state it. That is, I became thoroughly convinced that whatever irregularities attended the organization and building of the road, those matters had passed out of reach of all remedy, and that the road was at that time in the hands of men in whom the people seemed to, and did, have confidence; that it was being managed for the interests of the public, and that if there could be ways and means devised to liberate it in such manner that it could operate in the building of lines, as other roads did, its usefulness would be extended. Otherwise it would be crippled and would be a worthless road. I acknowledge that my acquaintance with the road produced that impression upon me. I believe that to be the fact. That is about the most that I could say. The public sentiment here is that the road is doing as well as any road is doing for the benefit of the people. There is, of course, a general impression with everybody that there is a disposition on the part of newspapers and everybody to condemn every railroad.

MEETINGS OF BOARDS OF DIRECTORS.

Q. Did you attend every meeting of the board of directors?—A. I did.

Q. Did you participate in the discussions?—A. Yes, sir. Of course, in those discussions, so far as I know, everything is brought before the board of directors, and those things are largely managed by the executive committee.

Q. Was there a representation of Government directors on the executive committee?—A. Mr. Hoyt was the representative. He always assured us that everything of importance was brought before the board.

SETTLEMENT OF GOVERNMENT CLAIM IMPERATIVE.

Q. Have you anything else to add or suggest?—A. I have not, except the one suggestion, that the whole interests of the West demand, and the public and every intelligent man demands, some settlement of the Government claim that will liberate the road so that it can be made useful, as it was originally intended to be. To-day it cannot take hold of railroad enterprises where it ought to, and develop the country by constructing branch lines.

INABILITY OF ROAD TO UNDERTAKE NEW ENTERPRISES.

Q. Whose fault is that?—A. I cannot tell you. The management of the road claim that they cannot, under the laws as at present constituted, take hold of these new enterprises. The last attempt is

rection was the building of the Leavenworth, Northern and Southern Railroad, which, in my judgment, and in the judgment of hundreds of others, it was absolutely important for the road to build, to make a common terminus for all the Union Pacific roads coming in from the west. They have four or five lines running east and west, and that would make a connection for them all; and they claim it was impossible for them to take hold of it.

Q. What paper do you represent?—A. The Leavenworth Times.

The Commission then adjourned to meet upon the call of the Chair.

KANSAS CITY, MO., *Thursday, July 7, 1887.*

The Commission met upon the call of the Chair, all the Commissioners being present.

WILLIAM H. GARRETT, being duly sworn and examined, testified as follows:

Question. What is your business?—Answer. Division freight agent of the Missouri Pacific Railway.

Q. How long have you been connected with that road?—A. Since January, 1883.

Q. What connection have you with the Central Branch Union Pacific Railroad?—A. The Central Branch is included. It is in the territory of which I have immediate charge.

DUTIES OF DIVISION FREIGHT AGENT.

Q. What are your duties with reference to the Central Branch Pacific Railroad?—A. I have charge of the local freight traffic.

Q. What do you do with reference to the freight traffic?—A. I attend to the immediate handling of it.

Q. Do you have anything to do with the fixing of the rates on the Central Branch Union Pacific?—A. Yes, sir; subject to my superiors.

Q. Have you any connection by rail with the Union Pacific Railway Company?—A. Yes, sir.

Q. Where?—A. At Clyde, Concordia, and Beloit.

Q. Have you any direct connection at Clyde?—A. I believe there is a track connection there; yes, sir. As to that I am not positive, but I think there is.

"AN UNDERSTOOD AGREEMENT" IN REGARD TO RATES.

Q. Have you a freight agreement or a pool with the Saint Joseph and Grand Island Railroad as to freight and passenger rates?—A. There is no pool, but there is an understood agreement as to the maintenance of rates.

Q. When was that understood agreement with reference to the maintenance of rates entered into?—A. It was a mutual agreement. I am not aware of any positive agreement. It is a mutual agreement existing among all lines.

By Commissioner ANDERSON:

Q. Do you mean it is a mutual understanding?—A. I mean a mutual understanding.

By Commissioner LITTLER:

Q. Do you mean a written agreement?—A. No, sir; there is no written agreement that I am aware of.

WHAT IT IS.

By the CHAIRMAN:

Q. What was the understanding?—A. It is a general understanding existing between all lines as to the maintenance of rates.

Q. What was that general understanding with reference to the Central Branch and the Saint Joseph and Grand Island?

The WITNESS. At Saint Joseph?

The CHAIRMAN. No. I refer to the railroad running from Marysville up to Saint Joseph, and then from the point where the Central Branch Union Pacific crosses the Pacific Branch to Atchison.

A. That is not the Saint Joseph and Grand Island. That is the Union Pacific proper, which crosses the Central Branch. The Saint Joseph and Grand Island does not cross the Central Branch at any point.

"MUTUAL UNDERSTANDING" WITH ST. JOSEPH AND GRAND ISLAND ROAD.

Q. Does the St. Joseph and Grand Island parallel the Central Branch from Marysville to Saint Joseph?—A. Partially so; yes, sir.

Q. What agreement exists between the St. Joseph and Grand Island, or the Union Pacific Railway Company and the Central Branch Union Pacific Railway Company, as to freight rates between those two points?—A. There is no agreement that I am aware of beyond a mutual understanding.

Q. What is the mutual understanding as to the rates?—A. It is as to the maintenance of rates; that the rates shall not be reduced without consultation and advice.

Q. Has the Central Branch, Union Pacific, a less rate from the point where it crosses the Union Pacific than the St. Joseph and Grand Island from Marysville to Saint Joseph?—A. No, sir; the reverse is the fact.

Q. What is the reverse?—A. The St. Joseph and Grand Island rates from Saint Joseph to the crossings with the Central Branch are less than the rates from Atchison or Saint Joseph to the same points. That, I am advised, is the result of an error, and is now being corrected.

Q. How long has it existed?—A. Since June 20.

NO MATERIAL EFFECT ON COMMUNITY.

Q. What effect has it upon the community through which these two roads pass?—A. It has had almost no material effect, owing to the short time it has been in effect.

Q. What were the relations prior to that time?—A. There were, so far as I know, no rates made from Saint Joseph by that route.

Q. What route are you speaking of now?—A. The route taking the St. Joseph and Grand Island from Saint Joseph to Marysville, and then the Blue Valley Branch of the Union Pacific, which crosses the Central branch road at Irving and Blue Rapids.

Q. Is it true that a citizen shipper can ship freight from thence where the Union Pacific crosses the Central Branch, Union Pacific Atchison cheaper than a citizen can ship from Marysville over Saint Joseph and Grand Island to Saint Joseph?—A. No, sir.

I am not sufficiently familiar with the local rates from Saint Joseph to Grand Island to answer that question.

MAINTENANCE OF FIXED RATES.

Q. Who fixes the local rates?—A. You refer now to the St. Joseph and Grand Island, with which I have no connection whatever.

Q. Do you know nothing about the rates?—A. No; except from information gained as to their terms.

Q. Have you not an understanding between the roads?—A. Yes, sir.

Q. What is the understanding?—A. That rates shall be maintained to suit the public.

Q. What rates?—A. The published rates.

Q. Have you any other rates than the published rates?—A. No, sir.

SPECIAL RATES.

Q. Have there ever been any special rates on the Central Branch, Union Pacific?—A. Yes, sir.

Q. How did you make those?—A. We have no rates other than those published.

Q. How do you make those rates?—A. There are no rates other than the published rates at the present time.

Q. Prior to April 1, 1887, what special rates had you other than the published rates?—A. There were a great many. I could not answer that.

Q. How did you make them?—A. Some were made by special billing instructions.

Q. Who gave the instructions?—A. They were issued from my office.

Q. Did you give the instructions?—A. Yes, sir.

Q. Were the special rates in the nature of rebates?—A. I am speaking of two points, Marysville and the point where the Central Branch crosses the Union Pacific going to Saint Joseph and Atchison. Prior to April 1 there were no special rates. There were no standing rates from either of those points. That is, within a reasonable period.

Q. Did you give special rates to shippers on the Central Branch, Union Pacific?—A. Yes, sir.

Q. How did you give them? Was it by way of rebate?—A. Partially so; yes, sir.

Q. Or was it by preferential rate?—A. Yes, sir; it was a preferential rate.

Q. In what other way did you give them?—A. No other way. I should say that what rates were made, wherever they were made, were to meet similar actions on the part of other roads.

COMPARATIVE RATES ON CENTRAL BRANCH AND SAINT JOSEPH AND GRAND ISLAND.

Q. How did your rates on the Central Branch, Union Pacific, compare with the rates on the St. Joseph and Grand Island?—A. Our rates, I think, are invariably higher.

Q. It is not true, then, that the declarations that the citizens of Marysville make that shippers along the line of the St. Joseph and Grand Island haul their freight 12 miles to the Central Branch, Union Pacific, because that road gives a less rate from where it crosses the Union Pacific to Atchison than they can get from Marysville to Saint Joseph over the St. Joseph and Grand Island, is it?—A. No, sir.

Q. Have you heard of any such complaint?—A. Yes, sir.

Q. It is not true, you say?—A. The grounds of the complaints are not sound. The fact that grain has been brought from a territory very near the St. Joseph and Grand Island is true.

HIGHER PRICES FOR GRAIN ON MISSOURI PACIFIC.

Q. Why would they haul it such a distance to your road, and not ship over the St. Joseph and Grand Island?—A. It is owing to the fact that prices at our station exceed those paid on the St. Joseph and Grand Island.

Q. How were you able to pay higher prices at your station than the people at Marysville on the St. Joseph and Grand Island road?—A. It was the grain dealers that paid the prices.

WHY?

Q. How were they able to do that, with a difference of 12 miles against them?—A. The fact possibly is due almost altogether to their reaching the Southern trade at a better advantage than it was possible for the dealers located on the St. Joseph and Grand Island to reach it.

Q. How could they reach the Southern trade better; through what means?—A. In connection with the Missouri Pacific.

Q. Then the advantage that the citizens in the neighborhood of Marysville gained by shipping over the Central Branch, Union Pacific, arose from the better rates that the people could get from the Missouri Pacific, connecting with the Central Branch, Union Pacific, at Atchison, did it?—A. You say the citizens at Marysville shipped over the Central Branch road. I do not think there has ever been a case in existence.

The CHAIRMAN. The citizens of Marysville have declared under oath that less rates are charged from the point where the Central Branch, Union Pacific, crosses the Union Pacific to Atchison than is charged for the same freight from Marysville over the St. Joseph and Grand Island to Saint Joseph.

The WITNESS. Not having any recollection as to the nature of rates made from Marysville and Saint Joseph, I cannot answer.

SAINT JOSEPH AND GRAND ISLAND SHIPPERS SEND FREIGHT OVER CENTRAL BRANCH.

The CHAIRMAN. But you have already said that the citizens do come from the neighborhood of the Saint Joseph and Grand Island and ship over the Central Branch, Union Pacific.

The WITNESS. I stated that grain was brought from territories very near the line of the Saint Joseph and Grand Island road to the Central Branch. That is, while the proper dividing would be equidistant from both lines, our buyers reach beyond that line in drawing grain to their stations.

Q. Did the shipper in the neighborhood of the Saint Joseph and Grand Island do that for the pleasure of hauling his freight down to the Central Branch, Union Pacific?—A. No, sir.

INDUCEMENTS TO SHIPPERS.

Q. What was the inducement?—A. Because of the higher prices paid by buyers located on our line.

Q. I repeat my question. How were the people able on that road to pay higher prices than others within a distance of 12 miles?—A. I have already stated that it was undoubtedly owing to the fact that they could reach the Southern market to better advantage than buyers located on the Saint Joseph and Grand Island road.

Q. Is that advantage not owing to the fact that a less rate for the freight was charged?—A. No, sir.

GRAIN MARKET FOR SAINT JOSEPH AND ATCHISON SHIPPERS.

By Commissioner LITTLER :

Q. What direction does grain take from Saint Joseph and Atchison? In other words, where does it find a market?—A. Under ordinary circumstances it finds a market in the East; that is, Saint Louis and Chicago, excepting that within this last year the market has been almost exclusively in the South.

Q. So that grain coming over either of those roads would pass down through Kansas City and over the Kansas City and Memphis road, would it?—A. Largely so.

Q. It is true that Atchison is nearer the point of destination, then, than Saint Joseph, is it not?—A. It is nearer the point of destination, although the rates are the same from Saint Joseph as from Atchison.

GRAIN COMBINATION ON GRAND ISLAND ROAD.

Q. Then that does not help us out any. Do you know of any grain combination on the Grand Island road by which prices are kept down?—A. Such a combination has been in existence. Whether it is at present I have no positive knowledge.

Q. Is your company in any way connected with the grain men along your line, or does each man operate on his own hook?—A. Each man operates on his own hook.

Q. Is there competition among grain men on your own line?—A. Yes, sir.

Q. May not that account for the increase of prices over those on the Grand Island road?—A. That very largely accounts for the trouble complained of by the Saint Joseph and Grand Island people at Marysville.

RATE ON CENTRAL BRANCH.

By Commissioner ANDERSON :

Q. Please explain to me, when you receive grain on the Central Branch for shipment South, how the rate is made. Is it from the point where the grain is to be received to a point where it is to be delivered?—A. In both ways. We publish a rate to Atchison; also a rate from all stations on the Central Branch to all of our stations in the South. In each case, however, the through rate is based on the sum of the rates via Atchison, excepting at present temporarily the rate from Central Branch stations to the Mississippi River and Chicago is less than the sum of the locals.

Q. It is made up of the aggregate, which is less than would be obtained by taking the local rates and adding them together?—A. Yes, sir.

Q. Are you positive that that has not been more or less the case during the last two or three years?—A. It has never been the case to my knowledge until in June sometime.

Q. How many large shippers of grain are there on the Central Branch?—A. It would be almost impossible to mention them. There is an average of two or three to every station.

Q. To how many different purchasers is the grain that comes over the Central Branch consigned?—A. It is very largely distributed.

Q. Are there a number of buyers?—A. There are a number of buyers.

SAINT JOSEPH ROAD UNAFFECTED BY "SHORT HAUL" CLAUSE.

Q. Does the same state of affairs exist as to the grain that passes over the Saint Joseph road?—A. I have no knowledge as to that.

Q. Are you about to make any changes in your tariff rate to-day in consequence of the expiration of the suspension of the short haul?—A. That has not affected us in any way on the Central Branch.

Q. Will it affect you in any way when it expires?

The WITNESS. The dispensation from the application of the fourth clause of the interstate law, do you refer to?

Commissioner ANDERSON. Yes.

A. That would not affect us under any circumstances, I think.

Q. Is there no case, then, in which you charge more for the short haul than for the long haul?—A. No, sir.

Q. Do you contemplate no increase whatever of through rates in consequence of the expiration of that suspension?—A. No, sir; it will not affect us.

Q. What is the proportion of freight business done on the Central Branch compared with the passenger traffic?—A. I have no knowledge as to the passenger traffic.

Q. How much are the annual gross receipts from freight on your road?—A. I could not answer you.

Q. Have you no figures with you at all?—A. No, sir.

Q. Will you please look at the reports for 1884 and 1885 and see if they refresh your recollection?—A. I note a decrease in 1886 over 1885.

CHIEF ARTICLES OF TRANSPORT.

Q. What are the chief articles which you transport?—A. Grain and live stock, including the general merchandise business, make up the traffic.

Q. Corn and hogs?—A. Yes, sir.

Q. Do you recollect the proportion of cattle and grain as compared with general merchandise?—A. I never have had that before me; I never had figures showing that.

Q. Do the grain and cattle all come east?—A. Cattle largely moves west at certain times of the year; I refer to stock cattle—feeders.

Q. Does the grain all move east?—A. Not altogether.

Q. Does it substantially?—A. Substantially; yes, sir.

Q. Does your general merchandise move chiefly west?—A. Yes, sir.

Q. For consumption on the route?—A. Yes, sir.

Q. Do you say the traffic for 1886 was a decrease over that of 1885?—A. Yes, sir.

Q. How were the rates of 1886 as compared with those of 1885?—A. They were practically the same.

Q. Can you furnish us with the detailed figures of the value of freight transportation for 1885 and 1886?—A. It will be for me to do it. It could be obtained.

Q. Will you explain to whom you report?—A. To the freight traffic man.

Q. At Saint Louis?—A. At Saint Louis.

Q. What is his name?—A. Oscar G. Murray.

DECREASE OF FREIGHT BUSINESS FOR PRESENT YEAR.

Q. How does the freight business of your road for the current year compare with that of 1886?—A. It is a decrease.

Q. Decrease from that of 1886?—A. Yes, sir.

Q. To what do you attribute that decrease?—A. Largely to a short grain crop.

Q. Is the decrease confined to your grain transportation?—A. Without knowing positively I think it would be safe to say that it was.

Q. Would not the decrease of your grain crop affect your cattle shipments, and cause them to decrease?—A. The decrease in the grain crop is almost exclusively on the eastern portion of the line. The cattle feeding is confined almost exclusively to the West. The excess of cattle feeding also affects the reduction of the grain shipments.

INVASION OF TERRITORY BY COMPETING LINES.

By Commissioner LITTLE:

Q. Do you attribute the decrease of earnings of this road in part to the invasion of your territory by competing lines in the last two or three years?—A. That has had some effect; yes, sir.

Q. What roads have built into your territory within the last two or three years?—A. The Chicago, Kansas and Nebraska has crossed us at one point—Whiting.

Q. What other roads have invaded you?—A. The Burlington and Missouri River had built into Washington and Concordia, and it has also paralleled the extreme western end of the Central Branch.

Q. What other roads have invaded your territory?—A. The Union Pacific has also built a line north and south, crossing us at two points.

THEIR EFFECT.

Q. What effect has that had upon the general traffic of your road?—A. It has had the effect of dividing that immediately tributary to the two roads.

Q. And to the consequent reduction of the total traffic of the road?—A. Yes, sir.

Q. Do these facts in part account for the falling off of your aggregate business?—A. It would naturally do so.

Q. That, together with the shortage in the crop of last year, accounts for the decrease in earnings for the current year?—A. From such knowledge as I have, I believe so.

Q. Will not these competing lines being built into your territory produce naturally a permanent decline in your traffic?—A. Yes, sir; unless offset by the increase in production.

By Commissioner ANDERSON:

Q. You mean the increase in population and business?—A. Yes, sir.

CULTIVATION OF LAND.

By Commissioner LITTLE:

Q. What proportion of your lands through which your road runs are in cultivation?—A. I could not answer.

Q. Can you approximate?—A. Not with any degree of certainty.

Q. Is it probable that when all the lands tributary to your road as now constituted are put into cultivation, you will regain the amount of traffic that you have heretofore enjoyed?—A. I do not look for any great increase.

OPERATING EXPENSES.

By Commissioner ANDERSON:

Q. Do you know anything about the operating expenses of the road?—A. No, sir.

Q. Do you know how it came about that in 1886 the net earnings largely increased over 1885, though the actual gross receipts decreased?—A. My services are confined altogether to freight traffic. I have no knowledge outside of that.

INCREASE OF POPULATION AND OF SHIPPERS.

Q. Has the population adjoining your road increased regularly year by year?—A. I think so.

Q. Have the shippers grown in number?—A. Naturally so.

Q. You know the shippers personally, do you not?—A. Yes, sir; very largely.

Q. You must have quite an accurate knowledge on that point, have you not?—A. Yes, sir.

Q. During the years 1883, 1884, 1885, and 1886, can you tell me what the increase in the number of prominent shippers on the line of that road has been for those four years?—A. I can only speak for the time in which I have been in charge.

Q. Will you state it for the time during which you have been working?—A. They have to a large extent increased.

CHANGE IN CHARACTER OF TRAFFIC.

Q. Has there been any change in the character of the traffic during those years?—A. Yes, sir.

Q. In what respects?—A. Perhaps the most prominent change is the increase of cattle shipments within the last few years; that is, an increase of cattle feeding in the country.

Q. Is that particularly noticeable on all these different Kansas roads, to your knowledge?—A. I believe they are all experiencing that.

Q. So that the grain is being used for feeding to some extent, and in that way the cattle transportation increases. Is that it?—A. Yes, sir; that is it. The cattle transportation, I think, has not increased materially this last year.

ITS EFFECT ON GROSS EARNINGS.

Q. What effect has that alteration in the movement of commerce had on the gross earnings of the road?—A. It has the effect of reducing the grain shipments through the territory.

Q. I refer to the general balance. Do you make more when you transport the fed cattle, or do you make more when you transport grain?—A. That is a question on which there may be a good on both sides. It is my opinion that there is more traffic in moving the grain than in transporting cattle, from the fact that cattle will consume six cars of corn in the year's feeding.

Q. Then, on the whole, the alteration in the commercial movement would tend to effect a saving for the producer of the cattle and a decrease in traffic for the railroad, would it?—A. That would be naturally the result, I think.

Commissioner ANDERSON. I think we will have to see the general financial officer at Saint Louis.

LESS RATES WHERE CENTRAL BRANCH CROSSES UNION PACIFIC.

By the CHAIRMAN:

Q. The effect of the less rates from the points where the Central Branch Union Pacific crosses the Union Pacific is to divert the traffic or the freight from the St. Joseph and Grand Island—from the point at Marysville to Saint Joseph—over the Central Branch Union Pacific, is it not?—A. Less rates made from a station on the Central Branch, which is contiguous to St. Joseph and Grand Island, would have that effect.

Q. Has it not, as a matter of fact, that effect?—A. As a matter of fact it does not exist.

Q. Did it exist prior to April 1, 1887?—A. No, sir.

Q. Did it ever exist?—A. Not to my knowledge.

Q. Have you not obtained freight in the neighborhood of the line of the St. Joseph and Grand Island, and taken the same freight over the Central Branch Union Pacific and away from St. Joseph and Grand Island?—A. The only case in which we may have done that would be in grain, as I have already explained.

Q. Have you not said that by reason of the advantages you have over the Missouri Pacific in the shipments towards the south the grain dealer hauled his grain from near that line and had it carried that way?—

A. Yes, sir.

Q. And is not the effect to divert the freight to the central branch from the St. Joseph and Grand Island?—A. Yes, sir.

REBATES.

Q. Have you to any extent granted rebates to shippers along the line?

The WITNESS. Prior to April 1, 1887?

The CHAIRMAN. Yes, sir.

A. That is done largely.

Q. Is it done directly by you?—A. No, sir; it was subject to approval. All such arrangements are subject to the approval of the traffic manager.

Q. What arrangement did you make for the granting of rebates?—A. The arrangements were made both with the shippers and with the consignees, as necessity might require.

Q. What were your instructions, or how did you base your rebate rates?—A. The basis was on the necessity of the case.

Q. What were the necessities of the case?—A. Competition existing with other lines, brought about by other lines.

Q. Were the same rebates allowed to all shippers?—A. Yes, sir.

NO PREFERENCES GIVEN.

Q. No preference was given to any particular class of shippers?—A. No special preference; no, sir.

Q. Had the other roads a knowledge of the granting of the rebates?—A. I am satisfied that they had, although they were not consulted.

Q. Were you in the pool agreement with the other roads while you were granting rebates?—A. No pool agreement; no, sir.

Q. Were you under any traffic agreement?—A. No, sir; we were under no traffic agreement.

Q. Were you under any arrangements for the purpose of maintaining traffic rates?—A. Yes, sir.

Q. Did the roads have a knowledge of the fact that you were granting special rates?—A. I am satisfied they did have.

Q. Was there any complaint?—A. No, sir.

Q. Did you give them any notice?—A. No, sir.

Q. Was there any general publication of the rates?—A. No, sir.

METHOD OF GRANTING REBATE.

Q. And how was the public to know of the rebate rate?—A. They did not know it.

Q. How did you grant it? How did your shipper get knowledge of it?—A. The shipper directly interested had knowledge of it.

Q. Did he inquire?—A. The shippers who handled the business certainly had knowledge of the rate that was made.

Q. Can you give us an illustration?—A. Yes, sir.

The CHAIRMAN. Do so; that will probably make it clearer.

The WITNESS. Take the point Warwick, for instance, we might have paid a rebate to that point.

Q. Did you?—A. We did not.

The CHAIRMAN. Just illustrate it by a shipper at that point.

The WITNESS. There was a rebate of 2 cents on the hundred for all grain shipped from there.

By Commissioner ANDERSON:

Q. What was the regular rate?—A. Fourteen cents.

By Commissioner LITTLER:

Q. To where?—A. To the Missouri River; to Atchison.

NOTICE TO SHIPPERS.

By the CHAIRMAN:

Q. How did the shippers get notice?—A. We notified them personally.

Q. Suppose you fail to notify a shipper how does he find out?—A. In that case it would not be applicable.

Q. Then he could not ship with the same profit over your road, having to pay 2 cents more than the other shippers who received notice?—A. It was given to all shippers, and would naturally apply to all grain handled by regular dealers.

Q. What was the rate, if you have knowledge, on the St. Joseph and Grand Island at the same points?—A. They did not come near enough at that point to affect us. I have no knowledge as to what rate they might have made.

NO POOLS ON CENTRAL BRANCH.

Q. What per cent. of the business passing over the Central Branch Union Pacific is pool business?—A. I have no knowledge of any pool existing on the Central Branch.

Q. Have you ever had any knowledge of any pool ever existing?—A. No, sir.

Q. Have you ever had any arrangement with other roads as to the shipment of freights and as to rates?—A. No positive agreement that I am aware of.

A "MUTUAL UNDERSTANDING" TO MAINTAIN FREIGHTS.

Q. Have you ever had one that was not positive?—A. A mutual understanding existed among all freight agents that rates would be maintained.

Q. Was that to the Missouri River?—A. Yes, sir.

Commissioner ANDERSON. Please select what was a competing point between the Saint Joseph and Grand Island and the Central Branch.

The WITNESS. Our Frankfort station would be competitive with theirs at Seneca. Our Waterville station would be competitive with theirs at Marysville.

Q. Take Waterville and Marysville. What was your rate on grain from Waterville to the Missouri River?—A. I think it was 11 cents.

Q. What was the rebate that you customarily allowed?—A. We paid no rebates from that point, unless it was to equalize the rate made from a point beyond. My recollection is that there was no rebate from Waterville. That is, speaking as far back as two years.

Q. Was there any other arrangement made there with shippers by which they got an advantage?—A. No, sir; none whatever.

Q. Compare Frankfort station and Seneca, what was the rate there?—A. I have forgotten the exact figure, but there was no rebate paid from Frankfort, and there has not been since January, 1886.

Q. At what point of your road is it that this hauling of grain from the Saint Joseph territory to your road occurred?—A. Waterville is the point that has been particularly complained of.

Q. Do you say your rate from Waterville is 11 cents?—A. That is my recollection. I would not speak positively.

RATES TO MISSOURI RIVER POINTS.

Q. What is the rate from Marysville to the Missouri River on the Saint Joseph road?—A. The tariff rate was, I believe, 12 cents.

Q. Do you know whether they allowed a rebate?—A. It is my understanding that they did.

Q. Would not that difference of 1 cent account for the hauling of the grain to your line?—A. No, sir.

Q. Why not?—A. The rates from Saint Joseph east on grain coming off the line of the Saint Joseph and Grand Island road are 2 cents per 100 pounds, or were, rather, less than the rates from the other Missouri River points to the grain market.

Q. What do you mean by the other Missouri River points?—A. Kansas City, Leavenworth, and Atchison. The legitimate market being east, equalized the 2 cents per 100 pounds accruing to the Saint Joseph and Grand Island road above the rates from other western points or other lines.

SHIPMENTS FROM SAINT JOSEPH.

Q. How did the Saint Joseph get that discrimination in its favor?—A. It is not a discrimination in its favor. It equalizes the difference in

local rates. It was originally done to allow the Saint Joseph and Grand Island the Saint Joseph bridge toll.

Q. Are those rates on goods shipped from Saint Joseph to the east still 2 cents less than from other points on the Missouri River?—A. It is still taken care of, but it is not uniformly 2 cents, according to my understanding. It is a matter of which I have no positive knowledge. I refer to this as explaining the higher rate to Saint Joseph from the Saint Joseph and Grand Island station than is made to Atchison from the Central Branch station.

Q. Does that difference apply to anything except grain?—A. It was also applicable on live stock.

GIVING REBATES TO INFLUENCE TRADE

By the CHAIRMAN:

Q. Have you granted rebates to shippers for the purpose of getting the trade?—A. That would be the only purpose for which they were granted.

Q. Do you grant them to all shippers alike?

The WITNESS. Do you speak of the past?

The CHAIRMAN. I am speaking entirely of the time prior to April 1st, 1887, since your connection with the Central Branch road, or since you had any knowledge of it.

The WITNESS. I am answering your question very fully by saying that any rebates granted were done indiscriminately to secure the freight traffic tributary to its line.

PASSES TO SHIPPERS.

Q. Have you issued passes to shippers in order to secure freight traffic?—A. That has not been done since my connection as division freight agent with the Missouri Pacific.

Q. Was it done prior to that time?—A. It was, to a limited extent, done on our line prior to sometime in 1884. That is the time the pass agreement went into effect.

Q. Were passes issued to all shippers alike?—A. I was not connected with the road at that time; since my connection with the line, no passes have been granted to shippers on account of traffic.

Q. At no time, in your knowledge, were passes granted to all shippers alike?—A. I can answer yes; because I say passes were not granted to shippers since my connection with the line.

Q. But you have said that passes were granted at one period. I am asking you with reference to that period. Have you any knowledge whether passes at that period that you have spoken of were issued to all shippers alike?—A. I have no knowledge of it.

Q. What other favors were granted by the Central Branch Union Pacific road to secure shipments from shippers?—A. No other favors.

Q. Were there no others than passes and rebates?—A. No others than rebates.

PERCENTAGE DIVISION WITH MISSOURI PACIFIC.

Q. Has the Central Branch Union Pacific a constructive mile rate with the Missouri Pacific as to freight?—A. No, sir.

Q. Have they any percentage allowance from the Missouri Pacific?

A. In the case of through rates being made less than some of the rates there is a percentage division.

Q. What is the percentage on through freight coming from the Central Branch Union Pacific?—A. From points west of Greenleaf, the Central Branch is allowed 45 per cent. of the rate to the Mississippi River.

Q. Where is Greenleaf?—A. Greenleaf is 113 miles west of Atchison.

Q. How far is that point west of the point where the Central Branch Union Pacific crosses the Union Pacific?—A. It is 20 miles.

Q. West?—A. West, yes, sir; about 20 miles. Our distance from Atchison.

Q. What is the distance to the Mississippi River?—A. Three hundred and thirty miles from Atchison to Saint Louis.

ITS ADVANTAGE.

By Commissioner ANDERSON:

Q. Please state the effect of this in favor of your road.—A. In case of through rates being made from the Central Branch point to the Mississippi River the aggregate rate is divided under agreed percentages, which allows the Central Branch from points west of and including Greenleaf 45 per cent. of the through rate to the Mississippi River.

Q. The distance being 113 miles from Greenleaf to the Missouri and 330 miles from the Missouri to the Mississippi River?—A. That would not be a fair statement of it.

Q. Will you correct it?—A. You take the shortest point, 113 miles.

Q. I understand. The distances so given are not the correct application for all points, but simply the limits. What is the furthest point?—A. Two hundred and ninety-three miles.

Q. Two hundred and ninety-three miles from the Missouri River?—A. Yes, sir.

Q. So that the points protected are between 293 miles and 113 miles, is that correct?—A. Yes, sir.

Q. As to the points between the Missouri River and the 113th mile point, is there any protection allowed?—A. To stations east of Corning the Central Branch is allowed 35 per cent.; to stations west of and including Corning, and east of Greenleaf, the Central Branch is allowed 40 per cent.

Q. How far is Corning from the Missouri?—A. Corning is 55 miles.

LOCAL AND THROUGH TRAFFIC ON CENTRAL BRANCH.

By the CHAIRMAN:

Q. How does the volume of traffic compare as between local and through traffic on the Central Branch Union Pacific?—A. The volume of traffic is largely local.

Q. What is the percentage?—A. I could not answer that intelligently.

Q. Is it 50 per cent.?—A. On east-bound traffic, yes, sir. On west-bound traffic, no. But taking the aggregate, I could not answer.

"AN EQUITABLE RATE."

By Commissioner LITTLE:

Q. State whether or not the percentage of mileage as described above inures to the benefit of your road.—A. It would be my understanding that no benefit inured to either line.

Q. Do you think that the rate was a strictly equitable rate?—A. Yes, sir.

Q. Between both lines?—A. Between line and line; yes sir.

Q. Why do you say that, in view of the fact that you obtained 45 per cent. for a short haul on your line as compared with the distance from Atchison to Saint Louis, 330 miles?—A. It would hardly be a fair traffic division, I think, to prorate 113 miles against 330 miles.

Q. Why would it not?—A. The percentage would be too low.

Q. Why would it be too low? In other words, explain to the Commissioners why the Central Branch cannot haul a car-load of freight 100 miles as cheaply as the road from Atchison to Saint Louis can hold it 300 miles, mile for mile.—A. I could not answer why the roads could not haul it that way.

LONG AND SHORT HAUL.

Commissioner ANDERSON. He wants you to say why you consider a constructive mileage allowance an equitable allowance, if you have a reason to give, as between short roads and long roads.

The WITNESS. Prorating a very short distance and a long distance and figuring it on percentages would allow a rate too low for the cost of handling.

Q. In other words, do we understand you to say that a railroad company cannot ship a load of grain a short distance at the same rate per mile that it can ship it a long distance?—A. I feel hardly competent to answer a question of that kind.

Q. Does not your experience as a railroad man enable you to answer that with more or less intelligence?—A. I have my own ideas as to the fairness of a division of the through rate.

Q. That is what we are after. How do you reach your basis of fairness in the division of this rate between points on your road and Saint Louis?—A. An actual mileage prorate is the proper basis.

Q. If an actual mileage prorate is a proper basis, then you are getting more on the through rate than you are entitled to, are you not? Because you get 45 per cent. of the entire through rate, whereas your mileage does not amount to 45 per cent. of the entire mileage. I mean straight mileage.

Commissioner ANDERSON. Do you mean straight mileage when you say actual mileage?

The WITNESS. Yes, sir.

THE SHORT HAUL AND CONSTRUCTIVE MILEAGE.

Q. Is it or not true that in the operation of railroads connected with each other the railroad which has the long haul, upon some principle of equity, always gives to the road having the short haul a constructive mileage? In other words, do they not give the short haul more miles in making up the division of rates than they are entitled to by the actual miles?—A. Yes, sir; that is the custom.

Q. Will you tell us why that is so?—A. As I said before, in case of a very short mileage, an actual mileage prorate would be an unfair basis.

Q. In other words, you cannot haul a car-load of grain 10 miles at the same rate that you can haul it a thousand miles; is that correct?—A. That is it.

Commissioner ANDERSON. Not to the same advantage.

Q. Is that the principle upon which constructive mileage is allowed to the short haul?—A. It differs with different roads.

Q. Is that the principle?—A. Yes, sir.

Q. Is that the general principle upon which constructive mileage is allowed to the short haul over the long haul?—A. That is the general principle on which it is based; yes, sir.

NO ADVANTAGE TO MISSOURI PACIFIC.

By Commissioner ANDERSON:

Q. In your judgment, is the traffic done over the Central Branch at the rates allowed to the Central Branch an advantage or disadvantage to the main line of the Missouri Pacific? I suppose your traffic passes over the Missouri Pacific main line. I refer to the traffic which is interchanged between your branch and the Missouri Pacific. Is the Missouri Pacific better off for the existence of the Central Branch, with a mileage allowed to the Central Branch, or is it worse off?—A. The Missouri Pacific, according to my knowledge, derives no benefit and suffers no disadvantage from the fact of the present arrangement as to the rates.

"ROUTING" OF THE CENTRAL BRANCH BUSINESS IN FAVOR OF MISSOURI PACIFIC.

Q. Does it get more business than it would get if the Central Branch were not there, in hauling the interchanged merchandise?—A. Preference is shown the Missouri Pacific in the routing of the business of the Central Branch.

Q. Does not this rate that you have given at 45 per cent., beginning at the point 113 miles away and ending at the point 293 miles from the Missouri River, give substantially a straight mileage basis for the extreme point 293 miles from the Missouri River?—A. I have no positive knowledge as to that.

Q. Will you figure it out and tell me?—A. A prorate on actual mileage basis from the extreme point on the Central Branch to Saint Louis would allow the Central Branch 47 per cent.

Q. And they only get 45?—A. They only get 45.

Q. Give us the rate on the straight-mileage basis from the point 113 miles away. What would the road be entitled to on the straight-mileage basis?—A. From a point 113 miles distant from Atchison the actual mileage prorate is 25.5 per cent.

Q. And instead of 25.5 per cent. they get 45 per cent.?—A. Yes, sir; that is correct.

Q. Do you know the amount of business in freight which is interchanged between the Missouri Pacific and the Central Branch annually, in tons?—A. No, sir.

Q. Can you furnish that information?—A. It could be obtained from our offices.

Q. At Saint Louis?—A. Yes, sir.

Q. You could not give it?—A. I could not give it.

UNION PACIFIC PEOPLE NOT INTERESTED IN STOCK-YARDS OR ELEVATORS.

Q. Have any of the officers or employes of the Central Branch Union Pacific any interest in any grain elevator or any stock-yard or in any other business along the line of the Central Branch Union Pacific?—A. Not to my knowledge.

Q Is any officer of the Union Pacific, director or employé, interested in any elevator or stock-yard or any other business along the line of the Central Branch Union Pacific?—A. Not to my knowledge.

Q. If they were engaged in such business you would have a knowledge of it, would you not?—A. Yes, sir; I think I would.

KANSAS CITY, MO., *Thursday, July 7, 1887.*

J. S. TEBBETS, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Assistant general freight agent of the Union Pacific Railway Company, in charge of the Kansas Division.

Q. How long have you filled that position?—A. A year and a half.

Q. What other position did you hold in the Union Pacific system prior to the position now held by you?—A. Division freight agent at Salt Lake City.

Q. What other position did you hold prior to that?—A. Clerk in the general freight office in Omaha.

Q. How many years had you been connected with the Union Pacific?—A. Three years in November.

DUTIES OF ASSISTANT GENERAL FREIGHT AGENT.

Q. What are your duties as assistant general freight agent?—A. I have charge of the local business of the Kansas Division. That is under my control, and I report to Mr. Kimball and Mr. Monroe, and I look after the through business, both east and west bound, over the entire system passing over the Kansas Division.

THE KANSAS DIVISION.

Q. What part of the system composes the Kansas Division?—A. From Kansas City to Denver, and the branches between here and Denver, including the Kansas Central and the Manhattan and Blue Valley line as far north as the first station south of Beatrice, Holmesville.

Q. Do you recollect the freight rates between Kansas City and Leavenworth?—A. No, sir. We are not in the field for that business. Our line is some 73 miles from here to Leavenworth as against the Missouri Pacific 28, I think. I am not quite sure.

Q. How do you connect with Leavenworth from Kansas City?—A. We do no direct freight business.

Q. How is the freight regulated from Lawrence—I think that is the point of junction with the Kansas Pacific main line—and Leavenworth? I am not sure whether that is right. How is the traffic regulated going to or coming from Leavenworth over the branch line to Lawrence?—A. I make the rates and publish the tariff.

LEAVENWORTH ACCOMMODATIONS.

Q. What accommodations do you give to the citizens of Leavenworth for the transfer of freight from Leavenworth over the main line of the Kansas Pacific at Lawrence?—A. The freight train runs out of Leavenworth in time to connect with our fast trains running west.

Q. Is there any delay of freight at Lawrence?—A. Not to my knowledge. Occasionally there are times of delay, just as at Kansas City or any other place.

UNWARRANTED COMPLAINTS OF LEAVENWORTH PEOPLE.

Q. Have you heard of any complaint of the citizens of Leavenworth, or the Board of Trade, with reference to delays of freight at Lawrence?—A. No, sir.

Q. Have complaints ever been made to your knowledge at any time?—A. Not to my knowledge.

Q. Then it is not true, even if the citizens of Leavenworth have stated under oath that their freight is delayed some twenty-four hours at Lawrence and the junction with the Kansas Pacific?—A. No, sir.

Q. Would you have a knowledge of that fact if it existed?—A. Not necessarily; but it would be very apt to be brought to my attention if freight from Leavenworth, destined to points west, did not get there as soon as it did from Kansas City.

SPECIAL RATES TO KANSAS PACIFIC SHIPPERS.

Q. Have you, prior to April 1, granted special rates to the Kansas Pacific shippers?—A. At times; yes, sir.

Q. Were you instructed to grant such rates?—A. No, sir; I used my own discretion.

Q. What enables you to make up your mind as to the rates to be allowed?—A. To get the business as against competitors.

Q. To get the business of competitors?—A. As against our competitors on the north and south of us.

Q. Were competitors in any pool or freight contract or agreement with you?—A. We have had no freight contracts or pool of any kind or description since I have been on the road, that I am aware of, affecting the Kansas Division, except an agreement to maintain rates from junction points.

POOLS AND "ARRANGEMENTS."

Q. What is the difference between an arrangement to maintain rates and a pool and a written agreement or a contract?—A. My understanding of pools (from what I have known about them), stated generally, is that they provide for the division of gross earnings, or some division of the earnings.

By Commissioner ANDERSON:

Q. All the earnings?—A. Or a percentage of the tonnage. It varies.

By the CHAIRMAN:

Q. It may be of freight or passengers?—A. Certainly.

Q. A different kind of a pool?—A. Yes, sir; but according to the law of Kansas we cannot have a pool.

THE DISTINCTION.

Q. What is the difference between a pool and an arrangement between roads to maintain rates?—A. My answer to that would be that the pool provided for a division of the earnings, and an arrangement is simply an agreement to maintain rates. I may be wrong about that; but that is my understanding of the difference between the two.

Commissioner ANDERSON. To take whatever you can get.

The CHAIRMAN. Oh, no.

The WITNESS. At the agreed rates.

Q. Without any agreement as to the percentage each should have?—

A. After we had got it, it was all ours, and we did not have to turn over any portion of it.

Q. Are not all divisions of profits in pools based upon rates named in the pools for the purposes of the agreement, and for pooling purposes?—

A. I am not familiar with the operations of pools.

Q. Is there a pool commissioner in the State of Missouri?—A. No, sir; I do not think so. We only have one mile of track, I think, in Missouri.

Q. Have you a railroad commissioner here?—A. I have not met him. If there is one I do not know him.

Q. Did you ever hear of a pool commissioner residing hereabouts?—

A. No, sir; not in Kansas City.

SPECIAL RATES ALLOWED.

Q. Under the agreement to maintain rates with the roads that you had entered into arrangement with, have you allowed special rates by way of rebates or preferential rates, as against the rates fixed under the arrangement to shippers?—A. Yes, sir.

Q. Were the special rates public rates?—A. Not necessarily.

Q. What percentage of rebates did you allow to shippers along the line?—A. That is a very general question. I do not know that I can answer that. I do not understand what you want.

Q. What is the difficulty about it?—A. We have 1,100 miles of road, and I do not quite understand what you want.

TO SECURE BUSINESS.

Q. Are your rebates all the same? Are they based on the mileage or upon your desire to secure the business of the shipper?—A. Upon our desire to secure the business of the shipper.

Q. If the shipper is obstinate you will offer him a better rate than the man that is not so obstinate?—A. No, sir. Sometimes, if he is obstinate, I do not try to get his business.

Q. Supposing you make an effort to get the business of a shipper, what do you do with reference to the rate?—A. I do not think I quite catch your meaning.

Q. What is the difficulty about the question? Supposing you make an effort to get the business of the shipper, what do you do with reference to the rate?

Commissioner ANDERSON. Give us an illustration of some man that you talked to and show us how you come to terms.

COMING TO TERMS.

A. I take some junction point, and I find that a very large shipper there is shipping over a competing line. I go to him and say, "What's the matter with our having some of your business?" "Well," he says "if you make as good terms as your competitors, I would like to give you some." I figure out whether it was worth while to make him a proposition or not. I make him a proposition, and possibly he accepts it and possibly he does not.

Q. Have you an arrangement with that competitor as to rates?—A. It was an understood thing, possibly; there was no written agreement; rather an understanding that the rates would be the same for all.

EACH LINE "TRYING TO CHEAT THE OTHER."

Q. Then, notwithstanding that understanding, you went to the shipper and offered a rate under the rate agreed between the competing lines?—A. Because I was satisfied that he had a lower rate by the other line.

Q. Each was trying to cheat the other with reference to a low rate?—A. That is right.

Q. To what extent does this exist along the Kansas Pacific road?—A. There is not much of it.

Q. Did you have a consultation with Mr. Kimball, the general manager of the Union Pacific, with reference to rebate rates?—A. Sometimes, but not very often.

Q. Had you any instructions from him at any time during your administration?—A. I think I may have; I would not answer that yes or no, here.

Q. What was the nature of the consultation?

The WITNESS. With Mr. Kimball?

The CHAIRMAN. Yes; concerning rebates, or special rates, or preferential rates?—A. I would explain to him what the business amounted to and where it was going, and what I supposed our competitors were doing. I had no actual knowledge of it. He told me whether he thought it was worth while to try to get it or not, if it was a pretty large thing.

Q. Was that all that took place?—A. Yes, sir.

Q. Then you would go and get it?—A. No, sir.

Q. How would you determine that question?—A. After getting a limit from Mr. Kimball I would try to get the business.

PASSES.

Q. Did you issue passes to shippers in order to secure their business?—A. No, sir.

Q. Have you power to issue passes?—A. Not now. I had passes in the office.

Q. All my questions now I am applying to the time prior to April 1, 1887. I have nothing to do with the railroads since 1887, April 1st. What power had you to grant passes prior to April 1st?—A. I had passes in my office, countersigned by Mr. Kimball, which I could fill up.

Q. Did you issue passes along the line of the Kansas Pacific for the purpose of securing shipments?—A. No, sir.

REGULATING THEIR ISSUE.

Q. How did you regulate the issuing of the passes?—A. I think that in the year and a half, or the year and three months that you refer to, since I have been here, I never issued a pass to any shipper, except some cattlemen. It has been the custom in the West to give them (cattlemen) passes. But I do not think, or I do not recall at this moment, of a single pass issued to a shipper other than what I have stated.

GIVEN TO CATTLEMEN AND RAILROAD EMPLOYEES.

Q. What were the passes to be used for, which were in your possession?—A. For railroad men. For instance, there might be a gentleman

come over here from Chicago, or from Saint Louis, the chief clerk of a general freight office, and he brings a letter from the general freight agent asking me to furnish him transportation from Kansas City to Denver, or Topeka, or any point on our line, and I furnished it.

Q. Am I to understand you that at no time during your administration you issued passes to any other class than the class which you named, to wit: cattlemen and employes of the railroads?—A. I do not think I issued passes to any other parties. I would not be positive about it. It is several months since I looked over the record. In fact, I have no record now. The stubs are all returned to Omaha.

Q. What other inducement did you offer to shippers to secure their business?—A. I do not know that I could say by any other inducements but by calling attention to our facilities and fast time, and by answering their questions promptly and getting rates for them from our connections on shipments to the East, and doing everything we could for them.

Q. Is that all you could do?—A. That is about all.

Q. Have you named all the methods that you exercised in order to secure the traffic as against competing lines?—A. I do not think of any others.

UNION PACIFIC PEOPLE NOT INTERESTED IN ANY BUSINESS ENTERPRISE ALONG THE LINE.

Q. Are any of the officers, or employes, or directors of the Union Pacific Railway Company interested in any business, grain elevator, stock yard, manufacturing company, or any other business, along the line of the Kansas Pacific?—A. Not to my knowledge.

Q. Would you have a knowledge of it?—A. I should be very apt to.

By Commissioner ANDERSON:

Q. What are the points of junctions, as you call them, on the Kansas Pacific?—A. Lawrence, Topeka, Junction City, Salina.

Q. And Denver?—A. Denver. My jurisdiction ends at Jersey, which is one mile outside.

Q. Denver is a competing point?—A. Yes, sir.

COMPETITORS OF THE UNION PACIFIC.

Q. What are your chief competitors?—A. The Santa Fé and Missouri Pacific.

Q. Name them, with reference to junction points at which they are competitors.—A. At Lawrence, the Santa Fé and Southern Kansas; at Topeka, the Santa Fé, and Missouri Pacific, and the Chicago, Kansas and Nebraska; at Junction City, the Missouri Pacific; at Salina, the Missouri Pacific.

ROUTE OF MISSOURI PACIFIC.

Q. What is the Missouri Pacific route from Kansas City?—A. It is very roundabout from here.

Q. How does it reach Topeka?—A. Over what was formerly known as the Kansas, Nebraska and Dakota.

Q. Is it continuing its construction westward?—A. I think they are doing nothing at Topeka, but from Salina they have extended west through Ness City, about midway between the Kansas Pacific and the Santa Fé.

Q. What is the distance between the Santa Fé and the Kansas Pacific?—A. In some places it is as near as 35 miles, and it varies from that up to 150 to 175 miles. I have not the exact figures.

Q. The Missouri Pacific runs irregularly between these two?—A. Yes, sir.

Q. You are located in Kansas City?—A. Yes, sir.

PURCHASE SUPPLIES.

Q. Do you know anything in relation to the purchase of supplies for your road in Kansas City?—A. Yes, sir.

Q. Is that in your department?—A. No, sir.

Q. Who has charge of that?—A. I think the general storekeeper in Omaha, or the supply agent, J. J. Burnes. He regulates the business.

Q. Who regulates the prices at which the different articles purchased are bought?—A. I cannot tell you that. I like to keep posted as to what the Union Pacific buys here, because we can get freight to competitive points from parties here of whom supplies are purchased. And we say, "We want your business, as we make purchases of you."

Q. That is another method by which you induce business to go over your road?—A. That is a legitimate method; yes, sir.

Q. Are you personally informed as to what those purchases are?—A. I do not know what they amount to. They generally say they have bought such and such article, or so much from certain firms here.

Q. You are informed from Omaha?—A. Yes, sir; generally. In fact, always.

Q. Are there any special dealers in Kansas City whose names you can give us from whom the Union Pacific makes purchases of this character?—A. I do not think I can give you one at this minute; I can get two or three.

Commissioner ANDERSON. I refer to any purchases in large amounts.

The WITNESS. No; I do not think we make any very large purchases here.

PRICES CHANGED.

Q. Have you at any time heard that articles have been purchased for supplies in which the price of the article purchased was considerably above the proper market value of the merchandise?—A. No, sir; I have heard, rather on the contrary, that we were always screwing them down to the lowest possible figure; some of them said they would not sell to us for that reason.

Q. What is the principle article of freight that moves over the Kansas Pacific proper?—A. Grain and its products and live stock east bound, and lumber and coal and general merchandise west bound.

AMOUNT OF FREIGHT BUSINESS FOR CURRENT YEAR.

Q. How does the freight business of this road for the current months of 1887 compare with 1886?—A. They make the freight forwarded from Kansas City fall off a little. For April it was, I think, a little in excess of 1886. The receipts at Kansas City have materially decreased on account of the failure of the crop of wheat and the small crop of corn.

Q. In 1886?—A. In 1886; yes, sir. We received here, say month before last, 120 cars of corn where a year ago we received between 400 and 500.

Q. What is your expectation as to the traffic of 1887 as compared with 1886?—A. I think it will hold its own, and in some ways increase.

the present prospect is that we will have the largest corn crop that was ever harvested in Kansas, but we cannot tell as to that until July and part of August is over. It looks so now.

NATURE OF TRAFFIC CHANGED.

Q. Has the nature of the traffic changed materially during the last two or three years?—A. Yes, sir. The wheat traffic has fallen almost nothing.

Q. And cattle and corn have taken its place?—A. Yes, sir; corn has hardly held its own for the last year as compared with a year ago, of course, on account of the failure.

Q. Was it not also on account of the fact that the corn was fed to the cattle and the cattle transported?—A. I am sorry to say, it is.

Q. Why are you sorry?—A. Because one car-load of cattle will eat three to five car-loads of corn.

Q. So that the transportation of cattle is less profitable to the railroad?—A. It looks so.

RELATION OF BRANCHES TO MAIN LINE OF KANSAS PACIFIC.

Q. What, in your judgment, is the effect of the business done on the branches with reference to the main business on the Kansas Pacific?—If it was not for the branches we might as well shut up the main line.

Q. Explain that a little more fully with reference to the business done on those various branches.—A. Each one of the branches gives the main line a large amount of traffic, on which they get a reasonably big haul. It varies from the nearest, where the first branch goes off, the most western one. The local business of the main line would not support the main line and keep it up in its present condition and make a through line.

Q. Can you give any figures showing the proportion of the business properly belonging to the main line—that which is qualifiedly local, as distinguished from through business passing over the whole line, but all delivered on the main line—and the business which is interchanged between the main line and the branches?

The WITNESS. You are just referring to between Kansas City and Denver?

Commissioner ANDERSON. Yes.

The WITNESS. I do not know that I could give you an estimate on it.

THE MOST ACTIVE BRANCH LINES.

Q. Which are your most active branch lines?—A. The Junction City and Fort Kearney branch, the Solomon and Beloit, and the Salina and Northwestern.

Q. They are all lines north of Kansas Pacific?—A. No, sir; the Salina and Southwestern runs from Salina, 35 miles south, and there is a junction point at McPherson with the Santa Fé and the Missouri Pacific roads.

NUMBER OF FREIGHT TRAINS.

By Commissioner LITTLE:

Q. Who prescribes the number of freight trains passing over your line and fixes the time tables?—A. The business prescribes the number of freight trains.

Q. Have you no regular trains that run every day?—A. Yes, sir; we have regular trains.

Q. That run every day?—A. Yes, sir.

Q. How many have you running every day over the main line?—A. We have one through train to Denver every day, that leaves Kansas City at night and runs to Denver.

Q. What local freights have you running every day?—A. I will have to look at the time card on that. I am not quite sure; I think there is one other one. I would not be positive on that.

COMPLAINTS AT LEAVENWORTH.

Q. The point I am getting at is this: The people at Leavenworth are complaining very much at the sort of freight service you are giving them. The testimony of a dozen of the leading men of Leavenworth is to the effect that you run your freight trains from Leavenworth westward so as to make a provoking delay at Lawrence. The tenor of their testimony is that freight going westward from Leavenworth and also freight going eastward to Leavenworth is delayed all the way from three to twenty-four and thirty-six hours. My question is, how does this happen? They charge that you are running your trains so as to injure the city of Leavenworth and profit Kansas City. I want you to explain that.—A. I do not think there is any intention on our part to do that. I never heard a complaint. It has never been called to my attention.

Commissioner LITTLER. The board of trade at Leavenworth have presented a formal protest to the railway commission of Kansas, and have also presented a like protest to the Union Pacific Railroad Company, either at Kansas City or at Omaha, alleging those facts?

The WITNESS. I have not seen it.

Commissioner LITTLER. I am surprised that you are entirely ignorant of any such protest.

LEAVENWORTH INADVERTENTLY LEFT OUT.

The WITNESS. That is a fact; I have not seen it. There was one protest that I did see, that was made to the commissioners and referred to Mr. Brinkerhoff, that I published on the bottom of my tariff, that freight leaving Kansas City at night will reach the principal points of Kansas in time for early morning delivery the next day. Through an oversight the word "Leavenworth" was not inserted. They made a formal complaint to the commissioners and said we ought to be pulled up before the Interstate Commission. That was corrected and the word "Leavenworth" inserted in my last tariff.

NO DISCRIMINATION AGAINST LEAVENWORTH.

Q. Do freight trains leaving Leavenworth, in case they are on time, make a quick connection with your freight trains going west on the main line?—A. I think they do.

Q. Is it your intention that they should?—A. It most certainly is. Leavenworth is just as much a competing point as Kansas City. There are two other lines running west from there.

Q. Do you know of no discrimination in the management of your system against Leavenworth and in favor of Kansas City?—A. No, sir; whatever rates I make to and from the Missouri River or Kansas City are made from Leavenworth in either direction.

Q. Why is it that you did not run a passenger train sufficient to accommodate the public from Lawrence to Leavenworth in the morning instead of in the afternoon?—A. You are outside of my province now. I do not know anything about it.

FREIGHT ON MAIN AND BRANCH LINES.

By the CHAIRMAN.

Q. Taking a certain distance upon the main line of the Kansas Pacific at the eastern end, and the same distance upon the branch line, how does the freight traffic compare as between the main line and the branch line?—A. Last year we had no corn for a hundred miles west of Kansas City, and we had no local traffic.

The CHAIRMAN. I am taking the eastern end.—A. I am taking that now. One hundred miles west of Kansas City is the eastern end of the Kansas division. We had no corn, and for that reason the farmers were poor, and they shipped no merchandise out. Our business was materially less in both directions for, say, 100 miles west of Kansas City than it was the year before; while, when we got to our branches, we did have crops, and the farmers did buy merchandise, and we had traffic.

AN ILLUSTRATION.

Q. When you reach your branches, taking a junction with any branch and a similar distance on the branch line and the main line, how does the business compare?

The WITNESS. May I mention a station and see if I gather what you want?

The CHAIRMAN. Yes.

The WITNESS. Junction City is 139 miles west of Kansas City. [Illustrating on a map.] Here is the main line of the Kansas Pacific, and the branch line comes in here. I take those two points to be equal.

Q. How does the freight on those two points compare in volume?—A. I should say that the branch line, in the last year that I have been here, gave more business.

Q. How much more?—A. I could not tell you.

Q. About what percentage?—A. I should not want to guess at it.

Q. Will you furnish the Commission with any figures?—A. I do not know that I can.

Q. What is the difficulty?—A. I do not know that I have the facts in my possession.

Q. Do you not return the volume of freight passed over your branch line against the main line?—A. I have returns of business forwarded and received at a station, but I do not necessarily know the destination or origin of it.

The CHAIRMAN. I am speaking altogether of local traffic between the points.

The WITNESS. I understand that.

CIGARS AND DRINKS TO SECURE BUSINESS.

Q. Have you ever entertained any of the residents along the line of the Kansas Pacific, or people whom you thought could be secured to ship over the Kansas Pacific road?—A. I may have given them a cigar occasionally when I met them, or something like that, or thrown a drink into them when they were thirsty.

Q. A cigar was the extent?—A. Yes, sir; possibly two or three.

Q. Were the two or three cigars the limit of your hospitality to ship-
pers?—A. I do not recollect at this time having exceeded one, but I
want to be on the safe side.

Q. How do you charge up your expenses for such entertainments to
the Union Pacific Railroad?—A. I do not charge it up to the Union Pa-
cific road. It is included in my salary, I suppose.

CARRIAGE FOR COMMISSIONER OF RAILROADS.

Q. Your expenses of that character are defrayed entirely out of your
salary?—A. I have never put in one nickel for the entertainment of
anybody, except, I believe, I put in a charge for a carriage which I hired
for General Johnson.

Q. Who is he?—A. The United States Commissioner of Railroads,
who was here on a tour of inspection, and I took him over to Arm-
strong.

Q. Under what account would you enter such a charge as that?—A.
To the account of carriage to General Johnson, United States Commis-
sioner of Railroads.

Q. How would they put it into the accounts at the office?—A. I do
not know anything about it. I do not know how they divided it.

Q. You do not know whether they put it into the india-rubber ac-
count or not?—A. No.

Q. Have you any further information to give us?—A. No, sir; none
that I think of.

KANSAS CITY, MO., *Thursday, July 7, 1887.*

A. J. MEAD, being duly sworn and examined, testified as follows ==

By the CHAIRMAN:

Question. What is your business?—Answer. Grain and elevator.

Q. How long have you been in business?—A. About eight years in
this place.

Q. During that time have you been in Kansas City?—A. Yes, sir.

KANSAS CITY BOARD OF TRADE.

Q. Are you a member of the board of trade?—A. Yes, sir.

Q. Do you hold any position in the board of trade?—A. No, not
present.

Q. How long have they had a board of trade organization in Kan-
sas City?—A. About ten years.

Q. Have you been a shipper over the Kansas Pacific or any of the
lines subject to the Union Pacific Railway Company?—A. Yes, sir.
That is, I have been a purchaser of grain on that line.

Q. Have you been a purchaser for your own account?—A. Yes, sir.

TWO LOCAL RATES EXCEED THROUGH RATE.

Q. During the time that you have been in business have there been
any complaints with reference to the rates for freight on the Kansas
Pacific or the branch lines?—A. I do not know that I could state that
there has been. There has been a combination between the western
and eastern points. There has been considerable complaint from the
public here.

Q. What has been the nature of the complaint?—A. The excess of the two locals over the through rate.

Q. Will you please explain that?—A. That the rates through, for instance, from a western point, take any point west, we will say Saint Louis, have been less than the two locals. That is, the rate from the western point to Kansas City and Kansas City to river points. I think that is about the only complaint I know of.

DIFFERENCE OF RATES.

Q. What has been the difference in the rates?—A. That varies considerably.

Q. How much?—A. In the past months the difference in prices between Kansas City and Saint Louis have been between 1 to 4 cents a bushel on grain.

Q. Prior to April 1, what was the difference?—A. That is about the date that the markets have been closest.

Q. Have the rates varied to suit the market during the years you have been shipping?—A. The rates have been pretty steady. I do not think there has been much variation.

Q. Have you had any knowledge of any special rates that have been made by the company to shippers?—A. No, sir; not in a positive way. I know it only by hearsay.

Q. Have there been any complaints as to special rates being granted to shippers?—A. Not from the Western roads.

The CHAIRMAN. I am speaking of the Kansas Pacific now.

The WITNESS. No, sir; not that I know of.

Q. Have you as a shipper had any special rates?—A. No, sir.

Q. Have you ever had any rebater?—A. No, sir; I buy the grain at the stations. We take the current rate, whatever it is, and make the prices for the grain at the stations, less the freight.

Q. Have you ever shipped grain at any other rate than the public rate?—A. No, sir; not over the Kansas Pacific road. I shipped from here East, but not over the Kansas Pacific. All of my dealings on that road have been on tariff. That is, I buy it—I bid for the grain at the stations at a price less the freight to this point, taking the local tariffs.

The CHAIRMAN. We understood you had some figures you could give us.

The WITNESS. No, I have not.

KANSAS CITY, MO., *Thursday, July 7, 1887.*

Afternoon session.

EDWARD H. ALLEN, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am not in any commercial business; I am president of our Exchange Building Association and Board of Trade.

Q. How long have you filled that position?—A. Two years before this; this is my third term of one year each that I am now serving.

Q. How long have you resided in Kansas City?—A. I have resided in Kansas City since October, 1865.

TWO LOCAL RATES EXCEED THROUGH RATE.

Q. Have you any knowledge of any complaints as to the Kansas Pacific Railroad management in reference to freight rates?—A. I have no knowledge of any complaints other than that shipments from points on the Kansas Pacific road to points beyond us, through this town, can be made at less than the combined rates from that point to Kansas City, and from Kansas City to the remoter point of shipment, as, for instance, Memphis; that on a shipment from a point west, where the local rate from that point into Kansas City is 10 cents a hundred, and the local rate from Kansas City to Memphis is 18 cents, the through shipment from the western point to Memphis through Kansas City, involving transshipment from one road to the other, can be made for 25 cents.

EFFECT OF DISCRIMINATIONS.

Q. What effect has that upon this community?—A. It has interrupted the handling of grain at these points, and it forces persons who are dealing with these southern points to purchase their grain at points west of this, and handle it without loading or unloading at this point.

Q. Have the complaints been presented to the Union Pacific Company?—A. I do not know that they have; I only hear that from the shippers.

NO ACTION BY BOARD OF TRADE.

Q. Has the board of trade taken any action?—A. We have never taken any action upon them; we are just about in the shape of taking up a notice of that class of difficulties with a view to see what action is possible; we have delayed activity partly from the fact that the interstate commerce law has gone into operation, and our legislature has just adjourned, and we are waiting to see what the local legislation will be on the question here before dealing with the question ourselves.

Q. How long have the complaints existed?—A. I cannot answer that question; I have heard of them more or less for a year or more past, but I cannot tell how long they have existed.

BETTER TERMS ALLOWED CERTAIN GRAIN BUYERS.

Q. Have you knowledge of any other complaints?—A. I have heard the allegation made that there were parties here who were buying grain at the West, shipping it in over the Kansas Pacific road, who must evidently have better terms of shipment than the general public, from the manner in which they are transacting their business; but I only know the fact that on the existing state of the market they can afford to pay a higher rate for grain, if necessary, than the general body of shippers can.

Q. That is to say that there has been a special or private rate as against the open published rate?—A. Yes, sir; that has been the feeling.

Q. How would it affect the shippers generally in the community?—A. It would give all the business to one person at an advantage.

Q. Is there any individual shipper who gets such advantages, to your knowledge?—A. There is one shipper whose name I have heard mentioned in connection with that feature of the case. As I say, I do not know these things of my own knowledge. I only repeat what I hear.

There has been one shipper in the community respecting whom that allegation has been made.

Q. What is his name?—A. His name is W. W. Cowan. I know nothing about the matter of my own knowledge.

Q. Have you any other information that you can give the Commission?—A. I do not know that I have.

COMPLAINTS SINCE PASSAGE OF INTERSTATE COMMERCE LAW.

By Commissioner ANDERSON:

Q. Have these complaints been made since the passage of the interstate commerce law?—A. The conversation I heard has been since the passage of the interstate commerce law; yes, sir.

Q. Has the peculiar advantage that this Mr. Cowan seems to enjoy existed since the interstate commerce law?—A. That I cannot state to you. The allegations have been made to me since April; but whether they are born of transactions prior to April or whether they are understood facts since April I am not able to state.

PLAN OF SETTLEMENT.

Q. Have you given any attention to the question of the relations between the subsidized roads and the Government of the United States?—A. No, sir; I have not paid any special attention to that question.

Q. Is the subject of the adjustment of those relations the subject of frequent discussion?—A. I have heard very little said about it in our community.

Q. Have you any suggestions to offer as to what would be deemed here a reasonable or fair adjustment of those relations?—A. No, sir; I could not say that I have.

KANSAS CITY, MO., *Thursday, July 7, 1887.*

WILLIAM H. MILLER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am secretary of the board of trade.

Q. How long have you been secretary?—A. I have been secretary fourteen years.

Q. How long have you resided in Kansas City?—A. I have resided in Kansas City since July, 1871.

COMPLAINTS OF HIGH RATES ON KANSAS PACIFIC.

Q. During your residence here have you heard of any complaints as to the facilities and accommodations afforded by the Kansas Pacific to the community?—A. I do not remember that I have heard very much complaint of it in former years. There has been some complaint, of course, of the Kansas Pacific, when it was the Kansas Pacific, as there has been of other roads. Years ago I used to hear a little complaint of the coal rates from this point to the West. I do not remember to have ever heard of any charge on that ground, however, except that the rates were excessively high. There has been some complaint made of their

rates from points on the Union Pacific Railroad eastward to Kansas City and through Kansas City; more particularly to Kansas City. Soon after the consolidation of the Union Pacific roads (the Kansas Pacific with the Union Pacific) there was a rate made on grain from the Kansas Pacific points which took the grain through to the Mississippi River points at about 7 cents a bushel less than it could be shipped to Kansas City, and thence on to the seaboard. There was considerable complaint by our merchants of that transaction. It was supposed to result from the fact that at the time that the consolidation occurred that road and the Missouri Pacific were in substance in the same interest, both belonging largely to and being under the control of the same parties.

FAVORS TO TOLEDO GRAIN FIRM.

I think it was in January, 1885—December or January—that some kind of an arrangement was made by which a grain firm in Toledo—I think it is Reynolds Brothers; it was always understood to be—were able to pay more for grain on the Union Pacific Railroad than anybody else was able to pay for it, no matter what advantages might be obtained by parties from points east of the terminus of the Union Pacific Railroad other in Kansas. They were always able to discount that by paying just a little more for the grain. Of course, what the facts were in the case, what was behind it, nobody was ever able to find out; but shippers naturally believed there was some combination by which the Union Pacific Railroad, or somebody connected with it, was being benefited by the rate.

A PRIVATE RATE.

Q. Was it a private rate or rebate?—A. Yes, sir; nobody ever exactly knew what it was. The only other complaints that I have heard that I remember of now are such complaints as those mentioned by Mr. Allen, and that was mainly on grain, rates being made from points on the Union Pacific through Kansas City to the other points at a sum lower than the sum of the two locals. In this connection, I would mention the fact that where the shipment breaks at Kansas City, the terminal expenses are all borne by the shipper; but where the shipment goes through and the terminal expense consists simply of switching the cars from one track to another, the terminal expense is borne by the railroads.

EFFECT ON GRAIN MARKET.

Q. What effect has it upon the community?—A. I cannot say that it has any particular effect on the community further than it has effect on the grain market. It takes away from us grain which we feel we ought to be able to handle, and would handle if the situation was equally favorable with us as with others. We have a very good grain market in Kansas City, and, of course, our people are desirous of handling the business; but when the rates are against them that way they have to quietly sit by and let the grain go through the city.

Q. Have you knowledge of any other complaints?—A. No, sir; I have not.

Q. Have these questions been discussed in the board of trade from time to time?—A. It has been a matter that has been under discussion with the board of trade, not with reference to the Union Pacific Railroad especially, but with reference to all the railroads. That has been a matter of constant discussion. We have made efforts to relieve ourselves in the past few years of some of these discriminations.

POOLS.

Q. During your residence here has there been much cutting of rates between the roads coming into Kansas City?—A. There has not been much since 1876. There was prior to that. That was eleven years ago. Since that time we have had a pool of the roads between Kansas City and Saint Louis and Chicago, and they have maintained the rates very steadily, except on two occasions. They had two rate wars during that time, when the rates were cut very severely.

THEIR EFFECTS.

Q. What effect has the pool upon the freight rates of a community like Kansas City?—A. The effect of the pool was to maintain a steady even rate, which was cut promiscuously by all the roads engaged in the pool, by secret rates and rebates to individual shippers. The consequence was that no man engaged in business knew exactly what his competitor was getting. Another effect that it had was to make the rates through the town lower than the sum of the two locals; more so than I believe would properly exist in the absence of pools.

TO RAISE THE RATES.

Q. After the contest of rates in 1876, when the pool was formed, were the rates higher or lower?—A. The rates were higher after the pool was formed. The object of it was to raise the rates. The pool did raise them steadily until, at the present time, the rates are, on some articles, higher. On merchandise they are higher. There are four classes, and they are higher than they were in 1876 and 1877, immediately after the pool went into operation. I have a rate sheet, but I did not bring it with me, and it shows that there is an advance of about 10 cents a hundred from 1878 to 1886 on the first four classes of merchandise, in consequence of the pool.

Q. Will you furnish the Commission with a copy of that?—A. I think I will, and if I have I will hand it to you. I will look it up and if I can find it. That was a rate sheet of the Southwestern pool, of the Union Pacific Railroad.

Q. Was the Union Pacific included in that pool?—A. No, sir; it was not. It was one of its western connections. The pool terminated at Kansas City.

HIGHER RATES CHARGED BY ROADS WEST OF THE MISSOURI.

Q. During that time what was the rate of the Kansas Pacific, as compared with the pool rate?—A. The rates of all the Kansas roads were always been higher. The roads west of the Missouri River charge higher rates than the roads east of the Missouri River, in the same way that the rates east of the Mississippi River are higher than the rates west.

Q. Do I understand you that the Kansas Pacific did not enter into the pool of 1877?—A. No, sir. That pool terminated at Saint Joseph, Chisholm, Leavenworth, Kansas City, and at East Saint Louis and Chicago. That was what was known as the Southwestern Railroad Association.

Q. My question was, since the cutting of rates and the formation of the pool—supposing that the Kansas Pacific had entered it—whether

the rates had changed; are they higher?—A. No; I do not understand that they had any effect whatever on the rates of the Kansas Pacific.

Q. How did the Kansas Pacific manage to stay out of the pool and maintain rates, although it came into Kansas City?—A. The pool did not extend west of Kansas City.

THE COLORADO POOL.

Q. Was there any other combination of railroads that ran west, in which the other roads and the Kansas Pacific were interested, as to freights?—A. Yes, sir; there has been what is known as the Colorado pool that embraced all the lines of roads that lead from Chicago and Saint Louis to Denver, Colo. Of that I know very little.

Q. When was that pool formed?—A. I cannot tell you when that was formed. I simply know of its existence. It was a pool that did not affect us materially, and I never had occasion to investigate it.

THE LONG AND SHORT HAUL.

By Commissioner ANDERSON:

Q. How would you suggest the rectification of the cases that you give of a through rate as compared with two locals, the through rate being 25 and the sum of the two locals being 28? Would you suggest raising the through rate?—A. I would suggest that the roads be required to charge the same, whether the shipment terminates at the end of the line or goes on to another road. In those instances mentioned by Mr. Allen, of two shipments of grain from points on the Union Pacific Railroad to Kansas City, and thence on the Kansas City, Springfield and Memphis Railroad, to Memphis, Tenn., at a lower rate than the sum of the two locals, where the shipment breaks at this point, it is evident that one or both roads get less for that shipment than if it terminates here and is reshipped, because we know that there is a terminal expense here in this city which the shipper bears and which the railroads in part bear when the shipment goes through. A cargo of grain coming into this city on the Union Pacific Railroad to go to Memphis is transferred by switching from one yard to the other, to the other road. That switch charge is paid for by the roads. The shipper, in that instance, has no terminal charge here whatever. But on a car coming in here to a shipper in Kansas City, who has it delivered into the elevator and reloaded and shipped to Tennessee, the switching charge is paid by him and all terminal charges are paid by him. It costs him \$2 to have it switched. Consequently, there is that much that we know the roads are out, in addition to what they are out when it goes through; besides which, if they carry it through from the points on the Union Pacific to Memphis, Tenn., for 25 cents, when we know they charge here 28 cents, we perceive there is that difference also that they lose on the shipment.

The CHAIRMAN. But the consignee, when he receives the grain delivered at Kansas City, has absolute dominion over it and may ship it to Memphis or any other point.

The WITNESS. Yes, sir; he may do so.

EFFECT OF THROUGH RATES ON GRAIN SHIPMENTS.

Q. Is it not also an advantage to the ultimate point of delivery to be able to get the shipment there for 25 cents instead of being compelled

to pay 28 cents?—A. It is an advantage to the party who owns the grain.

Q. Is it not an advantage to the community of Memphis?—A. If the movement of grain at that price is of such magnitude as to affect the market in Memphis, it is.

Q. So that what would be the loss to Kansas City would be a gain at the other point, would it not?—A. It would be a gain at Memphis. What would be lost by the shipper or railroad in making the through shipment as against the sum of the two locals would be the gain at Memphis, if the movement of that amount to Memphis was sufficient to affect the market at Memphis so as to lower the price. If it was not of such magnitude as to have that effect, then the benefit would inure entirely to the shipper.

Q. Would it not be also an advantage to the farmer who sells his grain to be able to command the Memphis market at 25 cents, instead of being compelled to suffer the effect on his own local market, which would result if the charge were 28 cents?—A. No, sir; it would not affect the Kansas farmer a cent's worth. The price of the grain is not regulated by the Memphis market, but by the general market of the country; and it is worth the same price whether shipped to Memphis or in some other direction.

GENERAL LOW THROUGH RATES AN ADVANTAGE.

Q. Do you not think, if the general through rates are low for the transportation of grain, that that is an advantage to the farmer who grows the grain?—A. Certainly. The rate on grain between this point, or between Missouri River points, and the Atlantic seaboard is substantially the difference between the market value at this point and the seaboard markets. The freight is the substantial difference. Our market here is based mainly upon the Atlantic seaboard markets, and it is the same, less the cost of freight and handling in getting it there. So that, of course, any reduction that can be made in the transportation from here to the ultimate markets of this country is so much gain to the farmers and producers.

PLAN OF SETTLEMENT.

Q. Have you given any attention to the subject of the adjustment of the debts of the Pacific railways to the United States?—A. No, sir; I have not enough information to really have an opinion on the subject. From what little I have looked into the matter, I have a feeling that very probably it would be an advantage to the country, as well as to the railroads, to give them some extension of time in the payment of their obligations to the Government. I have not looked into the matter in detail; but I understand that it is quite a burden upon these railroads to meet their interest and to maintain themselves as against competitors which have been built since they were built and have been built largely upon the prosperity of the country which the Pacific roads created, and which they are now sharing. These competitors have the advantage by reason of the larger burden on the Union Pacific Railroads, and it is a little difficult for them to meet their interest.

Q. Is that the general sentiment of the community?—A. I do not think the matter has been discussed enough in Kansas City, among the people with whom I have talked, for me to know what the sentiment is.

DEBT SHOULD BE PAID BEFORE DECLARING DIVIDENDS.

By the CHAIRMAN:

Q. Do you express that sentiment, knowing the fact that the Union Pacific declared dividends to stockholders from 1877 to 1884, of \$23,000,000, or over?—A. No, sir; I stated that I was not sufficiently familiar with the facts to form an opinion. I was simply expressing an opinion that I had from what little knowledge I had of it. No; if such a state of facts as that existed, I should say as long as they are able to pay dividends they ought not to be favored by the Government, most certainly.

Q. Have you talked with any of the authorities of the Union Pacific Railway with reference to this extension?—A. No, sir.

Q. Have they talked with you?—A. No, sir; I have never had any conversation with a Union Pacific officer on the subject.

KANSAS CITY, MO., *Thursday, July 7, 1887.*

Evening session.

JAMES HUMPHREY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What position are you holding?—Answer. Railway commissioner of Kansas.

Q. How long have you been railway commissioner?—A. A little over four years.

Q. How long have you resided in Kansas?—A. Thirty years.

INSUFFICIENT PASSENGER ACCOMMODATIONS ON BRANCH LINES.

Q. During your term as railroad commissioner have there been any complaints as to the facilities and accommodations afforded by the Union Pacific branch roads, or by the Kansas Pacific, or any road under the control of the Union Pacific Railway Company?—A. Yes, sir; there have been several.

Q. What has been the nature of the complaints?—A. There have been two or three, I think, of insufficient passenger accommodations and facilities.

Q. Over what roads?—A. The branch roads—the Solomon Branch, the Leavenworth Branch, also the McPherson Branch, and the Salina and Southwestern.

Q. What other complaints have there been?—A. I do not recollect any others with reference to the supplying of additional facilities, except that on the main line there have been several complaints from different localities that the passenger accommodations were inconvenient. I might explain that.

TWO PASSENGER TRAINS DAILY OVER MAIN LINE.

There are two passenger trains running over the main line each day; is, two each way; one chiefly to accommodate the through travel, makes stops at the principal stations. At the small stations it

makes no stops, except that at a few of the more important small stations they stop, when signaled; and at several of these small stations complaints have come to us, asking us to interpose our offices to have that through train stopped at these stations. I think there have been perhaps two or three complaints of that sort. In each case, however, we refused to entertain the complaints. We did not deem them reasonable. They had other passenger accommodations each way. The Denver express carried a large through passenger traffic, and was put on principally for the accommodation of that and the larger principal stations along the line, and not for the accommodation of the lesser local traffic. To have required stoppages at each station in the State would have disarranged the time schedule and delayed the through traffic, and broken the connections at each end, and delayed through passengers.

Q. Were there any other complaints?—A. I do not think of any others with reference to that matter.

UNFOUNDED COMPLAINTS OF DISCRIMINATION.

Q. With reference to any other matter were there any?—A. There have been some minor complaints, such as come from every railroad in operation in the State; and perhaps they have been in about the same proportion from that road in relation to the length of line and the amount of traffic as have come from the other railroads of the State, with reference to overcharges occurring chiefly from the mistake of agents in computing freight or giving the wrong rate. Those are the principal matters complained of. Yes, sir; there have been several complaints of discriminations, which, upon investigation, the board has ascertained to be unfounded.

ALLEGED DISCRIMINATION ON THE JUNCTION CITY AND FORT KEARNEY.

Q. What were the complaints of discrimination?—A. I remember one that was investigated pretty thoroughly about a year ago by a grain man. He was a man engaged in the grain trade along the line of the Union Pacific road. He had some competitors in the same market, and one or two of them were paying—two, I believe—a cent a bushel more sometimes than he could afford to pay, or the market would permit, with a profit. He thought they were getting a better rate than he was, although they shipped over a different road, the Missouri Pacific; but they were in the same competitive territory. He had made complaint to the company over whose road he shipped.

Q. What was the name of the road?

The WITNESS. Over which he shipped?

The CHAIRMAN. Yes.

A. It was a branch line, the Junction City and Fort Kearney, a branch line of the Union Pacific. He had made complaint that his competitors were getting a better rate on grain to the Missouri River, than he was getting, and wanted them to cut down from the tariff and place him on an equality with his competitors.

INVESTIGATION SHOWED NO CUT IN TARIFF.

By Commissioner ANDERSON:

Q. When you say Missouri Pacific, do you refer to the Central Branch Union Pacific?—A. Yes, sir. We investigated the case, and found that there had been no cut. We interrogated the officers of that company,

and also the grain dealers, his competitors, and we ascertained that there had been no cut in the tariff. The rates were the same on both roads. The reason why his competitors paid a price slightly in advance of his was, that they were buying, not selling immediately upon the market, but to store for future rise, and to induce a large quantity to their warehouse and elevators they paid a little better price. One of the competitors had in store at that time 75,000 bushels of grain. That is one of the parties he complained was getting a better rate. They were not shipping at all, but were simply storing the grain, so that we, after investigating it, summed the matter up, and found there was no cut in the rates on either road. If the Commission would like, I can send to it a copy of that decision which states the facts very fully.

The CHAIRMAN. We will be obliged to you if you will furnish a copy of the report to the Commission.

The WITNESS. Yes, sir; I will do so. The decision is in print and incorporated in our report, and I can send the Commission either a manuscript copy of it, or a copy of our report.

SOMETIMES A CUTTING OF RATES AT COMPETING POINTS.

By the CHAIRMAN:

Q. Are complaints set out in full in the report?—A. Yes, sir.

Q. Do I understand you to say that during your term as railroad commissioner you have not found that there has been any cutting of rates as against the open rate by the railroad companies in the State of Kansas?—A. No; I do not say that. I said in that instance there had been no cutting of the rate. There sometimes have been on some roads a cutting of the rates at competitive points, or traffic brought outside of the State; on interstate traffic.

NO POOLS UPON STATE TRAFFIC.

Q. Is it not a fact that none of the roads that have entered into any pooling arrangement, or any agreement for the maintenance of the rates, have ever maintained either the pool or the arrangement as to rates?—A. I do not know about the pools. Our law abolished all pools within the State, and very soon after we came into office we had a conference with all the railroad managers operating in the State, and it was arranged then that all the pools should be abolished. A part of them had expired, and arrangements were made to put an end to them, and I think there have been no pools within the State upon State traffic since that time.

By Commissioner LITTLER:

Q. Since when?—A. Since 1883. There have been pools on interstate traffic without doubt; in fact, I know there have been at some points.

MAINTENANCE OF RATE ON STATE TRAFFIC.

By the CHAIRMAN:

Q. How have they maintained rates upon State traffic?—A. They are pretty uniform. There has been very little complaint of cutting rates upon State traffic.

Q. How have they managed to maintain the rates?—A. I do not know. They have been pretty uniform; at least, so far as I know, there has been very little complaint of cutting.

Q. Has it been by agreement?—**A.** They have published tariffs, you know, and copies of those tariffs, both special and general tariffs, are filed in our office; and usually, when there is any cutting done, the man that does not get the cut complains. We have had complaints come to our office of cuts on interstate traffic, over which, of course, we have no control; but I do not now recollect of any complaint of any cuts on local traffic. There may have been, but it may now have escaped my recollection; but I do not recollect any.

PUBLICATION OF SPECIAL RATES.

Q. Are the special rates published?—**A.** Yes, sir; they are published, and copies are sent by the freight agents or the traffic manager to our office as soon as they are published.

Q. In what manner are they published?—**A.** Usually by posting; not always in that way, however. Each company has its own way. I am told, however, that no rates can be raised without publication, under the law, for sixty days prior to the taking effect of the rates. It is not necessary, under our law, to publish a cut—that is, to make it public—or any reduction in the rates; but usually, when a reduction has been made on local traffic, it has been announced by the road making the reduction.

MANAGEMENT OF UNION PACIFIC FAVORABLY REGARDED.

Q. Prior to your term as railroad commissioner, what was the condition of affairs with reference to the railroad management? I refer to the Union Pacific Railroad Company.—**A.** So far as my observation went, the Union Pacific was quite as well managed as any other road in this State.

Q. Were there any complaints at that time?—**A.** There were complaints from every part of the State—upon every line of railroad; and a great many of the complaints arose from the fact that there was no tribunal before whom to make complaints and have grievances redressed. Of course, that being the case, complaints or grievances, either real or supposed, were nursed by the people, and were talked of, and created a great deal of excitement and trouble. I presume, though I cannot state it as a fact, that there might have been more cause for complaint than there is now. That is very probable.

A GENERAL CUTTING OF RATES.

Q. Has there been any period when there was a general cutting of rates by the railroad companies?—**A.** There was a period soon after our board came into office when there was a general cut through the interposition of our board.

Q. In what year was that?—**A.** That was in 1884.

Q. After the settlement of the dispute between the companies, were the rates higher or lower?—**A.** They were lower.

Q. Have the rates continued at the lower rate to the present time?—**A.** Oh, yes, sir.

ITS EXTENT.

To give you some idea of the course of reduction in the rates, I may state the fact, which is a matter of computation from the reports to our board by the railroads operating in Kansas, of their traffic and earn-

ings, that although the freight traffic on all the roads had increased about 30 per cent. from the time we first came into office up to the 30th of last June, the freight earnings had decreased—the aggregate freight earnings—about one and one-half millions of dollars. That would indicate that the total reductions from local and through traffic had aggregated something over 30 per cent. within four years. I may say that besides the general cut to the whole tariff that was brought about by our board there have been other changes in rates, reductions chiefly on grain and coal and lumber and such articles; but the merchandise tariff, I think, has been pretty uniformly maintained at about what we fixed it.

RELATIVE AMOUNT OF TRAFFIC ON MAIN AND BRANCH LINES.

Q. How does the volume of local traffic over branch lines located in the State compare with the same character of traffic on the main line in the State?—A. In proportion to the length of line the traffic on the branch roads, I should think, equals the traffic on the main line, with this exception, that the traffic on the branch roads is taken on the main line and swells very largely its volume of traffic. They are very valuable and, indeed, necessary feeders to the main line. Take, for instance, the branches thrown out by the Kansas division of the Union Pacific road. You see there are five or six branches, I believe. The Leavenworth Branch, the Junction City and Fort Kearney, the Solomon, the Lincoln, and the McPherson. That makes five, I believe. I was going to state that I should think, speaking approximately and simply as a matter of judgment, I have no figures by which I can exactly verify my statement, but I should think that those branches bring upon the main line each day at least thirty-three car-loads of freight, and that, of course, swells the traffic of the main line that much. Possibly my statement is under the actual figures; but I should judge from my observation that would be approximately the case.

VOLUME ABOUT EQUAL.

Q. Taking the branch and a similar distance at the junction on the main line, tell me how the roads compare as to the local freight traffic on each?—A. Judging from the character of the country through which the branch roads run and the condition of agriculture, I should think that the local freight traffic for some distance would be fully equal on the branches to that coming on to the main line.

By Commissioner ANDERSON:

Q. That is, comparing local with local?—A. Yes, sir. The towns on the branches are as large, town for town, as those on the main line, and the country is as well cultivated and is as productive; and I should judge that there was not very much difference between the amount of local freight produced and consumed upon the branches and upon the main line for equal distances.

PASSES.

By the CHAIRMAN:

Q. Have there been complaints as to the issuing of passes by the Union Pacific Railway Company in Kansas?—A. I think the only complaint I have heard in that respect is that they are not quite as liberal as some of the other companies; that they are too sparing, or, at least,

that they are more sparing, in the matter of passes issued, or, to use a common phrase, more "niggardly" than some of the other companies.

Q. Have they been in the habit of issuing passes to any extent?—

A. Yes, sir; to some extent.

TO WHOM ISSUED.

Q. To what classes of people are passes issued?—A. So far as my observation has gone passes have been issued to account of some county officials (for instance, the county attorney and perhaps the register of deeds), with the understanding between the law department and those officers that they shall reciprocate by assisting when called upon in the business that the company may have in that locality—the local business, and so on. Of course, passes have been issued by all the companies, more or less, to members of the legislature. That, I think, has been the universal custom among all the railroads for a good many years.

NO PARTICIPATION OF THE RAILROAD IN POLITICS UNDER PRESENT MANAGEMENT.

Q. Have any of the officers or employés of the Union Pacific Company, or the branches, roads under their control, located in the State of Kansas, participated in any way in influencing legislation or in political contests?—A. Not for the last four years. I think that there was, prior to Mr. Adams's management of the affairs of the company, some participation on the part of officers of that company with political affairs but since then there has not been.

FORMER PARTICIPATION.

Q. To what extent did they participate?—A. The attorneys of the company would, to some extent, try to influence the local elections for members of the legislature. I do not know how general that was. I know, I believe, of two or three local instances; but there was considerable complaint prior to about four years ago of interference by railroad companies generally with political affairs in the State. There has been less since then. I have heard no complaint lately. In fact, I am satisfied from my observation that there has been no grounds for complaint in that respect on the part of the Union Pacific officers and employés for the last four years. I know from personal observation that the employés and officers have been free to vote as they pleased, and were not required to participate actively in elections, except as other citizens have done.

HOSTILE LEGISLATION.

Q. Has there been hostile or general legislation in the State affecting the interests of the roads controlled by the Union Pacific Railroad Company?—A. No, sir; nothing that could be denominated really hostile. Of course there is in all of these Western States what is termed the "Granger" sentiment, that sometimes acts without due consideration or without perfect knowledge. But I will state that since our board has been organized there has been no attempt of any serious character to enter upon any hostile legislation against railroads in Kansas.

COMPLAINTS OF GRANGERS ABOUT HIGH RATES.

Q. What was the nature of the complaints the Grangers made?—A. That the rates were too high. That was the staple of the complaints; that they were paying too much for the services rendered.

Q. Were the rates too high?—A. We thought so, or else we would not have reduced them. After coming into office we examined all the tariffs of all the railroads in the State. Complaints were made to our board from different localities, but chiefly against other railroad companies, the Missouri Pacific and Atchison, Topeka and Santa Fé. There were no complaints along the line of the Union Pacific of excessive rates.

REDUCTION OF RATES ON RECOMMENDATION OF RAILWAY COMMISSION.

Upon those complaints first mentioned, after a thorough investigation, our board thought the rates were higher than they needed to be, and we recommended a reduction all through the tariff on an average of perhaps a little over 15 per cent. The Union Pacific conformed their tariff to the reduced rates of the other roads, when the other roads adopted our recommendation as to their lines, which rendered the tariffs of the leading lines of the State quite uniform. I might state that since then, a little over a year ago, a complaint came from a place up the road, complaining that the wheat rates were too high, brought about by the heavy reduction in the price of wheat; and the board took that into consideration and thought that a further reduction in the wheat rate might be made. It so certified to the company, and the company adopted the board's recommendation, and other companies made a similar reduction.

REBATES.

By Commissioner ANDERSON:

Q. In regard to the practice of allowing rebates on different kinds of merchandise, is that not very common on the lines of the Union Pacific and other railroads in Kansas?—A. I do not know. Of course we do not know anything about rebates in our office, unless complaint is made and some pointer is given for us to investigate.

Q. Is it not a matter of common notoriety that rebates are given and are claimed to be necessary for the protection of railroads?—A. No; I should not say it was a matter of common notoriety, but I presume that it is a fact that upon all railroads rebates are given at times, and under circumstances where it is supposed they ought to be given, and perhaps sometimes where they ought not to be given. I do not know. But there is very little talk in Kansas about rebates, especially about discriminative rebates, upon any road.

ON ORE SHIPPED TO OMAHA.

Q. Have you never heard, for instance, of the rebate allowed on ore shipped to Omaha for the purposes of the smelting works there?—A. No. You see there is interstate commerce, and we have nothing to do with that; and even if rebates of that sort were given it would not be likely to reach our notice or attention.

By Commissioner LITTLER:

Q. These rates you refer to are only as to the main line in Nebraska? The CHAIRMAN. There are instances of complaints.

The WITNESS. Of course we do not know anything about these matters unless complaint is made by some party who is discriminated against.

Q. My object was to ask you, if you were familiar with the fact that such rebates were given, whether, in your judgment, they were in fact made necessary by the requirements of the parties and by the relations which that particular trade held to the railroad itself?—**A.** I could not deliver judgment on that unless I knew all the facts that would either justify or condemn the giving of the rebate.

PLAN OF SETTLEMENT.

Q. Have you given any consideration to the general question of the relations of these railroads to the United States Government, with reference to the adjustment of the debt?—**A.** Some; not very closely.

Q. Have you given it sufficient consideration to have matured a judgment as to what ought to be done?—**A.** Yes, sir; I think so. I have an opinion about it, and a pretty strong one.

Commissioner ANDERSON. We should be glad to hear it.

UNION PACIFIC PROPERTY SHOULD BE PRESERVED.

The WITNESS. I think it is very important, in the first place, to the Government as well as to the people that the Union Pacific property should be preserved, and that it should be preserved in a solvent condition; and in my judgment the only way in which that can be done is, in the first place, for the company to occupy its proper territory and field by a system of branch lines. Other roads are invading its territory. Unless that is done and a system of protection is carried out its business will be divided and the road will soon become bankrupt. That is inevitable to my mind. Of course to enable the company to do that I should think it would be necessary to extend the time for the payment of its debt and to give it the same facilities to borrow money and project these works that other railroads enjoy, preserving, of course, to the Government whatever of additional security the building of branch lines would create.

ITS PRESERVATION THE GOVERNMENT'S ONLY SECURITY FOR PAYMENT.

In my judgment the only security that the Government has in the future for the payment of its debt is to preserve the property in that way. That is, by preserving its territory from constant invasion, and that can only be done by occupying it. In the eastern part of the State the territory of the Union Pacific is already invaded and occupied by a number of rival lines now building very rapidly over and across its territory in different directions, which will divide a very valuable part of the traffic it now enjoys. The western part of the State is rapidly settling up, and its agricultural resources are being developed, and there is a field there from which the company might perhaps recoup itself so far as the Kansas line is concerned; but all that property will be occupied by rival lines unless the Union Pacific Company is permitted to occupy that property.

THE SALINA, LINCOLN AND WESTERN.

For instance, one very valuable territory which it now occupies of the line recently built (which is a very valuable feeder) would have been occupied to-day and would have been occupied for the last year or

two had not the company hastened the building of that line. I mean the Lincoln branch line.

Mr. ADAMS. The Salina, Lincoln and Western.

The WITNESS. Yes, sir. The Missouri Pacific had already projected a line up that valley, and in fact had solicited, and the people were preparing to vote them, bond aid to build a line up from Selina to Lincoln Center and beyond.

DONATION TO RAILROADS.

By Commissioner LITTLER:

Q. Are your people still allowed to vote donations to railroads?—A. Oh, yes; but the amounts which the people are allowed to donate now are restricted to \$2,000 a mile; it was formerly \$4,000.

EXTENT OF AGRICULTURAL LAND.

By Commissioner ANDERSON:

Q. How far to the west of the Missouri River does the line of actual agricultural land now extend?—A. We used to think that it extended to the region of Brookfield, 200 miles west; but the universal belief is now that it extends to the Colorado line. They are raising good corn and wheat and other agricultural productions in counties as far west as the Colorado line.

Q. That is how many miles?—A. A little over 400 miles, about 440 I think, by the railroad; but that whole region evidently will be brought under a state of culture within no long period, for several counties west of the place I speak of, Brookfield, 200 miles, the country is all cultivated and thickly settled, and they raise good crops year after year, where a few years ago we thought nothing could be raised; but the seasons have changed and the rain has come more frequently and more seasonably, and they are raising good crops and are prospering.

THE AGRICULTURAL LINE PUSHING WEST.

That agricultural line is all the time pushing farther west. When I first came to Kansas the people living at Topeka said that there was no country west of Topeka that was fit to be inhabited. It never rained west of Topeka. When I reached Fort Riley the same cry was raised. That is a little over 135 miles west. So it went on, but settlements kept pushing out, and they found lands just as good farther west as in the eastern part of the State, and the seasons improved with the cultivation. There seems to be no end to the limit of productiveness of Kansas soil and Kansas climate.

By the CHAIRMAN:

Q. Have you expressed to others the opinion that you have expressed to the Commission?—A. I think it is likely. Possibly a year ago I was interviewed by a Kansas City journal correspondent, and I expressed the same opinion, which was published in that journal.

IMPORTANCE OF THE LINCOLN EXTENSION.

Q. Have you talked with any of the officers of the Union Pacific Railway Company concerning this extension that you have spoken of?—A. I may have done so, I have no distinct recollection though now about it.

Q. Could you recall the fact whether you had such a conversation?—**A.** Yes, sir; I recollect having such a conversation with Mr. Adams prior to the building of this Lincoln branch road. I met him up the road and called his attention to the importance of building that road and occupying that territory.

Mr. ADAMS. You went up the road with me, if I recollect.

The WITNESS. Yes, sir; I recollect that now. I then told Mr. Adams that unless that company built up the Selina Valley from Selina northwest, it would be very soon occupied by other roads rival or competitive to the Union Pacific, and that that was their territory and ought to be occupied.

Mr. ADAMS. I remember you spoke to me about the richness and fertility of the country.

The WITNESS. Yes, sir; I think we had a general conversation at that time when I was suggesting those matters.

Q. Do you recollect any other officers of the Union Pacific that you talked to concerning the extension?—**A.** I do not now. I may have done so. I know I have had it on my mind several years in looking over the territory. It has impressed me very strongly that the future of that property was intimately dependent upon and connected with the occupation of that territory, where that road should have branch lines. It seemed to me that that was the only way that the company could maintain its solvency and pay its obligation to the Government, and I think possibly I may have urged those views upon other officers of the company, but I have no distinct recollection now.

DIVIDENDS OF \$23,000,000.

Q. Did you express this opinion with the knowledge of the fact that the Union Pacific Railway Company had declared dividends from 1877 to 1884 of \$23,000,000 and had built over 2,000 miles of branch lines?—**A.** No; I had no knowledge of what dividends had been declared up to the time I took office. I had no knowledge of the operation and management of the property until that time. Since then, of course, the company has made, as required under our law, a very full report of all its doings and its earnings and its freight traffic and the management of the roads, both of the main line in Nebraska and the Kansas division, and also the branches to our office; and since then I have had knowledge of what has been done.

Q. And your opinion is based, with the other information you have, upon that knowledge?—**A.** Yes, sir; I think there has been but one dividend declared—I will not be absolutely certain, but it runs in my mind that there has been but one dividend of 6 or 7 per cent. reported to our office since our board was organized.

Q. Was the last dividend declared in April, 1884?—**A.** Yes, sir; that is my recollection.

By Commissioner ANDERSON :

Q. One and one-half per cent.?—**A.** It was at the rate of 6 per cent. a year.

EFFECT OF EXTENSION OF DEBT.

Q. What effect would the extension have upon the community as to rates?—**A.** The extension of the road?

Q. No, the extension of the debt. What effect would that have upon the community?—**A.** It would not have any effect whatever. You see

the Union Pacific occupies a competitive territory from Kansas City to Denver, and it is compelled in order to maintain its proper share of the traffic along its line to conform to rates charged on the roads on either side of it. It cannot charge higher rates. If it does it loses the traffic. It must conform to those tariffs that are made for other roads, the Atchison, Topeka and Santa Fé on one side and Burlington and Missouri on the other.

EFFECT OF FAILURE TO EXTEND TIME OF PAYMENT.

By Commissioner ANDERSON:

Q. What difference would it make if the extension were not granted?
—A. It would not make any difference, except the road would likely either have to be operated by the Government at a loss or else go into bankruptcy and decay and its efficiency be wiped out and the people lose the service. The only way in which the people could be properly served would be by building another road in its place.

ANOTHER ROAD MIGHT HAVE TO BE BUILT.

By the CHAIRMAN:

Q. How would the people be served by building another road when they have half a dozen roads already?—A. No; there is no road that is exactly parallel to this—none that occupies exactly the same territory. There are quite a large number of towns, for instance, and a large scope of country that this road serves exclusively. If it were wiped out, those towns and that scope of country would have no railroad facilities. It would be necessary, in order to restore the railroad facilities to these people living along the immediate line of the road, if that road were wiped out, to build another.

MULTIPLICATION OF ROADS AN EVIL.

Q. If freight pools and passenger pools, or freight arrangements under agreement, and passenger arrangements under agreement multiply with the multiplication of railroads, how are the people to be benefited by the increase of roads?—A. Of course they are not. I think the multiplication of roads is an evil. I think where you multiply roads through a territory beyond the demands of traffic they are an evil. And the tendency, rather than to a reduction of rates, is to a rise of rates, making of pools, and cutting off competition.

Q. That is to say, do I understand you, the fewer roads the greater benefits conferred upon the people?—A. No, sir; I do not say that. I say where you multiply roads beyond the needs of traffic and the needs of the people you have more capital to sustain, and that capital, if it is sustained, must be sustained upon a higher average of rates.

MEASURING THE NEEDS OF TRAFFIC.

Q. How do you measure the needs of traffic?—A. That is only measured by testing it by the building of lines. For instance, if the people are well served by existing roads it is pretty good proof that no more are needed at present; but in this Western territory and all through the Western States it has occurred that railroads have been built ahead of population and business; and that is especially so in Kansas. Kansas seems to be a promising field for railroads. It is developing with

unexampled rapidity; its resources are rapidly developing. It seems to be a field that attracts investment of railroad capital far ahead of the present needs.

PUBLIC SENTIMENT.

By Commissioner LITTLER :

Q. To what extent are the views expressed by you in relation to the extension of this debt shared in by the people of this State generally ?

—A. So far as I have heard any expression, I think that the opinion is well-nigh universal.

Q. You have heard the subject discussed enough to enable you to reach that conclusion, have you ?—A. I have heard it discussed by a number of intelligent men, especially public men, men connected with the government of the State, and that seems to be the universal opinion; that both the interests of the Government and the people would be equally served by some equitable extension.

Q. Has it been discussed in your legislature at any time ?—A. No, sir; I think not. I think the subject has never been brought up there.

By the CHAIRMAN :

Q. Has it been discussed in the newspapers of this State ?—A. Not generally. I think it has perhaps, to some extent, but I do not think the question has been very thoroughly understood. Several newspapers I have noticed have taken the matter up and have discussed it on that line. It was discussed some in Kansas City by the papers here, some time ago.

Q. Are they all of one mind ?—A. I have heard no sentiment expressed to the contrary.

MEMBERSHIP OF RAILWAY COMMISSION.

By Commissioner LITTLER :

Q. What position do you occupy with the railway commission of this State ? Are you its chairman ?—A. I am simply a member of it. We have no chairman. The law does not provide for a chairman.

Q. How many compose your board ?—A. Three.

Q. Please give us the names of the other two ?—A. Almerin Gillette and A. R. Green.

Q. Where do they reside ?—A. One resides at Emporia, and the other at Cedar Valley, in the southern part of the State.

The CHAIRMAN. You have promised to furnish us with copies of your annual report.

The WITNESS. I will send you, as soon as I reach Topeka to-morrow, copies of our reports. I am not certain whether we now have a full set.

Commissioner LITTLER. Send them to Denver, please.

The WITNESS. Very well, I will send them to your chairman.

RATES AT ATCHISON AND MARYSVILLE.

By the CHAIRMAN :

Q. Have you any other information that you can give the Commission ?—A. I do not know. If the Commission will point out what they desire, I may possibly know something that I have not stated; but I do not think of anything now that will be of use.

Q. As a matter of information, we would like to have your judgment, if you are familiar with it, on how it is that the freight and passenger business, especially freight, from the junction of the Central Branch Union Pacific, with the Union Pacific where it crosses the State at Atchison, is shipped at a lower rate than from Marysville to Saint Joseph, on the Saint Joseph and Grand Island?—A. They each have their independent tariff. The chief market for all the productions on the Central Branch road is Kansas City, and the distance around is a little greater; but all the rates to the Missouri River from points in Kansas are the same. That is, they are not based exactly on distance, because the river does not pursue an exactly north and south line, but it runs north-westerly, so that as you reach the northern part of the State the distances from Western Kansas to the Missouri River are somewhat shorter.

GRAIN SHIPMENTS BY CENTRAL BRANCH TO ATCHISON.

By Commissioner ANDERSON:

Q. The point we could not understand is this: That the gentlemen familiar with the movements of grain there state that it is quite common for grain which lies quite close to the Saint Joseph road, and within its proper territory, has been hauled a distance of 12 to 15 miles to the Central Branch, and then carried over the Central Branch to Atchison, although the same freight agent states that the rates are substantially the same. Why is that?—A. The reason is this, chiefly—the reverse has sometimes been the case. The Missouri Pacific uses the Central Branch as a feeder to its line, and it reduces the rate at this end, where it reaches the main line, Pacific proper, for the purpose of inducing that traffic to go through to Saint Louis on its line. That is, it reduces the rate on its part of the line from Atchison south and east for the purpose of increasing the volume of traffic over that road.

Commissioner ANDERSON. I may say that that explanation suggested itself to me, and I have asked Mr. Garrett whether that was not the fact; but he stated that the rates to Saint Louis both from Atchison and from Saint Joseph were the same.

DISCRIMINATIONS.

The WITNESS. Yes, sir; the tariff rates are. But they sometimes, for the purpose of inducing traffic, vary them a little. We had a complaint that came to our board some time ago, charging that the rates on the Saint Joseph Railroad would be 3 cents lower on the Central Branch, and the grain was coming from points from 70 to 100 miles west of the Missouri River, right from the Central Branch road to the Saint Joseph and Grand Island. Complaints were made to our board that the Central Branch was charging a higher rate than was charged on the Saint Joseph and Grand Island. We inquired into it and ascertained that that was owing to the cut on the Chicago, Saint Louis and Wabash road. That was soon after the road went into the hands of receivers. They had made a cut for the purpose of getting a large grain traffic, and that cut of 3 cents, or of 5 cents, on that line brought grain from the Central Branch to the Saint Joseph and Grand Island.

MISSOURI PACIFIC ACCOUNTS TO UNION PACIFIC.

But I may say, that our understanding is that the Missouri Pacific is required to account for the tariff earnings, or for the earnings of that road in accordance with the tariff; so that whatever cut it makes, if that is the case, and that is my understanding—

By Commissioner LITTLE :

Q. Account to whom?—A. To the Union Pacific for the tariff earnings. If that is the case, the cut must be made on the Missouri Pacific.

Q. Have they a right to make such an arrangement as that under your railroad law?—A. Oh, yes, sir.

DETENTION OF FREIGHT AT LAWRENCE.

By Commissioner ANDERSON :

Q. In regard to the complaint made by some citizens of Leavenworth with reference to the management of freight on the Leavenworth Branch, and also to the management of passenger trains on the Kansas Central Branch, were those matters brought to the attention of your board?—A. Yes, sir.

Q. What truth is there in the assertion that freight bound from Leavenworth west is detained for a period of fifteen or twenty hours at Lawrence?—A. I do not know that it is detained, except in rare cases. I think that is not habitual.

AN EXPLANATION OF THE CAUSE FOR DETENTION.

But we have inquired into that, and find the facts to be as follows: The company runs a freight train, with a passenger car attached, out of Leavenworth at 2.50, I think, in the afternoon. That reaches Lawrence, I think, between 5 and 6 o'clock in the evening. The company starts a fast freight train at Kansas City in the evening of the same day; and the freight that is brought from Leavenworth is attached to that train, or put into that train and carried west. But a great deal of the freight from Leavenworth is broken freight. That is, there is not a full load for any one point; and when it reaches, for instance, a place like Junction City, a part of it has to be taken up the branch, and part on the main line and distributed. That car has got to be thrown out until the freight can be assorted. That is, until that part that goes up the branch can be put into another car. Meantime the train goes on and the car is left. That I understand, from my inquiries, is the principal cause of delay in the Leavenworth freight, which seems to be, if that is the case, somewhat unavoidable, although unfortunate.

TRANSFER OF FREIGHT CARS TO FAST TRAIN.

By Commissioner LITTLE :

Q. Is there any delay in car lots that you know of?—A. No; I understand not. I am sure that is not so. In fact, I have heard of no complaint.

Q. From your knowledge of the running of trains, should the trains from Leavenworth reach Lawrence in time for the cars to be added to this fast freight train and go right along?—A. Yes. The time is so arranged, as I understand, so that the freight from Leavenworth can be transported on the fast-freight line on the same evening west.

Q. Provided it all goes on the main line?—A. Yes.

DIVISION OF FREIGHT.

By the CHAIRMAN :

Q. Have you any knowledge of the diversion of freight from any of the aided roads in Kansas to unaided roads?—A. No; I have not.

Q. Have you any knowledge of the diversion of freight from any of the aided roads to any of the unaided roads?—A. No, sir; I do not see

how that could very well occur in Kansas. I think the reverse of that proposition would be the case. The Leavenworth people have complained that the company, instead of carrying freights from the western portion of the Kansas Central road, the narrow-gauge, all the way to Leavenworth, diverted it down the branches on the main line. That is one element of their complaint. That is, instead of running it on the unaided road they run it down on the aided road, to swell the volume of traffic on that road; making even that road which runs to the Missouri River tributary to the aided line; at least to the western portion of it. I know that is the case; and it is very reasonable that it should be so, because freights have to be transported to Kansas City or Saint Louis or Chicago, and make connections here or find a market here. If the products were carried the whole length of the Central road they would have to be shipped around to Lawrence, and on the main line from Lawrence to here; whereas, if it is taken on the branches, the Junction City and Fort Kearny Branch and the Blue River Valley Branch, and down on the main road, it is carried more expeditiously and gets the longer haul on the main line, the aided road, and is carried more cheaply to the company. The rate would be substantially the same.

CONSTRUCTIVE MILEAGE.

Q. Have you considered the question of constructive mileage and its benefits to branch lines?—A. I think there is an obvious equity in giving branch lines a constructive mileage. I do not see how otherwise they could be properly credited with their proper earnings. For instance, a load of freight is taken from Kansas City destined to a point on a branch line. It is carried under one tariff, that is, the tariff is so much for the whole trip or for the whole haul, but the proportion of that tariff on the branch line, that being at the terminal or at the farther end of the haul, would be an infinitesimal quantity of the whole, a very much less proportion of the whole rate than the distance would warrant or call for. I understand that, as a rule, constructive mileage is given to a branch line for the purpose of showing its true earnings.

GIVES BRANCH LINE FAIR SHARE OF EARNINGS.

Q. Is constructive mileage an aid to a branch line or a contribution by the main line?—A. No; I should not think so. It is simply intended to give to the branch line its proper and equitable proportion of the earnings; that is, its real earnings; that is, that which it has earned.

Q. Based upon what?—A. Based upon the tariff.

ITS BASIS.

Q. What would the constructive tariff at a mile and a-half to a mile of the main line be based upon?—A. If it simply got that proportion of the actual tariff earnings that its mileage called for, getting the small end of that tariff earnings, it would not get as much of it as its mileage would warrant. For instance, suppose the whole earnings for 150 miles, 30 miles of which were on the branch line, were \$40 a car. I give it simply approximately, as I have to make some nice figures to get it accurately. Under the tariff, as it is constructed, that 30 miles of branch line would get of that \$40 total freight for the load, perhaps, \$3 or \$5. All the rest would go to the main line.

STRAIGHT MILEAGE.

Q. That is, you are speaking now of straight mileage?—A. Yes, sir; of straight mileage. You see, the tariff is so constructed that as you

increase the distance the amount of charge is less in proportion, as you increase the distance, for a short haul the tariff is much higher than for a longer haul, but as you increase the distance you do not increase in the same proportion the charge. If you did, you would make charge enough to confiscate the value of the product. You scale it down in proportion to the distance of the length of haul, so that the branch lines, away up the main line 120 or 150 or 200 miles, get the little end of that long haul.

METHOD OF MEASURING ALLOWANCE.

Q. How would you measure the amount or percentage that you would allow under those circumstances?—A. That, I believe, can only be measured by ascertaining what the traffic would be in proportion to the distance, taking the traffic of a given period. Experience has shown about what the proportion should be in order to give to each branch its proper proportion of the earnings.

POPULATION NOT A FACTOR.

Q. Would the population have anything to do with the percentage that should be allowed to the branch lines?—A. No, sir. The tariffs are uniform over the branches and over the main line. That is, they do not have separate tariffs for the branch roads, but in arranging the tariffs the branch road is reckoned as a part of the main line. That is, the tariff is continuous, as though it were a part of the main line.

By Commissioner ANDERSON:

Q. The chairman means that as the factor for a mile varies from $1\frac{1}{2}$ or $1\frac{1}{3}$ to 2, as compared with each unit on the main line, whether the selection of $1\frac{1}{2}$, $1\frac{1}{3}$, or 2 is guided by the population on the branch line?—A. Oh, no. As I understand, from conversation with these traffic men who study up the subject, it is based upon experience. That is shown by experience to be a proper equation, showing the real earnings of a branch line. I believe the principle is universal.

By Commissioner LITTLER:

Q. Does it grow out of the fact that it is impossible for the branch line, with only a short haul, to do business on the same tariff rate that a main line can do it, having a long haul?—A. Certainly.

CONSTRUCTIVE MILEAGE BASED UPON TRAFFIC.

By the CHAIRMAN:

Q. Then the general traffic manager, Mr. Kimball, of the Union Pacific Railway Company, is certainly in error, in your judgment, when he bases his percentage of constructive mileage in making his estimate partly on population?—A. My understanding is that it is based upon traffic. He may take that into his calculation. I do not see what bearing it would have.

Commissioner ANDERSON. Population would affect the traffic, of course.

The WITNESS. Yes, sir; the population would affect traffic. That is, your traffic is in proportion to the population you have. That is a fact. So that the same result would occur on either basis.

The Commission then adjourned to Friday, July 8, 1887, at 10 a. m.

KANSAS CITY, Mo., *Friday, July 8, 1887.*

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

JOHN P. USHER, being duly sworn and examined, testified as follows :

By Commissioner ANDERSON :

Question. Where do you reside ?—Answer. At Lawrence, Kans.

Q. How long have you resided there ?—A. I hardly know. I have been up in this country, connected with this railroad, since 1865. I have been here most of the time, and have considered myself a citizen of Kansas for the past thirteen or fourteen years.

Q. You moved your family here to Kansas City in 1873 ?—A. No, sir; to Kansas—to Lawrence. I built a house there. I do not recollect exactly ; it was about that time.

THE LEAVENWORTH, PAWNEE AND WESTERN.

Q. When was your first connection with this railroad enterprise—with the Leavenworth, Pawnee and Western, for instance ?—A. Actively, in 1865.

Q. You were connected with that enterprise prior to that date, were you not ?—A. In some senses I was.

Q. Were you at the time of the passage of the original bill in 1862 ?—A. No ; I had no connection with it then.

Commissioner ANDERSON. In 1862 was the passage of the original bill ?

The WITNESS. I know what you mean. I think I did have something to do with the passage of the original bill ; it was before I had any official position.

Q. Where did you then reside ?—A. In Indiana.

Q. In what city ?—A. Terre Haute.

Q. When were you admitted to the bar ?—A. It was in January, 1839.

Q. In what State ?—A. New York.

SECRETARY OF THE INTERIOR UNDER LINCOLN.

Q. What official positions have you held under the Government ?

The WITNESS. The Government of the United States ?

Commissioner ANDERSON. Yes.

A. I was Assistant Secretary of the Interior, and Secretary.

Q. In what years ?—A. I was appointed Assistant Secretary soon after the passage of the act creating the office of Assistant Secretary.

Q. Under what President ?—A. Lincoln. I was the first Assistant Secretary.

Q. You were the first to exercise the functions of that office ?—A. Yes, sir.

Q. So that will give us the exact date. What other offices have you held ?—A. I was Secretary of the Interior from early in January, 1863, to the 15th of May, 1865.

INCEPTION OF SCHEME TO BUILD THE KANSAS PACIFIC.

Q. Please turn your memory to the inception of this scheme of building this Kansas Pacific Railroad. What are your first recollections

about it? Who was interested in the scheme?—A. I may be a little at fault, but I do not know; I will tell you as well as I can remember now.

Q. Do you remember Mr. Isaacs?—A. I was here in Kansas in 1861, and was engaged by Messrs. Isaacs, Ewing, Stone, and McDowell about getting some treaties, just before the office that I afterwards held was created. I did help them. At that time I do not think that they or I—I am sure I did not—contemplated the subsequent legislation which took place in Congress.

NEGOTIATIONS FOR LANDS OF INDIAN TRIBES.

Q. The first steps, then, were negotiations for cessions of lands from Indian tribes?—A. Yes, sir; they already had a right to purchase certain lands from the Delaware Indians, and they wanted a further right to purchase of the Pottawatomie Indians.

Q. The right to purchase from the Territory of Kansas?—A. No, sir.

Q. A right obtained how?—A. Through a treaty which they hoped to have made and ratified by the Senate which would give them those rights; the State of Kansas had nothing to do with it; it had no control over the Indians. They succeeded in getting that treaty with the Pottawatomies which authorized them, or authorized this company, the Leavenworth, Pawnee and Western, as it was then called, to acquire these lands at a dollar and a quarter per acre.

Q. That was a Kansas corporation?—A. Yes, sir; it was chartered by one of the first Territorial acts of the legislature.

LOCATION OF LAND.

Q. That land was situated directly westward from this vicinity?—A. No, sir; it was beyond Topeka and was 30 miles square. The Pottawatomie reservation commenced from here 80 or 100 miles. The far side of it is 100 miles from here; I will say 70 miles to the side nearest here. Saint Mary's, which you may go through, is about in the center of it. The company had the right to purchase that land and promised their contractors to give it as part consideration for building the road. The contractors were to pay the stipulated price for the lands.

ITS QUANTITY.

Q. How many acres did the reservations embrace?—A. The whole reservation is 30 miles square.

Commissioner LITTLER. Ninety thousand acres.

The WITNESS. It was 30 miles square, but then there was a diminished reservation of 80 acres or 160 acres each, and the outlying lands were to be sold to the company at this price of a dollar and a quarter an acre. When the time came for paying the money, so inauspicious were the prospects of the increased value of these lands over and above what it would cost in money, that the contractors abandoned and did not purchase the lands at all. They were afterwards sold to some parties in interest in the Santa Fé Company for a dollar an acre, as I was informed.

FINALLY SOLD BY THE GOVERNMENT.

Q. Sold by whom?—A. By the Government, when a subsequent treaty was made; that is my recollection of it. I was talking with one

of the chief men of the Pottawatomies, and he said that when they were on at Washington to make the treaty they delayed the treaty for several days and hoped our people would come on and take the land, and they wanted them to have it, but they did not come, and it was sold. So the company never got anything out of that.

FORM OF PLAN FOR BUILDING THE ROAD.

Q. Please tell us the form and shape that the scheme for building the railroad took, starting from the inception, which I believe was to construct the road from Leavenworth to Lawrence; and describe to us what the plans of that old company were in regard to the construction of this railroad.—A. I, of course, cannot give you any very intelligent information upon that subject; I can only tell you my impression. This company was organized under a Territorial charter, and the directors were appointed by that charter.

THE "POTENTIAL" PROMOTERS.

About those times Russell, Majors, and Waddell, who afterwards were famous in respect to the Floyd acceptances, were potential men. Russell was in that scheme, and I think he was about the only man in the scheme that had much capital. As far as I know, the people here were generally without means to invest in railroads in those times; they perfected the organization, I should judge, from the records which I have seen. I have not got them now, they are at Topeka. The organization was about all they had, so far as I know, from any records I have seen. No money was ever paid up, but they kept the organization complete. Finally, General Stone, who was a man of some fortune at the time in this country, came here from Kentucky. This I do not know personally.

Commissioner ANDERSON. We will take it for what it is worth.

The WITNESS. That is what I heard. He was influenced by parties at Leavenworth to become interested in the project, I believe. And General Thomas Ewing was here. Stone was influenced to put in some money. I think they had already got this Delaware treaty, in Mr. Buchanan's time. So that that was a nucleus with which they claimed to have some hope of raising some money.

Then they went on, and, with a view of getting together some show of property and values, they procured this Pottawatomie treaty. I believe they also attempted to do some work on the road.

THE SURVEY MADE.

They had it surveyed, any how. I think they had the survey and location farther than Lawrence. There was a Mr. Medbury, of Columbus, Ohio, who was the engineer that surveyed and located the road.

Q. What is his full name?—A. I believe it was William. I used to know of him in New York. He was a famous civil engineer. He had been an engineer of the Ohio canal, and was acquainted with Ewing. At least, I suppose he was. I think they commenced to work some little.

THE DELAWARE TREATY.

By the Delaware treaty, the company was bound to pay a certain sum of money at a certain time; the time expired for the payment of this money early in Mr. Lincoln's administration—very early. They went

to him, or Mr. Ewing did, and explained the whole matter to him; Mr. Lincoln was anxious to help them, and to get the road made, or to do what he could for it, as was characteristic of him; and he proceeded to draw a modification of that treaty, by which they could pay over bonds instead of money, and so put the time off for the payment of these lands. The draft of that treaty, I think, will be found to be largely in Mr. Lincoln's handwriting. That, I think, was in 1861.

Q. Will you give us that date?—A. It is not here. I am very confident that it was in 1861 that the company was relieved of this forfeiture. That treaty was sent to the Senate and after various amendments it was adopted, and so the company was able to hold on to the property.

THE DELAWARE RESERVATION.

Q. These are not the same lands that you referred to in the early part of your examination?—A. They are not the Pottawatomie lands; they are the lands over here.

Q. From the Delaware tribe?—A. Yes, sir; the Delaware reservation. They are from Leavenworth to Lawrence.

By Commissioner LITTLE:

Q. How much land was embraced in that treaty?—A. Two hundred and fifty odd thousand acres, I think; that is my recollection. I do not pretend to be certain about figures. I have never schooled my mind in that direction. Therefore, I say I think about 250,000 acres.

Commissioner ANDERSON. Please proceed with your story.

PROPOSITION TO BUILD THE UNION PACIFIC.

The WITNESS. I think it was after this treaty was made and ratified that it was earnestly proposed to build the Union Pacific Railroad—the transcontinental road. The Republicans had the control of Congress in both branches and they were committed to that action by the Chicago platform under which Mr. Lincoln was nominated. All Republicans were committed to it that adhered to the platform. So they started in to get up a scheme to build this road.

Q. Was the scheme addressed to any particular road, or simply to providing communication between the Pacific Ocean and the East?—A. I do not remember the first draft, although I had much to do with it. There are a great many things in the bill now I recognize as mine. That was in 1862, I think. Mr. Bennett, of New York, with whom I studied law, was the draftsman of the bill.

ITS TERMINAL FIXED AT OMAHA.

When this bill was made and presented to Congress there came flocking in from all quarters parties who wanted the terminal point of this road to be at divers places upon the Missouri River, all the way from Sioux City to Kansas City. I remember when Mr. Lincoln had to determine the point at which it should be fixed in Nebraska, opposite Iowa. I went up with Dr. Durant, who had the thing in charge then for the Union Pacific, as he was vice-president, to see Mr. Lincoln about it, and Dr. Durant said, "Now, the natural place for this terminal point is at the mouth of the Platte River, but Omaha is the principal town in Nebraska. The wealth of the Territory is there, and the energies of the people radiate from

there, and I think they ought to be considered, and the best thing is to start it from Omaha." I remember very well Mr. Lincoln looked at the map and said, "I have got a quarter section of land right across there, and if I fix it there they will say that I have done it to benefit my land." But he said, "I will fix it there, anyhow." So that was the way it was done.

OPPOSITION.

I go back now. They came flocking in from all quarters. Here came Stone, Isaacs, and Ewing with their scheme to make Leavenworth the point. They complained that they did not have a fair show because of the war, and that the House and Senate were denuded of their proper representation, or Leavenworth would have been made the terminal point upon this river. Sebastian, of Arkansas, who was then out of the Senate, had been formerly chairman of the Committee on Indian Affairs, and had had something to do with this Delaware treaty, and they said he had been their warm friend. It seemed they had talked it over with him. Frank Blair was in the House from Saint Louis, and all Missourians in Congress who were accused of sedition and rebellion had been excluded from Congress, and the new men who filled their places were not all of them very much versed in the matter; but Blair was, and he insisted that instead of going from Leavenworth it should go from the mouth of this (Kansas) river.

THREE BRANCHES BUILT.

Q. The mouth of the Kaw River?—A. The mouth of the Kaw River, on the south side or east side, to connect with the Pacific Railroad of Missouri, which was then built to Jefferson City. It was built up to Otterville, where Frémont made a camp. With Blair's influence, and that of the members of Congress from Kansas, they succeeded in getting a compromise and getting the bill soformed that the main line should start from the hundredth meridian, between the Platte and the Republican Rivers, and from that point there should be three branches built; one opposite Iowa, one here at Kansas City, or rather at the mouth of the Kaw River, and one at Sioux City. That was all.

EXTENSION OF HANNIBAL AND SAINT JOSEPH.

And then it was injected into the bill that the Hannibal and Saint Joseph might extend its road from Saint Joseph to a connection with this line, not more than 100 miles from the river; and they construed that afterwards to mean that they could start down at Atchison, 25 miles below Saint Joseph, and give it to another company which had been organized under Territorial law, which they called the Atchison and Pike's Peak road, that they could give it to that company, and they did so, and that concern got a million dollars out of it, but it never did build the road. Afterwards we had a good deal of litigation with that company about the land. I insisted afterwards that they did not build the road that they ought to have built. They were outside of the scheme entirely.

THE ONE-HUNDRETH MERIDIAN.

Q. Just tell me how many miles west of the Missouri River is the one hundredth meridian.

Mr. MINK. Two hundred and forty-seven miles, at Omaha.

A. I would not know. The act of Congress authorized the Leavenworth, Pawnee and Western to build this branch. The act was passed, as I believe, through the persuasion and the constant interposition of Stone, Isaacs, and Ewing, and their friends. They got this act adopted. The road, as constructed, does not go to the hundredth meridian as provided in the act of 1862.

Q. What do you mean?—A. It does not connect with the Union Pacific on the one hundredth meridian.

Q. The Kansas Pacific does not connect with the Union Pacific at the one hundredth meridian?—A. No, sir.

Q. Please tell us the point on the Kansas Pacific where it crosses the one hundredth meridian?

Mr. MINK. There is no station there, I think. It is $393\frac{1}{2}$ of a mile from Kansas City.

The WITNESS. That is as far as the subsidy bonds go.

Mr. MINK. Yes. I cannot tell you where the one hundredth meridian is.

ROUTE OF ROAD.

The WITNESS. We came up this way to Fort Riley, and we veered off this way to the one hundredth meridian. [Indicating on a map.]

Q. Towards the north?—A. Yes, sir; that is the way we should have gone; but when we got up to Fort Riley we determined to go on farther than the hundredth meridian, and got leave to make a connection farther west, but not more than 50 miles west of the meridian of Denver, by a subsequent act of Congress. This is an act to amend an act entitled, &c., approved July 3, 1866. The first section of this act says, "And provided further, that said company shall connect their line of road and telegraph with the Union Pacific Railroad, but at a point not more than 50 miles westwardly from the meridian of Denver, in Colorado."

HENRY BENNETT'S CONNECTION WITH THE SCHEME.

Q. Please tell me, before we go further, what connection Mr. Henry Bennett had with this scheme, and how he came to draw the bill.—A. I cannot tell you very certainly; but I will tell you what I think.

Q. Did you not draw the matter to his attention?—A. Yes, sir; I think I did.

Q. Did he then live at Elmira?—A. No; he never lived there.

Q. Where did he live, then?—A. He lived at New Berlin, in Chenango County. I studied law with him, and was under many obligations to him for his kindness and friendship for me. He was a very able man. He had been in Congress for a good many years.

THOUGHT THE UNION PACIFIC WOULD GET ALL THE TRAFFIC.

I was friendly to this enterprise. I think it was a grand thing. I imagined that the traffic of this country would be bound to go by this line, since it was here on the bend of the Missouri River, which was the farthest inland navigable point to be found bearing directly west in the continent, and here would be the great line.

Q. Do you mean the Kansas River, or generally the Union Pacific?—A. I am speaking generally of the Union Pacific; that the Union Pacific, or a branch starting from here, would command the trade of the continent. You must recollect that there were no railroads then except the Saint Joseph, which was a very indifferent one.

Q. You visited Mr. Bennett at New Berlin?—A. No; he was in Washington.

Q. You conferred with him there?—A. Yes, sir.

Q. You first called the matter, I suppose, to his attention? He was not familiar with it before?—A. No.

PASSAGE OF THE BILL IN CONGRESS.

Commissioner ANDERSON. I mean the drafting of the bill.

The WITNESS. I imagine so. I think, perhaps, I had undertaken it myself, and he and I together finally prepared a bill that was submitted.

Q. Do you remember who introduced the bill in Congress?—A. No; I do not.

Q. This happened at the same session at which it was passed, I suppose; the session from 1861 to 1862?—A. I think it was passed the same session it was introduced.

ITS FRIENDS.

Q. Who were the gentlemen whom you recall at Washington who co-operated with you in the efforts used to bring about the passage of the bill?—A. I do not recall to mind now anybody but him. I thought all the Republicans were in favor of it, if they could agree upon terms.

Q. Mr. Isaacs was there, was he not?—A. No; I do not recollect whether he was there much of the time. Stone was there most of the time, and so was Ewing. I do not remember Isaacs so well; that is, of his being there. I remember him very well.

Q. Do you remember Mr. Stinson?—A. Yes, sir; I do not remember his being there more than once.

Q. Do you remember Mr. Sam Hallett?—A. Oh, yes, sir; I remember him very well; but he had nothing to do with it then.

Q. He subsequently became interested with Fremont?—A. Yes, sir.

Q. That was not long afterwards, was it?—A. Oh, well, it was 1863, I suppose; 1863 or 1864; it may have been 1864.

Q. Do you remember that Mr. Stone was there very much during that winter in assisting the passage of the bill?—A. I think he was. I am pretty sure he was. I knew he had rented a room. He had a room and he lived at the National Hotel; I was occasionally at his room.

Q. Do you remember to what committee the bill was referred in the House?—A. I think there was a railroad committee created.

Q. Do you remember the names of any persons who were interested in it and with whom you conferred from time to time?—A. I never conferred with any of them that I know of. I remember Hiram Price was the chairman of this committee at one time, probably in 1864.

Q. With whom do you think you conferred as to what should be done to secure the passage of the bill?—A. I do not remember of any member of Congress.

Q. With whom did you confer, exclusive of members of Congress?—A. I do not remember that I did confer with anybody, unless it might have been with Stone and Bennett. Bennett had largely to do with it. He was there all the time. He knew all the members. I think he did.

Q. He had been a member of Congress for some time?—A. Yes, sir.

Q. He was not a member then?—A. No.

Q. He had a large acquaintance all over the country?—A. I think he had; a favorable one, too.

Q. At this time what stock of the Leavenworth, Pawnee and Western road had been issued?—A. I do not know, but I do not think any, or much of any.

STOCK OF THE LEAVENWORTH, PAWNEE AND WESTERN.

Q. Were you aware, or are you aware, that a certificate for \$5,000,000 of stock had been issued to Mr. Stone at this time?—A. No, I do not think it ever was. I have no record of it and I have never seen any record of it and I do not believe it ever was.

Q. Are you aware that any measures had been taken for the issuing of certificates which would entitle the holders to receive stock, to the extent of \$5,000,000, of the Leavenworth, Pawnee and Western road?—A. No.

ITS FIRST ISSUE.

Q. When was the first issue of the stock of the Leavenworth, Pawnee and Western road? I mean with reference to the passage of this bill and not as to the date—whether it was before or after the bill passed, in July, 1862?—A. The first within my knowledge was issued by the company after Mr. Perry and his party got control of it, which was after 1865.

Q. Have you never heard of an issue of stock prior to that?—A. In one sense you might say it was an issue, but I do not think it was. I do not consider it so in a legal point of view.

J. C. STONE'S SUBSCRIPTION.

Q. It was treated as legal stock and proceedings were taken to forfeit it; but what was it?—A. It was this, as far as I know: I will premise by saying that the charter of the Leavenworth, Pawnee and Western Railroad Company authorized the issuance of \$5,000,000 of stock. That was the limit. Stone, upon the books of the company, subscribed for \$4,000,000, or something like that.

Q. Was it not \$5,000,000?—A. It might have been for fully five. I remember it was in various subscriptions, following one right after the other. He got a parcel of certificates issued to him and I have seen some of those. I do not know that I have seen all. They read: "This certifies that J. C. Stone has subscribed for so many shares of stock." Then, I think, there was pasted on the back of these certificates—this was all in or after 1865 that I saw those certificates—a power of attorney to transfer. If you call those certificates of stock, why I have seen them. I do not call them that. I call them a mere certification of what had been done, not that he was the owner of any stock.

"SHAM STOCK."

Q. We will call them certificates for short, without calling them shares. While this bill was pending in Congress, was it a fact that Mr. Stone had the certificates under his control, or in his possession?—A. I imagined he did, but I do not know it. I never saw one in his possession, and I do not know.

Q. Did Mr. Stone, while in Washington, inform you that he had the certificates in his possession, and did he converse with you in regard to them?—A. I do not think he did. I have no recollection of it.

Q. Did you talk to Mr. Stone in regard to the use that should be made in regard to these certificates in reference to the passage of that act in Congress?—A. Oh, no.

Q. You never did?—A. No; I did not know anything of them. I did not know of it until after I came up here. I do not think that any of our people that I afterwards represented did know the exact nature of that transaction, because Mr. Sam T. Glover, a very eminent man, and very able, had been employed by the company to get rid of this sham stock, and they had treated this as though these certificates had been out—probably so, judging from this paper that Fremont dropped somewhere, but I do not know; whereas they should have denied their existence as stock, and asked that the subscriptions be canceled. They would have done that way, I think, if they had known the exact character of the transactions, and that fact has very much embarrassed the company in getting rid of this spurious stock.

Commissioner ANDERSON. What I want to get at is, what knowledge some of these gentlemen had of the existence of this sham stock at the time, in the winter of 1861 and 1862?

The WITNESS. I cannot prove it for you that they had any knowledge of it.

CONNECTION OF WITNESS WITH THE COMPANY.

Q. What were your precise relations to this company, which was then still known, I believe, as the Leavenworth, Pawnee and Western Company at the time?—A. I do not know that I could enlarge upon what I have already said.

Q. Were you their attorney in Washington?—A. In one sense I was. I was doing what I could. I do not remember to have been particularly employed upon any occasion.

Q. Did you receive any compensation for your services in Washington?—A. No.

Q. At no time?—A. No.

Q. Who requested you to go to Washington to see about it?—A. I was there. I do not know whether it was about that business or some other. I felt a deep interest in this thing, you know. I was anxious about it, as any other citizen might be.

HELPING THE SCHEME ALONG.

Q. Either as a paid or volunteer attorney, you were attending to that part of the business which was usually transacted by an attorney at law?—A. I cannot say that; I was there, and it was perfectly natural, as I wanted the thing done. I suppose, to give what influence I could to it, and look after and help it along. That is what I did. It was in the line of my feelings, ambitions, and hopes. I wanted to see this road built, and I did what I could to aid it. I do not see any objection to that.

BENNETT'S 20,000 SHARES.

Q. Did Mr. Henry Bennett receive 20,000 shares, or a certificate representing 20,000 shares of these sham certificates, before that bill was passed?—A. Not that I ever heard of. I do not think he did.

Q. You never heard it rumored?—A. No.

Q. You never have heard it rumored until this day?—A. Yes, sir. I saw they had dug up something over at Leavenworth. I suppose it was in reference to that.

Q. Was that the first you heard of it?—A. I know I heard of that very thing before.

Q. How long ago?—A. I suppose it was ever since I was connected with the road, in 1865, that that paper was outstanding.

Q. The paper was not publicly outstanding at the time, was it?—A. To us it was.

Q. You knew all about it?—A. I knew there was such a paper. I do not know how many of the public knew of it.

THE SALE TO FRÉMONT AND HALLETT.

Q. I want to know when you knew it first. Did you know it as soon as the paper was drawn up?—A. No.

Q. From whom did you learn of its existence?—A. I never knew anything about it until after Stone, Isaacs and Ewing had sold out to Frémont and Hallett. Then I heard of such a paper, but not of its contents.

Q. When did they sell out to Frémont and Hallett?—A. I think it was in 1863.

Q. In the spring of 1863?—A. In the early part of 1863. You may know better than I about that, from some evidence you have. I do not remember, but I recollect going over to New York. I felt this anxiety about it. I heard a rumor that they were talking of selling out to Hallett and Frémont, and I went over to New York for no other purpose than to prevent it. They were stopping at the Metropolitan Hotel.

PROTEST AGAINST THE SALE.

I protested against their selling; said that they were not the men to have control of such a property; that I had talked with Samuel Ruggles and various gentlemen of character and ability whom they could get to take hold of this road and build it.

Q. Interested in what way?—A. This gentleman that I am speaking of was a man that had been interested in public works, and was an energetic sort of man. I told them I had talked with him. I told them that means could be raised to build this road, and that it would be better for them and better for the company to keep this property out of the hands of these men; that it would be a failure if they got it, and I begged them to stop it. I was so anxious about it that I did that. I had no money interest in it in the world, except that the administration was committed to it, and I wanted it to be a success. Still they went on and sold out, and then afterwards I heard of this paper, but I did not see it.

STONE'S CONNECTION WITH THE TRANSACTION.

Q. From whom did you hear of the existence of the paper?—A. I do not know. I think very likely from Stone himself. I do not remember what he said.

Q. Give the substance of his statement. Did he tell you he had given an account to Hallett and Frémont, what they had done and explained to them the entire transaction?—A. He might have done it. He said he had given an account of their condition, &c.

Q. What did you learn about the alleged statements of this paper in regard to the issuance of these sham certificates?—A. Nothing. I took it to be a paper, from what he said, containing what he supposed his promises were.

Q. His promises in reference to the distribution of stock?—A. Yes, sir.

Q. Is that all you learned?—A. I think so. That is all I remember.

CONSIDERATION TO BENNETT.

Q. Did you not learn that it appeared on that paper that Mr. H. Bennett had received 20,000 shares, or a promise of 20,000 shares, of this stock?—A. No.

Q. When did you first learn that?—A. I do not know. I knew that he was to have something. Afterwards he became a paralytic, and was poor and unable to help himself, and when the final arrangement was made; which I will refer to by and by, if you will allow me, with reference to the construction of this road I insisted upon Mr. Perry and the parties in St. Louis making some consideration to him. I said that he had been very instrumental in influencing it and passing this bill, and in getting it up, and it could not have been passed without his help. He was then poor; I got it done.

Q. That is to say, you got him a recognition in the stock?—A. Yes, sir; but I did not get it on account of any promise that these men made to him, for I did not know about that; but I knew they ought to have paid him something.

HIS CERTIFICATES.

Q. Do you not know that at the time you secured this recognition for Mr. Bennett he surrendered the certificate which he had received from some one before that time?—A. No; I do not know that he ever had any. I know that he was not pressing at all and he committed it all to me. He was suffering, and said, "Get me something if you can." He was away in New York.

Q. Did he not give you that certificate then?—A. No, sir.

Q. You say you have seen these certificates?—A. I never saw any of Bennett's that I know of. I have seen certificates.

LAWSUITS ABOUT CERTIFICATES.

Q. Where?—A. I do not know. I have seen them in the hands of the company. We have had lawsuits about them; various lawsuits, here and there.

Q. Lawsuits against persons who were supposed to have these certificates?—A. Yes, sir; and with them. They sued us. Some of these certificates had indorsed upon them "not assessable" by the secretary, Sam Denman. The holders were quite vociferous to be recognized as proper stockholders because they had that indorsement upon the certificates.

STONE'S MEMORANDA.

Q. When did you first learn that on this memorandum of Mr. Stone there was a statement that these 20,000 shares, or the 20,000 shares represented by this certificate, had been given to him for the benefit of J. P. Usher, H. Bennett, Thompson and Smith, and that there was further statement that Judge Usher and Bennett were all right, but that Thompson and Smith should be allowed to slide?—A. I never learned that until I saw the paper, and I do not know when that was.

Q. Until you saw the paper?—A. Yes, sir.

Q. You have seen the paper?—A. I have seen a copy of it.

Q. Have you seen the original?—A. No; I do not think I ever did.

Q. Where did you see the copy?—A. I do not know but they had it at Saint Louis. I do not know where it was. I know we talked about it

it there. It seems to me somebody got hold of it in some way; I do not know how.

Q. Did you see the copy before or after General Fremont's bankruptcy?—A. No; I do not know when he was bankrupt. He had lots of money at one time, but he did not it seems have the ability to keep it.

Q. When was he said to have been bankrupt?

Commissioner ANDERSON. In 1864 or 1865.

The WITNESS. It may have been about that time. I do not know. I presume that likely enough that was it.

THE PROMISED CERTIFICATE FOR \$500,000 WORTH OF STOCK.

Q. Did Mr. Stone give you a certificate for \$500,000 worth?—A. Never.

Q. Or talked to you about it?—A. Yes, sir.

Q. He did?—A. Yes, sir.

Q. What did he say in regard to giving you the control of \$500,000?—

A. I will tell you all about that. I was very anxious to be connected with the road, and I talked with Mitchell, who was a member of Congress, when this bill was passed, from the Fort Wayne district. He was a very particular friend of mine, and I was of his. He was a very nice man. I talked with Mitchell and I said, "Now, we can get up a scheme to get this road and build it ourselves." He was a railroad builder—an internal improvement man—and made his money that way. He was a man without much education, but a man of great ability; and Lincoln was very fond of him. Mitchell said he would think about it. He was then out of Congress and engaged in trading in quarter-masters' vouchers. He went to Louisville, and there he met General Allen, as he told me, who was a rich man at that time, and he laid the matter before him, and General Allen said he would furnish a million dollars, if it was necessary, to start this road and build it. He said, "Now we are all right." I had before talked with Stone to see if I could get hold of it.

WANTED A CONTROLLING INTEREST.

Q. Get a hold of what?—A. Of the road. To get hold of the management of the road; I was ambitious to do that; I did not know anything about this matter, though.

Q. Did Stone say yes, he would give you an interest or control?—A. Yes, sir; he was very anxious and glad to have anybody to do it; but Mitchell went south and died.

Q. Was there not something said about how much interest you would have had in it?—A. Oh, no; I would not have had any interest in it unless it was a controlling interest, of course.

Q. When you say a controlling interest do you mean more than half of all the stock?—A. I expected to get enough for myself and party to control the road if we went into it.

Q. Was that the subject of conversation between you and Mr. Stone?—A. No; I do not know that it was. I casually spoke to him about it, if I could do so and so; that is my recollection. He was not anxious, he said, to control it himself and wanted to get out of it.

Q. In regard to the parties—you speak of yourself and parties controlling it—by "parties" you mean such gentlemen as this Mr. Mitchell and yourself and others?—A. Yes, sir.

Q. And Mr. Bennett?—A. No.

Q. He was merely the counsel?—A. He was just what I have told you and no more; he had no money to put in, and his age was such that he had no ambition.

Q. What other persons besides Mr. Mitchell?—A. John McManus was a very rich man, and he said he would go in.

Q. Of where?—A. Reading, Pa. But for the death of Mitchell there would have been no trouble about raising this money.

NO COMPENSATION RECEIVED BY WITNESS.

Q. You say that you received no compensation in any form for these services rendered in Washington?—A. No; I did not.

Q. You did not receive one of these certificates for \$500,000 of stock?—A. Never.

Q. Or a note or memorandum?—A. Nothing of the kind.

Q. Or a verbal promise by Mr. Stone?—A. No.

SUBSEQUENT RECEIPT OF STOCK IN NEW ROAD.

Q. And when the road was subsequently organized did you receive stock in the new road?—A. Yes, sir.

Q. How much?—A. I have a paper here that shows. Here is a paper that I found among the papers of Mr. Devereux, who was a clerk of the Union Pacific, eastern division, or of the Leavenworth, Pawnee and Western.

Q. J. P. Devereux?—A. J. P. Devereux. This contains the names of the parties who furnished the money to build the road, which you can see. They are the names of the people who furnished the money to build the road and to whom the stock was issued.

Q. Where does your name appear here?—A. There it is [indicating] for \$20,000.

Q. This paper that you produced was found where?—A. I found it among my papers or among Devereux's. I think among Devereux's papers. I was overhauling his papers. He was dead, and there was a great mass of immaterial and worthless matter among his papers, and I happened to see that and threw it out.

Q. What does it purport to represent?—A. It contains the names and the amounts that were furnished by the parties who advanced the money to construct the branch road from Leavenworth and the main line to Fort Riley.

Q. When was this paper found by you?—A. Four or five weeks ago.

Q. In whose handwriting is it?—A. I do not know; it is in the handwriting of one of the clerks. I do not think it is Devereux's.

R. M. SHOEMAKER & COMPANY.

Q. It is entitled "parties in interest in the firm of R. M. Shoemaker & Co." What was that firm?—A. I do not know that I can name them all.

Q. What was their business?—A. They had a contract—various gentlemen had—to build these roads, and they called it a firm. These gentlemen named in this paper advanced them money to aid in the construction or to construct the road and were entitled to the profits that should be made, and responsible for the losses in proportion to the amounts they advanced.

Q. How long after the passage of the act in 1862 is the date of the transaction referred to in this paper?

The WITNESS. With R. M. Shoemaker?

Commissioner ANDERSON. Yes.

The WITNESS. These contracts, I think, were dated July 1, 1865.

INTERESTS OF PERRY, GREELY, AND OTHERS.

Q. When was it that Messrs. Perry and Greely and the other gentlemen named here acquired their interests in this scheme?—A. I judge about 1864. I believe I told you that Hallett had the address to get Perry to advance him several hundred thousand dollars, not less than \$250,000, and it may have been \$500,000, towards building the road. Mr. Perry had nothing but the collaterals mentioned in his contract to get his pay back, and he got scared. He had the iron pledged to him that he had paid for, and he was bothered about that. He got into a lawsuit in New York with Fremont and he was a great deal worried. I think he had borrowed money from the bank that he was president of.

Q. So that in this way the interest of Hallett and Fremont had passed into the hands of what was known as the Saint Louis party?—A. Yes, sir.

WITNESS' INTEREST IN THE SCHEME.

Q. And this was along in 1864 or 1865?—A. Yes; I believe so.

Q. Did you retain your interest in this scheme during these intervening years, between 1862 and 1864 and 1865?—A. I had no other interest than as I tell you. I became actively interested in it when this contract was made.

Q. Through whose intervention did you become actively interested in it?—A. I think Mr. Perry invited me and was willing to have me, but I think it was mainly through my own efforts. I wanted to be interested in it.

WHAT THE FIGURES REPRESENT.

Q. Do you assert that the figures appearing on this paper represent actual cash payments?—A. Yes, sir; except this \$20,000 of mine, and that represents \$10,000 of mine in money, and \$10,000 which they gave Bennett, as I insisted that they should give him something. That was what he got. He was there and he was entitled to it.

Q. You actually paid \$10,000 in cash?—A. Yes, sir.

Q. Does the sum, \$217,000, opposite John D. Perry's name represent actual cash paid by him?—A. Yes, sir; I suppose so. It was agreed it was to be that.

FORM OF ORGANIZATION.

Q. What was the form of the organization which the company kept up during this period? Was there a regular board of directors?—A. Yes, sir. When Hallett came out here to take charge of the road and operate it I think the board was somewhat changed, but I do not know. I have not the record before me, but I have an impression of that kind, that he had the board about as he wanted it. The annual election came around in April, as I recollect, 1865, and then Fremont, who claimed to have some control of this spurious stock in some way, and his friends, tried to come in and wrest the corporation out of Perry's hands. Perry had succeeded to Hallett's rights and had got this stock as collateral.

HALLETT'S STOCK.

The stock that Hallett had was issued to him for work that he had done, or should do, in the construction of the road, entirely independent of this particular paper which seemed to have excited so much feeling in the country.

Q. Entirely independent of these sham certificates?—A. Yes, sir. Hallett had pretty nearly constructed the road to Lawrence with the money he got of Perry and some money that Fremont had given him. I think Hallett said that \$75,000 or \$80,000 was all he could get out of Fremont. But before we could get rid of Fremont we had to pay him \$200,000. Hallett had stock issued to him, and he had put that stock up as collateral to borrow of Meier, Greely, Perry, and others, and they had foreclosed upon that stock in the Wyandotte court before I came out here. They had the stock sold, and upon that stock they tried to keep control of the corporation, and they did. There was a rival board elected under the Fremont interest, but the Perry party had the books and the line of railway in their own hands and they kept it, and the other concern dwindled out. But it was a fight right there. That was before I came out. Hallett's heirs, several years afterwards, brought a suit against the company and all, or nearly all, the parties who furnished the money to construct the road, claiming they were entitled to a million dollars and more, and this transpired in the making of a record as thick as your arm when it reached the Supreme Court of the United States.

"LAND SCRIP."

Q. Go back to this paper. What is the meaning of the heading of the third column, "Land scrip"?—A. In the contract for the construction of the road Shoemaker & Co. were to have those lands on account of the construction. Some of the lands had been sold, and that scrip means the price to be paid, the notes or whatever it was, I suppose, for the lands. It belonged to the contractors.

MONEY PAID IN BY JOHN D. PERRY.

Commissioner ANDERSON. I will read from the paper, as follows: "John D. Perry." That refers, of course, to the gentleman of that name. The sum is \$217,000 which, as I understand you, means that \$217,000 is the amount in money which he had subscribed to the enterprise or had paid in?

The WITNESS. Which he had already paid. An agreement was arrived at in Saint Louis after three days of consultation and figuring. Mr. Perry had with him there Mr. Burrill, who was his counsel and Hallett's counsel. You know him. Scott had Mr. Ashbel Green. I was there, a sort of indefinite person. I was not particular counsel for anybody, but was looking out for myself. The Saint Louis parties had Glover and Shepley. After three days' figuring and working, one way and another, it was determined that Perry's interest should be figured down, his and the Saint Louis parties, to a million dollars. Then the Cincinnati parties and the Ohio parties and the Pennsylvania parties were to make up another million dollars. There are the names that made up the other million dollars. So Perry did not have to advance. I think he and the Saint Louis parties had already advanced over a million of dollars. Out of the million dollars to be advanced by the Pennsylvania and Ohio parties they got some money back.

SHAM STOCK HAD NOTHING TO DO WITH CONSTRUCTION OF ROAD.

But it was all fixed up agreeably in that way, and then after that was done Mr. Tom Scott, who was there all the time, refused to go on and advance this money or have his friends advance it unless Perry and his parties would give an indemnifying bond against this spurious stuff of Stone's. Before we could get the arrangement made we had to sign a bond, which Ashbel Green perhaps has got. It was drawn up by him, I believe. I know there was an indemnifying bond in behalf of the Cincinnati and Ohio parties against this spurious stuff. This sham stock in the Fremont paper had no more to do with this matter of furnishing the money and constructing the road than the bones of the mules that Fremont left in the Rocky Mountains. You might as well have brought a bag full of them here and strewn them over the prairie.

TALK ABOUT SPURIOUS STOCK.

Commissioner ANDERSON. We may assume that the fact of the issue of this spurious stuff was a subject of general talk among you all at the time of this meeting?

The WITNESS. Yes, sir; they were more or less afraid of it; and Scott said, after we had agreed, "You have got to indemnify us as to that," and we had to do it.

Q. At this period, when you had the talk with Tom Scott, and when the bond of indemnity was drawn, was it not also the subject of common talk as to the persons to whom this spurious stuff had been given and who held it?—A. I do not know that it was.

Q. Was it not alleged at the time that a large number of persons held this spurious stock, and did you not hear it?—A. I presume I did. In that paper you have the name of Thomas L. Price, I believe?

Commissioner ANDERSON. Yes.

THOMAS L. PRICE.

The WITNESS. He is one of the subscribers in this million dollars. It is not very likely that he had anything to do with that paper, or he would not have been here putting up his money.

Commissioner ANDERSON. He may have preferred the new love to the old.

The WITNESS. At any rate I never heard of his asserting anything of the kind. There is another man here, Rollins, and no more honest, faithful, and loyal man ever lived in Missouri.

MR. ROLLINS.

Commissioner ANDERSON. Mr. Stone has stated under oath that he himself personally delivered to Mr. Rollins 500 shares of these certificates.

The WITNESS. He has, eh? I would rather have Rollins say he did that.

Q. Have you ever heard Mr. Rollins deny that he had received that stock?—A. I have seen Mr. Rollins very little since that time, but I know very well he has never made any claim, or at least I never heard of his making any claim, in respect to anything of the kind.

Commissioner LITTLER. He is still living?

The WITNESS. He is living down at Columbia, as venerable and honorable a man as lives in this State.

Commissioner LITTLER. This Commission will give him an opportunity to be heard.

Commissioner ANDERSON. Of course. We want to hear any of those gentlemen who may wish to be heard.

NO CERTIFICATES OF STOCK OFFERED TO INFLUENCE MEMBERS OF CONGRESS.

Q. I will ask you this general question: Did you, at the time you were at work in Washington, know, either of your own knowledge or by indirect information of whatever character, these spurious certificates had been promised, or were being promised, to members of Congress for the purpose of influencing the passage of the bill under which the Leavenworth, Pawnee and Western road was constructed?—A. No, sir; I did not.

Q. You heard no rumors to that effect at that time?—A. I do not remember of any.

Q. Mr. Stone never questioned you about the delivery of or advisability of giving any of those certificates to members of Congress?—A. Never.

Q. Nor did he ever converse with Mr. Bennett in your presence on this subject?—A. No; I do not know that I ever met him with Bennett; I do not recollect.

DIFFICULTY IN DECIDING WHERE TO BUILD.

I will tell you what I thought at the time, that the whole trouble in this case was to get an agreement as to where these roads should be built, and where they should terminate, and what roads should be built; that there was no trouble with members of Congress about voting and passing the act whenever they could agree upon the terms. The Republicans had a large majority at that time in the House and in the Senate, and they were committed to the bill, and the Administration was in favor of it. Mr. Smith was there then, in the place that I afterwards occupied. Mr. Smith was secretary. I do not know of a dissent in the whole Administration. The Secretaries were all in favor of it.

Commissioner ANDERSON. But in the competition between different points for favor it is quite possible that methods should have been resorted to for the purpose of influencing Congressional votes. That is what we want to know about.

The WITNESS. That may have been done, but if it was so, it is without my knowledge. I did not know about these subscriptions, and I did not know how the thing stood at all. My only desire was to have the bill passed and to have this the point. I wanted it to start from the mouth of the Kansas River. I must say I have been a good deal disappointed that it has not panned out as well as I expected. We ought to have had the town on the other side of the river. There was no town here then.

THE SAINT LOUIS, CINCINNATI, AND OTHER PARTIES.

Commissioner ANDERSON. To come back to this paper: You say that this million dollars which was apportioned to the Saint Louis party, and the million dollars to the Cincinnati and other parties whose names ap-

pear here, were intended to be an adjustment of their various interests, and to represent the amount for which each name was to be credited as representing their interests in the new company?

The WITNESS. Yes, sir.

Q. It does not, then, represent cash actually paid at the time?—A. I do not think anybody was paid at the time. These Saint Louis and Cincinnati parties paid theirs by drafts, as I understood.

Q. To whom?—A. To Shoemaker & Co., who built the road; they drew on them for the money. This money mentioned here the Saint Louis parties had already spent. I believe as to Perry, who was deeply interested in this thing, and anxious to get his money back, that out of his money (he is credited with \$217,000; I think he did really put in more money than that) this \$10,000 for Bennett was taken.

Q. What had these people received for these amounts?—A. They received stock according to the contract, and bonds, and lands.

Q. Do you know the amount of bonds that were issued? Did they not receive bonds equal to the figures before you?—A. I do not know.

Q. Where will we find that statement of what was issued to them?—A. I had copies of the contract; you will find it in Washington. There was a suit there. Copies of all the contracts were set out in it.

SUIT BY BEN LEWIS

Q. What suit?—A. The suit of Ben Lewis against the company.

Q. On appeal to the Supreme Court of the United States?—A. Yes, sir.

Q. Have you a copy of the record?—A. No; I did have it; it is at Topeka now, I believe.

Q. What is at Topeka?—A. The record of this case. I am no longer the leading attorney of the company now.

Q. Is that suit still pending?—A. I do not know. It was ready for hearing, and I went to Florida and Judge Dillon said he would take care of it.

Q. It is still pending?—A. If it has not been decided or dismissed, it is pending.

Q. Can we retain this paper to make a copy of it? We will return it to you.—A. Yes, sir.

(The paper referred to is marked Exhibit 1, July 7, 1887.)

SUBSCRIBERS TO STOCK.

The WITNESS. You see by reading this paper over that a great many of these people you know; they live in Ohio and other places; Governor Dennison is here, and Judge Swan is here. Pendleton is here. George McCook is here, and Medbury, and the Jewetts. All of them are good citizens.

Commissioner ANDERSON. Is that a guarantee?

The WITNESS. It ought to be. Here is John A. Anderson. He was very anxious, I noticed, in Congress, to have your powers enlarged, and I suppose some of these enlarged powers you are after me about. His uncle is down here for \$75,000. He is as good a man as there is in Kansas. I do not believe he has gone into any dishonest transaction.

Q. After this arrangement with the Perry parties, please describe the progress of this enterprise.—A. These contractors went on and built the road as they had agreed.

Q. Shoemaker & Co.?—A. Shoemaker & Co.

SHOEMAKER & CO.'S "EXHAUSTIVE CONTRACT."

Q. Have you their contract?—A. No.

Commissioner ANDERSON. That is copied in this suit?

The WITNESS. Yes, sir; it is in the suit; you will find it there; there were a great many copies about. It was what has been called an exhaustive contract, if I remember right. That is, that all the bonds and all the stock were to be issued at so much a mile in payment for the work. For that particular kind of road they were to have the Government bonds. That is, for that particular part of the road. They were to have the Government bonds, and so much stock, and so many bonds of the company, and these lands and the Leavenworth subscription. They got those.

ITS EFFECT.

Commissioner ANDERSON. The effect of the contract was to give all the assets of the company, represented by bonds and stocks, at so much a mile, to the contractors, and the parties whose names appear on that paper were substantially interested, under the name of Shoemaker & Co., according to their individual proportions in this contract.

The WITNESS. You say, given all their assets. They had no assets but the Leavenworth stock, which they would get when they built the road.

Commissioner ANDERSON. But they had their own bonds and stock?

The WITNESS. Yes, sir; they could make those indefinitely. I would not suppose that was an asset. A man can give his note. He could swell his assets pretty largely in that way.

FAITHFUL TO GET OTHERS TO SUBSCRIBE FOR STOCK.

Q. Would it not have been possible for outside subscribers to have taken the bonds at par, have subscribed for the stock, and then to have paid the contractors in money what their work was reasonably worth?—A. Mr. Perry had tried that. I thought it might have been done through Mitchell and General Allen, who was a rich man. But that scheme failed. I do not think they could have negotiated the bonds for 75 cents on the dollar, cash. The Government bonds which they got they sold for less than par. They are now worth 117, or something of that sort.

VALUE OF GOVERNMENT BONDS.

By Commissioner LITTLER:

Q. Do you know just what they got for the Government bonds?—A. I know along first it was about 97. That is my recollection of it. It may have been 98. But their own bonds I do not think they could have negotiated at all. These lands up here that they got we paid \$1.28 for. That was their appraised value. They took them on the appraisal.

By Commissioner ANDERSON:

Q. You mean the Delaware land?—A. Yes, sir. They are worth now, some of them, \$100 an acre, and some of them are worth \$10 an acre.

WORK DONE BY SHOEMAKER & CO.

Commissioner ANDERSON. Just describe what Shoemaker & Co. did in building the road.

The WITNESS. They went on and built it satisfactorily. I think they had ten locomotives.

Q. How far did they build it?—A. Up to Fort Riley, or a little beyond.

Q. That is 130 miles?—A. My impression was that it was 140. I believe they went to Junction City, which we call 140 miles.

Mr. MINK. I think it is 170 miles.

DECISION TO BUILD ROAD BY WAY OF SMOKY ROADS.

The WITNESS. After that was done that was a point where we should have diverged, if at all, to have gone to the one hundredth meridian, where the connection which the first act of Congress provided for was to be made. Shoemaker was a great big man, but he was a very timid one. He valued his own life more than he did any of our property. He sent out two men to inspect the country. One was a brave, gallant fellow, named Schuyler, who galloped over the Smoky Hill division. He came and reported it a most excellent country. The other was a sort of heavy Dutchman from Indiana, who went up the Republican and got up to about 50 miles of the Union Pacific line, and got scared at the Indians, and he reported it a very indifferent country; and it was upon the reports of these men that we determined which way we should go. We went to Philadelphia, after these reports were made, and after discussing them we concluded the best way to go was by way of the Smoky Hill.

THE WORST WAY.

It was the worst way we could have gone. If we had gone up the Solomon, or up the Saline, or up the Republican, we would have had a better and a more valuable road and had more profit from it. Those were the lights we had. Then we set in to try to raise the money to build as far as the Government bonds would be issued; we were to have Government bonds to the one hundredth meridian. Mr. Johnson was President, and he determined, since we had gone by way of the Smoky Hill, that he would send a party to measure the line from the turn-off, or where we might have turned off, at Fort Riley to the hundredth meridian, where we might possibly have connected, between the Republican and the Platte, and then would give us so much along the line that we had constructed as would be equal to that distance, which was $393\frac{1}{2}$ miles. That gave us \$6,300,000 of bonds. That is the way that went.

THE CONTRACT WITH SHOEMAKER, MILLER & CO.

Q. You received those bonds?—A. The company got them, yes, sir, or their contractors did. They made a contract with Shoemaker, Miller & Co. They were nearly the same persons that had the former contract, but they changed the name. There was a parcel of these gentlemen that were in the first contract who said they would not go in, not because they had not the money, but because they did not believe it would ever pay back the money they put in. That was the condition of affairs then.

Q. How was the Jessup contract drawn? Was that payable in money or bonds?—A. He was merely the agent to sell.

Q. The agent to sell the bonds?—A. That was all; yes, sir.

Q. Do you know what the actual cost of the Denver extension was, in money, per mile?—A. No, I do not.

Q. How can we ascertain that?—A. I suppose you could make that up from the books of the company in some way. I do not know. Smith used to keep the books. He is not in the service of the company now. He is the manager of the Denver and Rio Grande road. If he had access to the books he could tell you.

Q. Mr. Smith, then, could give us this information, after examining the books?—A. Yes, sir; but I presume the books are at Boston.

Q. We have enough information to base our questions on. The information we desire is the actual cost, measured in money, and not in bonds or stock, as to the Denver extension.—A. I do not know whether he could do that. I do not know enough about keeping books to give you any information.

Q. Were you not sufficiently familiar with the transactions of this company at that time to know what the actual cost of construction per mile was, as paid to the men who did the work, and as paid for the material bought by you?—A. No; the iron was bought at one place, and the ties at another, and the rolling stock at another. I do not know what they paid for the rolling stock. The first locomotives we got here cost, I guess, about \$18,000 apiece. They cost enormously.

WITNESS AS COUNSEL FOR THE ROAD.

Q. During these years did you remain the attorney and counsel of the road, from 1865 to the completion of the Denver extension?—A. Yes, sir.

Q. You were familiar with all of its law business, and all of its operations?—A. I think measurably so. I do not know about some litigation they had in New York, but I believe I knew pretty much all about that.

ITS FINANCIAL CONDITION—ALWAYS "HARD UP."

Q. Will you please explain the history of its finances from 1869 to 1874, referring particularly to the different issues of bonds known as the Leavenworth Branch bonds, the bonds that were issued on the little gap intervening between the 394th mile-post, and the Denver extension bonds, and the funding bonds, and all the other issues that occurred.—A. I do not know that I could.

Q. Who drew those mortgages?—A. I think I drew most of them. It may be General Palmer drew one or two, but I think I saw all of them before they were executed, unless it may be one of the land-grant mortgages.

Q. Will you explain, generally, the financial condition in which the company got during these years?—A. As far as I know, it was always hard up.

Q. Did it not keep getting harder and harder up?—A. Yes, sir; I think so.

MORTGAGES.

Q. Do you remember being talked to and consulted with in regard to the drawing of these different mortgages?—A. I do not now call to mind any special one.

Q. Take the first land-grant mortgage, and then the income mortgage. Do you remember those mortgages?—A. I think Devereux drew the first or the second. I said I did it, but I think Devereux did it, and I think it was executed before I knew anything about it. It may be it was the second or maybe it was the first.

THE \$6,000,000 MORTGAGE.

Commissioner ANDERSON. Let me call your attention to the act of subordinating the incomes to one of the mortgages, which otherwise would have been prior to it.

The WITNESS. The \$6,000,000 mortgage?

Commissioner ANDERSON. Yes. How did that transaction come about?

The WITNESS. As far as I remember, it was reported to me at Saint Louis, when I was there, that they could not float or negotiate these \$6,000,000 of bonds secured by the mortgage, with these income bonds ahead of it. They wanted it subordinated. I do not know for certain, but I believe I dictated or drafted the instrument which subordinated it; but it may be Mr. Glover did that, or Mr. Shepley; but I knew about it.

THE COMPANY IN DEFAULT.

Q. I understand you to say that during these different years the company got into great financial trouble, and the coupons on all of its different issues went to protest and were in default, and remained in default for a number of years. Is that substantially true?—A. When you say a number of years I do not know. It may have been in default two years; I do not know. They were in default, and they could not raise the money to pay it at the time; I do not know when that was, now. I do not recollect.

APPOINTMENT OF A RECEIVER.

Q. What happened to the company?—A. The bondholders interfered by trustees and got a receiver appointed.

Q. That is, Mr. Villard and Mr. Carlos M. Greely?—A. Yes, sir.

Q. They became the receivers of the road in what year? Was it 1875?—A. I do not know. I should think so. I will have to apologize about dates. I do not remember. By looking at some of these books I could find out. I had a record of those things, but I do not remember now.

SUIT AGAINST THE UNION PACIFIC.

Q. About when was it that Mr. Gould first became interested in the affairs of the company, with reference to the appointment of a receiver? Was it before or after the appointment of a receiver?—A. As far as I can remember now, it was after. We had instituted a suit against the Union Pacific Company, I think in the Federal court in Nebraska, under an act of Congress of 1875 or 1876, I do not remember which, which made it penal not to obey the law, asking a decree compelling the Union Pacific to prorate with us and operate its road without discrimination against us; and we had a severe litigation over it before Judge Dillon.

DECLINATION OF JUDGE DILLON TO MAKE DECISION.

Q. Judge John F. Dillon?—A. Yes, sir; he was then circuit judge. Mr. Woolworth was with me. We confidently expected a decree in our

favor under these acts of Congress, but it ran along, and finally he declined to make any decision about it.

Q. What ground did he assign?—A. As I understood, the ground assigned was, that he was embarrassed by the fact that one of the principal stockholders of the Union Pacific was Sidney Dillon, who was a relative of his. He did not feel inclined to make a decision in that case. We were a great deal disappointed about it, and aggrieved, because we had been fighting this for several months and were suffering very much for want of this favorable action which we thought the statutes permitted or allowed; and finding that Judge Dillon declined to make a decision, we made an arrangement with his help with Justice Miller, that he would hear the case in vacation of the Supreme Court, in the following February.

FINALLY BOUGHT OUT BY JAY GOULD.

Q. In what year?—A. It was in February, 1878, that he would hear this in the vacation. He reluctantly consented to do it; but the matter was so much involved that he said he would. We were then in Washington in force, such as we could muster, to try to get further legislation against the Union Pacific to compel it to operate these roads as one. We thought we had it before; we were before the committee every day, and Mr. Sidney Dillon and Mr. Gould on the other side were there. We were contending about it. I stopped at the Arlington, and so did Gould. I never had talked with him or spoken with him until then. One day he sat down by my side and said, "This thing ought to be settled," or something to that effect; and he made some suggestions about buying out our people and uniting the property in one interest. I talked with him some about it and told our folks I thought he would buy them out, and then that would relieve all this trouble and the property would be in one interest and the public would be served as it ought to be. I was inclined to wish them to do it. I felt anxious, not only for the company, but I felt a general anxiety, beyond that, that the public should not be discommoded as it had been. I wanted the roads operated as a unit, as they ought to be. Our folks had got tired and worried with the thing. Some of them wanted money and some of them did not. Finally they wanted to know what he would do; and after awhile they came to terms, and he bought them out.

Q. He bought their interest?—A. Yes, sir; he bought their interests and they were united then, I suppose, with the Union Pacific. The things all went along pleasantly enough then.

Q. Do you remember what those interests were?—A. Stock.

Q. Who were the parties?—A. Perry, Greely, Meyer, and others.

Q. Edgerton?—A. Edgerton had some; yes, sir. I do not think he had a great deal. I had a little in Perry's hands. But these interests were all bunched up together and sold.

Q. Was it all stock?—A. All I had.

Q. Kansas Pacific stock?—A. Yes, sir.

PRICE PAID FOR STOCK.

Q. What prices did you get?—A. I believe it was 12 cents.

Q. Twelve per cent.?—A. Twelve cents on the dollar.

Q. Six and a quarter dollars for fifty dollars?—A. Yes, sir; I got as much as the rest did. Perry got kind of scared, and said to me one day that he thought Gould was impecunious, and he had not the mon

I said, "Well, he will pay you in three days." So, when they came to making the trade, I said to Mr. Gould that he might make an obligation, so and so, to pay the money at a certain time; and he very quietly observed that it was as convenient for him to pay it then as at any time. It seemed to surprise Mr. Perry.

TIME OF SALE TO GOULD.

Q. Do you remember what month and year this occurred in? It was in 1879, I believe, after Judge Miller's hearing?—A. Yes, sir; it seems to me it was along in the spring; not very long afterwards; I know it was cold weather.

Q. Was not this purchase through Mr. Gould a year after the correspondence with Judge Dillon in regard to his not hearing the case?—A. It may have been, but my memory is not that way; I should say it was not. Was it so?

Commissioner ANDERSON: That is so.

The WITNESS. You say it was purchased, when?

Commissioner ANDERSON. I think it was purchased in February, 1879.

RAPID RISE IN STOCK AFTER SALE TO GOULD.

The WITNESS. I do not think that can be so; I know it was in the winter that I met him at the Arlington, and it seems to me that it was along in the spring that this trade was consummated; that is my distinct recollection, but I may be mistaken.

Q. Do you not remember that immediately after this transaction the stock went up very rapidly?—A. After Gould got it it did, and it made us all sick.

Commissioner ANDERSON. So he said. You knew Mr. Artemas Holmes at this time?

The WITNESS. Yes, sir.

POOL AGREEMENT GOTTEN UP BY ARTEMUS HOLMES.

Q. Do you remember the pool agreement that he had got up in February, 1878, for the purpose of attempting an adjustment or an arrangement of all those different interests?—A. Yes, sir; I remember there was such a paper, and I believe I signed it. I do not know when I got it up.

Q. Do you remember that this general scheme provided for a commutation scale, by which the different securities were to be funded into a new intended stock?—A. Yes, sir; I think so. It was scaled down the way it ought to have been done.

Q. The funding mortgage to be taken at par, and the unsubordinated incomes at 50, the subordinated at 30, and the stock at 12?—A. Have you a copy of that agreement?—A. No.

Q. The original plan was to convert these different securities into stock, and there decrease the fixed charges of the company. After the Saint Louis people had sold out to Mr. Gould, this was altered, and the conversion was to be made into consolidated bonds. Do you remember that?—A. I really do not know, after our people sold out or the Saint Louis people sold out, what was done.

THE CONSOLIDATED MORTGAGE.

Q. What was it about the consolidated mortgage?—A. I recollect hearing Holmes ask Gould how the stock was to be issued in the new

company. I do not know whether it was the new company or not, though. I had supposed it was to be issued at half or less, or at some diminished sum. I got the impression from Mr. Gould's answer that it was to be issued at par, just as it was before. I was a little surprised at that, but I had no interest in it and I do not remember well enough to say.

WHO DREW IT UP.

Q. Who drew the consolidated mortgage? They give you credit for having drawn it in New York.—A. I am hardly entitled to that, in all senses, and yet probably I am. I had a clerk, a Mr. Bretherton, an Englishman, who is now connected with one of the California and Oregon roads; you may have heard of him. He was very able and he was there with me in New York; and it was determined upon the advice of Mr. Gould how this mortgage should be drawn. Bretherton was a skillful conveyancer, so I walked around town and let him work. At evening we looked it over and if I had any suggestions to make we agreed upon them. I thought he knew as much about it as I did. In fact he did. It was fixed in that way. Now, as to this sealing, I think that was agreed upon by parties in interest, and may be Mr. Gould himself indicated how the sealing should be done. I should think he did.

Q. Where were you in New York at this time?—A. We were stopping at the Fifth Avenue.

Q. Did Mr. Bretherton do his work of drafting the mortgage at the Fifth Avenue Hotel, or did he have an office?—A. He had no office there. As far as I know he did it there. I do not remember distinctly about it.

Commissioner ANDERSON. I would like to have the mortgage.

The WITNESS. I considered myself responsible for the paper, but the manual work I did not do much of.

Q. What we want to get at is just what you have given us. That is, how the instructions were received by you and who gave them. You say substantially it was by Mr. Gould?—A. My memory now is that it was he. It may have been my own suggestion, but at any rate Mr. Gould knew it and approved it, I am very sure.

GOULD AND SAGE TRUSTEES OF MORTGAGE.

Q. I will ask you a question that will bring the matter up very sharply. Do you remember who were named as trustees of that mortgage?—A. Gould and Sage; yes, sir.

Q. How did you obtain those names? That was an important matter to determine who should be those trustees. Are you not satisfied that the subject was discussed between you and Mr. Gould and possibly Mr. Dillon?—A. No; I do not think Dillon did.

A FUNDING MORTGAGE.

I will tell you what I think about it without being certain. We had executed before that time what we called a funding mortgage and it was at pretty high interest.

Q. Ten per cent., was it not?—A. We were getting into trouble about it. Gould interfered and took up those bonds, or some of them, and relieved us, anyhow, of immediate trouble. Then he had already taken up the Denver Pacific bonds. That is, the bonds in Amsterdam.

GOULD'S INTEREST IN THE DENVER PACIFIC.

Q. The Denver extension?—A. No; the Denver Pacific, from Denver up to Cheyenne. He had considerable control; that is, he had a large interest in the securities of the company, and Sage had also. I think now, without consulting anybody, and knowing what his interests were, and what trusts he had already had with respect to the company, that I took it as a matter of course that they would be the trustees, and were the proper ones to be trustees. I do not believe he ever told me to put him in, or Sage, as trustee.

Q. He knew that you did it?—A. Undoubtedly.

Q. He had to accept the trust?—A. You were asking me how I came to do it. I do not think anybody ever told me to do it, but I did it in my own head, and I have given the reasons for it. He knew it, of course, and accepted the trust.

FIXING COMMUTATION RATES.

Q. In regard to the commutation rates described in the mortgage, how do you suppose you reached them?—A. I think it was my general idea that they ought to be scaled that way, and that to get a good security the holders would consent to scale that way. I do not recollect anybody telling me how to scale that down.

Q. How do you explain the fact that the commutation rates contained in the mortgage are the same as the commutation rates contained in the agreement executed a year before the mortgage?—A. I should have said that he—you speak of the Holmes paper?

Q. Yes. Do you think that was a mere accident?—A. My idea was that that paper was executed after the mortgage.

Commissioner ANDERSON. It was executed a year before the mortgage.

The WITNESS. I do not know about that paper. It may be they had it. I do not know.

Q. Is it not true that you and Mr. Gould and Mr. Dillon and Mr. Holmes talked over all these different matters at this time, and agreed upon them?—A. No; it is not true that Mr. Dillon did. It does not strike me that he ever had any mind about such things.

Q. Then did you talk with Mr. Gould and Mr. Holmes?—A. I do not know about Holmes. I was not on specially good terms with him.

Q. Then about Mr. Gould?—A. If anybody did, it was he.

SPECIAL SECURITIES.

Q. There is an enumeration of special securities in that mortgage, amounting to about four and a half millions, which are preferred, and as to which a conversion for \$3,400,000 is specially provided. Do you know how that provision came about?—A. You say those \$4,000,000 were preferred?

Q. There are \$4,500,000 of these same class of miscellaneous securities, which, at the commutation rates named in the mortgage, would have produced about \$2,200,000 of bonds. As to those securities, the mortgage contains a special provision that the holders of these securities, who are named, shall receive \$3,400,000. I ask you if you know how that provision came to be in the mortgage?—A. No; I do not know, unless it was suggested by Mr. Gould, or unless I concluded that it was a good deal more than the current prices of those securities, and

that they would be likely to take them. I think very likely the latter. I had had some of these bonds.

FIXING THE PRICE OF BONDS.

Q. These were Mr. Gould's bonds that I am speaking of. Would you have fixed a price for Mr. Gould's and Mr. Sage's bonds and Mr. Villard's securities without receiving a statement from them that they were satisfied with that adjustment?—A. It does not seem natural to me that I would.

Q. Are you not satisfied that Mr. Gould instructed you to put in that provision?—A. It may be from what you say that I had that paper, or Bretherton had that paper that Holmes drew; I do not know.

Commissioner ANDERSON. That paper did not contain any such provision.

The WITNESS. It did not?

Commissioner ANDERSON. No, sir.

The WITNESS. No, except this: my memory is that those prices fixed for which they could get these consolidated bonds were a good deal more than the current prices of the securities which they had.

Q. That is, the general commutation rates?—A. Yes, sir; I had a few bonds along in the winter left—those income bonds—which I sold for 16 or 17. This fixed it at twice that sum. I think Gould paid about that. I really suppose now—it may have been in my mind—if they could get double what they cost, they would be quite willing to take that.

PROVIDING GENERAL RATES.

Q. That is not what I am talking to you about. I wish you would read article 23 of the mortgage, at page 169, where the general rates are provided, which, as you say, being above the market rates, would probably induce conversions by the holders, from the mere fact that they would get a better rate than that afforded by the market. After reading article 23 I ask you to read the paragraph at the foot of page 56, which recites an agreement between the company and Sidney Dillon, Russell Sage, and Henry Villard, as holders of certain securities therein named, amounting in all to \$4,500,000, and states that as to those securities they are to receive \$3,400,000 of the consolidated first mortgage bonds. The precise question I put to you is, who directed you to put in this division at page 156, which gives to the parties there named a very large preference over the commutation rates provided by article 23 at page 169?—A. I do not know how I learned that they had made that agreement.

Q. Did you receive any instructions from any person except Mr. Gould and Mr. Holmes about the structure of that mortgage?—A. I do not know that I ever received any from Mr. Holmes. I do not know that he ever talked to me about it.

INSTRUCTIONS IN REGARD TO PREPARATION OF MORTGAGE.

Q. Did you ever receive any instructions from Mr. Gould relating to it?—A. I must have received some knowledge, from some quarter, about the terms of this mortgage, but I do not know who it could have been from unless it was from Mr. Gould. But every idea of all this thing has gone out of my mind.

Q. I want to cover this point definitely. I want to know whether any other person than Mr. Gould gave you any instructions about the terms of that mortgage?—A. I do not remember talking with anybody else about it.

TALKING TO GOULD FROM TIME TO TIME.

Q. But you do remember talking with him about it?—A. I remember talking with him about it from time to time, but I was going to tell you, if you do not object.

Commissioner ANDERSON. I will not object as soon as I have it positively asserted that there was no other person or officer of this company who gave you instructions in regard to the preparation of that mortgage.

The WITNESS. I do not remember anybody else.

Commissioner ANDERSON. Now, you may make any explanation that you desire.

GOULD, VILLARD, AND DILLON HELD THE "JACK POT."

The WITNESS. After looking at this my thought is—I do not say that it is so, but I believe it is—that I must have had, or there must have been before me this paper, or some other paper, which showed that Mr. Gould, Mr. Villard, and Mr. Dillon held what you might call this "pot."

Q. This "jack pot"?—A. Yes, sir; this mass of securities, for themselves and for others; and that those others, whoever they may have been, had signed this paper that you say was before this mortgage. I thought it was afterwards—I now imagine I was mistaken about it; I think I was—that this agreement was made by them as trustees in behalf of all the persons who had signed this paper, and they would share these securities in proportion to the amount that they appeared for on this paper. If Gould bought it all out, it would be all his. If he had a quarter of it, he would have a quarter of these advances. I expect that is so. It never occurred to me that they had any special advantage about it.

\$3,400,000 FOR CERTAIN SECURITIES.

Q. That explanation does not touch the exact point that we want to find out, although it touches everything except the point. The point we want to find out is, how it was ascertained that they should receive \$3,400,000 for those securities, and not some other sum?—A. Somebody told it.

Commissioner ANDERSON. That is why I was so particular to know who had given you the instructions.

The WITNESS. Yes, sir; but I do not remember.

Q. But you do remember that whatever instructions you received came from Mr. Gould?—A. I do not remember any others. It may be that Bretherton had talked with Holmes about it, and had that paper. It may be that Holmes had furnished him that paper. I do not know.

Q. I call your attention to the fact that the lines of the mortgage, to which you have been referred, declare or recite that the company, in pursuance of such resolution—referring to the resolution to issue the consolidation mortgage bonds—has contracted with the parties named here for the exchange of their securities for \$3,400,000. Did you ever have any contract with the Kansas Pacific, Eastern Division, as the company then was known, to that effect, before you when you drew that mortgage?—A. I do not remember.

Q. Have you in your possession any papers that were used by you for the purpose of drafting that mortgage?—A. No; not one.

Q. Do you remember examining the records of the company to ascertain whether any such contract had ever been made?—A. No; I do not remember whether it appears on the records or not. I believe the records are at Topeka. No, they are not. They are in Boston.

Q. We have the record. Did you ever take the trouble to figure the difference between the value of these securities at the commutation rates offered to all holders generally, and the same special offer of \$3,400,000?—A. No; not that I know of.

Q. You never have figured that?—A. No; I did not know the difference until you mentioned it.

NO SPECIAL ADVANTAGE OBTAINED.

Q. Why do you say that you do not think they got any special advantage?—A. I say that from the fact that they had such a large body of these securities that the advantages were not special enough to make any complaint about it; that the company could well enough afford to have given this amount of bonds to have got up this floating mass of securities. It would have been better for them if they had done that than to give more to persons who had one or two or three or four bonds, or whatever it was. It was a desirable thing, I should say, to have got up the whole pile at once. That is what I mean by saying that they got no advantage. But you remember that it was not I that was judging. I was neither a director nor anything else, except a lawyer.

MORE THAN \$2,000,000 OF THE UNSTAMPED BONDS OWNED BY GOULD.

Q. When you and Mr. Bretherton drew this mortgage in which the amount of unstamped income bonds, which were to receive this preferential rate, are stated at \$2,611,400, were you aware that more than \$2,000,000 of those unstamped bonds were owned and held by Mr. Gould?—A. I did not know what he held, unless that paper showed it. If we have that paper before us it may be that it contained the schedule of what securities he had.

Commissioner ANDERSON. It did.

The WITNESS. Then of course if we had it we knew it.

Q. After the execution of the consolidated mortgage do you remember that the securities were, from time to time, exchanged at the rate specified in the mortgage?—A. I do not know anything about that.

Q. You had nothing to do with that?—A. I had nothing to do with it. It never was reported to me and I never inquired.

Q. Where were you during the summer and fall of 1879?—A. I do not specially remember; but I may have been in New York once or twice.

Q. Where was your actual residence?—A. In Lawrence, Kans.

EFFECT OF CONSOLIDATION ON APPRECIATION OF KANSAS PACIFIC STOCK.

Q. During that summer and fall what, if anything, did you hear about the proposed consolidation between the Kansas Pacific and the Union Pacific?—A. Nothing; nothing at all.

Q. Was there no talk about it in this part of the world?—A. Not that I know of.

Q. Was there no excitement in regard to the appreciation of Kansas Pacific securities?—A. I do not think there was. Nobody up here had any, unless it was some of this spurious stuff.

Commissioner ANDERSON. There were a great many persons who had had the stock and had parted with it early in the year?

The WITNESS. I do not know anybody who ever had any, except John B. Anderson and myself, in this State. I do not remember now.

Q. Did you not see any of the Saint Louis people during the summer and fall of 1879?—A. I guess so.

Q. Do you remember how much the stock appreciated between the time in 1879 when you sold at 12 cents and October and November of that same year?—A. I think it went up to between 70 and 100. You know more about that than I do. But my recollection is that it went away up.

Q. What I want to know is whether the people residing here, who had sold that stock, were not very much surprised at this sudden development of value?—A. I do not know whether they were or not. I guess our people in Saint Louis felt as though they had let a bird go.

Q. Did you not feel that way yourself?—A. I did not have much. I was cleaned out at that time. I was sorry I let that go.

GOULD'S WESTERN VISIT IN NOVEMBER, 1879.

Q. Do you remember Mr. Gould visiting the country here early in November, 1879?—A. I do not know that very specially. He used to be out here every year.

Q. Do you remember his coming out here just before he bought the Missouri Pacific?—A. I do not. I suppose he was here; but I do not remember.

CIRCUMSTANCES CONNECTED WITH CONSOLIDATION.

Q. Have you any knowledge whatsoever of the circumstances connected with the consolidation of these two roads?—A. I will tell you all I know about it in a very few words. I was either asked to go to New York, or I accidentally happened to be there, I don't know which. When I got there I went into Judge Dillon's office, which was in the same building where much of the work was done, and he had prepared a draft of the articles of consolidation in pencil on a loose pad—loose paper. It was not written closely together, but just dashed off. He handed it to me and said they were going to consolidate the two companies, and he wanted me to examine it and make any suggestions or criticisms of the paper that occurred to me. I remember very well I was taken a good deal aback with this information, and commenced to protest against it. I said I was sorry, or something of that sort. He told me it was not worth while to express any regrets, or to resist, for it was determined upon, and what was left for us to do was to get the best terms we could. So I looked the paper over, and I do not remember now of making any suggestions, even to a verbal alteration; but it may be I did. I remember to have examined it carefully then, and again on the same day. I read it thoughtfully and tried to comprehend what it meant; and if I made any suggestion or alteration we had no dispute about it, for I am pretty sure he adopted it. But I do not know as I did make any suggestion.

FEAR OF AN INJUNCTION.

I recollect after it was adopted and engrossed, and I was informed that they were determined upon making this consolidation, that I sug-

gested to them that there was a possibility of the information getting out to the public of what they were about to do, and if it came to the ears of the public some mischievous person or party in interest might intervene or get an injunction against their doing this thing, and that it would bother them very much, and that it was not safe at all until the articles were executed and filed in the Department of the Interior; and Sidney Dillon called a young man there and told him to get ready to go to Washington, and to be ready to go by the next train or that night. The paper was executed, and he put out with it, and came back the next day and said it was filed in the Department. That was all I had to do about it, or knew about it. I was very sorry it was done.

Q. What interest had you?—A. None at all; only I thought this was the best property and thought it would be best handled in the way it was going, and that that consolidated mortgage would furnish means to pay all the debts and leave a large sum of money to protect the property against competition and outlying schemes to break it down, and that it was the best thing to leave it as it was and to operate the road as the original acts of Congress required that it should be done.

Q. You think the Kansas Pacific was the better property of the two?—A. I still think it was the better property, and I believe it is to-day. I have not given up my idea about that. It is the best, and ought to be the best.

Q. What further connection, if any, had you with this consolidation scheme?—A. None at all, except to try to defend it, as well as I could, whenever it was assailed. It was my duty to do that, and I did it to the best of my ability.

Q. From that time to the present time you have remained in the employ of the Consolidated Company?—A. Yes, sir.

CLAIMS OF THE PEOPLE OF LEAVENWORTH.

Q. Is there anything in the subsequent history in the Consolidated Company, from 1880 to date, that you have been connected with, to which you desire to draw our attention—I mean any of its financial history?—A. No; only I had it in my mind, reading what occurred out at Leavenworth, to make a statement to you about the claim of the people up there, that they had some special interest in that branch road. They made that complaint before the railroad commissioners of Kansas, and I was requested to attend. I did not know what they were going to do. Dr. Neeley made his statement before the commissioners that the county of Leavenworth had built that branch road, or furnished the means to build it, and that it was not operated as it ought to be for their benefit and their accommodation, and that their money was misapplied. Now, it is true that they gave their bonds for the capital stock of the company to the extent of \$250,000, which the contractors got. Some of those bonds they have paid, and some they have not. I suppose they have paid some of them, but they repudiated them wherever they could, coupons and all of it. Upon the issuing of those bonds the company issued to the county its stock certificate of capital stock to the amount of \$250,000. That certificate is at Topeka now. I had it in a lawsuit. The county received it, and afterward they got up some sort of a vote by which the county commissioners were authorized to dispose of that stock in aid of the construction of that narrow-gauge road.

A STRUGGLE FOR CERTAIN STOCK.

Q. The Kansas Central?—A. The Kansas Central. They struggled to get our company to agree to the transfer of that stock. I fought it

off for two or three years. They never would have got it on earth if the county commissioners had stood by. They could have got their money, the highest price it ever obtained, under Gould's administration. He paid them finally par for it, and I could not do anything more about it. He paid the Kansas Central par for it; that is, to the parties that had it. They imported here a Pennsylvania corporation to do this business. That is the kind of way in which they built this road.

Commissioner ANDERSON. Please explain that Pennsylvania business.

The WITNESS. I do not know about it now.

Commissioner ANDERSON. I would like to know who got that stock.

—A. I cannot tell you now; I would like to look at my books as to that.

Commissioner ANDERSON. Does that show in your statement, Mr. Mink? The witness says it was \$250,000 of the old Kansas Pacific stock that was passed over from the Kansas Pacific and county of Leavenworth and was afterwards given in aid of the Kansas Central. Who got that \$250,000 stock?

Mr. MINK. I do not know; that must have gone out before the reorganization of that company.

"A BAD EGG."

The WITNESS. I do not know what the transaction was, but Gould was trading with Len. Smith. He was in front of this business, and he put this Pennsylvania corporation ahead, and kept under the bed himself, and I called for him to come out, and we worried about it before Judge Dillon two or three years. I fought him all the time until Gould and he traded. He had these two roads up between here and Atchafalaya, and it was convenient for them to make a trade, and we got in the Kansas Central, which was a bad egg for us. I got the stock certificate. We had a lawsuit about it, and I wanted it; I got it from Boston.

Q. You do not know, then, who got the \$250,000 worth of Kansas Pacific stock?—A. I know that parties interested in this Central road got it.

Q. The Kansas Central?—A. Yes, sir; the Pennsylvania corporation, or the parties who were behind it got it, but Gould got it finally for the Union Pacific Company, as I understand it. But what I want to say is this: that if they did not want to keep that stock, it was their own fault, and they had no right to say that Leavenworth County built the branch road. They got the stock for their bonds. They had no right to complain of the management of the road because they had given the bonds of the county for the stock.

Afternoon session.

JOHN P. USHER, being further examined, testified as follows:

By the CHAIRMAN:

Q. How long were you attorney for the Kansas Pacific Railroad Company?

The WITNESS. Under all its names? It had several names.

The CHAIRMAN. Yes, sir.

The WITNESS. I think it was some time in June, 1865, that the record was made appointing me solicitor of the company. I have been that, or an attorney for it in one form or another, to this day.

Q. What were your duties as solicitor?—A. To attend to the local interests of the company, as far as I could.

ATTORNEYS TO LOOK AFTER THE LEGISLATURE.

Q. What assistance had you?—A. At one time Mr. Devereux helped me some. He was land commissioner. At another time Colonel Dennis, who was stationed at Topeka. I did not much care for the aid of Mr. Dennis. He was not absolutely necessary to me, to the legal defense of the interests of the company. But the company wanted a lawyer at Topeka, and it brought him there. I think he came under the advice of General Palmer, who was secretary. Dennis had a clerk or two. As I understood, in a manner they looked after the legislature, and they had conveniences for the members to come and see them, and sometimes, when I was up there, I saw members there. As to that, I would never have anything to do with it. My idea was that the legislature was charged with a duty, and they might do as they pleased, I would not interfere with it.

Q. Were all the attorneys subject to your order?—A. So far as the law business was concerned, they were.

Q. What control had you over the legal expenses of the company?—A. Anything that occurred in my office I certified to. I do not think I ever certified to any of Dennis' bills. I do not remember, I do not believe I did.

LEGAL EXPENSES.

Q. Did you approve of all the other legal vouchers?—A. I do not remember that I did, because they had lawsuits in New York. Mr. Burrill was counsel there, and I do not know but somebody else. They had a great deal of litigation there of one kind and another, and they had a great deal of litigation at Saint Louis; Glover & Shepley generally handled that. They had sometimes John B. Henderson, about some suits either there or in Washington. I have no recollection of ever approving of any of their bills. Have you got any that I have approved?

The CHAIRMAN. I show you voucher No. 243:

General expenses, legal expense account; Kansas Pacific Railway Company, to E. W. Dennis, debtor, assistant solicitor, 1870.

The WITNESS. Does it appear that I have approved of that?

ENTERTAINING MEMBERS OF THE LEGISLATURE.

The CHAIRMAN. I am going to hand it to you when I get it on the record. "For extraordinary expense paid during October, 1870, by order of the president, Topeka, \$1,631.60;" approved by the president, and also by the auditor, and receipted for by Mr. Dennis. Please look at that voucher and explain, if you can, the extraordinary charges or services rendered upon that occasion.

The WITNESS. I cannot do it. I will tell you what I think. I do not imagine it will be of much use to you or to the public, but I will tell you. I think this was for cigars and liquor and such things with which members of the legislature were entertained. That is what I think, but I do not know. Dennis was a very clever gentleman.

Q. How long did he act for the company?—A. He acted pretty nearly until he died. He died four or five years ago.

Q. Did he engage in the trial of any of the causes of the company?
A. Oh, yes; he was a pretty good lawyer. He came from Canada

gua, and was well bred and had fine manners. His acquaintances were with gentlemen. He was a soldier, and had lived in Wisconsin awhile. I think this voucher was for cigars and liquor. I think so, because Mr. Greeley told me once that he would not approve any more bills of that kind.

EXPENSE VOUCHER OF E. W. DENNIS, JR.

4, legal expense account:

Way, to E. W. Dennis, Dr., assistant solicitor. 1870, August 1. Paid for extraordinary expenses at Topeka, from August 1 to September 11, 1870; of the president, \$5,044.20.

the president, and also by the auditor, and receipted November 11, 1870; will you please explain that?—A. I

the same explanation with reference to that voucher gave to other?—A. It is my imagination; that is all. There were a lot of thirsty fellows there—one hundred and fifty of them. I have no idea anything was paid to influence legislation, for we did not want any.

LEGAL EXPENSE VOUCHER OF HENRY BEARD.

Q. Voucher 298, legal expense account:

Kansas Pacific Railway Company, to Henry Beard, Washington, D. C. September 14. Services at Washington as attorney for the company up to June 30, 1872, \$500.

Will you explain that?—A. Yes, sir. I wish I had approved it, too. If it had been sent to me I would. Mr. Beard is an accomplished lawyer, and had charge of the business affecting our public lands: I think he had a salary of \$3,000 a year. He was entitled to it. He earned it. I do not know his superior in Washington in that line.

Q. Who was your attorney in Washington during those years?—A. He was. They had a lawsuit there.

Q. Had you any other attorney?—A. They had a lawsuit there with somebody about this spurious stock that I told you of, and Mr. Perry consulted Reverdy Johnson, as I understood, and he suggested the employment of Mr. McFarland (I think that was his name), the son-in-law of Mr. Johnson, to defend that suit.

Q. What other attorney represented the company there during your term?—A. I do not remember anybody but Beard; he was enough. Shellabarger and Wilson came in after the consolidation some time, but I had nothing to do with them.

LEGAL EXPENSE VOUCHER OF W. E. CHANDLER.

Q. Voucher 302, legal expense account:

Kansas Pacific Railway Company, to W. E. Chandler, Dr. Washington, D. C., 1874, October 31. Services in Washington, D. C., in winter of 1873, in assisting to get prorate bill with Union Pacific Railroad passed, \$7,500.

Approved by the president and by the auditor. Do you recollect the character of the services rendered by Mr. Chandler?—A. No, sir; I do not think I was there.

Q. As the general solicitor of the company residing here, have you any knowledge of any legal services rendered by Mr. Chandler during that year?—A. I have no personal knowledge. They had to have somebody, I suppose, or thought they had, to get this bill passed.

NOT CONSIDERED STRICTLY LAW BUSINESS.

Q. Then this was one of the attorneys at that time not under your control?—A. Not at all. I did not consider that sort of business strictly law business.

Q. Why not?—A. Because it was not.

Q. What was it?—A. The preparation of bills and soliciting their passage. That was the whole of it, as I understand.

Q. How did they solicit the passage of bills?—A. You ask me what was their business? I was not there. I suppose it was to go to members and explain to them the necessity of these laws. Have you seen the law? In what year was that?

The CHAIRMAN. 1874.

The WITNESS. I believe that was the time they got that bill passed upon which we based that lawsuit in Nebraska.

The CHAIRMAN. I know the act of Congress. I am asking as to the services.

The WITNESS. All I know is, I was not there when it was passed nor when it was pending. I heard Mr. Carr or Mr. Perry say—Carr was present at the time if he said it, or Perry—that they had a good deal of trouble about that, and that there was a Mr. Williams, who was a member of the committee to whom it was referred, from Michigan, who was apparently very friendly to the bill, and he settled it; that they had a good deal of controversy over it day after day.

Q. Would that be properly charged to the legal expense account?—A. I do not know. The auditor, Mr. Smith, had to charge it to some account, I suppose. It was not for me to direct how they should charge such things. I was going to say that Mr. Williams finally said, "I will cut this thing short, and it will be so and so," and that ended the whole controversy. They imposed a penalty for not prorating and abiding by the law. I suppose Chandler helped them. They were not able to do that themselves and had to have somebody.

VOUCHER OF J. B. HENDERSON.

Q. Voucher 304:

To J. B. Henderson, Washington, D. C., by C. S. Greeley, Saint Louis. Services rendered in Washington, D. C., in the years 1872 and 1873.

February 26, draft paid	\$250
April 2, draft paid	250
August 1, draft paid	1,500
July 3, 1873, draft paid	2,500
July 1, 1874, tickets to Colorado and return	249
July 1	4,749

Approved by the president and auditor and by Mr. Henderson. Will you explain what services were rendered by Mr. Henderson in Washington for which the charges are made?

CONTROVERSY RELATING TO LANDS.

A. So far as I know from information derived from Mr. Carr, the president of the company, because of certain demonstrations from the Department he had become alarmed; he told me he had employed Mr. Henderson to assist Mr. Beard in the controversy relating to lands, involving the Congressional land grant, between the Kansas Pacific

Company and the Missouri, Kansas and Texas Company. That controversy had been going on some time and I had made an argument myself and Mr. Beard had, and it had been printed, which was satisfactory to me; but Mr. Carr evidently thought Mr. Henderson could do something more than we had done, and so he employed him, as he told me. It was about that time that we had evidences of an unfriendly disposition growing up in the Department of the Interior. Mr. Delano was Secretary. Henderson worked with it and made arguments and reiterated them from time to time and they were sent to me. I suppose I have got them. They may be bound up and it may be I have destroyed them. It resulted in our getting beaten in the Department. Then we had a lawsuit about it, and, finally, by the decision of the Supreme Court in 1878, we gained the land. We beat them out.

HENDERSON'S BILL FOR SERVICES.

Q. As you recall the circumstances, the bill read to you is in compensation for the services rendered?—A. Then Mr. Henderson wanted his pay. I know about that. His account or some account of his was sent up to me to approve and I sent it back without any comments upon it, but said, as I recollect, that I did not want to mix with these things. That Judge Dillon was at the head of the legal department and should pass upon the account. That I could not agree to it. It seems that he got the money.

VOUCHER OF E. C. INGERSOLL.

Q. Voucher 305, legal expense account:

To E. C. Ingersoll, Washington, D. C., by C. S. Greely, treasurer, Saint Louis, Mo., 1874. Services in Washington, D. C., in assisting to get prorated bill with the Union Pacific Railroad passed \$7,500.

The WITNESS. I do not know an earthly thing about that, and it is the first time I ever heard of it. Will you explain that?

VOUCHER OF C. S. GREELY.

Q. Voucher 183, legal expense account:

Kansas Pacific Railway Company, by C. S. Greely, treasurer, to E. C. Ingersoll, Washington, D. C., May 10, 1875. This amount being for settlement in full for all services rendered to date in committee with getting pro-rate bill with the Union Pacific Railroad passed, \$3,500.

Approved by the president and auditor and receipted for by Mr. Ingersoll. Do you recollect any services rendered by Mr. Ingersoll having relation to this bill?—A. I never knew that he had any employment or engagement with the company in any way, shape, or manner.

Q. Were you acquainted with Mr. Ingersoll?—A. I was, in his lifetime.

Q. Who was he?—A. He had been a member of Congress two or three times; two at least. He was from Peoria, Ill. He was a very bright man, and died suddenly in mid-life.

By Commissioner LITTLE:

Q. A brother of R. G. Ingersoll?—A. Yes, sir.

The CHAIRMAN. What year was he in Congress?

The WITNESS. He was in Congress before that time.

Q. Was he ever connected with the legal department of the Kansas Pacific, in any way?—A. In no way, shape, or form, that I know of, until I heard of these papers. I never heard his name mentioned in connection with it.

VOUCHER OF JOHN HUTCHINGS.

Q. Voucher 22, legal expense account, Kansas Pacific Railway Company to John Hutchings, Lawrence, Kans., Dr. The following is a bill rendered and filed in the auditor's office, and certified to by the general solicitor, January 22: Legal services rendered to Kansas Pacific Railway Company at sundry times from April 1, 1870, to January 22, 1875, inclusive, as per itemized statement attached to original bill, \$1,645, compromised for \$1,350. There does not appear to be any itemized bill attached to it.—A. I suppose there was one. The bulk of that arose in this way: A party at Lawrence sued the Union Pacific Company, or the Kansas Pacific Company, for the possession of its stations and station grounds. They brought an action of ejectment. I was compelled to go to Washington for some reason, I do not know what. I got Governor Shannon, who was then alive, to look after this case, and told him, if he wanted anybody to help him—he had then got to be an old gentleman—that he might get Hutchings, who was a young, active man there. It seems that he did. I wrote to him repeatedly from Washington every few days about this trial, to fight it from the word go and to object to everything that they offered against us, and I told them what they should say on our side, and to take exceptions to every decision that was made. I thought probably we would get beaten, from my knowledge of the parties and the judge, &c. I told them to take these exceptions and have everything on the record. That is the most that I charged them with. It resulted in the trial going on. We had already had a fuss about it for a good while, before a referee. Judge Cobb was on the other side. I have forgotten who the referee was, but it resulted in nothing, and finally came back to the court for trial. I wrote them repeatedly from Washington and gave them these instructions.

SUIT AT LAWRENCE, KANS., DECIDED AGAINST COMPANY.

When I came home I found that the case had been tried and decided against us, and on inquiry for the bill of exceptions and the case, &c., to see what they had done, it transpired that the bill of exceptions was not signed in time and all that, and I found I could not do anything with it. I was "busted." I could not say much to the governor. He said that John Hutchings had it to look after, and John said the governor had it to look after, and between them we fell. Then he wanted his bill. He had attended to some cow suits and other things and made up an itemized bill. I contended with him about it, but I did not like to, and finally reduced it to \$1,300. Then we paid Shannon. He made a considerable bill. He had fallen into some trouble with his money matters and got his pay. He was an old man. Devereux said we had better allow his bill, which I think was \$1,500. So the thing stood. I did not think they got a judgment that was of any account after they got it, and I would never give up possession, and have got it yet. I do not think they are in a condition to ever get it away from us. The city claims to own the grounds now. That is all that that is about. I guess that is about as fair a thing as lawyers generally would do. At any rate I thought it was pretty high, but I did not want to quarrel with him.

VOUCHER OF R. M. SHOEMAKER.

Q. Voucher 203. Legal expense account, Kansas Pacific Railway Company, to R. M. Shoemaker, Cincinnati, Ohio, 1872. Item in bill of June 1: February 28, 1869, three months services from December 1, 1868, to March 1, 1869, in Washington, by appointment of the board of directors, \$2,000.—A. I do not know anything about that.

Q. Who was Mr. Shoemaker?—A. He was one of these contractors. I remember seeing him there with his wife. But I did not know we were paying the expenses.

Q. Was he a lawyer?—A. No.

Q. How would such a bill be charged to legal expense account?—A. You would have to ask the man that charged it. I do not know. I never directed it. I did not know anything about it.

Q. You were indifferent, then, as to whether the legal expenses ran up under your administration as general solicitor?—A. No; I was not. How did I know anything about these things?

HOW THE COMPANY'S LEGAL AFFAIRS WERE MANAGED.

Q. How did you protect your department as to legal expenses?—A. All the business that I had anything to do with, if I employed anybody outside, I settled with them. But what they did in New York or Washington about those things, I knew nothing about. What had I to do about it?

Q. Would it not make it appear, however, in the annual report, that your administration of the legal department was an expensive one?—A. I do not know that it would. I do not know of anything of the kind being made to appear in the annual report.

Q. So you took no particular care as to what the company charged in the legal-expense account?—A. No; I do not know why I should. If I kept charge of the legal expenses that I knew anything about, I performed my duty. They never asked me to indorse the appointment of Shoemaker as a lawyer. Of course, they would not do that, because he was no lawyer.

Q. You have no knowledge, however, of the charge in Washington, by Mr. Shoemaker?—A. Not a particle.

VOUCHER OF HORACE WHITE.

Q. Voucher 594—

Kansas Pacific Railway Company (A. H. Calef, cashier, Saint Louis, Mo.) to Horace White, Washington, D. C.

1878, March 13. To services at Washington, order of Villard, receiver:

Jan 30, 1878.....	\$300
March 13, 1878.....	245
Total.....	545

Can you explain that?

MR. WHITE'S SPEECH BEFORE THE CONGRESSIONAL COMMITTEE.

A. I know nothing of this voucher unless it may have been on account of a discourse or address which Mr. White delivered before a Congressional committee in behalf of the company, relating to the controversy about the prorated bill in 1878—the time that I first met Mr. Gould, as I have before stated. If it was for that service, it is not as

bad as I might have expected, if he charged anything. My idea was that he was a volunteer, and was gratified to be enabled to display himself before the committee. Mr. Woolworth was there on behalf of the company—I believe that was the time; he was a very able man, and he had very few superiors; and Mr. White insisted upon taking up the time with enlightening the committee with his statements which he had written, and so he took up our time.

Q. You recollect the voucher?—A. No; I do not recollect any voucher.

A WRITTEN SPEECH.

Q. As you recollect the circumstances associated with this voucher, the compensation was for the speech?—A. Well, it was a written speech. He was not capable, I reckon, of getting up and talking right straight off, but he must have spent time in writing down his views on this subject. I thought he was a volunteer, and I considered that he was damaging our interests, inasmuch as he took up the time of others who were better able to argue the question. You can just say that I do not like him, and did not like him. I do not think he ever omitted an opportunity to defame Lincoln during the war, whenever he could. I refer to his paper.

Q. What was the subject that was being discussed?—A. I think it was this prorate matter. I did not think enough of his paper or his speech to keep it, and I could not tell what it was about.

Q. Was Mr. Woolworth employed at the same time?—A. Yes, sir.

Q. By the company?—A. Yes, sir; our heaviest fight and controversy there was immediately preceding Gould's buying out that interest. I never felt that we paid Mr. Woolworth anything he did not earn.

By Commissioner LITTLER:

Q. Where did he live?—A. He lived at Omaha; he is a very able man.

VOUCHER OF J. P. USHER.

The CHAIRMAN. Voucher 24.

Kansas and Pacific Railway Company to J. P. Usher, of Lawrence, Kans., 1879, January 31. Compensation for services rendered. Complaint made in case of Meier, Stuart *et al.*, against Kansas Pacific Railway Company *et al.*, allowed by the United States circuit court for district of Kansas, directed to be paid on order of court, dated January 27, 1879, \$16,666.66.

The WITNESS. That is right.

By the CHAIRMAN:

Q. What was the nature of the suits pending?—A. I brought the suit to foreclose the \$6,000,000 mortgage. They refused to pay me and we had an issue, and the court decided that I was entitled to that much.

Q. It was recovered under this suit?—A. Yes, sir.

Q. As compensation?—A. Yes, sir; the company did nothing except to obey the decree of the court.

The CHAIRMAN. These are vouchers that we could not get any explanation of at Omaha, and we brought them down here. Judge Poppleton referred them here.

The WITNESS. I regret to say that there are a great many of them that I do not know anything about.

Q. Have you any suggestions to give to the Commission other than those you have already named?—A. I do not know that I have.

Q. Have you any other information that you can give the Commission?—A. We employed a lawyer here.

Commissioner ANDERSON. I wish you would tell the Commission what you told me at the table about the transportation of mails and troops over the Santa Fé road.

PROCUREMENT OF INEXPENSIVE LEGAL SERVICES.

The WITNESS. Well, I had it in my mind I wanted to tell one thing. We had more or less suits brought against us here in Kansas City that required attention; I was up at Lawrence; some of them required immediate attention, such as attachments for small amounts, and it was necessary to have some one here that was acquainted with the laws of Missouri to look after them and see that we did not lose any advantages. So there was a young gentleman here who was a friend, I think, of Russell Sage. Sage wanted me, as I understood, to help him if I could, and so I had him put on the pay roll at \$50 a month, and he was on there; he is able and faithful; I think that was all right; it was a small salary, and he has earned the money. Then along the road, of this 400, 500, or 600 miles of road and branches, at various places, we gave some young lawyer an annual pass, on condition that he would look after our business there and not charge us anything for it. In that way we got along, I thought, reasonably cheap. That is the way it has been done here. I do not know anything about these things except in Kansas, and that I have told you. You asked me to mention something about what I said at the table.

Commissioner ANDERSON. You surprised me by your statement in regard to transportation of mails and troops.

MAIL TRANSPORTATION DIVERTED.

The WITNESS. Of course, I cannot affirm for a certainty what I am going to say, but it is what I firmly believe. That is, that the Departments of the Government have never given to this road, or to the Union Pacific road, the business to which they were entitled, or for which they were created. I think you will find to-day, by examining and inquiring of the postmaster here and at Lawrence and at Topeka, that more mail comes to their towns sent from here, and more is received here by way of the Santa Fé (a rival road), than there is over the Union Pacific by many pounds of mail. I may be mistaken about this, but I believe it.* Also, in regard to handling of supplies for the Government, for which these roads were created.

TROOPS AND STORES SENT OVER OTHER ROADS.

I think that the War Department at Washington and its appendages send their troops and all that sort of thing over these other roads, without having any regard whatever to the rights of the Government in these roads and the obligation of the companies to carry them. I know when I was up at Fort Riley last year, or the year before at Junction City (Fort Riley being just this side), that I saw several car-loads of coal at the post depot which had been transported there for Government

* Since my examination I have made some inquiry about the handling of the mails, and my information is that mail matter from Kansas City to Lawrence and Topeka is carried mainly by the Santa Fé Company, and from Kansas City and these Kansas towns to Colorado by the Santa Fé Company.—J. R. A.

use. On reaching Junction City I inquired of the agent where that coal came from, and whether we had hauled it, and he said no; but it was hauled from Junction City down there and they got \$2 or \$3 a cart for hauling it; but that the coal had come around the other road, the Missouri, Kansas and Texas. My idea was that it was the duty of the War Department to see that this company hauled that coal. They let the contract, I suppose, to somebody to furnish coal, and then they tried to see from whom they could get the lowest rates. So that in that way my conviction is absolute that we have never got, or the Government has never given to these roads, what the acts of Congress contemplated they should have.

PLAN OF SETTLEMENT.

I believe now that if the Government would take all its securities, and take up those that are yet to fall due and that underlie the Government security, and convert them into preferred stock at $2\frac{1}{2}$ per cent., and cut the rate in two, they would get their money. That would stop all this fuss about building cross lines and everything else. I believe that is the way to do. Here is the chance now to test it. It would be a wonderful thing for Kansas and these Territories and States beyond.

CHEAP TRANSPORTATION.

Q. In what way?—A. It would make their transportation so cheap, because all the other roads would have to come in, and it would stop all this running of cross-roads over the Union Pacific road. Right up here at Bonner Springs the people of Leavenworth have taxed themselves \$50,000 to pay this year and next (requiring the tax-payers to pay it in money) to build a road from Leavenworth that crosses at Bonner pile bridge for the Santa Fé Company to take their business away from us on the branch, and bring it down to the Santa Fé. We have to stop there with our trains. The proof was, on an application for an injunction, that our locomotives would not handle as many cars by six or seven loaded cars, by reason of having to stop for that crossing because there was a sag there. So we have to stop all our trains there. We got only \$1,000 damages. I fought against it. They cut us everywhere, at every point along the way, and diminished the value of this property unspeakably. The Government ought to become the main stockholder and put the rates down and take away all their offices from New York and Boston, and everywhere else where they could be sued outside of these States where these roads are located, and stay away from these cities. I believe the Union Pacific Company pays the interest of $2\frac{1}{2}$ per cent. on more than \$10,000,000 to defend its lawsuits brought abroad. We ought to get away from Boston and New York and get rid of all the tack-hammer fellows, and of all of this advertising and everything of that sort; and the money received should be paid into the sub-treasury. Then the Government would have this thing in shape that would test the propriety of its handling the transportation of the country. The interstate commerce bill would not be very much in the way. It is futile to undertake to undo what has been done. Depend upon it, nothing can be accomplished in that direction. The vital question is what can the Government do with its interest in the property to benefit the people? What better can it do than to convert its credit into the capital stock of the company and reduce the rates to a mere minimum. The Santa Fé is going to build a through line. That road and these other

roads would, in the contingency I mention, have to make their rates to correspond with those, and would make them.

BENEFIT TO PEOPLE OF PROPOSED PLAN OF SETTLEMENT.

By the CHAIRMAN:

Q. The people generally would be benefited?—A. Yes, sir; they would. You must remember that Fort Riley is the geographical center of this Government outside of Alaska. Of course the majority, or an equal rate of population, cannot be west of that central line; but there will be an immense population. It will bring all these transcontinental roads to the same rates. It will finally accomplish what these roads were inaugurated and made for while the Government was in the very throes of war to prevent dissolution of the Union. The other roads would have to come into line.

FACTORS TO BE CONSIDERED IN PLAN OF SETTLEMENT.

I want to say another thing. We have a grant of land of 200 feet wide on each side of the track (not each side of the center), which would be 400 feet 8½ inches in all, over all the public domain. There was this Delaware reservation and the Pottawatomie reservation, which was a part of the public domain. It did not strike us at the start until I got to thinking about it more. We had a lawsuit (about killing some cattle and about cutting some timber) with one of these Delaware Indians here, and it appeared that it was all within 200 feet of the road, and I set up the defense that we had a right to do it, as it was on our land. It went to the supreme court of the State, and there decided that our right of way through this Indian reservation was 400 feet. It afterwards went into the Federal court in another form, and Judge Brewer of the Federal court decided that way. In addition to that, we have in our grant the odd-numbered sections in all the public lands. There was an agreement in the act to extinguish the Indian titles. Therefore we are entitled to the odd sections in the diminished Delaware reservation and to the odd sections in the Pottawatomie reservation, which would be worth now, estimating them at \$2.50 an acre, some \$700,000 or \$800,000.

Q. Why do you estimate them at only \$2.50 an acre?—A. Assuming that they were worth only that at the time we ought to have got them, but assuming that they were worth what they are now, they were worth \$3,000,000. I brought that to the attention of Judge Dillon and Mr. Adams, suggesting that in anything that the Government did with reference to settling the accounts with the company, the value of those lands should be taken into account and that we should be credited for them, for the Government had sold them. It would diminish our debt very much if we got that allowed; and I do hope, if you report on this subject, that you will call the attention of the President and of Congress to our claim in that respect.

By Commissioner ANDERSON:

Q. Did the Government get \$3,000,000 for them?—A. No; that is why I said \$2.50 an acre.

By Commissioner LITTLE:

Q. Is that what the Government got?—A. Yes, sir; I think it was; something like that. But while they are dealing with an inspection

party, they ought not to be very strict about a thing of that sort. They ought to make a liberal allowance.

IMPECUNIOUS, ALTHOUGH DIVIDENDS OF \$28,000,000 WERE DECLARED.

Q. You do not think you are impecunious?—A. I reckon so. You have not seen any great amount of money around, have you?

Commissioner LITTLE. You made \$28,000,000 in dividends.

The WITNESS. The Kansas Pacific never did.

Commissioner LITTLE. Or got the dividends on the stock?

The WITNESS. When?

Commissioner LITTLE. From 1880 to 1884.

The WITNESS. Oh, yes; that was after the consolidation. I do not know anything about that.

Mr. MINK. It is no crime to pay a dividend.

Commissioner ANDERSON. It was only in reference to the claim of impecuniosity.

The WITNESS. We are impecunious now, at any rate.

Commissioner ANDERSON. You paid too much in dividends.

The WITNESS. They ought to give us a liberal allowance.

By the CHAIRMAN:

Q. Why has not the company made this claim? What has been the answer of the authorities?—A. I cannot tell you why they have not, and I do not know but what they have. It is no fault of mine that they have not.

Q. How could this Commission suggest something which the company has not claimed?—A. I do not know what you have to do. I do not know the scope of your powers.

The CHAIRMAN. That is one of them—to inquire into the value of the property of the company.

SQUATTERS ON RIGHT OF WAY.

The WITNESS. If it is that, it is legitimate for you to mention this. Then I wish to say that I have striven to drive these people off the 400-foot right of way. Mr. Adams did not like to make them unhappy, and so we let them alone. There are people along there who have pig-pens, hay-stacks, and all that sort of thing. I wanted to put them off. We had a controversy about a quarry this side of Linwood that we wanted to get stone from for ballast of the road.

These are matters which I think the Commission should be made acquainted with.

CLAIMS AS TO ODD SECTIONS IN DIMINISHED DELAWARE RESERVATION.

By Commissioner LITTLE:

Q. Will you submit the claim of this company, in relation to the lands about which you have spoken, in writing, so that it may be considered formally?—A. Yes, sir; I will make a brief statement of it and refer to the authorities. I think Mr. Adams will do that. I have written to Dillon half a dozen times about it, and to Mr. Adams, while this thing was going on before Congress, begging him, in case Con-

gress was inclined to do anything, to have this land question settled; that we were entitled to large credit, and he ought to insist upon it, while it was going on. He will tell you so. It was not his idea. I believe that it was wise to agitate the matter at that time, but to get the legislation then pending through the best way he could. But I thought it was the proper time to make our claim, as the thing was progressing. That was my notion. I do not know what else I can say. If I have omitted to answer any questions you have asked to the best of my knowledge, I do not know it.

J. P. USHER.

The Commission then adjourned, to meet upon the call of the Chair.