

TESTIMONY

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 IV.

REPORTED BY

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

WASHINGTON:

GOVERNMENT PRINTING OFFICE.

1887.

P B VOL IV—1

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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.

DENVER, COLO., *Monday, July 11, 1887.*

The Commission met upon the call of the chair, all the Commissioners being present.

LEONARD T. SMITH, being further examined, testified as follows:

The CHAIRMAN. You were sworn and examined in Leavenworth, Kans.?

The WITNESS. Yes, sir.

By Commissioner ANDERSON:

Question. Since you were examined at Leavenworth we have been over the Kansas Central, and desire to call your attention to an answer made by you, that the actual cost of constructing that road was from \$20,000 to \$22,000 per mile. Please tell the Commission whether, on reflection, that was not an overstatement of the actual cost?—Answer. I do not think it is. As I said to you when I made the statement, I would have to refer to books to make an accurate statement. But I do not think the road could be built, at that time, for less than that money.

### CONSTRUCTION OF KANSAS CENTRAL.

Q. When was it built?—A. A part in 1871 and 1872.

Q. How many miles?—A. Fifty-six miles in 1871 and 1872. During the panic, that was.

Q. The rest of it was built when?—A. To Onaga, 1877—28 miles. The rest of it was built from 1879 and 1881. I think we commenced in the spring. Mr. Garrison bought it in 1879. A part of it was built in 1879; 35 miles to Garrison.

Q. We are not inquiring as to how many dollars in bonds the company issued to construct and build the road, but we are inquiring as to what it cost the contractors themselves for the iron and material put on that road.—A. I think I explained to you that there was no contractor. The company built it themselves. I was the president of the company, and my associates and I, as we spent the money, made requisitions or monthly estimates and were paid by the company.

COMPANY ISSUED BONDS TO ITSELF AND ADVANCED THE MONEY.

Q. How did the company issue the bonds?—A. To themselves, and advanced the money. That was the first part. In the first place the road was built, the company building it and taking the bonds at par, and furnishing the money at par for the bonds, as far as Onaga.

Q. What company was that?—A. The Kansas Central.

Q. Do you mean they took their own bonds?—A. They took their own bonds and borrowed the money or advanced the money on the bonds. That was until Commodore Garrison came in.

Commissioner ANDERSON. Leaving out the bond transaction entirely, the Kansas Central must have bought the rails from dealers in iron?

The WITNESS. Yes.

Commissioner ANDERSON. They did not pay for those in bonds, but with money?

The WITNESS. They paid with money.

#### COST OF CONSTRUCTION.

Q. Measuring the cost of that road by the money so paid and by the money paid to the material men who ballasted and regulated the track, what is your judgment as to what it cost per mile to construct the Kansas Central?—A. Not less than \$20,000 to \$25,000 a mile. As I say, I would have to refer to books to give any data.

Q. What, in your judgment, was the iron worth per ton?—A. One hundred dollars per ton, the first iron, delivered in Leavenworth.

Q. How many tons per mile?—A. They were 30-pound rails, all of them, for the first 50 miles. That would be a little less than 50 tons per mile. Including side tracks and all, it would be a little over that.

Q. How much did the iron cost on the rest of the road, built in 1878 and 1879?—A. Some of it was built 29 miles from Onaga, or about 30 miles, say, at a cost of about \$42 a ton.

Q. Was that 30 miles built before or after the period when the road was sold under foreclosure and bought in?—A. It was built before.

Q. Is that all that was constructed before?—A. Yes, sir.

Q. Between the May when it was sold, in 1879, and November, 1879, I understand you to state that 35 miles more of the road were constructed?—A. We were building that when Mr. Garrison sold out to Mr. Gould, and had nearly completed it.

Q. Do you know what that 35 miles of road actually cost per mile?

The WITNESS. That Commodore Garrison and myself built.

Commissioner ANDERSON. Then you certainly can tell.

The WITNESS. I can tell by the books.

Q. Did it cost, without the equipment, over \$10,000 a mile?—A. Oh, yes, sir.

#### COST OF IRON AND RIGHT OF WAY.

Q. What did the iron cost?—A. If you went over the road you must have noticed that it was a very heavy road to build from Onaga to Garrison. It was a very rough country through Pottawatomie County.

Q. What did the iron cost on that section?—A. I could not say.

Q. Was it more or less than the preceding 30 miles? That was from May, 1879, to November, 1879?—A. I think it was about the same. I think it cost about \$40 or \$42 a ton, delivered in Leavenworth.

Q. Did the right of way cost anything?—A. Yes, sir; it was not very expensive, though. I should judge \$500 a mile would cover it; *perhaps less than that.*

Q. Then the chief items of expense are the rails, the ties, the fish plates, and regulating and grading and ballasting?—A. Yes, sir.

Q. Are there any stone or iron bridges on that?—A. No, sir; there are stone culverts. There are no very long bridges.

#### THE AID EXTENDED BY LEAVENWORTH.

Q. I understand that \$250,000 of the stock of the Kansas Pacific Company was delivered by the town of Leavenworth to the Kansas Central as an inducement for the construction of the road. To whom did that stock go after this delivery to the Kansas Central?—A. Kansas Central proposed to the county of Leavenworth, which had \$250,000 worth of its stock, that if they would build 50 miles, they should have this \$250,000 stock. That would take it to Holton or near Holton. It is 55½ miles to Holton. We built to Holton before asking for the stock. Then the county surrendered to us the stock. After that we went on and built to Onaga and then the road was sold out and a compromise made with the company. All the associates and Mr. Garrison and myself bought in the road at enough to cover its floating debt and everything we had outstanding. This stock belonged to the first associates—covering the 50 miles—and Mr. Garrison had nothing to do with it. It was not in the sale at all.

Q. How many of those associates were there?—A. There were twelve originally. They had not all staid in at the time we got it.

Q. So that these twelve retained the title to that stock after the transfer to Garrison?—A. Yes, sir.

Q. In what respect was this stock distinguishable from other stock of the Kansas Pacific?—A. I, of course, was claiming that it was the only stock paid for.

#### THE STOCK ISSUED THEREFOR TO LEAVENWORTH.

Q. It had been issued in consideration of actual bonds?—A. Actual bonds.

Q. Delivered by Leavenworth County to the company?—A. Yes, sir; \$250,000 of bonds.

Q. You claim that it was non-assessable?—A. I did, in my petition to get the stock transferred on the books of the company. We had quite a litigation over it, pending for years; never accomplished anything until after Mr. Gould bought out the road. Then we compromised.

Q. Before we come to that, what position did the city of Leavenworth take in regard to this litigation to compel the transfer of the stock?—A. Not any, after they transferred it to us. They had no rights in it, I claimed.

Q. Did they not take some hostile action?—A. Yes, sir; not the citizens, but the county officers, and the lawyers threw some stumbling block in the way. The question was raised in the court that we had not had it legally transferred to us. The question was never litigated, but was always postponed and kept opened. Of course it was done to annoy us and to keep us from having this stock transferred. We never could get the stock transferred on the books of the company.

Q. Did you never make a proposition to the county officers of Leavenworth in regard to that?—A. No, sir.

Q. To whom did you make it, to allow a percentage?—A. That was made by our company. We happened to have a meeting two days before this trade of Commodore Garrison's, not knowing anything about

it, however, to know what we could realize out of the stock and what we could get for it.

#### THE SALE TO GOULD.

Q. The meeting of the associates?—A. The meeting of the associates, which was the Kansas Central. They directed me to offer to the county of Leavenworth, at my suggestion, to be a party to the suit with us to compel the transfer of the stock. and then I would immediately ask for a receiver. That was my arrangement. The resolution in the company was that I should do whatever I chose to with this stock. That I should have full charge of it. It was not more than a couple of days before Gould bought Garrison's interest, and I have never mentioned it to the county, as I had not had time, as I had a great deal of other business, when I got a dispatch to come on to New York. I imagined right off—

Q. Dispatch from whom?—A. From Mr. Garrison, and also, I think, from—no, it was from Mr. Garrison alone. He wanted to meet me, and I saw by the paper that he had sold out to Mr. Gould. That was the first I knew of it. The dispatch was, to come to New York at once; also all the directors of the Missouri Pacific. I was a director also. Commodore Garrison's brother joined me at Saint Louis, and I went on to New York. I had been at Mr. Gould to buy the stock two or three years before, several times. I talked with him. That was the time we sold the stock to him.

Q. You saw Mr. Gould?—A. Yes, sir.

#### PRICE OF THE STOCK.

Q. What occurred between you and Mr. Gould in regard to the price of this stock?—A. It was a new thing to me. I asked him to make me an offer. He offered me \$100,000.

Q. It was \$250,000, was it not?—A. Yes, sir.

Q. Five thousand shares?—A. Yes, sir. I told him I would not accept it.

Q. What was the market price?—A. I think about 80 or 85. I made this remark to Mr. Gould. He said, "The stock is selling here in the market." He said, "This stock has not been transferred; and not only that, I guess you understand the market here pretty well. It is made"—or something of that sort. You could not sell that amount at that time.

Q. At what figure did you trade?—A. I think on the basis of 80 per cent., and with the understanding that he should have the amount. I told him my arrangement.

Q. Then you allowed to him what amount you were allowed?—A. Yes, sir.

Q. So that it netted you about \$150,000?—A. Yes, sir. I offered to take \$200,000. Finally he offered \$150,000, and I took it up.

Q. This happened a few days after the transaction as to the Missouri Pacific between Mr. Garrison and Mr. Gould.—A. Yes, sir.

L. T. SMITH.

DENVER, COLO., *Monday, July 11, 1887.*

SYLVESTER T. SMITH, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am general manager of the Denver and Rio Grande road at Denver.

Q. Where do you live?—A. Denver.



## OFFICIAL POSITIONS HELD BY WITNESS.

Q. How long have you been manager of that road?—A. Since May 1, this year.

Q. Were you connected at any time with the Union Pacific Railway?

—A. Yes, sir.

Q. When?—A. I commenced with the Kansas Pacific from February 1, 1864, and was with them until May of this year.

Q. What position did you hold in 1864?—A. I was auditor in 1864.

Q. How long did you hold the position of auditor?—A. I held it until 1878, when I was appointed receiver of the Kansas Pacific.

Q. What position did you hold after that?—A. I was general superintendent of the Kansas Pacific until November, 1884, when I was appointed general superintendent of the Union Pacific.

Q. What were your duties as auditor?—A. I had general charge of the accounts.

Q. To what extent had you power over the bills presented to you?—

A. I had the approval or rejection of them and gave instructions to the subordinate officers and agents and other officers along the line, so far as the accounts were concerned.

## REBATES.

Q. During your term as auditor of the company was it the practice of the authorities to allow rebates?—A. Yes, sir.

Q. To what extent?—A. I hardly know how to answer that question.

Q. Was it general or special?—A. There were rebates allowed to a certain extent every month. You can call it either general or special.

Q. Upon what basis did they allow the rebates?—A. I do not hardly know how to answer that. It was according to the circumstances, and they varied from time to time. There was no regular rule about it.

Q. What were the circumstances that made you change them?—A. Competition and rates made by other lines, and the weather, and the state of the crops, and the direction in which they moved.

Q. Do you recall any of the names of the shippers to whom rebates were allowed?—A. No, sir; not specially.

Q. Do you recall them generally?—A. I do not know as I could; it is a long time ago.

Q. Was it a fact that the same names were constantly being repeated?

—A. Oh, yes, sir.

Q. Do you mean the names of persons to whom special rates were given?—A. Yes, sir.

Q. Were they small or large allowances?—A. Generally their heaviest shippers.

Q. During your term who were the heavy shippers?—A. It would be pretty hard for me to name them; I could not recall them; I could not begin to recall the shippers.

Q. Had you any instructions as to rebates?—A. No, sir. The vouchers were passed in the accounting department on the authority of the general freight agent and approved by the general superintendent.

## ALLOWED UPON APPLICATION.

Q. Were rebates allowed upon application?—A. Applications were generally made to the traffic department, and if they passed on them it was certified by the traffic department and approved by the general

superintendent. That was all that was necessary to pass them through the accounting department.

Q. During your term as auditor was there, to your knowledge, any payment of dividends out of the land fund?—A. No, sir; there never was. I never was auditor of the Union Pacific road; it was the Kansas Pacific. I am answering now as auditor of the Kansas Pacific. There never was.

Q. Were you auditor after the consolidation?—A. No, sir; I was general superintendent after the consolidation.

UNION PACIFIC PEOPLE NOT INTERESTED IN OTHER BUSINESS ALONG THE LINE.

Q. During your term as auditor had you any knowledge of any officer or employé or agent of the Union Pacific Company or the Kansas Pacific Company being interested directly or indirectly in any manufacturing or business company along the line of the road?—A. No, sir.

Q. During the time that you held other positions in the company had you any knowledge yourself or through others of any officer or employé or agent of the company being interested in any business along the line of the road?—A. No, sir.

Q. What part did the officers or employés of the company take in elections during your term of service?—A. As far as I know, they all voted as they saw fit, and did not take any part.

Q. Have you any knowledge of interference on the part of the officers or employés of the company in politics?—A. No, sir; none whatever.

Q. In the direction of influencing legislation?—A. No, sir.

PASSES.

Q. Had you any authority to issue passes while you were auditor or subsequently?—A. Yes, sir.

Q. Did you issue passes?—A. Yes, sir.

Q. Were you instructed as to the manner of issuing them?—A. No, sir; not particularly.

Q. How did you issue passes, and to whom?—A. While I was general superintendent I issued them on the application of other lines, on application of heads of departments, and issued them on account of business sometimes, and issued them as complimentary.

Q. Under what other classes were they issued?—A. I believe that covers about all of them.

Commissioner ANDERSON. Complimentary would cover a great many.

TO WHOM COMPLIMENTARY PASSES WERE ISSUED.

Q. To whom did you issue complimentary passes?—A. To personal friends of mine, and to other officers, and to officials of other lines.

Q. Did you ever issue a pass to a member of the legislature?—A. I do not know whether I did or not. I suppose I have to a great many; yes, sir. I know I have.

Q. Would you not recall it if you did?—A. I say that I did.

Q. Have you issued passes on application of members of the legislature to their friends?—A. I think very likely I have.

Q. Was that for the purpose of influencing legislation?—A. No, sir; not at all.

Q. Was that for the purpose of making friends for the road?—A. It was issued as a compliment; it was complimentary. They were issued to a great many other people.

Q. What compliments were you under to the friends of the members of the legislature?—A. It would be considered complimentary if they made a request and we honored it.

Q. Have you named all the classes to whom you issued passes?—A. Yes, sir; I think I have covered all the classes.

Q. Have you issued passes to shippers for the purpose of securing their freight or business?—A. No, sir; personally I do not think I ever have. But they have been issued by others; by heads of departments. They were furnished by me.

Q. Did you authorize the person to whom you issued the pass to issue such a pass?—A. Yes, sir.

#### TRANSCONTINENTAL POOL.

By Commissioner ANDERSON:

Q. Was the Denver and Rio Grande a member of the transcontinental pool?—A. So I understand; yes, sir. I do not know that I have much information about that.

Q. While you were superintendent of the Union Pacific, did the question of the payment of the Pacific Mail subsidy come up?—A. No, sir; I never had anything to do with that.

Q. You have no knowledge whatever on that subject?—A. None whatever.

Q. When did you become receiver of the Kansas Pacific?—A. I think it was the 1st of November, 1879.

Q. You succeeded Mr. Greeley?—A. I succeeded Mr. Greeley and Mr. Villard.

Q. Was that just on the eve of the consolidation?—A. Just before the consolidation; yes, sir.

Q. How long did you remain receiver?—A. Up to the date of consolidation.

Q. The 24th of January, 1880?—A. Yes, sir.

By the CHAIRMAN:

Q. Can you be here before the committee within the next two days?—A. Yes, sir; I can. I was expecting, though, to go up the road the day after to-morrow. If you could call me to-morrow it would be more convenient.

The CHAIRMAN. There are some questions that are involved in some testimony taken at Omaha that we would like to examine you upon; so that if you would be in the neighborhood, we would like to have you here. The testimony has not yet been transcribed by the stenographers.

The WITNESS. I will be here, but I would prefer to come to-morrow afternoon, if you could arrange it that way.

DENVER, COLO., *Monday, July 11, 1887.*

JOHN HARKINS, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am president and manager of the Rocky Mountain News Printing Company.

Q. How long have you been such manager?—A. I have been manager of the company in the neighborhood of eight years.



Q. During that time have you resided in Denver?—A. Yes, sir. I have been president and manager of it for about a year, or a little more.

#### COMPLAINTS.

Q. Have you any knowledge of any complaints as to the facilities and accommodations afforded by the Union Pacific Railway Company to this community?—A. Of a general character.

Q. Will you please give them to the Commission?—A. Those complaints that naturally drift into newspapers is all the knowledge I have.

Q. What were the complaints, or what are they?—A. The excessive rates, and so on.

Q. How long have those complaints existed?—A. They come from time to time to us, as to any newspaper office of a general character.

Q. Are the complaints true?—A. I could not say that. It is my business to investigate such matters only as a newspaper man.

Q. Have you any knowledge, generally, of any complaints existing in the community?—A. Only of a general character.

#### HIGH RATES ON THE COLORADO CENTRAL.

Q. What is the general character of the complaints?—A. Excessive rates; high rates to certain points. The complaints mainly that have come to me are complaints of high rates on the Colorado Central road.

Q. Have you any knowledge of any discriminations, or preferential rates, or special rates allowed by the Union Pacific Railway Company to shippers?—A. Of a general character.

Q. What do you mean by a general character?—A. I have heard that such things did exist; that such discriminations were made; that special rates were granted. I do not know of my own knowledge.

#### SPECIAL RATES TO ROCKY MOUNTAIN NEWS.

Q. Has your company ever had any special rate from the Union Pacific Company?—A. Yes, sir.

Q. How long has the special rate existed?—A. It had a special rate when I went into the company and became its manager, some years ago. It was at the time when Mr. Loveland was president of the company and was a director in the Union Pacific road.

Q. The special rate was from what point to what point?—A. From Missouri River to Denver.

Q. On what did you have the special rate?—A. On print stock.

Q. What special rate did you have?—A. I do not know what it was. The arrangement was made before I came there, and I know nothing about it.

Q. Do the special rates exist to-day?—A. No, sir.

Q. When did they cease?—A. When I became president and manager of the company, after Mr. Loveland went out of it.

Q. What year was that?—A. A little over a year ago.

Q. Have other shippers in the same line of business a special rate, or had they during that time?—A. I do not know anything about them.

Q. What was the open public rate from here to the Missouri River on the print stock?—A. Something in the neighborhood of \$2, I believe; \$2.30 or \$2.40, or something along there.

By Commissioner LITTLE :

Q. Was that on the 100 pounds?—A. I think it was. Something like that.

By the CHAIRMAN:

Q. What was the percentage or cut rate that was allowed to the Rocky Mountain News Company?—A. I do not know.

Q. Has the Union Pacific Railway Company any interest in the Rocky Mountain News Company?—A. No, sir.

Q. Have they ever had any interest?—A. Not since I have been in it; no, sir.

Q. Have any of its officers, agents, or employes had any interest?—A. No, sir.

A REBATE OF \$1,000.

Q. In the examination of the books of the Union Pacific Railway Company, a rebate or allowance of \$1,000 to the Rocky Mountain News Company was found. Mr. Kimball, the manager, was unable to explain it. Can you give any explanation to the Commission as to what that rebate was for?—A. No, sir; that was some arrangement made, as I tell you, with Mr. Loveland at the time Mr. Loveland was a director in the Union Pacific Company.

Q. During your management in the last year, had you ever any rebate from the company?—A. No, sir.

Q. Where is Mr. Loveland?—A. I believe he is in Denver.

Q. Does he reside here?—A. He resides here; yes, sir.

Q. Is he here now?—A. I could not tell you; my impression is that he is. I saw him a few days ago in the street.

By Commissioner LITTLE:

Q. What is his full name?—A. W. A. H. Loveland.

The CHAIRMAN. We are much obliged to you and will excuse you unless you have some suggestions to offer.

The WITNESS. None at all.

By Mr. WILLARD TELLER:

Q. Do you know when Mr. Loveland ceased to be a director in the Union Pacific?—A. I could not give you the date.

Q. Was it several years ago?—A. Several years ago; yes, sir.

Q. Was it about the time you went in?—A. No, sir; it was after. About 1881 or 1882. That is my impression. I am not certain about that.

By the CHAIRMAN:

Q. Have you any other information that you can give the Commission?—A. I have nothing at all.

DENVER, COLO., *Monday, July 11, 1887.*

JAMES M. BURNELL, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. At present I am secretary of the Rocky Mountain News Printing Company.

SECRETARY OF ROCKY MOUNTAIN NEWS COMPANY.

Q. How long have you been secretary?—A. For about a year.

Q. Were you connected with the company prior to that time?—A. As a foreman in the news department of the newspaper.

Q. Were you connected with the Rocky Mountain News Company during the period when the Union Pacific Railway Company was allowing rebates to it?—A. I do not know what period that might be. I was foreman five years, from September, 1881, until I went into the company. I was foreman of the news department.

Q. Were you in a position to know of any rebates allowed to the Rocky Mountain News Company during your connection with it?—A. No, sir.

#### NO KNOWLEDGE OF SPECIAL RATES.

Q. Had you any knowledge, during the time that you were connected with it, of any special rate on print stock?—A. No, sir.

Q. Did you know that the Rocky Mountain News Company, during the time you were connected with it, was receiving special rates from the Union Pacific Company?—A. No, sir.

Q. Did you ever hear of it before?—A. No, sir.

Q. By whom were you employed?

The WITNESS. Do you mean the individual or the company?

Q. By whom were you employed?—A. By the manager, Mr. Harkins, for the company.

Q. Was Mr. Loveland in charge of the company when you were connected with it?—A. He was president of it, I believe.

Q. Have you any knowledge that Mr. Loveland had special rates with the Union Pacific Railway Company on shipments?—A. No, sir.

Q. During the time that you were connected with the company, did you know any officer, or employé, or agent of the Union Pacific Railway Company who was interested in the Rocky Mountain News Company?—A. No, sir.

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DENVER, COLO., *Monday, July 11, 1887*

KEMP G. COOPER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am the general manager of the Denver Republican.

Q. How long have you been connected with it?—A. About six years, I think; a little over six years.

Q. How long have you resided in Denver?—A. About thirteen years, I think.

#### RAILROAD FACILITIES AND ACCOMMODATIONS.

Q. What have been the facilities and accommodations afforded to the community by the Union Pacific Railway Company?

The WITNESS. In what respect?

The CHAIRMAN. With reference to freight and passengers.

The WITNESS. I guess the facilities have been good enough. That is, the capacity for hauling what was wanted, if that is what you have reference to.

Q. Have there been any complaints as to the facilities or accommodations?—A. Not that I know of.

Q. Have there been any complaints as to the rates of freight?—A. Yes, sir; there have been.

Q. What has been the nature of them?—A. That they have been exorbitant.

#### COMPLAINTS OF EXTORTIONATE CHARGES.

Q. What do you mean by exorbitant? As compared with what period?—A. As compared with other points. More than in regard to periods.

Q. What points?—A. For instance, we pay \$1.50 a hundred for fourth-class freight from Chicago to Denver, and the same freight was carried to San Francisco for \$1, as I understand it. In that particular it is an extortion, as we think.

Q. What effect has that upon the citizen shipper here?—A. It makes us pay a very much larger percentage for freight than we think we ought to pay.

Q. Of what other points as to rates have you any knowledge?—A. We pay 35 cents a hundred from Chicago to the river, and we pay \$1.15 from the river to Denver, the distance being about the same. We think that the rate from the river to Denver is more than it should be.

Q. What do you pay that for?—A. In fourth-class freight. I speak of fourth-class freight because most of our freight is termed fourth-class freight—in car-load lots. We have had a good deal of first-class freight—job stock, and such things as that—that comes higher.

Q. Have appeals been made to the company by the community?—A. Possibly not in a public way, unless it has been done through the chamber of commerce. I do not know whether it has been done or not through them.

#### UNEXPECTED INFORMATION ABOUT SPECIAL RATES AND REBATES.

Q. Have you any knowledge as to preferential rates, or special rates, or rebates?—A. I have some knowledge that was brought out at Omaha that was a little unexpected in this community.

Q. What knowledge have you?—A. In reference to the News rebates and the smelting rebates.

Q. Have there been complaints as to the system of allowing rebates to shippers?—A. Yes, sir; I think there have.

Q. What has been the nature of the complaints?—A. That it is unjust to build up a few companies in business to the detriment of others.

#### BUILT UP ONE TO THE DETRIMENT OF OTHERS.

Q. What has been the effect upon the community in Denver and the surrounding country?—A. The effect, I think, with a great many shippers who have not had the rate that others have had, or were represented to have had, is that they have been losers in business, while those who had the rates have made money. It has built up one man to the detriment of the other.

Q. Have you ever had a special rate as a shipper?

The WITNESS. Over the Union Pacific?

The CHAIRMAN. Yes.

The WITNESS. No, sir; not at all.

Q. Have you ever applied to the Union Pacific Railway Company for a special rate?—A. No, sir; never.

Q. Have they ever given you any notice of any character that you might obtain a special rate?—A. Not at all; we did not want it.

Q. Would the effect be then that if they failed to notify you of a special rate being allowed to a competitor in the same line of business, you would suffer to the extent of the allowance of the rebate?—A. Exactly.

Q. Have you any knowledge as to preferential rates as between different points of shipment?—A. No, sir; I think not. That is a matter of detail that I have not gone into at all. There may be such things, but I do not know of them.

Q. Have you any knowledge as to discriminations in the State here against particular communities by the allowance of rates?—A. Only from general complaints.

Q. What have been the complaints?—A. I think there have been complaints that some points have rates better than others.

Q. What points?—A. I do not know that I could name them.

Q. What points have been complained of?—A. I cannot call to mind exactly. During the winter here there was some controversy as to points in the northern part of the State getting rates the same as Denver rates, or better, from the east, hauled through here. I think possibly the president of the Chamber of Commerce, or the secretary, could give you some information on that point. It is a matter that I have not looked into carefully.

#### INTEREST OF UNION PACIFIC PEOPLE IN OTHER BUSINESSES.

Q. Have you any knowledge as to the part taken by the Union Pacific Railway Company, its officers, employés, or agents, in influencing legislation?—A. Not personally; no, sir.

Q. What knowledge have you generally?—A. Just the general report.

Q. Have you any knowledge of any officer, agent, or employé of the Union Pacific Railway Company being interested, directly or indirectly, in any manufacturing company, smelting works, or business of any character along the line of the road?—A. Nothing more than you brought out at Omaha with regard to the officers of the road being connected with the Omaha and Grant Smelting Company. None other that I remember at this time.

#### PLAN OF SETTLEMENT.

Q. Have you considered the question of the settlement of the debt between the railroad companies, aided by the Government, and the Government?—A. Not specially.

Q. Have you considered it sufficiently to form an opinion?—A. As I look at it now, I think that the better thing to do would be to take possession of the road as soon as the Government could, and not grant the extension.

Q. Has there been any discussion of the question of settlement throughout the State or among the people here?—A. Not to any extent, I think.

Q. Has there been any sentiment expressed among the people at large, generally, as to the question of settlement?—A. I think when the matter was before Congress last winter, the sentiment was opposed to the extension; I should say so. That is, with those I associated with and knew and talked about it.



Q. Have you any other information or suggestion that you can give to the Commission?—A. Not at this time.

The CHAIRMAN. At any other time we would be glad to have it while we are here.

The WITNESS. If I have anything, I will be very glad to submit it to you.

By Commissioner LITTLER:

Q. Are you the editor of the Denver Republican?—A. I am the general manager of it, and control it.

Q. Do you prepare the editorials?—A. No, sir; I do not. They are prepared at my suggestion, frequently.

Q. Who prepares the editorials generally?—A. Mr. Hayward.

Q. Do you know who prepared the editorial in your paper of the date of June 4?—A. At the present time I do not remember.

#### CHARGES THAT THE COMMISSION WAS SKIMMING OVER THE INVESTIGATION.

Commissioner LITTLER. I wish you would ascertain it. There was an editorial in your paper of June 4, in which it was assumed that your paper was in possession of valuable knowledge, and the query was raised in that article whether this Commission was skimming over its investigation or whether they were going to the bottom of it. We want you to furnish us with all the information you have in relation to any matter within the scope of the law under which we are appointed. We are going to try not to skim it over.

The WITNESS. We will be glad to assist you all we can.

Commissioner LITTLER. The author of that article pretends to know some things, and we would be glad to have him as a witness.

Q. Have you given to the Commission all you know of value?—A. There may be some things in my mind that may come up afterwards that I can submit.

Commissioner LITTLER. We will be glad to have you come back, and will give you another hearing.

#### DENIAL OF HOSTILITY TO UNION PACIFIC.

By Mr. WILLARD TELLER:

Q. You heard Mr. Hill state this afternoon that he was interested in a newspaper?—A. I did not.

Q. He did state it. Is this the newspaper?—A. Mr. Hill is interested.

Q. He is a large owner?—A. Yes, sir; he is.

Q. State whether, for the last two years, your paper has not been generally hostile to the Union Pacific?—A. No; it is not, any more than to any other railroad that I know of.

Q. State whether it has not generally had articles reflecting very seriously on the management from day to day and from month to month for the last two years?—A. I think not.

Q. You think not?—A. Yes, sir.

Q. Has it had any such articles within the last thirty days?

The WITNESS. On the Union Pacific especially?

Mr. WILLARD TELLER. Yes.

The WITNESS. Yes, sir; possibly it has.

Q. Has the policy of the company been changed within the last thirty days?—A. No, sir; it has not.

## EXCESSIVE RATES.

Q. Then is it not the fact that it has had such articles for the last two years?—A. For the last two years and longer, as far as that is concerned, we have taken the position that railroad charges and rates here were exorbitant, and we have so stated, not only in regard to the Union Pacific, but to all railroads.

Q. Have you not made a great many charges against the Union Pacific in respect to its management or mismanagement, different from what you have made in respect to other railroads?—A. I think not.

Q. Did not the paper take a very active part in the senatorial election two years ago?—A. Yes, sir.

Q. Is it not a fact that the paper assailed the Union Pacific at that time on the ground that it had been influencing legislation?—A. I think so; yes, sir.

Q. When did you let up on that kind of assaults on the Union Pacific—when did the Republican cease to make those assaults?—A. I do not think there has been anything in that connection since that time. There may be some special matter I do not know of.

Q. It continued throughout the winter, did it not?—A. I do not think so.

Q. Did it continue throughout the senatorial canvass?—A. Yes, sir; I think so.

Q. As soon as that was over you ceased?—A. Possibly.

Q. Since that have you used the Union Pacific just the same as you have used any other railroad?—A. I think so; yes, sir.

*Evening session.*

DENVER, COLO., *Monday, July 11, 1887.*

CHARLES WHEELER, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. Where do you reside?—Answer. At Denver City.

Q. How long have you lived here?—A. Fifteen or sixteen years.

Q. Where did you live before that?—A. At Omaha.

Q. What has your occupation in Denver been?—A. Railroad accountant.

AUDITOR OF DENVER AND SOUTH PARK CONSTRUCTION AND LAND COMPANY.

Q. Were you formerly the secretary of the Denver and South Park Construction and Land Company?—A. I was auditor, not secretary.

Q. Who was the secretary?—A. L. H. Eicholtz.

Q. Where does he live?—A. At Denver City.

Q. Is he here now?—A. I think so.

Q. Where was the office of that company?—A. In Evans Block, Denver.

Q. Who was president in 1878?

The WITNESS. Of the construction company?

Commissioner ANDERSON. Yes.

The WITNESS. John W. Smith.

Q. Where is John V. Smith?—A. In San Francisco, Cal., on business.

Q. What was the president of the Denver and South Park Railroad Company at that time?—A. John Evans. In regard to that construction company, as I saw most of the accounts for the secretary, I presume I am as familiar and probably more familiar with the transactions of that company than the secretary himself.

#### CONSTRUCTION OF DENVER AND SOUTH PARK.

Q. Do you remember when the construction of that road was first commenced?—A. Between 1871 and 1873.

Q. How rapidly did the construction proceed?—A. For the first year very sluggishly, and up to 1874 there had been but about 17 or 18 miles of the road constructed and opened.

Q. Did you keep the books of account during those years?—A. Yes, sir; all of them.

Q. Who kept the books of the railroad company?—A. I did. I was the auditor of the railroad.

Q. What books did the railroad company keep in regard to the accounts of the board of directors?—A. The secretary's book of minutes—the usual books.

Q. Were there any minutes of the transactions of the executive committee?—A. There is very little of the transactions of the executive committee that were not transcribed on the secretary's books. The executive committee was residing in Denver, and whatever they did was always mailed at the general meeting of the directors.

Q. What books did the company itself keep of its transactions?—A. The general ledger, journal, and the general sub books—sub ledgers pertaining to railroad business.

Q. What books did the construction company keep?—A. A general ledger, journal, and voucher register were the chief books. There were some minor sub books, but those were the chief books.

Q. Until what period did you have charge of those books?—A. Of the construction company's books, until the company's accounts were entirely closed out and the business of the company wound up and settled in every respect.

#### OPERATIONS IN THE VARIOUS CONSTRUCTION COMPANIES.

Q. How was the business of that company wound up?—A. By dividends; by sale of its assets and divisions to its stockholders in dividends.

Q. When did that take place?—A. In 1881.

Q. What became of those books after the affairs of the company were closed up?—A. I have them in my possession.

Q. At present?—A. Yes, sir.

Q. You say that up to 1874 about 16 miles of this road had been completed?—A. That is about all; what is now the branch to Morrison from Denver.

Q. Please describe the construction during the next three or four years.—A. The original construction company was called the Denver Railway Association; that constructed that portion of it and had exhausted its means. After extending a little beyond, on the main line, and grading up the Platte, a new construction company, called the Denver and San Juan Railroad Construction Company, was organized.



an increased capital stock, largely, if not all, composed of Denver citizens. That progressed, pushing the road up Platte Cañon probably 40 or 50 miles. It exhausted its means. The third and last construction company, the Denver and South Park Railroad Construction and Land Company, was then organized.

Q. In what year was that?—A. I think that was in 1877.

Q. That company then made a contract with the railroad?—A. Yes, sir; each one of the companies succeeded to the contract with the railroad.

Q. Have you these contracts among your papers?—A. I think I have.

#### HOW THE WORK WAS DONE.

Q. Can you tell me exactly how this was done? Was the contract first with the construction company, and then did the construction company make a contract with some one else to do the work?—A. No; the construction company did the work; it let the contracts, several contracts, for the construction, the grading, ties, and everything appertaining to it, including the rolling stock, and performed the work for the stock and bonds of the railroad company.

Q. In regard to the stock and bonds, what was the first mortgage issued by the railroad company?—A. I could not be precise from memory; about 1873.

Q. On how many miles of road built, or intended to be built, was the first mortgage issued?—A. I think it was 150.

Q. What was the total issue authorized?—A. \$12,000 a mile of bonds.

Q. Is that all that would be authorized in bonds?—A. Yes, sir.

Q. That makes \$1,800,000 in all?—A. Yes, sir.

Q. How much stock of the company was issued?—A. Altogether, there was \$3,500,000 of stock.

Q. Was that issued at so much a mile?—A. Yes, sir.

Q. That includes all the stock issued to date, does it not?—A. I do not know the amount of stock issued to date.

Q. Was all the stock issued to 1881, when the affairs were closed up?—A. Yes, sir.

#### MR. GOULD INTERESTED.

Q. When did Mr. Gould first become interested in this work?—A. I think it was in 1878.

Q. How did he become interested?—A. He bought one-fourth—whether it was of the entire stock or nearly that, I do not remember. It was approximately one-fourth of the stock.

Q. Did he not acquire an interest in the construction contract?—A. That was it; the transaction was with the construction company, or, rather, with the stockholders of the construction company. It was not really a transaction of the construction company. It was an agreement by which he purchased one-fourth of the stock held by the several stockholders.

Q. Of the construction company?—A. Of the construction company; yes, sir.

#### UNION PACIFIC A PURCHASER.

Q. Do you not remember that the construction contract itself was assigned first to Mr. Gould, and then by Mr. Gould to the Union Pacific company?—A. The Union Pacific Company had nothing whatever to do with the construction company until it purchased the stock of the company at par.

Q. Was it not true that at the time of that purchase the construction contracts were assigned?—A. My impression is that they passed over as part—let me recall that. If you choose I will give you my recollection of some of these items, and perhaps it may facilitate matters.

#### THE NEGOTIATIONS EXPLAINED.

Commissioner ANDERSON. Please do so.

The WITNESS. About November, 1880, negotiations were opened through Mr. Gould for the purchase of the stock for the Denver, South Park and Pacific Railroad Company, then owned by the citizens of Denver, mostly, who had been, or were, stockholders of this construction company. It resulted in the sale, through Mr. Gould, of the entire stock held by the citizens of Denver, who had pooled this stock—who held it in the hands of a trustee at par. Mr. Gould paid Governor Evans—so Governor Evans informs me—at the time, his personal check for this stock at par, for all that was issued, except \$100,000 of that stock of the Denver, South Park and Pacific Railroad Company which belonged to Winslow, Lanier & Co., New York bankers. Three hundred thousand dollars of it stood in the name of Jay Gould and Russell Sage, trustees, for the Kansas Pacific Railway Company. Five hundred and seventy-one thousand dollars of that stock stood in the name of Jay Gould. The rest was controlled practically by Denver parties, and it was all paid for by Mr. Gould's check, which was subsequently distributed here in Denver to its owners.

Q. Can you tell me to how much the pool stock amounted?—A. About \$2,300,000.

#### FINANCIAL HISTORY OF THE CONSTRUCTION COMPANIES.

Q. How did the \$571,000 worth, held by Mr. Gould, and the \$300,000, held in trust for the Kansas Pacific, come to be in these names?—A. In the construction of the road, by the Denver and San Juan Railroad Construction Company, the second company which took up the contract, as I said before, by Denver capital, which was a pretty scarce article in those days, the Kansas Pacific Railway Company agreed to deliver freights to the amount of \$30,000, and did deliver freights to the amount of \$30,000; and it was through that \$30,000 and the subsequent transactions that that \$300,000 of railroad stock came into their hands. I will explain these transactions as I go along. The capital stock of the Denver and San Juan Railroad Construction Company, if I remember it correctly, was \$300,000. That company, having exhausted its capital, another company was started, with an option to all the stockholders of that company who subscribed to 40 per cent. of their holdings. That 40 per cent. gave the Kansas Pacific Company an opportunity to subscribe for \$12,000 in the third construction company, the Denver and South Park Railroad Construction and Land Company. That \$12,000 (which was a species of boiling down) of that construction company earned, in railroad stock, \$300,000. Meantime, the Kansas Pacific Company had been in some trouble, and Mr. Gould and Mr. Sage took that as trustees. It was issued to them. They took it as trustees for the Kansas Pacific Company.

Q. Then this \$300,000 was a dividend, as you may say, paid to the Kansas Pacific Company as the holder of \$12,000 worth of the stock of the construction company?—A. Yes, sir; you see, they paid first

\$30,000, then \$12,000 additional, making \$42,000; and from that they got this \$300,000 of stock.

Q. The consideration of this \$300,000 of stock was the work done by the construction company for the railroad company and the payment of it to the Kansas Pacific was the share of the profits to which the Kansas Pacific was entitled as the owner of the \$12,000 of stock.—A. Yes, sir.

#### HOW GOULD ACQUIRED THE STOCK.

Q. How did Mr. Gould get the \$571,000 of stock?—A. As I stated, it was by the purchase from the several stockholders of about one-fourth of their holdings.

Q. He got it, then, as his dividend on his holdings of stock in the construction company, did he?—A. Yes, sir.

Q. His holdings, you say, were about one-fourth?—A. He purchased that, but he had transferred subsequently a portion of that, so that that \$571,600 of railroad stock which stood in his name did not represent fully one quarter.

Q. Have you a copy of the construction contract between the railroad company and this third construction company?—A. I think it is spread upon my records.

Q. If that contract was assigned by the construction company to Mr. Gould and by Mr. Gould to Mr. Dillon— A. [Interrupting.] I know nothing about the transactions after they passed from my hands.

#### DENVER AND SOUTH PARK BOOKS IN POSSESSION OF UNION PACIFIC.

Commissioner ANDERSON. This occurred in 1880.

Q. The WITNESS. This must have occurred after the 1st of January, 1880. As auditor of the company I wrote up the books of the Denver, South Park and Pacific Railroad Company to December 30, 1880, and sent them to the Union Pacific Railroad Company at Omaha as soon after that time as it could be done, with all the vouchers, side-books, and everything pertaining to it.

Q. Did you not continue the work of auditor or secretary after that until 1881?—A. At the request of the auditor of the Union Pacific Railway Company, for the purpose of smoothing the way of their officers, I remained with them for two or three months.

Q. Will your books show those entries?—A. No, sir.

Q. Do they show nothing subsequent to the 1st of January, 1880?—A. The records of the construction company will show the transactions there, but there will be no records of the railroad company. That is, pertaining to the account after that.

Q. What is your recollection of this construction contract? What were its terms?—A. Mainly that in consideration of the stock and bonds of the railroad company—

Q. [Interposing.] Can you give the amounts per mile?—A. I could not positively. My impression is that it was \$20,000 a mile.

Q. In bonds?—A. In stock, and \$12,000 a mile in bonds.

#### THE SUPPLEMENTAL MORTGAGE.

Q. You think it was \$12,000 in bonds and \$20,000 in stock?—A. I think that is it. I could not be positive about that. There was a subsequent mortgage that was called a supplemental mortgage, that was executed just prior to the sale of the road, which contemplated an issue

of sixteen and two-thirds thousand dollars per mile. That is known in the Union Pacific accounts, I think, as the supplemental mortgage.

Q. What part of the road did that cover?—A. The several branches. The branch from Como over Breckenridge Pass and beyond Buena Vista.

Q. Did it cover the part included within the first 150 miles?—A. I think not, but I could not be certain without reference.

Q. How many miles did it cover beyond the 150 miles?—A. I think somewhere in the neighborhood of 250 or 300 miles were contemplated.

Q. By the supplemental mortgage?—A. By the supplemental mortgage.

Mr. MINK. I do not think there was any limit to the mileage.

The WITNESS. These transactions are seven years old. I have not given them any thought since that time.

#### THE CONSOLIDATED MORTGAGE.

Q. Was there not a consolidated mortgage?—A. Yes, sir.

Q. That was a blanket mortgage on the whole concern, was it not?—A. I doubt if I had much, if anything, to do with that consolidated mortgage. I think it has passed through my hands as a matter of courtesy to the Union Pacific sometimes, for they have called upon me for a number of years after the transfer for information which they always got if I possessed it.

Q. Then to come back to the construction contract; it was \$12,000 in bonds of this 150-mile issue, as I understand it?—A. An issue of \$1,800,000.

Q. Of first mortgage bonds?—A. Yes, sir.

Q. Then \$20,000 in stock?—A. That is my impression, but I could not be positive about that.

Q. Did that contract make provision for the building of the road after you passed beyond the 150 miles?—A. That I have forgotten.

Q. Was there not a contract made between the railroad company and the construction company which contemplated enormous extensions in the south and southwest, covering something like 300 miles besides the 150 miles?—A. Not to my knowledge. Not during my time, or my connection with the company.

#### STILL ANOTHER CONSTRUCTION COMPANY.

Q. Was there also another company known as the Denver and South Park Construction Company without the words "and Land"?—A. Yes, sir; I think that was the construction company, organized probably in the latter part of 1880, under which but few, if any, transactions were recorded by me while I had charge of the accounts of the company. All of these side companies, with their several books, were assigned over to the Union Pacific; the several directors resigned and were succeeded by the Union Pacific selection of officers, and I cannot give you a great deal of information on that subject.

Q. Will your books show the completion of the various sections of the road and the amounts of bonds and stock issued at the time of these respective completions?—A. Yes, sir.

Q. Can you prepare for us a statement showing the entire issue of the bonds which were issued during your administration, and of the stock, and also a corresponding column of the number of miles completed?—

A. Yes, sir.

## THE ROAD THE CONSIDERATION PAID FOR BONDS.

Q. Then, as I understand you, the road as completed will be the consideration paid by the construction company for the bonds and for the stock?—A. Yes, sir.

Q. Will your books also show the cost to the construction company of the sections as completed?—A. Yes, sir.

Q. Will you then also furnish us a corresponding statement showing the actual cost of the sections, so that we may measure in money the consideration paid for the bonds and stock?—A. Yes, sir.

Commissioner ANDERSON. If you will furnish us those papers tomorrow I think that is all we want of you.

The WITNESS. I would like to recall the fact that the books of the railroad company showed only the amount paid for the road in stock and bonds.

Commissioner ANDERSON. Yes; we know that.

The WITNESS. The deal with the Union Pacific Company in the purchase of the South Park road was simply a stock deal, in which they purchased the stock of the company and paid par for it to its owners, who were the construction company.

Commissioner ANDERSON. We all understand that. What we want to get is, How much the stock cost the people who sold it to the Union Pacific Company.

The WITNESS. I can give it to you.

## INTEREST NOT REGULARLY PAID.

Q. What rate of interest does these bonds bear?—A. Six per cent., I think.

Q. What was their value at the time of the sale of the stock to Mr. Gould?—A. The bonds had not been sold. The persistent opposition which the road had encountered had prevented their sale. I should estimate their value at about 60 cents.

Q. Was the interest regularly paid?—A. No, sir.

Q. At the time of the sale to Mr. Gould exactly to what point had the road been completed, with reference to Leadville?—A. I do not think any of those bonds have been sold in the open market. My impression is that they had been held and were distributed to the several stockholders in dividends.

Q. Had the interest been paid then regularly on the bonds?—A. No; the bonds had been held just like the stock, pooled. They were the accumulations of the construction company, which were practically unavailable. They answered frequently as collateral to borrow money upon.

## EARNINGS OF THE ROAD.

Q. Do you know what the earnings of the railroad company were at that time?—A. Well, they varied exceedingly.

Q. Will their books show?—A. The railroad company's books; yes, sir; but this railroad company's books were sent to the Union Pacific at the time I closed them. I should estimate that, say for 1880, there were probably earnings sufficient to pay a dividend of, say, from 12 to 15 per cent. upon the stock.

Q. Besides paying 6 per cent. on the bonds?—A. Yes, sir.

Q. How was it in 1879?—A. That would be mere guess work with me.

## SALE OF POOL STOCK TO GOULD.

Q. Did you take any part in the negotiations which led to the sale of the pool stock to Mr. Gould?—A. No, sir.

Q. Between whom were those negotiations carried on?—A. Governor Evans—John Evans, the president—and Mr. Jay Gould.

Q. Was it done here in Denver?—A. No, sir. The first correspondence was by wire. The transfer of the stock was by Governor Evans in New York, who went on for that purpose.

Q. What knowledge have you of the price paid by Mr. Gould to Governor Evans?—A. I saw the telegram.

Q. Did you see the checks?—A. No; not the check with which it was paid. Of course the distribution of the money to the several stockholders passed through my accounts.

## PRICE PAID.

Q. Do your books show that they received par for their stock?—A. It did not really pertain to the books of any company. That was an individual matter between the stockholders, and was simply attended to by me for the satisfaction of the parties.

Q. Did that money simply go through Governor Evans's account?—A. It was distributed by J. S. Brown, who was the trustee of this pool stock. Mr. Brown lives in Denver.

Q. And is he here now?—A. He was a few days ago. I think he is here now.

## NO OTHER CONSIDERATION GIVEN THAN STOCK.

Q. Do you know whether the parties holding the stock gave any other consideration to Mr. Gould than the stock?—A. I know of none.

Q. Were there no bonds?—A. Mr. Gould got no more bonds than he was entitled to by his holding of the construction company's stock.

Q. He bought no bonds from the holders of the stock which were included in the consideration for which he paid par for the stock?—A. That consideration of par for the stock was simply for the stock alone, and nothing else.

## KANSAS PACIFIC TO FORBEAR DISCRIMINATION AGAINST DENVER AND SOUTH PARK.

Q. I find from the minutes of the Kansas Pacific Company that in October, 1879, the executive committee referred to a copy of an agreement made October, 8, 1879, between the Denver and South Park Construction and Land Company and Jay Gould, acting on the part of the Kansas Pacific Company, and the Union Pacific Railway Company, in which a stipulation was made that in consideration of the sale of certain stock to Jay Gould the company that he represented would forbear certain discriminations against the Denver and South Park Company. Have you a copy of that contract?—A. I suppose I have.

Q. Would it not be convenient for you to let me call at your rooms, or wherever your books are, and go over them with you, so that I can select what the Commission would desire in order to make their information complete?—A. With pleasure.

Commissioner ANDERSON. If you will appoint any hour to-morrow I will do so.

The WITNESS. Ten o'clock.



DENVER, COLO., *Monday, July 11, 1887.*

WILLIAM A. H. LOVELAND, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. Where do you reside?—Answer. Denver.

Q. How long have you lived there?—A. Twenty-eight years.

#### HISTORY OF COLORADO CENTRAL.

Q. What connection have you had with the Colorado Central?—A. I was the promoter of it; president and director.

Q. In what year?—A. In 1865 we obtained our charter.

Q. What was the first portion constructed?—A. From Golden to Denver.

Q. How many miles is that?—A. It is 16 miles.

Q. The direction being east and west?—A. Nearly so; yes, sir.

Q. Golden being west of Denver?—A. Yes, sir.

Q. What portion of it was constructed next after that?—A. From Golden to Forks of the Creek, 13 miles to the west.

Q. Was that a continuation of the first line?—A. Yes, sir.

Q. When was that finished?—A. That was finished, I think, in 1873.

Q. What office did you hold in this road during all this time?—A. At that time I was a director of the road.

Q. Had you been president?—A. I had been, but H. M. Teller was president at that time.

Q. How long after that was it before the connection was built between Cheyenne and the Colorado Central?—A. After that, in 1874, the road was built from Golden to Longmont.

Q. Was it in a northerly direction?—A. In a northerly direction towards Cheyenne; and in 1877 it was built from Longmont to a connection with the Union Pacific, 5 miles north of Cheyenne, called the Junction.

#### WHEN DENVER PACIFIC WAS COMPLETED.

Q. When was the Denver Pacific completed between Denver and Cheyenne?—A. In 1868, I think; perhaps it was 1869; the year 1868-'69, according to my memory.

Q. How was this last piece of the Colorado Central constructed?—A. I constructed it.

Q. By contract made with whom?—A. I made the contract myself and paid for it.

Q. With whom did you contract; with the Colorado Central Company?—A. Yes, sir.

Q. The company then built that branch?—A. Yes, sir.

#### RELATION BETWEEN COLORADO CENTRAL AND UNION PACIFIC.

Q. What was the relation then existing between the Colorado Central and the Union Pacific directory?—A. The relations at that time between the Union Pacific and the Colorado Central were simply as stockholders. They owned a certain amount of stock of the Colorado Central Railroad Company.

Q. Was it a controlling amount?—A. I think they did; yes, sir. I cannot say that it was a legally controlling stock.

Q. Still was not their influence paramount?—A. No, sir; it was not.

**Q.** Was the connection made between the Colorado Central and Cheyenne for the purpose of enabling the Union Pacific Railway to compete directly against the Denver Pacific road?—**A.** Not entirely so.

**Q.** How far did that element enter?—**A.** It partly entered into it.

#### DIVERSION OF TRAFFIC.

**Q.** The result was that a large amount of traffic that formerly passed over the Denver Pacific after that passed over the Colorado Central. Is that so?—**A.** I cannot say that, because the Denver Pacific shut out the Union Pacific road in the carriage of freight and other business.

**Q.** How do you mean shut it out?—**A.** It would not carry their business for them at rates that they could afford to pay.

**Q.** Could not the Union Pacific then carry it over the Colorado Central?—**A.** It did, after that was completed.

**Q.** After it was completed, did it have a disastrous effect on the Denver Pacific?—**A.** I think it did; yes, sir.

#### EFFECT ON RATES BY COMPLETION OF COLORADO CENTRAL.

**Q.** What was the effect on the rates obtained on the Denver Pacific by the completion of the Colorado Central?—**A.** The Union Pacific had nothing to do with that. I was manager and controller of the Colorado Central Railroad Company. That is, I was president and general manager, and I conducted the road according to the instructions of the board of directors.

**Commissioner ANDERSON.** I am not inquiring who conducted it, but as to the effect on the Denver Pacific securities.

**The WITNESS.** You asked me the rates, I believe.

**Q.** I ask you whether the rates were maintained or not.—**A.** As soon as I opened the road I cut the rates down one-half; that is to say, the Denver Pacific charged a round-trip rate from Denver to Cheyenne and return, of \$20. I made it \$10.

**Q.** They followed, did they not?—**A.** They cut down, I believe, to \$7, and I think afterwards came down to \$5. I am not certain; but we took the business.

#### LEASE OF COLORADO CENTRAL.

**Q.** Please explain what became of the Colorado Central organization after the consolidation between the Kansas Pacific and the Union Pacific.—**A.** The Colorado Central was leased either to Fred L. Ames or to the Union Pacific. I am not certain which.

**Q.** It was leased to the Kansas Pacific, was it not?—**A.** Probably it was.

**Q.** And the lease was canceled on the day of the consolidation, as explained to us, because of some requirements of the law, but without intending to disturb the relations; is that true?—**A.** I never knew that.

#### RELATIONS BETWEEN COLORADO CENTRAL AND UNION PACIFIC.

**Q.** What are the relations now existing between the Colorado Central and the Union Pacific system?—**A.** I do not know.

**Q.** Do they stand as one of their operated lines?—**A.** I understand

**Q.** Have you no connection with that railroad company whatever?—**A.** None at all.



Q. Do you know the condition of the passenger and freight rates on the Colorado Central to-day?—A. I do not.

Q. Have you no business relations with that road?—A. None at all.

Q. Have you been a director of the Union Pacific?—A. Yes, sir.

Q. In what year?—A. I think 1877 and 1878, and to the spring of 1879. I am not positive, but it was 1879.

Q. Not since then?—A. No, sir.

Q. Are you interested in the Rocky Mountain News?—A. I am not.

Q. Have you ever been so interested?—A. Yes, sir.

Q. At what time?—A. I bought the Rocky Mountain News in 1878.

Q. And remained proprietor until when?—A. I was interested until a year ago last March.

#### REBATES TO ROCKY MOUNTAIN NEWS.

Q. We find on the books of the company at Omaha an allowance to the Rocky Mountain News of \$1,000, which appears to be entered as a rebate on charges for freight; do you know to what the entry refers?—A. I only know this: I know that when I bought the Rocky Mountain News we did a great deal of service for them, and the Union Pacific felt, of course, very kindly towards myself on account of my being a director of the road, and for services, &c., and I asked them to bring freight through free; but they said they could not do it, but they would name a rate, and they did so. I do not know whether they entered it up as a rebate or not. I do not know what they called it. It was at a less rate than the established rate. But that, as I understand it, was simply out of good will and for services performed.

Q. To what services do you refer?—A. In my connection with the Union Pacific.

#### REBATE ALLOWED ON ACCOUNT OF CONNECTION WITH ROAD.

Q. Was it as director?—A. Yes, sir.

Q. You do not refer to services rendered by your paper?—A. No; I do not. I think that they made that allowance more on account of my connection with their road, and also with the Colorado Central, and services performed here. When I was a director and president of the Colorado Central here, I was also, as might be said, a general agent of the Union Pacific; that is, looked after business more or less for them.

Q. When was this allowance of \$1,000 made to you?—A. I think it was some time in 1877 or 1878.

Q. Do you know when it appears to be entered on the books of the company?—A. I do not; I never saw it.

#### ARRANGEMENT MADE WITH S. H. H. CLARK.

Q. With whom did you make this arrangement that you should be allowed a consideration for these services?—A. I think it was with Mr. S. H. H. Clark, but I am not certain. It was some of the officers of the road.

Q. Was it not with Mr. Dillon?—A. I think not.

Q. Was it while Mr. Dillon was president?—A. I think he was at that time.

Q. And before Mr. Adams was president?—A. Yes, sir; before Mr. Adams. It was while Mr. Dillon was president.

Q. Are you positive of that?—A. I feel pretty positive of that.

Q. Were these allowances made to you on more than one occasion?—A. I think they were.

Q. Did you on each occasion have an interview with Mr. Clark?—A. No, sir.

Q. How did it come about?—A. It was an understanding they were to bring the freight for the News at a certain price.

Q. That extended over how long a period?—A. I think it extended over two or three years; probably it might have been longer, I do not remember now.

Q. What was the freight—printing material?—A. Printing material; yes, sir.

Q. Which was transported by them for you from Omaha to Denver?—A. Yes, sir.

#### REBATES ON NEWSPAPER MATERIAL.

Q. Did you ever have any talk with Mr. Clark to ascertain how much recognition you had received?—A. No, sir; I do not think I did.

Q. Was it just entered on this arrangement without any definite computation, and you knew nothing about it?—A. It was an understanding at the time I had a talk with him, and at the time I bought the Rocky Mountain News. They were to bring freight at a certain price; I do not remember the price now, but it was less than they were bringing freight for other people. I do not know whether it was any less than they were bringing newspaper material for other parties.

Q. Was it less than their schedule rate?—A. Oh, yes, sir.

Q. Did you not know how much freight you were carrying every year?—A. No, sir; I did not keep the books. I paid but little attention to them. I suppose they will show.

#### ALLOWANCES MADE WHILE UNION PACIFIC DIRECTOR, AND AFTER.

Q. Was this after you concluded your services as director?—A. No, sir; it was a part of the time while I was director.

Q. Did you cease being a director in 1880?—A. In 1879, I think. Commissioner ANDERSON. We find these entries down to 1883.

The WITNESS. Yes; very likely they were kept right up.

Q. This advantage given to you, whatever it was, continued after you had ceased rendering any services, did it?—A. I think so.

Q. Did you make no comparison whatever between your ideas of the value of the services and the consideration you were receiving?—A. No, sir.

Q. Was it not simply an agreement to allow you a rebate, because they had a friendly feeling toward you?—A. You can put it that way if you choose.

Commissioner ANDERSON. I want to put it the right way.

#### FRIENDLY TO THE ROAD.

The WITNESS. I do not know that it was; I could not say that it was so. I know we had been great friends, and I had been a great deal of help to them, and I asked them that favor and they granted it.

Commissioner ANDERSON. The best of friends, when the service has been rendered, agree upon a specific price, and when the price has been paid they stop.

The WITNESS. If you have a specific, written agreement, or understanding, as to the time when it shall end, I suppose it does, but there was no understanding in that direction, as to when it should cease.

#### WHEN REBATE CEASED.

Q. Why did it ever cease?—A. I cannot tell you; I do not know.

Q. Did it cease when you went out of business?—A. I do not know whether it ceased before I went out or not. Our books will show whether it did or did not. If it did not, it ceased probably very soon after I did go out.

Q. Substantially you were allowed a favorable rate on the transportation of freight from 1878 and 1879 until you went out of business, four or five years, were you not?—A. If it commenced in 1878, which I think it did, or soon thereafter, I think that is about true; yes, sir.

Q. Can you give any idea how much this amounted to during each year?—A. No, sir, I cannot; I never kept account of it.

Q. Can you give any idea of the rate which was allowed you as compared with the schedule rate?—A. I do not know whether the books of the Rocky Mountain News Company would show it or not. I could not say. I never compared the schedule rate with the payments.

#### RELATIONS TO UNION PACIFIC.

Q. Has your paper always been favorable to the Union Pacific company?—A. It has been when we thought they were in the right.

Q. You generally thought they were in the right?—A. No, sir; we did not.

Q. Can you refer to any particular occasion when their policy has been criticised?—A. I would know if I could see the columns of the News.

Q. Can you refer to any subject in which you differed?—A. We differed with them in their management and in their treatment of the public.

Q. Upon what points?—A. Upon their rates and the general policy of the company.

Q. Was that because their rates were too high?—A. We thought so.

#### DIFFERENCE REGARDING LEGISLATION.

Q. Did you differ from them because they discriminated in favor of persons?—A. I was not the editor of the paper, and I do not remember now in reference to that; but we differed with them in a good many respects. Often when our legislature was in session we differed with them in reference to legislation.

Q. Was the Union Pacific Company recognized as having a policy with reference to public matters?—A. So far as their interest goes.

Q. To what extent have you understood that they have intervened for the purpose of influencing elections?—A. I do not know personally of their having anything to do with legislation in so far as trying to control it in their interests. I only knew so far as rumor goes.

Q. Do you say you differed with them on this particular subject?—A. I do differ with them, because it was rumored that they tried to influence legislation, and we were opposed to that.

Q. Do you refer to any particular period and to any particular measures?—A. I do not.



Q. Are there not some prominent measures that you remember?—A. No, sir; I do not now, only in a general way.

Q. What have you to say with reference to the part taken by the Union Pacific with respect to the recent election of Senators?—A. I was in New York at that time for some three or four months.

Q. Have you no knowledge of the events?—A. I have no knowledge at all, except what I gathered from the newspapers.

#### CUSTOMARY TO GRANT REBATES.

Q. On this subject of rebates, do you know that it has been the customary practice of the Union Pacific to grant rebates?—A. I know it is a general understanding that they have granted rebates here.

Q. In what particular trades?—A. To people in the commission business and dealers in grain and groceries; I do not know whether to dealers in dry goods or not; I do not know that personally, but only from rumor.

Q. How is it in regard to the transmission of ores?—A. I only know that by rumor, and not personally.

Q. Are the rumors the same as applied to other railroads, or is it more marked in regard to the Union Pacific?—A. I suppose it is about the same as between the Rio Grande and the Union Pacific. I do not know that there is any particular difference.

Q. They all have the reputation of cutting rates, have they not?—A. Yes, sir.

#### PLAN OF SETTLEMENT.

Q. Have you given the subject of the relations existing between the Union Pacific and the United States any consideration?—A. Not particularly so that I know of.

Q. Have you matured any idea as to the policy which should be pursued?—A. Yes, sir; in my mind, I have.

Q. Has it been the subject of discussion in this community, more or less, recently? I refer to the adjustment of the relations between the Union Pacific and the Government.—A. Yes, sir.

#### EXTENSION OF TIME TO PAY FAVORED.

Q. Will you please state your own views?—A. My own views of it are that the Government should give the Union Pacific sufficient time to pay the second mortgage.

Q. Why do you think they ought to receive an extension?—A. I think that it is the only chance for the Government to get its money. I think the fight made upon the Union Pacific by Congress is injurious to the Government's interests.

Q. How far, in making that statement, do you reflect the views of those with whom you have conversed?—A. I suppose it is pretty evenly divided.

#### ASSISTANCE REQUIRED FROM THE GOVERNMENT.

Q. Why do you imagine that there could be any question of the Government security in a company whose stock is selling at above 50, and frequently above 60, and which has a great many interests which are subsequent to the Government lien?—A. The numerous railroads that have been in opposition to the Union Pacific at the present time, taking its business from it, and it requires all the assistance as it can get from the Government to help it along.

By the CHAIRMAN :

Q. Why should the Government particularly aid the Union Pacific Railway Company as against the other companies?—A. Because it is interested.

Q. Have you talked with any of the officers of the Union Pacific Railway Company about this view of extension?—A. I have not. I have not talked with any of the Union Pacific officers for a number of years. In fact, not since I ceased to be a director.

#### OPPOSITION ROADS TAKING UNION PACIFIC'S BUSINESS.

Q. What do you mean by an extension; how long?—A. You probably misunderstood me. I say the extension of opposition roads to the Union Pacific is taking their business, and I think that the Government should assist the Union Pacific road as much as it can, from the fact that it is an interested party.

By Commissioner ANDERSON :

Q. You did say, in answer to my first question, that you thought the Government should give them an extension of time to pay their debt, did you not?—A. Oh, yes, sir; I did. I think if the propositions that have been made to the Government are accepted the Union Pacific would be able probably to meet it.

By the CHAIRMAN :

Q. Are you of that opinion, with the knowledge of the fact that the Union Pacific Railway Company had declared in dividends to its stockholders \$23,000,000 from 1877 to 1884 and had built 2,000 miles of branch lines in the same period?—A. I do not know that I understand your question.

#### DIVIDENDS DECLARED WHEN ROAD HAD NO COMPETITORS.

Q. Are you of that opinion, with a knowledge of the fact that the Union Pacific Railway Company had declared in dividends to its stockholders \$23,000,000 from 1877 to 1884 and had built 2,000 miles of branch lines in the same period?—A. I will state that at that time the Union Pacific did not have the competition that it has at the present time, and its earnings were larger, I think, and they were better able at that time to build branch lines or feeders to their roads, and were earning money sufficient, I presume, to make those dividends. At this time they have greater opposition. Business is being cut in every direction. The question arises in my mind whether the Government, being an interested party, should not try to assist the Union Pacific, so as to get its money out of the road.

Q. Do you not think that the Union Pacific Railway Company should have given, during its prosperous period, some consideration to the fact that they had at some time to meet the debt due to the Government?—A. I do; yes, sir.

By Commissioner ANDERSON :

Q. Have you had many years' experience in the management of railroads in this section of the country?—A. Yes, sir.

Q. Are you familiar with the actual branches constructed on the main line of the Union Pacific and on the Kansas Pacific?—A. No, sir; I am not.

Q. You have not been over those?—A. No, sir; I have been confined to Colorado alone.

Q. Are you familiar with the branches in Colorado?—A. Yes, sir.

#### DENVER AND SOUTH PARK A DETRIMENT.

Q. What is your judgment as to the question whether the Denver and South Park is an advantage or a detriment to the Union Pacific?—

A. It is a detriment. That is my opinion.

Q. What is the prospect as to the future development of that branch?—

A. I think the future prospect is not at all good; that is, from being cut off by other roads. As soon as the Midland is opened it will just about take all the life there is left in it.

#### REDUCES EARNINGS OF WHOLE SYSTEM.

Q. And, in your judgment, the continued operation of the Denver and South Park reduces the earnings of the whole system instead of increasing them?—A. I do. I do not think that the amount of business the South Park will give to the Union Pacific, after the Midland is built, will pay them for keeping up the road, let alone the interest on its bonds.

#### MIDLAND ROAD.

Q. What is this branch that you refer to—the Midland?—A. Running from Colorado Springs to Leadville and westward.

Q. Is it being built by the Denver and Rio Grande?—A. No, sir; it is being built by the Midland Company.

Q. How long will the distance be from Colorado Springs to Leadville over this branch?—A. I think it is about 140 or 150 miles.

Q. Is it a standard-gauge or a narrow-gauge road?—A. It is a standard-gauge. I have never ascertained the distance, but I should judge that it was about 150 miles.

Q. Then you think that road, by increasing competition for the Leadville business, will still further reduce the earnings of the Denver and South Park?—A. Yes, sir.

#### THE COLORADO CENTRAL.

Q. What other branches has the Union Pacific in Colorado?—A. It has the Colorado Central, and it has connections under the different names they have for roads here; but it all goes by the name of the Colorado Central.

Q. How many miles of road does the Colorado Central cover?—A. I should say about 160 or 170 miles, outside of what is known as the Julesburg Cutoff. The Julesburg Cutoff connects with the Denver Pacific just this side of Greeley, and runs through to Julesburg, I think, 150 miles, so that they must have nearly 300 miles.

#### EFFECT OF COLORADO CENTRAL ON UNION PACIFIC SYSTEM.

Q. What, in your judgment, is the effect of the Colorado Central Branch on the Union Pacific system?—A. The Colorado Central has been a paying branch of itself; a very paying road. It has controlled a large amount of business, and it is really the only feeder to the Union Pacific that has been valuable to it, as I regard it.

Q. You mean the only feeder in Colorado?—A. Yes, sir.



Q. Do you mean the only feeder anywhere?—A. Oh, no; I am speaking of Colorado.

Q. Does the Georgetown Branch also constitute a part of the Colorado Central?—A. Yes, sir.

Q. Is there any other branch in Colorado?—A. There is a branch running between Greeley and Fort Collins, but it goes by another name.

#### GREELEY, SALT LAKE AND PACIFIC.

Commissioner ANDERSON. What is the name?

Mr. MINK. Greeley, Salt Lake and Pacific.

Q. How many miles does that cover?—A. I think that covers about 20 miles.

Q. What, in your judgment, is the effect of the operation of that branch on the system?—A. I think that is a paying branch.

Q. When you say "paying branch," do you mean that the business belonging to the road itself pays?—A. Yes, sir. I think it also creates quite a business for the Union Pacific.

#### BUSINESS OF BRANCHES A BENEFIT TO MAIN SYSTEM.

Q. What have you to say as to the theory that the business done by these branches, which afford to the parent line the entire haul from the initial point to the point of junction, is a benefit to the main system?

The WITNESS. Of the Union Pacific?

Commissioner ANDERSON. Yes, sir.

The WITNESS. You are speaking now of the Colorado Central and its branches?

Commissioner ANDERSON. Any branch. The assertion made is that it brings about a haul of all its business from Omaha to the point of junction, and the assertion made is that that haul can be done cheaply, and is therefore an advantage to the parent line.

#### COLORADO CENTRAL CONTROLS BUSINESS IN THE NORTHWEST.

The WITNESS. The Colorado Central has nearly controlled all the business here in the Northwest for the Union Pacific, and it is delivered to them by car-loads, which makes a through freight over their road. The expense of taking that from the junction of the Colorado Central with the Union Pacific to Omaha or to Ogden is very slight, because it is simply making up their trains as they pass through there. So far as the passenger interest goes, they hardly feel it. It is a direct benefit to them. It is almost a clear gain. If they had to run special trains for it, then it would cost them more; but they do not do that, or did not do so until the Julesburg Branch was completed and they ran special trains and connected with the Union Pacific; but the Union Pacific does that at Julesburg the same as they used to at Cheyenne, and it only increases the expenses very slightly.

#### CONSTRUCTIVE MILEAGE.

Q. Do you know what factor of constructive mileage is allowed to the Colorado Central?—A. No, sir; I do not.

Q. Do you know the constructive mileage awarded the Denver and South Park?—A. No, sir.

Q. Are you familiar with the subject of constructive mileage?—A. I am not familiar with that part of the business.

By the CHAIRMAN:

Q. Have you any further suggestion to offer to the Commission?—A. No, sir; I do not think I have.

DENVER, COLO., *Monday, July 11, 1887.*

NATHANIEL P. HILL, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am the manager of a smelting company. That is my principal business.

Q. How long have you been in that business?—A. Since 1867; twenty years. That is, we have been conducting the smelting business for twenty years.

Q. How long have you resided in Colorado?—A. Practically for twenty-three years. I was here nearly all of the time for three years before. Since we commenced the smelting business of course I have been a constant resident of the State.

Q. Did you represent the State in the United States Senate?—A. For one term.

Q. For what years?—A. From 1879 to 1885.

Q. Where are your works located?—A. Since 1878 they have been located in the suburbs of Denver, in a town we named Argo. Prior to that we were located at Black Hawk, a town in the mountains.

#### NUMBER OF ROADS AT DENVER.

Q. How many railroads have you coming into the city of Denver?

The WITNESS. At the present time?

The CHAIRMAN. Yes.

The WITNESS. Distinct companies? The Union Pacific, the Kansas Pacific, and the Denver Pacific are all owned by one company.

Q. How many distinct company organizations?—A. Five, I think.

Commissioner LITTLER. Name them.

The WITNESS. The Union Pacific Company. That includes the Kansas Pacific and the Denver Pacific and the South Park, the Burlington and Missouri River, the Atchison, Topeka and Santa Fé, the Denver and Rio Grande. (The Colorado Central is included in the Union Pacific also); the Denver and Utah, a short line. I have omitted one, I think. Yes, the Denver and New Orleans.

Commissioner ANDERSON. The Georgetown Branch?

The WITNESS. That is a part of the Denver Pacific, the Colorado Central. The Denver and New Orleans was the one that I was trying to think of.

#### FIRST ROAD TO DENVER.

By the CHAIRMAN:

Q. Was the Union Pacific Railway Company or the Union Pacific Railroad Company the first to come into Denver?—A. The Kansas Pacific Railroad Company, I think, was the first road into Denver.

Q. The other roads you have named have all been built subsequently?—A. The Kansas Pacific came in first. That is now a part of the U



Pacific. Then next the Denver Pacific, also a part of the Union Pacific. Of the main Eastern roads, the next was the Atchison, Topeka and Santa Fé.

#### BUSINESS RELATIONS WITH UNION PACIFIC.

Q. Have you had business relations with the Union Pacific Railway Company?—A. Yes, sir; ever since that company commenced business here. When we commenced business there was no railroad in Colorado. We were in business before any road came into Denver.

Q. What was your business with the company?

The WITNESS. It was mostly that of shipping ores and matte over their lines. There is a product of smelting called matte.

#### FACILITIES AND ACCOMMODATIONS FURNISHED.

Q. What have been the facilities and accommodations afforded by the Union Pacific Railway Company during your business dealings with them?—A. I do not think there has been any cause of complaint as to the facilities for doing business. The charges have been very high. The rates have always been very high, particularly in the early days. We never had any ores, I think, transported in the early days on any of those roads for less than 10 cents per ton per mile. For many years we paid freight from Georgetown and Central City at the rate of 10 cents per ton per mile. It was \$5.40 from Georgetown, 54 miles, and all down hill and no power required practically at all. However, as long as everybody was treated in the same way, and everybody paid the same rate, I do not think the people were very much inclined to complain. It was a little cheaper than wagon freights, and of course it saved time over wagon freighting.

#### REDUCTION OF RATES.

Q. How long did those prices continue?—A. Until within quite a recent period. There has been some reduction made within the last two or three years.

Q. What has been the reduction?—A. I think the rate is now \$2.50 from Central City. It used to be \$4. I pay very little attention to the details of our business. You may ask me a great many questions about details that I will not be able to answer promptly.

Q. I ask you approximately only as to the rates?—A. The rate from Georgetown has been reduced from \$5.40 to I think about \$4. It does not vary very much from that. Still, I want it understood that I may be in error on these figures, as I have not looked into it lately.

#### EFFECT OF CONSTRUCTION OF OTHER ROADS.

Q. What has been the effect of the construction of other lines upon the freight charges?—A. It does not appear to have had very much effect. As far as the freights from the East into Denver are concerned, they are higher than they were when we had a less number of lines.

By Commissioner ANDERSON:

Q. Freights going east?—A. I am now speaking about freight on merchandise coming from the East here. Shortly after the Burlington and Missouri River road was built to Denver there was a pool formed

which raised the rates on a good many articles. It raised the freights on our copper product which we shipped east from \$5 to \$8, and has maintained it ever since. I think there are a great many articles on which the freights have been higher during the existence of that pool than they were before.

### BUSINESS DONE UNDER POOL.

By the CHAIRMAN:

**Q.** Has there been any competition at all in the rates between the old companies and the new companies that have been coming in, from time to time?—**A.** Practically all the business has been under a pool, and I do not think there has been any competition.

By Commissioner ANDERSON:

**Q. Do you confine yourself to your own business?—A.** No; I had reference more to the transportation of freight between Denver and the East, both ways.

### CUTTING RATES.

**By the CHAIRMAN:**

**Q.** Has there been at any period any cutting of rates between the rival companies?—**A.** I only know there have been rumors of cutting rates, but we have never had any benefit from it in our business. We have had no cut rates, as far as I can remember, from east or west.

**Q. Do you recall any other complaints as to facilities and accommodations in this community?**

**The WITNESS.** From the lack of adequate facilities?

**The CHAIRMAN.** Yes.

**The WITNESS.** No; I do not.

**SPECIAL RATES OR REBATES.**

Q. What has been the special complaint that you mentioned incidentally with reference to special rates or rebates or preferential rates given to particular shippers?—A. Perhaps, in answering that question it would be better if I speak only of business of the kind I am in—which involves the transportation of ore. I have never been able to positively assert that one smelting company has been treated differently from another. That is, I have never seen any rebates paid, and yet I have had information for a number of years that special facilities were granted to some companies that were not granted to others—that were not granted to the company I represent.

**CONTRACT BETWEEN ROAD AND OMAHA AND GRANT SMELTING COMPANY.**

I have known, for instance, that a contract existed between the Union Pacific Railway Company and the Omaha and Grant Smelting Company, which gives them, for a term of years, some special favors. I have never seen it. It was not intended for me to see, of course, but we have known of the existence of that contract, and it exists to-day. There is a contract under which this company, I think, claims that it can, for a long time to come, maintain the special favors. Then I have known that the switching from Denver to this smelting company's works has

## APPLICATION FOR SPECIAL RATES.

By the CHAIRMAN:

Q. When you made application to Mr. Kimball for the same special rate as the other companies had, did you make it in writing?—A. There has been a good deal of correspondence at one time and another as to rates, and a great deal has been done by personal interviews. Most of what I have had to say on the subject was in personal interviews.

## REPLY OF MANAGEMENT.

Q. What was the reply of the management of the company?—A. The reply has been that there were no special rates; that we were mistaken about it; that the company paid no rebates to any one. Only about a year ago—I cannot tell the month, because I have nothing to fix the date by, but I remember it was hot weather—Mr. Kimball was here in Denver and I had an interview with him at the Windsor Hotel in the presence of the general freight agent of the Rio Grande road, Mr. Hughes, and Mr. Henry R. Walcott. We four were together in the room, and we pressed the question very earnestly as to the rebates the Union Pacific Company was paying to other smelting companies, and Mr. Kimball stated, in the most positive terms, in the presence of all of us, Mr. Walcott, Mr. Hughes, and myself, that they were paying no rebates to anybody; that everybody was paying the same rates over the Union Pacific road. I think the gentlemen whom I have named will remember the interview, though I have not talked to them about it. It looked very inconsistent to me with the statement that I saw published in the papers a few days ago, that the chairman of this committee put his finger on a \$40,000 rebate, paid in one payment to the Omaha and Grant Company at about the same time that this conversation occurred.

## COMPLAINTS AS TO OTHER SHIPPERS.

Q. What knowledge have you of other shippers having complained of special rates such as you have spoken of?—A. I have talked with some of the managers of the other smelting companies, and they have seemed to feel as I did—that there were very unjust discriminations made in favor of one company. I had a conversation a few days ago with an agent of the Pueblo Smelting Company. He stated to me that he sent to the Wood River district in Idaho and tried to buy some ores, and he found that the rates were so high, if he had to pay the regular freight, that after buying the ore at the price that the Omaha and Grant people were paying, it would not allow him anything for the treatment of the ores.

## OBJECTION TO HEARSAY EVIDENCE.

Mr. WILLARD TELLER. I do not wish to make any captious objections at all; but I suppose the committee will take into consideration that this is a matter of hearsay evidence. I simply suggest that that kind of evidence would not generally be received, although I understand that the committee receives it and takes into consideration the circumstances.

The WITNESS. I have no desire to give hearsay evidence.

The CHAIRMAN. The committee is after hearsay and every other kind of evidence. Under the act of Congress they would have to hear hearsay evidence, otherwise they never could perform their duties.

Mr. TELLER. This is what is done as to the freights.

The WITNESS. I have had conversation several times with the managers of smelting companies, but I have no desire to give it. It is a matter that I consider immaterial. Those persons are all within reach.

#### PREFERENCES GIVEN IN OTHER BUSINESSES.

Q. Have you knowledge on any other line of business of preferences being given as to rates?—A. When you ask for knowledge, of course my knowledge is based on statements made by various persons. It is a thing that one cannot have direct knowledge of unless he has had the benefit of the special rates.

Commissioner ANDERSON. We will take the names of the persons, and if we think it is sufficiently material we will send for these people.

The WITNESS. The subject came up before the chamber of commerce here some months ago, when the question of passing a resolution instructing our Senators and Representative in Congress to vote for the interstate commerce bill was under consideration, there was considerable discussion, and one prominent merchant of this town made a speech in which he said that it was a fact that could not be denied that some merchants did have rebates, and that it was the only way that they could conduct business; that the business could not be managed profitably without them. That statement was made in a speech in a public meeting.

#### REBATES A MATTER OF COMMON NOTORIETY.

By Commissioner ANDERSON:

Q. Who made it?—A. Mr. Cornforth, a prominent merchant of Denver. I have no desire to give any information as to what other people are doing in this matter, or to mention names, at all. I am not here for that purpose. If the Commission asks me any question as to my knowledge on any particular subject based on reports, I have no objection to give it. There are certain merchants in Denver who have been understood to have rates that no other parties could get. Other men, coming in here and undertaking to do the same kind of business, found it would not pay them. It is a matter of common notoriety and knowledge.

#### DISCRIMINATIONS AGAINST COMMUNITIES.

By the CHAIRMAN:

Q. Have there been any other discriminations against communities surrounding Denver through which the Union Pacific Railway Company passes of which you have knowledge? I am speaking now with reference to communities rather than to individuals.—A. As to communities, I do not think you need any stronger example than Denver. There is no better illustration of unjust discrimination than you can get right here. We have for years, on fourth-class freight, paid 50 per cent. more from all points east of the Mississippi River than it cost to send the same freight to San Francisco.



By Commissioner LITTLER:

Q. From what points?—A. From eastern points generally. I have an interest in a newspaper here. It costs us \$30 a ton to get our paper from Chicago. The San Francisco Chronicle uses the same paper and it pays \$20. It is a long haul from Denver to San Francisco, over three ranges of mountains, and it is a level plain between Chicago and Denver.

#### SUSPENSION OF INTERSTATE COMMERCE LAW.

By Commissioner ANDERSON:

Q. Is that the case since the 1st of April?—A. Yes, sir; because the Interstate Commerce Commission has suspended the operation of the law, and the same thing goes on to-day.

Q. Does the suspension expire on the 7th of July?—A. No; they renewed it and as I understand it left it indefinite, and left it with the people who suffer to carry the complaints into court. I was told by a fruit merchant a day or two ago, not directly by him but by a person who had just talked to him, that he could get his fruit cheaper from California by shipping it over the Northern Pacific road to the Missouri River and bringing it back here than he could by shipping it direct. I can find a verification of that if it is desired.

By the CHAETMAN:

Q. What is his name?—A. The person who told me was not the fruit merchant himself; but if you will excuse me from mentioning names I will consult the person and see if he will give the testimony. I do not like to state too much second hand.

#### OTHER INFORMATION REGARDING REBATES.

Q. What other information have you with reference to rebates or discriminations?—A. If I were to go into details I might perhaps furnish a great many cases. We are constantly getting more or less information as to special favors and special rates to certain parties. None of it comes absolutely direct; it could not come direct. Parties who receive special rates and the parties who give them are both much interested in keeping the secret. It is very difficult to get information on that subject. I should think that if the Commission got at one-tenth of the truth they would be doing very well.

#### UTAH AND MONTANA ORES.

By Commissioner ANDERSON:

Q. Where does your ore come from?—A. We buy ores, or receive ores, from Colorado, and, I think, every Territory and State west of us and south of us. We are quite large shippers from Montana. We get a good deal from Utah, and considerable from New Mexico.

Q. As to Utah and Montana ores here, please describe the routes which your ores travel, so as to indicate the haul which the Union Pacific gets.—A. The Montana ore comes down the Utah and Northern road, I think, to Pocatello; and from there it is transferred to the Oregon Short Line, and runs down to Granger, and then on the Union Pacific to Cheyenne, and from Cheyenne to Denver.

#### NEW MEXICAN ORES.

Q. How does the New Mexico ore come?—A. That comes altogether on the Atchison, Topeka and Santa Fé road to Pueblo and from there to Denver on the Rio Grande.



Q. And as to the ore used by the Omaha and Grant Smelting Works, what do they use?—A. They do not treat exactly the same class of ores that we do. Their business is mainly with lead ores, and for that reason of course their ores come from somewhat different localities. I do not think that the Omaha and Grant people ever shipped ores from Butte City; that is one of the largest shipping points. I understand they ship a large quantity of ore from what is known as the Weed River country. I do not know from what railroad station.

Q. From the Oregon Short Line?—A. Yes, sir. That must come on the Oregon Short Line.

Q. Do they also ship from New Mexico?—A. Yes. I do not know how much. They ship some from New Mexico.

#### REFRACTORY AND LEAD ORES.

Q. Are the Omaha and Grant Smelting Works any better customers of the Union Pacific than you are, by reason of the length of haul?—A. Not by reason of the length of haul.

Q. Or for any other reason?—A. They work lead ores, and the largest production or tonnage of ores produced in this western country is of lead ores by far. They ship a greater number of tons than we do, because we confine ourselves to what are known as refractory ores. We are not in the lead ore business.

#### OMAHA AND GRANT REGARDED AS COMPETITORS.

Q. How do you regard them as competitors?—A. There is a large proportion of ores here that may be treated either by their method or ours. The products run into lead or into copper. We collect our gold and silver in copper. The Omaha and Grant people collect theirs in lead. There is a great deal of ore which is called dry ore. There is a good deal of it that contains very little lead or copper, and it may be mixed in with these ores and treated either way. We would have been conducting a lead smelting business long ago if we could have felt sure we could have had the same rates as our competitors. But in this class of business, the tonnage is large and the profits per ton are supposed to be small. A slight difference in the way of discrimination on rates makes it absolutely impossible for a company to handle that class of ore against a company in favor of which the discrimination is made. The class of ore we treat is more difficult to treat and we can better stand a discrimination against us on freight than we could on lead ore. For that reason we have been kept out of the lead smelting business. It is the heaviest part of the business in this Western country. The amount of ore which the Boston and Colorado Smelting Company has been treating for the last eight or nine years will vary from 35,000 tons to 40,000 tons per year, and our product has been worth in the neighborhood of \$4,000,000 per year. It is a large business.

#### DISCRIMINATION IN FAVOR OF OMAHA AND GRANT COMPANY.

Q. That is, the business of your firm?—A. The business of our company; yes, sir.

Q. Can you assign any other motive which would induce the Union Pacific Railway Company to discriminate in favor of the Omaha and Grant Works as against your works?—A. I have always supposed

at least the common impression has always been, that the main motive was that there were certain interests attached to these works in connection with the management of that road that would furnish a sufficient inducement. I have known for a number of years that officers of the road were interested in the smelting works. In fact, when Sidney Dillon was president of the Union Pacific road he was also president of the Omaha and Grant Smelting Works, I think. I believe I am right in that statement. It has often been stated so, and I think it is correct. Since that time I have known that other officers of the road had large interests in the smelting works. Then there are indirect interests.

#### MR. DILLON A LARGE STOCKHOLDER.

By Commissioner LITTLER:

Q. What other officers?—A. Mr. Ames, for one.

Q. Can you name any others?—A. Mr. Dillon. I have named him as president, but he was also quite a large stockholder. Mr. Adams told me himself that he was a stockholder in the Meyer Smelting Company, at Kansas City.

Q. That is a concern located where?—A. At Kansas City. Other officers who may not be directly stockholders in the smelting company are interested in various other things. They are interested in real estate, and own corner lots in Omaha, and have various indirect interests which you cannot always point to that might furnish some inducement.

#### OFFICERS OF ROAD INTERESTED IN OMAHA REAL ESTATE.

Q. Because a man owned a corner lot, do you think he would favor the business of this firm in order to promote speculation in real estate?—A. If the officers of the Union Pacific Railway Company are pretty largely interested in real estate in Omaha, all I can say is it is a very bad thing for Denver, in my judgment.

Q. In regard to the ore that you referred to as being destined for Pueblo, would not the motive that appeared to control the amount of rebates on business located either in Omaha or Denver naturally arise from a purpose—to secure the business to the Union Pacific as against the railroad company to Pueblo?—A. No; because the Union Pacific is the only road that could take it; the only road that runs anywhere near the mines.

Commissioner LITTLER. It would benefit those localities to stop it either at Denver or at Omaha, so that it should be treated there instead of its going to Pueblo, and thus fostering a business that was off the line of this railroad?

The WITNESS. If the object was to assist Denver, of course they could do it by preventing the Pueblo smelters from getting ore.

#### DISCRIMINATION AS TO DENVER LOCAL BUSINESS.

Q. The complaints you chiefly drew our attention to is the discrimination as to local business in Denver itself, as I understand it?—A. Yes, sir.

Q. Have you any idea what these rebates amount to?—A. I have never had any means of knowing. All the information of any direct reliable character that I have is what was brought out before this Commission in Omaha. The amount was much larger than I supposed. I had every

reason to believe it was large, but I did not suppose it was as large as it turned out to be.

By the CHAIRMAN:

Q. What was the amount that you heard?—A. In the last forty months, \$570,000. That was the statement that was sent by the Associated Press; and in the last sixteen months, \$253,000.

#### PROPORTION OF ORE TAKEN TO OMAHA AND TO DENVER.

By Commissioner ANDERSON:

Q. What is the relative proportion of the amount of ore that the Omaha and Grant Works take to Omaha as compared with what they bring to Denver?—A. I do not know.

By the CHAIRMAN:

Q. The sum of \$570,000 in special rates, if allowed to the Omaha and Grant Smelting Company, represents just so much that that company would be able to sell under the other smelting refining companies, does it not?—A. As I look at it, if I had been handling the same quantity of ore and from the same place, it would have cost me just \$570,000 more to do it than it did for that company to do it. I do not know of any other construction to put upon it.

#### FAIR COMPETITION UNDER PRESENT RATES.

Q. Can there be any fair competition under such rates?—A. For a time it has been possible for us to maintain a pretty fair competition with that company—up to this time, that is. We produced last year a little over \$4,000,000 worth of gold and silver and copper, and nearly all taken out of low-grade ores. If we had one cent of what could properly be called a rebate I am not aware of it. I cannot find it on our books. We smelted close to 40,000 tons of ore. We have had to maintain the business in the face of discriminations against us. I wish it understood that I am not complaining of the Omaha and Grant Smelting Company. I have never said anything against them. It is a very honorable concern, I believe, and reputable men are connected with it, and I have never said a word to indicate that I thought they were doing anything wrong.

#### "A PERFECTLY OUTRAGEOUS DISCRIMINATION."

By Commissioner LITTLER:

Q. You do not blame them for getting the rebates?—A. Not at all. The only fault I have ever found was with the railroad company for what I considered a perfectly outrageous discrimination against us.

Commissioner ANDERSON. How many rates are there?

The WITNESS. I do not understand the question.

Commissioner ANDERSON. You speak of low-grade ores and high-grade ores.

A. I think the Union Pacific Company maintained the policy of having but one rate on ore, unless it was valued at over \$100 a ton; and practically there is no ore valued at over that. If a shipper has richer ore, he takes a risk of all over \$100 and ships it as \$100 ore; so that I think that from all points which the Union Pacific Railroad Company reaches there is but one rate.

## WHERE ORES ARE SHIPPED TO.

By Commissioner LITTLE:

Q. I want to ask you to where in the East you ship the product of your reductions works?—A. Silver is our largest product. That we sell mostly to the Government on bids.

Q. Where do you ship it?—A. Either to Philadelphia or to New Orleans, to be coined.

Q. Do you ship to any Missouri River points?—A. No.

Q. Do you know what the rate is on ores from Denver to the Missouri River?—A. Yes, sir.

Q. What is it?—A. I know what the regular rate is.

Q. What is it?—A. Five dollars a ton.

Q. Now?—A. Yes, sir.

Q. From Denver to the Missouri River?—A. Yes, sir.

## RATES CHEAPER THAN FORMERLY.

Q. It is cheaper than it was formerly, is it not?—A. Yes. We have, since we have been in business here, shipped a good deal of material containing copper from which the gold and silver has all been extracted, and we also had the ore rate on that until the pool was formed, and then they raised the rate from \$5 to \$8. That has been the rate ever since.

## NEVER RECEIVED REBATES.

Q. Do you say you never received any rebates at all from this company?—A. The Commission is here a few days in advance of the time I supposed it would be. When I found they were coming so soon, I improved the time. I examined our books back as far as the year 1879. That is the year in which we commenced business in Denver. If the committee desire it, I will immediately put men upon our books and go back to the very beginning; but my assistants in the business are all of the opinion that there never were any rebates in our business at Black Hawk.

Q. What is the paper you have before you?—A. This is a prepared statement in which I have taken each year, from 1879 down to this time, by months, to show just what we have received. I will explain by taking the year 1879. In June there was a collection of \$448.42 from the Union Pacific Railroad for an overcharge on freight on ore for a concern in Black Hawk, which we collected for them and credited to their account.

Q. Do you know how that overcharge happened?—A. I cannot tell how it happened now, any more than they charged that much more than the regular rate.

## AN OVERCHARGE, NOT A REBATE.

Q. You are sure that is not a rebate?—A. No, sir; it is an overcharge on the regular rate. We never had a rebate from Black Hawk; nothing but the regular rate which was open to anybody. Then there is another collection of \$4 in July. There is a collection of overcharge on supplies, fire-bricks, shipped from the east, \$195. That makes \$671.47 for 1879. The entire amount that the Union Pacific Railroad Company paid us for any and all purposes was \$671.47.

In 1880 the entire amount paid us was \$394.78, and the principal item of that was \$268.88 for an overcharge on fire-bricks.

#### TOTAL OVERCHARGES FOR SEVERAL YEARS.

Q. In order to condense this statement I will ask you to give the totals for the several years, and state whether the amount refunded for any year or any part of the year is or is not a rebate, or whether it is not, in fact, an overcharge?—A. There is not a single amount that I have here that is not a return for an overcharge. That year we had a number of entries. There were three or four months in which we received nothing. But in every other month there was a little sum: \$19, \$13, \$22, and \$1.50. Those were amounts paid us by the Union Pacific Company as a return of an overcharge. For instance, there is a collection for Eddy & James. We collected \$65.20 and we paid it over to them. There is not a single item of such collections that was not turned over, as soon as we received it, to the company or to the individual who had shipped the ore to us. In 1882 we received from the Union Pacific Company, all told, \$30.92 with every month marked "nothing," except July, when we collected that amount.

In 1883 the entire amount received was \$95.80 from the Union Pacific Company.

#### OVERCHARGE ON ORE.

Then commenced what has been called a rebate of \$67,000, which I will explain by itself. The ore on which this was paid was shipped to us in the last part of 1883 and the early part of 1884. Outside of that in 1883 we have had the amount I have just named. In 1884 \$431.57. That was a clear case of overcharge.

In 1885 it was \$124.35, made up of the three small items: \$57.85, \$19, and \$47.50.

In the year 1886 it was \$831.89. We shipped from here east over the Union Pacific road copper in two or three different forms—either in slabs or what we call residues, which is an oxide of copper put into barrels. The rate was open at \$8 a ton to the river. The amount that the Union Pacific refunded, viz, \$314.32, was the overcharge in excess of \$8. Then there is one item here where they reduced the open rate on ore and matte from Butte City last October from \$12 to \$10.60.

The first two or three shipments that came after that were charged at the old \$12 rate, and they paid the difference back to us, which was \$202.95. The entire amount for the eight years, from 1879 to 1886, inclusive, was \$3,452.51.

#### MERELY CORRECTIONS OF OVERCHARGES.

By Commissioner ANDERSON:

Q. All of these being merely corrections?—A. Merely corrections of overcharges of the regular rates—the regular published open rates, which everybody knew.

Q. You were speaking a little while ago of \$67,000. I want to say that Mr. Kimball informed this Commission that that sum had been paid to you as rebate. What have you to say about it?—A. I will plain exactly that matter. In 1883 the Colorado and Montana Mining Company, located at Butte City, had accumulated a large



pile of very low-grade ore which they could not use. They could not treat it there, because it would not pay the expenses of treating it. That company, as I was informed, had been buying rich ores and material from the mining companies, and they took this low-grade ore and gave them \$5 a ton for it without any assay at all, and took their chances on disposing of it, and threw it into a pile, until it reached about 8,000 tons. They could not treat it in Montana so as to make any profit on it. They could not ship it anywhere else on account of the high rates. The regular rate from Butte City to Denver was \$22 a ton. That company obtained, after explaining these facts, from the Union Pacific Company a rate of \$12.50. They made a contract with the Union Pacific Railroad Company to carry that one particular pile of ore, no more and no less, to Denver for \$12.50 a ton. They were not to include another pound from any other source but that one particular pile of ore, which had been lying outside in the weather for years. That company then desired to sell the ore to us, and sold it to us with the understanding and agreement that we should pay the freight of \$12.50. The Boston and Colorado Smelting Company had no interest in the pile of ore, none whatever. It made no difference to the company whether it had the ore or not, because it was a very low grade of ore. They had no interest whatever in the rate of freights.

#### MONEY REFUNDED TO BOSTON AND COLORADO COMPANY.

Q. How was the money refunded?—A. As the Boston and Colorado Smelting Company paid the freight on the ore and they billed it at the regular rate, \$22 per ton, of course the money was refunded to the Boston and Colorado Smelting Company.

Q. Your company?—A. Yes, sir.

By Commissioner LITTLER:

Q. What did you do with the money?—A. The money belonged to us; we had paid \$22 to the Union Pacific company and had bought the ore with the agreement that we should pay \$12.50.

#### DIFFERENCE BETWEEN A REFUND AND A REBATE.

Q. What is the difference between that transaction and a rebate?—A. I understand it to be this: If we had bought this ore in Montana with the understanding that we had to pay the regular rate to get it here, and at a price that would justify us in bringing the ore here, at the regular rate of freight, and then the railroad company, to assist our company, should give us back a part of the freight, I should consider that a rebate, discriminating in our favor, and really a donation to the company. The rate was fixed by a special contract with which the Boston and Colorado Smelting Company had nothing to do. They got no benefit from it whatever.

#### FORM IN WHICH PRODUCT IS SHIPPED EAST.

Q. In what form do you ship to the east the product of your reduction works here? In the form of pure silver and gold?—A. Pure silver and nearly pure gold and copper.

Q. How do you ship it, as freight or otherwise?—A. Gold and silver all go by express.

Q. Your shipments are necessarily rather small—that is, the shipments which go by freight?

The WITNESS. From here east?

Commissioner LITTLER. Yes.

The WITNESS. They are comparatively small. We ship probably about a hundred tons a month.

#### SMALL REFUNDS MAY NOT APPEAR ON BOOKS.

Q. Can you give us any further information?—A. I do not know. I have touched on all the points that occur to me now. The \$67,000 transaction was between the month of October, 1883, and March, 1884. It was a contract, as I explain, made by a smelting company in Montana with the Union Pacific Railroad Company. And that was made before we bought the ore and was made the basis of our purchase of the ore. I should say, perhaps, one thing more: It is possible that there may be a very few small items of returns made on overcharges that do not appear on our books at all, for the reason that we indorse the check over to the person from whom we bought the ore, instead of making an entry in our books, and the payment never went into our account at all. We found one or two little items of that kind—happened to discover them in a memorandum book—and put them in the statement I have made to-day, but they will not amount to \$500, all told, for the eight years.

#### EFFECT OF POOLING UPON COMMUNITY.

By the CHAIRMAN:

Q. What effect has the pooling of passenger and freight rates upon the community by railroad companies?—A. Of course it prevents competition and the shipper has no redress, if he thinks the rate is extortionate, except to go to the pool. If you go to the officers of any of the railroad companies, they will say, "We will have to refer that question to the pool." It has happened with me that some important question has been referred to the pool, and after the matter had been considered we were informed that no change could be made; that, on the whole, the pool did not think it was best to make any change; yet the members of the pool told me privately afterwards that they were in favor of making the change; you will see that a pool is a difficult thing to get at. There is nobody responsible.

Q. Is a pool a benefit to the railroad company or to the people at large?—A. I suppose that is a matter of opinion.

The CHAIRMAN. That is what I am asking you.

The WITNESS. I am not a railroad man, but my opinion has always been that if there was a railroad running into Denver that conducted its business on fair business principles, and treated everybody alike, and made no distinction, and made a fair and reasonable rate and maintained it, that that company would prosper. That has been my belief. I may be wrong, but if I were a railroad man I would try it on that principle for a while.

#### EFFECT OF A POOL TO RAISE RATES.

Q. Is the effect of a pool to lower or raise the rate?—A. To raise it, unquestionably.

Q. Then the benefit certainly would be to the company and not to the shippers at large?—A. The benefit would be to the company temporarily;

but then they hurt and kill a great many interests. They retard the prosperity of the communities in that way, and I think they lose more than they gain. As you know, this community has been obliged to submit to rates that in any other part of the country would be considered very extortionate. For instance, a short time ago I got a lot of groceries from New York—a few articles that I could not get here. The rate was \$8.50 from Chicago to Denver, and \$1.50 from New York to Chicago. I took the bill to the freight agent of the road over which the goods came and asked him if that was right, and he said, "Yes; that was according to schedule." I only mention that to show that this community has patiently gone along paying these very exorbitant rates. But the complaint is not of high rates; it is of discriminating rates. Most of the feeling that exists in this State (and there is a great deal of it) comes from this kind of abuses of railroad management and not from high charges.

#### MEANING OF "DISCRIMINATING RATES."

Q. Do you mean by discriminating rates, private special rates?—A. Giving one merchant a rate on merchandise that another merchant cannot get.

Q. Doing it privately?—A. Doing it privately through a system of rebates.

Q. Has the Union Pacific Railroad Company been engaged largely in that kind of business?—A. I should say they have, very largely. I should say, judging from what I have seen, and I have watched it pretty closely for twenty years—that it has always been the policy of the Union Pacific Company to build up a few persons at the expense of others. I do not see how anybody can look over the field and become acquainted with the transactions of that company without being convinced of that fact.

#### INFLUENCING LEGISLATION.

Q. What part have the officers and employes of the Union Pacific Railway Company taken in influencing State and local legislation?—A. They have been active.

Q. In what direction?—A. Well, I would much prefer that the Commission should call witnesses who know all about it.

The CHAIRMAN. We want what you know.

The WITNESS. My knowledge must be mostly inferential. They never show me anything of the transactions of buying up members of the legislature.

#### OBJECTION TO MENTIONING NAMES.

By Commissioner ANDERSON:

Q. Can you refer us to the names? You say you hope we will call up people who know.—A. I do not care to assume the attitude of giving information about other people's affairs and mentioning names. I would very much prefer not to do it.

Q. How can we find them out?—A. I think you will find them out; there are plenty of people here who will be glad to tell you whom to call.

By the CHAIRMAN:

Q. What part have the officers of the Union Pacific Railway Company taken in influencing State legislation?

The WITNESS. When you say officers—

The CHAIRMAN. Well, employés.

The WITNESS. I would not object to handing to the chairman of this Commission the names of some persons who must know about it.

#### CHANGE OF OPINION AFTER ELECTION.

Q. What do you know?—A. I only know from the effects, from what an ordinary observer can see. I know when men enter the legislature strongly pledged to and advocating certain railroad legislation, and after they have been there for a time and have been seen in intimate relations and around a great deal with men who were known as railroad lobbyists, and then come out in the end opposed to all railroad legislation and vote it down, it is safe to form the conclusion that they were bribed in some way.

#### LOBBYISTS AROUND THE LEGISLATURE.

Q. Has the Union Pacific Railway Company had lobbyists and attendants upon the legislature?—A. Yes. I might mention the name of Mr. Williams, of Kansas.

Q. Was it A. O. Williams?—A. Archie Williams, he is known as. He spent two years ago last winter to my knowledge, to my certain knowledge, not less than a month here, with headquarters in this hotel. If he was here for any other purpose than to influence legislators, I do not know what it was. He had no case in court that he was trying, and no law business that was apparent that he could be interested in. I understand that he was here also for quite a long time last winter.

#### METHODS OF THE COMPANY.

Q. What methods has the company employed?—A. My belief is that they have employed the method of paying out money very liberally, but I cannot prove that fact.

By Commissioner LITTLE:

Q. To members of the legislature?—A. To members of the legislature and to everybody who could do them any good; everybody who could work on members advantageously.

#### PASSES TO MEMBERS OF LEGISLATURE.

By the CHAIRMAN:

Q. Have the Union Pacific Railway Company issued passes to members of the legislature?—A. Very abundantly. I might mention a circumstance that occurred here two years ago last winter. There was a member of the legislature whom they thought very important should be here at the time that the vote was taken in the Republican Senatorial caucus. He had to go to Nebraska on account of the severe sickness of a member of the family. A special private train was furnished to him and it was run through at a high rate of speed. It ran into a cut down here, and actually killed 60 head of cattle; the man who informed me about it told me that the train was running at about the rate of 60 miles an hour when it ran into that cut;



train was sent at the expense of the Union Pacific Railway Company solely for the purpose of carrying this one member of the legislature. They needed his vote and he came back in time to cast it. There must be some officer of the Union Pacific Company who can give you all the details and tell you how much it cost the company.

#### KIND OF LEGISLATION OPPOSED.

Q. What kind of legislation did they have their officers here to prevent; or what was the character of the legislation?

The WITNESS. That was attempted here last winter?

The CHAIRMAN. Yes.

A. There were two parties who professed to be in favor of legislation. One was in favor of passing a bill that would simply prevent discriminations; the other was in favor of passing a bill which provided for a commission with power to fix rates. The division of the members who were elected on this issue was the method that was really taken to kill legislation; that is, by getting a few men that would go so far and demand so much that more conservative members would not go with them. It is one of those adroit methods of defeating legislation and making it appear that everybody was all right.

#### UNION PACIFIC AS A MANIPULATOR OF THE LEGISLATURE.

Q. How long has the Union Pacific Railway Company been playing the part of a manipulator of the legislature here?—A. I have not known very much about it, nor paid very much attention to it until two years ago last winter. I saw a good deal of it then. I do not say this company is any worse than others. Nearly all the roads in this part of the country took an active interest in it. They put up money in the hands of certain parties to use; as I believe, chipped in and made a sort of a pool of it. That is the way I have been informed it was done.

#### INTERFERENCE IN POLITICS.

Q. Did the company interfere in politics?—A. Apparently only so far as to secure the election of men who they thought would be favorable to their interests.

Q. Did they appear in support of both parties?—A. Party did not seem to enter into it. The Union Pacific company favored one man for the United States Senate. They had two objects to accomplish in that legislature. One was to elect a United States Senator who would be friendly to their interests, as they viewed it, I suppose, and the other was to defeat legislation. I do not think they interfered any further than that. I do not know that they cared anything for what was done beyond that.

#### INTERFERENCE IN LOCAL LEGISLATION.

Q. What part has the company taken in interference in local legislation or elections?—A. I do not know how far they have gone in that direction. I hear now and then of cases in which there are very strong reasons for believing that they took active measures to defeat men whom they could not control. I should say that they did that in



regard to Mr. Bergh, in Park County, year before last. I have been told by men whom I think know, and I think Mr. Bergh knows himself, that there was money spent by the Union Pacific Company to defeat him, and that the employes of the South Park road, which is a part of the Union Pacific system, had instructions to defeat him. I have no doubt that they have done it in a great many other cases, but it is a very difficult thing to prove, and it is useless to make assertions that cannot be proved.

Q. Has there been any local hostile legislation in the locality here, or any legislation in favor of the Union Pacific?—A. I do not think of any. I think all that the railroad companies have desired was to prevent legislation. I do not think of any legislation that was enacted especially in the interest of railroads.

#### PLAN OF SETTLEMENT.

Q. Have you considered the several acts that have been presented to Congress from time to time in reference to the settlement of the debt to the Government of the aided roads?—A. Yes, sir; I was in the Senate when these measures were, to some extent, under consideration. Not in the last Congress, when it was more prominently considered, but in the Congress before that.

#### SHOCKING ABUSE OF ITS PRIVILEGES.

Q. Will you give the Commission the benefit of any opinion that you have formed?—A. Of course, it is a mere matter of opinion. I think that the Union Pacific Railroad Company has shockingly abused its privileges. They have apparently adopted and worked on the policy of breaking down everybody they did not like and building up those whom they could make use of. As far as I am personally concerned, I would be pleased to see the road pass into the hands of the Government; and to see if one railroad in the United States might be run, as the Post-Office Department is run, without fear or favor. If it was in my power to do anything with the road, I would turn it into the hands of the Government to-morrow.

#### HOW THE GOVERNMENT CAN TAKE CHARGE OF THE ROAD.

By Commissioner LITTLE:

Q. Will you explain to this Commission how that end can be accomplished, in view of the present law which provides in substance that the interest on the Government subsidy does not mature until the principal matures in 1895, 1896, and 1897?—A. Only by the right of the Government to amend and alter the charter to any extent that it may deem desirable. Congress has already passed the Thurman act. If it was right to make that company provide for a portion of the interest before the maturity of the bonds, I do not see why it is not within the scope of Congress, in case of the failure of the company to conform to the requirements of the Thurman act, to take possession of the road.

#### GOVERNMENT WOULD HAVE TO ASSUME FIRST-MORTGAGE

Q. How would the Government manage to take possession without providing for the payment of the first-mortgage?

company?—A. The Government would have to assume the first-mortgage bonds, of course. It is a valuable property, and worth more than the first mortgage. Under a wise and honest management it would, I believe, pay the interest on the bonds and gradually pay the debt to the Government.

By Commissioner ANDERSON:

Q. Will you explain how, in your view, under the laws that now exist, the Government could take possession of any more of the road than those portions which are covered by the act? Take, for instance, the subsidy commencing half a mile from Kansas City, and ending at the 394-mile post on the Kansas Central. Would it be good policy to take that section, unless in some way or other you could get the whole road?

The WITNESS. Do you speak of Kansas Pacific road?

Commissioner ANDERSON. I use that as an illustration, applying it to all the roads, the Supreme Court of the United States having decided that the lien did not apply between the 394-mile post and Denver.

The WITNESS. Of course that would interfere somewhat with the interests of the Government in taking possession of the road. I had more reference to the main line running from Omaha to Ogden.

#### CONTROVERSY AS TO EXTENT OF SUBSIDY.

Q. With reference to the main line there is a controversy as to whether the subsidy embraces the bridge across the river, and of course the question would arise as to the ability, except perhaps through the interposition of the equity powers of the court on proof that the branch lines had been constructed from the profits of the road; but on the foreclosure of the mortgage itself there would be the difficulty in taking anything except the main line itself. So, on the Central Pacific the subsidy does not extend to San Francisco, but only to Sacramento. As we are extremely desirous of getting all the information we can from gentlemen who have examined these matters and been in Congress, in view of these facts I would ask you how it would be possible to take possession of a road which could be operated on the idea that you suggested?—A. There may be some difficulties; how far they would stand in the way I do not know. The matter of extending the Central Pacific road through to San Francisco is not a very great undertaking. The Government could have a through line from Omaha to San Francisco, and the shortest that has been built. I have only been stating general principles. A railroad should be managed purely and solely in the interests of the road and of the public, and not to make a few men rich. As this road would be managed under Government control, it would be demonstrated not simply what might be done by that particular road, but what can be done by any railroad. I do not know of any railroad now, certainly none of the great trunk lines East, which are not hampered more or less by all sorts of arrangements by which some individuals grow immensely rich at the expense of the stockholders and the public.

#### GOVERNMENT MANAGEMENT FREE FROM PARTISANSHIP.

Q. Is it your belief that a Government management would be free from a personal partisanship of that nature?—A. We have pretty good evidence of that in the management of the Post-Office Department. I do not believe any private company would have made the Post-Office Department as efficient and economical as it has been under the Government.

Commissioner LITTLER. The Government has no opposition in the Post-Office Department.

The WITNESS. And the result would not have been different if it had.

#### EFFECT OF SETTLEMENT ON RATES.

By the CHAIRMAN:

Q. What would be the effect as to the settlement of rates, passenger and freight, with reference to the public at large, with such a settlement as you suggest?—A. I suppose the policy of the Government would be—it should be—to make a low rate and a uniform rate, and the other roads would very soon conform to it. I believe the effect would be to make a permanent and moderate rate.

#### EFFECT ON INDIVIDUALS.

Q. What effect on the public interests would it have?—A. It would stimulate enterprise and hasten the growth of communities.

#### EFFECT ON COMMUNITY.

Q. What would be the effect of such a settlement upon the public and upon this community?—A. It would have a most excellent effect. Under existing arrangements a business man can never tell a day ahead what can be done the next. The railroad companies may not be able to form a pool now, but they may form some kind of traffic arrangement that will crush a great many men who are doing a good legitimate business. It may come any day, and you would have no means of foreseeing or of preventing it.

#### DANGER THAT ROAD WOULD BE USED AS A POLITICAL ENGINE.

By Commissioner ANDERSON:

Q. Is not the danger that a railroad of that character would be used by the Government as a political engine, and the appointment of persons of the same political faith as an administration, and that it would gradually become an aggressive and ugly political machine?—A. That was the argument that was used formerly in regard to the Post-Office Department. It has always been the one great argument that has been used to prevent the establishment of a postal telegraph system in this country. But as a business man I would much prefer to depend on railroads which were subject to any evils which may spring from political patronage than to be subject to the caprices of some men who are at the head of great railroad companies.

#### RECTIFICATION OF EVIL THROUGH STATE COMMISSIONERS OF RAILWAYS.

Q. Could you not rectify that evil through the intervention of active State commissioners of railways with power to investigate any such alleged infringement, and without asking the Government of the United States to enter as a competitor into the railroad business?—A. I have hoped that that might be done, but I must say that I am very despondent about it. If a great railway company like the Union Pacific Company determines to build up a concern by some system of discrimination it would find a way to do it. If it did not do it through a system of re-

bates, it would do it in some other way. There are many ways that a thing of that kind can be done and not be exposed until at least years afterwards.

#### HOW MUCH A GOVERNMENT CORPORATION COULD EARN.

Q. Have you considered the actual traffic of the Union Pacific system sufficiently closely, especially in view of the limitations of the United States lien that I have called your attention to, to be able to form an opinion as to exactly how many dollars per annum a Government corporation, fairly and justly administered, could earn?—A. No; I have not enough figures on that question to enable me to form any correct opinion.

Q. In order to determine the best policy for increasing the Government security, would not a careful examination of that subject be exceedingly essential?—A. I believe on general principles that the Government could manage the road to better advantage than the company has done under the system which has characterized its management.

#### ROAD WOULD EARN MORE MONEY UNDER GOVERNMENT MANAGEMENT.

Q. It would earn more money?—A. It would probably earn more money, and if it did not you have the fact that it is run in the interest of the public, as it should be, and the public would pay the shortage, and nobody would complain. I would like to pay my share of it and have it put into the hands of a management that would know no discriminations. How can it be said that the Union Pacific Company makes any money by favoring one smelting company and giving it an advantage over another smelting company in a few months of \$570,000? How can that help the railroad company, and how does it affect the community? If every person could have the same rate you would find more smelting companies; you would find more enterprises; you would find the business more equally divided. The company that I represent would have been largely smelters of lead ores if they had same rates that our neighbor had.

#### POSSESSION OF ROAD COULD BE TAKEN FOR DEFAULT UNDER THURMAN ACT.

Commissioner ANDERSON. In answering Commissioner Littler's question as to how it could be done, you suggested that as the Thurman act had modified the original act and had been held to be constitutional, possession of the road could be taken for a default under the Thurman act. Assuming that no default which can be sustained in the court exists to-day under the Thurman act, then it could only be reached by a further amendment increasing the percentage that the companies would have to pay, or in some way or other bringing about a default.

The WITNESS. I understand the default exists now under the Thurman act.

Q. In what respects?—A. They have not provided for the sinking fund, as the law requires.

Q. Will you give us some information as to the basis of that assertion?—A. I cannot give you any detailed information. I know in general way, and it has been so stated in speeches in Congress and other places. It is a subject that I have never made a special examination



## ACCOUNTS OF COMPANIES SETTLED WITH COMMISSIONER OF RAILROADS.

Q. Do you not know that the accounts of these companies have been settled with the Commissioner of Railroads, and that the amounts called for by him are represented in their sinking funds, as they now stand, except as to some items which may be in the Court of Claims in dispute as far as the sinking fund is concerned?—A. If what has been paid by the railroad companies is in full and absolute settlement of all the claims the Government had against the railroads under the Thurman act, I have been in error.

## PAYMENT OF DIVIDENDS A VIOLATION OF THURMAN ACT.

Commissioner ANDERSON. There are other points under the Thurman act. The payment of their dividend is alleged to have been in violation of that law, and it may be; but as far as the sinking fund is concerned it appears to have been adjusted by the Railroad Commissioner.

The WITNESS. I would not be in favor of taking the roads if the companies conform to the law and meet their obligations under the statute.

Q. Under those circumstances, the question recurs, What would be the best policy? We are asked by this act to report, and are very glad to get suggestions.—A. I do not say, and I have not said, that the time had come when it would be opportune for the Government to take the Union Pacific Railroad. I speak in a general way when I say that I would like to see that result as a matter of experiment with the railroad systems of this country.

## LARGE ANNUAL PAYMENT INSTEAD OF PERCENTAGE OF NET EARNINGS.

Q. Have you considered the result of a quite large annual payment instead of this percentage of net earnings, which does not appear now to exceed \$800,000 or \$900,000?—A. Not particularly.

Q. How would it strike you as to the relative advantages, there being no default at present and the other question being reserved, to change from the system of 25 per cent. of net earnings, and instead of that to require an annual payment, fixing it at a sum exceeding the interest charged?

Commissioner LITTLER. An annual gross sum.

The WITNESS. I am not prepared to express an opinion as to that. It is a subject which I have not considered carefully, and I do not think I could give an opinion that would be of any value. I have spoken in very general terms as to a line of policy which I would be glad to see tried.

## EXTENSION OF TIME TO PAY.

By the CHAIRMAN:

Q. Do you favor an extension of the debt after maturity?—A. I should vote against an extension.

Commissioner LITTLER. Have you considered the policy of the company as to its acquisition of its branch lines? Have you considered the wisdom or want of wisdom of that?



The WITNESS. I have only considered it perhaps from what you might call the moral aspect of it. I do not think the company had any moral right whatever to divert the earnings of subsidized roads into building other roads.

#### ACQUISITION OF BRANCHES A BENEFIT TO MAIN LINE.

Q. Assuming that they had no right, and viewing the matter as a business proposition, is it or not your opinion that the acquisition of these lines has inured to the benefit of the main line?

The WITNESS. For instance, the acquisition of the Kansas Pacific road?

Commissioner LITTLE. That was acquired by a consolidation. I refer particularly to the acquisition of these branch roads running out into Colorado and the branches running into Kansas and Nebraska.

The WITNESS. Of such acquisitions as that of the Kansas Pacific, the stock of which was worth \$4 or \$5 per share, and which was forced on the Union Pacific at \$100 per share, there can be but one opinion. As to building new roads, that is a question for railroad men to consider.

Q. You do not claim to be a railroad man, I understand you?—A. Not at all.

#### RAILROAD OFFICERS INTERESTED IN MINING COMPANIES, ETC.

The CHAIRMAN. Have you any knowledge of any officer, employé, agent, or any one directly or indirectly connected with the Union Pacific Railroad Company, interested in any mining company, smelting works, or manufacturing company, or any other business along the branch lines or the main line, other than Mr. Ames and Mr. Dillon, whom you have named?

The WITNESS. And Mr. Adams. When you ask me for knowledge on that subject, I must say that what I know is based on what I hear from what I deem to be reliable sources. That there is the usual amount of interest in coal enterprises and other enterprises on the part of employés and officers of the Union Pacific Railway Company, I have no doubt.

#### NO DOUBT RAILROAD PEOPLE MAKE MONEY OUT OF BUSINESS CONNECTED WITH ROAD.

Q. Can you designate any firm or any company in the coal business to which your remarks would apply?—A. I very much prefer, if the Commission would indulge me to that extent, to say they could get this information by calling on officers of the company who know about it, and who should be made to state the facts. I have no doubt myself that there are persons connected with the Union Pacific Railway Company who make money out of business enterprises connected with the road. But I cannot furnish you with the proof. My belief is that you can obtain the proof upon careful examination of officers of the road who must know about it.

Q. Can you give the Commission any names of any officers, or, if you will, furnish us with a list?—A. There are certain officers who would suggest themselves to me as persons who must necessarily know something about all these things, and I would have no objections to make out a list of persons of that kind.

The CHAIRMAN. We will do so.

The WITNESS. If I mention their names, it is because they are in positions where they must know.

#### DIVERSION OF TRAFFIC FROM AIDED TO UNAIDED ROADS.

Q. Have you any knowledge of any diversion of freight or traffic of any character from the aided roads to any unaided roads by an arrangement or agreement of any kind from this point.

The WITNESS. You mean to the Union Pacific company?

The CHAIRMAN. Yes; we speak of the Government-aided roads.

The WITNESS. I am not prepared to say that I know of any. As I understand it, the two trunk lines from here east are both what you call aided roads.

The CHAIRMAN. Yes; and all their branches.

Q. Has there been, by the Union Pacific Railway system, any diversion of traffic to any other road, or any division of traffic?—A. I could not say that I have any knowledge to that effect.

#### TENDENCY TO REDUCE NET EARNINGS ON AIDED ROADS.

Commissioner ANDERSON. The point is, that the law requires them to pay 25 per cent. on the net earnings of the aided roads; and the suggestion of the chairman is whether you know of any policy that would tend to reduce the net earnings on the aided roads, and thus benefit another portion of the system, thereby injuriously affecting the payment to be made to the United States.

The WITNESS. The statement has often been made, and apparently on good authority, that the Central Pacific road had diverted a great deal of its freight to the Southern Pacific road.

#### EFFECT TO LESSEN AMOUNT OF MONEY PAID TO GOVERNMENT.

Q. Has freight been sent over by way of the Julesburg branch to the main line instead of sending it over the other way, by way of Cheyenne, on the main line?—A. The freight from here east I understand goes by the Julesburg Cut-off. I did not know that the effect was to lessen the amount of money to be paid to the Government.

The CHAIRMAN. The effect of that would be to put the freight earnings growing out the freight passing by way of the Julesburg Branch as against the section by way of Cheyenne, on the main line.

The WITNESS. I only have knowledge which is common to everybody, I suppose, that their business from here east is done over the Julesburg line.

Commissioner ANDERSON. It is much shorter.

The WITNESS. Shorter, and easier grades.

#### WILLING TO GIVE INFORMATION.

Q. Have you any other suggestion to make, or any other information that you can give, to the Commission?—A. I came before this Commission without having expended any time in thinking over the subject beyond that which relates to what the Boston and Colorado Smelting Company had received in the way of rebate. Nothing occurs to me now. If I should think of anything important, I should be very glad to have an opportunity of informing the Commission. I have no infor

mation of any kind relating to the Union Pacific road that I am not at liberty to give to the Commission.

The CHAIRMAN. We will be glad to have you give any information that you can during our stay here.

#### INFLUENCING LEGISLATION.

By Commissioner LITTLE :

Q. I want to call your attention to the subject of influencing legislation. Do I understand you to state to the Commission that there is in this State what may be properly termed a combination of railways, by which they pool their issues before the legislature, and make up a pool of money to be expended to influence the legislature in relation to railway legislation?—A. It is my belief that when the legislature meets the railroad companies enter into mutual arrangements to defeat any legislation to which they may be opposed.

Q. Have they a headquarters anywhere?—A. No; I do not think they have, outside of their own offices. What they appear to do in common is to select persons to manage the lobby and furnish them with money.

Q. There is a head to this combination, I suppose, and there is a general management, and it is done under orders from somebody in command. Is not that so?—A. I think they delegate that business to a few men to manage and leave it to them.

#### USE OF MONEY TO INFLUENCE MEMBERS.

Q. Have you any knowledge of the unlawful payment of money to one or more members of the Colorado legislature for the purpose of influencing their votes?—A. I have not any direct and positive knowledge.

Q. Can you indicate to this Commission how they can secure such knowledge?—A. If they can do it in any way it will be by calling as witnesses the men who must have handled the money.

By Commissioner ANDERSON :

Q. Who are those men?—A. I am not willing to come out before this Commission with charges against particular individuals which I cannot prove.

Commissioner ANDERSON. It is a very serious charge against them

The WITNESS. It is a very serious charge; but I have abstained from making it against any particular person. I am willing to indicate to this Commission certain persons who, I think, if they are willing to, and if they would tell the truth, could give all the information you want.

#### EFFORTS NOT TO PROCURE AFFIRMATIVE LEGISLATION, BUT TO PREVENT UNFAVORABLE LEGISLATION.

Commissioner LITTLE. The efforts of this combination, as I understand, from time to time have been not to procure affirmative legislation, but to prevent unfavorable legislation to railway interests generally.

The WITNESS. Yes.

Commissioner LITTLE. And in that combination the Union Pacific has contributed its full share of money and men, as I understand it.

The WITNESS. I have no doubt it has to defeat what they call unfavorable legislation. Whether legislation that would prevent all discrimination is unfavorable or not, would be a matter of opinion.

## STATE RAILWAY COMMISSION.

Q. Have you any such thing as a railway commission in this State?—  
A. Yes, sir; we have a commissioner without any power. We have had one for two years.

Q. Only one?—A. Yes, sir. He has no power to do anything except to advise.

Q. Is he a good adviser?—A. I never heard much of his advice. I do not know whether it is good or not. I think all the advice he has given has cost the State a good deal of money in proportion to what it is worth.

## RELATION OF MONTANA COMPANY TO BOSTON AND COLORADO COMPANY.

By Mr. WILLARD TELLER:

Q. I would like to ask you a question. You spoke of a Montana company. What relation does that company sustain to the Boston and Colorado company?—A. No relation whatever. The two companies have no interests in common at all.

Q. Do you know who the stockholders of that company were?—A. Yes, sir; and I am one of them myself.

Q. Were not stockholders of that company nearly identical with the stockholders of the others?—A. Not at all. I am a stockholder in the Montana company, and I think I am the only person that is a stockholder in Boston and Colorado company who has any stock in the Montana company now.

Q. You organized the company, did you not?—A. I had but little to do with the organization of it.

## ONE STOCKHOLDER THE ONLY CONNECTION.

Q. Is that all the connection that this company has with that one—just one stockholder?—A. Yes, sir; the one stockholder. At the time that this contract was made with the Montana company Mr. Wolcott was a stockholder in the Boston and Colorado company, and he was a stockholder in the Montana company.

Q. Who was at that time the manager of the Boston and Colorado company?—A. He was the assistant manager, and really the active manager, as I was in the Senate at that time.

Q. He was the actual manager all the time you were in the Senate?—  
A. Yes, sir; he had essentially the management of it.

Q. He was then the manager from the commencement of that company until the time this company sold you the ore.

The WITNESS. The manager of the Montana company?

Mr. WILLARD TELLER. Yes, sir.

The WITNESS. He was not the manager of the Montana company. I was speaking of the Boston and Colorado company.

Q. Up to the time when the Boston and Colorado company bought that ore?—A. Yes.

Q. Who were the stockholders of that company?—A. W. A. Clark and H. Williams, of Montana, Richard Pearce, H. N. Wolcott and myself, of Colorado.

## PROPORTION OF MONTANA STOCK OWNED BY BOSTON AND COLORADO STOCKHOLDERS.

Q. How large a proportion of the stock of the Montana company was owned by persons who were stockholders and were directly in the em-

ploy of the Boston and Colorado company?—A. One-half, I think; I think it was just one-half. No, I am wrong; it was three-fifths of it.

Q. You said that company had gone out of existence?

The WITNESS. Which company?

Mr. WILLARD TELLER. The Montana company.

The WITNESS. Oh, no; not at all.

Q. It is still in existence?—A. Yes, sir.

Q. That company sold to this company the ore which it is claimed the rebate was on?—A. Yes, sir.

Mr. WILLARD TELLER. You said you thought the Union Pacific Company had abused its privileges shockingly in respect to political matters, as I understood?

The WITNESS. No, I did not say that. I was speaking of their business management. When I used that expression, I had reference very largely to that system of destroying business interests through favoritism.

#### THE UNION PACIFIC IN POLITICS.

Q. You said you thought they had taken a very active part in politics. Have you stated generally the reasons for it?—A. I have given some reasons.

Q. Was that two years ago?—A. Two years ago, and last winter also, I believe. I did not see much of it last winter, but two years before I did.

Q. Two years ago you were an attendant on the legislature also, were you not?—A. Through a very few days of it, yes, sir; the early days of the session. I was a candidate for re-election to the United States Senate.

#### INFLUENCING LEGISLATION.

Q. You had no knowledge of what he was doing to influence legislation?—A. Only that members of the legislature were in constant attendance upon Mr. Williams and other lobbyists.

Q. You said also that the Union Pacific Company was very actively interested in the election of a Senator that year, did you not?—A. Yes.

Q. You were a candidate for the Senate at the same time?—A. Yes.

Q. Did you ever make the charge before this time that the Union Pacific had been thus acting?—A. I do not think I ever did.

Q. Did you ever say to any newspaper or others, so that it got into print, that such had been the case?

The WITNESS. That the Union Pacific Company had done it?

Mr. WILLARD TELLER. Yes, sir.

The WITNESS. I think that I never made any such statement.

#### UNFAIR MEANS USED.

Q. You did state in general that unfair means had been used?—A. Yes, sir; I made that statement.

Q. Afterwards were you notified to substantiate your charges?—A. I was notified to testify to whether I knew—the question was asked me whether I knew of my own personal knowledge—of any money having been paid by any persons around the legislature to any member.



## COMMITTEE OF LEGISLATURE TO INVESTIGATE CHARGES.

Q. Was it not a fact that a committee of the legislature was appointed to investigate the charges that you have made, and which had been published in the public prints?—A. Yes, and it was a most unfair and partisan committee.

Q. Were you notified to appear before that committee?—A. I was notified to appear before that committee.

Q. Did you appear?—A. Yes, sir; I did appear.

Q. What did you say in reference to any knowledge you had?—A. Before I appeared before the committee a question was submitted to me. It was substantially whether I could answer the following question in the negative: "Do you, of your own personal knowledge, know of any money having been given by any person to any member of the legislature to influence the vote?" My answer to this question was "No," for which I thought I had good reasons. I regarded the majority of the committee as false and dishonest men, and believed they were put on that committee for partisan purposes.

## COMMITTEE APPOINTED NOT TO MAKE A FAIR INVESTIGATION.

Q. They were members of the legislature?—A. Yes, sir; they were members of the legislature, and no worse than some of the others. They were put there, as I believe, solely for one purpose, and that was to whitewash the whole business. There was \$5,000 appropriated by the legislature to pay the expenses of that committee. I was informed that a majority of the committee wanted to have the committee continued until the next legislature met; that would be for two years, so as to get the benefit of that \$5,000. I knew that the investigation would come to nothing. I knew from the very moment the committee was appointed that it was not intended to make a fair investigation, and therefore I went before the committee with the intention of giving no information which could possibly afford any ground for extending its time beyond the session of the legislature.

## INTERFERENCE IN AN ELECTION.

Q. Had you at that time any knowledge of any fact that induced you to believe that the Union Pacific had had a hand in that election?—A. A great many.

Q. A great many?—A. Yes.

Q. Did you offer that knowledge of these facts in evidence before that committee?—A. I did not.

Q. Have you ever offered it in evidence?—A. I never have.

Q. Will you offer it now?—A. It would be of no use. Some of the circumstances I have forgotten, others I could not state without violating the confidences of others.

## PLEGGED TO VOTE FOR A CERTAIN PERSON FOR SENATOR.

Q. Is it not a fact that your judgment was induced at that time by the result of the election?—A. My judgment was not in any way influenced.

Q. Having that knowledge at that time, could you not have disclosed it to the committee and disclosed it to the public?—A. It could be accomplished.

Q. You now have forgotten what you knew ?—A. No, I have not forgotten it all.

INFLUENCING OF LEGISLATORS SUBJECT OF INVESTIGATION BY COMMISSION.

Q. But you refuse to disclose it ?—A. I do not know that the object of this committee is to investigate the members of the Colorado legislature.

The CHAIRMAN. That is one of the special matters referred to by the act, the influencing of legislators.

The WITNESS. Whether particular persons sold their votes ?

The CHAIRMAN. That is a part of the investigation.

Commissioner ANDERSON. That is, if the Union Pacific did it.

The WITNESS. My belief that they did was based on various surroundings and circumstances.

By Mr. WILLARD TELLER :

Q. You know nothing about the handling of money, do you ?—A. I did not see any money pass from one man's hands to another's.

UNION PACIFIC OPPOSED MR. BERGH'S ELECTION.

Q. You spoke about Mr. Bergh. What do you know about the Union Pacific Company opposing his election ?—A. I have been told by people who reside in Park County, and who are somewhat familiar with what was going on, that there was a very active effort made to defeat Bergh by the Union Pacific people.

Q. Do you know what efforts were made ?—A. No; I do not.

Q. Do you know if it was anything more than some of the men who worked for the road ?—A. I could not tell you that.

Q. You do not know whether it was done at the instigation of the officers of the company, do you ?—A. I do not know. I could not tell.

Q. Do you know what reason was urged for the opposition that was made, if any ?—A. Simply that Mr. Bergh was supposed to be a man who from his past actions (he had been in the legislature for a good while) could not be controlled by the railroads.

MR. BERGH IN FAVOR OF REGULATING RAILROADS.

Q. Was it not a fact that Mr. Bergh was known to be rabidly opposed to railroads, and had made himself somewhat prominent in the legislature before ?—A. He was always in favor of regulating, to some extent, and controlling the action of railroads here. I do not know that he was very rabid.

Q. He was very active, at any rate, in introducing legislation against the railroads, was he not ?—A. He was active, and I believe if he was capable of being bought, he would have been on the other side.

Q. Have the Union Pacific people done anything more than to repel what they considered to be attacks ?—A. I do not know that they have.

Q. Have they done anything more than any other railroad in the State ?—A. Most of the railroads have taken an active interest at least by putting up money.

REBATES.

Q. Coming back to rebates : Did you ever ask the Union Pacific to give you any special rates at any time ?—A. I have asked for lower

and by the construction company. I stated to you last evening, memory, one or two matters that I would like to correct, after an examination of the papers here.

Portion of these bonds, when there was a sale for them and the was making money, were put on the market and sold by Winslow, r & Co. I have my book here to show the transactions of Winslow, r & Co. I have in my possession a statement of the details of the of Mr. Gould of the one-fourth interest which he acquired in the of the construction company. This statement shows, in a column, amount of the various drafts made on Mr. Gould, and the persons whose account these drafts were made. The aggregate of the drafts \$2,255.

When were these drafts made?—A. In the fall of 1879.

Did you find the contract as to those extensions?—A. No.

He witness produces the original contract of the Denver and South Company with the Denver Railway Association, under which the 16 miles, or thereabouts, of the road was constructed.

*The Denver, South Park and Pacific Railroad Company first mortgage.*

This indenture, made this 1st day of August, in the year of our Lord 1876, between Denver, South Park and Pacific Railroad Company, a corporation duly organized existing under the laws of the State (late Territory) of Colorado, party of the first part, and the Farmers' Loan and Trust Company, a corporation of the State of New York, party of the second part,

Witnesseth that, whereas the party of the first part, under and by virtue of the laws of the said State (late Territory) of Colorado, has become entitled to survey, locate, construct, maintain, use, and operate a railroad between the city of Denver and the Arapahoe Valley, in Lake County, with a branch to Morrison, in Jefferson County, in said State (late Territory) of Colorado;

And whereas, by virtue and authority of said laws, said party of the first part has located its said railroad by way of the Platte Cañon, the mouth of Buffalo branch of the Platte River, across the South Park, to the Arapahoe branch to Morrison, making 150 miles or thereabouts, and has and is operating that part of its road and branch between 15 1/2 miles of road, and is engaged in the construction of

DR.

## Denver, South Park and Pacific Railroad Company. Balance sheet, December 31, 1880.

CR.

Construction and equipment.....	\$2,717,848.99			Capital stock.....	\$3,500,000.00		
D. & S. P. R. R. Co. extensions.....	653,119.48		\$2,370,968.47	Bonds, first mortgage.....	\$1,800,000.00		
Depot grounds (Denver).....	42,034.18			Bonds, supplemental first mortgage.....	700,000.00	2,500,000.00	
Real estate (Como).....	302.50	\$42,336.68					\$6,000,000.00
Bills receivable.....	18,388.61			Audited vouchers.....	158,865.42		
Stocks of other companies.....	43,626.00	62,014.61		Audited pay-rolls.....	48,161.79		
Steel rails for replacement (purchased in Europe).....	118,158.68			Advanced charge checks.....	5.00		
Storeroom, as per inventory.....	\$64,962.12			Drawback checks.....	71.78	207,103.82	
Material at Alpine Tunnel.....	1,380.07			Suspense account.....		10.00	
Fuel.....	66,242.19			Railroad companies.....		24,648.13	
Stationery.....	10,224.84			Treasurer, on deposit in Colorado			
	1,572.91			National Bank.....	13,815.82		
		196,494.12	200,845.41	Winslow, Lanier & Company, on de-	80,215.81		
Farmers' Loan and Trust Company, trustees.....			708,080.00	posit in New York.....	200,000.00	294,031.78	
Agents and conductors.....		16,703.51		Union Pacific Railway Company.....			
Barlow & Sanderson.....	2,675.90			Accrued interest on first-mortgage		21,840.00	
Pacific Express.....	2,212.11			bonds.....			547,632.08
United States Government, estimated mail service.....	7,107.87			Gross earnings.....	590,296.10		
Kansas Pacific Railway Company.....	607.73			Warrants receivable.....	111.88		
Buena Vista Land Company.....	37.28			Foreign coupons collected.....	685.01	591,092.99	
Individuals and companies.....	5,036.25	15,676.63		Loss and gain.....		1,340,985.59	
Denver and Rio Grande Railway Company:				Rental of track.....			1,932,001.58
Balance on pooled traffic adjusted.....	49,540.55						1,509.28
Claims, proportion of expenses, &c.....	4,672.75	54,213.30					
South Park Coal Company.....	85,283.48						
Morrison Stone, Lime, and Town Company.....	2,099.72						
Pitkin and South Park Wagon Road.....	25,336.16						
Gunnison Town and Land Company.....	120.50						
Gunnison Land, Mining, and Tunnel Company.....	7,706.95	122,146.76	206,740.20				
Income expense.....	39,810.09						
Operating expense.....	329,964.87	369,804.96					
Interest on first-mortgage bonds.....		56,700.00	426,504.96				
Dividends declared.....			140,000.00				
Discount on stock and bonds.....			2,394,085.47				
			2,401,144.51				2,401,144.51

DENVER, COLO., February 14, 1881.  
Detailed statements of various accounts will be made having reference by number to this statement.

CHARLES WHEELER, Auditor.

1780

U. S. PACIFIC RAILWAY COMMISSION.

President and secretary, in pursuance with a resolution of its board of directors, passed the 8th day of July, 1876, on this 1st day of August, 1876.

[L. S.]

\_\_\_\_\_  
President.

\_\_\_\_\_  
Secretary.

Whole issue, \$2,500,000; principal payable May 1, 1905; coupons payable at the agency of the company in New York, London, or Frankfort-on-Main, at option of the holder.

(Form of coupon.)

£75s. 10d.

\$35.00.

Fl. 87.30.

The Denver, South Park and Pacific Railroad Company will pay to the bearer, as he shall elect, in the city of New York, \$35, United States gold coin, or in London £7 5s. 10d. sterling, or in Frankfort-on-Main 87 florins and 30 kreutzers, free of United States taxes, on the 1st day of \_\_\_\_\_, being six months' interest on bond No. \_\_\_\_\_.

C. B. KOUNTZE,  
Treasurer.

(Back of the bond.)

No. \_\_\_\_\_.

The Denver, South Park and Pacific Railroad Company, first mortgage 7 per cent. sinking fund bond—\$1,000—principal and interest payable in gold coin, coupons payable May 1st and November 1st in New York, London, or Frankfort-on-Main, at option of holder.

(Trustee's certificate.)

We certify that this bond is one of twenty-five hundred bonds of \$1,000 each, secured by the mortgage or deed of trust within referred to.

THE FARMERS' LOAN AND TRUST COMPANY, *Trustee.*  
By \_\_\_\_\_, *President.*

This bond may be registered in the owner's name on the company's books in the city of New York, or at any other place which the company may determine, such registry being noted on the bond by the company's transfer agent, after which no transfer shall be valid unless made on the company's books by the registered owner and similarly noted on the bond, but the same may be discharged from registry by being transferred to bearer, after which it shall be transferable by delivery, but it may be again registered as before.

The registry of the bond as above shall not restrain the negotiability of the coupons by delivery merely, but the coupons may be surrendered and the interest made payable only to the registered owner of the bond.

And whereas, it is mutually agreed by the parties hereto that said bonds are only to be certified and delivered to the party of the first part, by the party of the second part in installments, to the amount of \$16,666.66 $\frac{2}{3}$ , of the par value thereof per mile of its completed road, upon the president and chief engineer of the said party of the first part filing with the party of the second part their certificate, attested by proper affidavit, that such part of said railroad upon which said bonds are so to be issued, is actually completed in a good and substantial manner, and in operation at the time of such certification and issue of bonds.

And whereas it is the opinion of the party of the first part, that after the completion of the first 60 miles of said road, including its branch to Morrison, the net earnings of said road will be large enough to pay interest on the entire cost thereof and leave a surplus, therefore it is further agreed, that after the issue of bonds at the rate of \$16,666.66 $\frac{2}{3}$  per mile as herein provided, is made upon 60 miles of said completed road, the party of the second part shall make further certification and delivery of said bonds, only upon such certificate as above specified, and the additional affidavit, setting forth that the net earnings of the road so far as completed, are sufficient in amount to pay the interest promptly on said bonds so to be certified and issued, and also on the additional



dollars (\$1,000) each, payable in gold, in the city of New York, on the 1st day of May, nineteen hundred and five (1905), with interest in the mean time at the rate of 7 per cent. per annum, payable half yearly, on the 1st day of May and November, in New York, at the rate of \$35, gold, for each half year's interest, or at the option of the holders, at the rate of seven pounds five shillings ten pence (£7 5s. 10d.) sterling, in London, or of 87 florins and 30 kreutzers, in Frankfort-on-the-Main, with coupons annexed, and privilege of holders of registry, on surrendering coupons, with a sinking fund of 1½ per cent. on all outstanding bonds of said issue, annually, after ten years from date, for the retirement of said bonds at par by lot, and to secure the payment of such bonds, interest, and sinking fund, this company make, execute, and deliver its mortgage or deed of trust to the Farmers' Loan and Trust Company of New York, as trustee, conveying to it in trust, for the bondholders, the company's line of railroad and telegraph from Denver to the Arkansas Valley, in Lake County, and its branch to Morrison, in Jefferson County, Colorado, being 150 miles of road, with all the appurtenances, and the rolling stock and equipments thereof, with its franchises.

"And the said mortgage or deed of trust shall contain provisions for the enforcement of the mortgage against the road, appurtenances, and equipments, and for foreclosure and sale in case of default, and for change of trustee, together with waiver of stay execution, and appraisal laws, and full covenants for further assurance, especially of after-acquired property, and also covenants providing for the terms and manner of the delivery of the bonds by the trustee; and for the proper application of the proceeds of said bonds to the construction of the railroad, and that in these respects and in other matters of detail the said bonds and mortgage or deed of trust shall be in such form and to such effect as the president and secretary of this company shall determine and approve;"

And whereas, in pursuance of said resolution and as authorized to do by virtue of the laws of the State (late Territory) of Colorado, the party of the first part has determined to issue said bonds and to secure the payment of the same, principal and interest, with said sinking fund for their redemption, at par, by this mortgage or trust deed; the said bonds to be payable, principal and interest, in gold coin of the United States, of or equal to the present standard; the said bonds to stand equally and ratably secured hereby without any preference whatever arising from time of issue or otherwise, and to be issued as required for the purposes aforesaid, and in manner and on the conditions as herein provided, and each of said bonds to be duly executed by and under the seal of the party of the first part, signed and attested by its president and secretary, and the interest warrants to be authenticated by or with the name of the treasurer, and upon each of said bonds being so signed, sealed, executed, and authenticated, they are to be countersigned or certified by the said party of the second part in its capacity as trustee, which countersigning or certifying shall be conclusive and the only sufficient proof that the said bond is secured by this indenture, and each of which bonds is substantially in the following form:

First mortgage 7 per cent. railroad bond, principal and interest payable in gold coin, free of United States taxes, secured by first mortgage on 150 miles of railroad.

#### UNITED STATES OF AMERICA.—COLORADO.

The Denver, South Park and Pacific Railroad Company promises to pay to the bearer, on the 1st day of May, 1905, in the city of New York, \$1,000 in United States gold coin, of or equal to the present standard, with interest thereon at 7 per cent. per annum, free of United States taxes, semi-annually, on the 1st days of May and November, in like gold coin, upon presentation and surrender of the annexed coupons therefor, such interest to be paid either in New York, London, or Frankfort, at the option of the holder, as specified in the coupons. In case of default in payment of such interest when due, and continuance of such default for sixty days after demand, the principal of this bond will be subject to become due and payable upon the conditions provided in the trust deed hereinafter mentioned. This bond is one of 2,500 bonds, for \$1,000 each, of like tenor and date, numbered from 1 to 2500 inclusive, the payment whereof is secured by a mortgage or deed of trust of even date herewith, made by said company to the Farmers' Loan and Trust Company of the city of New York, as trustee, covering the company's railroad from Denver City to the Arkansas Valley, in Lake County, including its branch to Morrison, all in the Territory of State of Colorado, making 150 miles of road, with the appurtenances and equipments thereof, and the corporate franchises. Which mortgage or trust deed is a first lien upon the whole of said road, and provides a sinking fund, after ten years from date, of 1½ per cent. per annum, on all bonds outstanding for the redemption of said bond by lot as therein provided.

In testimony whereof, the said Denver, South Park and Pacific Railroad Company hath hereunto affixed its corporate seal, and caused the same to be attested by its

And whereas, it is further agreed by the party of the first part, as a covenant and condition of this mortgage or trust deed, and of the certification and issue of said bonds to it by the party of the second part, that all and singular of the net proceeds of the sale of said bonds, so to be certified and issued, shall be faithfully applied to the legitimate expenses of the construction and equipment of its said railroad, in continuous and connected divisions of the same, until the whole extent of its one hundred and fifty miles of road is completed in a good and substantial manner, and in operation, and that to further assure this provision the party of the second part shall appoint an agent of known integrity and business capacity, with full power to dismiss him and appoint another in his stead at pleasure, who shall have the right to attend all meetings of the board of trustees, and who shall have free access to, and from time to time examine all of the books and accounts of the party of the first part pertaining to the application and expenditure of said proceeds of the sale of said bonds, and make full report thereon to the party of the second part every three months, and as much oftener as the said party of the second part may from time to time require for the information of the bondholders under this mortgage.

And the said party of the first part shall pay the said agent a reasonable compensation for his services during the time of the construction of said railroad, not to exceed, however, at the rate of \$1,000 per annum.

And whereas, to further assure the payment of the said bonds at maturity by the party of the first part, and to provide for the redemption and cancellation of a portion thereof in advance of such maturity, it is agreed that a sinking fund of 1½ per cent. per annum on all of said bonds that may have been issued, and which may be outstanding at the expiration of the term of ten years from the date of these presents, shall be provided from the net earnings of said railroad, after the payment of the operating expenses thereof and the interest upon said bonds, and the said sinking fund shall be annually thereafter paid over to the party of the second part, by the party of the first part, on the 1st day of April of each and every year thereafter, until the payment at par of said bonds so to be certified and issued.

And it is mutually agreed by the parties hereto that upon the receipt of said sinking fund annually, as herein provided, the party of the second part shall, by lot, determine which of the outstanding bonds of the issue hereby secured is to be redeemed by the said sinking fund for that year, and publish a notice of the result of such drawing, giving the numbers of the bonds so drawn for redemption, which notice shall be published for twenty days in some daily newspaper of the city of New York, selected by the party of the second part, and upon the presentation of the bonds so drawn and designated for redemption on or before the 1st day of May following, the party of the second part shall pay the same at the par value thereof out of said sinking fund, and, after cancelling said bonds so redeemed, return the same to the auditor or general accounting officer of the party of the first part. And the interest on all such bonds so designated by number, drawn, and advertised for redemption shall cease from and after the 1st day of May of the year the same are so drawn and advertised for redemption. But nothing herein contained shall prevent the full payment of all such bonds, principal and interest, at par, with all matured interest thereon up to the time the same shall be thus due and redeemable, at any time the same shall be presented for payment thereafter to the party of the second part:

Now, therefore, this indenture further witnesseth, that the party of the first part in consideration of the premises and of \$1 to it in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, and in order to secure the due and punctual payment of the principal and interest of the bonds aforesaid to the amount of \$2,500,000, issued or to be issued as herein before mentioned, has granted, bargained, sold, assigned, set over, released, conveyed, and confirmed, and by these presents does grant, bargain, sell, convey, and transfer, assign, set over, release, and confirm unto the party of the second part as trustee as aforesaid, and to their successors and assigns forever, all the right, title, interest, claim or demand whatsoever, which the party of the first part now has or is entitled to, or which it shall or may at any time hereafter acquire, or become entitled to of, in or to, all and singular the railroad or railroads of the said party of the first part, constructed, or now being or to be constructed, upon or over the line or route hereinafter mentioned, viz: From Denver City to the Arkansas Valley in Lake County, with its branch to Morrison, all in the State of Colorado, a distance of 150 miles or thereabouts; and also all the lands, tenements and hereditaments acquired or appropriated, or which may hereafter be acquired or appropriated for the purpose of a right of way for said railroad, and all the easements or appurtenances thereunto belonging, or in anywise appertaining, and all railways, ways and rights of way, depot grounds, tracks, bridges, viaducts, culverts, fences and other structures, depots, station houses, engine houses, car houses, freight houses, wood houses, warehouses, machine shops, work-shops, superstructures, erections and fixtures, whether now held or hereafter at any time acquired for the use of said railroad, or in connection therewith, or the business thereof; also, all locomotives, tenders, cars, and other rolling

stock or equipments, and all rails, ties, chairs, and machinery, tools, implements, fuel, and materials whatsoever, for or in respect of the constructing, operating, repairing, or replacing said railroad or any part thereof, or convenient or necessary for use for the purposes thereof, whether now held and owned or hereafter to be acquired by the said party of the first part, together with all the equipments or appurtenances whatsoever thereunto belonging, whether now held or hereafter acquired, and all franchises connected with or relating to said railroad, or the construction, maintenance or use thereof, now held or hereafter acquired by the party of the first part, and all corporate franchises of any nature relating thereto, including the franchise to be a corporation and operate said railroad, which are now or may hereafter be possessed or exercised by the party of the first part, together with all and singular the endowments, income and advantages, tenements, hereditaments, and appurtenances to the above-mentioned railroad premises or property belonging or in anywise appertaining, and the reversion and reversions, remainder and remainders, tolls, incomes, rents, issues, and profits thereof; and also all the estate, right, title, interest, property, possession, claim, and demand whatsoever, as well in law as in equity, present or prospective, of the said party of the first part of, in and to the same and every part and parcel thereof, with the appurtenances, to have and to hold, the above-described premises, property, rights, franchises, and appurtenances unto the said party of the second part, and its successors and assigns forever, to the only proper use, benefit, and behoof of the party of the second part, its successors and assigns.

In trust, nevertheless, for the equal pro rata benefit and security of all and every, the persons or corporations who may be or become holders of any of the above-mentioned two thousand five hundred bonds for \$1,000 each, numbered from 1 to 2,500, inclusive, without any preference or priority of any one bond over another, or by reason of priority in time of negotiation thereof or otherwise, and for the uses and purposes herein declared and expressed.

And it is hereby granted, declared, and agreed that the premises, property, rights, interest, and franchises hereby conveyed or mortgaged are to be had and holden by said trustee, and its successors upon and for the trusts, uses, and purposes following, viz:

ARTICLE FIRST.—Until default shall be made in the payments of principal, interest or sinking fund, or some of them, or until default shall be made in respect to something herein required to be done, performed or kept by the said party of the first part, it shall be suffered and permitted to possess, manage, operate, use, and enjoy the said property and the railroad and its equipments, franchises, and appurtenances, and to take and use the rents, incomes, profits, and tolls thereof as if this indenture had not been made.

But, in case default shall be made in payment of any interest on any of the aforesaid bonds, issued under and secured by this instrument according to the tenor of the interest warrants thereto attached, or the sinking fund provided for, and if such default shall continue for the period of sixty days, or in case of default of said company in carrying out properly any of the provisions and requirements of this obligation, it shall be lawful for the said trustee, by its attorney or attorneys, agent or agents, to enter in and upon all and singular the premises and property, rights, and interests hereby conveyed, or mortgaged, or intended so to be, and each and every part thereof, and to exclude the party of the first part and its agents wholly therefrom, and to hold and use the same, operating by their superintendents, managers, receivers, agents, servants or attorneys the said railroad, and conducting the business thereof, and making from time to time, at the expense of the trust estate, all repairs and replacements, and such useful alterations and additions and improvements thereto, as well in respect to the rolling stock or equipments, as in respect of the railroad and appurtenances, and the other subject-matters as may seem to them to be judicious and to collect and receive all tolls, freight, incomes, rents, issues, and profits of the same and every part thereof, and after deducting the expenses of operating said railroad, and conducting its business, and of all repairs, replacements, alterations, additions, and improvements as aforesaid, and all payments which may be made for taxes, assessments, and other proper charges upon the said premises, or property, or any part thereof, as well as a just and reasonable compensation for their own services, and compensation of all agents, clerks, servants or other employés by them properly engaged or employed, to apply the moneys arising as aforesaid to the payment of the interest in arrear, or which shall fall due on the outstanding bonds, secured hereby in the order in which such interest shall become due, ratably to the persons holding the coupons therefor, and after paying all such interest which shall have become due, to apply the same to the satisfaction of the principal of the aforesaid bonds which may at that time be due and unpaid, ratably, without discrimination or preference. And further, provided that the party of the first part, at any time hereafter before the full payment of said bonds, whenever said party of the first part shall deem it proper and expedient for the better security of the said bonds, although there may not have occurred such default as to entitle the party of the second part to enter into



possession of the whole or any part of the said railroad, rolling stock, premises, property, and rights hereby mortgaged or intended so to be, for any term of years, certain or indefinite, and it shall be the duty of said trustee, upon any such surrender and delivery, to enter into and upon the premises so surrendered and delivered, and take and receive possession for such term or terms, certain or indefinite, as aforesaid, but without prejudice to their rights subsequently to insist upon and maintain such possession though beyond such term, whenever they would have been entitled thereto, if such voluntary surrender had not been made.

And upon the voluntary surrender and delivery of the said premises, or any part thereof, as herein provided, the trustee shall and will during the term or terms for which possession shall be taken, and while said premises shall remain in their possession thereunder, receive the income and revenues thereof, and work, use and manage, control and employ the same in such lawful way as may be most beneficial as well to the interests of the public as to the holders of said bonds intended to be secured hereby, in accordance with the acts of Colorado relating to said railroad and the provisions of this article.

**ARTICLE SECOND.**—In case default shall be made in the payment of any interest upon any of said bonds, or of the principal thereof as aforesaid, or of the sinking fund herein provided for, and shall continue for sixty days as aforesaid, it shall be lawful for the said trustee after entry as aforesaid, or other entry, or without entry, by their attorney or attorneys, agent or agents, to sell and dispose of all and singular the railroad and appurtenances, property, and premises, rights, interests, and franchises hereby conveyed or mortgaged, or intended so to be, at public auction to the highest bidder, in the city of New York, or the city of Denver, in Colorado, as they may designate, and at such time as they may appoint, having first given public notice of the time and place of such sale by advertisement, published not less than five times a week for three months in one or more newspapers in the cities of New York and Denver, with the right to adjourn the said sale or sales from time to time, in the discretion of said trustee, giving reasonable notice of such adjournments, and after so adjourning to make the sale at the time and place to which the same may be so adjourned, and on receiving full payment therefor, to make and deliver to the purchaser or purchasers thereof, good and sufficient deed or deeds in law for the same in fee simple, which sale made as aforesaid shall be a perpetual bar both at law and in equity against the party of the first part and all other persons lawfully claiming or to claim the said railroad and appurtenances, property and premises, rights, interests, and franchises so sold, or any part thereof by, from, through or under it.

And after deducting from the proceeds of such sale just allowances for all expenses of said sale, including attorney's and counsel fees, and all other expenses, advances or liabilities which may have been made or incurred by the said trustee in operating said railroad, or in maintaining the same, or in managing its business while in possession, and all payments which may have been made by them for taxes and assessments or other proper charges upon the said railroad and appurtenances, property and premises, rights, interests, and franchises or any part thereof, as well as compensation for its own services, to apply the said proceeds to the payment of the principal of such of the aforesaid bonds as may be at such time unpaid, whether the same shall have previously become due or not, and of the interest which shall at that time have accrued on the said principal and be unpaid, without discrimination or preference, but ratably, to the aggregate amount of such unpaid principal and accrued and unpaid interest, and after satisfaction of all such bonds secured hereby, with the interest thereon, to pay over the surplus of such proceeds as shall remain, to the said party of the first part, or to such party as may then be entitled to receive the same.

**ARTICLE THIRD.**—In case default shall be made in the payment of any half year's interest on any of the said bonds, at the time and in the manner in the interest warrants issued therewith provided, or of the sinking fund, and if such default shall continue for the period of sixty days after due demand for such payment, or if default be made in any of the undertakings or obligations herein agreed to be performed or kept by the party of the first part, then in such case the principal of all the bonds secured hereby shall, in case a majority in interest of the holders of the bonds secured hereby, in writing under seal, so elect, become and be immediately due and payable, anything contained in the said bonds or herein to the contrary notwithstanding. And a majority in interest of the holders of the said bonds may by writing under their hands and seals, executed at a regular meeting of the bondholders, or without such meeting, declare or instruct the trustee to declare, the said principal to be due, or waive, or instruct the trustee to waive the right so to declare on such terms and conditions as such majority may deem proper, provided always, and it is hereby declared, that no such action of the trustee or bondholders shall extend or be taken to affect any subsequent default or to impair the rights resulting therefrom.

Meetings of the holders of the bonds secured by this instrument for the determination of, or action upon, any of the questions upon which, in virtue of any of the provisions of this indenture, the majority in interest of the bondholders may be

right to decide, may be called by the trustee, or in such mode as may be fixed by the regulations prescribed or established as hereinafter provided, and the bondholders may vote thereat by person or by proxy, and such other regulations or by-laws in respect to such meetings may be from time to time established, altered or repealed by the bondholders acting by a majority in interest, as to them shall seem expedient, and until the bondholders shall act such powers may be temporarily exercised by the trustee, and the trustee or any bondholder attending any such meeting shall have a right to require that any act or resolution of the bondholders affecting the rights or remedies of, or for the benefit of the bondholders, or the duties of the trustee, or the interest of the trust hereby created, shall be authenticated by the signatures of all the persons assenting thereto, as well as by a minute of the proceedings at any such meeting.

But it is understood and hereby expressly declared and agreed that no act or resolution of any meeting of bondholders, or of the trustee, nor any act or election of, or instrument executed by a majority in interest, shall impair, control or affect the rights, interest or remedies, legal or equitable, of any non-assenting bondholder, except in the particulars and to the extent to which the election or action of a majority in interest of the bondholders is expressly made controlling by express provisions to such particular contained in this indenture.

**ARTICLE FOURTH.**—The party of the first part shall and doth hereby covenant and agree to and with the said trustee, on behalf and for the benefit of the bondholders intended to be secured hereby, that it will from time to time, and at all times hereafter upon reasonable request, make, do, execute, acknowledge and deliver all such further acts, deeds, conveyances, and assurances in the law for the better assuring unto the trustee and its successors, in the trust hereby created, upon the trusts and for the purposes herein expressed or intended all and singular the premises, property, railway equipments and appurtenances, rights, interests, and effects, hereby mortgaged or conveyed in trust, or agreed, or purporting, or intended so to be, whether now owned or possessed by, or vested in the said party of the first part, or subsequently acquired by or vested in it, and all other property and things whatsoever which may be hereafter acquired in aid of, or by way of substitute for, or for whatsoever use for the purposes of the same or any part thereof, and all franchises, now held or hereafter acquired, relating thereto, including the franchises to be a corporation, as by the trustee or bondholders, or by counsel learned in the law, shall be reasonably devised, advised, or required. And the party of the first part shall furnish to the trustee from time to time, upon its reasonable request in writing, a full and true inventory of all the movable property appertaining to the said railroad and the operation thereof, and which is transferred, or intended to be transferred by this indenture, but no default to demand or to furnish such inventory shall impair the operations of this indenture upon any or all of the property herein agreed to be transferred or intended so to be.

**ARTICLE FIFTH.**—If the said party of the first part shall well and truly pay the sum of money herein, and by the said two thousand five hundred bonds and the coupons attached thereto, required to be paid by it, and all interest thereon, and the sinking fund herein provided for, at the times and in the manner herein specified, and shall well and truly keep and perform all the things herein required to be kept and performed by the said party according to the true intent and meaning of these presents, then and in that case the estate, right, title, and interest of the said party of the second part as trustee, as aforesaid, shall cease, determine, and become void, otherwise the same shall be, continue, and remain in full force and virtue.

But at all times until said bonds, with interest, shall be fully paid, the party of the first part will permit the trustee or its agents, clerks or attorneys for that purpose, to be duly authorized to inspect all the books of account of the party of the first part together with its books, reports, memoranda, or papers, and to take such extracts therefrom as may be deemed expedient.

**ARTICLE SIXTH.**—And it is further mutually agreed by and between the parties hereto, and is hereby declared to be a condition upon which the party of the first part have assented to these presents, that the said trustee shall not in any way be held responsible for persons employed by them, unless chargeable with negligence in their selection, or in the continuance of their employment; and the trustee be answerable except for its own willful default or misconduct; and in all cases said trustee shall be authorized to pay such reasonable compensation as they shall deem proper to all the attorneys, servants, and other persons reasonably employ in the management of their trust; and the party of the first part have and be entitled to just compensation for all services rendered by them in connection with its trust, to be paid by said company, or its agents.

And it is further agreed and provided that the said trustee may be removed, and a successor may be appointed by competent jurisdiction, upon application of a majority of the bondholders, or of the party of the first part. And in case of the appointment



created, the said successor shall be invested with all and singular of the powers and duties hereby conferred and imposed upon the trustee hereby designated, while remaining such trustee.

**ARTICLE SEVENTH.**—And the said party of the first part, for itself, its successors, and assigns, doth hereby absolutely agree to waive, and doth hereby irrevocably waive the benefit or advantage of any and all valuation, stay, appraisement or extension laws, now existing or which may be hereafter passed by the State or Territory wherein the property to be sold hereunder, or any part thereof, may, at the time of sale be situate, or where the said sale may take place, which, but for this provision, agreement, and waiver, might be operative in respect of such sale and transfer, or might be availed of to prevent or postpone the absolute and immediate sale of said premises, property, rights, interests, and franchises to the highest bidder, upon compliance merely with the provisions herein provided; and the said party of the first part doth hereby covenant that it will not in any manner set up or seek, or take the benefit or advantage of any such valuation, stay, appraisement, or extension law, or other law, to prevent or hinder such absolute, immediate sale to the highest bidder, as hereby provided, or to hinder or delay any of the rights or remedies of the said trustee, or of the bondholders in respect to this mortgage, or upon, or in respect of, the bonds thereby secured.

**ARTICLE EIGHTH.** And it is hereby provided, declared, and agreed that in case of such auction sale being made by the parties of the second part, or their successors as aforesaid, the purchaser or purchasers thereof shall be entitled in making settlement for, and payment of, the purchase money by him or them bidden upon such sale, to deliver to said trustee, and turn in and use toward the payment of such purchase money, any of the bonds or coupons held by such purchaser or purchasers, to or towards the payment whereof the net proceeds of such sale shall be legally applicable; reckoning such bonds or coupons for such purpose, at a sum not exceeding that which shall be payable out of the net proceeds of such sale to such purchaser or purchasers, as the holder or holders of such bonds or coupons, for his or their just share and proportion, in that character, of such net proceeds of sale, upon due apportionment of and accounting concerning such net proceeds.

In witness whereof the party of the first part hath herewith affixed its corporate seal and caused the same to be attested by the signatures of its president and secretary, in pursuance of said resolution by its board of trustees; and the party of the second part has herewith affixed its corporate seal and caused these presents to be signed by its president.

The DENVER, SOUTH PARK AND PACIFIC RAILROAD COMPANY,  
[L. S.] By JOHN EVANS, *President*.  
GEORGE W. KASSLER, *Secretary*.

THE FARMERS' LOAN AND TRUST COMPANY,  
[L. S.] By R. G. ROLSTON, *President*.  
Attest: GEO. P. FITCH, *Secretary*.

UNITED STATES OF AMERICA,  
State of Colorado, County of Arapahoe, ss:

I, Edward F. Bishop, clerk of the district court of the first judicial district of the State of Colorado, within and for the county of Arapahoe, do hereby certify that John Evans, personally known to me to be the same person whose name is subscribed to the annexed instrument of writing, appeared before me this day in person, and acknowledged that he, as president of the Denver, South Park and Pacific Railroad Company, had signed and delivered the said instrument of writing as the act and deed of said corporation, for the uses and purposes therein set forth.

I do further hereby certify that George W. Kassler, also personally known to me to be the same person whose name is subscribed to the annexed instrument of writing, appeared before me in person on this day and acknowledged that, as secretary of the said corporation, he had sealed and attested the said instrument of writing as the act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and official seal at the city of Denver, in said county and State, this 16th day of October, A. D. 1876.

[L. S.] EDWARD F. BISHOP, *Clerk*.

I, Andrew W. Brazee, associate justice of the supreme court of the State of Colorado and presiding judge of the first judicial district of said State (of which district the county of Arapahoe forms a part), do hereby certify that Edward F. Bishop, esq., whose name is subscribed to the foregoing certificate of attestation, now is and was at the time of sealing the same, the clerk of the district court of the first judicial district of the State of Colorado, in and for the county of Arapahoe, and keeper of the records and seal thereof, duly appointed, commissioned, and qualified to office.

And that full faith and credit are and of right ought to be given to all his official acts as such, in all courts of record and elsewhere; and that his said attestation is in due form of law and by the proper officer.

Given under my hand and seal at my chambers, in Denver, this 16th day of October, A. D. 1876.

[L. S.]

ANDREW BRAZEE, *Judge, etc.*

UNITED STATES OF AMERICA,

*State of Colorado, County of Arapahoe, ss:*

I, Edward F. Bishop, clerk of the district court of the first judicial district of the State of Colorado, within and for the county of Arapahoe, do hereby certify that the honorable Andrew W. Brazee, whose name is subscribed to the foregoing certificate of attestation of the above instrument of writing was, at the time of such attestation, associate justice of the supreme court of the State of Colorado, and presiding judge of the first judicial district of said State, of which district the county of Arapahoe forms a part, duly commissioned, sworn, and acting as such; and further that I am well acquainted with his handwriting, and verily believe that the signature to the said attestation is genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the city of Denver in said county, this 16th day of October, A. D. 1876.

[SEAL.]

EDWARD F. BISHOP, *Clerk.*

UNITED STATES OF AMERICA,

*State of New York, city and county of New York, ss:*

On this 11th day of November, in the year one thousand eight hundred and seventy six, before me personally came R. G. Rolston, the president of the Farmers' Loan and Trust Company, of New York, to me known, who being by me duly sworn, did depose and say, that he resided in the city of New York, county of New York, and State of New York, that he is the president of the said Farmers' Loan and Trust Company of the city of New York, named in the foregoing instrument; that he knows the corporate seal of the said company; that the seal affixed to the foregoing instrument is such corporate seal; that it was so affixed by order of the board of directors of said Trust Company; and that he signed his name thereto by the like order as president of said the Farmers' Loan and Trust Company.

In witness whereof I have hereunto set my hand and affixed my official seal the day and date above written.

[SEAL.]

76.

W. D. SEARLS,

*Notary Public, New York County.*

STATE OF NEW YORK,

*City and county of New York, ss:*

I, William Walsh, clerk of the city and county of New York, and also clerk of the supreme court for the said city and county, the same being a court of record, do hereby certify that W. D. Searls, whose name is subscribed to the certificate of the proof or acknowledgment of the annexed instrument, and thereon written, was, at the time of taking such proof or acknowledgment, a notary public in and for the city and county of New York, dwelling in said city, commissioned and sworn, and duly authorized to take the same.

And further, that I am well acquainted with the handwriting of such notary, and verily believe that the signature of the said certificate of proof or acknowledgment is genuine. I further certify that said instrument is executed and acknowledged according to the law of the State of New York.

In testimony whereof I have hereunto set my hand and affixed the seal of the said court and county, the 11th day of November, 1876.

[SEAL.]

WM. WALSH, *Clerk.*

[4792.]

STATE OF COLORADO, *County of Arapahoe, ss:*

I hereby certify that this mortgage was filed for record in my office at 4 o'clock p. m., November 24, 1876, and is duly recorded in Book 81, page 396.

W. C. LATHROP, *Recorder.*

STATE OF COLORADO, *Jefferson County, ss:*

I hereby certify that this mortgage was filed for record in my office at 9 o'clock a. m., December 7, A. D. 1876, and duly recorded in Book 2 on page 558.

AL. TOWNSEND, *Recorder.*

STATE OF COLORADO, *County of Douglass, ss :*

I hereby certify that this mortgage was filed for record in my office at 4 o'clock p. m., December 16, A. D. 1876, and was duly recorded in Book 4 on page 282.

S. M. DYER, *Recorder.*

No. 1699.

[4397.]

STATE OF COLORADO, *County of Park, ss :*

I hereby certify that this mortgage was filed for record in my office at 1.15 o'clock p. m., December 29, A. D. 1876, and duly recorded in Book 8, pages 438 to 457, inclusive.

ED. B. HEPBURN, *County Recorder.*

STATE OF COLORADO, *County of Lake, ss :*

I hereby certify that this mortgage was filed for record in my office at 6 o'clock p. m., January 15, A. D. 1887, and duly recorded in Book C, pages 7 to 30, inclusive.

JOSEPH H. WELLS, *Recorder.*

DENVER, COLO., *January 31, 1877.*

The above deed of mortgage is properly executed and properly acknowledged under the laws of Colorado and the indorsed certificates of record thereof are sufficient in our courts under our statute.

BELADE HUGHES,

*Attorney for Denver, South Park and Pacific Railroad.*

UNITED STATES OF AMERICA,

*State, city, and county of New York, ss :*

I hereby certify the foregoing to be a true and correct copy of an original first mortgage of the Denver, South Park and Pacific Railroad Company to the Farmers' Loan and Trust Company, trustee, exhibited to me this day by the trustee, and by me compared.

[SEAL.]

W. D. SEARLS,

*Notary Public, New York County.*

#### DENVER RAILWAY ASSOCIATION.

The witness states that about 16 miles of the road was constructed by the Denver Railway Association, an association which was not incorporated, and soon found its means exhausted. Its place was taken by the Denver Railway and Enterprise Company, which was a corporation organized by substantially the same interests.

From the minutes of this company it appears that on the 8th day of May, 1875, they entered into the following contract with the Denver South Park and Pacific Railway Company:

#### CONTRACT WITH THE DENVER, SOUTH PARK AND PACIFIC.

ARTICLE FIRST. The road, as already completed, is hereby accepted as complying with the agreement for building the first division of the road from Denver to Morrison; and the issue of stock and bonds under said contract, as contemplated on the 1st of March, 1874, is hereby approved and directed to be consummated as of that date.

ARTICLE SECOND. It is mutually agreed by the parties hereto, that, in consideration of the undertaking of the party of the second part to go on with the construction and completion of the railroad of the company, the party of the first part will issue its first-mortgage bonds at the rate of \$12,000 per mile on its whole line of road, making \$1,800,000 as provided for by the action of its board of trustees, April 1875, and deliver the same to the party of the second part as provided in the mortgage securing the same. And also issue and deliver to said party of the second part the full-paid stock of the company in instalments as the divisions of the road are completed, as in the original agreement provided. That is to say, upon the completion of the road to the mouth of Buffalo Creek, in addition to the \$1,700,000 of stock already issued, \$300,000 more of said full-paid stock; and, when completed to Hall's Valley, an additional amount of \$200,000 of said stock, and when completed



to Fair Play, an additional amount of \$300,000 of the said stock, and when completed to Arkansas Valley all of the stock of the company remaining. Provided the party of the first part shall, if practicable, dispose of so much of said stock, for county bonds, as it may be able to do, under the law; and, as soon as received, turn over such county bonds to the party of the second part, to be applied to the construction of the railroad, in lieu of so much of said stock so to be issued to the party of the second part.

ARTICLE THIRD. It is mutually agreed, in consideration of the premises, that the said party of the first part shall maintain its organization under the law and aid, and in every proper way use its franchise and authority for and in aid of the party of the second part, for procuring the right of way and depot grounds, for the procurement of aid to assist in the construction of its road, for the issue of the bonds, and in every other way in which it may use its rightful authority for the purpose of carrying forward the work of constructing and equipping and completing the said railroad as contemplated.

ARTICLE FOURTH. And, in consideration of the receipt of the stock and Arapahoe County bonds heretofore delivered, and the covenants and agreements herein contained, the party of the second part agrees to go forward as rapidly as practicable and construct and equip in a good and substantial manner the railroad of the party of the first part, and turn the same over to the party of the first part in divisions, as herein contemplated, as soon as the money can be raised for the purpose from the sale of said first-mortgage bonds and other resources available for the purpose.

ARTICLE FIFTH. And in consideration of the covenants and conditions herein contained and the payments heretofore made and hereafter to be made by the party of the first part to the party of the second part, said party of the second part agrees to pay all and singular of the expenses pertaining to the carrying out of the stipulations and agreements of this contract.

ARTICLE SIXTH. And it is further mutually agreed by the parties hereto that the party of the second part shall have the transportation of its men and material over the completed portions of said road, during the progress of the extension, at the actual cost of said transportation.

ARTICLE SEVENTH. And it is mutually agreed by the parties hereto that the road so to be constructed and completed shall be turned over to the party of the first part, in divisions, as fast as it is completed to the satisfaction of and accepted by the president and chief engineer of the party of the first part.

In witness whereof the parties hereto have affixed their seals and have caused the same to be signed by their presidents, this 10th day of May, A. D. 1875.

THE DENVER, SOUTH PARK AND PACIFIC RAILROAD COMPANY,  
By JOHN EVANS, *President*.

#### NECESSARY TO ISSUE STOCK IN ADVANCE OF CONSTRUCTION.

Q. This contract refers to \$1,700,000 of stock as having been already issued. Was that issued to the association for the construction of the sixteen miles?—A. That had been issued, I suppose, to this company. There were certain needs of the road that came up. It becomes necessary sometimes to issue stock in advance for construction, for the purpose of giving some collateral upon which to raise some money. They had to borrow money, and raise it where they could.

Q. I mean, it had been issued?—A. Yes; it had been issued.

Q. And only 16 miles had been constructed?—A. Of course; the bonds could not be issued until the completion of the road.

Q. And then at so much a mile?—A. Yes; certified by the president and the chief engineer.

Q. The first mortgage was executed in 1876, and this contract providing for the issue of bonds was in April, 1875?—A. Yes.

#### MORTGAGE TO BE ISSUED WHEN NECESSARY.

Q. How did that happen?—A. Well, here was a contract; but there was an understanding that the mortgage would be issued whenever it was necessary. That is, they did not want to go to the expense of from \$1,000 to \$2,000 for engraving the mortgage, and the collateral expenses involved in the matter, until it was absolutely necessary, and until there was some chance of marketing the bonds. There was a great deal of

opposition which they met which Governor Evans has indicated. My explanation of the fact that in the contract of April, 1875, provision was made for \$12,000 per mile of bonds and for 150 miles of construction, which, in all, would make \$1,800,000, is, that for some reason or other \$700,000 of the total issue authorized, or to be authorized, by the mortgage was not to be used in payment, and I think that this \$700,000 is the same which is represented in the balance sheet by the item "bonds, supplemental first mortgage, \$700,000." I know of no other first mortgage than the one of which I now produce a copy [witness produces copy of mortgage].

Q. Under this contract how much of the road was constructed?—A. The Denver Railway and Enterprise Company did not construct any more than what is now known as the Morrison Branch, from Denver to Bear Creek Junction, on the main line. Thence a branch running west to Morrison. They also did some grading south of Bear Creek Junction on the main line.

Q. What company then took up the construction?—A. The Denver and San Juan Railroad and Construction Company.

#### DENVER AND SAN JUAN CONSTRUCTION COMPANY.

Q. Was there a separate contract made with them, or did they succeed to this contract?—A. I believe there was a separate contract; but my impression is that the Denver and San Juan Railroad Construction Company was simply a kind of intermediate company and that it did not accomplish a great deal. The last company stepped in, I think, assumed what had been done and assumed the other company's debts and liabilities; and perhaps it would be as well, for clearness and accuracy, to practically ignore that company. I find also in my book a copy of the first contract between the Denver, South Park and Pacific Railway Company and the Denver Railway Association. It bears date March 1, 1874, and recites that the railway company has \$3,200,000 of capital stock and also \$300,000 Arapahoe County bonds, and expects to exchange \$200,000 of its capital stock for a like amount of the bonds of Park County. The contract then provides that the Denver Railway Association agrees to procure suitable depot grounds and right of way for the railroad company and to construct and equip on said route a first-class three-foot gauge railroad, with all the necessary appliances, in sections, as follows: First. From Denver to Morrison. Second. From the junction of the Morrison Branch and main line near the mouth of Bear Creek to the mouth of Buffalo Creek. Third. From the mouth of Buffalo Creek to Hall's Gulch. Fourth. From Hall's Gulch to Fair Play. Fifth. From Fair Play to the vicinity of the salt works. Sixth. From the vicinity of the salt works to the mouth of Trout Creek and the valley of the Arkansas River. The time at which each of the said sections is to be completed is then prescribed. The provision in regard to payment is as follows:

#### CONTRACT BETWEEN DENVER, SOUTH PARK AND PACIFIC AND DENVER RAILWAY ASSOCIATION: PROVISION AS TO PAYMENT.

Third. And, in consideration of the above agreement and undertaking by the said party of the second part, and to enable it to go forward with the work, the said party of the first part agrees to pay the party of the second part the said \$300,000 of Arapahoe County bonds upon the signing of this agreement, together with \$1,800,000 of its full-paid capital stock, and, as soon as the first division of the road, as above described, is constructed so that the cars run from Denver to Morrison, to pay over to



said party \$200,000 of the full-paid capital stock of the Denver, South Park and Pacific Railway Company. As soon as the cars run forward from Denver to the mouth of Buffalo Creek, \$1,000,000 of the said stock; as soon as the cars run to Hall's Gulch, an additional \$200,000 of said stock; as soon as the cars run on said road to Fair Play, an additional \$200,000 of said stock; or, in case the county of Park shall have subscribed to the capital stock of said company and issued bonds therefor, the entire amount of said bonds, in lieu of the amount of stock issued to said county; and as soon as the cars run to or near the mouth of Trout Creek and the valley of the Arkansas River, \$300,000 of said stock; or, in case Lake County shall have subscribed to the stock of said company and issued its bonds therefor, the entire amount of said bonds in lieu of the amount of stock as subscribed by said county.

Fourth. And said party of the first part further agrees, in consideration of the undertaking and agreement of the party of the second part, and to enable it to raise the money to carry forward its work, to issue its first mortgage coupon bonds to the amount of \$20,000 per mile on that part of its road herein contracted, said bonds to be secured by a mortgage on said 150 miles of road and all other property of the company.

#### DENVER CONSTRUCTION AND LAND COMPANY.

Referring back to the enterprise. After the small construction done under the San Juan contract, the matter was then taken up by the Denver Construction and Land Company, which was a corporation formed for the purpose of completing this enterprise. A contract was made by that company in November, 1877, with the Denver and South Park Railroad Company, which recited that owing to the delinquencies in the subscription to the capital stock of the Denver and San Juan Railroad Construction Company, that company had been unable to complete its contract, and that the Denver and South Park Construction and Land Company was prepared to advance the money necessary for that purpose. Suitable provisions are made to transfer to the last-named company all the rights and interests of the San Juan Company, and to enable it to receive the bonds and stock which were to be issued for the completion of the road.

I am not able, at this moment, to find a copy of the agreement between the construction and land company and the railroad company. But, according to my recollection, it provided for completing the construction of the railroad to the Arkansas Valley, being the balance of the same 150 miles of road, for the sum which was subsequently paid, at the rate of \$12,000 in bonds. And the provision being that all of the capital stock of the company should be issued in payment for the road, so that, when completed, the construction company should have received all of the capital stock of the company.

#### ISSUE OF BONDS AND STOCKS TO CONSTRUCTION COMPANIES.

Q. Have you a statement showing the respective issues of bonds and stocks to the construction companies, by dates and amounts?—A. The authorized issue by the railroad company would be in the railroad records which have been transferred to the owners—the Union Pacific Railway Company.

The whole issue of \$1,800,000 in bonds was delivered to the construction and land company, commencing in March, 1878, and ending in October, 1879. The contract entered into by the construction and land company was dated 26th November, 1877.

#### AGREEMENT TO ADJUST INDIVIDUAL INTERESTS.

In 1880 the Construction and Land Company entered into an agreement, which is of record in its journal at page 168, by which it under-

took to adjust all the interests of the individual stockholders in the Enterprise Company and the Denver and San Juan Company. The parties so interested were credited with the value of their interests in ledger accounts, and the Construction and Land Company received all of the bonds and all of the stock of the railroad company. In this way all of the interests were transferred to the books of the Construction and Land Company; and, with this explanation, they appear to have become possessed of all of the stock of the railway company late in 1879 and during 1880, amounting in all to \$3,500,000 of stock and \$1,800,000 of bonds.

#### COST TO BOND AND STOCKHOLDERS.

Q. In regard to the actual cost to the parties who really were the owners of these bonds and of this stock—that is, to the stockholders in the Construction and Land Company—do I understand you to say that the balance sheet furnished by you, of December 31, 1880, will give the correct account?—A. That is my belief; and from the balance sheet, in comparison with the statement of the cost of construction, and this item. But the absence of all the railroad books prevents me from giving you a positive answer.

Q. I understand you to say that many of these bonds were sold for account of the Construction and Land Company through Winslow, Lanier & Co.?—A. Yes.

Q. When were these sales effected?—A. At the dates shown by the entry in the journal, ledger page 120; late in 1879 and in 1880.

Q. What were the prices realized?—A. From 93 to 104 cents on the dollar.

Q. And how much were the total sales?—A. \$1,400,000.

Q. State to what point the 150 miles of construction extended?—A. It extended from Denver to Buena Vista, including the Morrison Branch. I think it also included the Little Como Branch, in the South Park.

#### ROAD BETWEEN BUENA VISTA AND LEADVILLE.

Q. Please explain how the road between Buena Vista and Leadville came to be built and who built it.—A. The line between Buena Vista and Leadville was built by the Denver and Rio Grande Railroad Company. The South Park secured trackage over it by agreement between the two companies.

Q. Was it built from Buena Vista by the Rio Grande before the South Park road reached Buena Vista, or afterward?—A. The grading had progressed beyond. But the Rio Grande had practically got to Buena Vista first.

Q. Have you a copy of the contract between the Buena Vista and the South Park?—A. No.

Q. Was that contract in existence at the time of the sale of the stock to Mr. Gould?—A. Yes.

Q. How valuable an element was it in the assets of the South Park Company?—A. It was considered very valuable.

#### KEY TO LEADVILLE BUSINESS.

Q. It was the key to the Leadville business, was it not?—A. We so considered it. And, to the best of my recollection, it was in the nature of a perpetual contract. But of that I cannot be positive.



Q. How often do you report?—A. Several times a day when it is necessary.

Q. Do you report in writing?—A. No, sir. We have not much red tape about our business, for the simple reason that we are very large stockholders in the company.

#### SHIPMENT OF PRODUCTS.

Q. Have you charge of the shipment of your products?—A. Yes, sir; largely.

Q. Over what line do you ship?—A. Union Pacific principally.

Q. How long have you been shipping over the Union Pacific?—A. Since 1879.

Q. During that time what rate have you been paying from Denver to Omaha?—A. The same rates as our competitors.

Q. What rate have you been paying from Leadville to Omaha?—A. Full tariff.

Q. What do you mean by "full tariff"?—A. Five dollars per ton.

Q. Have you ever had any arrangement with the Union Pacific Railway Company?—A. Yes, sir.

Q. What was the arrangement?—A. I prepared the first arrangement that was made by the Grant Smelting Company.

#### SPECIAL RATES.

Q. When was that arrangement made?—A. In July, 1892.

Q. Was that the first arrangement that you had with the Union Pacific Railway Company as to special rates?—A. Since we have been in Denver; yes, sir.

Q. Did you have any special rates before you were in Denver?—A. In common with other people; yes, sir.

Q. Prior to doing business in Denver, what rate had you with the Union Pacific Railway Company?—A. I could not tell you that at present. That is a matter that was enjoyed by Eddy & Company and the Grant Smelting Company.

Q. Was it the open rate?—A. I do not know. There is no pool in these rates. The Rio Grande, and the South Park before and after its purchase by the Union Pacific, made what rates they pleased out of Leadville to common points. We tried to get as good rates as other people.

Q. During that time, before you entered upon your business location in Denver, did you have a special rate for the shipment of your freight?—A. No, sir.

Q. You did not have to Omaha?—A. No, sir.

#### A DAY OF "CUTTING AND SLASHING."

Q. What do you mean by saying that you did the best you could?—A. It was a day of cutting and slashing. I may tell the Commission, before the days of pools, on large shipments of low-grade ores, rates were made until the rate was established. When the rate was established, we enjoyed it in common with others, and no more.

Q. When did your company first have a special rate, by way of rebate, with the Union Pacific Railway Company?—A. The first to my knowledge was in 1879.

Q. Was there any agreement as to the rate?—A. No, sir.

Q. What was the rate?—A. That relates to Leadville business. I am unable to say, from memory, what the rate was at that time.

Q. What was the open rate at that time?—A. I am unable to say.

#### RATE OF REBATE ALLOWED.

Q. Have you any memoranda showing the rate of rebate that you were allowed by the Union Pacific Railway Company during that period?—A. I have no doubt that it can be found among the Grant Smelting Company's papers.

Q. Will you furnish the Commission with a memorandum of that?—A. If the Commission desires it.

Q. We are desirous of having that information. Subsequently, what arrangements did you make with the Union Pacific Railway Company as to rebates?—A. We have never made any arrangements and have no contract. We have no contract with the Union Pacific in the shape of anything on the freights or freight rates only to this extent, that we are to enjoy the same rates enjoyed by our competitors. That is the only understanding we have on rates and rebates or overcharges.

#### COMPETITORS IN SMELTING.

Q. Who are your competitors?—A. There are just about ten smelting companies in the State of Colorado that we consider our competitors.

Q. Will you please name them?—A. I will try to. The Boston and Colorado Smelting Company, the Holden Smelting Company, both located in Denver; the Pueblo Smelting and Refining Company; the Colorado Smelting Company at Pueblo. There are four or five companies at Leadville—five companies.

Q. What are the names of the companies?—A. La Platte, the Arizona Reduction Works, the American Smelting Company, the Arkansas Valley Smelting Company, the Manville Smelting Company, besides the Golden Smelting Company at Golden, and the San Juan Smelting Company at Durango. I think there must be eleven. They are all common competitors of ours. The Kansas City we consider a competitor to our Grant Works at Omaha, and of course at Denver, too. They compete with us occasionally here.

Q. Do I understand you to say that all the companies named by you enjoy the same special rate that you had with the Union Pacific Railway Company?—A. I do not know whether they do to the same extent or not.

#### "SECRET CONTRACT."

Q. What agreement did you make as to the conduct of your freight over the Union Pacific Railway?—A. I will leave this secret contract with the Commission.

Q. Why do you call it a "secret contract"?—A. Because Senator Hill called it a "secret contract" in his examination yesterday. I have no objection to the Commission and the public knowing the absolute secrets of this contract. If the Commission desires a copy of it, I will give it with them to make a copy.

Q. Have you the contract?—A. This is the contract. [Handing it to the chairman.]

The CHAIRMAN. I will read this agreement, so that we can take it notes.



## REQUEST NOT TO EXPOSE BUSINESS SECRETS TO COMPETITORS.

The WITNESS. I will make this statement. I do not like this to go to all the papers. It is a matter of interest to ourselves. That was not signed as the Omaha and Grant Smelting and Refining Company; but it was signed by the Grant Smelting Company, before the organization of the Omaha and Grant Smelting Company. As I understand it, the object of this Commission is to investigate the operations of the Union Pacific, and that contract was made before any officer or employé had any direct or indirect interest in the Grant Smelting Company.

The CHAIRMAN. It is executed by the Union Pacific Railway Company.

The WITNESS. Yes, sir; but not by the Omaha and Grant Smelting Company.

The CHAIRMAN. So far as our testimony is concerned, I do not see that we can make any rule as to taking testimony in private. Here is an agreement offered in evidence that Mr. Eddy desires should not be published in the newspapers. We must certainly have it on our notes, as it is a very important factor.

Commissioner ANDERSON. I know of no such thing as private evidence.

The CHAIRMAN. I do not see how we can control the newspapers.

The WITNESS. It probably will afford some satisfaction to our competitors if that should be published; yet we have no objection. We think it is a matter that does not pertain to the Commission. It is a private contract with a corporation, that the Union Pacific officials had no dealings with whatever. I think it is due to Mr. Ames and Mr. Dillon that this explanation should be made. It was long before the consolidation with the Omaha and Grant Smelting Company.

The CHAIRMAN. It is a contract executed in part by the Union Pacific Railway Company. It does not make a particle of difference about the other parties.

The WITNESS. I told you that Dillon and Ames never had any stock or thought of having any stock in that company when the contract was drawn.

Commissioner LITTLER. You may make such explanation as you see proper.

The CHAIRMAN. I only want to say that the Union Pacific Railway Company is a party to this contract, a corporation organized under the laws of the United States, the affairs of which we have been directed to examine. It makes no difference who is on the other side.

The paper is as follows:

## AGREEMENT BETWEEN THE GRANT SMELTING COMPANY AND THE UNION PACIFIC COMPANY.

Article of agreement entered into this 31st day of July, A. D. 1892, by and between William H. James, Edward Eddy, and James B. Grant, of the county of Lake and State of Colorado, doing business under the firm name and style of "The Grant Smelting Company," party of the first part, and the Union Pacific Railway Company, a corporation organized under the laws of the United States, party of the second part.

Witnesseth, That whereas the party of the first part were heretofore desirous of erecting at the city of Denver, in the State of Colorado, certain works for the reduction and smelting of ores, and before doing so it was necessary to make certain ar-

rangements with railroad companies for the transportation of all material necessary for the proper and continuous operation of said works;

And whereas, before purchasing a site for the said works and erecting the same, certain of these arrangements were entered into between the said first and second parties, and relying upon the faithful observance of which the parties of the first part have purchased a site and commenced erecting their said works;

And whereas the said arrangements and agreements were to be reduced to writing and signed by the respective parties:

Now, therefore, in pursuance thereof it is mutually contracted and agreed by and between the said parties as follows:

The party of the second part contracts and binds itself, on the request of the parties of the first part, to connect the said works of the first party, now being erected upon what has heretofore been a part of Saint Vincent's Addition to the city of Denver, with the main line, branches, and leased lines of said Union Pacific Railway Company and roads owned, operated, or controlled thereby, or which may hereafter be leased, owned, operated, or controlled thereby, terminating or passing through the city of Denver; and also, on request of said first parties, to construct and put in and maintain all necessary side-tracks and switches upon the said grounds of the parties of the first part, and to locate and construct the same at such point or points and at such times as shall be determined upon by the first parties, and without expense to them, the first parties to be the sole judges of what are necessary side-tracks and switches for the proper operation and maintenance of their said works: *Provided*, That this clause shall not be construed in any event to exclude said railway company, its branches and connections, from doing the ratio and proportion of the business of said smelting company herein stipulated for, or compel the construction of unnecessary tracks upon said premises, and in case difference of opinion shall arise in respect to the necessity for the construction of any tracks or structures demanded or required under this contract, said difference shall be referred to and determined by the board of arbitrators hereafter provided for.

And the party of the second part do further covenant and agree that it will make and construct such connections and put in and maintain all such side-tracks and switches, without delay, on request as aforesaid; and will do all work and furnish all the material necessary for the complete construction, operation, and maintenance of the same, and will keep them in good repair at all times during the existence of this contract, all at their own cost and expense.

And the parties of the first part covenant and agree that all of their ground occupied and used by the party of the second part, with side-tracks and switches constructed as aforesaid by it, shall, so far as the use and occupation of the same in connection with the business of said first parties are concerned, be the sole property of the party of the second part, and no other, and different railway company shall use or occupy the same or any part thereof for the uses and purposes of their said business without the consent of the second party, or as herein specially provided, nor without such consent shall the Smelting Company admit upon its premises the tracks, side-tracks, and switches, or other railway structures or cars, or trains of any other railway company.

And the party of the second part doth further covenant and agree with the parties of the first part that it will receive from any and all railway companies at the city of Denver these cars loaded with such ores, fuel, and other material of whatsoever kind or nature as shall be shipped to the parties of the first part for the operation of, use in and about, or treatment in, their said works, and will switch and deliver the same from the roads of any and all such other companies, at the city of Denver, to the said works of the parties of the first part, free of cost and charges, whether for freight, trackage, or any other use or service whatsoever, and it will deliver the same immediately upon the delivery to it for that purpose, or upon notice that the same is ready for delivery or upon demand of the said first parties.

And the parties of the second part doth further covenant and agree with the said parties of the first part to receive at the city of Denver from any and all other railway companies such empty cars as the parties of the first part may require in which to ship over the roads of such other companies the product of their said works, and to transfer from said works and to deliver to any other company's line or lines of railway at the city of Denver such loaded and other freight cars as the parties of the first part may desire, and to switch, deliver, and receive all such cars free of costs and charges, whether for freight, trackage, or any other use or service whatsoever; and to receive, switch, and deliver such cars immediately upon delivery to them for that purpose on notice that they are ready for delivery or upon demand of said first parties.

And the party of the first part, in consideration of the foregoing to be done and performed by the said party of the second part, doth covenant and agree with the said party of the second part that they will ship over the line or lines of the party of the second part at least *one-half of the freight*, of whatsoever kind or nature, they shall

transport from any other point or station to the city of Denver, provided the said second party has at such points of shipment a line of its road, or branches or leased lines or roads, or roads owned, operated, or controlled thereby, or may hereafter acquire the same, and that the second party will transport such freight to the city of Denver, and deliver the same at the works of the first parties, with as much dispatch and at no greater rate of freight than will at the time be charged for like freight over any other competing line of railway from the point of shipment to the city of Denver.

And the said party of the first part doth further covenant and agree that they will ship over the line or lines of the said party of the second part at least three-fourths of all the bullion or other products of their said works, provided the said bullion or other products be destined and shipped to points towards which the lines of the second party extend, and that it will transport the same to or towards their point of destination with as much dispatch and at no greater rate of freight than will at the time be charged for like freight between the same points over any competing line of railway.

It is further mutually agreed that this contract shall remain and be in force and binding in all parts for the full period of twenty-five years from the date of its execution.

And the said party of the second part doth further covenant and agree to construct and maintain across and over said side-tracks and switches, at such points as said parties of the first part may designate, suitable wagon-crossings to facilitate the passage of wagons and teams over and across the same, and the said second party doth further agree that at the expiration of this contract, or other determination thereof, it will remove all side-tracks and switches from the premises of the first parties which it may have placed thereon.

It is further mutually agreed that in the event of a sale or transfer of their said property, such sale or transfer shall be made subject to the terms and conditions of this contract: but neither of the parties hereto shall be held liable to the other for the compliance by such successors or assigns with the terms and conditions thereof.

It is mutually agreed and understood that in the event of a failure of either party to comply with and fulfill the terms and conditions of this contract, the party in default shall be liable to and shall pay all damages which may result from such failure, and upon the failure or refusal of either party to pay any such damages when ascertained and adjudged as hereinafter provided for, or upon failure to comply with the terms and conditions of this contract, such failure to be ascertained and adjudged as hereinafter provided, and upon failure to pay such damages, or to perform the stipulations of said contract so ascertained and adjudged as aforesaid, for the term of ten days, upon such finding and adjudication as aforesaid, the complaining party shall have the right to terminate this contract by giving thirty days notice of its intention so to do, and upon such notice being given this contract shall no longer be of any force and effect.

And both parties hereto covenant, contract, and agree in all things herein set forth, not only for themselves, but for their heirs, successors, and assigns.

And whereas it is in contemplation by the parties of the first part to effect a consolidation of their said smelting business with the Omaha Smelting and Refining Company, of Omaha, in the State of Nebraska, and if such consolidation is effected, the rights, interests, and claims of the first parties will be merged and consolidated with those of the said Omaha Smelting and Refining Company, and the said united interests will be owned and represented by a company or corporation different in name and membership from the said Grant Smelting Company. Now, therefore, the parties hereto do mutually covenant and agree that in the event of the happening of the said consolidation the party of the first part will cause the company or corporation thus incorporated to ratify and adopt this contract in all its parts and to substitute itself by formal action for the party of the first part; and the party of the second part doth covenant and agree, upon the happening of said consolidation and the adoption and ratification of this contract by said proposed company or corporation, it will stand by and abide the said contract in all its parts heroby when said consolidation is effected, substituting said new company or corporation for the parties of the first part, and covenanting and agreeing with the said new company or corporation and with the parties of the first part to stand by and abide by the terms, conditions, and obligations of this agreement without any other additional writing or contract being executed, and as though no change had occurred.

And it is further stipulated and agreed that all questions of difference which may arise between the parties hereto, touching claims for damages by either party, or of non-compliance with this contract or any stipulation or condition thereof, or any difference arising in the execution or performance thereof or growing out of the same, shall be submitted to a board of three disinterested arbitrators, to be chosen as follows: One by each of the parties hereto; and, in case of their failure to agree, they shall select a third, and the decision and finding of any two of said arbitrators shall be deemed the finding and judgment of said board, and shall be binding upon the



pective parties hereto, their successors and assigns; and the said parties mutually agree to accept and abide by the findings and judgment of said board of arbitrators. In testimony whereof the parties hereto have caused their hands and seals to be affixed the day and year first above written.

The CHAIRMAN. It is signed "The Grant Smelting Company, by Edward Eddy; the Union Pacific Railway Company, by S. H. H. Clark, general manager," and is witnessed by P. P. Shelby.

#### CONTRACT STILL IN FORCE.

Q. Do you regard this contract as still in force?—A. Yes, sir.

Q. Do you regard this contract in force, notwithstanding the passage of the interstate commerce law?—A. Yes, sir.

Q. When was the consolidation mentioned in the contract effected?—A. In January, 1883.

Q. Was there any subsequent agreement or special arrangement at the time of the consolidation?—A. As stated in the latter clause of that contract, Mr. Barton, the present president of our company, met us in Denver, before that contract was signed, with a view of consolidation. I took the matter of the contract up with Mr. Clark and with Mr. Kimball in June, 1882, before we purchased any lands in Denver. We met the Santa Fé people at Pueblo, with a view of building works there and consolidating with the present Smelting and Refining Company, known then as "Mather & Geist." We came to Denver and looked up a site upon the line of the Denver and Rio Grande Railroad. We had several talks with the then general manager, General Dodge, as to privileges of switching, &c., if we decided to locate on their line.

#### ASSURED OF SAME PRIVILEGES AS IN CONTRACT.

We were assured by General Dodge that we could obtain from them identically the same privileges that were afforded to us by the contract just read if we decided to locate on the line of their road, or they could reach our grounds within a reasonable distance, if it did not cost too much for condemnation and right of way. We spent some two or three weeks looking over the various sites in this city, and decided to locate on our present site. Before making that fact known, as I said before, I took that matter up with Mr. Kimball, in the absence of Mr. Clark, with a view to the switching arrangements, which was a very important matter to us; and seeing that the railroad connections of the Union Pacific were much more extensive than those of any other railroad company centering in Denver, and there being a more favorable site contiguous to the Union Pacific Railroad lines, contiguous to their yards, we thought that we could make equally as good arrangements with them as we could with other railroad companies, and at the same time be in a position to assist them more largely than they could assist us. We drew from a larger territory over the line of the Union Pacific Railroad, and over the Denver and Rio Grande or the Santa Fé. We had a large territory over west, Montana, Idaho, and Utah.

#### NO COMPETITORS IN THE MARKET.

There were no competitors at all in this market at that time. The stores produced in those Territories. The fact that led us to build there, and that was considered that that contract is of importance.

sulted, to the Union Pacific than to the Omaha and Grant Smelting and Refining Company. It has enabled them, by adding 75 per cent. to their bullion output, besides the ore and matte that we shipped to Omaha, to keep in this pool with 92 per cent. of all the freights that they have originated in Denver since the establishment of these works. Instead of giving them 75 per cent. of our product, we have given them a hundred per cent., except five cars that Mr. S. H. H. Clark requested of me, as a favor, to ship over the Burlington road. I told him I did not see the necessity of shipping over the Burlington line of road at all, as we did not want to change. He said, "I request that as a favor. For the return of your bullion I can get a higher class of freight on the line of the Union Pacific from the Burlington." We shipped the five cars, at the request of Mr. Clark. We did not ship any more, because the Burlington did not carry the contract out.

#### THE ONLY WRITING IN EXISTENCE.

Q. Was there any writing at the time of the consolidation, with the Union Pacific Railway Company, as to your arrangement after consolidation?—A. That is the only writing in existence that I am aware of.

Q. When were the works at Omaha erected?—A. They were erected about eighteen years ago. Eighteen or nineteen years ago. I suppose it was about 1868, if I remember right; it was before I came to this country.

Q. When did they fall into the possession of the present organization of the company?—A. In January, 1883.

Q. What part did the Omaha Smelting Works have in the arrangements with reference to your shipments from Denver?

The WITNESS. To what time do you refer?

The CHAIRMAN. 1883; at the time of the consolidation.

The WITNESS. It had nothing whatever to do with it. We directed our own shipments.

#### ARRANGEMENTS UNDER NEW ORGANIZATION.

Q. What arrangements had you with the company as to the location or arrangements of your property, and the improvement of it under the new organization?—A. That was a matter left entirely in the hands of the Omaha house. It is a matter that I did not know anything definitely about, and I cannot give you a clear idea as to the arrangement.

Q. Do your duties require you to superintend any part of the Omaha works?—A. No, sir; not necessarily so, only as a matter of consultation and interest as affecting the general policy of the company, in the policy of buying bullion.

#### SHIPMENT OF ORE TO OMAHA CONTROLLED BY OMAHA OFFICES.

Q. Were you at any time called into consultation with reference to the Omaha Smelting Works as to the arrangements made with the Union Pacific Railway Company for the shipment of ore?—A. No, sir; I may answer in this way: The shipment of ore to Omaha is conducted and controlled by the Omaha offices. The shipment of ore to the Denver works is controlled by the Denver offices. I may say in regard to this that the six offices of the company—we have three at Omaha and three at Denver—own nine-tenths or eight-tenths of the stock of Omaha and Denver Smelting Companies. We are general partners



well as officers. We state our wants to the Omaha offices occasionally, and they state their wants to us. If we are short of ore at Denver, and we find some ore is going to Omaha that we can utilize, it is diverted to Denver. On the other hand, ore is diverted over the line of the Union Pacific to Omaha on some occasions.

Q. Had you any consultations with Mr. Dillon or Mr. Ames, or any other officer of the Union Pacific Railway Company, other than the general management, concerning these arrangements?—A. No, sir; never.

#### ARRANGEMENTS AS TO FREIGHT TRAFFIC.

Q. Had any one on the part of the company any conversation with Mr. Dillon or Mr. Ames, or any other officer, other than Mr. Clark, concerning the arrangements as to freight traffic?—A. As far as my knowledge extends I think that all freight arrangements have been made with the general officers of the company, either Mr. Clark, Mr. Kimball, or Mr. Shelby, who was freight agent at one time.

Q. Do you know of any officer of the Union Pacific Railway Company, other than Mr. Clark, having been talked with concerning the freight arrangement made by the Omaha Smelting Company in 1882?—A. Mr. Kimball must have been somewhat familiar with it.

Q. What other officer?—A. Mr. Shelby might have been slightly familiar with it. Mr. Clark, being the ranking officer, would have the power to say yes or no. Mr. Kimball, I think, would be general adviser, and he has made more recommendations than anybody else, because he has been more familiar with the traffic of the railroad.

Q. Have you named all the officers that you know of, directors and president, that were talked with?—A. Those are all the officers that I came in contact with in the shipping business.

Q. Have any of the other members of your company come in contact with the president or directors concerning this arrangement?—A. Mr. Barton, our president, has.

Q. What did he ever do?—A. He is president of our company. I believe he was at one time a friend, or is a friend, of Mr. Dillon.

Q. What conversation had he?—A. I could not tell you.

Q. What arrangements did he make?—A. I do not know them.

#### QUESTIONS OF POLICY.

Q. Did he make any arrangements with Mr. Dillon or with any directors of the company?—A. None to my knowledge. If he had done so I should think sometimes in our meetings he would have informed me of the fact. In fact, I have found this, that sometimes questions of policy of the Union Pacific Railway Company towards our company would arise. I have met Mr. Dillon in a friendly and social New York. I have also met Mr. Ames in New York. All the ever had with Mr. Dillon and Mr. Ames were of an incidental I recollect once being in New York, and we thought as fair a showing as some of our competitor member the date now. That was probably I had found that there was a very large and d Denver and the Missouri River. We found charges, and we rebelled against it. According to the same rate on all classes of enjoyed, and I remember Mr. Dillon said I think Mr. Dillon was looking into it all

at Omaha and settled at Omaha. Mr. Dillon's interest being so small in that company as compared with his holdings in the Union Pacific, this interest was probably a flea-bite to him. He looked upon it more as a personal, friendly matter that he had with Mr. Barton.

#### REBATE OR OVERCHARGES REFUNDED.

Q. Was the trouble settled?—A. We found afterwards that we were right in our surmises, and from that time until the 1st day of April we enjoyed a rate of \$7 a ton on all the bullion shipped here at our works at Omaha.

Q. As against what rate?—A. \$10.

Q. The company therefore had a rebate of \$3?—A. No, sir; it was no rebate.

Q. What do you call it, then? They call it a rebate at the company's office.—A. I will tell you what I call a rebate. A rebate is a refunding of money to one concern which refund is not enjoyed by any other concern. Every freight agent of the Union Pacific line admits that they have given a four-dollar rebate to every competitor of ours in the last three years on shipments of bullion to Pueblo, Denver, and Kansas City.

#### OTHER COMPANIES ENJOY SAME REBATE.

Q. Do you know of any other competitor that enjoys any such rebate from the Union Pacific Railway Company of your own knowledge?—A. The Kansas City Smelting and Refining Company have from this city on what they have shipped over it. Any other company that is shipping over the Union Pacific has enjoyed the same rate, if not a lower rate.

Q. From where do you get your information?—A. We get our information from the wisdom of the freight agents, sometimes, in their cooler moments.

Q. What information have they given you?—A. The information I have just stated to you. I have met them in Boston and in Chicago, in company with our competitors, with our refiners of bullion there. They have admitted that they have given, and the refiners also admit receiving, the same rebate or overcharge that we received on bullion shipments.

#### REBATES APPEAR UPON COMPANY'S BOOKS.

Q. If the same rebate was given, or if the same allowance was made to other competing companies, is it not probable that such overcharge, rebate, or allowance would appear upon the company's books at Omaha, in the same way as the Omaha and Grant Smelting Company's account appears?—A. I can probably explain that to your satisfaction. The Union Pacific, in the pool between them, the Burlington and Missouri, and the Santa Fé roads, I think I am correct in saying, has 49 per cent. of the shipments of the material that originates in the city of Denver, and a certain percentage from Pueblo. The reason that the refineries do not appear on the face of their books is probably due to the fact, as detailed before, that our shipments alone amount to 99 per cent. of the business that originated in Denver from the points. There is such a thing as diversion. They pass the bullion over to another refiner for that purpose, I believe.

## PERCENTAGE OF SILVER BULLION PRODUCED AT LEADVILLE.

Again, on the other hand, if you will allow me, a large percentage of the bullion that is produced in this country is produced at Leadville. Sixty or 70 per cent. of that is taken out there by the Denver and Rio Grande Railroad and turned over to the Burlington and Missouri, which is one of their connections at Denver, and to the Santa Fé, at Pueblo. Every pound of bullion that we have bought in Leadville we have shipped over the South Park, and we have shipped right through the Union Pacific from Denver. We have proved our loyalty by our signatures. We have more than kept our contract. That would explain why other smelting companies could not appear on the face of the books, and it has been very hard and severe work on the part of the Burlington and Missouri and the Santa Fé to break up this proportion of bullion shipments, and we have staid right here and maintained the balance, and the Union Pacific has had the benefit of it. Freight agents have told me that if it was not for our business the Union Pacific would not get 30 per cent., instead of 49 or 50 per cent. They do not say that they own us, but that contract gives them the advantage of the trade at Denver.

## NO WRITTEN AGREEMENT WITH THE COMPANY AS TO RATES.

Q. Have you any written agreement or arrangement with the Union Pacific Railway Company concerning the allowance of 87?—A. Only as a matter of general talk. We never had any written agreement. The railroad officers are very careful about giving the least memorandum or a scratch of a pen. I have found it very difficult to ever place them on record.

Q. Had you any correspondence or any writing of any kind concerning the amount of rebates from the Union Pacific Railway Company, or allowance, or whatever you see fit to call it?

The WITNESS. To our company?

The CHAIRMAN. Yes.

## CHIEF BUSINESS OFFICE AT OMAHA.

A. That is a matter that relates to the Omaha end of the business. That is our chief business office. All the business centers there, and the rebates or overcharges are collected there. We have nothing whatever to do here with the collections of the Omaha office. They would not appear on the face of our books, and if I understand the matter right, our president has already furnished you with the amount of rebates received by the Omaha and Grant Company. I could not give you that information.

Q. Did you make any rates here with the Union Pacific Railway Company?—A. No, sir.

Q. Were all the rates made at the Omaha office?—A. They all go to Omaha and talk business there.

Q. Were all the rates made at the Omaha office of the Union Pacific Company?—A. Yes, to the Omaha office.

## THE REBATE.

Q. What proportion of the trade is for the Burlington and Missouri?

\$3 by the Union Pacific Railway Company?—A. I think you misunderstand the answer I gave about that \$3.50.

Commissioner LITTLER. Explain it.

The CHAIBMAN. Wait a moment until we get it clear. Had allowance of rebate by the Union Pacific Company been \$3 on the shipment?

The WITNESS. Yes, sir.

Q. Did the Burlington and Missouri afterwards, in order to secure that traffic, increase it 50 cents, and make it \$3.50?—A. I did not understand it so; no, sir. You misapprehend me altogether. I do not make that statement.

Q. Did you ever hear that the general manager of the Burlington and Missouri, in order to secure the traffic from the Union Pacific Railway Company, increased the amount of the allowance to \$3.50, as against \$3 to shippers?—A. We have heard statements to the effect that shippers over the line of the Burlington and Missouri to Omaha have received a rebate of \$4 per ton; but the excuse was being made that it was not made between Denver and the Missouri River, but it was made on their own lines in the State of Nebraska.

#### THE BURLINGTON AND MISSOURI VS. THE UNION PACIFIC.

Q. Have you any knowledge of the rate being fixed by the Burlington and Missouri, as between Denver and Omaha, at \$3.50 as against the charge made by the Union Pacific Railway Company at \$3?—A. I have not. I have no direct knowledge of it. What I know of that is only hearsay.

Q. What have you heard with reference to it?—A. I have heard that. I do not know it to be so.

Q. Did you ever make any arrangement with the Burlington and Missouri under the \$3.50 rate?—A. No, sir.

Q. Did you ever ship any ore under the rate after the change?—A. I told you we only shipped five car loads of bullion over the Burlington and Missouri. I do not know that the Burlington and Missouri ever quoted rates to the Omaha and Grant from Denver, for the simple reason that the Omaha and Grant never requested a rate from them.

Q. Why not?—A. We were satisfied to enjoy the same rate that was enjoyed by other shippers. We found all our competitors were receiving a certain rate on the Burlington and Missouri and on the Santa Fé from Pueblo or Denver, and we were simply asking the same rate, and the facts would be confirmed in one way or the other. We had no desire to play the Burlington against the Union Pacific. I think Mr. Potter said to me once, in a jocular manner, three years ago, "Give me 10,000 tons of your bullion and I will make any rate you please." I said, "Mr. Potter, you are joking; I do not want the rate from you in that way."

Q. Would it not be business for your company to get the best rate possible?—A. I do not know that it would.

Q. Why not?—A. Because if we got that rate, every other competitor would have got it; so in the long run, we would come out even.

#### INCREASE OF REBATE.

Q. When the rebate was increased from \$3.50 to \$4 under the arrangement, and your company was only getting \$3, did you make an appeal to the Union Pacific Railway Company to make up the differ-

ence?—A. That fact was only developed since the passage of the interstate commerce bill; so there is no use in kicking.

Q. Do you mean the difference in the rate was only since the interstate commerce bill?—A. No, sir; it was only found out since the passage of the interstate commerce bill.

Q. What fact did you find out?—A. That other parties were receiving \$4 as against our \$3.

#### WOULD MAKE ANY RATE ASKED.

The CHAIRMAN. I mean when Mr. Potter made that proposition to you.

The WITNESS. He never made me any proposition. I do not state that he made a proposition.

Q. What was the conversation you had with him?—A. He asked me for a proposition. He asked me if I would give him 10,000 tons, and he said, "I will make any rate you ask." He made no proposition, because I did not offer any.

Q. When did you have that conversation with Mr. Potter?—A. I think about 1884. Mr. Potter was naturally desirous to get some of that trade, but never worked very hard for it.

#### SWITCHING FACILITIES.

Q. In addition to the rebate, or allowance, or whatever you see fit to call it, that you were allowed by the company, what was this contract worth to the Omaha and Grant Company as to the switching facilities and other accommodations afforded to the company? What was it worth per annum?—A. I cannot say that it was worth a cent.

Q. Do you know whether your competitors enjoy any such advantages?—A. Before answering that question, I may say not worth a cent, because, as a matter of fact, being on the Union Pacific land, as we are, or connected with it, they could not make any switching charges. They can, under that contract, charge any company a switching charge, if we say so. The Union Pacific Company has not charged one dollar of switching expense to any company; so I say the benefit to us is nil. As I told you before, the Rio Grande Company offered to give to us the same facilities that the Union Pacific were giving us under that contract.

#### NO DISCRIMINATION.

Q. Have any of your competitors the same advantages that you enjoy under this agreement with the Union Pacific Railway Company?—

A. As a matter of fact, I do not bother myself about the competitors' business very much; but since the honorable Senator was on the stand yesterday, I did make some inquiry, and I find, by hearsay, that the old smelting company enjoy identically the same switching privileges that the Omaha and Grant Smelting and Refining Company do.

#### BOSTON AND COLORADO SWITCHING FACILITIES.

Q. You named eleven other companies. What other one has the same privileges?—A. I think the Boston and Colorado Company has their own switching engine.

Q. What other company?—A. The Pueblo Smelting and Refining Company, to my knowledge.



## SWITCHING CHARGES.

Q. Do I understand you to say that there are no switching charges paid by any of the companies?—A. I do not know anything about their private business at all. But you must understand where there is a switching engine, such as I understand the Boston and Colorado Company have, they have the right over the branch of the Colorado Central Railroad. I think it is possible that if the Union Pacific Company had controlled the Colorado Central to the same extent, when these works were organized, as they now do, that General Manager Hill would have had the switching done just the same as we had it done. But there is more besides that. Where Mr. Hill does his own switching, he does not bind himself by a contract to keep, binding in its nature for a period of twenty-five years. We agree and bind ourselves to deliver three-fourths of our entire product to one railroad company, against the interests of the others. They bind themselves to nothing of that kind. They are a free lance. I contend that by even paying our own switching charges to the Rio Grande Railroad, or to any other railroad that runs to this town, the Omaha and Grant Company would have received a larger benefit and a larger amount of overcharges than they have received on account of their "tie-up" with the Union Pacific Railroad. But you must understand that we are not a free lance, able to go around and dictate our own terms. It is on only one-fourth of our product that we can dictate. We consider that the advantage lies entirely with the railroad company, and not with us. It is all bosh to say that this thing is worth \$15,000 a year to us. It is not worth 15 cents.

## RATE OF SUCH CHARGES AT LEADVILLE.

Q. Did you ever pay any switching charges at any time?—A. I suppose that we have.

Q. What do they amount to?—A. We only paid switching charges to a very small extent at any time.

Q. What were the switching charges that you paid at any time?—A. We have paid at Leadville a switching rate of 50 cents a ton. I think then that rate was reduced to \$4 a car. The Denver and Rio Grande did the switching for the Rio Grande; but that was from one point of the town to another point of the town, or from one works to another works.

Q. Were the allowances given to you, from \$10 to \$7, based upon the car?

The WITNESS. Was it upon the car or upon the ton?

The CHAIRMAN. Or per ton.

The WITNESS. Per ton, regardless of the weight of the car.

Q. If you paid switching charges of 50 cents on the ton at Leadville that you have spoken of —A. [Interrupting.] That was not in relation to this company at all. You asked me, did I ever pay switching charges. I paid switching charges at Denver, in the year 1882 only, to the extent, I think, of 50 cents a ton, from the Grant Smelter to the Fire Hill Smelter. Besides that, we have never paid switching charges.

Q. If you paid switching charges at 50 cents a ton, and by an agreement you were freed from the switching charge, with the rebate allowed from Omaha, the allowance to your company would be equivalent \$3.50 per ton, would it not?—A. That is, if they charged 50 cents a ton for switching; but they do not do that.

**Q.** What would be the average for switching?—**A.** They charge all the way from \$1 to \$2 per car, and the car-load averages 15 to 16 tons in these days.

**Q.** If your competitors have failed to make the same character of agreement as you have with reference to switching advantages, and yard advantages, and side-track advantages, and failed to receive also the rebate allowance, can they possibly compete with you in the line of business in which you are engaged?—**A.** Yes, sir.

#### SWITCHING FACILITIES NOT AN UNMIXED ADVANTAGE.

**Q.** How?—**A.** As I stated to you before, our switching advantage is a detriment rather than an advantage to us, because the Omaha and Grant Company is, to a certain extent, handicapped on account of that switching, for we bind ourselves to deliver a proportion of our freight to one railroad company. It is a good deal better at any time to go into the market as a free lance, and to do as you please, and make any terms you can; but if you are handicapped and get only 25 per cent. of your business at your disposal they do not want you. Moreover, it is not the custom, as I understand it, of railroads to make switching charges on their own cars in their own yards. Our freight bill, I believe, last year at our Denver works, was in the neighborhood of \$900,000 to the Union Pacific Railroad for ores, fuel, and fluxes that came over on the branch lines and on their main line. On the other hand, the freight charges on the Rio Grande were about \$275,000, I believe. So, if the worst should come to the worst, we would only have to pay the switching charges on the Rio Grande if the Rio Grande saw it to be a business policy to charge our company for the switching. The fact is, we buy our material delivered in our yard. Our yard is recognized as Denver, and the Denver and Rio Grande agrees when they place any stuff on their cars to deliver it in our yard at their card rates, without switching charges. So you see that is no benefit.

#### ABILITY OF OTHER COMPANIES TO COMPETE.

**Q.** If other companies competing with you pay switching charges amounting to \$8,000 or \$10,000 a year, and fail to receive the rebate that the Omaha and Grant Smelting Company receives, is it possible for such a competing company, under such circumstances, to compete with your company?—**A.** I think that if any one company with a very large degree of common sense and business ability would allow themselves to locate on the line of any one road that cannot be reached by all the privileges from any other road, it would show a great lack of business capacity and ability.

**Q.** Then if that be true, no company that is not located as the Omaha and Grant Smelting Company is, with reference to railroad advantages, can possibly have the opportunities for freight and shipments that your company enjoys, can it?—**A.** I might modify that statement to this extent: At the time of the location of the Argo works, the Burlington and Missouri was not in Denver. Competition was not quite as active between the railroads then as it is now. The Union Pacific did largely all the business of Denver. I will modify the statement about business ability; I suppose they did the very best they could; but under this one fact in relation to that switching business: The nice engine and a nice car must be worth \$8,000 or \$10,000 as the shape of an advertisement to the Boston and Colorado f

Company, in passing up and down the union depot eight or ten times a day. The Boston and Colorado Smelting Company have the right to the use of the tracks.

#### PERCENTAGE OF FREIGHT REBATED.

Q. What percentage of the \$900,000, which I understand you to say was paid by the Omaha and Grant Smelting Company for freight during last year, was refunded or allowed to the Omaha and Grant Smelting Company by way of rebate?—A. I called your attention sometime ago to the fact that that was a matter for the Omaha office. I can tell you what we collected, or what we are entitled to, for our Denver business.

Commissioner LITTLER. As I understood you, in mentioning the sum of \$900,000, you referred to the amount of freight paid by the Smelting Works at this place, and not at Omaha.

The WITNESS. Yes, sir.

The CHAIRMAN. As between what points?

Commissioner LITTLER. Between all points.

The WITNESS. Between all points; on the main and on the branch line.

#### AMOUNT OF ORE RECEIVED FROM LEADVILLE.

Commissioner LITTLER. That is the aggregate of all the freight paid for fuel and ores coming into your works at this place?

The WITNESS. The statement I made was for ore, fuel, and fluxes. I will read and hand over a copy of this paper—the amount of ore we received from Leadville. I give this as a matter of information to our Leadville competitors and to Senator Hill.

We received from Leadville, in 1885 and 1886—I understood that this applied only back to 1885, or back to the days of Adam, if you want to. We received, in the two years:

	Tons.
In the shape of iron fluxes .....	34,925
Sulphides of lead and zinc ore .....	14,717
Carbonate ore that could be smelted at Leadville .....	1,197
Matte, the residue that is made from furnaces .....	2,137
Total .....	42,976

Of this amount the Denver and Rio Grande hauled 4,410 tons.

#### OVERCHARGES REFUNDED.

Overcharges collected on Leadville shipments:

1885 .....	\$9,897.47
1886 .....	10,790.51
1887 .....	4,335.19

These rebates or overcharges were on shipments of iron fluxes carrying 5 or 6 ounces of silver, 18 per cent. in water. I worked hard three months with the Union Pacific officials to cut the water rate in two. We paid for one-half of the water and they paid for the other. It cost us 80 cents per ton for every ton of ore we bring down in the shape of water.

That is the total of rebates we have received in two years on our entire Colorado business.

## ORE RECEIPTS FROM OTHER SECTIONS.

For the information of the Commission I will read our ore receipts from other sections up the Union Pacific road:

	1885.	1886.
	<i>Tons.</i>	<i>Tons.</i>
Gilpin County .....	12, 474	9, 126
Clear Creek County .....	9, 225	14, 644
Chaffee County .....	11, 299	15, 500
Boulder County .....	694	710
Park County .....	2, 087	1, 175
Total .....	35, 779	41, 145

Q. The statements you have given to the Commission are of rebates or allowances that have been allowed to the offices located here, and are not included in the Omaha business?—A. Yes, sir; that is included.

Q. In the Omaha statements?—A. Yes, sir; that is included.

## REBATES ON COLORADO SHIPMENTS.

I call the attention of the Commission to the fact that we have been charged with receiving enormous rebates on all the ore shipments on all Colorado points on the Union Pacific road; and for the information of the Commission, I state to you that we received for the entire Colorado business in the two years not more than 5 or 6 cents a ton.

Q. I understand you to say that the figures that you have given are included in the statement given by Mr. Barton?—A. Those overcharges were collected at Omaha; so they must be there.

Q. Is this the total of what you have been given for two years?—A. Yes, sir; \$25,000.

Q. And it is included in the sum of \$530,000 given from 1883 to 1887?—A. Yes, sir; undoubtedly.

## RAILROAD COMPETITION IN DENVER.

Q. What railroad competition has existed in Denver? You spoke a moment ago of sharp railway competition.—A. We always experience competition in railroad business, as we do in any other line of business, when a new factor comes into the field; and the new factor in this field was the Burlington and Missouri. They made competition pretty lively for some time.

Q. What have been the competing rates between the two companies?—A. I have had no business relations with them, except ordinary mercantile business.

Q. Has there been any difference in their open public?—A. No, sir.

## INCREASED RAILROAD COMPETITION

Q. Was not the effect of a new company coming in simply to raise the rates?—A. I have increased railroad competition, without an increase to the community. We are supporting this day, when one main line could do all the

the building of railroads to Denver has been an injury, rather than a benefit to it, for the simple reason that they could operate one line for a good deal less expense than they could the three lines.

Q. Does not the destructive influence come from the fact that after railroad companies have made an arrangement to maintain rates they immediately turn around and commence to cut each other by private rates under the special rates?—A. There is no doubt of it.

Q. And by preferential rates?—A. There is no doubt of it.

#### COMPETITORS RECEIVED \$2 A TON REBATE IN 1882.

Q. Have you any other information to give?—A. I might say, speaking of competitors enjoying the same rates, that it is a long time before you can get full and correct information from railroad agents. Only a month ago I was talking with the freight agent of one of our lines centered in Denver about a rate given by a competitor of ours in 1882. I have just read to you that we got 40 cents rebate on our fluxes. I was told that our competitor received \$2 a ton rebate on such ores as were shipped by Eddy, James & Company from Denver in 1882. We shipped at the rate of 200 tons a day. That passed my comprehension. It took my breath away when I was told that—to think that one firm received \$12,000 a month from one little line of road, in the shape of rebates.

#### \$2.50 A TON REBATE.

At another time a rate was made—not by the same company, though—the minimum charge for car-loads being 16,000 pounds. We received instructions from the management of that company to put 16 to 20 tons of ore on every car; so that would make the rate at least \$2.50 a ton rebate. We never enjoyed such things in Denver. It was enjoyed by a smelting company located on the line of the Santa Fé and Denver and Rio Grande, at Pueblo. Besides that, in 1883, we opened up business connections in New Mexico and Arizona, and we commenced to receive considerable shipments from these points on account of our standing, until the year 1884, when the Santa Fé Railroad Company commenced to put arbitrary rates on all shipments to the Omaha and Grant Smelting Company, at Denver, to such an extent that they charged us \$1,800 and \$2,200 per car freight, when the ore itself would not realize more than \$800 or \$1,000 or \$1,100 per car-load.

#### RESULT OF SUCH DISCRIMINATION.

That discrimination was carried on to such an extent that we have written to our patrons in that country to make no further consignments; that our bank account was not large enough to pay those outrageous overcharges and wait for the railroad company to return them to us; if they desired any relations with us whatever, they had better come to themselves at Pueblo, and we would make arrangements with the Denver and Rio Grande to bring the material from Pueblo to Denver. The result was that we have closed pretty nearly our connection with our friends in New Mexico and Arizona. That is the fact that Mr. Nickerson was the president of the Santa Fé Railroad. He was also the president of the Pueblo Smelting and Refining Company; and anything that came to Denver must be discriminated against, and as a result, from that time to this, we have been unable to obtain the same rates on the Santa Fé road that the Pueblo Smelting and Refining Company



Denver?—A. I could not speak from a commercial standpoint. I have not paid very close attention to the tariff sheets. I know it has affected the miner and the smelter somewhat.

Q. Do you mean to say that under its operation rates generally have been increased?—A. I would not say that. I am more familiar with our own line of business. It cost us just about \$1,800 a month, and the miners charge for that, of course.

#### UNION PACIFIC NOT PROMPT IN REFUNDING OVERCHARGES.

Q. Do you still continue to ship under this contract?—A. Yes, sir. The rate, as I told you, as it was enjoyed by all, was \$7. The fixed rate now is \$8.

Q. From here to the Missouri River?—A. Yes, sir. We are glad rather than otherwise that there is a fixed rate. I consider these overcharges have been a great source of annoyance to us for the simple reason that the railroad companies have been very prompt in collecting their freight bills; but they are not near as prompt in paying these overcharges. There have been periods when the Union Pacific has owed us in the shape of overcharges \$80,000 to \$90,000, and we had to go to the bank and borrow that amount of money.

#### THE CONTRACT AND THE INTERSTATE COMMERCE LAW.

Q. Do you rely on this contract in the future, notwithstanding the operation of the interstate commerce law?—A. We do; yes, sir.

Q. Do you not think that it is a preference within the meaning of that law?—A. I cannot say how it is. I think that is purely a local business. That is all.

Q. You ship through more than one State in going from here to Omaha, do you not?—A. Yes, sir; but we enjoy no different rate.

Commissioner LITTLER. I am only referring to this contract, in view of the provisions of the interstate commerce law, with a view of inquiring of you whether you regard it as a good contract in the face of that law, and one that can be enforced in court.

The WITNESS: We have never taken legal opinion on the matter, and the interstate commerce bill, to tell you the truth, never entered our minds as affecting that contract. I think the Union Pacific wanted to carry it out, and we are willing for them to do so.

Q. Do you think that is a good contract for the Union Pacific Railroad Company?—A. As I stated in my examination, I think it is one of the best contracts they ever signed in the State of Colorado.

Q. What would have been the effect on the Union Pacific Railroad Company if you had made no such contract and had been a free lance, as you say, in negotiating rates with other competing lines?—A. I can only tell you what I have heard from officers of other railroads, that if it had not been for our confounded tie up the Union Pacific would not have 25 per cent. of the freight of this town in the pool.

#### POOLS.

Q. Are there any pool agreements existing in this city at present, to your knowledge?—A. I do not know of any.

Q. Do you know of the existence of an institution called the Colorado State Railway Association?—A. That is a new name to me.

Commissioner LITTLER. It is a new one to me. It has just been suggested.

**The WITNESS.** That must be something organized a few days ago.

**Commissioner LITTLER.** I understand it has been organized since the passage of the interstate commerce law, with a view of evading its provisions.

**The WITNESS.** I have not been in communication with any such company and have not heard of it.

**Commissioner LITTLER.** I understood you to say that the effect of pools and the effect of building competing lines in this city has had a tendency rather to retard and embarrass the development of the city than to foster and promote its highest interests.

**ONE LINE CAN AFFORD TO DO BUSINESS CHEAPER THAN SEVERAL.**

**The WITNESS.** I did not intend to convey any such impression as that. What I have intended to convey was that one line of railroad could better afford to make lower rates than three lines coming into Denver.

**Q.** But is it not also true that where there is only one line of railroad it fixes enormous rates, and thereby embarrasses the community?—**A.** I suppose if that was the case we should have had some State legislation before now.

**Q.** Do I understand you to question the wisdom of Senator Hill's location of his works, because he has not chosen to put them where they are only accessible by one line of railroad?—**A.** Yes, sir.

**Q.** That would be your condition if there had been no other railroads in the city, would it not?—**A.** There is no doubt in the world of that. We made the best arrangement we could out of a bad matter.

**Q.** You would have been subject to all the embarrassments of which he complains, would you not?—**A.** Yes, sir; and they might have ridden us a little harder than they attempted to ride him.

**Q.** Do you think this contract is a good contract, notwithstanding the seal of the company is not attached to it?—**A.** Yes, sir; I do.

DENVER, COLO., *Tuesday, July 12, 1887.*

**JAMES B. GRANT**, being duly sworn and examined, testified as follows:

By the **CHAIRMAN**:

**Question.** What is your business?—**Answer.** Smelting.

**OMAHA AND GRANT COMPANY.**

**Q.** Are you connected with the Omaha and Grant Smelting Company?—**A.** Yes, sir.

**Q.** How long have you been connected with it?—**A.** Since the organization of the company, in 1883.

**Q.** During what time were you governor of Colorado?—**A.** In 1883 and 1884.

**Q.** Have you heard the testimony of Mr. Eddy, the general manager of the Omaha and Grant Smelting Works, and have you anything to add to it?—**A.** No, sir; I do not think I have anything to add to that. I do not think of anything of any importance that I could add.

**Q.** Have you any knowledge of the increase of allowance on shipment of the Burlington and Missouri as against the allowance made by the Union Pacific?—**A.** Since the passage of the interstate commerce b

course the different refiners of the east have exchanged with each other, and have told what rates they have had. I was to tell the names of those parties. But refiners have told me what rates they enjoyed. In some cases they have had rates than the Omaha and Grant Smelting Company enjoyed.

#### SPECIAL RATES.

Q. Was there a general granting of special rates as against rates?—A. Yes, sir; it is universal.

Q. How long had they existed prior to April 1?—A. Three years at least. Since we came to Denver. It was not so when we came to Denver. If I recollect aright the first few months here we did not enjoy any special rate on bullion.

Q. Have you any knowledge of any one enjoying the same or the same accommodations and facilities that the Omaha and Grant Smelting Works have?

The WITNESS. On the bullion business?

The CHAIRMAN. Yes.

The WITNESS. I know of but one refiner that shipped over the Pacific. I think that was the Kansas City Refining Company. I suppose they enjoyed the same rates.

Q. Has the Kansas City Refining Works the same rebate or the same accommodations?—A. I think on the Northwestern ship it is 100 miles further to Kansas City than to Omaha. I think it is an additional dollar; but that is all.

#### EFFECT OF REBATES UPON COMMUNITY.

Q. What effect upon the other shippers and upon the new community at large has the system of rebate allowances or special or preferential or private rates allowed by railroad companies?—A. If one shipper gets it and the other did not, of course the one that got it had the advantage. That is all.

Q. Is it not a fact that it is very destructive to healthy business community?—A. Yes, sir; I should think on general principles it would be.

Q. Is not the effect to drive out the smaller shipper as against the larger shipper?—A. Yes, sir; it might be bad for the smaller shipper and yet it might be to the general interest of the community.

Q. Is not its effect generally to concentrate entire business in one center and in one hand?—A. Yes, sir; I think so.

Q. What effect would such concentration have on the business community, or in the distribution of business among the community at large?—A. I think it is bad on the individual. Denver has been largely benefited by it. While it may be bad for the smaller shippers, it has been a great help to the city.

Q. What have been the benefits?—A. It has built up business here by establishing wholesale houses and getting trade to the city.

#### SPECIAL RATES ADVOCATED.

Q. Would not the effect have been that you would have more companies and more distribution of trade and more business going on under a fair open rate than you have under the special rate allowed by railway companies?—A. I doubt it.

ing interest for example. If we smelted 100,000 or 150,000 tons of ore a year, the cost of smelting would be much less than it is where there are thirty or forty companies doing that work. The miner has the benefit of a large smelting concern. If the ore had to be smelted by different concerns they could not mine within 30 per cent. of the amount mined to-day, the charge would be so high. A large concern doing a large amount of business is bound to do it cheaper.

Q. Would not the effect be better on the community at large if there were two or three large concerns than if there were only one?—A. Yes, sir; where there is business enough. We have two or three.

Q. Could there possibly be two or three where one enjoys a special advantage of shipping rates not known to others?—A. It depends upon the extent of that advantage.

Q. To what extent do you mean?—A. I would not say that 50 cents a ton would materially hurt any smelter. If there is not a profit of more than 50 cents a ton on smelting, the business is so close and uncertain that no one would continue in it.

Q. Have you read the testimony of Mr. Barton, given before the Commission?—A. Yes, sir.

Q. He is president of the company, is he not?—A. Yes, sir.

Q. Have you anything to add to the testimony given by him?—A. I did not see the full testimony of Mr. Barton; I only saw the extracts from it that were sent out by the Associated Press.

Q. Has he the entire management of the Omaha and Grant Smelting Works at Omaha?—A. He is president of the company, and, of course, he is familiar with all the important transactions.

Q. Is he responsible for the conduct of the works at that place?—A. Yes, sir; he and the others are. They have been in partnership there for a long time, and they consult each other about the management of the business there.

#### RAILROAD PEOPLE NOT INTERESTED IN BUSINESS ALONG THE LINE.

Q. What knowledge have you of any officer, director, employé, or agent of the Union Pacific Railway Company being interested, directly or indirectly, in any manufacturing establishment, or any refining or smelting works, or any business company along the line of the road other than those that have been named?—A. I have no knowledge of any such.

#### INTERFERENCE WITH LEGISLATION AND ELECTIONS.

Q. Have you any knowledge as to the part taken by the officers and employés of the Union Pacific Railway Company in attempts to influence legislation in Colorado?—A. No, sir; I have no definite knowledge.

Q. Have any complaints been made of interference by railroad officers or employés or their agents in attempts to influence legislation?—A. I only heard it said in a general way that they wanted to elect or

defeat certain candidates that might be hostile to railroad interests. I heard some such talk, but I do not know anything definite.

Q. What is the nature of the complaints of interference of the Union Pacific Railway Company, through their agents, in attempting or urging legislation for or against their interests?—A. I know of any definite complaints. Of course when a railroad considers it unfavorable to their interests, I understand that the combination of railroad interests would try

just as with any bill that might be up against any other interests—the people pool together and try to defeat it. I do not know anything particularly about it, though. I do not know that I ever talked to a member of the legislature about a railroad bill. I do not think I ever did.

#### NO HOSTILE LEGISLATION.

Q. Has there been any hostile legislation against the Union Pacific Railway Company in Colorado?—A. None that I know of. There was a bill passed two or three years ago, but I do not know that it was hostile to railroads. It was a bill to appoint a commissioner, but without much power, I believe.

Q. What is the name of the commissioner?—A. Judge Felker. That was three years ago that he was appointed. He has served two years.

Q. Who is the present commissioner?—A. Mr. Wilson. I think that under the bill passed at that time he could only hear complaints and report to the legislature.

#### PLAN OF SETTLEMENT.

Q. Have you considered the question of the settlement of the debt due by the bond-aided roads to the Government?—A. I have not thought very much about it. I supposed they would have to make some settlement when the bonds came due, and if the roads were not able to pay off the bonded indebtedness they would have to go into the hands of the Government, unless some terms were made by which they could pay off this debt gradually.

Q. Have you considered this question sufficiently to have formed an opinion?—A. I have thought about it some. My own view would be—I think the bonds are due in 1896—that the Government would not want to experiment with railroads. I do not believe it would stand much show for business, in competition with other corporations. I doubt if it would operate the road successfully. It seems to me the best settlement would be to have a long bond, paying so much every year, with a low rate of interest. The debt to the Government could be wiped out in time, and the company could keep the road.

#### GOVERNMENT CONTROL NO ADVANTAGE.

Q. What effect would such a settlement have upon the community?—A. I think very little. There are so many other railroads entering here now that the question of the policy of one or the other I think would not affect it materially. If the Union Pacific cuts the rate here, even in the hands of the Government, the other roads are bound to meet it. They are going to operate their lines. I do not think it could be any advantage to the community or to the Government for it to own the road.

Q. What would be the effect upon the passenger rates?—A. If the United States chose to haul freights for nothing, I suppose the other roads would have to do it or give up business. The Government agent would not be so dependent for his position as an outside agent. A railroad does not keep passenger or freight agents unless he can get business for it. A Government officer would not rustle for business as much as a railroad freight agent would, I think.



## EFFECT OF EXTENSION OF TIME TO PAY:

Q. What would be the effect of an extension, with a long bond at a low rate of interest, upon the freight and passenger rates?—A. I do not see how it is going to affect it at all. As I said, if the Government takes the road it is in its power to make low rates, if it chooses to do it, because it can operate at a loss and expend its surplus in that way. It could get rid of the surplus in operating these Pacific roads.

Q. Is it not the fact that the cutting of rates exists the same to-day as it would under any other circumstances?

The WITNESS. Cutting of rates?

The CHAIRMAN. By railroad companies.

The WITNESS. Do you mean a cut from the regular rate?

The CHAIRMAN. Yes.

The WITNESS. I do not think there are any cuts made now. Do you mean overcharges or rebates?

The CHAIRMAN. Yes.

The WITNESS. I do not know of any. We have not been able to get any.

Q. You only speak of your personal business rebates?—A. Yes, sir; I am speaking of ourselves.

## POOLS SHORT LIVED.

Q. Did you ever know of a railroad pool or an agreement to maintain rates that maintained it twelve hours after it was entered into?—A. I do not know enough of the details of railroad business to say; but I know that it does not exist in other forms of business if it does in railroads.

Q. Have you any information or suggestion that you can give to the Commission?—A. No, sir; I do not think of anything.

Q. Have you any knowledge of the diversion of traffic by the Union Pacific Railroad over unaided roads, under freight agreements?—A. No, sir.

By Commissioner LITTLE:

Q. Do you know how many officers and agents and employes are required to operate the Union Pacific system at present?—A. No, sir; I do not know anything about the details.

Q. Does it reach up into the thousands?—A. I do not suppose that they have any more men than other corporations.

Q. Assuming that they have not any more than they need, can you answer my question?

The WITNESS. The employes?

Commissioner LITTLE. Yes.

A. I suppose they have several thousand.

## POLITICAL EFFECT OF GOVERNMENT CONTROL.

Q. Suppose the Government were to take possession of the road, and the Republican party should succeed the next time, would it not be a great objection if it appointed one or a thousand Republicans to run that road?—A. Yes, sir; it would make a political machine out of it, I guess, unless the civil service rules were enforced and strengthened. You might have a Democratic railroad corporation four years, and it might be Republican the next four. You might have it Democratic all the time; it would be a great help to us out here.

Q. When did you assume the office of governor of this State, and when did your term expire?—A. I think it was the first Tuesday in January, 1883; and I went out on the second Tuesday in January, 1884.

Q. During your term of office was there or not a corrupt combination among the railways of Colorado, organized for the purpose of influencing legislation?—A. None that I know of. As I said, I do not think I ever talked with a member of the Colorado legislature about railroad matters or railroad laws or laws affecting railroads.

Q. If such a combination existed did you know anything whatever about it?—A. No, sir.

Q. Can you give this Commission any information on that subject?—A. No, sir.

DENVER, COLO., *Tuesday, July 12, 1887.*

NATHANIEL P. HILL, being further examined, testified as follows:

By the CHAIRMAN:

Question. Have you any information that you can give to the Commission this morning?

#### SWITCHING CHARGES AND RATES FROM LEADVILLE.

Answer. I should be glad to explain a little a part of the testimony that was given here this morning in regard to switching charges and rates from Leadville. The principal cost of switching to these smelting works is not taking the cars from the yard of the railroad company and setting them in the yard of the smelting company; that is a very trifling matter. The principal item of cost is in keeping an engine equipped with an engineer and fireman and suitable attendants constantly at work in moving cars back and forth from the works. For instance, you get a train-load of ore, and, in unloading that, you have, as you unload each car, to move the train the length of the car, usually, or in unloading coal for your furnaces. In the handling of nearly all the products and everything that comes into the work, you have to be constantly moving your train. We keep an engine of ours which we were forced to purchase. We wore one out and bought a new one recently. That was because the company would not do our switching for us and we had to do it ourselves. That engine is kept constantly employed from very early in the morning until late in the evening in the works. It comes into the yards of the company twice a day at Denver to draw out three loads of coal and ore, and the rest of the time it is constantly employed in moving cars around the works; and it costs us to do that, on the amount of business we are handling, not less than \$7,000. I assume, on the amount of business which I stated as being handled by the Omaha and Grant Company, that it must cost the railroad company at least double that. It would cost the smelting company at least double that if they did it themselves. But I understand that the Union Pacific Company furnishes those engines with the men and all the equipments, and everything that is necessary to do all that local work around the yard of the smelting company. That is what I understand. In other words, the smelting company keeps no engines and has no men employed for that purpose. I should say it was a very low estimate on the amount of business that is handled

company, the number of tons of ore that are stated here, to say would take two engines, constantly employed, to do the switching and the works, to say nothing of moving the cars from the yards railroad companies to the yard of the smelting company.

JAMES B. GRANT. It takes one engine.

WITNESS. I do not know how that could be, for our engine is little, and we handle less tons than the Grant company, and there are four in the day in which we are not employed with the engine. I estimate it costs us to keep the one engine about \$7,000 a year. Sometimes we have to repair it every little while, and occasionally we have to buy a new engine. Then, as to trackage, it was stated by Mr. Grant that we have the use of the track. We have the use of the track for it every month.

#### TRACKAGE CHARGES REDUCED FOR SLAG.

What do you pay?—A. We are paying now, or rather we are not, for two considerations. There has been a great demand at present for our slag. The railroad company has taken it and sold it at quite a high price for securing embankments, and for various other uses, and they have been very strenuous in their demand that we should have our slag. Formerly they used to load it themselves for consideration for taking it, and they made some reduction in the rate of fixed charges for the amount used for their tracks. They used to pay \$100 a month. In consideration of that we were to give all the slag which we did not need, for all their purposes, and load it for them. Those are the two considerations that we pay for the use of the

#### SLAG USED FOR RAILROAD EMBANKMENTS.

What is the latter consideration worth in money?—A. It is a thing we cannot estimate very well. In the first place the company has a great deal of slag in protecting their embankments. Our slag is very valuable for that purpose. It comes out in large blocks and is hard and heavy, so that wherever it is thrown around embankments of railroads that are subject to wash it makes an absolute protection as good as a solid stone wall.

Have you any market for it here?—A. No, sir. I know they have used some eight or ten cars a day for \$3 a car. When they have an opportunity to sell, they sell it for that purpose. They have used it mostly for protecting the weak points in the embankments along the sides of their roads.

#### OMAHA AND GRANT SWITCHING FACILITIES.

We have constantly requested every officer of the Union Pacific Railroad Company that has any authority in that matter, ever since I heard of the contract which furnished the switching for the Grant Company, that the road should do the same for us. I have had it promised from the agent of the road here that it should be done. It has not been done. I have been at it for about four years. I attack every officer of the company and ask him if we may not enjoy that same privilege. Our works are no further from the yard of the company than the Omaha smelting works. They may call it a part of the yard, but ours is no further distance away than theirs. They are both on one of the tracks of the Union Pacific Railroad, only on different branches. It is a preference

that I do not suppose, under the interstate commerce bill, would stand an hour. I think that is probably the reason they are going to concede that to us. I have had a serious idea of trying that matter in the courts to see whether it could be allowed. It is a preference. The ore that comes into the Omaha and Grant works comes from a half dozen States and Territories, and the bullion that goes out goes through more than one State, and the switching of that material is just as much a part of the consideration for which it is carried as the rate from the works to the river for instance. A railroad company, in its desire to give a preference to one corporation, might charge a regular rate of freight, and give it a bonus for everything it took out of its yard, and say that is local, just as well as to do the switching for one company free and refuse to do it for another. That is the theory I hold. I may be wrong about that, but I do not think that discrimination could stand under the interstate commerce bill. I want to say a word in regard to the freights on ore and material from Denver.

**WILLING TO MAKE SIMILAR CONTRACT TO THAT OF OMAHA AND GRANT COMPANY.**

By Commissioner LITTLER:

Q. Before passing that, would you be willing to duplicate this contract with the Union Pacific Railway Company as a consideration for the switching charges and the track rates which you pay?—A. Of course I would. I would do it in a moment.

Q. That is, you mean to be understood as saying that you would agree to ship 75 per cent. of your products over the Union Pacific?—A. Provided they gave me as low a rate as could be obtained.

Q. Provided they gave the same rates as given in this contract?—A. As low rates as are given by any other company, as that contract provides for.

By the CHAIRMAN:

Q. Would that be a bonus?

The WITNESS. Giving the same rates?

The CHAIRMAN. Would it be equivalent to a bonus?

The WITNESS. Certainly.

Q. Would you pay any other additional bonus.

WITNESS. Do you mean a bonus to the railroad company?

The CHAIRMAN. Yes.

A. It is a bonus that really costs nothing to give. It provides that we shall not pay more than we would over any other line.

**FREE SWITCHING THE CHIEF ADVANTAGE UNDER THAT CONTRACT.**

Q. What would it be worth to you to have the same terms by the year?—A. As far as I understand that contract, there did not seem to be any special privilege granted there in regard to rates, except in providing for free switching. That is the only thing that I caught in hearing the contract read. The rest merely provides that they shall have the same rates as other parties, or it shall be carried at as low a rate as by any other railroad. As far as the switching charge is concerned I should say it is worth \$7,000 or \$8,000 or \$9,000 a year to have just that one advantage.

The CHAIRMAN. I did not want to interrupt you. You may p



## REDUCED RATES ASKED ON ORES.

**The WITNESS.** In regard to freight from Leadville, our company has been desirous for a long time of buying certain classes of ore there; these ores that are mentioned as flux ores, I mean. I have asked the Denver and Rio Grande Company probably every month for the last two years if there was not some way by which a reduction might be made in the rates for these ores. They told me they were under a pool arrangement, and were solemnly bound not to make any reduction, and they could not do it. They would do it for us if they could do it for anybody. I have applied to every officer of the Union Pacific Railway Company that had any jurisdiction in the matter, and I have been assured by them that there was no difference in those rates. The very class of ore that I asked to ship was this low grade of flux ores. I felt perfectly confident that other parties were getting it at lower rates than we were, and I felt perfectly sure that we were getting it at the same rates that other people paid, but no rebates were granted to us. I do not mean to imply by that that certain officers of the road—that is, Mr. Choate—desired to deceive me or intended to deceive me. I think he is a truthful man, and I think he does not know about it. It does not come within his province, and he was not aware, probably, of the fact, as that is arranged in the office at Omaha. It was the reply uniformly made to me by the officers of the Union Pacific Company in regard to Leadville business, that that was one place where there was no rebate. The two companies entered into as solemn an agreement as I suppose two companies could enter into, and the Union Pacific and the Rio Grande assured me that there was no distinction between one and the other class of ores; that these low grades were treated as the higher grade ores were, as far as freights were concerned. Those were the only two points that I would like to speak about, after hearing the testimony of my neighbors.

**Mr. EDDY.** I would like to make an explanation.

**The CHAIRMAN.** Certainly, you may.

## KIMBALL'S IGNORANCE OF CUT RATE ON ORE.

**Mr. EDDY.** In speaking of the rebate on the low-grade iron ore from Leadville, and since Mr. Kimball is taxed with concealing the fact, I think it is due on my part to explain that Mr. Kimball is entirely innocent about this whole matter. Mr. Kimball never knew of the existence of the 40 cent cut rate on iron ore until this committee met at Omaha. So I think he was perfectly justified in telling Senator Hill that he enjoyed exactly the same rates that his competitors

**The CHAIRMAN.** Who did know? Who had this information?

**Commissioner LITTLE.** And who made the rate?

**Mr. EDDY.** Mr. Shelby made the rate, and it was unknown to Mr. Kimball. I think I ought to say that to Mr. Kimball.

**Mr. HILL.** Mr. Shelby is the man with whom it was painted.

**Commissioner LITTLE.** Is not Mr. Shelby a partner?

**Mr. EDDY.** Yes, sir.

**Commissioner LITTLE.** Is it not true that they receive the indorsement of Mr. Kimball before they are audited and paid?



Mr. EDDY. Sometimes the assistant does what the manager can when the manager happens to be absent. He takes the power in own hands and does it.

Commissioner LITTLER. How long has this cut rate gone on, that speak of?

Mr. EDDY. Two years.

Commissioner LITTLER. Do you undertake to say that Mr. Kim has been ignorant of that matter for two years?

Mr. EDDY. I believe so.

Commissioner LITTLER. Mr. Kimball professed to know all a this rebate business when he was on the stand, and claimed that it all done under his direction.

Mr. EDDY. That might be, as far as the Omaha business is concerned.

Commissioner LITTLER. Where would this cut rate be made—he at Omaha?

Mr. EDDY. That was made at Omaha during the absence of Mr. Kimball.

Commissioner LITTLER. And made by Mr. Shelby?

Mr. EDDY. Yes, sir.

Commissioner LITTLER. Mr. Kimball was not absent for three years was he?

Mr. EDDY. No, sir; I do not suppose he was. But there are so those little details that the general manager does not think worthing up.

Commissioner LITTLER. Do you suppose for a moment that the rebate could have gone on for three years without the knowledge of Kimball, when it was his duty to know about these rebate vouchers?

Mr. EDDY. I said two years.

Commissioner LITTLER. This is a long while for a general officer be ignorant of so important a matter affecting his company.

Mr. EDDY. I do not know—not very, when a man has so many duties and has so much care in a large road.

Commissioner LITTLER. We will have to presume on Mr. Kimball's ignorance.

DENVER, COLO., *Tuesday, July 12, 18*

JAMES MAXWELL CLARK, being duly sworn and examined testified as follows:

By the CHAIRMAN:

Question. Where do you live?—Answer. I live at Greeley, Colo.

Q. How far is Greeley from Denver?—A. I believe it is 52 miles from the Union Pacific Railway.

Q. On what road?—A. On what used to be called the Denver and Cheyenne—the Union Pacific line.

Q. Is that the road running from Denver to Cheyenne?—A. Yes.

Q. How long have you resided there?—A. Seventeen years.

Q. What is your business?—A. I am a farmer, stock-grower on a small scale, and dealer in agricultural implements and coal.

Q. Have you had any business relations with the Union Pacific Railway Company, either the main line or any of its branches?—A. No, sir.

Q. What has been the nature of your business dealings?—A. Transporting implements and coal from Erie, Colo., and from Denver; other goods from the Eastern States.

**Q. How long have you been engaged in the shipment of those goods?—**  
**A. Seven years.**

**COAL MONOPOLY.**

**Q. Have you had any business dealings with the Marshall Coal Mining Company of Northern Colorado?—A. I have sustained a relation to them damaging to myself.**

**Q. Where is the Marshall Coal Mining Company located?—A. It is between Erie and Boulder. I have never been to the mine myself.**

**Q. Who compose the company?—A. I do not know. It is ostensibly an independent company, doing business on its own account.**

**Q. Have they an agent at Greeley?—A. Yes, sir.**

**Q. Do they ship coal to Greeley through their agent?—A. Yes, sir.**

**Q. What has been the nature of the injury suffered by you as a shipper or coal dealer at Greeley through this company?—A. We have no competition at Greeley in the way of railroad facilities. We have this single branch line of the Union Pacific, running north, and we cannot get any other coal except over the Union Pacific line.**

**MARSHALL COAL COMPANY.**

Formerly, through the ownership and control of the mines at Louisville by the Union Coal Company, which I suppose was a company of the stockholders of the Union Pacific, they mined and sold coal at Greeley in competition with other coal, put the price up, and kept it up to an unreasonable price compared with other points in the State, because there was but one line. Some time in 1886, for some reason or other, we presume on account of ill-will that they had secured from the people everywhere, they leased their coal mines at Louisville to the Marshall Coal Mining Company, and published in the paper a notice that they had done so; and from that time until this, while that company has ostensibly been an independent company, it has been manipulated, in all the towns outside of Denver, entirely in the interests of the Union Pacific Railway. They appear to have a proprietary interest in the mine and in the coal, and in the transportation of the coal as well, and they constantly manipulate it so as to damage and force everything to ruin, and to crush out competition with that Marshall coal.

**COAL AGENTS AT GREELEY.**

**Q. What agent do they locate in Greeley?—A. They have had two or three agents there. At one time I was agent for the Union Pacific Company, at the time they owned and ran the mines under the name of the Union Coal Company. I had the agency for a while.**

**Q. Who succeeded you?—A. Mr. Spier.**

**Q. Who is the present agent?—A. The present company is known by the style of Wood & Mayer, Mr. Mayer being the managing agent and the only member of the company present.**

**Q. What connection has the latter-named gentleman with the Union Pacific Railway Company?**

**The WITNESS. This Mr. Mayer?**

**The CHAIRMAN. Yes.**

**The WITNESS. None other than that I have explained of the Marshall Coal Mining Company at that present the agent.**

Q. Are there any other agents of any other companies there?—A. Oh, yes.

Q. What companies are represented there?—A. Goodrich & Marfel, of this city, and Mr. D. S. Woods, and the Jackson Coal Company.

#### LOCATION OF MINES.

By Commissioner LITTLE:

Q. Where are these Louisville mines located?—A. I have been at Erie and at Canfield, but I have never been at those Louisville mines.

Q. Where are they?—A. About 17 miles from Erie.

Q. Where is Erie?—A. That is on a spur out from Brighton, 15 or 20 miles.

Q. Where is Brighton?—A. On the Union Pacific, between here and Greeley.

Q. How far are these Louisville mines located from Greeley?—A. I should think the Marshall and Louisville mines were 60 to 70 miles away, and the Erie mines 45 miles perhaps.

#### OTHER COMPANIES' AGENTS.

By the CHAIRMAN:

Q. What other coal companies' agents are there?—A. I have named Goodrich & Marfel and D. S. Woods. There is the Star mine at Canfield; that, generally, has an agent there; and there is a little mine that has generally been operated during the last year—they call it The Standard. I forget the names of the agents.

Q. Are they all dependent upon the Denver Pacific road?—A. Every one.

Q. Do they all enjoy the same rate?—A. I think not.

Q. What is the difference in the rates?—A. I judge it to be 50 cents.

Q. How many enjoy the 50-cent rate?—A. Wood & Mayer, of this firm that operates the Marshall Coal Company.

#### EFFECT OF UNEQUAL RATES ON COAL DEALERS.

Q. What effect has it upon the other dealers in coal?—A. It has this effect, that the markets are entirely under the control of that company, and they constantly manipulate the price, and put it up and down just as they see fit, and it ruins competition and trade. I want to say now that I have no absolute knowledge about this difference of 50 cents; but I should judge it to be a fact from this, that every time the Union Pacific notifies me that after a certain date the price of coal will be raised a quarter of a dollar a ton from the mine in which I deal, I get a notice on the instant that the Marshall coal remains at the same price; that the Marshall Coal Mining Company have put down the price of coal a quarter of a dollar at the same time that the Union Pacific Company has put up the price of freight, just to equally balance the thing; and I infer, and every one infers, and it is a matter of general comment and conclusion. The railroad employes all over the State outside of this town—I do not know how they feel about it here—joke and laugh about it, and make fun of it the moment this thing takes place. They understand it. The last time this was done the agent came over to my office. I have no doubt he was sent by the Union Pacific Company. He told me, with a smile, that the rate would be a quarter of a dollar

after the 1st of June, but the company coal would remain at the same price, because they had put it down.

#### COMPANY COAL SOLD AND OTHER DEALERS DRIVEN OUT.

Q. Is the effect to sell the company coal and to drive the other dealers entirely out of business?—A. Yes, sir.

Q. How long has this continued?—A. It has continued always, ever since I had anything to do with the coal business, some seven years. The policy of the company was to maintain a heavy rate of freight on the transportation of coal, they being always interested in the product, in the output.

Q. What other facilities or accommodations has the agent of the Union Pacific Marshall mine over the others in the coal-yards?—A. Not any, that I know of.

Q. Are all of the other mines that you have named reached by the Union Pacific Railway Company?—A. All of them; yes, sir.

#### TRANSPORTATION FACILITIES.

Q. What other roads reach them?—A. In Denver, the Denver, Utah and Pacific, I believe, reaches them, or the most of them; but we have no access to them.

Q. Then the effort of the Union Pacific management is to force the coal dealer to deal with the Marshall mine as against the other mine, is it?—A. That is it exactly.

#### EXPERIENCE AS COMPANY COAL AGENT.

Q. When you were agent of the Union Pacific Company what advantage had you? You must have had some inside knowledge then?—A. No, sir; I handled this coal about two years, and at the time I handled it the company had no connection with the Marshall Coal Mining Company. They owned and controlled the Louisville mine, which was known as the Welsh mine, and I bought the coal of the company, and never dealt with any other. When I went into the business I looked around and saw what coal there was available, and found that, and I never had any rebates or any other advantages.

Q. How many competitors had you?—A. Always three or four.

Q. Could you undersell them by reason of any special advantages in rates or accommodations?—A. At that time I could not.

#### COAL OPERATIONS OF COMPANY.

Q. Could you at any time?—A. I do not know as to that. I will make a statement as to the operations of the company, which will show what their intent was. Shortly after I first went into the business they put up the price of coal. It had been down to \$1 for some time, I think, and they put it up to \$1.50, and then to \$2, and, as had previously happened, it angered all the people in our community, and the farmers hitched up their teams and began to haul coal overland from Erie, 30 to 35 miles, and would not buy any coal of us at all; and they kept that up for about six weeks. Our cars stood on the track, as they have done two or three times, and the people would not buy any coal of us. They could not get it of outside companies. They would not. The outside companies, had nothing to do with the Union Pacific, and w

blame; but they could not sell any coal any less than I could, and I could not sell it any less than I did. They organized this force of teams and hauled the coal for about six weeks. They spoiled the trade for winter. I, and all the other dealers, remonstrated with the company, and told them we could not sell coal there, and that they were injuring the trade and creating a dislike to the company. They kept urging that the outside teamsters could not haul coal, and we showed them that they did. Finally, they sent an agent down to Greeley.

#### RATE ON COAL MUST BE REDUCED.

Q. What was his name?—A. I do not remember. He was a man sent there to look into the coal business. He went back and reported that they would have to put down the price, and they did so. They continued that for some time. When they first reduced the price, they made some such arrangement as this with me—it is quite awhile ago, and I cannot remember it exactly, but it was about this: That they would reduce the rate from the Louisville mine half a dollar, but they did not want it to be known by the other coal mining companies that there had been any reduction, and we were to go into the office and sign some kind of paper and pay some different sum for what was charged, or else we paid it over so that nobody could see what was charged. I do not remember about that. But there was some kind of secrecy about that, and we paid it. That, however, lasted but a short time, I do not think more than a month, and then they made the same arrangements with the other mine at Erie that they had with their own mines—put it to \$1. They kept it at that rate until last fall; then they put it to \$1.25. Now it is \$1.50. When they first raised the price I complained, in company with other dealers who handled coal, to the agent here in Denver. He forwarded my complaint to Mr. D. O. Clark, in Omaha, and Mr. Clark forwarded me the letter, which I have in my possession, and which I shall read and submit, or submit without reading.

Commissioner LITTLE. Read it.

The WITNESS. It only has a bearing as indicating the points that I made, that they had an interest in this mine and were manipulating this as their own property.

Q. In what year was this?—A. 1886. This was shortly after they had made this raise in the price of coal, and after I had made this complaint, in company with Mr. Clayton and Mr. Roberts, of Greeley, outside dealers and coal men.

#### THE COMPANY'S DEFENSE OF ITS COAL RATES.

The letter is as follows:

[Union Pacific Railway Company, coal department, office of the general superintendent—Freight rates and prices of coal.]

OMAHA, NEBR., October 5, 1886.

J. MAX CLARK, Esq., Greeley, Colo.:

DEAR SIR: Yours of September 20, to Assistant General Freight Agent D. B. Keeler, was referred to me by General Traffic Manager Thomas L. Kimball, esq. The increase in the freight rate you speak of should not have increased the cost of coal at Greeley; our price has been for a long time \$3 per ton at Greeley. We have given the exclusive agency of the Marshall and Louisville coal to Messrs. Wood & Mayer, they to sell the coal at \$4.50 per ton; there are no special rates or rebates made on this coal. The freight rates are the same from Louisville, Marshall, Boulder, Erie,



and Canfield to Greeley for all parties. Your freight rate is the same as paid by Messrs. Wood & Mayer. If they get their coal any cheaper it is because the coal costs less at the mine. If the people of Greeley, who have for a year been calling for cheaper coal, see it to their interest to pay you \$5 for coal when they can purchase the Marshall or Louisville for \$4.50, don't think we have any objections. I fail to see where there is any imposition practiced by the company.

You do ask a better rate than the Marshall company are paying, and you would have just 25 cents per ton advantage over them if we made you a freight rate of \$1 per ton and left the rate from Louisville and Marshall \$1.25 per ton.

We have endeavored to be fair and just with all parties in Colorado, making same freight rates on coal from outside mines that we made from our own mines or from mines where we purchased the coal. If you are paying more than \$3 per ton for coal at Greeley the mine owners are charging you too much for the coal. If you are getting your coal for \$3 don't you think a little of the imposition is from the dealers, who charge the consumer \$2 per ton for hauling the coal?

If the reduction of 50 cents per ton on retail price of coal will shut out the teaming there, the prices made by Messrs. Wood & Mayer will accomplish the desired result.

Yours truly,

D. O. CLARK,  
General Superintendent.

The WITNESS. I stated that I did not ask any better rate than anybody else. The combination of coal dealers wanted the Denver coal rate of \$1, and I reminded him that I was not asking any special rate over anybody else. He replied, "You do ask a better rate than the Marshall company are paying and you would have just 25 cents per ton advantage over them if we made you a freight rate of \$1 a ton and left a rate from Louisville and Marshall at \$1.25." "If the reduction of 50 cents per ton on retail price of coal will shut out the teaming there, the prices made by Messrs. Wood & Mayer will accomplish the desired result." We told them that if they would make it the old price we would all put it down for \$1, and that would shut out this team trade that injures us in the winter. His reply to that was, "If half a dollar would shut it out, Mr. Mayer could do it, because he has the reduction." I offered that just to show that while they deny emphatically that they have anything to do with that company, the entire business is managed under the head of the coal department of the Union Pacific Railway, and that they have made prices both on the coal and on the freight, and collected it at the office at Greeley.

#### DENIAL OF INTEREST IN COAL COMPANIES.

Here is a letter which would not have any bearing except that it contradicts that the Board of Trade of Greeley, Colo., moved in this matter and complained to Keeler, the general freight agent here, and intimated that they thought that there was discrimination and rebates, and the Union Pacific was interested in this Marshall Coal Mining Company, and Mr. Keeler wrote this on June 7:

[Union Pacific Railway, traffic department, D. B. Keeler, assistant general freight agent.]

DENVER, COLO., June 7, 1887.

MR. H. C. WATSON,

Secretary Greeley Board of Trade, Greeley, Colo.:

DEAR SIR: Replying to your favor of the 1st inst., complaining of an advance in coal rates from Erie to Greeley, you are under a misapprehension as to the relations between the Marshall Coal Company and the Union Pacific Railway. The Marshall Coal Company is composed entirely of men who have no interest whatever in the Union Pacific, and neither the Union Coal Company nor Union Pacific Railway have any interest in the Marshall Coal Company.

The Union Coal Company is not mining any coal in Northern Colorado, having leased the only mine that is being worked (the Louisville) to the Marshall Coal Company. The advance in rates has not advanced the price of coal, from the fact that

the Marshall Coal Company have reduced the price of their coal on cars at the mine 25 cents per ton. So far as this advance in rate is concerned in the crushing out of other mines, it has nothing to do with the case; if the rates were 25 cents per ton instead of \$1.50, and the Marshall Coal Company still produced and sold their coal at \$1.50 per ton, the other mines in Northern Colorado would be in precisely the same situation they are now in, unless they could produce and sell coal as cheaply as the Marshall Coal Company. The fact that they sell their coal at \$1.50 instead of \$1.75 per ton is something with which the railroad has nothing to do, and is something that is not affected by railroad rates.

Yours truly,

D. B. KEELER.

The WITNESS. The complaint we made is that they did not produce the coal at \$1.50 a ton. They are getting rebates all the while from this company, and the Union Pacific Company has an interest in some shape or other in that company, and is oppressing all the other companies in this State.

By the CHAIRMAN:

Q. Have you any knowledge of the placing of agents by the Marshall Coal Company all along the line at other points than Greeley?—A. Not positive; no, sir.

Q. What have you knowledge of generally?—A. Just common report.

#### SPECIAL REBATES AND ADVANTAGES.

Q. The effect would be the same as in Greeley if they are located at different points, would it not?—A. Just the same. The Colorado Fuel Company, located in this city, possess the same advantages. Nobody can ship coal, and nobody can get the same rate that they enjoy. Last winter I wanted to handle some of the Gunnison anthracite coal, and on inquiring the rate that I could get from Denver to Greeley, Colo., and the rate at which I could purchase the coal, I found that I could not get within \$1.50 a ton of what I could get by going to the company here in town and having them deliver it to me at Greeley. I was informed the reason why I could not. It was because they had special rebates and advantages from the road. The local agent here in town told me that he could not sell me the coal so that I could sell it. He did the business of the city, but the rate would cost me a dollar a ton more, or \$1.50 more than the company would be able to furnish it to me for. I bought some coal and found it was the fact.

#### STONE QUARRIES NEAR FORT COLLINS.

Q. What quarries are located near Fort Collins?—A. There are stone quarries there.

Q. How are they managed?—A. They are managed and operated exclusively, I believe, by the Union Pacific Railway, or at least in the same manner that they manipulate this coal business.

Q. Where is Fort Collins?—A. Twenty-five miles northwest of Greeley.

Q. What roads run to Fort Collins?—A. The Greeley, Salt Lake and Pacific and the Colorado Central.

#### RATES PREVENT COMPETITION.

Q. Have you shipped, or attempted to ship, or have you knowledge of the shipment of stone from the quarries at Fort Collins to Greeley

and to other points?—A. No, sir; except I have been informed by those shipping stone that it would be utterly useless for any one to ship unless they bought under contract with the Union Pacific.

Q. Why?—A. Because of the rate. I have been informed that a couple of young men opened a quarry there, and spent a couple of thousands of dollars, and got already to ship, and found they could not get a car-load moved out.

Q. Is there only the one quarry at Fort Collins?—A. Only one that is operated. There is plenty of rock there.

Q. Why cannot the others be operated?—A. Because this company will not carry rock for anybody else at the same rate.

Q. What are the names of the men who organized the company and quarried the rock, who were unable to obtain shipments?—A. I do not remember the names. I saw it stated at the time, but I did not feel any interest in it then.

Q. Did the company absolutely refuse to make rates or take the freight?—A. They would make rates; yes, sir; and ship the rock; but they could not get as much for the rock as the freight came to.

Q. Who represents the Union Pacific at Fort Collins?—A. I do not know.

Q. Who is the agent there?—A. I do not know that.

Q. Do you know any one there?—A. Not many.

Q. Whom do you know at Fort Collins?—A. I have been acquainted with a number of gentlemen there, not connected with railroad affairs; some farmers.

#### QUARRY LANDS ALLEGED TO BE OWNED BY STOCKHOLDERS.

Q. Who owns the land upon which this stone is located?—A. I think a syndicate of Union Pacific stockholders own it.

Q. How did these young men get the property?—A. Oh, as to that, there is other land there, other good quarries; but the complaint is made that they cannot be operated.

Q. How near was it to the land owned by the Union Pacific stockholders?—A. Right in the immediate vicinity. There is nothing required but side tracks to go up in them.

Q. Did the young men engaged in that business apply for side tracks?—A. I believe they did; and got them, I think. I will not be sure of that, however. The difficulty was, as I understood it, that the freight on the rock came to more than the Union Pacific were selling the rock for when they got to a place.

Q. Was the freight so high that they could not sell in competition with the Union Pacific managers?—A. Yes, sir.

By Commissioner LITTLER:

Q. Will you give the names of the officers of the Union Pacific who own and operate that mine?—A. I could not tell that. I think there are parties here who are probably interested in it.

#### ONE WHO KNOWS.

By the CHAIRMAN:

Q. Can you give the names of any one who can give the information?—A. I think likely there is a man who handled all the rock in Greeley who can tell. He is an old gentleman who has been laying pavements there for a couple of years.



Q. What is his name?—A. I cannot give his name at present. I was talking to him the other day about the same matter.

Q. Will you furnish his name to the Commission?—A. I can do that at once, when I get home. He knows something of it.

Q. Have you any other information?—A. That is all.

#### GOVERNMENT SHOULD OPERATE ROAD.

Q. Have you any other suggestion to make?—A. I do not know that I have. You have generally asked something of witnesses of what they thought of the final relations of the Government with the Union Pacific. I do not know that my opinion is worth anything, but if it is, I would say that I would be in favor of the Government owning and operating the railway.

Q. On what do you base that opinion?—A. The Government manages the mail in better shape and more economically, I believe it is conceded everywhere, than it would be possible for a private company to do it. I myself paid 25 cents a letter, when I first came to this State, to the express company for letters, and I see no reason why the Government could not manage a railway or telegraph line just as economically as it can a postal department, and I see no reason why they should not do it. As for the competition, I do not know why they could not compete with any other line. Certainly they could see that justice was done, and prevent injustice in other lines. They would have that power, at least.

#### BENEFICIAL EFFECT ON COMMUNITY.

Q. What would be the effect upon your community?—A. I think it would be beneficial in every way.

Q. Have you thought over the question?—A. Yes, sir.

Q. Has it been agitated in your section of the State?—A. It has been discussed in all the newspapers making any pretense to editorial ability for five years, and the people everywhere are thinking of it, and I think quite a large share of the people feel that that would be a good solution of the difficulty.

#### INFLUENCING LEGISLATION.

Q. Have you any knowledge as to the part taken by the Union Pacific Railway Company in influencing legislation in the State?—A. No, sir; no absolute knowledge. I know the general feeling during the last session of the legislature. We were trying by every means to get the interstate commerce bill or a State bill that would cover its provisions and enable the laws to operate in this State. We were trying by every means to get the passage of such a law, and it was affirmed and believed by the people and by the principal newspapers of this State that an overwhelming majority of the people of this State was favorable to that legislation, and much more radical legislation than was contemplated in the bill, and was anxious to get it. The *Denver News* and the *Republican* of this city, two newspapers that are not harmonious in many respects, united in saying that there was a large railway lobby here using money to prevent legislation, and the principal newspapers of this city everywhere shadowed that charge out pretty plainly that money was being used to defeat the wishes of the people.

#### PRODUCE SHIPMENTS OF GREELEY.

Q. What is the character of the shipments to Greeley coming in and going out, especially those going out?—A. We shipped eight hundred

loads of potatoes from Greeley last fall. It is the center of quite an agricultural community.

Q. Is there much grain?—A. Yes, sir; a great deal of grain and flour. It is a large stock country down there.

Q. Have you an elevator company there?—A. Yes, sir.

#### ELEVATOR AND MILLING SYNDICATE.

Q. Who has charge of it?—A. The Colorado Milling and Elevator Company I believe own it now.

Q. Who compose the company?—A. They are a company of monopolists in the State; they have bought all the mills.

Q. Have you any other elevator companies there?—A. No, sir.

Q. Why not?—A. I only know from hearsay; but Mr. Bowen, who was a book-keeper and partner in one of the companies at Greeley, said that they were obliged to sell out to this Colorado syndicate because the big head man of the milling association up here was getting rebates that amounted to more than all the profits they had in the business, and they were simply obliged to join the pool in order to live.

Q. So they went in with the pool, did they?—A. They were swallowed, as they say.

Q. How many were swallowed up that way?—A. About all of them. Governor Eaton, of this State, owned a mill 10 miles outside of Greeley, and he operated it to good advantage to himself and the people for about a year, but he had to give in. He refused to join them, and was offered very flattering inducements, and came and asked the advice of all the farmers, and we told him we would haul our wheat overland if he would hold out, and we did, and he stood out a year, and then they doubled the offer, and he and his partner, Mr. Nice, said they could not stand it, that the syndicate had advantages they could not get, and it was only a question of time when they would have to give in any way, and they were obliged to do it.

#### WHO COMPOSE SYNDICATE.

Q. Who are the gentlemen who composed the syndicate?—A. There is a very active little gentleman named Jack A. Muller, of this city.

Q. Does he live here?—A. Yes, sir.

Q. Do you know where he lives?—A. No, sir; I deal with him. He is an active business man.

Q. Who else is in the syndicate that you know?—A. Most all the mill men. Mr. Eaton is now in it. Mr. Ewing is in it at Greeley. Mr. Bruce Johnson, who owned the Greeley mills.

Q. Is it a company incorporated by the State?—A. I believe it is.

Q. Or is it a trusteeship?—A. I do not know whether it is in the form of a trust or what it is.

Q. Did they pool the profits or declare a dividend?—A. They bought every mill in the State they could get hold of. They bought them outright. They assessed them at a valuation, and the proprietor surrendered the mill and took a share in the property. That is the reason they could not stand out.

Q. What is the capital of this company?—A. I do not know as to that.

#### STOCK YARD AT GREELEY.

Q. How many stock yards are there at Greeley?—A. One.

Q. Who has charge of it?—A. I do not know the name.



Q. Is it a company?—A. No, I think not. The stock-yard there is a simple affair and it is managed by the local agents. The most of the cattle that are owned by Greeley operators are on the ranges contiguous to the lower end of Wells County, and they are shipped from Brush and Fort Morgan. They are big county shipping points for our cattle.

Q. They are not shipped at Greeley?—A. No, sir. They are shipped at a station up beyond us, too.

Q. Have you any other information that you can give to the Commission?—A. No, sir, I have not.

#### MR. ADAMS' REPLY TO MR. HILL'S CHARGE.

Mr. CHARLES FRANCIS ADAMS. Will you permit me to call the attention of the Commission of the record yesterday in order that a correction might be made?

The CHAIRMAN. Certainly.

Mr. ADAMS. I notice in the printed record of yesterday, in the Republican, and I presume it is correctly reported, the following, addressed to Mr. Hill:

Q. Do you know of any other interest of that kind elsewhere which led to rebates?—A. Mr. Adams, of the Union Pacific, told me that he would not swap his interest in the Kansas City Smelting Company for the entire Union Pacific road.

I do not think that Mr. Hill could ever have made that statement, or if he did, there is some very grave misapprehension in regard to it. I have no recollection of Mr. Hill ever having spoken to me about the Kansas City Smelting Company, or of my having any conversation with him in relation to any interest I might have in it. But if any such conversation ever was held, it is utterly impossible that I should have made any such remark. My connection with that company is very briefly stated. I subscribed to 50 shares, \$5,000, of its stock, originally, when it was promoted, in order to help things along at Kansas City. That was eight years ago, if I recollect right. From that day to this the company has never, to my knowledge, paid a dividend. Once, I think, it gave me 15 shares of additional stock, representing the amount of its surplus revenue, which through a series of years had been put into the business of the company, and which was supposed then to represent that amount. My present holding, therefore, is 65 shares, which have no market value whatever, the whole value of which is prospective. The company does almost no business whatever with the Union Pacific Railway. The whole business is done with Atchison and the southwestern country, through which it draws its ores in Arizona, New Mexico, and, I believe, Mexico. But so far from my ever having made any such remark as that, that I valued my interest more than the entire Pacific road, it is simply absurdly preposterous, and Mr. Hill could never have made the statement. That company has no connection whatever with, and received no rebates or any advantages from, the Union Pacific, inasmuch as it does no business with the Union Pacific at present, and has not done so for years, as it is situated upon the line of the Atchison road, and draws its business from a country which the Union Pacific does not reach. I am merely anxious that this should be inserted in the record, as a thing of that sort is almost certain to be picked up at some time unless the statement is corrected and made public.

Q. Have you any other statement to make?—A. No, sir; I merely wish to set the record right on this point.

DENVER, COLO., Tuesday, July 12, 1887.

*Afternoon session.*

VIRGIL G. CAME, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your firm?—Answer. I am of the firm of Marlow & Came, of this city.

Q. How long have you resided in Denver?—A. I came here in 1879.

Q. Have you been connected in any way with the Union Pacific Railway Company?—A. Yes, sir.

Q. In what way?—A. I was the general agent of the freight department.

Q. Where were you located?—A. At Denver.

Q. How long were you so employed?—A. I think about two years.

Q. What years?—A. 1881 and 1882, I think.

#### DUTIES OF GENERAL FREIGHT AGENT.

Q. What position did you hold with the company prior to 1881?—A. I came here in 1879 as general agent for the Chicago and Northwestern Railroad. Then the Union Pacific gave me a better position, and more salary, and hired me in 1881, I believe.

Q. What were your duties as general agent?—A. I had charge of the freight business of Colorado. That is of securing business and so on for the company.

Q. What else had you to do than soliciting business?—A. Carrying out instructions as received from the general office at Omaha in regard to freight business.

Q. How often did you report to Omaha?—A. Oftentimes, daily.

Q. Did you make written reports?—A. Yes, sir; generally.

Q. To whom did you report?—A. At first I think it was to Mr. E. P. Vining.

Q. What was the nature of your reports?—A. Just the state of business, and so on, in regard to securing business; and suggestions, and so on, in order to secure business from this point.

#### REMOVAL WITHOUT EXPLANATION.

Q. Why did you leave the company?—A. I was removed.

Q. By whose direction?—A. Thomas L. Kimball's.

Q. Without an explanation?—A. I have never yet received any.

Q. Have you ever asked for any?—A. Yes, sir.

Q. What was the answer?—A. The answer that he always made me was that he did not know, and laid it to some one else, and so on.

Q. Did you ever think it of sufficient importance to inquire why you were removed?—A. I asked Mr. S. H. H. Clark at the Southern Hotel at Saint Louis last winter. He informed me that it was altogether a matter of Mr. Kimball's, and he understood it was a personal matter between him and me.

Q. What was the nature of the personal matter?—A. I made some suggestions here in regard to securing business, and Mr. Kimball rather asked me for doing it and perhaps I was a little stubborn in that direction.

## SUGGESTING EQUAL REBATES AND FACILITIES.

Q. What was the line of your suggestions?—A. There was a good deal of disturbance about Mr. Hill's business here, and Mr. Hill called on me several times and Mr. Walcott, and asked for the same privileges that the Omaha and Grant Smelter had. I told them I was not posted in regard to the rebates, but I would present the matter to Mr. Kimball in person. Mr. Hill said that he was satisfied that the Grant Smelter was getting rebates that he was not receiving. I told him that part I did not know anything about, but I would ask Mr. Kimball; and during our conversation I told Mr. Kimball that I considered Mr. Hill's business here throughout the State of a good deal of value to the Union Pacific Railroad Company, and that I lived here as a citizen and expected to live here for some time to come, and I did not like to get the enmity of these shippers, where they thought that through my influence, perhaps, I could do something. He remarked that I had better attend to my own business and they would attend to Mr. Hill and Mr. Grant. From that on there was a disturbing element, and my rebates that I had paid here on passenger matters were discontinued and on the 1st of January I was removed.

## PASSENGER REBATES.

Q. What rebates did you pay on passengers?—A. I furnished the shippers here with transportation and then refunded the money; bought the tickets and refunded the money.

Q. Who instructed you to do so?—A. Mr. Thomas L. Kimball.

Q. To what extent were the rebates to passengers?—A. The vouchers are all in the Union Pacific office, and I think that the amounts I paid were:

From April 17, 1882, to May 20, 1882.....	\$446 85
May 20, 1882, to June 13, 1882.....	267 00
June 15, 1882, to June 27, 1882.....	206 30
June 27, 1882, to August 16, 1882.....	374 50
August 17, 1882, to September 19, 1882.....	828 55
September 19, 1882, to November 7, 1882.....	997 90
Making a total of.....	3,181 10

## PASSENGER REBATES NOT GENERAL.

Q. Were rebates allowed to all shippers alike as passengers?—A. No, sir. The names appear in each one of my vouchers; each separate ticket and the name of the shipper; and those they have in Omaha.

Q. Do you allow rebates to shippers on freight?—A. That was all done by the office at Omaha, and was settled usually by Mr. Shelby when he would come here on his visits, and it was done through Omaha. I did nothing of that kind here.

## SHIPPERS' ALLOWANCES REGULATED AT OMAHA.

Q. Were you permitted to offer to shippers allowances, as an inducement to ship over the Union Pacific Railway Company?—A. No, sir; that was done at Omaha. I was not instructed to do any thing of that kind. I made suggestions oftentimes as to what would be done, and those things were carried out. But that was usually done at the Omaha office direct.

Q. Were you instructed to, or did you, offer any bonus or any advantages to shippers in order to procure their freight shipments during your term of office?—A. No, I do not know that I did, personally.

Q. Did you do so indirectly?—A. No; I do not know that I did it indirectly. I do not know that I had anything to do with it.

Q. What do you know was done?

The WITNESS. From actual knowledge?

The CHAIRMAN. In any way.

#### REPORTED COMPLAINTS, AND LOST SITUATION.

The WITNESS. There were always complaints coming to me in regard to Mr. Hill and Mr. Walcott, and from different merchants throughout the State, claiming that these shippers, some of them, or some houses, were deriving benefits over others. The small shippers claimed that they could not ship any on account of the large shippers having rebates. That was reported to my office and I reported that fact, of course, to Omaha.

Q. Did you attempt to correct the feeling that existed in the community?—A. Yes, sir.

Q. How?—A. By having it equalized. I thought it was no more than fair that each one should be treated like the other.

Q. Did you succeed in having it equalized?—A. No, sir; I succeeded in losing my situation by attempting it.

#### POLITICS AND LEGISLATION.

Q. During your term of office what part did you take in the political interests in which the Union Pacific Railway was involved?—A. I took none to amount to anything.

Q. What part did you take?—A. Nothing more than to vote at elections usually. That is about all.

Q. Did you vote with reference to the Union Pacific Railway interests?—A. I always like my friends, the people that represent us, and so on. I usually vote the straight Republican ticket. Those are my politics, and I do not know that I have ever scratched the ticket; so that, if they were friends of the Union Pacific, I voted for them; that is about all.

Q. Did you inquire as to whether they were Union Pacific men or whether they were Republicans?—A. I usually inquired whether they were Republicans. I am rather a little particular in that direction.

Q. Did you participate in any primary election for the purpose of procuring the nomination of men in the interests of the Union Pacific Railway Company?—A. I do not know that I ever did. I think I was on a ticket once where we got very badly defeated. I hardly know what interest it was in. I am not much of a politician in that direction.

Q. Have you any knowledge of any agents, employes, or officers of the Union Pacific Railway Company participating in influencing legislation, local or general?—A. No, sir.

Q. Had you any conversation with any of the officers of the Union Pacific Railway Company with reference to the men to be selected for representatives?—A. No, sir; I do not think I ever did.

Q. Did you ever receive any instructions in that direction from the officers or employes of the Union Pacific Railway Company or members of the legislature?—A. No, sir; I do not think I ever

Q. Did you ever have any conversation with Mr. Kimball?—A. I have had a good many conversations with Mr. Kimball, but I do not know that they had any particular bearing on any one particular man.

The CHAIRMAN. State generally, with reference to legislation.

The WITNESS. No, sir; I do not think I ever did.

Q. Did you have a chief clerk, while resident agent here, during your term of office?—A. Yes, sir; I had three.

Q. Who was your chief clerk?—A. My first one was Mr. Potter, who died while in my employ. The next one was Mr. Willard, who was an employé of the company. The third and last one was Mr. J. S. Williams, who now holds the same position with my successor in office.

Q. How long was Mr. Willard with you?—A. He was with me until, perhaps, a few weeks, or may be a month, before I left.

Q. Did he resign?—A. No, sir.

Q. Was he dismissed?—A. Yes, sir.

Q. For what?—A. I was instructed to dismiss him.

Q. By whom?—A. Through Mr. Egbert, who was at that time superintendent of the road. He said that he had instructions from Mr. Kimball that Mr. Willard could not remain in the employ of the company. He came here from Fall River, Mass., I think it was, as our local freight agent at the depot. He was removed. I liked the man very much and considered him a very competent man and put him into my office for a short time until I was ordered to remove him.

Q. Did he give entire satisfaction to you?—A. He did.

Q. What reason was assigned for his dismissal?—A. That Mr. Egbert was not satisfied with him.

Q. Who was Mr. Egbert?—A. He was at that time our division superintendent, with headquarters at this place.

Q. Had he the control of the employment and discharging of men in this division?—A. He had. That is, the employment would be recommended. Mr. Willard, as I always understood, was hired by Mr. S. H. Clark.

Q. Was any other explanation given?—A. There was never any other explanation given to me.

Q. Was there any correspondence with reference to his dismissal?—A. I do not remember. Possibly there might have been a telegram, but I do not remember.

#### REBATES; BY WHOM ORDERED.

Q. By whose authority were the rebates made to shippers between Denver and the Missouri River?—A. By Mr. Kimball.

Q. Did he issue written instructions to you?—A. No, sir; I do not think he did. I do not think I ever received any written instructions. I think he told me. He generally gave orders in person.

#### DENVER PACIFIC AND WESTERN ROAD.

By Commissioner ANDERSON:

Q. Do you know the road known as the Denver Pacific and Western?—A. Yes, sir.

Q. Who were the contractors that built that road?—A. I think Gibbons and Abbott were, perhaps, the contractors.

Q. Did you have any connection with the construction?—A. No, sir.

Q. Do you know the contractors?—A. Yes, sir; I knew them both. *Mr. Gibbons is dead; I think Mr. Abbott is living.*



Q. Do you know that at the termination of their contract there was some dispute as to the amount due them from the Union Pacific Company?—A. No, sir; I do not. I know nothing about it.

Q. Do you know that there was an arbitration to settle the amount?—A. I know there was some kind of an arbitration or lawsuit; I may have received my knowledge from the papers; that is all.

Q. Have you ever stated to any one that arrangements were amicably made between the Union Pacific Company and the contractors, so as to compel the Union Pacific Company to pay two prices for that branch?—A. No, sir.

Q. You never made any such statement?—A. I never made any such statement.

#### INTERFERENCE IN POLITICS NOT TOLERATED.

By Mr. WILLARD TELLER:

Q. How long was Mr. Egbert superintendent while you were in the employment of the company?—A. I think he was all the time.

Q. What are Mr. Egbert's politics?—A. I do not know. I always had an idea that he was a Democrat.

Q. Did not Mr. Egbert always oppose any of the employés of the company taking any part in politics?—A. Yes, sir, he did; that was a fact.

Q. Was not that his policy?—A. Yes, sir. He threatened to remove me once if I interfered at all in any shape, way, or manner with the political moves here. I did not consider that he amounted to anything. I remember at one time Senator Teller wanted to go up over the road, and rather than give him a private car, which the Senator was entitled to from his position, through Mr. Egbert's ugliness I know the Senator had to come down from Leadville on a very cold night with nothing but the common, ordinary coach No. 62. A friend of mine loaned the Senator a blanket to keep him warm; that was through the ugliness of this man Egbert, who permitted this rather than to treat the Senator in a respectable manner. Mr. Egbert was very bitter in regard to political matters.

Q. He was superintendent for how many years?—A. Perhaps for three or four years. I am poor at remembering dates. I do not remember.

Commissioner LITTLER. United States Senator Teller is present and desires to be sworn as a witness.

DENVER, COLO., *Tuesday, July 12, 1887.*

HENRY M. TELLER, being duly sworn and examined, testified as follows:

By Commissioner LITTLER:

Question. What is your name, and where do you reside?—Answer. Henry M. Teller, and I reside at Central City, in the State of Colorado.

Q. What is your profession?—A. I am a lawyer by profession.

Q. Do you hold any official position in this State or under the United States Government?—A. I am a member of the United States

Senate. When were you elected?—A. In January, 1885.

Q. Is this on your second term?—A. I am on my second term. When were you elected?—A. I was elected in 1876, drew the term ending March 4, 1877.

was elected for the full term, and held it until the spring of 1882, and then I resigned to go into the Interior Department as Secretary.

#### ALLEGED RAILROAD POOL TO INFLUENCE SENATORIAL ELECTION.

Commissioner LITTLER. It has been stated before this Commission that in the legislature which elected you to the United States Senate there was a corrupt combination among the railroads of this State, which formed a pool to raise money for the purpose corruptly, not only of influencing legislation supposed to be prejudicial to the interests of railroads, but also for the purpose of controlling unlawfully the election of a United States Senator. I would be glad to have you state all you know in relation to that subject.

#### NO TRUTH IN CHARGE OF RAILROAD INTERFERENCE.

The WITNESS. I will say in general terms that in my judgment there is not a word of truth in that statement. I do not believe that there was ever a dollar put in by any railroad company for the purpose of electing any person Senator, at least as to the successful Senator there certainly was not. So far as I am personally concerned, I had no connection whatever with any railroad company at that time, and I never had passed a word with any person connected with a railroad company in any shape or manner in reference to the Senatorial contest, except with my brother, who is the attorney of the Union Pacific and its subordinate branches here, who was violently opposed to my being a candidate, and who, I think, will testify that he never raised his hand nor exerted the slightest influence towards my election. The Denver and Rio Grande was always understood in this community, among politicians at least, to be in full sympathy with and in support of Mr. Hill. The then receiver, Mr. Jackson, was certainly hostile to me and friendly to Mr. Hill. The Burlington and Missouri I had never had any relations with whatever. I did not know an officer of the road except Mr. Strong. I had not seen Mr. Strong for over a year before this election, and I do not think I have seen him since the election. I have never had a word of conversation, directly or indirectly, with any member of that company concerning the Senatorial election, nor have I any reason to suppose that any friends of mine had ever had any such conversation with any member of the company. I did regard the company, if it exerted any influence at all, which I am not aware that it did, as being hostile to my election. I confounded Mr. Strong, who is an Atchison man, with the Burlington. What I have said of this I will apply to the Burlington. Mr. Strong, I believe, was the Atchison and Santa Fé man. I can say the same of the Atchison and Santa Fé. Mr. Strong, I believe, was the president. I do not know who was the managing man of the Burlington. I do not remember. It was some one whom I did not know. I never had anything to do with the Atchison and Santa Fé people in any way, shape, or manner. I do not believe they ever contributed a dollar towards my election, directly or indirectly, nor do I believe that any other railroad man or railroad corporation did. On the contrary, I should have supposed, if they did anything, they would have done it for my principal opponent, Senator Hill.

#### NO INFLUENCE EXERTED BY UNION PACIFIC.

Q. What, if anything, did the Union Pacific do towards your election?—A. I am not aware that the Union Pacific ever exerted the

slightest influence, or attempted to do so, either at the primaries or anywhere else, and I am quite willing that this Commission shall go into the most exhaustive examination of its agents and attorneys and its president to prove that I never passed a word with any one on the subject, except what I have suggested with reference to my brother. I do not think they ever paid in a dollar, directly or indirectly. If I recollect, Mr. Egbert was then superintendent of the company. He might have been relieved about that time, or possibly a little before. I noticed what Mr. Came said about Mr. Egbert. Mr. Egbert was so violently opposed to the company taking any part in politics that when Mr. Meyers, who was a ticket or freight agent or something, I do not remember what, was nominated by the Republicans here without any interference of mine, and in which I had no interest, except as a Republican, he threatened him with dismissal if he did not withdraw from the ticket. I should have said that he was nominated as an alderman in this city. As I remember, I went to Mr. Egbert in the interest of Mr. Meyers simply and asked him to allow him to run, saying I did not think that a man being an alderman would interfere with his business and did not think it could be considered to be interfering with politics by the railroad company. That is as much as I had to do with Mr. Egbert or any officer of the railroad, I think, with reference to politics.

#### TIME SPENT IN DENVER DURING SESSION.

Q. How long were you in Denver and about the legislature during the session at which you were elected Senator?—A. I came here on Thursday, I think, and was here that week. I got here Thursday afternoon, if I recollect right, and the next week—Saturday of the following week—was the caucus. The election was on Tuesday, and I think I left that night or the following night, I will not be certain which.

#### INCIDENTS OF THE CANVASS.

I would like to speak a little further in reference to this election, since my name has been dragged into it. During the entire contest I had given no attention to the election of any member of the legislature, save two men in the county where I reside—Mr. Newall and Mr. Clark—except that I was asked as to one man, Mr. Green, of Boulder, who was elected to the State senate, if I knew whom he favored for the Senate. I replied that I did not know who Mr. Green favored; that I had the utmost confidence in Mr. Green's integrity and believed that if he voted for any other man for the Senate than myself it would be upon the theory that he was the best man in the field. Aside from that I had nothing to do with the selection or election of members of the legislature. I was then a member of the Cabinet, as Secretary of the Interior, and was here only a short time during the summer. I did not even solicit any person to have any member elected in my interest. In this State we have always selected Senators by the caucus method. The Republicans of both houses have gone into caucus and have selected the Senator and voted for him always, until that session, unanimously. In the caucus which was held Saturday night before the election I had 31 votes and my opponent had 22. Of the 31 votes not a man voted for me that had ever been a pronounced friend of Mr. Hill's. Not a man voted for me that Mr. Hill or any of his friends ought to have expected to have voted for him; not a man, unless they had given private pledges contrary to their public pledges and instructions. Eight men that were *counted on our side and supposed to be for me*, some of them nominated by

my friends in counties where the contest had been made between Mr. Hill and myself, voted for Mr. Hill. I do not say that the eight men voted improperly for Mr. Hill. They changed from me to Mr. Hill or changed from other parties who were opposed to Mr. Hill; but no man who was for Mr. Hill at any time, publicly understood to be for Mr. Hill, voted for me in the caucus.

#### THE CAUCUS NOT CONTROLLING.

After I was nominated in caucus, of course some men who had voted for Mr. Hill, about six of them, voted for me the first day in the legislature. About sixteen, if I recollect right, voted for Mr. Hill in the legislature, contrary to all precedents in Republican management in this State. Heretofore the caucus has decided, and all have dropped in. I think on the second ballot they all voted for me with the exception perhaps of three Republicans. I think three Republicans—two or three—failed to vote for me and voted for somebody else. I am not aware that any money was used improperly by anybody in my election. I am quite willing to expose to this committee or any other a statement of all the money that I expended in this election, which was so trifling that I think nobody would find any fault with it. As to my personal solicitation and that of my friends, of course everybody understood that I came here at the urgent solicitation of Governor Routt. Governor Routt will testify that he urged me to come here. I came also at the solicitation of Mr. Chaffee, who is now dead, and of General Hammill, who was somewhat active in managing the Republican affairs in this State at that time.

#### NO CONFERENCE WITH RAILROAD PEOPLE.

As I say, I came here a week or ten days before the election. During that time I saw nothing of any railroad people and had no connection with them, except Mr. Stevenson, who was a member of the senate from Gunison district, who had been elected, as understood by everybody, to be a supporter of mine, and who was never a friend of Mr. Hill's at any time. Mr. Stevenson received a dispatch that his mother was dangerously ill, if not dying, in Nebraska. He procured a pair with his colleague, Mr. Buckland, in the caucus, who was a friend of Mr. Hill's and an avowed supporter of Mr. Hill's, and, as I understand, the pair extended to the legislature if he did not return in time. Mr. Stevenson did not get the dispatch until it was past the train hour at which he could go; and I joined with Governor Routt and others in asking the Union Pacific people to send him down on an extra. That was my connection with that matter. Whether he returned in six months or six days was perfectly immaterial if Mr. Buckland respected his pair, as I had no doubt he would. Whether there was a pool made for legislation, of course I know nothing. I never had any connection with the legislature in this State. So far as my relations with the railroad company were concerned, I avowed then to a number of gentlemen—and there was no secret about it—that I was in favor of State legislation to control railroads in the State. I have been in favor of that, and I have been avowedly so. The Republicans in my county have always been in favor of it.

#### FAVORED STATE CONTROL OF RAILROADS.

*Q. You were in favor of State legislation looking to the control of railroads?—A. Looking to the control of railroads as far as the State had*



right to control them. So if, as was stated by Senator Hill, it was the intention of the railroad company to elect somebody favorable to them, his remark could not have been in reference to that.

#### FAVORED DEBT ADJUSTMENT.

I was favorable, of course, to the adjustment in some proper manner of their difficulties with the General Government. I had, as Secretary of the Interior, indorsed some general scheme by which there would be a settlement, by which they would be enabled to pay their debt at some time. It appeared to me that otherwise there was a probability that the Government would be compelled to take their road off their hands. I have not yet reached that high condition of statesmanship that induces me to believe that it is the business of the General Government to run railroads. I have failed to find the constitutional authority for that. Perhaps that is owing to my early defective education.

#### OPPOSED TO GOVERNMENT CONTROL OF RAILROADS.

I should regret most exceedingly to see the Government of the United States take a railroad with the purpose of running it. If it should run one railroad it must run them all. The thing is impracticable, and contrary to the proper idea of the Government, in my judgment; and therefore I favored, as Secretary of the Interior, a proper adjustment of this conflict; just such an adjustment as I have no doubt this Commission will recommend, in some shape, when they get through. I understand the purpose of its creation was to give to the Senate and House light on this subject as to what would be the proper adjustment between the Government and the company.

#### CHARGES OF IMPROPER USE OF MONEY.

Q. Is it not true that the charges of improper use of money were made at about the time this election took place, and that they were made in such a pointed manner as to induce the legislature to appoint a committee to investigate the truth of those charges?—A. I left here, as I said, immediately after the election; and I think two or three days afterwards ex-Senator Hill left.

The Chicago Times contained what purported to be an interview with Senator Hill, in which he charged that the Union Pacific Company had used corrupt means to defeat him. I learned this only from the public journals of the day, and in the mean time I had gone to Washington. When it reached here, Mr. Adam Burke, who had voted for Mr. Hill in caucus, and had been a friend of his, and who declined to put himself in the attitude of a bolter and go against the majority of the caucus, moved an inquiry. He was a member of the house.

#### INVESTIGATION AS TO CHARGE OF CORRUPT USE OF MONEY.

He moved an inquiry into the charges, reciting in the resolution, as I recollect it, that these charges had been made, and asked for a committee. The committee was appointed. It went through the house, I think I may say without opposition, as I recollect it, and when it went to the senate it was amended by making it a joint committee of the two houses—the senate and the house.

A telegram was sent to me, not in the nature of a subpoena, asking *my attendance, to which I replied that I would attend at any day that*



the committee would indicate, but saying that we were in executive session at an extra session, and I would like to remain as long as I could. The committee replied that they would give me notice when it was necessary for me to leave Washington. It was apparent that the United States Senate would adjourn before the Colorado legislature would.

Senator Hill came to Denver after some time and came before the committee. I believe he was served with a similar notice, and also with a subpoena after he came here. He first wrote a letter which, if you will subpoena the secretary of the state, Mr. Rice, you will undoubtedly find on the files of the State government here.

#### SECRETARY OF STATE HAS LETTER AND PAPERS.

If you will allow me to digress a little, I will say that I was not aware that this Commission was coming here, and I was out of town when they did come here. I was attending to some business in Pueblo, and I came here as soon as I saw the papers this morning, and knew you were here, and what your purpose was, and what Mr. Hill had said. I was going to say that I went to the secretary of state after I came here, and asked him to hunt up those papers, and I have no doubt that he will have them at your command if you will call for them.

#### SUBSTANCE OF LETTER OF SENATOR HILL.

Q. What are those papers?—A. A letter that Mr. Hill wrote to the committee. I do not remember who was chairman of the committee. That is a matter that can be proved readily, however. He wrote, denying that he had ever given this interview to the Times correspondent, or paper, himself, and saying that he knew nothing of any corruption, or that was the substance of it, and that he supposed the committee would not need his services before it. I understand that the committee thereupon notified him that they would require his attendance, and he attended; that he was put under oath, and that he not only disclaimed at that time having made the charges, but he disclaimed any knowledge of any corruption or any improper methods whatever in the Senatorial election.

#### CHARGES DENIED: NOTIFIED NOT TO APPEAR.

Q. Is that testimony reduced to writing?—A. I suppose so. I never inquired. The chairman of the committee, who, I think, was Mr. Carpenter, but I am not certain, notified me at once that, the charges not being made and the Senator having denied them, I need not appear before the committee. So I did not come. I understand the committee reported and were discharged.

#### PERSONNEL OF COMMITTEE.

Q. Are you personally acquainted with the members of the committee appointed to make that investigation?—A. It would be difficult for me to name them, except that Mr. Burke was one, I think; I think Mr. M. B. Carpenter was another, and I think Mr. Freeman was another.

Q. What are their characters so far as you know?—A. So far as I remember them, they would compare favorably with the gentlemen who criticised them before this Commission, in every respect, for truth and honesty.

Were they such men as would favor the suppression of so important and grave a matter as was charged?—A. They would not, in my judgment; not a single member of that committee would do so.

#### NO AGENCY IN SELECTION OF COMMITTEE.

Had you anything to do with the selection of that committee, directly or indirectly?—A. Not any more than you or the chairman of the Commission; not a particle. I did not know who they were. I never communicated with any person on that subject.

To your knowledge had any of your intimate friends anything to do with suggesting or selecting that committee?—A. Not to my knowledge. I will say that I never had any communication with them except to simply say to them that I would be at their command here whenever they thought it necessary that I should come, feeling that I ought to remain during the extra session of the Senate, if I could, without waiting until the legislature adjourned.

#### IGNORANCY OF ALLEGED CORRUPTION FUND.

Recurring to this corruption fund, which was supposed to have been raised in the interest of railroads, and which was raised for the purpose of controlling legislation, what, if anything, do you know about a fund having been raised by anybody?—A. I never heard of it, and I knew nothing about it. I do not know, of course, but it might have been a fund raised. I know nothing about the proceedings before the legislature, and I have not been present in Colorado session of the legislature in ten years, except for the short time I mentioned. It was eleven years ago in 1875.

#### POLITICAL METHODS IN COLORADO AS PURE AS ELSEWHERE.

Can you give the Commission any further information on any subject which they are charged to investigate?—A. I can only give this: I can say that I have been engaged in the politics of this country since I came here, twenty-six years ago; that I think our methods, as a gentleman, have been quite as pure and as proper as in other regions; I never heard of any charges of corruption until 1878, when Sena-Hill was elected. That was the first I ever heard of anything of that kind. Since that there have been more or less of charges of that kind, of course, going about. I have no personal knowledge of those charges myself. I have no knowledge that any railroad company has been engaged in politics in this State.

#### INSTANCE OF INTERFERENCE BY RAILROAD PEOPLE.

The only time that I think I could properly say the Union Pacific was engaged in anything of this kind is this: I was credibly informed that in 1882 some officers of the road exerted themselves to defeat Mr. Tedman in the county of Laramie, who was a candidate for the State Senate and a special friend of mine. I suppose his attempted defeat was because he was a friend of mine. They attempted to defeat him by assisting the Democratic member. Mr. Tedman was elected and I was elected for me in the Senate, and it was understood when he was running that he was a friend of mine, and under all circumstances would vote for me. I heard from good authority that some of the railroad people

up there took some interest in attempting to defeat him. He was elected, however. I will say that is the only time I have reason to suppose the railroad company did anything in that line. I certainly have never asked them to support me in any shape or manner, and I am not aware that they ever did. I have never been indebted to them for a favor of that kind, nor any other that I know of, except it might be occasionally by way of transportation.

#### COST OF SENATORIAL CAMPAIGN.

Commissioner LITTLER. I will get you to state, if it is not an embarrassing question, just how much your campaign did cost you.

The WITNESS. I will state exactly what it did cost me. I contributed, in the county where I lived, to the committee \$500. It was very much less than I had contributed when I was not a candidate to any office whatever. I gave nothing to the State committee or any other committee that I recollect of now. I paid my hotel bill at this hotel, which was \$261.10. That is the sum total of my expenses, save and except the expenses of coming from Washington to Denver and returning to Washington.

#### FINANCIAL STATUS OF COMPETITORS.

Q. I will ask you to state what the financial resources of the respective candidates for the United States Senate are who were candidates against you at the time you were elected, as compared with your own resources.—A. I believe they were all moneyed men, except myself. I am not a moneyed man in any sense of the term. I would like to say that the money I contributed in my county I contributed through the committee. I had nothing to do with its expenditure. It was the Republican committee that expended it. The contribution was after the candidates were nominated.

#### ORIGINALLY ONE OF THE PROMOTERS OF COLORADO CENTRAL.

Q. When were you first employed by the Union Pacific Railroad Company?—A. I was originally one of the promoters, with Mr. Loveland, of the Colorado Central Railroad Company. I drew its charter originally, and took it to the legislature, and, with the assistance of Mr. Loveland and some other gentlemen, secured its passage. I was one of the organizers, with Mr. Loveland and several other gentlemen, of the company. After we had organized and made some effort to raise the money, failing to raise the money ourselves, we induced the Union Pacific people—not the road itself, but Mr. Ames and some others—to put some money in to build it up to Golden City first. That was built—I do not remember just when, but Mr. Loveland, I think, gave the dates. I have not a very clear recollection of the time at which it was built. Subsequently they extended the line to Central City, and subsequently to Georgetown. For, I think, about five years I was president of that corporation. It was more nominal than real, they having the directors in their interest, and I having very little to do with the railroad management or its concerns, except to attend to such law business as the company might have. I acted nominally as president, except during the panic of 1873, when I discharged the duties perhaps both of president and treasurer. The company being then in some financial stress here, I was left to look after it, and there being a large floating debt, I attempted to and did carry it through successfully. I continued nominally president of the com-



pany until the spring of 1876. At that time Mr. Loveland was elected to succeed me. I was not present at the election, and while I did not suppose Mr. Loveland would succeed me, it was understood that somebody else would. Then I had no connection with them except to do some occasional law business for them in this State. The firm of which I was a member for some time, with my brother, Mr. Orahood, did their business for some time; and in the spring of 1882, before going into the Cabinet, I went out of the firm of Teller & Orahood. Since that time I have had no connection with them in any shape or manner.

#### ATTORNEYS, THEIR FEES, &C.

Q. How were you employed as attorney, by salary or fees?—A. I think for a couple of years we had a salary. I am not certain about that. It was a small salary. I wrote a letter, I remember, in the summer of 1881, in which I asked them to select some attorneys, saying we did not care about doing their business any longer. I should have gone out of their employment whether I had gone into the Cabinet or not. This letter was not sent because the junior member of our firm thought it was best not to send it just then, and I turned the letter over to him. He held it. I went to Washington. I then left the firm, and since that I have not had anything to do with the firm or the Union Pacific.

Q. What was the salary paid?—A. I think for the most of the time they paid by the case. We charged them so much by the case as we tried it, as lawyers do, and I think then they made the salary \$9,000 a year, although I am not certain whether it was \$9,000 or \$8,000. That was the total salary.

Q. Does the firm of your brother and the gentleman you have named still represent the company?—A. Mr. Teller and Mr. Orahood still represent the company, and, I think, probably at the same salary. I think I have been told that their salary is the same. It is an exceedingly small salary for the amount of work.

Q. What business does the firm control as applying to this section?—A. I could not say as to that. I suppose they do all the local business that comes here. They attend to all the controversies in the courts.

Q. Did your relations with the firm cease when you went into the Cabinet?—A. They ceased absolutely. I had no more connection with the firm than you have.

#### NO COMPENSATION FROM UNION PACIFIC SINCE 1882.

Q. Have you, since 1882, in March, received any fee or compensation from the Union Pacific Railway Company?—A. Not a cent, directly or indirectly, and never received a cent from them that did not go on our books, and they are at your disposal to-day, if you choose to look at them. I never did any business for them except purely in the capacity of a lawyer, and except as the president of the road which they ultimately become the owner of, and my connection with that ceased long before I went into politics. While I was president of that road they paid me \$2,500 a year for a portion of the time.

Q. How did the Union Pacific Railway Company secure control of the Colorado Central?—A. I do not know how they secured the control of it. I suppose by buying the stock, in some way, of these parties. They had no control as a company while I was connected with it. It was Mr. Ames, Mr. Dillon, Mr. Duff, and people connected with them, that had control of the road.

## TRANSFER OF COLORADO CENTRAL TO UNION PACIFIC.

Q. Were you brought into consultation as president at the time of the transfer of the road to the Union Pacific Company?—A. Oh, no; the transfer, if it ever took place, took place after I ceased to be president.

Q. Who succeeded you as president?—A. Mr. Loveland; and he ran the road for a year, if I recollect right, in hostile attitude to the Union Pacific. At that time they did not have control of the road. What arrangements were made subsequently I never knew. I had nothing to do with it. I was not consulted about it.

Q. Were you interested in the road during Mr. Loveland's presidency?—A. I had a \$1,000 worth of stock—that was all I had.

Q. Were you connected with the board of directors of the Colorado Central Company?—A. Not after I left the presidency, I think.

Q. After the presidency were you?—A. Never afterwards; never after 1876; never after the spring of 1876; I should say June, but I may be mistaken; it may have been May. But it was the spring of 1876, any way.

## NO IMPROPER USE OF COLORADO CENTRAL FUNDS.

Q. Had you any knowledge during your administration, or subsequently, of improper use of the funds of the Colorado Central?

The WITNESS. While I was connected with it?

The CHAIRMAN. Yes.

A. There never was any improper use of the funds, in my judgment—while I was president of it.

Q. Or at any other time?—A. I cannot say since. Of course I have had no more knowledge of the Colorado Central than you have, except that I ride over it. I even pay my fare over it.

## LEASE OF COLORADO CENTRAL.

Q. Is there any rumor or discussion incident to the lease of the Colorado Central to the Union Pacific, as to the methods by which the Union Pacific Railway Company obtained control of the Colorado Central?—A. I do not think the Colorado Central was ever leased to the Union Pacific. If it was it was after my connection with the road, and I know nothing about it. There was an attempt to lease it to the Kansas Pacific, as I understand, and that was what called out the hostile attitude on the part of Mr. Loveland and his friends. They were opposed to its being leased to the Kansas Pacific, and therefore they attended the meeting, and took advantage of the fact that there was some irregularity in some of the stockholders' proceedings, Mr. Loveland and his associates not having, as I understood at that time, the full control of the stock itself. There being some technical objection to some stockholders voting on a proxy, they obtained control of the road, and then repudiated the lease to the Kansas Pacific. But of that I had no personal knowledge, never having attended the meeting. I received a notice after that, as president of the road, that my connection as attorney had ceased, although I never had been appointed attorney. I had acted as attorney.

## GOULD ANXIOUS TO OBTAIN POSSESSION.

Q. Was Mr. Gould active in obtaining possession of the Colorado Central?

The WITNESS. How do you mean?



The CHAIRMAN. In securing control of it by the control of Mr. Loveland's interests.

A. I think he was, but I do not know how that was done. Mr. Gould was at that time, as I recollect, a large factor in the Union Pacific road, but how it was done I have no knowledge. I never was present at any conference between Mr. Gould and Mr. Loveland about it, and I know nothing about it.

The CHAIRMAN. We are very much obliged to you, unless you have some other suggestion to make.

The WITNESS. If you have anything further to ask, or the Commission happens to think of anything they desire, I will return again. I would be obliged if the Commission would call Mr. Rice, whom I have suggested, and get the papers on file.

H. M. TELLER.

DENVER, COLO., Tuesday, July 12, 1887.

JOHN EVANS, being duly sworn, testified as follows :

By Commissioner ANDERSON :

Question. Where do you reside ?—Answer. In Denver.

Q. How many years have you resided here ?—A. Twenty-five years, the 18th of last May.

Q. What has been your chief occupation ?—A. For about four years I was governor of the Territory. Subsequently I went to Washington as Senator-elect, and tried to get the State admitted ; and while there I was elected president of the Denver Pacific Railroad Company.

#### DENVER, SOUTH PARK AND PACIFIC.

Q. In what year was that ?—A. I think it was in 1867. I will not be certain, but it was in the spring of 1867, I believe. Yes, sir ; it was.

Q. And since that time what have you done ?—A. I have been mostly engaged in railroad building.

Q. And also in the management of railroads and railroad business ?—A. I know something of it ; yes, sir.

Q. Were you constantly connected with the South Park enterprise, from its inception until 1880, or 1881 ?—A. I was.

Q. So that you are very familiar with it in all its details ?—A. Up to that time.

#### HISTORY OF THE ENTERPRISE.

Q. To shorten matters, I will just repeat, for the information of the other members of the Commission, what Mr. Charles Wheeler, the secretary of the company, has explained this morning, and of which we have minutes. He says that the enterprise was commenced known as the Denver Railway Association ; that the under a contract for so many bonds per mile and a mile, the amount in that contract being, as I remember, and the provision being that on the total whole amount of the stock, \$3,500,000, should be constructed about sixteen miles, when they were succeeded by a corporation known as the Enterprise Company ; that that company entered into substantially a similar contract. The line was from Junction, with a short branch

grading to the south of the junction; that that company then became embarrassed and was succeeded by the San Juan Company, which did but little work, being unable to raise the funds that were necessary, and that the San Juan Company in November, 1877, was succeeded by the Denver and South Park Construction and Land Company; the last named company continued the construction under a contract providing for the payment, to wit, of \$12,000 in bonds per mile, and for an issue of stock of \$20,000 per mile, being so arranged as to call for the entire issue of the stock when the road contemplated should be completed, and that they built from the point where the San Juan Company left off, which was about at Buffalo Creek, substantially the balance remaining, until 150 miles of the road was completed, carrying the road from Denver to Buena Vista. Mr. Wheeler states that the last-named company made an arrangement with the stockholders in the prior company, by which they were credited in ledger account with such interests as were represented by their actual subscriptions in money, and that the Construction and Land Company received or held for their account and on account of its own stockholders all of the bonds issued under the first mortgage on the 150 miles and all of the stock; so that, at the time the bond was completed, they held \$1,800,000 of the bonds, and \$3,500,000 of the stock; and that this completion occurred in the spring and summer of 1879. Is that substantially correct?—A. I think generally it is. Mr. Wheeler ought to know better, because he has looked over the books, than I would know without looking over them.

#### HOW CONSTRUCTED BETWEEN BUENA VISTA AND LEADVILLE.

Q. I would ask you first to state how the portion of the railroad between Buena Vista and Leadville was constructed?—A. That was constructed under a contract between the Denver, South Park and Pacific Railroad Company and the Denver and Rio Grande Railway Company, by which the Denver and Rio Grande agreed to build the road and to give the use of it in perpetuity to the South Park road, the South Park road to have equal rights on it, with the Rio Grande to pay 8 per cent. per annum interest on half the cost—the actual cash cost—of building it.

Q. Did the Denver and Rio Grande reach Buena Vista before the Denver and South Park?—A. No; the Denver and South Park reached there first, but there had been a great deal of work done by the Denver and Rio Grande and the Atchison and Topeka, who had a contest with them, between Buena Vista and Leadville previously.

Q. Was this contract to construct this piece from Buena Vista to Leadville entered into before the transfer of your stock, or of the stock held by yourself and your associates, to Mr. Gould?—A. Oh, yes, sir; long before. That was made before the Denver and Rio Grande reached Buena Vista. Then it was probably a year or more after that that we ran the road over that track to Leadville, doing business as under the contract.

Q. You had been doing business to Leadville before the transfer to Mr. Gould?—A. Yes, sir.

Q. Please state how valuable an asset you considered this traffic contract.

The WITNESS. That is, simply to give my judgment?

#### JOINT TRACKAGE CONTRACT.

Commissioner ANDERSON. State how far you considered it an essential portion of the Denver and South Park?—A. The other portion of

the joint trackage contract was that the Denver and South Park and the Denver and Rio Grande Companies should equally divide the business which ran over this joint track, and which was acquired at Buena Vista, the point of junction. It provided that they should divide equally all the business that ran over it, both to Pueblo and to Denver. That contract was, like the other, perpetual; but that was subject to an annual revision as to the percentages.

Q. The percentage to be allowed for operating, do you mean?—A. No; they were to have 40 per cent. of the operating expenses.

Q. Forty per cent. was to be taken out first for operating?—A. By the one that did the business.

Q. And then the balance was to be divided equally?—A. The balance was to be divided equally for the first year, and if either party wanted a readjustment it was to be decided by arbitration what would be equitable. It was to be an equitable division of the business.

Q. Based on the business actually done by each company, or based on what?—A. Based on the business that came from the road. I do not recollect the precise terms of the contract. I have not seen it for a great many years. But it was what they call a pooling contract. All the business that went to competing points was to be divided, at first equally, but subsequently it might be changed if it was found to be equitable to change the division or the percentage. That contract also had an arrangement by which the South Park had a right to run on all the extensions that the Rio Grande made from Leadville, and the Rio Grande had a right to run on the tracks that the South Park should build into the Gunnison country. So far as running on the Gunnison track that was built by the South Park road was concerned, that road was occupied and enjoyed by the Rio Grande at the time that the stock was sold.

#### ADVANTAGES, AND HOW FAR THEY WERE ESSENTIAL.

Q. Please state what all the advantages that you have referred to being the common right of trackage between Buena Vista and Leadville, the pooling agreement as to business from competing points, and the right of common trackage in extensions) were worth, and how far they formed an essential part of the value of the Denver and South Park road?—A. I should regard it as forming really the key to the principal part of its business.

Q. Mr. Wheeler has explained that during the year ending December, 1880, it appears that the company earned a gross amount of over \$500,000, and that after deducting the operating expenses and the interest on the outstanding bonds, there was a sufficient balance left, for the period of six months, to pay a 5 per cent. dividend on the stock. Do you remember that those were substantially the facts at that time?—A. That is according to my recollection. I have not looked to see the precise figures.

Q. Will you please explain to the Commission how South Park stock was held at this time, exclusive of

Mr. Gould had acquired as a holder of stock in

any?—A. It was held by Mr. J. Sidney Brown under a contract between the stockholders, and their interests individually, but would do

Q. What amount did Mr. Brown hold in it?

Nothing over \$2,500,000, I think.

Q. When were your negotiations had with

## NEGOTIATIONS FOR SALE OF TRUST STOCK.

The WITNESS. Do you refer to the negotiations through which the Denver parties sold their stock?

Commissioner ANDERSON. Yes.

The WITNESS. The trade was consummated, I think, in November, 1879.

Q. Was it 1879 or 1880?—A. In 1879.

Q. Had you previously had any intimation or suggestion from other parties as to the purchase of the stock?—A. We had.

Q. Who in particular?—A. The parties owning and controlling the Denver and Rio Grande Company.

Q. Will you state generally what occurred about it?—A. After we had been running to Leadville on the joint track for some time, and were extending into Gunnison, the Denver and Rio Grande also commenced extending into Gunnison, which the Denver and South Park people thought was not in good faith, because they had agreed to go to Gunnison and to the Gunnison Valley, in this contract for joint trackage, over our track, over the South Park's track. But on examining the papers, Messrs. Evarts, Southmayd & Choate said there was nothing in the paper to prevent them from building an independent line, if they desired it. So they went on and built it, and got to Gunnison before the South Park road reached there. The South Park was in the process of constructing the line to Gunnison when the sale of stock to Gould was made, and the management of it was turned over.

Q. The question is, what negotiations, if any, took place between you and other parties before your arrangement with Mr. Gould?—A. The discussion or the conflicts between the South Park and Rio Grande led to an effort for an arrangement by which they should work in harmony. An opposition was made. I do not know who originated it, but it passed between the South Park and Rio Grande for a purchase of this stock of the parties who lived in Denver. That is to say, a purchase of the control of the South Park road by the parties that owned the Rio Grande Company.

## SUBSEQUENT NEGOTIATIONS.

Q. Did you go to New York in reference to that negotiation?—A. Yes, sir, in regard to a subsequent negotiation. This proposition to purchase was terminated in this way: In the purchase of a quarter interest from the Denver parties in the construction company Mr. Gould had received an obligation from them not to sell without giving him an offer of their stock at as low a rate as they could get from other parties. This General Palmer, who was at the head of the Rio Grande at the time, said would prevent him from making a trade for the stock, because if he had made a trade and these facts were submitted to Mr. Gould, it would end in nothing, for Mr. Gould would take the stock, and therefore it was not worth while for him to carry that negotiation any further. But subsequently I went to New York, and in conversation with Mr. Gould and General Palmer, in Mr. Gould's office, he urged that we consolidate the Denver and South Park and the Denver and Rio Grande roads, as a matter of great interest to both companies, and after we all agreed that that would be a good thing to do, he left the city and went West. Messrs. Evarts, Southmayd & Choate, or one of the partners, representing the Rio Grande, and I, representing the South Park Company, commenced a negotiation for a consolidation. We carried that negotiation forward until we had agreed upon



every point except one. They were to pay the South Park Company the stock of the Rio Grande Company, dollar for dollar, for its stock. Then they were to carry out certain extensions which had already been commenced, and they were to pay \$700,000 in cash in nine months. That was all drawn up by the attorneys of General Palmer, Messrs. Evarts, Southmayd & Choate; and the question was as to the security for the \$700,000. That security I thought was not sufficient, simply by having the company's note, without any mortgage or any hypothecation, and Messrs. Woerishoeffer & Co. proposed, as they were in the negotiation, to guarantee it. I asked if that would make it bankable paper, and on inquiry I found that I could not discount that kind of paper in New York. Said I, "I do not want to take anything unless I can sell it, because my parties, if they part with the property, want the consideration for it." Woerishoeffer's partner, Mr. Somerhoff, thought this was very rigid and exacting on my part. He thought that they were perfectly good, which I was ready to admit; but at the same time it did not make the paper bankable. Said I, "I will leave this question," as I had to return to Colorado, "so that Mr. Gould and you may settle it when he comes home."

#### PROPOSITION TO EXCHANGE OR TRANSFER.

Q. Mr. Gould being interested with you?—A. Being interested in the construction company, and owning a part of the stock that was proposed to be exchanged or transferred. I told them that if he said that would be good security it would be satisfactory to us of Denver, and if he did not, that they could fix it so that it would be satisfactory to him, and the trade would be closed. On those terms I came back to Denver. When I got home, after Mr. Gould returned, I had a dispatch from him, or two or three dispatches, which I have in my pocket to refresh my memory as to the precise nature of the transaction.

Commissioner ANDERSON. You may as well read them as a part of your story.

The WITNESS. If that is desired I will do so.

Commissioner ANDERSON. That is the better way.

The WITNESS. Mr. Wheeler handed them to me just before I came here and said they would probably be wanted. I brought them along. I have given you a statement of the negotiation up to the present time. I will say that our people, in changing from the negotiation that I had with the Rio Grande, were satisfied that they got less for the road than they would if they had closed the trade in the exchange of stock. The stock went up above par pretty soon afterwards, and they would have got all that they got for the road from Mr. Gould, and they would have got the \$700,000 more for the road than they did get. So that they made a bad trade by not carrying out the contract with the Rio Grande Company.

#### TELEGRAPHIC CORRESPONDENCE WITH JAY GOULD.

Mr. Gould got home on the 4th of November, 1880, and he telegraphed:

Have thought it wise to do nothing further in regard to proposal until I see you.  
JAY GOULD.

The next day, November 5, he sent the following dispatch:

The proposed contract is too complicated. Suppose, in lieu of everything, we make a cash sale at 90 up, and you remain as president?

JAY GOULD.

DENVER, November 5, 1880.

JAY GOULD, Esq.,  
80 Broadway, New York:

If we sell out for cash, why should I be president afterwards? Have we such an offer as you suggest?

That was my answer to Mr. Gould. This is another dispatch:

NEW YORK, November 6, 1880.

Hon. JOHN EVANS:

I thought you might like to remain as president and be identified with Union Pacific. I have no direct cash offer, but I could have one if I was authorized to negotiate at the price named.

JAY GOULD.

My answer to that is this:

DENVER, November 8, 1880.

JAY GOULD, Esq.,  
New York City, N. Y.:

Our folks think the trade for Rio Grande stock and bonds (that is, the trade I told you we had pending at this time) better than 90, because the stock may appreciate. They decided not to take less than par from Palmer when he wanted a cash price. We told him his offer of par would be subject to your option, for which reason he said his parties declined to make it, for fear you would take the stock. I think I could get a cash par offer accepted at once. I would like the Union Pacific association if in a position where I could be of service.

JOHN EVANS.

NEW YORK, November 8, 1880.

Hon. JOHN EVANS:

Make me a cash offer. Answer quick, as Mr. Ames and other directors are in this city now.

JAY GOULD.

DENVER, COL., November 9, 1880.

JAY GOULD, Esq.,  
80 Broadway, New York:

We will take par cash for our railroad stock.

JOHN EVANS

NEW YORK, November 9 1880.

To JOHN EVANS:

Your offer is accepted.

JAY GOULD.

#### AUTHORIZED TO SELL STOCK.

I went on, by the authority of Mr. Brown, who was then trustee, and who authorized me to act for him. He said: "You are hereby authorized to sell the stock I have transferred to your order at not less than par for cash, and deposit the proceeds in the First National Bank of New York to the credit of the City National Bank of Denver, for the use of J. S. Brown, trustee." All of which was carried out according to orders. I assigned the stock to Mr. Gould, and Mr. Gould gave me his checks for the money.

Q. Have you a memorandum for the amounts?—A. I do not know whether I have or not, but I find in this paper a memorandum, which I think is in his chief clerk's handwriting.

#### MEMORANDUM OF CHECKS RECEIVED.

John Evans:

One check for .....	\$249,800
One for .....	22,500
One check for .....	19,200
One check for .....	2,299,200
Footed up .....	2,590,700

not know by what authority or how that memorandum came folded here; but then that is, according to my recollection, about the amount that was paid for the Denver ownership of the stock—that is, the stock that belonged to the Denver pool.

Do you know in whose handwriting the words "Dillon & Ames" at the foot of that memorandum?—A. No, I do not. You saw the memorandum, or of course I would not have brought it here. You asked me to bring this paper and some others when I was in the city, which I have done. These words, "Dillon, F. Ames," I have no recollection of. It looks more like my own handwriting than any other I know of.

The stock was then transferred and that transaction was closed?—Right then and there.

#### THE STOCK DELIVERED.

Did the stock that you delivered embrace all the stock of the company substantially except what Mr. Gould himself owned?—A. Except what was in Mr. Gould's hands, and an option on \$100,000, which we had given to Winslow, Lanier & Co., and they preferred to take the stock rather than to take the money that they had agreed to take; in other words, they paid in, I think it was, \$60,000 for \$100,000 stock. There was a little dispute between them and Mr. Gould at the value of a small part of the stock. Mr. Gould and Mr. Sage had at that time a large amount of stock, which had been acquired by the Kansas Pacific Railroad Company through its assistance in the early days of the South Park enterprise. In fact, when it was first organized and started they subscribed, in the name of John D. Perry, who was president, \$30,000, to be paid in freights. They did pay it in freights at what we considered a fair and a low rate, which they gave in account of our association with them. They expected that the stock would come here up into the South Park and be a good feeder to the Kansas Pacific road, as it would have been.

#### "STUCK" FOR THE WANT OF MONEY.

For that they got \$300,000 stock?—A. I think it was about \$1,000,000. The construction company "stuck," as the saying is, for the want of money, in the Platte cañon, and they reorganized, so as to raise the money, and allotted the stock of the new company, to be paid for cash, to the old subscribers. It was simply a concentration of their efforts in raising the money to get through the cañon, where they were stuck business. That stock of the new construction company represented the whole property. It assumed the debts of the old company and took its property. That was the stock basis. It was \$130,000. It was the basis on which the distribution was made. Each stockholder that had been in the enterprise from the beginning held his interest, unless he sold it, and got his share of all the profits that were made from that last effort to get through the cañon.

#### RAILROAD STOCK AS A DIVIDEND.

The holders of the construction stock got railroad stock as a sort of dividend, did they?—A. The holders of construction stock got railroad stock and bonds for the money they had put in as a kind of dividend, as you say. This \$30,000 entitled them to \$12,000 on the reorganization.



tion, which was, after some bickering among themselves, finally assigned to Jay Gould and Mr. Sage, as was also the other stock of the Kansas Pacific Company; and through their interest in our pool here—that is the pool that had the money and received the stock—Mr. Gould himself purchased from each of our proprietors here, each of our individual stockholders, one-fourth of their interest, giving them \$2 for every dollar they had paid in for that quarter interest.

Q. That was some time before?—A. Oh, that was a good while before this sale took place. Now, Mr. Gould and Mr. Sage, for the Kansas Pacific Company and for themselves, owned all the rest of the stock except what I assigned to them, except what Messrs. Winslow, Lanier & Co. took on their option.

Q. Did you remain president of the Denver and South Park after the transfer?—A. At their request.

Q. Was it for the purpose of facilitating the change?—A. The transfer, and, as they said, to look after their interest for them a little in the connection.

#### IMPETUS TO THE VALUES OF STOCK.

Q. What was the principal feature of the business that had given this peculiar impetus to the values of the stock and bonds of the road?—A. The Leadville business was the principal feature.

Q. The transportation alone?—A. The transportation of goods, wares and merchandise up.

Q. Or out?—A. They had to haul the feed, and grain, and hay, and all the supplies that go to a mining camp, as well as coke, to go into the camp, and bullion and ores to come out. That was the principal business, together with a large lumber business along the line of the road, and a coal business of their own at Como, in the South Park which we reached about half way to Leadville. It was a very fine coal mine. The best coal, I think, I ever saw anywhere was derived from that mine; that is, bituminous coal. Those were some of the sources of business. We carried horses and we carried cattle and everything that came along there, along the line of the road and from the ends of the road, from Leadville and from Denver.

#### CHANGE IN MANNER OF CONDUCTING BUSINESS.

Q. Did any change in the policy or manner of conducting the business of this corporation occur immediately after the transfer of the stock?—A. There did.

Q. Please explain what the nature of that change was?—A. The management of the company was transferred from Denver. Our board of directors were good business men here, and they looked after its interest, while we were managing it, at every point, and we made it pay very largely. We put a great deal of money that we earned, as well as the money that came from the stock, into extending it. The books and papers were transferred from Denver to Omaha immediately upon the transfer of the stock by an order from New York, and they commenced to run the road, managing it from Omaha, evidently not knowing very much about the peculiarities and difficulties that we have to contend with in holding and securing business.

#### CHANGE IN THE GENERAL MANAGEMENT OF THE ROAD.

Q. What change was made as to the general manager of the road?—A. It was put subject to the direction of the Union Pacific officers.

Q. What was the name of the person who took the direction after that date?—A. I think it was——

Q. Was it Mr. Vining?—A. He was the traffic manager or freight agent.

Q. What steps did he take in regard to rates that had any effect upon the business of that road?—A. I infer from that question that my best answer would be to read the letter you requested me to bring with me.

Commissioner ANDERSON. Two letters, I believe. You may read them both.

The WITNESS. Those letters close out my management.

Commissioner ANDERSON. They close out your relations with the road.

The WITNESS. That is to say, my effort at managing. I think I continued president some little time afterwards. The annual election came soon after this correspondence, however. I telegraphed to T. L. Kimball, assistant general manager, Omaha, Nebr. I think Mr. Clark was in California, on account of his health. He was actual general manager, and Kimball was assistant general manager. This letter is dated the 6th of January, 1881.

#### DISASTROUS EFFECT OF NEW POLICY.

The witness then read from his letter-press book as follows:

Being informed you had gone to New York, I telegraphed Mr. Dillon regarding the suspension of our local business. He replies he has forwarded it to you. The rules about car-load rates are turning all through business over the Denver and Rio Grande, and the new local rates have literally suspended business along the line. Many of our best customers will be bankrupted by it, and the road left without traffic, unless changed at once. Orders to agents not to ship without prepayment of freights, issued from Omaha to-day, don't touch the case. Unless a change is made soon the business will be ruined, and the road will not pay operating expenses.

JOHN EVANS,

*President.*

#### POLICY AND MANAGEMENT DICTATED BY GOULD.

On January 7 I wrote to Mr. Gould, who was then the principal proprietor of the road, and dictated its policy and management. I wrote to him as follows:

JAY GOULD, Esq.:

DEAR SIR: The new construction company had never any stock subscribed. It was only allotted to the old pool.

That is, I suppose, in answer to some question that he asked; but that I have already explained—how that last construction company was organized, by allotting its stock to the parties that were most interested.

#### PREVIOUS ARRANGEMENTS SET ASIDE.

[Continuing reading:]

We can, however, now have its stock all subscribed and issued to you, if you desire it. The arrangements made when I was in New York for me to represent the Union Pacific out here, so far as its general interests go, contemplated that I should be the president of the C. C. as well as of the South Park. This was set aside by a telegram to Mr. Gannett (who was the auditor of the Union Pacific at the time) from Mr. Dillon, which said he had written and explained to me, which, however, as yet has not come to hand. It is all right, in any event, so far as I am concerned, provided my responsibility is



properly defined, which I very much desire at this time. The legislature is now in session and many members propose to regulate our tariffs and prohibit all pooling between railroads and the State, &c.

That, of course, would have been a serious thing to us, having gone on and joined trackage with the Rio Grande.

#### A NEW TARIFF ISSUED.

[Continuing reading:]

Just at such an unfortunate time Mr. Vining, without any consultation either with me, Colonel Fisher, or Colonel Hughes, our late general freight agent, who had arranged our tariffs and made our rules, revised them again and began to get business and make the most out of it, issues a new tariff raising the prices on our local business to a prohibitory point, and adopting rules which will throw most of the through freight onto the Rio Grande, and increase operating expenses greatly. For instance, we had, at great pains, got up cars to carry twelve tons, and thus save dead weight. He charges double rates for all over eight tons, in our car-load rates. The quarries at Morrison produce a great amount of freight, and mainly belong to the South Park Company. His rates for stone and lime are double the highest we had ever been able to get. This suspends work at your own quarries, and throws the business into the Denver and Rio Grande.

#### NO SIDE SPECULATIONS.

They had other quarries that were competing. I will just make this comment. When I say "your own quarries"—when we sold the Denver and South Park the company owned the coal mines and owned a great deal of property at various places along the line of the road, and owned the stone quarries or the stock of the stone company at Morrison, so that it all went with the stock of the railroad company. There were no side speculations along the line of the road while we held it.

#### BUSINESS SUSPENDED ON ACCOUNT OF HIGH TARIFF.

[Continuing reading:]

We had, with great care, worked up a lumber, wood, and tie business from the forests on our road, and, by liberal rates for timber from our own lands, had built up a very large and profitable traffic at high rates from this source. Vining's tariff on the products of the forests are so great that the business is suspended. His charge for wood from Buffalo is double that we had, and is nearly as much as wood is worth. It has not only stopped shipments, but will bankrupt the men we have induced to come on our road to do business. Coal, too, is put at prohibitory rates. Some ordered before knowing the rise is refused at the depot because the freights are more than the price of the coal in the market. This unfortunate blunder is followed up to-day with orders not to ship any more to parties refusing to take their goods, and pay more freights than the goods are worth, unless freights are prepaid. Of course this makes the matter, serious as it is, ridiculous in the extreme. The road will not pay operating expenses long under such management. The master of transportation, Mr. McCormick, says his empty cars are filling the side tracks for want of business, already. If continued much longer, this management will ruin the property. It will now require a long time to re-establish the business interrupted. Perhaps the most unfortunate aspect of the case is that it comes just as our legislature is convened. The men whose business is interrupted, both builders, shippers, quarrymen, lumbermen, wood choppers, &c., raise a great hue and cry against the operations of the Union Pacific monopoly, as they call it, and demand legislative protection. The papers have been pointing out the shortcomings of the Union Pacific, and praising the Denver and Rio Grande, to our detriment, for a week or two, and now urge legislation. Our board of trade last night took up the question and appointed a committee to prepare a bill. We had a pretty solid sentiment against any legislation at this time, lest it interfere with building roads, when this blunder was made. Now I fear it will be difficult to prevent hostile legislation. I doubt the practicability of operating the South Park road from so great a distance as Omaha, where local questions cannot be well understood. The difficulty of hurrying the completion of our extensions without the aid of the Union Pacific in getting forward men to work on con-

is serious ; but of this I will have time to speak hereafter. As I now hold a e of nominal responsibility, without any definition of my authority, I ask to w your wishes and that of the Union Pacific Company before the matter gets any e unpleasant. Of course I cannot stand in a place to be censured for acts I ought correct, without any control over them. I shall be glad to hear from you by re- of mail.

Very truly, yours, &c.,

JOHN EVANS.

#### REFERRED TO THE OFFICERS AT OMAHA.

Q. Did you receive any reply to that letter?—A. I was advised by J. Dillon, I think it was, when I asked for a reply (he was president of the Union Pacific at the time), that it had been referred to the officers at Omaha. That is the only response I got to it.

Q. That is all the notice you received?—A. The election came off shortly after, and probably for some reason best known to them the arrangement for my acting as their representative here was dissolved by their electing other officers, instead of re-electing Mr. Brown, Colonel Fisher, and myself, who had agreed to serve for the purposes indicated in the first part of my testimony.

Q. What became after this date of the trackage arrangement with the Denver and Rio Grande? Did that continue?—A. I think, until we sold, the trackage continued about a year.

Q. After you sold?—A. No; before we sold.

Q. After you sold how was it?—A. After we sold I think it continued for over a year. But I do not recollect. I have no dates in my office about it, because my connection with the company, and Mr. Wheeler's connection with it, was ended. In fact, our office had nothing more to do, and consequently we knew nothing about what was going on; but I think it must have been over a year.

#### JOINT TRACKAGE CONTRACT CANCELED.

Q. What change has been made?—A. I understand that this contract was canceled.

Q. You mean the trackage contract?—A. The trackage contract and the pooling contract and the extension contract, and that the officers of the Union Pacific took in lieu thereof a lease for six months.

Q. Terminable on a notice of six months?—A. A lease terminable on a notice of six months, and I understand that was made in the autumn, and that the notice was given almost immediately after the lease was made.

Q. Was that a lease for the right of passage or the use of the track between Buena Vista and Leadville?—A. Yes, sir; the same privileges that we had enjoyed we supposed they were to continue to enjoy perpetually.

#### A CHANGE DETRIMENTAL TO THE COMPANY'S BUSINESS.

Q. What, in your judgment, was the effect of that change?—A. I think it threw away what chances we had of getting business from its principal source of business, Leadville.

Q. What did the Union Pacific do to preserve its connection with Leadville?—A. I do not know what they did, because I have no

## THE BRECKENRIDGE BRANCH.

Q. What road did they construct?—A. The South Park Company had commenced building over to Breckenridge; that is, over the mountain range, by way of an old route that had been occupied from the settlement of the country by a wagon road. They commenced building a track over to Breckenridge instead of, as we had contemplated when we went to Buena Vista, building up to Leadville on our own track until we made this trackage contract. They took up this Breckenridge branch and went to the mouth of Ten-Mile Cañon, and then back up from the mouth of Ten-Mile Cañon, in which the Rio Grande had already a track that was very narrow, and at great expense built a line crossing the Rocky Mountains twice to get to Leadville. I was very well acquainted with the chief engineer, for he was chief engineer of another company with which I am yet connected—the Denver and New Orleans Railroad Company.

## ITS DISADVANTAGES.

Q. What particular disadvantage does this line labor under as compared with the line over which the common trackage contract applied?—A. It goes twice over the summit of the Rocky Mountains, and the other does not go over them at all.

Q. Is it more exposed to snow in the winter?—A. Very much. In fact, it has been, as I understand, impracticable, even after they built it in winter at a great expense, to operate it during a good part of the winter.

Q. Is it an expensive road to operate as compared with the other one?—A. Very.

Q. Is there anything to prevent their building a track paralleling the Denver and Rio Grande line between Denver and Buena Vista?—A. Not at all. We had already contemplated that. We had examined the route before we made the contract to go to Leadville on the Rio Grande track. The Midland has since, nearly all the way, built on that same line their road from Colorado Springs up to Leadville. They pass Buena Vista and go right up parallel with the joint track to Leadville now, or they will be running in a short time. I do not recollect now what time they expect to get to Leadville, but I see next week they expect to run cars to Buena Vista.

## THE LEADVILLE BUSINESS.

Q. What has been the history, if you know, of the Leadville business since 1881 and 1882? What company does the larger share of it?—A. The Denver and Rio Grande.

Q. So that the Denver and South Park has never regained that business?—A. Never by any means. I think they have had a pooling arrangement with the Denver and Rio Grande, by which they agree substantially to let the Rio Grande do the business, because they can do it at less expense.

Q. From what source do you derive that explanation?—A. I get it from Colonel Fisher, who was superintendent of the Denver and New Orleans, or the general manager of that road, which has been for four or five years, and until the interstate-commerce bill passed, tabooed or boycotted by all the roads running into Colorado, except one, the Denver, Utah and Pacific. It has always done business with us, but all the rest of the roads combined do not let us have any business. We could not see any object in it, except to try and break us down.

## SUBSIDY TO SOUTH PARK ROAD.

Q. What is the statement as to this subsidy or the amount paid?—Colonel Fisher had a conference with Mr. Gallaway, and I had a conference with Mr. Adams. I had a long correspondence with Mr. Adams, which was sent to Washington, in order to get this interstate-commerce bill to stop their discriminations against us, which was, fortunately, successful, and Colonel Fisher negotiated to get the Union Pacific Company to do business with us as they did with other railroad companies; for instance, with the Rio Grande. And in the intercourse between Mr. Gallaway and Colonel Fisher, Mr. Gallaway stated that the Union Pacific could not afford to do business with us under the existing circumstances. The reason was that the Rio Grande Company would first up their pooling arrangements, and they would lose some \$800,000 year. That was the subsidy or pooling arrangement that was paid to the South Park road, or paid to the Union Pacific road, on account of allowing business to be done off the South Park road and not on the South Park road. That is the source of my information. I think it was \$800,000 that Colonel Fisher reported to me. One of the Union Pacific Government directors was present when Colonel Fisher had this negotiation, in my house, but I left before it was through and the Colonel continued it. He was the general manager. This is the reason that he reported why the Union Pacific could not afford to do business with the Denver and New Orleans road.

Q. How long do you understand this payment has continued, or is reported to have continued?—A. I have no idea. That is, I have no means of knowing. That is what I mean by saying I have no idea.

Q. Did you learn anything about the details of the manner in which these payments were made by the Rio Grande to the Union Pacific?—A. No; I do not recollect to have learned anything about how they did, or what account they charged it to, or anything of that kind.

## TO CONTROL THE DENVER AND SOUTH PARK BUSINESS.

Q. Was the consideration alleged to be simply this question of the control of the Denver and South Park business, or did it include other competing points?—A. It applied to the Denver and South Park business, as reported to me. That was the contest with the Rio Grande road. But I would like to say there may have been other considerations. This was what Colonel Fisher reported to me as the reason they could not do business with the New Orleans road, of which I was president; I am president yet of the company that succeeded it.

Q. Will you give us Colonel Fisher's name and residence, and also name of Colonel Hughes?—A. Col. Andrew Hughes is at present general traffic manager of the Rio Grande road. He is here in the city most of the time.

Q. He was connected with the Denver and South Park?—A. During these early days.

Q. What is Colonel Fisher's name and address?—A. Cyrus W. Fisher. I think he is at Topeka now. He is in the employ, as general manager, of the western extensions of the Rock Island road west of Saint Joseph, Mo., and of all this western country.

## PLAN OF SETTLEMENT.

Q. Have you given the subject of the adjustment of the matters pending between the United States and the aided railways any consideration?—A. Very little.



Q. Have you formed any opinion as to what would be the best thing for the United States to do?—A. I was quite in favor of Mr. Thurman's plan of allowing them more time to settle the United States bonds, when it was proposed, when it was adopted. As to the present condition, I think it would be the best policy for the Government to, in some way, settle with them, so as to let the railroad company have it; and the best policy for them would be to locate their management near the middle of their properties, so as to know what is going on. I think it would be then the best policy for them to hold on to and extend their branches, and build up their property. If they had not built branches, their road would have been almost—well, it would have been like they have left the South Park; their cars would have been standing empty on the tracks if it were not for the feeders. I think the Government's best policy would be to make an equitable settlement with them, by which they would have a plenty of time to settle their indebtedness to the Government, and let them manage the road themselves. As I heard Senator Teller say a while ago, I should think it would be a very unwise policy for the Government to undertake to run the property with Government officers. That is about what you meant I should answer?

Commissioner ANDERSON. We had no meaning on the subject. We wanted to get your views only. It is a subject we wish to inquire about.

The WITNESS. Have I answered it?

Commissioner ANDERSON. Yes; you have covered it as far as I know. Is the matter one of much discussion in this neighborhood?

The WITNESS. I think not very much, so far as I know.

Commissioner ANDERSON. So far as you have talked with other persons, do you reflect their views, or do you think there is much divergence from them?

The WITNESS. I think the views I have expressed are almost entirely my own, except what I got from Senator Teller's testimony. I do not think the subject has been very much discussed among our people here.

JOHN EVANS.

Mr. HILL. I would like to ask, as a matter of special privilege, to occupy the attention of the Commission for about five minutes at the outside, in making a statement.

The CHAIRMAN. You may take the witness chair.

DENVER, COLO., *Tuesday, July 12, 1887.*

N. P. HILL, being further examined, testified as follows:

STATEMENT CONCERNING MR. ADAMS'S KANSAS CITY INTERESTS RE-ITERATED.

The CHAIRMAN. What statement do you wish to make?

The WITNESS. I would like to ask the reporter—perhaps he can tell me—what Mr. Adams said in contradiction of the statement which I made in my testimony. I think I owe it to myself to say that I made that statement very guardedly. I have a very distinct remembrance of the conversation which occurred in Mr. Adams's office last February. I certainly could have no motive to misquote him, as our personal relations have always been very friendly, as I hope they always will be. I think it is very probable that Mr. Adams made that statement a little

thoughtlessly and carelessly, and, perhaps, meant nothing by it. It impressed me at the time, and within an hour of that time I quoted it to an officer of our company in Boston. It was the first intimation I had had that Mr. Adams was interested in any smelting business in this part of the country at all. I was therefore somewhat impressed by the statement, and would not be very likely to forget it. I did not regard the conversation as of a private character at all. It was on official business that I called, and my conversation was of an official character. I remember the whole conversation, and what led up to this remark. Perhaps it is not necessary for me to state it. I am willing to admit that Mr. Adams may have referred in his statement to his other interests in Kansas City, of which he spoke to me, in addition to the smelting interest. He may have referred to all of his property, when he said he would not give it up for the entire Pacific road. I think I owe it to myself to say that in the way of reiterating what I said.

By Commissioner LITTLER :

Q. Is that all?—A. That is all I have to say. I did not hear Mr. Adams's statement, and therefore, perhaps, I attach more importance to it than it is entitled to. I had heard that he had directly contradicted my statement.

Commissioner LITTLER. Mr. Adams stated, among other things, that his interest in this smelting works was a very trifling one, giving the precise amount of his holding.

The WITNESS. He did not state the amount. I did not ask him, and I did not care to know. He had asked me the question as to what I thought was the cause or reason for the discriminations of which I had been complaining to him. I answered that there was a general impression that it was owing to the fact that some of the officers or persons who regulated these things were interested in other works, and Mr. Adams said he did not think that would have any influence; that he himself was a stockholder in a smelting company, and he did not think that the fact that other officers were stockholders had any influence upon the rates charged for ore; and he then made the remark which I attributed to him. I regret very much that the matter has come up.

DENVER, COLO., *Tuesday, July 12, 1887.*

WILLIAM A. WILLARD, being duly sworn and examined, testified as follows:

Question. What is your business?—Answer. I am a clerk of the United States courts here at present.

Q. Do you reside in Denver?—A. Yes, sir.

Q. How long have you resided here?—A. Since 1879.

Q. Were you connected with the Union Pacific Railway Company?—A. At that time, yes, sir. I came here to go into their service as local agent here.

Q. What was the title of your position?—A. Agent.

Q. Were you under Mr. Came?—A. Not at that time. I was under him in 1881. I think it was for the month of February or March, I believe. I was with him one month.

Q. Did you serve continuously as agent from 1879, to the time you have given, up to the time you served under Mr. Came?

Q. What was the order?—A. I spent five months as a clerk, served as agent's assistant, and then as cashier, and then

the same department, the freight department, and then, finally, one month in the office of the general agent of the freight department, as his chief clerk.

Q. Did you resign?—A. I resigned from his office; yes, sir.

DISCHARGED BY UNION PACIFIC.

Q. Were you discharged from the Union Pacific Railway Company?—A. Yes, sir.

Q. What was the cause of the discharge? Have you heard Mr. Cane's testimony?—A. Yes, sir. I never succeeded in getting the cause assigned.

Q. Did you make any inquiry?—A. Yes, sir.

Q. To whom did you make application?—A. To the officer who discharged me, Mr. Egbert, the local superintendent.

Q. What was the answer?—A. I do not recollect the exact answer that he made me. He simply gave me to understand that it was the doings of Mr. Smith, the general superintendent of the Kansas Pacific Company, which was then a part of the Union Pacific system, although it was before the consolidation. It was a joint agency in which I was serving.

CLERKS PAID FOR SERVICES NOT RENDERED.

Q. During your connection with the Union Pacific Railway Company, had you knowledge of any party or parties being paid out of the company's funds for services that were not rendered?—A. Not anything material. I have known of parties who were in the service of the company, but whose time was rendered in excess of the time actually devoted, I think, to the company; that is to say, men whose time was rendered for a full month—clerks in the freight department. This was after I ceased to be agent. They were men whose time was rendered for a full month, but who really put in, perhaps, only half or two-thirds of that time. I have known instances of that kind.

Q. What was the character of their employment?—A. As clerks in the general freight office—the local freight office.

COAL TRANSACTIONS AT GREELEY.

Q. Have you had any knowledge, by reason of your association with the Union Pacific Railway Company, of the coal transactions at Greeley?—A. That was a part of my service that I omitted to tell you. I had forgotten it, I was really so short a time there. In February, 1886, I was again appointed an agent of the Union Pacific, or acting agent, to take the place of their regular agent, who was away on leave of absence. I went up there in February, the latter part of February, 1886, and remained there about three weeks. I know of coal coming in there. I do not just remember what your question was in regard to the coal business.

Q. What were your duties there?—A. I was agent, or acting agent.

Q. What instructions did you receive as to the rates on coal?—A. I know of no special instructions. Our instructions are general in such cases, by circular tariffs or rate sheets. Any special instructions are generally embodied in these rate sheets, or else special instructions sometimes come on another circular following it, supplementary to the rate sheet, modifying or qualifying those rates.

Q. From where was the coal shipped to Greeley? From what mines?

—A. I do not know the name of the mine, but I think all the coal that



ame into Greeley was from Erie. The fact is, my time was very much taken up when I first went there. I went there suddenly, and I had to brush up, particularly on the passenger business, and I left the details of the freight business more to my chief clerk, who was a good freight man, so that I could get the passenger department in hand. That is a part of the business that it will not do to neglect for a day, and freight business you can trust to others, where you have clerks enough to attend to it, and so get on to the detail of the work gradually. So that I did not give that full attention until the latter part of my being there.

Q. What coal shippers or dealers were engaged in business while you were there?—A. I cannot recall their names.

Q. Had all the individuals dealing in coal in Greeley the same rates and advantages that you had as the agent for the coal of the Union Pacific Company?—A. I do not know that I was an agent for the coal of the Union Pacific Company. The coal that came there, according to my collection, was all billed to those individual consumers or dealers.

#### EQUAL RATES TO ALL DEALERS.

Q. Had you any knowledge at the time of any difference in the rates charged to dealers?—A. No, sir; there never anything came to my notice, I think, of a difference in the charges to dealers.

Q. Were the freight rates the same to all?—A. I should say so. I could not say that I looked into it carefully, to notice particularly. As to the freight rates, there may have been some back charges. I think now I remember back charges that I noticed sometimes that I never understood. The charge for the freight proper from station to station, I never looked into, nor did I to any very great extent the back charges.

Q. As I understand you, you were not there long enough to know anything about the differences in the coal rates charged?—A. I should not say that there were any differences there. I was there long enough to know it if I had given the matter particular attention.

DENVER, COLO., *Tuesday, July 12, 1887.*

WILLIAM A. H. LOVELAND, being further examined, testified as follows:

#### NO IMPROPER DIVERSION OF COLORADO CENTRAL FUNDS.

By the CHAIRMAN:

Question. During your connection with the Colorado Central were you aware of any improper diversion of any of the funds of that company?—Answer. No, sir; I am not.

Q. Had you a conversation with Mr. Gould concerning your candidacy for the United States Senatorship?—A. No; not particularly.

The CHAIRMAN. Well, generally?

The WITNESS. Nor generally; no, sir.

Q. Had you a conversation with Mr. Gould concerning your candidacy for the governorship of Colorado?—A. Yes, sir.

Q. What was the nature of it?—A. I want to state here that I never was a candidate for the United States Senate, so I never had any conversation.



The CHAIRMAN. I am only seeking information.

The WITNESS. All right; go on.

Q. What was the conversation with reference to the gubernatorial contest?—A. The only conversation, I believe, I had with Mr. Gould was while riding between here and Kansas City with Mr. Dillon and Mr. Gould. They expressed a desire that I would run for governor, but there was no particular conversation about it, any farther than that. I took it from that conversation that they thought they would have a friend, probably, if I was elected.

Q. Did Mr. Gould suggest to you the candidacy for the United States Senatorship?—A. No, sir.

Q. At any time?—A. No, sir; I do not remember that he ever did.

#### ALLEGED USE OF FUNDS FOR CAMPAIGN EXPENSES.

Q. During your conversation with reference to the contest for governorship, was there any question raised as to the campaign expenses?—A. No, sir.

Q. Did Mr. Gould or Mr. Dillon make any suggestion as to the expenses?—A. I have no recollection that they did.

Q. You would remember it, would you not?—A. I would remember it, I think; yes, sir. Speaking of expenses, I paid my own expenses during that campaign.

Q. Was there any suggestion as to the use of the Colorado Central funds towards the campaign expenses?—A. No, sir.

Q. None by Mr. Gould?—A. No, sir.

Q. Did you ever hear of such a report before, or of such a charge?—A. I have heard all kinds of reports about it; yes, sir; not before, but after the election.

The CHAIRMAN. The charge reached us, from a communication, that the funds of the Colorado Central had been by Mr. Gould suggested to be used towards the campaign expenses in which you were interested, in which some \$60,000 were involved.

The WITNESS. Yes, sir; I wish he had paid it. I will take it yet, if the parties will pay it. I would be very glad to get it.

DENVER, COLO., *Tuesday, July 12, 1887.*

FREDERICK LOCKWOOD, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am now in the real-estate business in Denver.

#### MARSHALL COAL MINING COMPANY.

Q. What coal company were you connected with?—A. The Marshall Coal Mining Company.

Q. How long were you connected with the Marshall Coal Mining Company?—A. From August, 1882, until November, 1885.

Q. What was your position?—A. I was secretary and treasurer of the company.

Q. Who composed the company?—A. The company at that time was composed of A. G. Langford, president and manager, and other stock-

holders were J. M. Marshall, N. P. Langford, A. N. Rogers, and, I think, Mr. M. Teller, at that time.

Mr. WILLARD TELLER. No, sir; William L. Lee.

The WITNESS. William L. Lee; yes, sir.

Q. Have you named all the owners?—A. Yes, sir.

Q. Were any of the officers, employés, agents, directors of the Union Pacific Railway Company interested in the Marshall Coal Company?—No, sir.

Q. Were any of the stockholders representative of any of the officers of the Union Pacific Railway Company?—A. No, sir.

Q. Had you any knowledge of any special rates granted to the company?—A. No, sir.

Q. Who had charge of the application for rates?—A. I sometimes attended to it; but it was principally done by Mr. Langford, the president of the company.

#### COULD NOT GET EQUITABLE RATES.

Q. When you attended to it, what arrangement did you make?—A. We never could get what we considered equitable rates, the same as our neighbors, let alone special rates.

Q. Did you pay more than your neighbors?—A. Yes, sir.

Q. How much more?—A. Different amounts; more at different times, according to the exigencies of the case.

Q. Your "special" was on the other side, then?—A. Yes, sir.

Q. What were the exigencies of the case?—A. One particular time there was the fact that the Union Pacific were interested in the Union Coal Company operating at Louisville, and wishing to take out the coal from their own mines in preference to carrying freight from others, they gave a low rate to their own company and a high rate to others. We were almost barred out from the market at different times. That is the reason I referred, in my statement before I was examined, to these papers that we have in the administrator's possession now.

#### INTEREST OF A UNION PACIFIC OFFICIAL.

By Commissioner LITTLER:

Q. Do you know who comprised the officers and stockholders of this company, to whom was given preferential rates?—A. I could not name them at this time.

Q. Are any of them connected in any way with the Union Pacific Railroad?—A. D. O. Clark.

Q. What relation did he sustain to the company?—A. I think he was president of the coal company.

Q. What relation to the Union Pacific Railway Company?—A. I cannot say that.

Q. Was he connected with it as an officer?—A. I think so.

Q. Do you not know his position?—A. I do not.

Q. Do you know of anybody else?—A. I could not name them at this time.

Q. Did Mr. Clark hold a large interest or a small interest?—A. I could not say that.

Q. You do not know of any other person connected with the coal company who was also connected with the railway company?—A. No, sir. It is two years since I have had anything to do with this company. I have been in other business.

Q. Is there any other matter that you desire to mention?—A. N sir.

THE RATES A MATTER OF SPECIAL CORRESPONDENCE.

By Mr. WILLARD TELLER :

Q. During all this time that you were connected with the company was this matter of rates a matter of special correspondence and negotiations between the officers of the company and yourself?—A. Yes, sir.

Q. Was there a great deal of misunderstanding in regard to the way you looked at it and the way they looked at it?—A. Very great; yes, sir.

Q. You did not see it exactly as they saw it, did you?—A. Of course I speak partially for Mr. Langford. He did not see it, and, of course, his sympathy was with him.

Q. Was the correspondence kept up; did they have new arrangements from time to time, and were they adjusted from time to time then did new subjects of dispute arise, and were they adjusted from time to time?—A. Yes, sir.

Q. Was that the sole cause of the controversy?—A. Yes, sir.

Mr. THOMAS M. PATTERSON. I would like to be examined on the same subject.

The CHAIRMAN. You may take the chair.

DENVER, COLO., *Tuesday, July 12, 1887.*

THOMAS M. PATTERSON, 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 here?—A. Since 1872.

DISCRIMINATION AGAINST COAL MINING COMPANIES.

Q. Have you had any business relations with the Union Pacific Railroad Company?—A. I will state in a general way how I have been situated. For a number of years I have had an interest in a small coal mine called the Fox mine, in the neighborhood of Marshall. Until a year or so ago, as I now recollect it, all the mines in the neighborhood of Englewood and Marshall, except, it may be, the Louisville mine, seemed to be upon an equality; that is, they were all fighting for such accommodations as they could get and such terms as they could get. Within the past year there seems to have come a very radical change. Since then all of the mine-owners, except those who were operating the Marshall mine, have been apparently in the same boat, and a very leaky one, while the Marshall mine seems to be floating very safely and at a very high and dry. There are, in what we call Northern Colorado, a number of small mines, especially in the neighborhood of Englewood, probably 30 or 40 miles by rail from Denver. There are some four or five there. Then there is over near Marshall what is called the Marshall mine, and also the Fox mine.

THE FOX MINE.

The Fox mine is the one in which I am interested. Some time back I learned—the truth of it I have not verified, but I have no reason to doubt it—that the Marshall mine is the one in which the Union Pacific Railroad Company has an interest.

to doubt its truth—there was a reorganization in some way of the company owning the Marshall mine, and the stock of that company in the main went from the hands of the men whom the last gentleman upon the stand mentioned to men of more means and greater financial influence. For instance, I heard Mr. David H. Moffitt's name mentioned very prominently in connection with the ownership of that mine. I learned it has been stated that the stock of the mine has even been listed upon the stock board. There are evidences of a very large amount of money having been put into the property within that period. There was what seemed to me a very systematic and determined effort upon the part of the Union Pacific road to boom that property; to get for it the largest possible amount of custom. I presume it was to make the stock valuable. The first strong evidence we had of it, so far as our property, which is adjoining, is concerned, was last winter. It was almost an impossibility to get cars. When a particularly cold snap would come, two or three or five cars would come to the Fox mine, which is almost within a stone's throw of the Marshall, while the side tracks of the Marshall mine would be simply overflowing with cars.

#### INSUFFICIENT CAR ACCOMMODATIONS.

Q. With Union Pacific cars?—A. The Union Pacific cars. At one time I think I went and saw the railroad commissioner with reference to it, and was about to file a claim. I commenced a correspondence with Mr. Choate, the general superintendent of the Union Pacific road in Colorado. I laid our grievance before him. He always responded promptly. I do not call to question his veracity, and have no reason to doubt the truth of it; but he always assured us that he was giving all he could consistent with the demands of the company, claiming that the Marshall mine at that time was supplying the Union Pacific Company with coal for its locomotives and engines, and it was of the first importance that rolling stock should be supplied to that company, and other companies had to suffer. Whenever cold weather would come, we had scarcely any cars, and when warm weather came, we had an abundance of them. Those were the reasons that were usually given by Mr. Choate. Within the past three or four months I have had no active participation in the affairs of the Fox mine, but am in constant communication with Mr. Fox.

#### UNION PACIFIC INTEREST IN MARSHALL MINE.

First, as to the evidence of a large amount of money being infused into the Marshall mine about the time I suggest, and the fact that the stock changed hands and went, as we believe, very largely into the hands of those who were interested in the Union Pacific Railroad Company. That is simply a strong surmise of my own, without having any positive knowledge upon the subject. They put in a large amount of machinery to mine coal with machinery, which is very expensive and costs a great many thousand dollars. Within the past three or four months there has been a cry from the dealers with all of the mines, except the Marshall mine, has been uniform and continuous and strong, from every station along the Union Pacific road where other mines have been dealing in coal in conjunction with the Marshall coal. The agents all report that it is utterly impossible for them to compete any longer, because of the superior facilities given to the Marshall Coal Mining Company. One reason that is given was suggested by Mr. Clark, and it seems to me



that it gives a full foundation for the charge that there is active discrimination going on. I think the coal tariff, until within the past year—I am not very positive about that—was about \$1.25 a ton from all of these competing points; that is, from Erie, from Canfield, and from Marshall to Denver, and then a regular tariff at about the same rates to other points along the Union Pacific Road. I think the tariff was raised to \$1.50 a ton.

#### SUPPOSED REBATES TO MARSHALL MINE.

Within the past month, or six weeks, or two months, this thing has happened: The railroad company has raised the tariff on coal. For illustration, to Denver, or to Greeley, or to some other point, 25 cents a ton, making now, I think, to Denver, \$1.75 a ton. In conjunction with the raise of price of freight 25 cents a ton the Marshall Coal Mining Company reduced its price at the mine 25 cents a ton, making a difference of 50 cents in the ton of coal. The impression is, and the belief is, that this reduction in the price of coal at the Marshall mine is made up, to wit, by what are known as rebates. That is the general belief with every coal dealer in Northern Colorado. In other words, by tariff freights the Marshall Company pays the same rate per ton for coal to the different competing points, but as soon as it lessens its price per ton 25 cents it has just that much of an advantage in all of the markets over all of the other mines, and there is no good reason why that should exist, because the profits upon mining coal do not justify it. At least, that is what I am informed from all sources. It is the belief of the coal miners that the 25 cents per ton that the Marshall Company has reduced its rates is made up by the rebate of 25 cents a ton, the company practically getting the same rates that it had been getting theretofore. It would get no more than that if it could do what seems to be the object of the two companies—throw all the trade of the Northern Colorado into the Marshall mine. Does the Commission comprehend the point I make?

#### DISASTROUS TO SMALL MINES.

The result of that has been quite disastrous to the small mines, and to the miners themselves, and I can illustrate that no better than with the mine I am interested in. Immediately after the arrangement that was made it was found impossible to sell what was known as the Fox coal in Denver, or in the other markets, for the reason that the Marshall mines could undersell it, by reason of the arrangement we believed to exist. The mine was shut down and the miners were thrown out of employment, or they would have been thrown out of employment, but the condition of things was laid before the miners and they themselves voluntarily made a new proposition to the owners of the mine by which they were to work. I have what demonstrates that the Union Pacific Railway Company is in the coal business beyond peradventure. It has every inducement and every motive to make discrimination.

#### SPECIAL COAL TARIFF.

It is what is called "Tariff No. 2, special coal tariff on soft coal, Union Pacific Railway," taking effect April 15, 1887. This, I presume, is a document of twenty-four pages, having upon it every station perhaps on the Union Pacific line and its branches, in which it deals with coal, and showing the rates on coal from the various mines owned or controlled by the

company has exclusive right to use the machinery in a certain section of the State. To my mind it seems very plain that if this line of policy continues, within a few years all small coal mines will be crowded out and this company, in conjunction with the railroad, will have a monopoly of the coal business in Northern Colorado. Machinery will be used exclusively in the mining of coal, and hundreds, if not thousands, of men will be deprived of the employment they otherwise would have. It must ultimately result in this coal company fixing its own price for coal. I do not think there can be any doubt, when they are in a position to do that, that they will squeeze out every dollar they can from the pockets of the consumers. That is the general statement I want to make to the Commission.

#### THE FOX AND MARSHALL MINES EQUALLY WELL LOCATED.

By Commissioner LITTLE :

Q. Can you give us something more definite in relation to the ownership of this Marshall mine?—A. No, sir; I cannot. But it seems to me almost conclusive that there must be railroad interests in the mine now.

Q. How is the mine situated with reference to the Marshall mine, with reference to its capacity for producing coal cheaper?—A. The mine, physically speaking, is precisely the same as the Marshall. It is a part of the same field or bed of coal. It is a property that has about perhaps, 12 feet of coal near the surface.

Q. At what depth?—A. Perhaps not more than 40 or 60 feet from the surface.

Q. How far is it from the railway?—A. We have a short switching right from the railway, just as convenient for the main line of road as is the Marshall, if not more so; even closer to it.

Q. How is the Marshall mine situated with reference to the railroad?—A. They are both, perhaps you may say, within a stone's throw of the main branch of the line.

#### FOX MINE ABLE TO COMPETE, ON EQUAL TERMS.

Q. Is there any reason why the Fox mine could not compete successfully with the Marshall line, the freights being equal?—A. There is none, except this; they may claim, and doubtless will, that by the introduction of machinery into the mine, they are able to raise coal at a smaller cost.

Commissioner LITTLE. I know of no way to prevent their use of the machinery.

The WITNESS. No, sir; there is none. The point is this, we do not believe there is a sufficient difference in the cost to amount to 25 cents a ton; and if there was, we do not believe that the company would give the people the full and complete benefit of that.

#### CHANGE OF SENTIMENT IN STATE SENATE.

Q. You are a lawyer of notoriety. Assuming that all these surmises are true, will you please suggest a remedy?—A. Yes, sir; we thought we had a remedy this last winter, when the legislature was in session. We had a house of representatives that was two-thirds in favor of a good, strong, wholesome railroad law. We had a senate that when met was, by a majority of two, in favor of a good, strong, wholesome

railroad law. But by some locus pocus known only to railroad companies, and railroad lobbyists, and railroad agents, while the house remained intact, the smaller body, the senate, only having a membership of about one-half that of the house, changed front, and by just enough votes to prevent legislation would give the people of this State none of the relief that they demanded and that had been promised.

**ERECTING INDUSTRIAL ENTERPRISES INTO MONOPOLIES.**

Q. You look chiefly, as I understand you, to your own legislature, and not to Congress, for relief?—A. Yes, sir; and to an exposure, through the agency of this Commission, of the ways and methods that railroad companies have of gathering under their own wings all kinds and classes of industrial enterprises and erecting them into monopolies, thereby driving out other people from engaging in the same business.

There was the matter mentioned this morning of the stone quarries. That is simply another evidence of the evils—that is, to the public at large—of railroad companies engaging in industrial enterprises that come into competition with the business that the people should be engaged in, and for which railroad corporations were not organized. I do not suppose that anything that this Commission could do would give relief in the direction that I am speaking of. It is only by the creation of good, sound, healthy public sentiment that we can hope to have relief, except so far as the Union Pacific road is concerned. It is barely possible Congress would have the power, by virtue of the Union Pacific Railway Company's relation to the Government, of creating some general legislation to prevent the interference that 99 per cent. of our people believe is going on.

**ESTABLISHED FACTS.**

Q. Can you call our attention to any other discrimination?—A. No; I have no personal knowledge. What I have said now is very largely based upon argument from established facts. We conclude that when we find a railroad company engaged in private enterprises, such as mining coal and selling it, and quarrying stone and selling it, that, having the power within itself of driving competitors out of the market, it would be strange indeed if they did not exercise the power. Then, when we hear, in conjunction with the temptation that is before the company, what we think are material evidences, such as this freight locus-pocus that I have spoken of, our conclusions are confirmed. I refer to the raising of freight 25 cents upon a ton of coal in a particular mine that is owned and operated by the company. It is the coal from this Marshall mine that this Union Pacific Coal Company sells in many of the towns that the Union Pacific Railway reaches. It is this identical Marshall coal that the agents of the Union Pacific Coal Company are engaged in disposing of.

**SUPPOSED INTEREST OF UNION PACIFIC PEOPLE IN MARSHALL MINE.**

Q. Can you give us the name of any man connected with the Union Pacific in any way who is connected with this Marshall Coal Company?—A. I have not examined into that subject. But I have just come upon the theory that there would not be a close corporation of this kind formed between the Marshall Coal Company and the Union Pacific Company unless there were men high in authority of the Union Pacific Company.

tofore since the last raise. We have submitted to a difference of a quarter of a dollar between your coal and the price of the Marshal coal ever since the last raise, and I now have to notify you that unless you can put down the price of coal at the mine the quarter which the railway have raised us, the chances are that we shall soon have to get other coal—from the railroad company, perhaps—if we can or go out of business. I do not know whether you can make the reduction and still live and stay in the business, but it is certain that we can't meet the competition of Union Pacific coal with 50 cents difference in favor of the Marshal dealer.

I await your reply with anxiety.

Very truly yours,

J. MAX CLARK.

GOODRIDGE & MARFEL,  
Denver, Colo.

#### EFFORT TO EXCLUDE ALL BUT MARSHALL COAL.

[J. Max Clark, dealer in agricultural implements and machinery.]

GREELEY, COLO., June 27, 1887.

GENTLEMEN: I have seen somewhere a notice to the effect that the United States Commission to inquire into the workings of the Union Pacific Railway system was to have a session in Denver some time in the near future. I think it would be a good idea for you to attend in behalf of your interests and put in some evidence as to the coal business, which is one of the matters they are organized to look into. You are, of course familiar with the fact that while the company deny that it is in anyway interested in the Marshal Coal Company, that the railway company nevertheless acts as an exclusive owner or agent of the coal company's coal, and we are compelled to pay for their coal, whoever handles it, before taking it from the cars, and to the railway company. We all of us know that whether the coal company and the Union Pacific Company are the one and the same thing or not, that the coal company must have heavy rebates from the railway company in order to undersell other coal in the markets.

At the session of the Commission in Omaha the other day you have no doubt noticed that it was brought out in the course of the examination that the Union Pacific paid in sixteen months in the way of rebates to the Grant Smelter the enormous sum of \$253,000. Now you can readily see that if this discrimination is allowed to go on in the matter of the rates and rebates on coal, all the other mines in Colorado will be shut out of the market.

Mr. Mayher, of this place, who is the agent of the Marshal coal, is in fact so confident of being able to down the rest of us that he has already been making us propositions to sell us our coal the next winter; he said to Mr. Clayton the other day that while the discrimination against other coal was unfair, yet he was in no way responsible for it, and that of course on his own account he was not sorry; said he was disposed to maintain prices as they now are until later in the season, but that in the fall he might conclude to knock the bottom out of things so as to secure the trade of this place.

I let you know the situation thus clearly in order that you may take what measures you can to protect your customers; we have been selling coal now continually for nearly eight months at the disadvantage of 25 cents a ton in his favor, and I have lately got on to another advantage which he possesses over us, and one which is fully as serious as the difference in price. The company overloads his cars, or rather they put in enough extra coal so that he loses practically nothing in shortage. Mr. Clayton and myself have both of us on occasions of scarcity got cars of coal of him to be us out, and, weighing it out carefully, we have found that whereas we always lose from 2,000 to 3,000 pounds on a car, never less than two, that these cars we have got of Mayher have in no case lost over 1,000, even when we have had them on the track a week. In fact, Mr. Mayher has let it out in the way of hints, that he lost nothing in shrinkage on his coal.

Will you please write me what you think of the matter and whether you will try and have the Commission examine into the matter?

Yours, very truly,

J. MAX CLARK.

GOODRIDGE & MARFEL,  
Denver, Colo.



Office of Omaha Coal and Produce Company, dealers and shippers of hard and soft coal, baled hay and grain, 217 South Fourteenth street. Telephone 114.

OMAHA, NEBR., 5, 12, 1887.

GENTLEMEN: Your favor of the 9th instant to hand and note contents.

The freight at present from Erie is \$3.25 per ton.

Until further advised, do not ship any more coal.

Yours truly,

OMAHA COAL & P. Co.  
R.

Messrs. GOODRIDGE & MARFEL,  
Denver, Colo.

#### THE INTERSTATE COMMERCE LAW CONTROLLING.

Mr. HENRY M. TELLER. I would like to make a suggestion. I did not come here to criticise this railroad, or to find fault with it in any shape or manner, and do not propose to do so, but I thought from a question answered it might be inferred that the last witness supposed, because this was operated under the Colorado Central charter—these roads that go to these coal fields—that the Union Pacific would be independent of, for, instance, the interstate commerce law or national control. It strikes me that the Union Pacific is a road that, when it accepts any other agency to do its business brings that agency within the national control; and consequently a discrimination there is interdicted by the interstate commerce law, just as much as it would be on their main line. That would be my judgment.

Commissioner LITTLER. I would like to ask the Senator a question or two.

DENVER, COLO., *Tuesday, July 12, 1887.*

HENRY M. TELLER, being further examined, testified as follows:

By Commissioner LITTLER:

Question. Have you considered the question as to whether Congress has the right, in view of the supposed vested trust of this Union Pacific Company, to make such changes as in its discretion may seem proper and for the interest of the United States Government to better secure the payment of this indebtedness?

#### POWER OF CONGRESS TO SECURE PAYMENT.

Answer. I believe the Supreme Court fully settled that in the decision that arose under what we call the Thurman and Edmunds bill; that the Government might require them to put up a certain amount of money in order to secure the Government. I think that perhaps has passed beyond the region of controversy, and perhaps that must be accepted now as the legal status of the power of the Government. The only question, then, is whether the company has the capacity to go further than the Government has gone. My own judgment would be that that bill probably went to the full extent that it is prudent to go at the present time, after some examination that I made of this while I was Secretary of the Interior. Having had some trouble in compelling them to keep up to the requirements of that act, I examined the matter carefully, not, however, with the view that had anything to do, but to compel them to pay. They declined to pay upon the ground that they were not able, or some excuse of that

kind. I asked the Attorney-General to bring a suit against them to compel them under the law. The president of the company, Mr. Adams, then newly elected, came to Washington and saw the Judiciary Committee, and arranged with them to pay the money, stating to the committee, as I understood at the time, that they had to borrow the money to make this payment, which they did. So, I believe, up to the present time, they are not in default. At least I have not heard any complaint since 1885 that there has been any default. They fully complied during my term of the Secretaryship with the existing law, stating, however, and I have no doubt it is true, that they had to borrow the money to do this. Now, I suppose the question is, if we required them to put up 25 per cent. more, or as much more as they now do, whether they have the capacity.

#### FIXED ANNUAL PAYMENT OR PERCENTAGE OF PROFITS.

Commissioner ANDERSON. As I understand the company they would be willing to pay perhaps double the amount which the 25 per cent. requirement reaches under the Thurman act, provided it is made in the shape of a fixed annual charge and is not based on the computation of a percentage on the net earnings.

The WITNESS. Of course those questions have been very difficult to deal with. They were very difficult for the Department to deal with and determine what was fixed earnings. Of course there was a difference between the Department and the road, but they subsequently, by paying, practically settled those questions.

Commissioner ANDERSON. The last annual payment of the Union Pacific did not exceed \$800,000 or \$900,000?

The WITNESS. I have given no attention to it since it has passed into the hands of the new Secretary, because I have heard no complaint, and there seemed to be no necessity, as a member of the Senate, that I should look into it especially.

#### A FIXED SUM PREFERABLE.

By Commissioner ANDERSON:

Q. As to the general question, whether they should pay a fixed annual sum of a million and a half, or two million dollars, or two million and a half dollars, would it be preferred to any percentage of the net earnings, which you know is subject to a constant difficulty in determining the amount?—A. My own judgment is that a fixed sum would be preferable for the Government, because they must collect that amount of money. As it is now, there is a contention, and it requires an examination of all the detail business of the company to determine these questions. That is a thing that must be very largely left to the Commissioner of Railroads, it being almost impossible that the Secretary should give attention to these things. I think, in justice to the people who do business in this country and along the line of the road, that the sum should not be so great that the company would be putting exorbitant tariffs on things in order to raise this money, nor should they be allowed to pay dividends by charging extortionate rates in addition to the money they are to pay to the Government. I desire to make this suggestion, that it seems to me that all their branches are parts and parcels of the same road, and if they own the South Park and Colorado Central the legislation concerning the main branch must reach those also.

H. M. TELLER.

DENVER, COLO., *Tuesday, July 12, 1887.**Evening session.*

HENRY M. TELLER, being further examined, testified as follows:

By Commissioner LITTLER:

Question. I understand that you want to add something to your testimony in the shape of documentary evidence. Will you do so now?—

## STATEMENT AS TO INVESTIGATING COMMITTEE.

Answer. Mr. Chairman and gentlemen: To-day when I was examined I made some reference to the proceedings of the legislature which I had not been able to put my hands on, and I now have before me the certified journal of the fifth legislative session of the State of Colorado, which was the session at which I was elected for the Senate, concerning which Senator Hill has spoken. I stated that I did not distinctly recollect who were members of the committee. That had passed my recollection at the time. I thought Mr. Burke was one. He was the mover of the investigation. He was excused, I find, on his own application. The committee of the house was composed of S. F. Rathbon—

## MEMBERSHIP OF COMMITTEE.

Q. Of what county?—A. Of Sagauche County; John Campbell, of Colorado Springs, El Paso County, who is now a member of our State senate; Lafe Pence, the present county attorney, I believe, of this county, but at that time he was a resident of Ouray County; R. A. Quillan, a member from Huerfano County. Mr. Rathbon was a friend of Mr. Hill's and seems to have been chairman of the house committee. He never voted for me, neither in the caucus nor in the legislature. His vote was cast for Judge Hallett. John Campbell was a friend of mine, elected with an open square fight in his county as a friend of mine, or at least on my side of the fight against Senator Hill. Lafe Pence was an active, vigorous Democrat then and now. Mr. Quillan was an active Democrat, and I think about, perhaps, as active as any man in his part of the State. I will say for Mr. Pence and Mr. Quillan they were men of character, and I should not have objected if the whole committee had been made of that class of men. I had no fear on account of their politics that they would do me any injustice. John Campbell was a personal friend of mine as well as politically, and is a man of the very best character and standing in this State. There is no young man that stands better with the people of the State than John Campbell. S. F. Rathbon I had never met, and I believe I have seen him only once. So far as I know he was a man of respectability. I never heard anything against him in the world.

The members of the senate committee were A. N. Stevenson, of Gunnison; J. M. Freeman, of Weld County, and H. H. Eddy, who represented then a district composed of Summit and some other county I have forgotten, in the mountain regions up there. I was mistaken in the personnel, slightly, of this committee. I will not change what I said before as to the character of the committee. The committee were men of reputation and standing in this State.

Q. How many of those senators were Democrats?—A. There were no Democratic senators on the committee. They were all Republi-



on the senate part of the committee. I do not know how that happened, for I know nothing about it.

#### HOW SENATORS VOTED ON SENATORIAL CONTEST.

Q. How did either of those senators vote on the United State Senate question?—A. They all voted for me. They were all pronounced for me before they came here, or at least they were all pronounced opponents, more particularly speaking, of Senator Hill. They would have voted, I suppose, for almost any reputable Republican that might have been put up against Senator Hill. The lieutenant-governor, I suppose, made the appointment. I have not looked over the record to see, but I suppose he would do so. The house committee was appointed, of course, by the speaker of the house, who was Mr. T. B. Stewart, a man who had supported Mr. Hill in the caucus, but who did not follow Mr. Hill's sixteen men out of the caucus.

#### POLITICAL COMPOSITION OF COMMITTEE.

By Commissioner ANDERSON:

Q. Was the investigation conducted by the joint sessions of both committees?—A. Both committees.

Q. What was the total number?—A. The total number would be seven.

Q. Out of the seven how many Republicans and how many Democrats?—A. There were five Republicans and two Democrats out of the seven. The two Democrats were Pence and Quillan, and Mr. Rathbon and Mr. Campbell were both Republicans.

I spoke of a letter that Mr. Hill wrote after he came here, and as I spoke entirely from recollection, not having the files, I could not turn to them then. The report is now before me. I would like to read the letter of Mr. Hill's, and I would like to have the whole thing go into the proceedings of this Commission.

Q. Is it very long?—A. No, it is not very long; the report is very brief.

Mr. HUGHES moved that the report of the senatorial investigating committee be adopted and the committee discharged.

Agreed to.

The following is the report of the committee:

#### REPORT OF JOINT COMMITTEE APPOINTED TO INVESTIGATE THE RECENT SENATORIAL ELECTION IN THIS STATE.

*To the President of the Senate and Speaker of the House of Representatives:*

Your committee appointed in conformity to house concurrent resolution No. 10, introduced by Mr. Bergh, for the purpose of investigating certain charges as to the use of corporation money and other wrongful means, alleged to have been employed by, or in behalf of, the several candidates in the recent election of a United States Senator in this State, beg leave to submit the following report:

Upon the organization of the committee, the following telegram was sent to Hon. N. P. Hill:

To Hon. N. P. HILL,  
*Senate Chamber, Washington, D. C.:*

I am directed by the committee appointed by the fifth general assembly to investigate the recent Senatorial election in this State to notify you that the committee has organized and is now ready to take testimony. You are respectfully requested to appear before the committee and testify. The committee will at once address you a letter. A duplicate of this has been sent to Mr. Teller.

A. M. STEVENSON,  
*Chairman.*



The following telegram was at the same time sent to Hon. H. M. Teller :

To Hon. H. M. TELLER,  
*Washington, D. C. :*

I am directed by the committee appointed by the fifth general assembly to investigate the recent Senatorial election in this State to notify you that the committee has organized and is now ready to take testimony. You are respectfully requested to appear before the committee and testify. The committee will at once address you a letter. A duplicate of this has been sent to Mr. Hill.

A. M. STEVENSON,  
*Chairman.*

The following letters were also sent :

STATE OF COLORADO, SENATE CHAMBER,  
*Denver, Colo., April 4, 1885.*

DEAR SIR: I am directed by the committee appointed by the fifth general assembly to investigate the recent Senatorial election in this State to notify you that the committee has organized and is now ready to take testimony. It is the earnest desire of the committee to give every person having information or knowledge of any circumstances tending to throw light upon the conduct of said Senatorial contest, as regards methods of corruption used in the interest of one or the other of the candidates, full opportunity to be heard, so that the investigation may be full, thorough, and complete, and that thereafter none shall have cause to complain of any refusal on the part of this committee to fully hear all evidence which any one may desire to produce before it. The committee desires that you should appear and testify. You are therefore respectfully requested to name the time when it will be agreeable for you to do so.

I am informed by the clerk of the house of representatives that he has forwarded to you a copy of the concurrent resolution relative to this matter.

Respectfully,

A. M. STEVENSON,  
*Chairman.*

Hon. N. P. HILL, *Washington, D. C.*

STATE OF COLORADO, SENATE CHAMBER,  
*Denver, March 4, 1885.*

DEAR SIR: I am directed by the committee appointed by the fifth general assembly to investigate the recent Senatorial election in this State to notify you that the committee has organized and is now ready to take testimony. It is the earnest desire of the committee to give to every person having information or knowledge of any circumstances tending to throw light upon the conduct of said Senatorial contest, as regards methods of corruption used in the interest of one or the other of the candidates, full opportunity to be heard, so that the investigation may be full, thorough, and complete, and that thereafter none shall have cause to complain of any refusal on the part of this committee to fully hear all evidence which any one may desire to produce before it. The committee desires that you should appear and testify. You are therefore respectfully requested to name the time when it will be agreeable for you to do so.

I am informed by the clerk of the house of representatives that he has forwarded to you a copy of the concurrent resolution relative to this matter.

Very respectfully, yours,

A. M. STEVENSON,  
*Chairman.*

Hon. H. M. TELLER,  
*Senate Chamber, Washington, D. C.*

On March 5, 1885, the following telegram was received :

WASHINGTON, D.C., March 5, 1885.

Your telegram received. I shall be delayed a few days in the discharge of Senatorial duties, but will appear before your committee at an early day. If it is necessary that I appear at once, please notify me, and I will do so.

H. M. TELLER.

To Hon. A. M. STEVENSON, *Chairman.*

In due time the following letter was received :

WASHINGTON, D. C., March 13, 1885.

SIR: I have your letter requesting me to appear before your committee to give evidence of and concerning any information I may have concerning the improper use of money during the late Senatorial election. I am, as you know, detained by the

session of the Senate, but am ready and willing to leave at any moment that your committee suggests that it is desirable that I should, and I respectfully request that you telegraph me, at my expense, the exact time you desire I should appear before your committee. I should have at least four days' notice by wire. I have nothing to conceal, for I can assure your committee that no money was used on my part or that of my friends, or in my behalf, to influence the vote of any member of the legislature. I made no promises of any character in order to secure my election, and I do not believe any were made on my behalf. May I hope that the committee will grant my request, and notify me by wire what day I shall appear before the committee.

Respectfully,

H. M. TELLER.

Hon. A. M. STEVENSON,  
*Chairman of Investigating Committee.*

Mr. Hill failed to answer either the telegram or letter that was transmitted to him.

On Saturday, March 7, 1885, the committee met, agreeable to the call of the chairman, for the purpose of determining the mode of procedure of the investigation. Letters had previously been sent to Messrs. K. G. Kooper and C. F. R. Hayward, of the Tribune-Republican newspaper, requesting them to be present at this time for the purpose of giving such testimony as was in their power in respect to the matter pending before this committee. No attention was paid by either to this request.

By the concurrent resolution, in conformity to which the committee was formed, Hon. N. P. Hill was particularly requested to appear before said committee and establish his charges thus publicly made. After due consideration, it was thought best that he should be the first witness examined. The chairman was directed to issue a subpoena for and have it served upon him as soon as he should return to Colorado.

In accordance with these instructions, a subpoena was issued, directing him to appear at a meeting of the committee on Tuesday, March 24, 1885. He failed to appear at the time and place appointed. Instead, he sent the following letter:

DENVER, COLO., March 24, 1885.

MY DEAR SIR: A few days before I left Washington I received a letter from you, requesting me to come before your committee, appointed to investigate the recent Senatorial election in this State.

I expected, at the time I received the letter, to return sooner and comply with your request, and therefore did not reply.

I have made no specific charges against any person, and do not hold myself responsible for statements in newspapers unless they appear over my signature.

Any opinion I may hold regarding the conduct of the contest against me must necessarily be based upon representations made by other persons, and not a matter of personal knowledge, and, therefore, cannot be used as evidence.

If, after reading this letter, the committee desire my presence, I will cheerfully appear before it, but would prefer some other day than this, as I have several important matters of business needing my attention.

Very truly, yours,

N. P. HILL.

Hon. A. M. STEVENSON, *Chairman.*

As the investigation was based upon the charges alleged to have been made by Senator Hill, the committee decided to have him appear and testify under oath. And, accordingly, the next day he appeared before the committee and testified. His testimony is hereto attached.

Messrs. John S. Dormer, M. W. Howard, Thomas B. Stuart, and Abraham Bergh were afterwards requested to appear and testify, as their names were prominently at the time the concurrent resolution was under discussion before the legislature. They each promptly responded to said request, and their testimony is hereto attached.

As there were no charges made, or attempted to be made, by any person in any manner reflecting upon Senator Teller, or the manner of his election, the committee did not deem it necessary that he should appear, and so notified him. The committee therefore respectfully ask that they be discharged from the further consideration of the matters contained in said concurrent resolution.

All of which is respectfully submitted.

A. M. STEVENSON,  
J. M. FREEMAN,  
H. H. EDDY,  
*Committee on part of the Senate.*  
S. F. RATHBON,  
JOHN CAMPBELL,  
LAKE PENCE,  
R. A. QUILLIAN,  
*Committee on part of the House.*

The following evidence was given before the committee :

N. P. HILL, being first duly sworn, on his oath testified as follows :

Question. Do you know if any money has been used, or attempted to be used, in the recent Senatorial election in this State, by any candidate for the United States Senate, either directly or indirectly, to promote his interest, or if any other means has been adopted or used by any such candidate that is in any manner contrary to the interest of the public service?—Answer. I do not.

Q. Do you desire to make any further statement to the committee?—A. No; I have no statement to make.

That follows the testimony of the gentleman that I have mentioned.

#### THE SENATORIAL ELECTION.

Q. Do you desire us to print anything more than what you have read?—A. I do not desire that you should publish anything but the report and Senator Hill's testimony. I found that I had slightly forgotten exactly the way that this thing occurred in the caucus, until I refreshed my memory by looking over a report made to the legislature; of course in connection with this investigation. I had 31 votes and Mr. Hill 23. The contest in the caucus was whether we would have a secret ballot or an open ballot. I had instructed my friends that if I were a candidate, I wanted no man's vote who was not willing to stand up and cast his vote and let the people know how he voted. Consequently my friends were all for the open ballot, and all voted for the open ballot except one man, whose loyalty I have no reason to doubt, but who in some way did vote (and I always supposed he voted under a mistake) for the secret ballot, when he should have voted with my friends for the open ballot. When the open ballot was carried in the caucus it was by a vote of 28 to 23. I had my attention called to the fact that there was a pair or two. Sixteen of the members, of the twenty-two that were supposed to be friendly to Mr. Hill, went out of the caucus. Mr. T. B. Stuart (Mr. Galloway, who was chairman of the caucus), Mr. Abraham Bergh, and one or two others declined to go. They saw fit to assert their intentions to follow the caucus, as that had been the rule. Quite a number of other gentlemen went out; as I say, sixteen in all, I think. This was on Saturday. When the first day of voting took place in the two houses I think sixteen members of the legislature voted for Mr. Hill. Enough voted for him so that there was no election that day. I had a majority of the Republicans in the house and in the senate, but there was no majority such as was required in both houses. The next day when they came into joint convention I believe all these people who had voted for Mr. Hill the day before voted for me, with the exception of Mr. Rathvon, whom I have mentioned as being a member of this committee, and a Mr. Hinman, who had been elected and who announced himself for me originally. He voted against me, and so did some other man whose name I do not recollect; but he attempted afterwards to change his vote to me. That was in the legislature on the day that I was elected in the joint convention.

IRRELEVANT, EXCEPT AS BEARING ON UNION PACIFIC.

By Commissioner LITTLE :

Q. Is that all you desire to say?—A. All I desire to say, except to say that the majority of the Republican caucus was 27. That would nominate. I had more than that without the pairs. If the Commission desire, they can read the testimony of Mr. Stuart, and of Mr.

Howard, who has just come into the room, who was a State senator from this county, and who was a friend of Mr. Hill's, and voted for Mr. Hill on the first ballot, as I recollect, and voted for me on the second. You can read the testimony, also, of Mr. Dormer, who was also a friend of Mr. Hill, and who voted for him in the joint convention, and I think Mr. T. B. Stuart and Mr. Abraham Bergh were also before the committee. This may to the committee seem to be a little foreign to the general character of their investigation. But if it is true that the Union Pacific has been engaged in electing senators, in conjunction with other railroad companies, I think it is very desirable that this Commission should go into it; and I do not think that the Commission can, in justice to the railroad company, or to myself, or to the public, drop this matter with the mere statement of Mr. Hill that he has now forgotten who gave him this information, or that he does not desire to disclose the names of the persons who have told him these things.

#### THE FULLEST INVESTIGATION COURTED.

So far as I am concerned, I court the fullest and most complete examination that this Commission can make, and it would greatly please me if you would call the officers of these several railroad companies that are asserted to have chipped in or contributed to a pool to elect the United States Senator. I will say here, that if you prove any such state of facts as that I will resign my seat in the United States Senate within an hour, and Mr. Hill knows it. I have been elected three times in this State, with a less use of money than is ordinarily used to elect an alderman in this country. They generally spend as much as \$500 or \$600 at an election, and the sum total of my three elections would not amount to \$1,000, all the expenses that I have been to in connection therewith; and there was never a dollar paid that I am not willing that the people of this State and of the United States should know where it was paid, when it was paid, and to whom it was paid. My expenses were the hotel expenses, or the contribution that I made openly to the committee, and not in large sums—for I have not been in condition to do that—but in ordinary sums, that every partisan politician is supposed to give; much less than I ought to give at a national contest; for, as I stated to-day, I notified the State committee that it would be impossible for me to give them a cent, and the only money that I did contribute was the money that I have mentioned to-day in my own account and by the payment of my hotel bills.

H. M. TELLER.

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#### *Evening session.*

DENVER, COL., Tuesday, July 12, 1887.

EDWARD F. BURTON, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. Where do you reside?—Answer. Denver.

#### THE MARSHALL COAL COMPANY.

Q. Have you any official connection with the Marshall Coal Company?—A. I am known as vice-president of the company.



Q. How long have you been vice-president?—A. A year last June.

Q. Are you familiar with its affairs since you have been vice-president?—A. Partially so. I am not very intimately connected with it; that is, to know everything connected with it, for I have not been very active in it since November last.

Q. Do you know who the present stockholders of the company are?—A. I do not.

Q. Who does know?—A. I could not say that.

#### NO DIVIDENDS PAID.

Q. When was the last dividend paid?—A. There never were any.

Q. What other officers are there of your company?—A. A president, vice-president, secretary, and treasurer. The offices of secretary and treasurer are combined now.

Q. Who keeps the transfer stock-book?—A. The secretary.

Q. What is his name?—A. Rubige.

Q. Will you give the full name?—A. R. H. Rubige.

Q. Does he live in Denver?—A. He does.

Q. Could you send him to us, or shall we issue a subpoena?—A. I could not send him to you to-night, but I will see him in the morning. He is in the office. I saw him to-day. He is there every day.

Q. He would be more likely than any other officer to know the persons interested in that company, would he?—A. I suppose he would, from the transfers. Our stock is on the market, and who holds it I do not know.

Q. Do not your stockholders call at your office to inquire about the business of the company?—A. Not that I am aware of.

#### THE COMPANY'S CAPITAL STOCK.

Q. What is the total amount of your capital stock?—A. Two million dollars.

Q. Do you know whether the stockholders are numerous or few?—A. As I say, the stock has been recently put upon the market. As to whom may be the stockholders to-day I cannot say.

Q. How recently has the stock been put upon the market?—A. Within the last month or six weeks.

Q. Do you know who were the stockholders before that time?—A. The register will show that. Of course the transfer books will show.

Q. There were four or five gentlemen only who owned the whole of it; is that not so?—A. I think not. I think there were more than that.

Q. There were four or five that held the bulk of the stock, did they not?—A. I think so.

Q. Will you give the names?—A. I could not tell how much they held.

#### NAMES OF SOME STOCKHOLDERS.

Q. Will you give their names?—A. Mr. Moffatt was a stockholder; Mr. Cheeseman; Mr. Quintard, of New York, was a stockholder; there were quite a number in New York, whose names I do not remember; James E. Smith was one, the president of the New York Stock Exchange; there were some here; the record would probably show; I could not say as to that. It was a matter I never examined into. I never paid my attention to it.

Q. Where was the stock put upon the market?—A. In New York.

Q. Have you heard whether there have been numerous sales of stock there?—A. I have only noticed by the papers. I notice the quotations in the papers. That is all I know.

#### MARKET VALUE OF THE STOCK.

By Commissioner LITTLE:

Q. What has been the quotation?—A. Varying from 25 to 31, and then down; the latest was 22, I think, and 22½. During the last unpleasantness in the "street" they went down, with other things, to about 22½.

#### THE COAL COMPETITION.

By Commissioner ANDERSON:

Q. Do you know anything in relation to the matters which have been alluded to in regard to the competition of the Union Pacific Railway itself against your company in respect to the sales of coal?

The WITNESS. The competition of that company?

Commissioner ANDERSON. Yes, sir; the alleged use of their own transportation, so as to undersell you and take your market away.

The WITNESS. No, sir.

Q. Has there been any change in the management of the Union Pacific in the last two or three months in relation to coal?—A. Except that they have not been taking coal from us in the last two or three months, as they did prior to that, for their consumption for their motive power.

Commissioner ANDERSON. I inquire in regard to the sales at different points on the road.

The WITNESS. There have been but very few sales at points on the road since the warm weather, you may say, as far as I know. I have not examined the books to determine how much the sales have been.

#### NO CONNECTION WITH THE UNION PACIFIC.

Q. Does the management of the Union Pacific Railway Company, in reference to its dealings in its own coal and the sales made by it in the yards where you have been accustomed to sell them coal, interfere in any way with your business?—A. I cannot say as to that. I know that our orders fell off in certain districts; but we attributed it more to the fact that coal was not in demand than from competition. I could not say whether it was the result of competition.

Q. Have you any connection whatever with the Union Pacific Railway?—A. None whatever.

Q. Have you any contracts with it?

The WITNESS. Personally?

Commissioner ANDERSON. Are you interested in the transportation of freight over the Union Pacific?

The WITNESS. Not at all.

Q. Do you know whether any person in any way connected with the Union Pacific Railway is interested in the Marshall Coal Company?—A. I think there is no one. I never have heard any name mentioned as connected with it in any way.

#### REBATES ALLOWED.

Q. Has your company been allowed any rebates in the transportation of coal by the Union Pacific?—A. I believe they have.

Q. Have the amounts of rebates been constant or have they varied?  
The WITNESS. Do you mean the scale of rebate?

Commissioner ANDERSON. The rate of rebate allowed. Has it been constant or varying?

The WITNESS. There was no variation in it as to amounts. It was as to quantity that might be shipped. That is all.

#### THE CONSIDERATION FOR REBATE.

Q. What is the rebate allowed you?—A. The rebate from Marshall Denver is 40 cents a ton on certain coals used here. The consideration of that, however, is that the company had a contract made to deliver them coal at cost, not to exceed \$1.25 a ton, or less, if it could be secured at that, after the opening of the mine, which was regarded by the company as a species of *quid pro quo*. As to that, I know nothing about it, as the contract was made before I had anything to do with the company. I had nothing to do with the making of it.

Q. How long has your company been allowed the rebate of 40 cents a ton?—A. I cannot say anything prior to a year ago last June. I presume it existed before, but I will not swear to it.

Q. Do the books show the total amount of rebate allowed you during the last two or three years?—A. The company has not been in existence for three years.

Q. Only since a year ago last June?—A. Oh, no; it was a little prior to that; but this contract that I think was entered into with the Marshall Company is only about a year ago last December, or something like that, when their mine was destroyed or their works were burned up. When they started in again. Very little coal was delivered from the Marshall mine to Denver after the 1st of May, on account of a strike we had on the introduction of the machine business.

#### WHERE COAL IS DELIVERED.

Q. At what points did you deliver coal?—A. We billed coal over the Union Pacific to any point they will take it. But the principal point where the rebate comes in is that which goes to Denver. It does not matter that which goes north, or outside of that which was hauled to Denver over the Boulder and Marshall Railroad, as it is called.

Q. Is it only in regard to coal that is delivered to Denver that you give a rebate?—A. That is all; only what comes to Denver, as I understand it.

#### A TRADITIONAL CONTRACT.

Q. Is your rebate contract in writing?—A. No. I have never seen a contract. I only know it as a tradition, you may say. I have never seen any contract.

Q. What is the monthly output of coal that is delivered to Denver?—A. Very little now.

Q. What has been the average for twelve months?—A. I should hardly be able to tell you that. I should not like to trust my memory at any time. It is easy to determine it elsewhere.

Commissioner ANDERSON. We would like to have the figures.

The WITNESS. Mr. Rubige can give them from the books.

Q. Can you give us the books to-morrow?—A. I presume I can, or Mr. Rubige can. He keeps the record of it. I would have to refer to the books because I do not keep it in my recollection.

Q. Please ask Mr. Rubige to get it. What I want is the amount of rebate, a statement from Mr. Rubige of the terms of the contract, if it be not in writing, and the annual delivery of coal at Denver, so that we can compute the whole amount of rebate annually. Who are your competitors at Denver?—A. Every one that sells coal.

## COMPETING MINES.

Q. Can you name some of the principal competitors?—A. I can put down the list of mines that are dealing in coal. That would include all that come here. We claim to be competitors of all that come here.

Q. Are there no competitors on the Union Pacific line in your neighborhood?—A. No. The Fox mine is adjoining ours at the same point.

Q. Do you know whether he is allowed any rebate on his coal?—A. I know nothing about his business at all.

Q. Do you know whether any other deliverer of coal here is allowed rebate for transportation by the Union Pacific?—A. I do not. I am not familiar with the business of any other person. In fact, I am not very familiar with our own.

Q. Have you had any conversation with any officers of the Union Pacific in regard to this subject?—A. No, sir.

Q. You never have since the time you became vice-president?—A. At no time, before or since.

Q. Who made the arrangement, as far as you know?—A. That I do not know. It was made before I had anything to do with the company.

Q. Was Mr. Rubige there before you?—A. Yes, sir.

DENVER, COLO., Tuesday, July 12, 1887.

*Evening session.*

JOHN K. MULLEN, being duly sworn and examined, testified follows:

By Commissioner ANDERSON:

Question. Where do you reside?—Answer. In Denver.

Q. How long have you lived here?—A. I have lived here since 1868 or 1872.

Q. What is your occupation?—A. I am a miller and grain dealer.

Q. Where are your mills?—A. In the city here; that is, at present I am merely in the employ of the company.

## COLORADO MILLING AND ELEVATOR COMPANY.

Q. In the employ of what company?—A. The Colorado Milling and Elevator Company.

Q. What position do you hold in that company?—A. General manager.

Q. How many mills does it control?—A. Seven or eight mills.

Q. Are they all here in Denver?—A. No, sir.

Q. Where are they?—A. There are some up the road, and one at Collins, and some in Greeley.

## CAPACITY OF ITS MILLS.

Q. What is their monthly capacity?

The WITNESS. All together?



Commissioner ANDERSON. Yes.

The WITNESS. If they should run right along, day and night?

Commissioner ANDERSON. No; as they work.

The WITNESS. About 4,000 or 5,000 sacks a day; 4,000, I guess.

Q. Where does your grain come from?—A. Colorado; that is, our wheat comes from Colorado.

Q. From what part of Colorado does it chiefly come?—A. From the northern part, most all of it.

Q. Does it come over the Union Pacific Railway?—A. Yes, sir; some of it.

#### LENGTH OF HAUL AND RATES ON GRAIN.

Q. What is the length of haul, about, on this grain?—A. About 50 miles it would average, I guess. From Fort Collins is 80 miles, and stations near by are 15 to 20 miles.

Q. What is the schedule rate for grain?—A. From Fort Collins to Denver it is 14 cents.

Q. Where did you say the other mills were that received the grain?—A. One is in Fort Collins and one is in Greeley and one is in Longmont—one or two.

G. Then does all the grain come to these different mills from the northern part of the State?—A. Most of the mills up there buy grain right at home.

Q. So that the railway has no transportation?—A. Very little, unless they should run out of grain and should ship in from the station close by.

#### LOCATION OF OTHER MILLS.

Q. What other mills are there in Colorado outside of those you have enumerated; are they numerous?—A. There are seven or eight or ten more.

Q. Where are they?—A. There are two in Boulder, one in Longmont, one in Evans, one in Eaton, and one at a little town up above Longmont—I do not know what they call it—and one in Canfield, and one at Littleton.

Q. Which of these mills that you have last enumerated depend for their supply upon grain that is to be transported by the Union Pacific Railway?—A. All of the mills, except those in Denver, depend for their wheat supply upon the country right around the mills, with the exception of, perhaps, a month or so in the year, when it might get scarce.

Q. How many mills are there in Denver?—A. Four mills.

Q. Are all these in the control of your company?—A. Yes, sir.

Q. Do they all belong to your company?—A. Yes, sir.

Q. Have they always been in its control?—A. No, sir.

Q. How many originally belonged to your company?—A. The company has been organized but a couple of years, or less.

#### NOMINAL VALUE OF STOCK.

Q. What is its capital stock?—A. \$1,000,000.

Q. Did it start with the four mills, or with one?—A. No, sir; it started with all of the mills, as it were.

Q. Who owned these mills before the company was formed?—A.

K. Mullen & Co., and myself and my brother owned two of the mills;

Ord Davis owned one; one was owned by the Crescent Milling and

Elevator Company, and one was owned by Mr. Cheeseman. Do you want all of them?

Commissioner LITTLE. Yes.

Commissioner ANDERSON. I am referring to mills in Denver.

The WITNESS. That is all of the mills in Denver.

#### REBATE TO DENVER MILLS.

Q. Prior to the organization of this company were you allowed any rebate on wheat that was delivered to you in Denver?—A. At times; yes, sir.

Q. Do you say the schedule rate was 14 cents?—A. I think at that time it was 15 from Fort Collins.

Q. What was the rebate allowed?—A. We never had any rebate except from Fort Collins, and one or two other stations, at certain times in the year.

Q. When you had it, what was it?—A. Two cents; 2½ cents was the most we ever got.

Q. How many bushels would you bring into Denver during the year?

The WITNESS. Before the organization of this company?

Commissioner ANDERSON. Yes.

The WITNESS. Probably 100,000.

Q. So that the rebate would amount to what, in the course of a year?—A. In some years we did not receive any rebates. Will you allow me to state the circumstances?

Commissioner ANDERSON. Certainly.

#### REASON FOR ALLOWING REBATES.

The WITNESS. When wheat would accumulate in a certain locality, and it would be pretty difficult to find a market for it, in consideration of an effort on our part to move it eastward, they would allow a rebate off what we shipped into Denver, and that would be only at certain stations and at certain times.

Q. Do you know whether the owners of these other mills in Denver were allowed a similar privilege?—A. I have been informed that they were—some of them.

Q. Is it not a fact that they complained to you that they were not able to get these same rates?—A. No, sir.

Q. Was no such complaint made?—A. No.

Q. Was it made by owners of any of the other mills at Denver?—A. I do not think any such complaint ever came to me.

Q. Did you ever hear that such complaint was made?—A. I have heard many times that we were receiving rates that others could not get; but the parties themselves never complained.

Q. Have you not heard the report that the owner of the mills at Greeley complained that he was unable to get the same rates that you got? I would like to have you explain, if you will do so, a little more fully.—A. I do not quite understand. The mills at Greeley do not do any shipping to Denver.

#### DESTINATION OF THE FLOUR.

Q. Before we pass to that. In regard to the shipments made by you after your grain had been milled, where do you deliver it?

The WITNESS. Most of it goes south.

**Q. Over the Union Pacific?**—A. No, sir.

**Q. By what route do you send it?**—A. By the Rio Grande.

**Q. Do you send any by the Union Pacific?**—A. No; not to the south.

**Q. Do you send any by the Union Pacific to any point?**—A. At times in the year, such times as I spoke to you about, when there is a surplus in Colorado, then we ship some east over the Union Pacific road, and also over the Burlington and Missouri. We send by both roads.

**Q. To what points was that consigned?**—A. That went clear through to the Southern States—Alabama, Tennessee, Georgia, and some of it to Kansas City; but only a very little.

**Q. On that flour shipped east did you also receive rebates?**—A. No, sir; never got a cent.

**Q. What was the schedule rate for flour shipped to the south?**—A. Twenty-five cents from here to the Missouri River where it originated in Denver and 30 cents under a milling and transit rate where it originated up on the road.

**Q. Have you on every occasion paid those rates on your flour?**—A. Yes, sir; on every occasion.

**Q. Have you had no special rates allowed to you?**—A. No, sir; not on anything of that kind.

#### NO DISCRIMINATION.

**Q. Do you understand that no distinction or discrimination whatever was made between you and any other dealers in wheat or exporters of flour throughout the State of Colorado?**—A. I have no reason to think that we obtained any better rates than were given to any one else. On the contrary, it often seemed to us that others were getting better rates than we were. You see the rate for flour from Greeley to the Missouri River would be 30 cents. I intended to say, and I think I did say, that the rate on wheat to be milled in transit at Denver from those points to the Missouri River was 30 cents.

#### RATE ON FLOUR FROM GREELEY.

**Q. What would be the rate on flour shipped from Greeley?**—A. Twenty-five cents.

**Q. Was that the rate to the Missouri River?**—A. Passing over the same road, exactly, to the Missouri River. That we always considered a discrimination in favor of the outside towns.

**Q. Was it because they got the same rate at Greeley that you received at Denver?**—A. They got a less rate. For instance, a man in Greeley or Collins, wishing to ship a car-load of flour to Kansas City, would bill it at these stations right through to Kansas City, and pay 25 cents. If we wanted to do the same thing it cost us 30 cents; but we had the privilege of stopping it in Denver and milling in transit. That 5 cents a hundred, amounting to \$15 a car, we often felt was too high. We complained of that.

**Q. Do you know Mr. Eaton, of Greeley?**—A. Yes, sir.

**Q. Did he own a mill at Greeley?**—A. He owns a mill above Greeley, at the town of Eaton.

**Q. Did it subsequently become one of the mills controlled by your company?**—A. No, sir.

**Q. Has it never had a business connection with your company, so as to become a part of it?**—A. No, sir.

duced us to buy too many goods. According to the rates that were made we had the money refunded to us. That was some years ago; it was before the consolidation of the Kansas Pacific and Union Pacific. We had a great war here, and goods were carried, I think, as low, to the best of my recollection, as 10 cents per hundred, and where we paid the freight they refunded us the money for what we had paid.

By the CHAIRMAN:

Q. That is to say, where you paid the open rate they repaid the difference between the open rate and the amount they charged to you?—

A. No, sir; the open rate was 10 cents a hundred, but the tariff rate might be \$1.25 a hundred. The agents were on the street soliciting business at all prices. It might be 10 cents to-day, or 25 cents to-morrow, or 50 cents; but the schedule rate we had to pay in some cases and then we would get a refund from the open rate they made.

Q. Did you have a private contract or agreement with the Kansas Pacific during that time?—A. No, sir.

#### AN EQUALIZATION RATE.

Q. Have you ever had any special rate with the Union Pacific since the consolidation?—A. No, sir; not with the Union Pacific.

Q. Have you ever had with any of the branches of the Union Pacific?—A. We had what we call an equalization rate. It was an open rate also. For instance, car loads of goods from Omaha, from Missouri River points to Denver, would be lower than in quantities less than car loads, and it was the same to Denver and to all common points, as it is called. We had a redistribution rate, or equalization rate, to make it a per hundred rate to these points; but it was an open rate that all merchants had, I think. There is no rebate about it. It was nothing else than the equalization of business from Omaha to Denver to permit us to do business with those towns, or it would have all gone to the Missouri River points. That has all been changed now by agitation of the people, saying they did not wish it.

Q. Have you ever made any application to the Union Pacific Railway authorities for any special rates?—A. No, sir; never.

Q. Have you had any correspondence with them?

The WITNESS. Special rate? Do you mean an annual contract by that question?

The CHAIRMAN. I mean any special rate.

A. Yes, sir; we have frequently made application for special rates on mixed cars of stuff that the tariff did not permit, but we have never obtained it, except by paying what they would call an equalization rate.

Q. Had all the shippers in the same line of business the same rate?—

A. Yes, sir; the rates have always been open.

#### STATEMENT TO CHAMBER OF COMMERCE ABOUT EQUALIZATION RATES.

Q. During any session of the Chamber of Commerce of the city of Denver did you, at any time, make a statement concerning the rebates allowed by the Union Pacific Railway Company to special shippers?—

A. That is the refund that I speak of, an equalization rate, that I wanted to impress upon our people the importance of, knowing Denver's commercial interest. It was not a secret rate or rebate. It was an equalization rate from Omaha to these points of consumption. Such a statement I made in the Chamber of Commerce.



By Commissioner ANDERSON:

Q. What was the statement?—A. That the rebate that they spoke of so much was simply an equalization rate, permitting Denver to distribute less than car loads of goods in equal competition with Missouri River competitive points.

#### EXPLANATION OF EQUALIZATION RATES.

Q. How was the equalization rate ascertained exactly where the quantities are brought here in less than car loads?—A. Without regard to facts as to the value of classification, we will suppose that in car loads it is \$1 per hundred pounds to Denver and other common points. The less than the car-load rate would be to all the same common points \$1.25 per hundred from Missouri River points. The local rate from Denver to these common points would be 40 cents. Therefore, to place us on an equality and basis with Kansas City, Leavenworth, Saint Joseph, Omaha, and Council Bluffs, we must receive a refund of 15 cents per hundred, or the orders would all be sent to Missouri River points.

Q. So as to bring the \$1.40 down to \$1.25?—A. Yes, sir; the same as exists from the Missouri River. I do not say now that this is according to any classification. It is simply an illustration of facts. That is all it is.

#### DENVER PEOPLE DISSATISFIED.

By the CHAIRMAN:

Q. What was the result of the discussion in the Chamber of Commerce?—A. The result is that our people are dissatisfied with the existing condition of affairs, without knowing that which is to their best interests.

Q. Were the Union Pacific Railway authorities communicated with by the officers of the Chamber of Commerce?—A. No, sir; I never had a conversation, excepting as I might meet you, gentlemen, with any Union Pacific officer at any time.

Q. Have you any knowledge of the giving of special rates by way of rebate, or by way of preference, to any particular shippers in Denver, by the Union Pacific Railway Company?—A. No, sir; I have not.

DENVER, COLO., *Wednesday, July 13, 1887.*

JOSEPH K. CHOATE, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your occupation?—Answer. I am superintendent of the Colorado Division of the Union Pacific.

Q. Do you reside at Denver?—A. Yes, sir.

Q. How long have you resided here?—A. A little over two years.

Q. Have you been engaged in that business during that time?—A. Yes, sir.

Q. Were you in Denver during the session of the legislature of 87?—A. Yes, sir.

Q. Do you know Mr. Edward Walcott?—A. Yes, sir.

Q. What is his business?—A. Lawyer.

Q. What is his connection? With what railroad company?—A. The Rio Grande; general attorney.

Q. Do you know Senator Stevenson?—A. Yes, sir.

#### LEGISLATIVE ACQUAINTANCES.

Q. What acquaintance had you, generally, with members of the legislature of 1885?—A. I had a speaking acquaintance with nearly all of them.

Q. Was Mr. Walcott also intimate with many of them?—A. I think he was.

Q. Where did you reside during that winter?—A. At Denver.

Q. In what place?

The WITNESS. What particular part of the town?

Commissioner ANDERSON. Yes.

A. At the corner of Olive and South Fifteenth streets.

Q. Where did Mr. Walcott reside?—A. I do not know exactly the street. It is Arapahoe, I think; between Fourteenth and Fifteenth streets. No; Stout, I guess, between Fourteenth and Fifteenth streets.

#### THE LEGISLATORS AND THE RAILROADS.

Q. Did you and Mr. Walcott have any discussion as to the standing of the members of the legislature, with reference to railroad affairs generally?—A. Yes, sir; very often.

Q. Did you have any enumeration of their names?—A. Yes, sir.

Q. Was the standing of these gentlemen on railroad questions entered on that paper from time to time?—A. They were checked off; yes, sir.

Q. Where would you go through this process of examination?—A. We did it very often.

Q. At your own rooms?—A. No, sir.

Q. At hotels?—A. Yes, sir.

Q. Have you that paper?—A. No, sir.

Q. Who prepared it?—A. It was a printed list of the call of the house.

Q. Was it one of the printed lists?—A. Yes, sir; we used to have them every day, and we used to check them off as we thought they would vote on the different questions.

By Commissioner LITTLER:

Q. Was it an aye-and-no list?—A. Yes, sir.

#### LEARNING "HOW THEY FELT."

By Commissioner ANDERSON:

Q. What other gentlemen interested in, or connected with, the railroads used to assist you in this work, or give you the information as to how these members stood?—A. Nobody ever assisted me, and nobody ever gave me the information. I got it myself.

Q. From what source did you get it?—A. From generally looking over the legislature, and coming in there occasionally.

Q. How could you find out how a man was going to vote on a particular bill?—A. They were very frank. If you talked with them, they would tell you frankly what they were going to do.

Q. Did you talk with the members of the legislature as to their views?—A. I found out how they felt. I used to talk with them on the different questions relating to railroad interests.

Q. Was Mr. Walcott also engaged in the same occupation?—A. I am unable to say; not with me. I think he very often did do that.

Q. You frequently saw him in the house talking to members of the legislature?—A. Yes, sir; often.

Q. You say there were no other members that you know of connected with the railroad companies excepting Mr. Walcott?—A. No sir; I know a great many other people connected with the railroads.

Q. Were they engaged in ascertaining the status of members of the legislature with reference to legislation?—A. I cannot tell you. There were a great many. I did not ask them. I was.

Q. By whose instruction did you do this work?—A. It was on my own authority. I had no instructions at all.

#### REPORTED RESULTS TO THE UNION PACIFIC.

Q. Do you mean to say that you never reported the results of your examination to any officer of the Union Pacific?—A. No, sir; I do not. I used to report very often what I thought would be done by the legislature.

Q. To whom?—A. Sometimes to the general superintendent and sometimes to the general manager.

Q. Do you mean Mr. Kimball?—A. No, sir.

Q. To whom?—A. I used to report occasionally to Mr. Smith, and I have reported to Mr. Dickinson.

Q. What was his position?—A. Assistant general superintendent.

Q. Mr. Dickinson and Mr. Smith, then, were perfectly aware that you were engaged in this work, and they desired it done, did they?

The WITNESS. Engaged in what work?

Commissioner ANDERSON. In the business of ascertaining the standing of the members of the legislature?—A. Yes, sir; I presume they were. I was up here to find out just what was going on. I used to come up here almost daily to see how they were voting, &c., and advise them of what action the legislature was going to take.

Q. What I mean is, did your superior officers desire to ascertain how the members would vote?—A. I think they did, although they never expressed this desire.

Q. You were in the habit of reporting so frequently, you must have been satisfied, if they preferred it should not be done, that they would have expressed themselves so to you? Is not that so?—A. Yes, sir.

#### COMPARED NOTES WITH WALCOTT.

Q. Do you say you frequently saw Mr. Walcott there, also?—A. Yes, sir.

Q. And did he have a similar list, or did he use the same list with you in checking them off?—A. We always had a number of those lists, and when a bill came up I have no doubt he checked them as often as I did. Sometimes I did and asked him what he thought about it and how it would go.

Q. Did you have a formula that you would enter opposite the name of anybody to indicate that he thought as you thought?—A. It was an eye-and-no list, and we would check the eye list to show whether they would vote for railroad legislation or against it.

Q. In regard to the method of ascertaining how members of the legislature were going to vote, you have said that you would go there and notice their action with reference to legislation that had preceded that period, and would also talk with them generally in regard to bills in which you had an interest. Was there anything else that would occur between you and any members of the legislature for the purpose of ascertaining their standing?—A. I cannot say that there was. Sometimes, if I knew a man who was a particular friend, I would go and ask him how he was going to vote on such a question.

Q. Were members of the legislature in the habit of dining with you?—A. I think that members of the legislature have dined with me; yes, sir.

Q. Was that at your rooms or at hotels?—A. I think it was never at my rooms.

Q. Where would they dine with you?—A. At hotels and restaurants.

Q. Was Mr. Walcott occasionally present, also?—A. I think he was on one occasion; I am not sure about that.

#### OPPOSED TO RAILROAD COMMISSION BILL.

Q. Please state, if you can, what special measures were pending in the winter of 1885, that you felt an interest in, as representing the railroads.—A. The Democratic party had made a strong effort here to draw favor to themselves by passing a law electing a railroad commissioner who should have power to fix rates. That was the principal one to which we were opposed.

Q. Do you remember the bill by its number?—A. I have forgotten it now. I think it was 103 in the house, and 206 in the senate, or *vice versa*. I think those were the numbers. I may be very far from it.

Q. How long was that bill pending in the house and senate?—A. How long was its fate uncertain? I do not think its fate was ever uncertain.

Q. How long were you busy with watching that bill; was it a month or six weeks?—A. They kept it up from the beginning until the finish, pretty nearly.

Q. Have you any of the lists you checked on that subject?—A. No, sir.

Q. You say you are satisfied that its fate was never uncertain; that it never would pass, do you mean?—A. Yes, sir.

#### THE MAJORITY HAD COMMON SENSE.

Q. How did you ascertain that?—A. I found that a majority of the members had common sense on the subject.

Q. Did you find that the members were all going to vote against it? We will not undertake to determine the merits of the bill without looking at it.—A. Yes, sir.

Q. Was that the result of these interviews and conversations?—A. Yes, sir.

Q. Was that the result of the investigations that you thought proper to make?—A. Yes, sir.

Q. Did you and Mr. Walcott have any special conversation in regard to the fate of that bill?—A. Oh, a great many times. I talked with everybody I could find on the fate of the bill.

Commissioner ANDERSON. I am talking more especially about your conversation with Mr. Walcott.

A. Yes, sir; a great many times; almost daily.



## MANNER OF MAKING FRIENDS IN LEGISLATURE.

Q. Did you and he indicate to yourselves doubtful members who required further examination?—A. Yes, sir.

Q. Do you remember whether any suggestions were made, either by Mr. Walcott or yourself, as to measures that you might think entirely proper for the purpose of securing doubtful votes?—A. Yes, sir.

Q. What was said with reference to that subject?—A. For instance, if a man we knew was feeling very badly upon any one subject, we would go and see if we could not fix that up in some way that would make it agreeable to him and his friends from the part of the State that he came from, and in some way get him to vote for the bill.

Q. Do you remember any special persons as to whom that method was applied?—A. Yes, sir.

## SENATOR BALLARD WAS ONE.

Q. Will you please name them?—A. Senator Ballard, of Fort Collins, was one. He was very anxious for the reopening of the part of the Colorado Central which had been closed after the Union Pacific obtained control of the Denver Pacific.

Mr. WILLARD TELLER. The witness is confounding the session of 1885 with that of 1887. Ballard was not a member of the senate.

The WITNESS. 1885? No, I was not here in 1885. Pardon me if I was talking about 1885.

Commissioner ANDERSON. The whole conversation was addressed to 1885.

The WITNESS. No, sir; I did not have a word to say to anybody on the subject. I had just got here. I thought you were speaking about 1886-'87.

Q. Will you please state in relation to what session of the legislature the testimony you have heretofore given applies?—A. 1886 and 1887.

Q. At what session of the legislature was it that the bill to appoint the railroad commissioner, with power to fix rates, was passed?—A. 1886 and 1887.

Q. Both?—A. Call it the 1887 session.

Q. Do you mean the last session?—A. Yes, sir; the last session. I was not here in 1885 at all to know anything about it.

## HOW HIS FAVOR WAS SECURED.

Q. Will you go on with your explanation as to the manner in which Senator Ballard's vote was obtained?—A. They wanted that opened. I used to go and talk to them and advise our people how they felt, and asked what could be done, and told exactly what our people could do. Our people were in favor of opening the road, and had me make an estimate of what it would cost to put it in shape to run, and what business we would get, and I would tell Senator Ballard the same thing. I told him how our people felt about it. He said that was the only grievance he had against the Union Pacific Railroad.

Q. Do you remember how Senator Ballard voted on the bill?—A. Yes, sir.

Q. Did he vote against it?—A. He voted for it.

Q. Did he vote for the railroad commissioner's bill to establish rates?—A. Yes, sir; he voted for it.

Q. When you conversed with him in relation to the opening of the Colorado Central, which he desired, was the subject of his attitude to the railroad commissioner's bill alluded to in any way?—A. Yes, sir.

Q. In what way was it alluded to?—A. I told him that I was very sorry to see that he was going to vote in that way, and said that he was very much misinformed in regard to the attitude of the Union Pacific Railway towards the public at large, and that they were very glad to listen to any complaint, and would adjust it if they could get the opportunity; that I had such instructions from the highest officers of the road down to my immediate superior, to do always what I could to accommodate the public by good service, &c.

Q. Were these representations made by you at the same interview, or during the same set of interviews, in which you informed the senator that the opening of the Colorado Central, or whatever it was he desired there, would take place?—A. I never informed him so. I informed him just what our people said, about how far they would go in the matter, and about how much it would cost. I told him what they would be likely to do.

Q. Did you gather from the result of those interviews that there was a likelihood that Senator Ballard would vote against the railroad commissioner's bill?—A. I was sure he would vote for it.

Q. Were you disappointed then at the result of your investigations as far as he was concerned?—A. Yes, sir; I was.

Q. What other name can you give us?—A. I probably talked to every man in the legislature that I could get acquainted with, and I think I got acquainted with nine-tenths of them.

#### SENATOR POOLE INTERVIEWED.

Q. I am talking more particularly now about what you have just said, that when you and Mr. Walcott had ascertained that a member was doubtful, and was probably against you, but open to reason or argument or influence, you would seek some method by which his vote could be secured, and you mentioned Senator Ballard and what was done in that respect. I asked you if you could name any other member of the senate or house of representatives as to whom similar methods were employed?—A. Yes, sir; I could name a great many. Senator Poole, for instance, in town here, voted against us right straight through. He had some sort of a grievance in regard to his soap business, and we tried to argue and talk to him as well as we could, and show him that he had a very erroneous idea of the treatment of the railroads here.

Q. What was it that he complained of about his soap business; was it the rates?—A. Yes, sir.

Q. Or was it that he did not get rebates?—A. No, sir; he complained of the rates. He complained that after he started the soap works here we shipped soap from the outside at lower price than he could make it. He did not complain of the Union Pacific, I think, in that matter. It was against other rates.

Q. Was there any change made in the rates?—A. Not that I know of; I am not familiar with it any more than that was always a claim he made.

Q. Did you suggest that the rates might be changed?—A. I did not.

Q. Did you report the complaint this gentleman made to Mr. Smith or Mr. Dickinson?—A. No, sir.

Q. He voted for the bill also?—A. Yes, sir.

Q. Are there any other names you can mention in regard to whom anything was done or proposed to be done?—A. All that were in the senate that were against us. I think I talked to every man as much as I could.

## EXPENSES PAID BY THE COMPANY.

Q. Was any arrangement, to your knowledge, made either by the Rio Grande or by the Union Pacific road to place you in funds to meet the necessary expenses of these explanations and interviews?—A. Any expenses that I wanted to pay here were vouchered and paid.

Q. In what form was the voucher made out—legal expenses, or what?—A. No, sir; it was made out in the form of expenses in connection with the Colorado State legislature; personal vouchers. They are personal vouchers. You will find them with other items.

Q. At Omaha?—A. Yes, sir.

Q. Do you remember how much they amounted to for the winter of 1886-'87?—A. Between \$400 and \$500, I should think. It might not have been as much as that; between \$400 and \$500, I guess.

Q. Do you remember whether Mr. Walcott pursued a similar method with the Rio Grande?—A. I do not know.

Q. Was Mr. Walcott at this time retained by the Union Pacific?—A. No, sir.

Q. Are you positive of that?—A. No, sir; at least I never heard so. I do not think he was; I have no reason to believe so.

Commissioner ANDERSON. I do not mean with this matter, but in connection with any litigation or suit?

The WITNESS. Mr. Walcott is the general attorney of the Union Depot Company; he has been for many years. That is the only connection, I think, he has with the Union Pacific.

## NO EFFORT MADE TO PURCHASE VOTES.

Q. During all of these interviews, did you ever, at any time, promise to any member of the legislature any advantage, or reward, or compensation, in consideration of the assurance by him that he would vote as you desired on this bill?—A. No, sir; nor to any other man, in the legislature or out of it.

Q. Did Mr. Walcott ever, to your knowledge, make any such promise?—A. No, sir.

Q. Directly or indirectly?—A. No, sir.

Q. Did you ever make such a promise, or intimate that such a promise would be made to any friend or any member of the legislature?—A. No, sir.

Q. Did you ever offer to any member of the legislature, or to any friend of a member of the legislature, any advantage to be derived from rebates or by passes to be issued by the road in consideration of his vote?—A. I have given passes, but I have never made an offer of any kind, shape, or fashion to anybody.

## PASSES GIVEN TO LEGISLATORS.

Q. For what consideration have you issued passes? Had it any reference whatever to a vote on any subject?—A. We furnish the passes to each member of the legislature; and to a member of the legislature who voted favorable to us, at a request from him for a pass, I

would have it issued. To almost any man who was friendly to the railroad company and requested a pass I should have it issued.

Q. Would you have done it to any friend of his besides himself?—A. Yes, sir.

Q. Do I understand you that passes were more freely granted to your friends in the legislature than to those who were hostile to you?—A. Yes, sir.

Q. How many passes in the aggregate would you issue to members of the legislature?—A. I suppose we issued anywhere from twenty to fifty during the session. I might not have issued more than twenty, and it might have been fifty. It would be very hard to say. I could get the number for you.

Q. How many members of the legislature were there?—A. Forty-eight, I think it was.

#### SPECIAL PASSES ON APPLICATION.

Q. Do you mean this was in addition to the regular passes to the members?—A. We issued a pass, good during the session of the legislature, all over the State.

Q. Was it to each member?—A. To each member of the legislature.

Q. Then those you enumerated, as thirty, forty, or fifty, are the additional passes?—A. Yes, sir.

Q. Is there any additional person whom you can name who received a number in excess of the others?—A. I do not think I ever issued more than one or two to anybody.

Q. At the request of anybody?—A. No, sir.

Q. Do you say that during the winter of 1885 you had no connection with the legislature whatever?—A. No, sir; I was here in 1885, but not in connection with, or as superintendent of, the Colorado division.

Q. Do you remember the Senatorial contest that took place that year?—A. Yes, sir.

Q. Was that, during that year, a subject of discussion between Mr. Walcott and yourself?—A. No, sir.

Q. Did you know at that time that on the whole Mr. Teller was regarded as more friendly to the interest of your road than Senator Hill?—A. No, sir.

Q. You did not know it?—A. No, sir; I never heard such a thing broached.

#### THE KANSAS PACIFIC AND THE SENATORIAL ELECTION.

Q. During the year 1885, have you any knowledge of provision being made by funds of the Kansas Pacific, placed in the hands of any of its officials or persons employed by it, and intended to be used in any way for the purpose of influencing the result of that contest?—A. No, sir.

Q. Do you know anything whatsoever with reference to that?—A. No, sir.

Q. Have you heard any such remarks?—A. Senator Hill has made the remark.

Q. Have you heard it from any one else?—A. Yes, sir; I have heard it a great many times.

Q. From what source have you heard that such a fund had been raised?—A. From general conversations with people. I have often heard in conversation with people that Senator Hill said so. I have talked with our people and they have said there never had been a cent spent.



They did not know or care whether he was elected or not. I have heard that many times.

Q. Can you refer us to any person who would be more likely to have knowledge on the subject than yourself?—A. I do not know anything about it. I had just come here. Mr. Dickinson was immediately in charge of the division at that time, and I talked to him, and I never heard him mention it.

#### ALL THE RAILROADS HAD REPRESENTATIVES.

Q. Did you know Mr. Archie Williams at that time, in 1885?—A. Yes, sir.

Q. And you also knew Mr. Walcott, did you?—A. Yes, sir.

Q. Do you know whether they had any charge of legislative matters in 1885?—A. No, sir.

Q. You do not know?—A. No, sir; Mr. Williams does not belong in Colorado—he was a Kansas man.

Q. He was here, was he not?—A. Yes, sir; I know he was here. But he is here very often. His division ends at Denver. But as to knowledge of that legislature, I do not know anything about it. I had nothing to do with it. Was not located here.

Q. In this session of the legislature, 1886-'87, who else participated in ascertaining the status of members of the legislature besides yourself and Mr. Walcott?—A. There were so many around here I could not state. All the railroads had representatives here. I saw representatives from every railroad.

Q. Give the names of some of those whom you recall.—A. The Pullman Company had Mr. Jewett of Chicago here. He is their division superintendent, or district superintendent. Mr. Gast of the Atchison, Topeka and Santa Fé was here at times. I think Mr. Font of the Denver, Utah and Pacific was here. I think Mr. Toll of the Colorado and Western was here. Everybody that was interested in railroads appeared.

#### MEETINGS OF THE RAILROAD REPRESENTATIVES.

Q. Did those gentlemen ever meet together for the purpose of conferring about those matters?—A. I do not know that they ever did.

Q. Did you ever meet in a room where three, four, or five of them were present at one time?—A. Yes, sir; I have been in a room.

Q. You have done that?—A. Yes, sir.

Q. Did each have one of these lists, and was each one talking about the status of the members?—A. I think they were all talking about the status of members. I do not remember about their having lists.

Q. Did they have any organization, or chairman, or roll of procedure?—A. No, sir; it is just meeting downstairs in the lobby of the hotel, or in the bar-room, or outside of the assembly rooms; no meeting; never went to a meeting of anything of that kind, nor were they called together for any such thing.

Q. Were not these gentlemen, being all in the same interest, called together to suggest methods about securing certain legislation?—A. Yes, sir; they never had a vote, but there was some attempt to see how we could reach this man or that man.

#### THE METHODS PURSUED MORE FULLY EXPLAINED.

Q. Can you give us a little more fully the method that was pursued?—A. The method was to find out just what each man's reason was for coming against us. If it was a pure conviction that it was

necessary to have such a law, we never bothered him. If it was because he had some grievance, which the most of them who voted against us did have, which was of a personal nature, we looked into it, and if there was any reason, such as that they were being injured by the transportation or by any other means, we looked to see if it could not be adjusted to meet their views. If we could meet their views we would say so; or if we could make any change for them, we did it.

Q. Can you mention any vote that you secured by reaching a grievance?—A. Yes, sir.

Q. Please tell us whose vote you secured?—A. There was a member of the lower house, who came from Morrison, who had a grievance as to the readjustment of the local tariff that had come out, that the rate on grain which had been raised from  $4\frac{1}{2}$  cents to, I think it was, 8 cents. It was a mistake in the tariff, the tariff having been printed in Omaha on a mileage basis; and the rate was restored to the original rate, I think of  $5\frac{1}{2}$  cents. He said he had nothing more to say, and he voted with us.

Q. Were there any others that you can remember where the votes were obtained by the removal of grievances?—A. Partly; yes. I think that the votes of some of the people of Northern Colorado who had been shipping coal into the mountains, for some reason or other, had never seen a coal tariff, and had been supplying their coal entirely through an agent of the Union Coal Company, who had distributed the coal and had charged from 50 cents to 75 cents a ton for delivery. A man buying by the car could have bought direct exactly at the same price as the agent of the coal company. They did not seem to know it. A many places where I explained that they seemed to be surprised, and were grateful for the explanation, but it was something I would have been glad to explain before if I had known it.

Q. You think some votes were secured in that way?—A. I think they were aided.

Q. To what counties does that apply?—A. Gilpin and Clear Creek. There were one or two members softened in that way. I will not say that their votes were wholly secured to us by that.

Q. Do you remember any other cases?—A. I do not know; I tried so many, I suppose it would apply to almost everybody.

Commissioner ANDERSON. I mean cases in which you think you can trace the securing of the vote to the removal of the grievance.

The WITNESS. No, sir; I do not know that I can. The members of the legislature were stuffed here by a lot of buncombe talk of all sorts that was not true, and we did our best to counteract that by presenting our actual figures.

JOSEPH K. CHOATE.

DENVER, COLO., Wednesday, July 13, 1887.

MASON W. HOWARD, being duly sworn and examined, testifies as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am running the Transfer Company.

DENVER TRANSFER COMPANY.

Q. How long have you been engaged in the business?—A. Five years.

Q. Who compose the company?—A. It is a stock company of which D. C. Dodge and myself are the principal owners.

Q. Who are the officers of the company?—A. D. C. Dodge is president and I am treasurer and superintendent of the company.

Q. Can you name any of the other individuals connected with the company?—A. Yes, sir.

Q. Who are they?

The WITNESS. Do you mean stockholders or directors?

The CHAIRMAN. Yes; stockholders or directors.

A. William Barth is a stockholder; W. G. Brown is a stockholder; Brown Brothers have some stock in the company; Mr. Gannett, of Omaha, has 10 shares, I think, in the company.

Q. Is it John W. Gannett?—A. Yes, sir. I believe that is about all the stock that is held outside of Mr. Dodge and myself.

#### BUSINESS RELATIONS WITH UNION PACIFIC.

Q. Has the company had any business relations with the Union Pacific Railway Company?—A. No, sir; nothing more than with other railroad companies.

Q. What business have you had with the Union Pacific Railway Company?—A. We receive and deliver freight from their road.

Q. Had you a contract with the Union Pacific Railway Company?—A. No, sir.

Q. What arrangement did you make with the company when you commenced business with them?—A. We did not make any, except to pay the freight bills and deliver the goods.

Q. How do you get the freight from the Union Pacific?—A. We solicit the business from the merchant of the town and get his order on the railroad company to turn over any goods that may come for him to us, and we haul them, for which we make a transportation charge to the merchant.

#### NO BETTER FACILITIES THAN OTHER TRANSFER COMPANIES.

Q. What facilities have you over other transfer companies from the Union Pacific Company?—A. We have none.

Q. What other transfer companies are there in Denver?—A. The City Transfer.

Q. Are there any others?—A. Not at present. There were two more; but they have gone out of the business.

Q. Has the City Transfer Company the same facilities from the Union Pacific that you have?—A. Precisely the same.

Q. Were the other companies that went out of business merged into your company or the City Company?—A. No, sir.

Q. Were the other companies bought out by your company?—A. No, sir.

Q. What was the difficulty with the other companies?—A. They could not make enough to sustain themselves.

Q. What facilities have you for receiving freight from the City Company?—A. None over any expressman in the city.

Q. What are the facilities afforded you?—A. We drive platform and get the goods out of the house and put them and haul them to the merchant.

Q. Could any other expressman do the same?—A. Yes, sir. They do it every day.

#### NO BONUS PAID TO EMPLOYEES

Q. Do you pay any bonus to the employé of the Company for this privilege?—A. Not

Q. Did you make application for the business to any of the officers?—A. No, sir.

Q. Did you ever have any conversation with any of the officers or employees concerning the transfer business?—A. Many a time.

Q. Was that at the time of the commencement of your business?—A. I was not with the company when it was organized. I do not know anything about that. I took it afterwards. I simply went in, in starting the company, as a stockholder, and lost everything I put into it, and then I tried to resurrect the company and make something out of it.

Q. What did you do in the way of resurrecting it?—A. I did a great deal of hard work; that is about all.

#### INTEREST OF AUDITOR OF UNION PACIFIC TRANSFER COMPANY.

Q. Is this Mr. John W. Gannett, that you refer to, the auditor at the Omaha office?—A. He was at one time. I do not know whether he is now or not.

Q. How long has he had an interest in this company?—A. Ever since it was originated. He was one of the first that went into it.

Q. Has he a large interest?—A. He has ten shares, I think. I tried to buy him out, but he would not sell. I do not know why. He never had a cent for his money.

Q. Was he an auditor at the time of securing his interest?—A. I could not say that; I do not know.

Q. Was he an officer at that time?—A. In our company he was not. I do not know whether he was of the railroad company or not.

#### INTEREST OF GENERAL TRAFFIC MANAGER.

Q. Are any of the officers or employees or agents of the Union Pacific Company interested, directly or indirectly, in your company?—A. Perhaps I should state that Thomas L. Kimball holds 10 shares in our company, that he has had ever since it originated. I did not think of that in giving my former testimony. He still has that interest.

Q. Mr. Kimball is the general freight manager and traffic manager, is he not?—A. Yes, sir.

Q. Did he have the interest in the company when you went in?—A. Yes, sir; before I went in.

Q. Did you have a conversation with him concerning the transfer business?—A. Yes, sir.

Q. What was the nature of it?—A. I wanted him to pay us something for collecting these freight bills around town that we collect, and he refused to do it.

By Commissioner LITTLER:

Q. What is the par value of your shares?—A. \$100 shares.

By Commissioner ANDERSON:

Q. What is the total capital?—A. 500 shares; \$50,000.

#### EFFORTS TO SECURE BETTER FACILITIES.

Q. Did you have a conversation with Mr. Kimball concerning the facilities that were to be given to your company?—A. I talked with him about that; yes, sir.

By the CHAIRMAN:

Q. What kind of talk did you have?—A. I thought, in view of the business we transacted, that we should have some advantage over the



ordinary expressman that comes down there at the platform, perhaps once a week, in reference to unloading freight. For instance, if you had been down there yesterday, you would have seen ten to fifteen of our wagons in line waiting to unload at the depot. Any expressman or any teamster that comes in ahead of our teams takes his place, and it holds fifteen of our teams there half a day, while it would only hold one of the other teams belonging to somebody else, who would thereby undergo a good deal less expense and loss than we would; but that is something we never have been able to regulate or get fixed, and I do not expect to. I tried for five years and have not succeeded in getting it done. I have about given it up.

#### PERSONS INTERESTED IN TRANSFER COMPANY.

Q. Have you named all the officers, or employes, or agents of the Union Pacific Company that are interested, or that have been interested, in your company in the past?—A. I have named all that are interested; yes, sir.

Q. Have you named all that have at any time been interested in the transfer business?—A. No; that is, I have not named all that had stock.

Q. Who were the others?—A. Mr. Smith used to have some stock in our company, but he sold it out some years ago. I think it has been some three or four years since he had any stock in the company.

The CHAIRMAN. Mr. Smith is a very indefinite designation.

#### ORGANIZED TO HELP RAILROADS OUT OF A SCRAPE.

The WITNESS. I should have said S. T. Smith. It might be well for me to state, in this connection, that when this transfer company was organized it was organized to help the railroads out of a scrape. That is, it was during the Leadville excitement, and there were from 500 to 1,000 cars standing in the yards in Denver all the time. I was then in the railroad business myself. It was seen that some arrangement must be made in order to relieve the company of this load of cars. The present transfer companies were not able to handle the business. They would store goods with them. They would not only lose goods at times, I am told, but they lost the freight that was really due on the goods; and it was impossible, for self-protection, to get these cars unloaded. That was the way some of the railroad men happened to get interested in the transfer company at that time.

Q. Was the organization effected for the railroad companies?—A. No, sir; it was effected to relieve the railroad companies of this freight that had accumulated in cars and in warehouses in Denver.

Q. Who made the suggestion?—A. I think it was made by the various roads centering in Denver. That is my understanding of it.

Q. What consideration were the roads to give for this organization?—A. Nothing whatever.

#### FAILURE OF FIRST EFFORT.

Q. Were the individuals going into the organization to take the risk as to the profits?—A. It was understood and talked of in this way: That when the company was first organized the railroad should have a company on which they could rely to handle a certain amount of freight at certain periods and on short notice, you understand. After it was organized, it did not prove to be a success. Consequently, every

road man that had taken any stock in it dropped out of it just as quick as he could, and let his stock go. I, with the rest of them, lost the first twenty shares I took in the company. Then two or three years after that, after they had got into debt a good many thousand dollars, it was proposed to me to resurrect the company, and I took it under advisement for two or three months, and tried to get an agreement for advantages, if I would resurrect the thing. But we never succeeded in getting anything of that kind done. However, I did resign my position on the railroad and took hold of the business and did get it on its feet.

#### SUBSEQUENT SUCCESS.

Q. Who suggested that you should do that?—A. Mr. Pierson is the first man that suggested it to me. He was then pool commissioner and owned ten shares in the company. He said he always thought that it ought to be an institution that would at least meet its obligations, and he thought I had better take it up and undertake to bring it out in that way.

Q. Was Mr. S. T. Smith interested at the time, or employed by the Kansas Pacific, when he had the interest in the transfer company?—A. It occurs to me that he was superintendent of the Kansas Pacific division of the Union Pacific.

Q. What other officers or employes of the Union Pacific Railway or branches were interested in the transfer business?—A. I do not know of any.

Q. Have you named all?—A. I think I have named them all; yes, sir.

Q. During Mr. Smith's connection with the transfer company what interest did he hold?—A. He had ten shares of the stock.

#### VALUE OF THE STOCK.

By Commissioner LITTLER :

Q. What is that stock worth now?—A. Well, of course, the most I paid for any of the stock has been \$75 a share.

Q. What is it worth?—A. That is a problem that any two men would differ on.

By Commissioner ANDERSON :

Q. Does it pay any dividends?—A. No, sir.

Q. Is there any bonded debt?—A. No, sir.

#### PROPERTY OWNED BY THE COMPANY.

By Commissioner LITTLER :

Q. What property does the company own, and what is your capacity for handling freight?—A. We have five lots and a good barn here in the city. We own our horses and wagons and appliances.

Q. How many horses and wagons do you own?—A. We have about thirty wagons and eighty head of horses, all told.

Q. Is that the entire property of the company?—A. We have a ranch out here on Bear Creek.

Q. Do you put any of the earnings of the company into the ranch?—A. Yes, sir.

Q. Have the earnings of the company bought and paid for the ranch?—A. Yes, sir.

Q. How much of a ranch have you?—A. Four hundred acres.

Q. What did it cost you ?—A. From \$5 to \$20 an acre.

Q. Have you got it all paid for ?—A. Yes, sir.

**HAS NO ADVANTAGE OVER OTHER CARRIERS.**

Q. Is that the reason the stock has not paid any dividends ?—A. That is a very good reason. I want to say this: That there is not a railroad company in the city of Denver that gives the transfer company one cent's advantage over any expressman in the city of Denver. Each railroad company in this city ought to pay us \$1,000 a year for collecting their bills and they do not pay us a cent. The two transfer companies in this city pay \$3,000 a year to collect bills for the railroad company, for which they get nothing but thumps and kicks when they come down and want certain things. We fight our own battles and fight them right from the shoulder at any time. Furthermore, I want to say this: That we pay thousands of dollars a day to the railroad companies for freight bills, and we take them to merchants in this city, and from clerical errors of clerks at this end and the other end we carry thousands of dollars all the time until this bill can be collected at the tariff and right rates. If there is anybody that thinks it is a plum, they had better try it awhile.

DENVER, COLO., *Wednesday, July 13, 1887.*

MASON B. CARPENTER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business ?—Answer. I am an attorney at law.

Q. Are you a resident of Denver ?—A. Yes, sir.

Q. How long have you been here ?—A. I have been here twelve years.

Q. Do you desire to make a statement to the Commission ?—A. Yes, sir.

The CHAIRMAN. We will hear you.

**STATEMENT REGARDING RAILROAD COMMISSION BILL.**

The WITNESS. I saw a statement in the newspapers, made by Mr. Thomas M. Patterson, to the effect that the house of representatives, at the last session of the legislature, passed a railroad commission bill, and that the senate refused to do so, although the people of this community desired such a bill, or at least ninety-nine out of a hundred desired such a bill passed. I will state that I have been a member of the senate for four years. During the sitting of the senate there was handed to me, and signed by people of this city, a protest against it, directing or asking me to vote against stringent railway legislation. That was signed by nearly every prominent business man in this city. I copied from that list, and have now, the names of people who signed that request to vote against such a proposition. It had some seven hundred or eight hundred names, and I have here a copy of the names of nine-tenths of the merchants of this city and of prominent people in the city, a few of whom have been interested in the railroads, and some who have not.

Q. Will you leave the list with the Commission ?—A. Yes, sir. It is pencil. I copied it before I handed in the petition to the senate.

## CONCERNING ELECTION OF SENATOR TELLER.

Q. Have you any other statement to make?—A. I desire to make another statement, and that is in reference to the election of Senator Teller. I was one of the managers of the contest between Senator Hill and Senator Teller, acting for Mr. Teller, or rather as a friend of his, not at his solicitation. I was at all times, when not engaged upon the floor of the senate, in the lobby and in different parts of the Windsor Hotel, where there were rooms where this matter was talked over, and I never saw at any time any connection between his election and the Union Pacific, anywhere. It was a political move, and, so far as I know, no railroad move. In fact, at the primaries, the fall before, the influence of nearly all the railroads in this city was thrown for the Hill side. I do not know that we received in our contest any assistance from the Union Pacific. I think we did not receive any. We received no money influence, and I do not know that we received any influence in the election of individuals who were favorable to the Teller side.

Q. Have you any other statement to make?—A. No, sir; I think that is all.

Q. Are you employed by any of the railroad companies centering in Denver?—A. No, sir.

Q. Have you ever represented any of them as attorney?—A. No, sir; at no time whatever.

## PRESENCE OF UNION PACIFIC PEOPLE AT LEGISLATURE.

Q. During your membership of the senate of Colorado, have you observed the officers or employes of the Union Pacific Railway Company present at the sessions?—A. Yes, sir; I have in the lobby, or rather in the lobby of the hotel; not in the lobby of the legislature.

Q. What were they doing there?—A. I do not know that I ever saw anybody, except around as other people were.

Q. What officers or employes did you see there?—A. I do not know of any except Mr. Choate. I saw him, I presume, during this last winter two or three times.

Q. Do you recall any other agent or officers or employes of the Union Pacific Company being present?—A. No, sir; I do not think I know others. I may have seen Mr. Touhy once.

Q. What is his full name?—A. Pat Touhy.

Q. Is he a resident of Denver?—A. Yes, sir.

Q. What was he doing there?—A. I saw him upon the occasion of the defeat of stringent railroad legislation in the senate with some three or four others. I think he was with Edward Walcott, who was the attorney for the Rio Grande.

Q. How was Pat Touhy employed by the Union Pacific Company?—A. My impression is that he was the local superintendent of some division, or assistant superintendent.

Q. What, from your observation, was the purpose of these men there?—A. Mr. Touhy was engaged principally with some of the others in drinking whisky.

Q. Who were the others?—A. I think there were two or three of the members of the legislature.

Commissioner LITTLE. Of the lower house, I suppose?

The WITNESS. I am sorry to confess that there were some of the upper house there.

The CHAIRMAN. Was Mr. Touhy successful?



**THE WITNESS.** Yes, sir; in that branch of the business I think he was.

**Q.** Do you recall the presence of Mr. A. L. Williams?—**A.** I never spoke to the man in my life. I remember his being here at the session of 1885.

**Q.** What was he engaged in while here?—**A.** He was said to have been a Union Pacific or Kansas Pacific attorney. He made a speech, I think, before the senate railroad committee against the rate-making power in the commission bill. I know him only by sight. He was pointed out to me before he made that speech, and then I recollect his making that argument before the senate railroad committee.

**Q.** Did he remain here during the session?—**A.** I could not say as to that. He was here a part of the time I know.

**Q.** Mr. Touhy was engaged in drinking whisky with the members of the legislature; what else was he doing?—**A.** I never saw him except that one time. As I say, that was after the railroad legislation had been defeated in the senate.

#### THE PRESENCE OF LOBBYISTS EXPECTED.

**Q.** Was there any comment at the time upon the presence of these men at the legislature?—**A.** Oh, no, sir; we expected them.

**Q.** Why did you expect them?—**A.** We supposed that they were interested just the same as in all other branches of legislation; we had large lobbies always upon every kind of legislation.

**Q.** What method did the lobbyists use?—**A.** I never saw any, except that of consultation and begging of members to vote this way and that way.

**Q.** Have you named all the forms or methods of influence used on the part of the railroad companies for the purpose of influencing legislation?—**A.** All that I know of. I know that they were here. Mr. Walcott was busy, I think, probably, more than any one else. He stated to the railroad committee of the senate that it was of vital importance to the Rio Grande road, which he represented, to prevent this legislation. I think I saw him more frequently than anybody else of what would be known as railroad men.

**Q.** Had the railroad men, especially the agents of the Union Pacific Railway Company, any headquarters where they held their meetings with the members of the legislature?—**A.** None that I know of; no, sir. I never saw them except in the lobby of the Winsor Hotel, which was always the headquarters for everybody that had any matters before the legislature. The legislative halls were in the little building just above the hotel here. Upon the adjournment of the legislature the members generally came into the hotel, or a good many of them did, and there you would find the people from the different parts of the State and the city who were interested in matters before the legislature.

#### INFLUENCING LEGISLATION.

By Commissioner LITTLER:

**Q.** I will ask you a question. It is in evidence before this Commission that there was a combination formed between the representatives of the several railroads of this State for the purpose of influencing legislation at the last session of the general assembly, and that in pursuance of that combination large sums of money were raised for the purpose

corrupting members of the legislature. Will you state whether that is true? State all you may know in relation to it, and state it fully.

The WITNESS. I know nothing whatever about that, except what was rumored and talked, or written and published in the Denver Republican. As to any money being used, I do not think there was ever a dollar used with any member of the senate of the last legislature.

Q. Were you at any time during your official career approached by anybody with a view of buying your vote on any question?—A. Oh, no, sir; at no time.

Q. Do you know of any other member who was so approached?—A. I do not. I do not think that any member of the last senate or the senate before—the senate of 1885—was ever paid a dollar at any time. Neither do I believe that there was any combination to pay money.

Q. So far as the investigations of that legislature went in that direction, as I understand, they failed to disclose any such combination. I refer particular to the Hill and Teller investigating committee?—A. I was not a member of that committee.

#### CHARACTERS OF MEMBERS OF INVESTIGATING COMMITTEE.

Q. Will you state what you may know in relation to the characters of the members of that committee? Do you recollect that?—A. I only recollect one.

Senator TELLER. I can recall them: Mr. Stevenson, Freeman, and Eddy, of the senate; Rathbon, Campbell, Pence, and Quillan, of the house.

Q. State what you may know in relation to their general standing, as members of the legislature, and in what esteem they are held by the people of Colorado?—A. I know nothing against any one of them, and I believe they stand as well as any members of the senate or house.

Q. Did you ever hear of either of them accepting money as a bribe?—A. No, sir; and I do not think that any one would offer those people a bribe.

Q. Do you mean to state that their characters were such as would repel or deter any man from approaching them on that subject?—A. Yes, sir. I believe that is so as to most of them.

#### WHO HAS BEEN RE-ELECTED.

Q. Do you know whether either of those gentlemen have been re-elected?—A. Mr. Freeman has been eight years in the senate; Mr. Eddy has been eight years in the senate; Mr. Stevenson was not re-elected, and was not a candidate, I think; Mr. Campbell was then in the house, and has been since elected to the senate from El Paso County. Mr. Pence is now the county attorney.

Q. Of this county?—A. Of this county. He then resided in Rico, Dolores County.

Senator TELLER. Did he reside at Rico? I think it was Ouray.

The WITNESS. No, sir; he resided at Rico.

Senator TELLER. Then I was incorrect in my statement.

The WITNESS. He represented Ouray County.

Commissioner LITTLE. It is immaterial. That is all I desire to ask you in relation to that matter, unless you have something further to state.

## DIVISION OF LEGISLATURE AS TO RAILROAD LEGISLATION.

**The WITNESS.** I desire to state this: that I think I have known as much about the matters that were going on in the legislature as anybody. But we could always tell, within a day or two, or within two or three days after we struck railroad legislation, how to divide the house or the senate. We knew about where they stood. A good many of the members of the legislature came here bent upon very stringent railroad legislation. But after argument before the committees, and after a full discussion of the matter in the senate and in the house, a good many of those members changed their minds. I think it was an honest change of mind, and not that produced by money. I do not know of a dollar being used in the legislature in the last four years that I have been there.

**Q.** Is that all you desire to state?—**A.** Yes, sir.

**Q.** I now invite your attention to another subject. Have you, at any time, considered the relation between the Government and these bond-aided railways; and, if so, have you had occasion to make up your mind as to what policy should be adopted by Congress in dealing with these properties?—**A.** No, sir; I have not. My attention has not been directed to that.

**Q.** Have you any suggestions to make to the Commission in relation to that subject?—**A.** No, sir.

**Q.** Have you any other suggestions to make to the Commission?—**A.** Not that I know of; no, sir.

## HOSTILE LEGISLATION

**By the CHAIRMAN:**

**Q.** Has any legislation been enacted in Colorado hostile to the railway?—**A.** No, sir; unless you may call the railway commission bill, that has advisory powers simply, hostile to the roads.

**Q.** Would you regard that as hostile?—**A.** No, sir; I would not, although it has clauses against discrimination and extortion.

**Q.** Has the commissioner any power under the act to enforce the discrimination clauses, or other clauses?—**A.** No, sir. We attempted at the last session of the legislature to change it, and enact a law similar to what is now in force in Iowa, providing for an appeal from the advice or decision of the railway commissioner to the court, and with power in the court to enforce; but the people who desired stringent railroad legislation opposed it. They said that they would have a complete rate-making power, with power to do just as they wished with the railroads, or they would have nothing.

**By Commissioner ANDERSON:**

**Q.** Does this act make a violation of its provisions relating to discrimination a misdemeanor?—**A.** It does not.

**Q.** Does it prescribe any penalty whatever for violation?—**A.** I think it does not. That is my recollection of it.

## REASON FOR HOSTILE LEGISLATION.

**By the CHAIRMAN:**

**Q.** Were many bills introduced during the session of the last legislature and the prior session, that you know of, hostile to the railroad?—

**A.** Yes, sir; a large number.

Q. How do you account for the presence of so many bills? Was it reflecting the sentiment of the community throughout Colorado?—A. I think the most of them were introduced by those who voted steadily for stringent railroad legislation; particularly by the representatives from Clear Creek and Gilpin Counties. These counties claimed to suffer from the rate that was given to them by the Union Pacific. They insisted that the whole State should be put under the rate-making power, or a commission with the rate-making power, in order to give them the relief they needed. Those of us that were opposed to that antagonized that position as well as was possible to do so.

#### MANUFACTURED SENTIMENT.

Q. Was the number of such bills in the legislature a fair estimate of the measure of sentiment throughout the State?—A. I could not say as to that. I think that much of that sentiment of anti-railroad legislation was manufactured. I think much of it was made by the newspaper in this town, called the Denver Republican. They were continually howling for railroad legislation. They did not do that before they had a large contract with the Rio Grande for doing their printing. A few days after that the printing was taken away from them, they commenced this onslaught upon the railroads. That is my understanding of it.

Q. Was the railroad question an issue in the canvass for members of the last legislature?—A. Not that I know of. It might have been in one or two places in the State. I do not now recall any person who was elected upon that issue or any person who was defeated upon that issue. It is possible that such might be the fact.

Q. What would be the purpose of manufacturing sentiment upon that question?—A. I consider it the policy of the Denver Republican in its fight upon Senator Teller. I have always considered that the Denver Republican has attempted to hoist its proprietor by a sentiment of anti-monopoly. That is simply my own opinion.

Q. Have you any other suggestion to make?—A. None that I know of.

#### DIVISION OF THE LEGISLATURE ON RAILROAD LEGISLATION.

By Commissioner LITTLER:

Q. I will ask you one more question. What proportion of the last legislature was opposed to legislation on railroad matters? By what majority were these measures defeated?—A. The senate is composed of 26 members. Senator Waters, of this county, was opposed to railroad legislation, but was not present except one day. Without him the votes ordinarily stood 14 to 10 and 14 to 11.

Q. How did the votes stand in the house?—A. I do not know. The house passed the railroad legislation.

Q. And the senate defeated it?—A. Yes, sir; I think the vote there was about 4 or 5—or the same number the other way—the majority.

#### THE HOUSE FAVORABLE TO RAILROAD LEGISLATION.

By the CHAIRMAN:

Q. Were the members of the house elected upon that issue?—A. Not that I know of. I do not remember of any one now who was elected upon that issue. Those people who ran in Gilpin and Clear Creek Counties, irrespective of politics, were all one way, as I understand it.



Q. If the majority of the house voted that way was it not an indication that the majority of their constituents had sentiments in that direction?—A. That may be. I doubt it.

Mr. WILLIAM SCOTT LEE [mayor of Denver]. I must say that I know absolutely nothing about this matter, and I should regard it as a great favor if you will excuse me, for I have very important matters connected with this city that demand my attention, and I could not say anything at all on these matters.

Commissioner ANDERSON. I move that the mayor be excused.

The CHAIRMAN. You are excused, Mr. Mayor. We wanted to hear anything you had to say.

DENVER, COLO., *Wednesday, July 13, 1887.*

JOHN H. MARTIN, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. General merchandise; fruits and vegetables, &c.

Q. Is your business carried on in Denver?—A. Yes, sir.

Q. How long have you been here?—A. I have been in Denver for twenty-seven years.

Q. Have you had business with the Union Pacific Railway Company?—A. A great deal.

Q. What has been the nature of the business?—A. Shipping over the road; different things.

Q. From what points to what points?

The WITNESS. Do you mean where it originates?

The CHAIRMAN. Yes.

The WITNESS. From New York and Chicago, a great deal, and Missouri, and different places in Kansas.

Q. Have you named all the points of shipment?—A. We shipped some over it from New Orleans by way of Omaha, but only a few cars come that way.

#### PAID TARIFF RATES.

Q. What rates have you paid as a shipper?—A. The tariff rates, except when they were cut. When there have been any cuts, I suppose we have had the advantage of them.

Q. Cutting with whom or between whom?—A. Different roads, cutting east. The roads here do not cut. That is, they have been in a pool.

Q. Have you always paid the open public tariff rate?—A. Never knew but what we did.

Q. Have you had any special rate with the Union Pacific Company?—A. No special rates whatever from New York with the Union Pacific Company.

Q. Have you had any rebates allowed by the Union Pacific Company to your firm?—A. No, sir.

#### SPECIAL RATES TO COMPETITORS.

Q. Have you any knowledge of any special rates being allowed to other shippers engaged in the same line of business with you?—A. Not of my own knowledge; I have only heard of it.

Q. What have you heard?—A. I heard my friend Cornforth, my competitor, had \$25 a car last year from Los Angeles to Denver, on the Central Pacific and the Union Pacific. I got that from Mr. Edward Earl, of California, week before last. He told me so. That is my source of information.

Q. What was the full rate at that time?—A. The full rate was \$140.

Q. Do you know of any other shippers who received rebates?—A. I know that last year, just before the legislature sat, we had to take our goods to different shippers here to ship them on the Colorado Central, as we were informed by our customers at Boulder and Longmont and Collins that unless we could get such and such a rate they could not buy any goods of us. We had to take some to Estabrook & Co., and some to the Morey Mercantile Company, to ship them. I got hold of two of the first circulars, in which they said they would charge them 12 cents, when they were charging 25, and the next circular said that everything would be prepaid.

Q. What was this circular; was it written or printed?—A. I know the one I saw was written by a merchant here.

Q. Have you a copy of it?—A. I think I can find a copy. I have got it put away with some papers; I probably can find it.

Q. Will you furnish the Commission with a copy?—A. I think I can.

Q. What other shippers that you know have had special rates or rebates?—A. I only know from hearsay.

Q. What other?—A. The Morey Mercantile Company had them, and Brown Brothers had them, and Strubey, Estabrook & Co. had them.

Q. What rates did they have?—A. I know on the Colorado Central, because that was from one of their circulars. The first was 12 cents per hundred.

The CHAIRMAN. I am speaking of the Union Pacific Railway Company.

The WITNESS. They ran that; that is, the Union Pacific did.

Q. Is it a branch?—A. It is a branch of their own; yes, sir.

Q. What other rates?—A. The last circular said that they would prepay it, and they had nothing to pay; it was taken up there free. That is the way I understood the circular to be.

Q. Have you knowledge of any others?—A. Nothing in particular; only a general rumor.

#### EFFECT OF REBATE AND SPECIAL RATES ON COMPETITORS.

Q. What effect has the allowance of special rate or rebate upon your business?—A. It affects our business a great deal. If my competitor got \$25 a car—\$25 a car is a pretty good profit, if you can go to work and sell it entire; and he has that advantage of \$25 a car over me, and he can go to work and undersell me the whole time. It is unjust.

Q. To what extent has your business been affected by these special rates?—A. That I could not tell you. I know one thing lately—that I do not think there were any special rates given for a short time before now, because I know our business has increased nearly double what it was.

Q. Please read the letter printed here, of Estabrook & Co., and see if you recall it as corresponding with the circular that you have spoken of.—A. That is the one; that was furnished by me.

The CHAIRMAN. Not by you.

The WITNESS. I furnished the paper.

Q. Did Estabrook & Co. issue the circular?—A. Yes, sir.

The CHAIRMAN. Please read it.

## CIRCULAR OF ESTABROOK &amp; CO.

The WITNESS. "From July first, until further notice, the freight rate from Denver to your city will be 12½ cents one hundred pounds on first, second, third, fourth, and fifth class goods. Please return us your freight bills from July 1, on goods bought of us, and we will refund the overcharge." Two days later, on July 12, the following letter was sent out: "Our circular letter of July 10 is hereby withdrawn. Until further notice our goods will be delivered as billed. We prepay the freight."

Q. What was the purpose of the latter notice?—A. So that it was free. That was the way I understood it. They prepaid it free.

## EFFECT ON WITNESS' BUSINESS.

Q. What was the effect of that circular from Estabrook & Co. upon your business?—A. I do not know that that affected our business much, because they are not in the same business (only partially so) that we are. There were some goods they sold that we had to ship to our customers through them, which is very mortifying to a merchant.

The CHAIRMAN. That is to say, by reason of the rates allowed to them by the railroad company you were compelled, in order to effect your dealings with profit with your customers, to deal through Estabrook & Co.?

The WITNESS. We did not deal through them; but these parties up at Alder, and different parties, would order it shipped through them when we could not give them the rates. You see, we found out that we could not sell any goods there. We sent a man on purpose to find out the reason. Our customers had all dropped us, and I sent a man up on purpose to see what was the matter.

Q. What percentage of customers did you lose?—A. I suppose we lost a quarter of them, or more; in fact, we lost pretty nearly all for a while there because we could not ship. It would take away all our profits if we were to prepay the freight.

## DENIAL BY THE UNION PACIFIC.

Q. Did you make application to the company in regard to this condition of affairs?—A. I went to see Mr. Keeler.

Q. Who was he?—A. The general freight agent here.

Q. What did he say?—A. Like all railroad fellows say—always deny

Q. Did you have any explanation from him?—A. No, sir; he knew nothing at all. They know nothing at all. None of them do.

Q. Had you any conversation with him further than that?—A. No, sir; no more than just as I told him it was unfair and unjust.

Q. Have you any knowledge of any other rebates or special rates or preferences given by the Union Pacific to shippers?—A. Nothing more than hearsay.

Q. What have you heard other than you have mentioned?—A. I heard of another competitor, the one I have named just now. He had, in 1886, \$10 a car for all goods shipped from the East.

By Commissioner LITTLER:

Q. What is his name?—A. J. T. Cornforth & Co. If you put him on the stand I guess he will tell you the truth.



By the CHAIRMAN:

Q. Would you consider that an advantage over the other shippers?

A. Yes, sir.

Q. Had you the same rate?—A. No, sir.

#### EQUALIZATION RATES TO COMFORT & CO.

Q. Was it in the nature of an equalization rate?—A. I understand that it was a rebate.

Q. Did you have any understanding as to the effort on the part of the company to issue equalization rates?—A. I understood it was given to him for his business; for him to ship nearly all over that road, which I have understood he does.

Q. Did you participate in that rate?—A. No, sir; I ship but very little over the Union Pacific road.

Q. Did you make application to participate in the rate?—A. No, sir; because I did not know they were doing any such thing. They pretended they were in the pool and no rebates given.

Q. So that when Mr. Cornforth stated here that the only advantages he enjoyed were under equalization rates, and that they were enjoyed by all the merchants in Denver equally, was he mistaken?—A. I never had them.

Q. Do you know of any other merchants that enjoy them?—A. Nothing more than hearsay. I do not know of my own knowledge of this. I know of one thing, the Union Pacific road will never give me any favors.

Q. Of what other shippers have you knowledge who have preferences?—A. I understood Mr. Cornforth had them.

Q. Have you not named him?—A. I mean Birtz Cornforth.

Q. Is he connected with the other Cornforth?—A. No, sir; his is a different store altogether.

Q. Is he a relative of the other Cornforth?—A. He is a brother.

Q. What other shippers?—A. That is all I recollect now.

#### UNION PACIFIC WORKING AGAINST WITNESS.

Q. Have you any other information that you can give the Commission with reference to the discriminations or preferential rates?—A. Two years ago I sent a man out to Central, and I found that the Union Pacific was sending a man to work against me, going one day to Black Hawk on horseback, and another day going to Idaho Springs. I sent a man there on purpose to find out. He found out that that man was riding one day to Black Hawk and canvassing for the different houses here, and the next day would go to Idaho Springs through Central City.

Q. Why should the Union Pacific Railway oppose you in trade?—A. Because Vining has no love for me at all.

Q. Who is Vining?—A. The general freight agent of the Union Pacific road.

#### SUING THE ROAD.

Q. Had you any difficulty with Vining?—A. I sued the road and got judgment.

Q. What was the nature of the suit; what was it for?—A. A contract that I made with them.

Q. What kind of a contract?—A. I think it was for 1,600 cars at one time.



Q. When was this suit?—A. It was several years ago. It was tried at Cheyenne.

Q. What was the condition of the contract. Was it for the use of 1,600 cars?—A. Yes, sir. We had hay and grain and flour.

#### RESULT OF THE SUIT.

Q. What was the result of this suit?—A. He went back on his contract; I won the suit; it was carried to the supreme court, or to the court of the Territory of Wyoming, and I beat him there. I beat him first in the district court and then in the other court; and he always had a grudge against me afterwards.

Q. What did you recover?—A. I forget exactly what were the damages I recovered; they were considerable; I cannot tell exactly the amount.

Q. So that you think from that time the Union Pacific Railway Company has pursued you?—A. Yes, sir; they have, right up to within a short time. I do not think they are pursuing me now. I think they have honest people here now, and are trying to do what is right.

By Commissioner ANDERSON:

Q. When was this judgment in your favor recovered?—A. I think it was in 1871.

Q. Eighteen hundred and seventy-one or 1881?—A. 1871. It was several years ago.

Q. Sixteen years ago?—A. Yes, sir.

#### DISCRIMINATED AGAINST FOR SIXTEEN YEARS.

By the CHAIRMAN:

Q. Has the Union Pacific Railway Company, up to the time of the 1st of April, been discriminating against you through their officers?—A. They have, more or less.

Q. During these sixteen years?—A. Yes, sir.

Q. Have they annoyed you?—A. Yes, sir.

Q. And pursued you in every way through their agents and officers?—A. Some of the agents have tried to do what is right, but they were all under instruction. It has been better since Mr. Vining went away, a great deal.

Q. When did this cease?—A. It stopped last year.

Q. That was the first?—A. Yes, sir.

Q. From 1871 until last year?—A. Yes, sir.

The CHAIRMAN. Unless you have some other suggestion, we will excuse you.

The WITNESS. I see there is a paper there, and I would like to know whether my name is on that paper or not.

Q. What is your full name?—A. J. H. Martin.

Commissioner ANDERSON. Is that the paper Mr. Carpenter laid before us.

Commissioner LITTLER. Yes, sir. Senator Carpenter.

Mr. WILLARD TELLER. I would like to ask Mr. Martin a question.

The CHAIRMAN. Certainly.

#### MAKING CHARGES AND HAVING TROUBLE.

By Mr. WILLARD TELLER:

Q. For the last sixteen years, or since that judgment was rendered have you been in constant correspondence with the officers of the company from time to time?—  
Now and then.

Q. Making charges against them, and having a good deal of trouble with them?—A. Having a good deal of trouble with them. You and I had a suit for \$27 once.

Q. Were you constantly repeating those charges?—A. Not as much lately.

Q. But from time to time were you not having a good deal of trouble all the time, and making charges against them and writing letters to them?—A. I have written letters to them, because I think they are charging too high on all goods. There is one statement that I want to make since you have spoken. I want to let these Commissioners know how we are crushed here. I have just returned from California. I bought a car of raisins and dried fruit. I can go to the company and ship those from Kansas City, Omaha, Atchison, and Council Bluffs for \$1.05 a hundred. I am charged in Denver \$1.95 a hundred to bring them here, and if that is not unjust to the people of Denver, I do not know what is.

#### CHEAP RATES INDUCE GROWTH OF POPULATION.

I am one of those people that do not go for everything for myself. I want to see the State built up. Instead of seeing 300,000, I want to see 1,000,000 people in the State. A great many that signed there do not care a snap. They have said to me, "Why do you keep on wanting the freights lowered?" I said, "I want a lot of people to come here." "It don't make any difference to you," they say; "you get the same price for goods." I would rather sell two car loads of goods than one. That is my motto. When I introduced the resolution in the board of trade I did it in the interest of small merchants in the city. The large merchants do not care. The most of them have draw-backs all the time. I want to see our mines built up, and to have everything that a man lives on come in here cheap. I do not care what they charge for whisky, silk, or tobacco; but for everything else I want a reasonable rate. We are paying more freights to day than any other city in the Union. Why should we pay \$2.15 for first-class goods when they are bringing them from the Missouri River for a little over 50 cents? We are about 100 miles farther I think. It is unreasonable. We are paying higher rates than we can find in any State in the Union elsewhere, and the roads do not cost any more to keep up than anywhere else. We are now thickly settled within about a couple hundred miles of Denver. Each road would get a share.

Q. I wanted to know of you in general if you have not been, for the last seventeen years, making it hot all the time for the Union Pacific with complaints and publications in the newspapers?—A. I have not written a piece in the newspaper for four years.

Mr. WILLARD TELLER. And with letters, &c.?

The WITNESS. When Vining was there I wrote pieces. I would answer him back every time. I wrote pieces in the newspapers. I do not deny it.

#### THE PEOPLE TAXED TO PAY INTEREST AND DIVIDENDS.

Commissioner LITTLER. Now you can make any other statement. Do not repeat, but give any additional information you desire to.

The WITNESS. Yes, sir. I see the Union Pacific has cost so much to build that they tax the people here to make them pay the interest on *their bonds and stock*, while the road can really be built to-day for

\$25,000 per mile. There is no reason why the people of this city and the State should pay so much. I understand there is piled up on the Kansas Pacific over a \$100,000 a mile of indebtedness, and we have got to pay the interest on those bonds and stock. I mean the people have to pay; I do not mean the merchants. It is unreasonable and unjust to make the people pay it. As soon as this car of raisins come in I am going to see what the Commissioners can do.

By the CHAIRMAN:

Q. That is to say, on this car of raisins that you want brought in here you pay nearly twice as much as the merchants at Omaha. Is that it?—A. Yes, sir; very nearly. When I was in California I went to the Canadian Pacific to see what they would do. They agreed to take the car of raisins and dried fruit to Omaha for 70 cents per hundred; and the rate under their pool here, or what they call an association now, is \$1.15; so you see I could save 10 cents a hundred by shipping around by the Canadian Pacific and bringing them back here.

#### BETTER RATES WANTED TO DENVER.

Yesterday they brought a letter to me from the Union Pacific. I went to Mr. Gray, while out there, of the Central Pacific, and told them we had got to have better rates, to Denver. I went to see him twice, and told him what I wanted to ship, &c., and he said he was very willing; that he would give us the same rates as to Kansas City. But he said the other roads were not willing to do so. So I then went to Mr. Eckles, and he said he would do what he could. He is the Union Pacific agent at San Francisco. A letter that was shown to me yesterday, written to Mr. Keeler, says that the Santa Fé will not agree to give us the same rates as to Kansas City. I offered them, when I was out there, \$1.50 a hundred, rather than to have any trouble at all, to bring it here; and the Santa Fé, he says, will not consent to that. So you go to one road and there is always some one to object. They grind the people of Denver all they can. We are just like Ireland—that is what we are—because of the oppressions of the railroads.

The CHAIRMAN. I wish you would look over the list I hand you, representing the signers to a petition against the legislation proposed in the last legislature, and see if you observe any names reported as having had rebates from the Union Pacific Company or any other companies.

The WITNESS. There is one thing I would state. I was in favor of railroad legislation, and I had a bill drawn up which was partially approved of by my friend, Mr. Carpenter, who was on the stand a few minutes ago. But when I found he had gone back on me I did not have it introduced at all, because I thought it would not do any good, particularly after I saw that he was chairman of the senate committee. About half of these names are of shippers—in greenbacks. There are none here but what I have already named.

Q. Is about half of the list composed of shippers?—A. Here is Mr. Wood, who is a banker. Barker is a retired gentleman. Most of these are put on because the railroads send around with lobbyists and different ones, and they scared them, and said it would be an injury to Denver if they made a rate.

Q. What agents of the Union Pacific said that?—A. Pretty much all of them, and of all the other roads. They were not any worse than any of the others. They were all alike.

Q. Do you know whether Mr. Choate or Mr. Touhy made any such assertion?—A. They were around amongst them all the time lobbying. I would like to have you have Mr. Marshall up here to tell you a little about it. I do not know whether he has been examined or not.

Q. Who was Mr. Marshall?—A. He was employed as a lobby man.

Q. What is his full name?—A. I cannot tell you. I can give you his name by and by.

Q. Will you give it to the Commission, with his address?—A. I will hand it in to you.

#### SENTIMENT OF COMMUNITY AS TO EXTENSION OF TIME TO PAY.

Q. What is the sentiment of the community here with reference to the extension of the debt?

The WITNESS. The Union Pacific debt?

The CHAIRMAN. Yes.

The WITNESS. I think they ought to be made to pay their debts just like I pay mine.

Q. Have you thought over the question at all?—A. Yes, sir.

Q. What have you thought about it?—A. I see that is the bugbear. I have watched the thing a great deal. They say they bought the stock innocently. They knew all about it when the road was built. They bought with their eyes open. I saw it when it was built. I was on the Union Pacific more or less. I know there was more paid for the ties than ought to have been. After they got to Cheyenne I knew pretty much from there west what was built. I was up and down the road, and saw the contractors that contracted for ties and different things, such as for grading and bridges, &c. I know it was built very extravagantly after they got to Cheyenne. For some of the ties I think the price was \$2.50 a tie. They could have been furnished just as well for a dollar.

Q. What have you considered with reference to the extension of the debt?—A. I consider they ought to go to work and pay it—or the Government will lose its debt. I do not think the people of the West ought to be made to pay the interest on this debt, and as long as that debt hangs over it so long we shall have to pay it. I prefer to see the road sold out when the time expires, and let the people pay what it is worth for shipping their goods. If we shall have to pay the interest on that debt right along we are in a pretty bad fix in Colorado.

#### OBJECTS TO GOVERNMENT RUNNING THE ROAD.

By Commissioner ANDERSON:

Q. You prefer to see it sold out for what it will bring, and not to be taken and managed by the Government, do you?—A. I do not think that the Government could go to work and run a road as well as individuals can. There is too much red tape about the Government.

By the CHAIRMAN:

Q. Have you any other suggestion?—A. Nothing at all.

Q. Will you give us the address of Mr. Marshall?—A. Yes, sir. I probably can furnish you with some other papers that I had when I was president of the board of trade here. I, with the board of directors, sent out circulars over the State.

The CHAIRMAN. You may furnish any papers.

The WITNESS. I think I can find you those papers.



DENVER, COLOR., Wednesday, Dec. 16, 1887.

JOSEPH T. CORNFORTE, being recalled and examined testifies as follows:

By the CHAIRMAN:

Question. What was it you wanted to add to your testimony?—Answer. I have made an assertion that I never received any rebate from the Union Pacific Railroad. Mr. Martin makes a very grave charge made by an agent of mine to him in California. For a certain purpose I have had to change my agent, and I have now opened a business house of my own in Sacramento to keep my business to myself.

I should like to ask you, as chairman of this Commission, if you are investigating the Union Pacific Railroad, or are investigating other roads centering in Denver?

The CHAIRMAN. We are investigating the Union Pacific Railway Company and all roads in which it has an interest.

#### DENIAL OF RECEIPT OF REBATE.

The WITNESS. I have never received \$25 per car from the Union Pacific Railroad, the Central Pacific Railroad, or the Southern Pacific Railroad of California, at any time in my life, either last year, this year, or any previous year.

By Commissioner LITTLE:

Q. Have you ever received any rebate?—A. No, sir. I have received money for overcharges, as every merchant here has. If we have paid for 22,000 pounds and the car-load only weighs 20,000, they have paid us the difference of the overcharge they have made. With regard to the \$10 per car, that requires an explanation. I received no \$10 a car rebate from the Union Pacific Railroad, the Central Pacific Railroad, or the Southern Pacific Railroad, in all my course of business.

#### A RAILROAD WAR.

At one time a serious matter occurred, a difference between the railroad companies, and for some time there was no business intercourse between certain roads that connected with the Union Pacific Railroad. I made contracts and purchases, and to protect myself I sent the money to headquarters and instructed my agents to prepay the freights. I think the amount I forwarded was \$5,000. In the mean time my competitors could not receive any goods until the squabble had ended, and I should not have known anything of it had I not made the purchase. By that means I do acknowledge that I saved money by paying the two freights. It was not through the Union Pacific. It was other lines connected with the Union Pacific. I received no \$25 from either the Central Pacific or Union Pacific or Southern Pacific of California.

By Commissioner LITTLE:

Q. Is that all you desire to say?—A. Yes, sir.

Mr. MARTIN. Didn't you receive—

The WITNESS. I would like you to ask a question through the chairman. I will answer no question of Mr. Martin.

The CHAIRMAN. What do you want to ask him?

#### NEVER RECEIVED MONEY FROM ANY RAILROADS.

Mr. MARTIN. I would like to ask if he did not receive all the material he shipped from Los Angeles in 1886.

The CHAIRMAN. You have heard that question.

The WITNESS. I have answered that question, Mr. Chairman.

The CHAIRMAN. Please answer it again.

The WITNESS. I never received any \$25 from any railroad, or any agent, or any association, or any person, connected with the Southern Pacific of California, or the Central Pacific of California, Nevada, and Utah, or the Union Pacific Railroad of Utah, Wyoming, and Colorado, or any agent, or had any understanding with any agent. If I have transacted business over other transcontinental lines coming into Denver, I think that is my business; but I take an oath that they have never given me a dollar. It is a grave charge. It has been passing on the streets here for some time; a very grave charge.

By the CHAIRMAN:

Q. Have you ever had any agreement with any of the railroad companies under the supervision of the Union Pacific as to rates?—A. No, sir; I have not.

#### EXPLANATION AS TO EQUALIZATION RATES.

Q. Do I understand you in your assertion to repeat that the equalization rates were extended to all alike?—A. Yes, sir; that requires an explanation, probably. I went to see Mr. Keeler and asked him why we did not enjoy the 12½ and 15 cent rate for the distribution of our goods, produce, and freight from Denver. Mr. Keeler asked me, the first question, "What is your car rate from the river to Denver?" I told him it was nearly \$1.98½ per hundred, or \$1.97½, or in that region. He said, "That is in car-loads?" My answer was, "Yes." He said, "Your rate in less than car-loads is \$1.40 a hundred. You don't want any relief, because the rate from here up there is 40 cents on soaps." I said I understood my competitors were working in barrel soaps for some other kind of goods. He said that was an extortion; if any such thing was being done they were being imposed upon, and they trusted to the honor of the merchants they dealt with. I stated it was done. He said I did not require any relief, for it was about \$1 a hundred, and in less than car-loads the rates were less than \$2 per hundred. He said, "It is impossible for them to buy at the Missouri River, and you need no relief." We do not handle groceries.

Q. What is the name of your firm?—A. A. Cornforth & Co., fruit magazine.

#### NOT A REBATE BUT AN OVERCHARGE.

Q. If your firm's name appears upon the rebate book of the Union Pacific Company at Omaha, is it a mistake?—A. Yes, sir; as a rebate it is; as an overcharge I will give you some illustrations. You will probably find where we have consigned to Cornforth & Co., for Central, Black Hawk, and other places, at a fraction less than if we took it off in car-loads here and reshipped it. There have been at times errors made, which we refunded at the destination of the goods. You will find we received last year \$200 or \$300 for different amounts of overweight. I will show you the expense bills and then the city scale weights here. When I was president of the first merchants' board of trade organized here things were in a very chaotic state, the railroad company having scales exposed and very little attention paid to them, and they would put one car on and weigh it without detaching it from the train, and the car would go 1,200 or 3,000 pounds in excess of the quantity contained in it. As president I got consent that the weight

should be corrected by a city scale weigher, who gave a bond to the city for \$1,000; and to this day we seldom receive a car that is correctly weighed. We may have an overcharge of from 50 to 800 or 900 pounds. Some cars that pass over the scales weigh correctly, but as to nearly every car we weigh we find an error. The correction has been made by the city weigher here in Denver, and that is the way I received the money as refunded for overcharges. I think every merchant in the city of Denver receives them.

Q. Have you any other suggestion to make?—A. No, sir.

DENVER, COLO., Wednesday, July 13, 1887.

ROBERT H. RUBIDGE, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. Have you brought any memorandum with you?—Answer. Yes, sir. I brought a memorandum that I was told would be required of me. It is a memorandum as to rebates.

(The witness produced a memorandum, which is marked Exhibit No. 1, July 13, 1887, and is as follows:)

*Rebates paid to the Marshall Consolidated Coal Mining Company.*

Date.	Amount.	Date.	Amount.
1885.		1886.	
November .....	\$1,315.94	August .....	\$286.44
December .....	1,522.55	September .....	804.20
1886.		October .....	1,772.62
January .....	1,058.32	November .....	2,205.44
February .....	1,529.80	December .....	3,120.36
March .....		1887.	
April .....	785.22	January .....	2,956.58
May .....	254.74	February .....	2,095.98
June .....	162.48	March .....	1,053.82
July .....	177.70	April .....	1,167.20
			22,269.45

Q. Please explain what it is?—A. There are the months, and the amount for each month.

Q. This is from November, 1885, to April, 1887?—A. Yes, sir. That rebate was given in consideration of our withdrawing a certain suit that we had with the Union Pacific Railway Company, and was mentioned in the contract and bond of indemnity, and also on account of our furnishing cheap coal, at a cost not to exceed \$1.25. The amount of rebate was offset by our loss on coal.

Q. Was the contract in writing?—A. Yes, sir.

Q. Where is the contract?—A. The contract is in the Commissioner ANDERSON. We would like to see it.

The WITNESS. I will have to go for it.

Q. On what coal are those rebate allowances shipped to Denver proper.

Q. The period is from November, 1885, to

Commissioner ANDERSON. That is 17 months.

The WITNESS. In one month there was 1

Q. The total amount being \$22,000?—A.

Q. Will you please bring that contract?—A. Yes, sir.

Q. What other memorandum have you?—A. I have no other memorandum, excepting a memorandum of the stockholders.

Commissioner ANDERSON. That is what we want.

(The witness produced the contract and the list of stockholders.

A copy of the contract will be found in the testimony of Mr. Willard Teller of this date.)

Q. Please explain of what date these memoranda speak?—A. That was the list of transfers to and including the 29th of June, this year.

Q. And brings the statement down to that date?—A. Yes, sir.

#### MARSHALL COAL COMPANY: TRANSFERS OF STOCK.

Q. How much of this stock has been transferred since the 1st of May last?—A. Since the 1st of May, I do not know; probably 7,000 or 8,000 shares. Something of that kind.

Q. Do you know whether any of the names that appear on this list are of stockholders in the Union Pacific?—A. No, sir; I do not know that any one of them is. In fact, I do not think that any of them are. None of the officers of the Union Pacific Railway Company are on there, to my knowledge.

Q. What is the par value of your stock?—A. The par value is \$100 a share.

Q. When you say 7,000 you mean 7,000 shares?—A. Yes, sir.

Q. Seven thousand shares transferred since the 1st of May?—A. I think there are about that many. There may be a few more or a few less; probably less.

Q. Do you remember whether any of those transfers have been in large lots?—A. Some of them have been in lots of 1,000 shares.

Q. How many of these transfers have been made since the 1st of May last?—A. There was quite a number of them.

Q. Do you remember the large ones?—A. I think Lockwood & Crossman, of New York, 1,000 shares.

Q. They sold or bought?—A. They bought.

Q. Whose stock did they buy?—A. They bought various small lots.

Q. On the market in New York?—A. Yes, sir.

#### INSUFFICIENT SUPPLY OF CARS.

Q. Is there any large stockholder who has sold out his holdings within the past two months?—A. No, sir; not that I know of. They have been put on the market, and they have not been sold, except those that are mentioned there. I would like to say, I notice in newspaper that Mr. Patterson said that we had got a full supply of cars when he had not been able to get sufficient for their business. I would like to say that we lost a great deal of trade from not having a sufficient quantity of cars, and often we would run down to the office here several times a day to urge upon them the necessity of our having cars, or we could not start up the mines. We have asked the conductor occasionally when he was going out there with a large supply of cars, probably 30 or 35 cars, "How many are we going to get to-day?" "I do not know; we will have to fill Mr. Fox up first." That is what he said. Mr. Fox very often got a clean half divide when our standing order was for about 35 cars a day, but we often did not get more than 8 or 10, or 15 or 20. Mr. Fox got a larger proportion of his standing order than we did all along, and his was a smaller mine. If we had been treated



exactly the same pro rata as Mr. Fox, then we would have been a little better off. Instead of that, Mr. Patterson would have it that we were fully supplied, while Mr. Fox was not, but it was the reverse.

#### THE FOX MINES.

**Q.** How is it about those rebates? Mr. Fox's representative complains that he could not obtain the rebates that you had, and that this substantially drove him out of business. How is that?—**A.** It did not throw him out of the business, because their agent used to say here that he could not get enough coal, and very often got coal from us in addition to what he got from Fox. Whenever they got enough he would stop ours. He always preferred to take his own, and he would sell ours as his own.

**Q.** What truth is there in the assertion that he could not obtain the rebates that you did?—**A.** I do not know whether they got any rebates or not. I know that we got those in consideration of a certain claim that we withdrew from the Union Pacific Railway Company. It was the Denver, Marshall and Boulder in which they had a claim.

#### REBATES IN CONSIDERATION OF WITHDRAWING CLAIM FOR DAMAGES.

**Q.** When was that contract made?—**A.** This was made on October 15, 1885.

**Q.** Who negotiated it?—**A.** It was negotiated by George C. Lyman, of New York. He was out here at that time. He used to be a resident here.

**Q.** Who else took part in that negotiation?—**A.** Mr. Chaffee was one of the organizers. He had some hand, I believe, in assisting Mr. Lyman.

**Q.** With whom did they negotiate, representing the Union Pacific?—**A.** I think they negotiated with Charles Francis Adams.

**Q.** What was this litigation that you speak of?—**A.** It was for a damage sustained to the Marshall mines on account of this Denver, Western and Pacific, of which the Union Pacific, I believe, afterwards came into control. It was sustained through their cutting through the workings of one of our largest mines. We had about 14 miles of track in it. It got on fire, and has been on fire ever since.

**Q.** How was the Union Pacific responsible for the company you have named?—**A.** In getting possession of the other I suppose they assumed all the liabilities of it.

**Q.** Did they assume the fire, too?—**A.** Yes, sir; they had to assume everything, because we had attachments. The old Marshall Company had attachments on some of their property.

**Q.** I understand you claim that the Union Pacific was itself responsible to you for this damage?—**A.** No, sir; they were desirous of building that line from here to Boulder, or Marshall.

**Q.** And they wanted to get rid of these attachments?—**A.** Yes, sir; they wanted to get rid of these attachments and that suit.

**MR. WILLARD TELLER.** I will state that I will make all that perfectly plain, if you will hear it.

**Commissioner ANDERSON.** We probably will, only I want what this witness's idea was.

**Q.** How much was the claim?—**A.** I do not know. I understand the damage was claimed to be \$50,000. I understood the damage was claimed to be \$50,000.

Q. Was the outcome of it that this attachment was withdrawn and this contract was made under which these rebates were obtained?—A. Yes, sir.

LEASE OF THE WELCH COAL MINING COMPANY.

Q. We would like to see the contract. Has the Marshall Coal Company any business relations with the Union Coal Company?—A. No, sir; none whatever, except that we are leasing the Welch coal property from them, and paying a royalty to the original lessees and owners.

Q. Where is that property you leased?—A. At Louisville, Colo., 20 miles off.

Q. What is the output there?—A. The output has probably been somewhere in the neighborhood of about 50,000 or 60,000 tons last year; the twelve months of the year.

Q. What is the rate of the royalty?—A. Twelve and a half cents.

Q. Paid to whom?—A. It is paid to Charles C. Welch, of the Welch Coal Mining Company, now.

Q. Who are the parties interested in that company?—A. I do not know. Mr. Welch is one of them.

Q. Who holds the stock? Do you know whether the stock is held by the Union Coal Company?—A. No, sir; I do not think any of it is held by the Union Coal Company. It was leased to the Union Coal Company at this royalty, and the Union Pacific turned it over to us for a period of time.

Q. Do you pay the rent?—A. We pay the royalty direct to C. C. Welch. The only way they were interested in it was to get it off their hands, I believe, at that time. It had been shut up for probably six or eight months, or a year, with strikes.

Q. Is that the only consideration you paid for that property—the agreement to pay this royalty?—A. Yes, sir; that is the only consideration.

Q. You paid no expressed value at the time you obtained the lease?—A. No, sir; none whatever.

Q. Then, the Union Coal Company got no advantage whatever from the lease?—A. No, sir.

Mr. BURTON. Will you allow an explanation?

The CHAIRMAN. Yes, sir.

EXPLANATION AS TO CONTRACT FOR REBATES.

Mr. BURTON. I want to make an explanation in regard to that contract. I saw the contract a year ago last April. Mr. Rubidge called my attention to the fact. I looked the contract over. I never examined it closely, except as to a few points, according to my recollection. If it is a part of the contract, it is beyond my recollection. I have no recollection of its being in it. Of course, the document will show, but I may be mistaken.

The WITNESS. That rebate did not take place until a certain amount—

Mr. BURTON. I have no recollection of seeing it.

The WITNESS. That was a supplementary arrangement.

Mr. BURTON. I knew that was an understood thing, which I regarded as a mere understanding that they had. I never questioned the matter very closely. I was under the impression that it was not in the con-

tract, and he says it is. Of course, the contract will show whether it is or not.

Q. Is there anything else you desire to say?—A. No; I might say a great many things. I am not preaching now. I have no grievance.

ROBERT H. RUBIDGE.

The CHAIRMAN (to Mr. Teller). You might explain the lawsuit that this witness has referred to.

Mr. WILLARD TELLER. I can do it more accurately if you will allow me to get the papers in shape.

The CHAIRMAN. Very well.

*Afternoon session.*

DENVER, COLO., Wednesday, July 13, 1887.

WILLARD TELLER, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. In reference to what matter did you wish to speak?

Commissioner LITTLER. It was in reference to a lawsuit which was spoken of this morning.

Q. Will you make that explanation relating to the lawsuit that Mr. Rubidge mentioned? First, what is your occupation?—A. I am an attorney.

Q. Where do you reside?—A. I reside here in Denver.

Q. What relation, if any, do you hold to the Union Pacific Railway?—A. I am one of the local attorneys for this State.

Q. How long have you held that position?—A. I have had the position with the consolidated company since 1881. I was the attorney of the company before that, however, for the Union Pacific.

Q. Whom did you succeed?—A. There were probably 8 or 10 local attorneys here. There were attorneys in almost every town, until the consolidation, or at least until 1881, when I took all except the South Park branch. I succeeded a great number.

Q. Did you take all except the South Park?—A. Yes, sir; and then the South Park was turned over to us, for a part of the business, I think, in February, 1882.

Q. Are you familiar with the matters relating to the litigation mentioned by Mr. Rubidge this morning?—A. Yes, sir.

SUIT OF GIVEN & ABBOTT.

Q. Will you please explain that to the Commission?—A. In the summer of 1880 the Denver, Western and Pacific was organized, and commenced to build a road from here to Longmont by way of Boulder. They took the short cut of 29 miles as against something like 40 over the other routes. They nearly completed their road during that summer and the summer of 1881. In passing the Marshall coal mine they cut through into the drifts, and the result was, as it was claimed, they let fire that had been burning in some portion of the mine into another portion of the mine and did great damage. The Denver, Western and Pacific got into straits, and Given & Abbott, who were contractor *sued the company and got a judgment of \$64,000 against the company and it was sold out.*

## MARSHALL COAL MINING COMPANY'S SUIT.

Q. What was sold out?—A. The whole franchise of the road, and all the constructed portion of the road between here and Longmont on that section. Sidney Dillon was then president of the Union Pacific, and bought the judgment, taking an assignment to himself as trustee. When the property was bid off on sheriff's sale, it was bought in under the name of Sidney Dillon, trustee. Sidney Dillon, trustee, took a sheriff's deed for the property. Previous to that time, before Dillon had anything to do with it, the Marshall Coal Mining Company commenced a suit, in which I and my partner were attorneys, against the Denver, Western and Pacific, for damages done, by reason of the fire, to their mines, claiming, I think, some \$25,000 damages.

Q. Where was that suit brought?—A. It was brought in this, Arapahoe County. That suit ran along, we acting as the attorneys of the Marshall Mining Company until after this acquisition by Sidney Dillon, as trustee, or about that time, when we understood that it was to come to the hands of the Union Pacific, or would probably come to them. This made our relations to that company a little complicated, and so we withdrew from the case as plaintiffs' attorneys. Wells, Smith and Macon, of Denver, were substituted in our stead. Judge Markham, of Denver, was attorney for the Denver, Western and Pacific.

## SUIT FOR AN INJUNCTION.

The officers of the Marshall company threatened to interfere with the laying of the track, &c. There was a suit brought for an injunction, and they were restrained from interfering with the laying of the track, but the order provided, at the same time, that the Denver, Western and Pacific Company should proceed at once for condemnation of certain grounds that had not been secured, leaving the suit for damages still to be determined. That suit was hanging along until about a year and a half or two years ago.

Q. What was the date of the sale under the judgment?—A. I do not recollect exactly. It must have been, I think, in January sometime, in 1882. I cannot state positively.

Q. When was the suit brought by the Marshall Coal Company commenced?—A. I am mistaken in the date. That suit was commenced in 1882, and I think the sale on the execution did not take place until a year or so afterwards.

## JUDGMENT RECOVERED IN THE GIVEN &amp; ABBOTT SUIT.

Q. When was the judgment recovered in the Given & Abbott suit?—A. It was recovered in December, I think, of 1882.

Q. Was there a lien under the Marshall Coal Company's suit, which was prior to the lien of the judgment in the Given & Abbott suit?—A. Yes, sir; I think there was by attachment.

Q. Was there not an attachment in the Given & Abbott suit?—A. I do not think there was any attachment. I do not remember. I did not have anything to do with bringing that suit, and I do not recollect.

Q. It seems to be quite essential for the comprehension of what is to follow that we should know which of these two claims had the first lien on this branch railroad. Can you tell?—A. I can find that out easily, but I was not interested in the suit of Given & Abbott, and so I do not remember that date.

Commissioner ANDERSON. Please proceed.



## SETTLEMENT WITH THE MARSHALL COMPANY.

**THE WITNESS.** That suit, as I was saying, hung along, and the fire continued to burn in this Marshall mine, and they kept getting stiffer and stiffer in their claim for damages, and after we had got possession of the Denver, Western and Pacific under this sale, we undertook to settle it; and the lowest figures we could get was \$15,000 for the settlement. Then it passed out of our hands and in some way was settled. I think President Adams settled the matter with the Marshall company in connection with the lease that has been spoken of.

**Q.** In connection with the contract for rebate do you mean?—**A.** Yes, sir. Upon that contract being executed, the Marshall company gave as a receipt in full in discharge of all claims on account of the fire.

## PAPERS PRODUCED BY MR. RUBIDGE.

**Q.** Please examine the papers now produced by Mr. Rubidge, and state whether they are the papers referred to by you.—**A.** Yes, sir; this one paper is the paper that I referred to as an agreement or contract. The other appears to be a bond that was never signed.

**MR. RUBIDGE.** It is a copy of the bond that was signed.

**THE WITNESS.** I do not remember about the bond. That contract I saw before it was signed, I think.

**Q.** In order to understand it, can you state what that other paper is? It is a bond given by whom to whom?—**A.** It appears to be a bond by the Marshall Consolidated Coal Mining Company to the Union Pacific Railway Company.

**Commissioner ANDERSON.** Is it a part of the same transaction, Mr. Rubidge?

**MR. RUBIDGE.** Yes, sir; it is the consideration of that contract that I mentioned before.

**THE WITNESS.** It was in relation to the matters between the Welch Coal Mining Company and the Union Coal Mining Company. That is merely a copy that the Consolidated Company kept. I suppose our folks have a copy on their files somewhere else. We never keep those copies. They go to Omaha. That is the Marshall Company's copy, I suppose, which they keep simply for their guidance.

(The following are copies of the two papers referred to:)

*Contract between the Union Pacific Railway Company and the Marshall Consolidated Coal-Mining Company of Colorado.*

This contract, made this 13th day of October, 1885, between the Union Pacific Railway Company (a corporation organized and existing under the laws of the United States), of the first part, hereinafter designated as "The Railway Company," and the Marshall Consolidated Coal Mining Company of Colorado (a corporation organized and existing under the laws of Colorado), of the second part, hereinafter designated as "The Coal Company," witnesseth as follows:

Whereas the Union Coal Company of Colorado is the owner, lessee, or otherwise interested in the coal mines known as the Boulder Valley Mines, situated at Erie, Weld County, Colorado, and the Northrup Mine, so called, 1½ miles west of Erie, in said Weld County, on lands originally owned by the Denver Pacific Railway and Telegraph Company; and

Whereas it is the lessee of a coal mine known and designated as the "Welch Mine," situated at Louisville, Boulder County, Colorado, on the Colorado Central Railroad, under a lease executed by Charles C. Welch, of the Welch Mining Company, dated November 1, 1878; and

Whereas the Union Pacific Railway Company is the owner of the creek of the Union Coal Company, and has heretofore controlled and operated said creek;

Whereas it is for the interest of the Union Pacific Railway Company and the Union Coal Company to discontinue the actual working of the said mine

with said coal company to furnish said railway company any and all coal which said railway company may use for its consumption and for the consumption of its branches, connections, and railways owned, operated, managed, or otherwise controlled by said railway company, not to exceed 50,000 tons per annum the first year, and 100,000 tons per annum for the second year and every year thereafter.

Therefore, in consideration of the mutual advantages to accrue to the respective parties to the said contract, and the sum of \$1 paid by each to the other, it is hereby mutually agreed as follows:

In consideration of said railway company and the said Union Coal Company going out of the business of mining coal in the counties of Boulder and Weld, in the State of Colorado, and the purchase of coal used for its own consumption of the said coal company at the rate herein agreed upon, and in consideration of the rates for the transportation of coal herein agreed upon by said railway company, the said coal company agrees to furnish from its mines, to be hereafter acquired, now known as the Marshall mines, all coal ordered by the said railway company for its use or consumption, and for the consumption or use of its branches and connections owned, operated, managed, or otherwise controlled by the said railway company; such amount, however, not to exceed 50,000 tons per annum the first year and 100,000 tons per annum thereafter.

Said coal to be delivered loaded on the cars at the mouth of the mines, at the actual cost per ton of mining and loading the same, but in no case to exceed the cost of \$1.25 per ton, delivered and loaded on the cars as aforesaid.

Said coal so to be delivered to be pure, well-screened coal, free from slate and other foreign and refuse substances. All settlements and payments to be made monthly between the parties.

It is further stipulated and agreed that the said coal company shall transport all coal mined by it in the counties of Weld and Boulder, other than such as is delivered by it to the Union Pacific Railway Company, for its own use, over the lines of the Union Pacific Railway, its branches and connections, from Denver, including and comprising all railways owned, managed, operated or otherwise controlled, either directly or indirectly, by the said Union Pacific Railway Company, so long as the rates do not exceed those charged by competing railway companies.

It is further stipulated and agreed that the said Union Pacific Railway Company shall give to the said Marshall Consolidated Coal Mining Company for the transportation of coal mined from above mines, over the said Union Pacific Railway, its branches and connections from said mines to Denver, the regular tariff rate not exceeding \$1 per ton, unless 200,000 tons shall be mined and furnished for transportation from said Marshall Consolidated Coal Mining Company's mines in Colorado, and transported over said railway company's lines yearly; in which case a rate of 60 cents per ton shall be given for all coal transported: *Provided*, That in case the tariff rate shall be reduced by said railway company below \$1 per ton, during the period of said reduction, the rate to said coal company shall be reduced in like ratio.

It is further agreed that the said railway company shall furnish at all times a supply of cars at the mines, aforesaid, so that there shall be no delay in loading and transporting coal as fast as the same shall be mined by said coal company. It not being intended, however, to include delays resulting from accidents, or providential, or other causes beyond the control of said railway company. The said railway company shall also erect and maintain at their own expense all the necessary side tracks and switches, for the purpose of loading and transporting coal both at the said mines and the city of Denver; and shall within a reasonable time and without unnecessary delay, build and extend track of the Denver, Western and Pacific Railway, now known as the "Denver, Marshall and Boulder Railway," to the said mines, and have the same in running order from Denver to the said Marshall coal mines.

Said mines shall at all times be kept accessible for the examination of the said railway company, or any person whom it may designate for examining into the condition, management, working, and operation of the same, and the foregoing shall be deemed to include the books of account and records of the proceedings of said coal company and of its business.

It is further contracted and agreed that for the purpose of ascertaining and fixing the weight of the coal to be delivered by the said coal company to the said railway company, as heretofore provided, the said railway company may at any time demand that said coal be weighed upon the cars upon its own scales and by its own agents at the mines, and if any difference shall arise in respect to the weights and measurements, or in respect to any other matters covered and included by said contract, the same shall be settled by a board of arbitration to be organized at the instance of either party as hereinafter provided.

The party demanding arbitration shall serve upon each of the other parties to said proposed contract whose interest may be affected by the decision a written notice of such demand and the name of one disinterested party chosen by the demandant as arbitrator. The other parties notified shall each, within ten days after receiving

such notice, select a disinterested person as arbitrator, and shall notify the other parties of such selection. If any party notified shall neglect or refuse to select an arbitrator within ten days of receiving such notice, the arbitrator, or arbitrators, chosen shall select the number necessary to give the parties interested each an arbitrator in said board, and in case such selection shall consist of an even number, the board thus constituted shall select an additional arbitrator. The arbitrators so chosen shall fix the time and place for hearing, if requested by either party, and shall give to the parties reasonable notice thereof. At the time and place named they shall proceed with the hearing. If a majority of the arbitrators shall agree upon an award, and shall reduce the same to writing, it shall be binding and conclusive upon all the parties who joined in the arbitration, from the date of the delivery of a copy of such award or decision to each of the parties to the arbitration, and shall be enforced accordingly.

It is further contracted and agreed that, in case the said Union Pacific Railway Company shall order coal in excess of the amount hereinbefore stipulated for, for commercial uses, or uses other than hereinbefore specified, of the said coal company, said orders shall be filled from said Marshall mines without unreasonable delay, and the price to be paid for all coal furnished on such orders shall be the cost of mining and delivery of the same on board the cars at the mouth of the mines, plus 50 cents per ton, but with this limitation, namely, that in no case shall the cost to said railway company of such coal upon the cars at the mine exceed \$1.40 per ton: *Provided*, No orders for such commercial uses shall be made for coal to be sold except on the main line of the Union Pacific Railway Company, and lines owned, leased, operated, or otherwise controlled by said company north of Greeley, Colo. This exception not to include any lines in Utah or any lines in Nebraska reached by branches and connections from the main line in Nebraska, although the same or some branch thereof may be situated south of Greeley.

It is further contracted and agreed by and on the part of the said coal company, as a part of the consideration of this contract, that a majority of the capital stock of the said Marshall Consolidated Coal and Mining Company shall for a period of two years from the date of this contract be held, and in case the company shall desire to sell and shall offer the same for sale, be first offered to said railway company at the price bid therefor by any responsible purchaser; and that the said railway company shall have the option of taking the same at such price during the said period of two years in preference to any other purchaser.

It is hereby understood and agreed by and between the parties to this contract that if either party, after the execution of said contract, is temporarily unable to perform his part of the said contract on account of strikes by laborers, miners, and others employed by either, that during such strikes neither party shall be held by the other to the terms of said contract, but shall conform as nearly to the same as circumstances shall permit.

It is further contracted and agreed that said coal company shall pay for all machinery taken from the Erie, Northrup, and Louisville mines a reasonable compensation, to be determined, in case of difference, by arbitration, and said coal company shall take all machinery from said mines available for its use.

This contract shall be and remain in force for the period of five years from the signing thereof.

In witness whereof the respective corporations, parties hereto, have caused these presents to be signed by their respective presidents and secretaries, and their respective corporate seals to be hereunto attached, the day and year first above written.

THE UNION PACIFIC RAILWAY COMPANY,

[SEAL.]

By CHARLES F. ADAMS, JR.,

President.

Attest:

HENRY MCFARLAND,  
Secretary.

#### COPY OF BOND OF MARSHALL CONSOLIDATED COAL MINING COMPANY.

Know all men by these presents, that the Marshall Consolidated Coal Mining Company of Colorado, as principal, and \_\_\_\_\_, as sureties, are held and bound unto the Union Pacific Railway Company in the penal sum of \_\_\_\_\_ dollars \_\_\_\_\_, well and truly to be paid to the said railway company, assigns, to which payment well and truly to be made we bind ourselves and assigns, firmly by these presents.

Signed and sealed this \_\_\_\_\_ day of \_\_\_\_\_, 1933.

The obligation, however, is upon the following conditions, namely:  
Whereas the Union Pacific Railway Company has contracted with Marshall Consolidated Coal Mining Company of Colorado for the deli

railway company of certain coal as in said contract dated October 13, 1885, set forth between the said parties; and

Whereas the said Union Pacific Railway Company and the Union Coal Company hold a certain mine known as the Welch mine, under a lease executed by Charles G. Welch, of the Welch Mining Company, dated November 1, 1878; and

Whereas there are outstanding against the Denver, Western and Pacific Railway Company, and its successor, the Denver, Marshall and Boulder Railway Company, certain claims for damages resulting to the so-called Marshall mines, by reason of the location and construction of the Denver, Western and Pacific Railway through and over the said so-called Marshall mine; and

Whereas it was a part of the consideration of the said contract that the said Marshall Consolidated Coal Mining Company should indemnify and hold harmless the Union Pacific Railway Company, the Denver, Western and Pacific Railway Company, and its successor, the Denver, Marshall and Boulder Railway Company, against all claims and demands, of any character or description, against any or either of the said parties, for damages by reason of the location and construction of the railway of any of the said companies through or over the lands upon which the so-called Marshall mines are situated, and the said mines themselves, and should also indemnify and hold harmless the said Union Pacific Railway Company against any damages which might accrue to it by reason of conveying the lease of said Welch mine to the said Consolidated Coal Mining Company, and the delivery of the possession thereof to the said company and the working thereof by the said company;

Now, therefore, if the said Marshall Consolidated Coal Mining Company of Colorado shall indemnify and hold harmless the said Union Pacific Railway Company, the said Denver, Western and Pacific Railway Company, and the Denver, Marshall and Boulder Railway Company against all loss and damages, or claims or demands, of any character whatever accruing to any or either of the said parties by reason of the matters hereinbefore stated and set forth, and especially against all claims for damages by reason of the location, construction, and operation of the railway or railways over, through, or upon said so-called Marshall coal mine and the property appurtenant thereto, and by reason of the transfer of the lease of said Welch mine to the said Marshall Consolidated Coal Mining Company, and of the delivery to the said Marshall Consolidated Coal Mining Company of the possession of the said Welch mine, and its occupation and working and use thereof, or non-working or use thereof, by said Welch Coal Mining Company, then this obligation shall be void, otherwise in full force and effect.

Q. Is the Marshall Consolidated Coal Company the obligor?—A. Yes, sir; they gave the bond. Of course we kept the bonds, and they kept a copy to know for what they were bound, I suppose.

#### PRIORITY OF LIEN.

Commissioner ANDERSON. I would like to be informed on that question of the priority of lien, as there would be no consideration for the execution of this agreement, as far as the litigation concerns it, unless the lien acquired by this suit brought by the Marshall Coal Company was prior to the lien obtained by the Given and Abbott judgment.

The WITNESS. Yes, sir; but there may be a lien by reason of the acts done and the suit commenced. I do not remember how that was.

Q. How could the lien apply after the sale of all the property and judgment, which passed all property to the Union Pacific? There would be nothing but a claim in the air against this corporation, in which the Union Pacific would have no concern, if they had obtained a complete title on the sale under execution.—A. I question that. Under our law, where damages are done by a railroad corporation either party may institute proceedings, and the damages may accrue, and I think they would be a lien upon the property (or at least the court, I think, would so declare it) from the time when the damages accrued, both for the taking and by reason of the taking. But I will look at that to see what the facts are.

Q. Does that complete your explanation of this litigation?—A. Yes, sir; I believe so.



**Q.** Was the suit brought by the Marshall Coal Company discontinued at the same time, or as a part of the consideration?—**A.** Yes, sir; that is it. I wanted Mr. Rubidge to state the consideration—to furnish the coal at cost.

#### DENVER AND SOUTH PARK MORTGAGE.

**Q.** You had better finish your statement first. In regard to the Denver and South Park mortgage, please examine the paper I show you, and state whether that is the first mortgage on the property, and the only first mortgage.—**A.** Of course these papers were all executed long before I had anything to do with the company, and I may state here that the most I know about it has been derived from what I have learned since. I have a statement made by the Farmers' Loan and Trust Company, who are the trustees of this mortgage, setting forth the facts about the execution of the mortgage—the second mortgage, the supplemental mortgage—and the Union Pacific's connection therewith, and everything about it, which statement I believe to be substantially true.

**Q.** Have you the statement? We will take it.—**A.** Not here. I can get it very easily. I did not bring it over. I think, however, this is the first mortgage.

**Commissioner ANDERSON.** We will take the statement; we would rather have that.

**The WITNESS.** As I understand, there was only \$1,800,000 ever issued under this mortgage or any other mortgage.

#### SUPPLEMENTAL MORTGAGE.

**Q.** Was there not a \$700,000 supplemental mortgage alluded to?—**A.** That might have been issued, but it has never been issued.

**Q.** Still there are \$700,000 more bonds outstanding than the \$1,800,000, as I understand it. Is not that so?—**A.** No; these bonds never have been issued. The mortgage provides that they might be issued, but they never have been.

**Commissioner ANDERSON.** They were entered on the railroad company's balance sheet, although of course it does not follow from that they are outstanding.

**The WITNESS.** That is what the Farmers' Loan and Trust Company in their late attempted foreclosure suit sets up and especially avers; and although it mentions these \$2,500,000, only \$1,800,000 were ever issued.

**Q.** Have you a copy of the complaint in that suit?—**A.** It is in my office; yes, sir.

**Q.** We would like to have that copy of the complaint and also that statement.—**A.** Very well; I will bring them.

**Q.** Have you a copy of the complaint filed by the holders of the Kansas Central bonds recently against the Union Pacific Railway Company?—**A.** No, sir; I have not.

**Commissioner ANDERSON.** That was promised to us, but we have not received it.

**The WITNESS.** That does not come under my department.

#### SURRENDER OF RIGHT OF TRackage.

**Q.** Have you any knowledge of the circumstances under which the right of trackage between Buena Vista and Buena Vista ville was surrendered?

by either Mr. Gould or the Union Pacific Railway Company?—A. No, sir; I really have no knowledge. A suit was instituted by the Denver and Rio Grande against the Union Pacific in which they claimed \$300,000, more or less, perhaps some odd numbers, on account of rental; or, rather, for expenses in keeping up the repairs, &c., as to which it was alleged the Union Pacific had become delinquent. That suit was instituted here, and we put in an answer to it, and it ran along from time to time; and the only thing I knew about it was that we got word from New York that that suit would be dismissed, and that they had settled all the matters of difference between the Denver and Rio Grande Company and themselves at that place.

#### NEW CONTRACT AS TO TRACKAGE.

Q. When was that letter received?—A. I think that was received early in 1884 or 1883. We also received a notice at the same time that there was a new contract, by which the South Park would occupy the Denver and Rio Grande track until such time as they should have notice and for six months thereafter. I believe the Denver and Rio Grande concluded to give the notice, and it left the Denver and South Park in the position of either having no road on which to run to Leadville, or of building a road to Leadville at once. They commenced the construction of what is called the High Line, running from Como to Breckenridge, and from Breckenridge to Leadville.

Q. That construction was after the notice of discontinuance of the common trackage was served, was it not?—A. Yes, sir; and it was to have been completed so as to be running, I think, in December, 1884, or January, 1885. I think the first train passed over about that time, but it was not regularly operated for some months afterwards.

Q. Do you know anything about the terms of the settlement that was made in New York?—A. No, sir; nothing at all.

DENVER, COLO., *Wednesday, July 13, 1887.*

ROBERT H. RUBIDGE, being further examined, testified as follows:

#### CONSIDERATION OF REBATE TO MARSHALL COAL COMPANY.

By Commissioner LITTLE:

Question. Will you state substantially what you said to me awhile ago in relation to this rebate of \$20,000 under this contract?—Answer. As to the bond of indemnity, we were to furnish coal at cost, or not to exceed \$1.25. That was a part consideration for that rebate. There were times when we furnished them as much as 7,000 tons a month that was costing us from \$1.35 to \$1.62½ a ton, and since that even at a higher cost, on which we would only get \$1.25. We had to furnish it.

Q. Will you state the balance of the consideration for the execution of these papers, the furnishing of this coal at cost being a part of the consideration?—A. The other was our giving them a bond of indemnity on that damage suit that we inherited with the property.

Q. How much were the damages estimated to be, at any time, growing out of that fire?—A. That was before I had any connection with the company, but the only time I ever heard anything about it was

their secretary saying it was something in the vicinity of \$50,000. I cannot say whether or not that was the amount, but that was what he told me.

Q. You have already received \$20,000 and upwards in the way of rebates under that contract?—A. Yes, sir.

Q. And it continues for the period of five years?—A. Yes, sir.

#### AMOUNT OF REBATE.

Q. Will you state to the Commission what your rebate will amount to in the aggregate if that contract is continued for the period of five years?—A. It is 40 cents a ton on coal coming to Denver proper. It depends upon the market.

Q. Assuming that your rebates in the future will be equal to those of the past, how much will it amount to in the aggregate at the end of five years?

The WITNESS. For the full term of five years, including what I have already reported?

Commissioner LITTLE. Yes, sir.

The WITNESS. About \$60,000; \$60,000 to \$70,000.

Q. So that if this contract continues for the period of five years, and you continue to ship and receive these rebates, you will have received about \$70,000 in rebates?—A. Yes, sir; but that would not any more than reimburse us, if it would reimburse us. If they order company coal in the same quantities that they have in the past, and if the cost is the same, if it would reimburse us it would not do any more than that.

#### COST OF PRODUCTION OF COAL.

Q. Will you explain how the production of this coal costs you so much?—A. You never can figure the cost of coal one month with another as being the same. There are casualties and one thing or another that affect the cost.

Q. What are your contracts for raising coal and putting it on the car?—A. We pay 92½ cents at Louisville, and we had paid the same at Marshall. That is what we call the district prices until we put in the machines at Marshall; and although in the East it is considered that the machines are one-half, out here we have only been allowed to retain one-third.

#### WHEN PRODUCED BY MACHINERY.

Q. What does it cost now to produce the coal by machinery?—A. It depends altogether on the output. At the present time we are not doing any more than the development work, taking out only a small quantity, and it has cost about \$2 this last month. You cannot estimate it. In winter it might be got out for \$1.25 at the same mine if we are in full run.

Q. How do you mean it costs \$2? Do you charge up all this day-work to the cost?—A. We have to keep up tracks in the mine, and have engineers and track-layers, and we have to timber the mine on the inside, and keep fans going; and then we have about fifty day-men to handle this coal after it is contracted for with the miners. The mine is only a small proportion of it. Then there are supplies and blacksmiths. All these items enter into the cost of producing coal.

## ABOUT TWO DOLLARS A TON.

Q. But I want you to explain how it is possible to charge up the cost of producing coal as \$2 a ton.—A. It is just what the pay-roll shows. That is all we have to go by.

Commissioner LITTLE. We produce coal and put it on the cars at 85 cents a ton at my place.

The WITNESS. Yes, sir; that might be. Last month the cost came very near \$2, for the simple reason that there is so little taken out, and we have so much daily expense that it would not increase the expense if we were taking out five times as much coal.

By Commissioner ANDERSON :

Q. At other periods could you produce it at 80 cents ?—A. No, sir ; we could not. The wages are different out here, and so is everything else.

## PRICE PAID THE MINERS.

By Commissioner LITTLE :

Q. What do you pay the miners a ton ?—A. We pay the miners an equivalent of 92½ cents ; but that only throws it down on the ground in the mine.

Q. Does that deliver it at the mouth of the pit ?—A. No, sir ; just down in the room where it fell. Just as if this was one of the rooms, and they were working that way and they blasted it down.

Q. How far below the surface is the vein ?—A. About 200 feet, and we have to haul it about three-quarters of a mile.

## COST OF HOISTING.

Q. What does it cost to hoist it ?—A. I do not know what it does cost to hoist it.

Q. It does not cost over 50 cents a ton, does it, including all the top work ?—A. It depends upon the quantity. It is costing more than that now.

Q. What does it cost you a day to run your machinery, supposing you do not lift a pound of coal ?—A. There are three firemen at \$2.50 a day, and there are three engineers at from \$2.50 to \$3 a day ; the one at \$3 a day we pay every day in the year. And then there are our superintendent's expenses going on all the time.

Commissioner LITTLE. Take a piece of paper. I want you to itemize them.

The WITNESS. I am not practical miner enough to go into the details of all this.

Commissioner ANDERSON. This is only the question of the cost of your surface machinery.

The WITNESS. In addition to that ?

Commissioner ANDERSON. In addition to what ?

The WITNESS. Those men mentioned there, top-men and switch-men.

Commissioner LITTLE. I want it all. Include every item of cost.

The WITNESS. I am not practical miner enough to go into all the details and enumerate all the men that are necessary, because I would have to be on the ground and be familiar with that work in order to do so.

Q. How are you able to state to this Commission the cost of raising this coal ?—A. Because I keep the accounts and make up the pay-roll ; but do not keep a great many different accounts to show the cost of haul-



ing and all those different things separately, as it varies one month from another, and there is no criterion to go by one month with another.

Commissioner LITTLER. You may charge the salaries of the principal officers in there.

The WITNESS. I have not put in any of the Denver office salaries. I put in just the mine-men.

#### TOTAL ANNUAL OUTPUT.

Q. Will you state the total output of this mine for a year, as near as you can remember it?—A. Probably 150,000 to 175,000 tons.

Q. A year?—A. Yes, sir.

Q. Would that be the total output?—A. Yes, sir. No, I mean for that whole time.

Q. For what whole time?—A. For the eighteen months. For the year it would be about 130,000 or 140,000 tons.

Q. What is this \$46.50? Does \$46.50 include the entire production?—A. It would probably be three times as much as that or more for the day men alone. I see those are the men that are on steady. The others are on when they are working. We employ from fifty to seventy-five day men around the mines when the miners are at work. Each man has his particular duty to attend to, and in order to run the coal they have all got to be at their posts.

#### PRICE PAID PER DIEM TO LABORERS.

By Commissioner ANDERSON:

Q. How much a day do you pay that class of labor?—A. From \$2.50 to \$3.

Commissioner ANDERSON. If you add the whole of that on for seventy-five men it would not still make over 15 or 20 cents a ton. Add one hundred men on at \$3 a day.

The WITNESS. I am telling you the truth when I say that coal varies from \$1.25 to \$2. And it has been so all along. You cannot figure one month with another as any criterion. There are casualties and other things that have to go into consideration.

#### AVERAGE COST PER DAY OF RUNNING THE MINE.

By Commissioner LITTLER:

Q. According to your statement here, the gross average product per day for every day in the year costs \$560 a day at \$1.25 a ton. Can you figure to this Commission where it costs you an average of \$560 per day to run that mine?—A. There are several mines.

Commissioner LITTLER. This is for the whole outfit?

The WITNESS. Yes, sir. My pay-rolls will show it.

Q. How much do you pay out a month?—A. I have paid out as much as \$15,000 a month and \$20,000; \$22,000 I have paid out on an average for several months.

Commissioner LITTLER. Those were the results of an enormous production, undoubtedly?

The WITNESS. Yes, sir. Of course, when the coal comes out in such small quantities as it does now it costs from \$1.50 to \$2.

Q. Will you furnish to this Commission a statement showing actual cost of the production of coal from these mines?

The WITNESS. On an average for the year?

Commissioner LITTLER. Yes.

The WITNESS. It will have to be furnished by our superintendent.

#### THE RAILWAY COMPANY BENEFITED BY THE CONTRACT.

Q. Will you have the company furnish the Commission with that sort of a statement, with a view of determining whether the railway company has really got any consideration whatever in the execution of these papers for coal at less than cost?—A. I have taken my oath to what that coal has cost us. We have furnished them as much as 6,000 and 7,000 tons of coal in a month when it cost us from \$1.40 to \$1.75, and we were only getting \$1.25 for it.

Commissioner LITTLER. I can well understand how that might be for a month or two.

The WITNESS. Yes, sir; for a great many months we have not furnished them any coal whatever that ever cost us \$1.25.

Commissioner LITTLER. You mean so little as \$1.25?

The WITNESS. So little as \$1.25. Not a pound of coal have we furnished them that cost us so little as \$1.25.

Q. Assuming that you are not mistaken in your statement, or rather assuming \$1.25 a ton would pay the cost of all the coal you ever produced for this company, then the only consideration for the execution of this contract, by which you get a rebate amounting to over \$70,000 during the continuance of the lease, is the release of the damages growing out of that fire, is it?—A. Yes, sir; we always considered, as far as that is concerned, that the contract was rather a detriment to us, and we would just as soon not have it, and a great deal sooner.

By Commissioner ANDERSON:

Q. Are you willing to cancel it?—A. Yes, sir.

#### STATEMENT OF AVERAGE COST OF PRODUCING COAL.

By Commissioner LITTLER:

Q. Will you please furnish us with the statement I called for? You can furnish it at this place by Saturday night; we will be back to Denver then.—A. I will endeavor to furnish it as soon as I can. I understand it is to be the average cost.

Commissioner LITTLER. The average cost per day per annum for the production of coal?

The WITNESS. We will have to take it by the ton.

Commissioner LITTLER. Let us have it that way.

The WITNESS. Exclusive of any rebates or anything of that kind?

Commissioner ANDERSON. Give the cost of production to you at the mine.

The WITNESS. Yes, sir.

The following letter was subsequently presented to the Commission, and forms a part of the testimony of the witness.

[The Marshall Consolidated Coal Mining Company, Office, room 18, Tabor Block. P. O. box 2234. T. Longstreet, general manager. E. A. Quinsard, president. E. F. Burton, vice-president. E. H. Sabidge, secretary.]

DENVER, COLO., July 13, 1887.

Output of lump coal during period November, 1885, and May, 1887, inclusive.

73,007 tons, Louisville mines.....	Cost.....
50 " " Marshall mines (average).....	\$1.62
	1.52

Of above, the Union Pacific Railway used for engines as follows, for which we received \$1.25 :

	Loss.
22,768 tons, costing \$1.62½ .....	\$8,538.00
27,626 tons, costing \$1.57 .....	8,840.32
	<hr/> 17,378.32

Had they continued taking coal for company use since March 11, to May 30, the loss in supplying them would have swelled the above to more than the rebate amounted to. As cost coal varies so materially one month with another at Marshall, an average had to be made of the cost for above period.

Truly yours,

R. H. RUBIDGE,  
Secretary.

DENVER, COLO., Wednesday, July 13, 1887.

JOHN H. WALSH, sergeant-at-arms of the commission, being further examined, testified as follows :

By the CHAIRMAN :

Question. Did you serve a subpoena upon W. H. Price?—Answer. No, sir; I did not.

FAILURE TO SUBPOENA W. H. PRICE.

Q. Why not?—A. I could not find him.

Q. Where did you go?—A. I went to his place of business, 1631 Curtis street, and his residence on Welton street, and to several other places where I was told I might possibly find him.

Q. What information did you get as to his whereabouts?—A. He was out; possibly he was out of town, and he might be at his ranch; he had just gone out, and they did not know where he was and did not know when he was likely to return.

Q. What was the answer at his home?—A. They said he was at his office.

Q. What was the answer at his office?—A. He was not in. They did not know where he was.

Q. How often did you try to find him?—A. I have gone at least a half dozen times.

E. O. WALCOTT.

Q. Did you serve a subpoena upon E. O. Walcott?—A. No, sir.

Q. Did you try to find him?—A. I did.

Q. Where did you go?—A. I called at his office in Cheeseman's block and was told that he was East and would not return for about six weeks; about the 10th of August.

By Commissioner LITTLER :

Q. When did he leave home?—A. Some time ago, they told me.

By the CHAIRMAN :

Q. Whom did you see?—A. The clerks in the office.

MR. RICH.

Q. Have a subpoena for Mr. Rich?—A. I did. I went to his depot and was told Mr. Rich left last Wednesday, and is now at Niagara, and will remain there until about month, expecting to get home on the 20th.

Commissioner LITTLE. I am just informed that Mr. Price was seen on the street within the last hour.

The WITNESS. I was told at Neff & Company's office that he was there a little while ago, but I was not able to get him.

Q. Did anybody say to you that if you would employ them they would find Mr. Price?—A. I was told to go and find a man and hire him, and he could produce him.

Q. Who told you so?—A. W. A. Willard. On seeing Mr. Willard this afternoon, he said he did not say "hire" him, but to go and see that man. He gave me his directions, and I went to the gentleman's residence and he was out. I was told I would find him here, but I have been unable to find him.

C. S. MOREY.

Q. Did you have a subpoena for C. S. Morey?—A. I did. I called at the Morey Mercantile Company this morning, and was told that Mr. Morey went to Idaho for his health.

Q. When did he go?—A. They said about last Sunday.

Q. Where else did you go to find him?—A. That is the only place I know of.

Q. Who told you this?—A. A clerk in the office.

Q. Is that his place of business?—A. Yes, sir.

F. S. STRUBE.

Q. Did you have a subpoena for F. S. Strube?—A. Yes, sir, for F. F. Strube. I called at the Strube-Estabrook Mercantile Company, and at the office there was told Mr. Strube was in California, and had been gone for some time.

Q. How long has he been away?—A. They said some time.

Q. Who did you see at his place of business?—A. A man I supposed was a clerk. He was in the office of the company.

Q. When will Mr. Strube return?—A. This gentleman said it was hard to tell.

DENVER, COLO., *Wednesday, July 13, 1887.*

EDMUND M. SMITH, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Editor of the Evening Telegram.

Q. How long have you been connected with the Telegram?—A. Since the 20th of last December.

Q. How long have you resided in Denver?—A. I have been here almost continuously since 1879.

#### CONCERNING EFFORTS TO INFLUENCE LEGISLATION.

Q. What knowledge have you as to the influence of, or the part taken by, the Union Pacific Railway Company in influencing legislation in this State?—A. None whatever.

Q. Have you any knowledge of the presence of any agents or employés of the Union Pacific Railway Company in attendance before



legislature?—A. In what way? I have seen the employés around the legislature, like I saw anybody else—officers and different employés.

Q. When did you see them there?—A. During the last two sessions.

Q. Whom did you see there?—A. Numerous ones. Counsel, superintendents—

Q. Name them.—A. I have seen Mr. Walcott around; I have seen Mr. Choate around; I have seen Mr. Dickinson around, and I have seen others around.

Q. Who were they?—A. It would be impossible for me to recall all now. I do not know that I could.

Q. What were they doing there?—A. That I could not tell you. I did not ask them, and they did not tell me.

Q. Were they participating in the doings of the legislature?—A. They did not seem to be.

Q. What did they seem to be doing?—A. Looking on at the proceedings.

Q. How long did they attend a session?—A. I used to go up every day, and I would probably see them around every day or two.

Q. Were they just standing around?—A. Yes, sir.

Q. Were they engaged in any business?—A. They did not seem to be. I did not ask them what their business was there.

Q. Have you an acquaintance with Mr. Pat Touhy?—A. I know Mr. Touhy by reputation as being, I believe, a sort of superintendent of one of the divisions of the Union Pacific.

Q. Did you meet him at the legislature?—A. No, sir; I do not believe I ever saw him up there.

Q. Did you see any of those agents of the Union Pacific Railway Company in conversation with the members of the legislature or of the committees?—A. No; possibly they may have been down stairs in the bar-room taking a drink after adjournment.

Q. Were the employés taking a drink, or the members of the legislature?—A. Both.

Q. Were they generally together?—A. Not generally; no, sir.

Q. Were you deputy Sergeant-at-Arms of the United States House of Representatives at any time in 1873?—A. Yes, sir; I was special deputy.

Q. Were you connected in any way with the committee investigating the Credit Mobilier, under the charge of Mr. Wilson as chairman?—A. Yes, sir.

#### FAILURE TO SUBPENA GENERAL DODGE.

Q. Did you serve a subpoena upon General G. M. Dodge?—A. I tried pretty hard, but did not succeed.

Q. Where did you go to find him?—A. I had a trip from about the 17th day January to the 2nd day of March, going all through Louisiana, Texas, and the Indian Territory; I finally wound up in Saint Louis and captured his private secretary; but I did not see anything of the general. I tried mighty hard to get him.

Q. What was the difficulty in the way of finding Mr. Dodge at that time? He was a prominent man.—A. He was like the gentleman who had gone to Idaho. He had started for Washington, as I was told, to testify before the Wilson committee, but I could not get him.

Q. Did you get near him?—A. I got pretty close to him.

Q. How close did you get?—A. I believe I landed in Saint Louis on a Saturday afternoon, and he got out of there Friday night, as far as I could learn.

Q. Was he trying to avoid the subpoena, in your judgment?—A. That I could not say. I did not catch up with him.

## WITNESS NOT AN AGENT OF THE UNION PACIFIC.

Q. Have you ever been employed by the Union Pacific Railway Company?—A. No, sir.

Q. In no capacity?—A. No, sir.

Q. Were you ever employed as special agent by the Union Pacific Railway Company to look after legislation?—A. No, sir.

Q. Did you ever look after legislation against the interest of the Union Pacific Railway Company?—A. Against the interest of the Union Pacific? Neither *pro* nor *con*.

Q. Were you employed by the Union Pacific Railway Company to look after elections?—A. No, sir.

Q. Did you have any conversation with any of the officers of the Union Pacific Railway agents or employes as to how the elections were going?—A. No, sir.

Q. Have you participated in any way in influencing legislation for the Union Pacific Railway Company?—A. No, sir.

Q. Have you participated in any way in preventing legislation that you believe to be against the interest of the Union Pacific Railway Company?—A. No, sir.

Q. What were you doing at the legislature?—A. I was a newspaper man.

Q. Were you acting as correspondent or reporter?—A. Correspondent.

Q. For whom did you correspond?—A. Different papers East, when I received special instructions.

Q. Had you any instructions from any of the employes or officers of the Union Pacific Railway Company as to the subject of your correspondence?—A. No, sir.

Q. Did you make the subject of railway interests a matter of correspondence?—A. I did.

Q. In what direction?—A. A fair direction.

Q. What do you mean by a fair direction?—A. Impartially.

Q. How impartially?—A. I would neither side with one nor the other. I gave what I thought was a clear, succinct, fair, impartial report.

## RAILROAD LEGISLATION IN THE STATE.

Q. Was there much railroad legislation in this last session?—A. Yes sir; but not as much as two years ago, or not as much as the previous session to the last one.

Q. Were there any bills introduced?

The WITNESS. In which session?

The CHAIRMAN. Either session?

The WITNESS. I think there was.

## NUMBER OF BILLS INTRODUCED,

Q. Was the number of bills proportioned to the sentiment existing throughout Colorado as to railroad legislation?

The WITNESS. I do not understand the question.

The CHAIRMAN. Was the number of bills introduced with reference to railroad legislation proportioned to the sentiment existing throughout the State of Colorado?

The WITNESS. Yes, sir; it seemed to be. There were all *pro*

Q. What direction did they seem to be leaning toward or against the interests of railroads?—A. They *are* the Union Pacific pretty warmly.

## SENTIMENT OF THE COMMUNITY AGAINST THE UNION PACIFIC.

Q. Did you regard the sentiment of the community, especially in the lower house, as against the Union Pacific?—A. Well, you could hear all sides. I should regard the sentiment in the house as against the Union Pacific.

Q. Did that represent the sentiment of the State?—A. It seemed to.

Q. How did you represent it in your correspondence?—A. I represented it as such, I think.

Q. Have you had any business with the Union Pacific Railway Company?—A. No, sir.

Q. As a shipper?—A. No, sir.

Q. Have you shipped printing stock at all, which was used in the getting up of your paper, over the Union Pacific Railway Company?—A. Yes, sir; some of it.

## NO SPECIAL RATES ON PRINTING STOCK.

Q. Have you had any special rates?—A. No, sir.

Q. Have you had rebates?—A. No, sir.

Q. Have you had any preference at all from the Union Pacific?—A. No, sir.

Q. Have you made application to the Union Pacific Company for a special rate?—A. I have not. I would not get it, so I did not try.

Q. Why would you not get it?—A. Because they all claimed that nobody got any.

Q. Do you not know that some did get it?—A. No, sir.

Q. Do you not know that the Rocky Mountain News got it?—A. No, sir.

Q. Have you never heard that before?—A. I have heard it said. I do not know it of my own knowledge.

Q. When did you first hear that?—A. I have heard it alleged for the last year or two.

Q. Did it never occur to you that your paper might get it?—A. Perhaps so.

Q. Why did you not make application?—A. I would not get it. Perhaps I was not among the favored parties.

Q. Why not?—A. That is too hard for me to tell.

Q. Did you ever meet General Dodge?—A. Yes, sir.

## MEETING WITH GENERAL DODGE IN 1878.

Q. Did you have a conversation with him after he was made after him in 1873?—A. I never met him. I was with General Logan in Council Bluffs, 1878, five years after the pursuit.

Q. Did you talk about the pursuit?—A. I had a sort of social conversation and it was hard to catch him.

Q. What did he say was the explanation?—A. I do not remember.

Q. What was the social conversation?—A. I am not sure. I do not remember.

Q. You would not forget that, would you?—A. I do not think I can. I told him. I had a pretty long race for him.

across and up to Marshall, and from there through to Hearne, Tex., on the Texas Central, and then to Denison, and across the Indian Territory and down into Saint Louis.

Q. Did he say to you that you were very close to him at times?—A. No, sir; he made no admissions to that effect.

Q. What admissions did he make?—A. He did not make any.

Q. Did you find, in conversation, that General Dodge had taken about the same route that you had taken?—A. He was ahead of me a couple of weeks when I was at Longview, or rather at Mackinaw.

Q. Had he passed over the same road?—A. He seemed to have gone that way.

Q. How was it that you gave up the pursuit?—A. I did not give it up. I was stopped in Saint Louis by the committee and the Sergeant-at-arms and told to hold on until further orders.

Q. Do you think you would have got him if you had gone on?—A. It was getting pretty well along towards the 4th of March. It was then about the 20th of February, and I do not know whether I would have caught up to him or not before Congress adjourned.

Q. Do you recollect any part of the conversation that you had with General Dodge with reference to this pursuit?—A. No, sir; I can only say this: That the general and I talked it over in the Ogden House, in Council Bluffs. He told me I had tried pretty hard to catch him, he thought, and I said I thought so myself.

Q. Where did he say he was all that time?—A. He did not tell me.

Q. Where did he say he was, in reply to your statement?—A. I do not recollect anything particular.

Q. That was all the conversation you had with him?—A. Yes, sir; I have never talked with him on the subject since.

#### OWNER OF THE DENVER TELEGRAM.

Q. Who are the owners of the Denver Telegram?—A. I am now the sole proprietor.

Q. How long have you been the sole proprietor?—A. Since the 1st day of July.

Q. Since the 1st day of last July?—A. Yes, sir.

Q. Who was associated with you before?—A. Messrs. Carter and App.

Q. What interest had you prior to the 1st day of July?—A. I was a third owner.

Q. Have you any knowledge of any part taken by the Union Pacific Railway Company through its officers or agents in influencing legislation?—A. No, sir.

Q. Have you any knowledge as to the part taken in the primary or general elections of the State by the Union Pacific Railway employees?—A. No, sir.

#### THE RAILROAD QUESTION IN THE LAST ELECTION.

Q. Was the railroad question the subject of any issue in the last election?—A. In part I should judge it was.

Q. What part did you take?—A. I did not take any particularly.

Q. Generally what part did you take?—A. I wanted to see the Republicans win.

Q. Outside of the party, what part did you take in the railroad question?—A. None whatever.

**Q.** How far was it a subject at issue?—**A.** I should judge it was the people *vs.* the railroad.

#### RESULT OF THE ISSUE.

**Q.** Who was successful?—**A.** To the best of my knowledge I should judge the Republican party won.

**Q.** Is the Republican party in the railroads or are the people in the railroads?—**A.** I am not able to say whether the railroads won or did not win.

**Q.** What is the difficulty in the way of your saying so?—**A.** I do not know of any difficulty in the way at all.

**Q.** What, in your judgment, was the result of the issue?—**A.** I do not think the railroad got any very large advantage.

**Q.** Were you not in attendance upon the legislature after the election, nearly every day?—**A.** Yes, sir.

**Q.** Was the matter discussed?

The WITNESS. In the legislature?

The CHAIRMAN. Yes, sir; and about the legislature.

The WITNESS. Yes, sir.

#### A HISTORY FOR THE PEOPLE.

**Q.** What was the subject of discussion there as to the result?—**A.** The subject-matter discussed was, I should take it, that the railroad and the people had had a pretty good fight of it, and that the people seemed pretty well on top.

**Q.** The people seemed to be on top?—**A.** Yes, sir.

**Q.** Did the people succeed in accomplishing what they desired, as a result of their victory?—**A.** Perhaps members of the legislature could tell you better about that than I can.

**Q.** What was your observation?—**A.** My observation was that some bills that were introduced did not go through, and some did.

#### HOSTILE LEGISLATION.

**Q.** Was there any hostile legislation to the railroad interest?—**A.** Considerable of it.

**Q.** To what extent?—**A.** It seemed to be to the extent that those who were antagonistic to the railroad were trying to do their best to win.

**Q.** What laws were enacted hostile to the railroads?—**A.** I do not know of any particularly hostile to the railroads. I cannot recall it now.

**Q.** Was there a bill passed hostile to the railroad?—**A.** There was a senate bill there, I forget the number of it now, signed by fifteen senators, that was to be hostile to the railroad, but it did not seem to go through.

**Q.** Then there was no bill passed hostile to the railroads?—**A.** I cannot recall now.

**Q.** If such legislation had passed, being in attendance as you were there every day in the legislature, would you not recall such a bill?—**A.** I cannot remember now.

**Q.** Then, if no hostile legislation was enacted at the legislature, did not the railroads come out ahead of the people in that fight?—**A.** If there was not, I presume they did.



## ATTITUDE OF POLITICAL PARTIES REGARDING RAILROAD LEGISLATION.

Commissioner ANDERSON. I would like to know whether, at either of the conventions, the platform adopted by the convention of this State contained any plank relating to railroad legislation?

The WITNESS. I think I saw accounts of any number of indignation meetings having been held all over the State.

Commissioner ANDERSON. I am speaking of the platforms adopted by conventions of the party.

The WITNESS. Yes, sir.

Commissioner ANDERSON. At which you made your nomination?

The WITNESS. Yes, sir.

By Commissioner ANDERSON:

Q. Was there inserted in the platform or resolutions adopted by conventions held in 1886 any plank relating to the passage of railroad legislation, hostile or otherwise?—A. I think in the Democratic platform there was.

Q. You think there was?—A. Yes, sir.

Q. Was there one in the Republican platform?—A. I think there was. I will not say for sure now. I cannot recollect.

Commissioner ANDERSON. If this question, whether it was an issue in the campaign, is to be examined into, we would have to know exactly whether there was such a question presented by the platform or resolutions.

The WITNESS. I cannot recollect as to the Republican platform at the present time. I know there was certainly one in the Democratic platform.

## THE SENATORIAL CONTEST.

By the CHAIRMAN:

Q. Were you employed by the Union Pacific Railway Company at the last election to participate in any way in the Senatorial contest?—A. No, sir.

Q. Did you receive any consideration from the Union Pacific Railway for your participation in that contest?

The WITNESS. In the Senatorial contest two years ago last winter?

The CHAIRMAN. The last Senatorial contest.

The WITNESS. No, sir; I never received a dollar, directly or indirectly.

Q. Have you told the Commission all you know about the Colorado legislature?—A. I think I have.

Q. Have you omitted to say anything that you wanted to say?—A. No, sir; I am here to answer all questions.

By Commissioner LITTLER:

Q. Have you been in attendance on the sittings of this Commission?—A. I was up here once yesterday, I believe, for about fifteen minutes.

## CONCERNING ALLEGED CORRUPTION FUND RAISED BY RAILWAY COMPANIES.

Q. I call your attention to a portion of the evidence submitted here, in which it was stated, in substance, that there was a corruption fund raised by the railway companies of this State, including the Union Pa-

cific Company, for the purpose of corruptly influencing legislation and for the purpose of corruptly influencing the election of the United States Senator. Do you know anything whatever in relation to such a fund having being raised?—A. No, sir.

Q. Were your relations to the legislature such as would have enabled you, in all probability, to have learned that fact during your attendance upon the legislature?—A. I think I should have.

Q. Did you at any time see any evidence of the scattering of corruption money in the last legislature?

The WITNESS. In this last legislature?

Commissioner LITTLER. Yes, sir.

The WITNESS. Not a dollar.

Q. So that you know nothing whatever in relation to that matter?—

A. I do not.

Q. Can you give us the name of any person who would be more likely to know that fact than yourself, if it existed?—A. I cannot.

Q. Have you, at any time, as a correspondent of the Eastern papers or local papers, stated that such a fund had been used upon the legislature?—A. I never have.

Q. Do you know of any other matter or thing pertinent to the subject of inquiry before this Commission which you have not already stated?—A. I do not.

DENVER, COLO., *Wednesday, July 13, 1887.*

WILLIAM B. FELKER, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your occupation?—Answer. Attorney at law.

Q. Where do you reside?—A. I reside in Denver.

Q. How long have you resided here?—A. Since the spring of 1882.

Q. Have you been railroad commissioner of this State?—A. Yes, sir.

#### LAW CREATING RAILROAD COMMISSION.

Q. When was the law passed?—A. The law was passed in 1885. I think it was signed the 6th day of April, 1885.

Q. You were the first appointee?—A. Yes, sir.

Q. How long did you serve?—A. Until April, 1887.

Q. That law, it has been asserted, contains no provision by which you can interfere with rates or enforce any advice that you may give. Is that so?—A. That is so. The commissioner can inquire into rates and recommend rates, but he cannot enforce his recommendations.

#### ITS PROVISION AGAINST DISCRIMINATION.

Q. What provision does the law make in regard to private discrimination and favorable rates?—A. It prohibits discrimination and extortion under a penalty.

Q. What provision does it make by way of penalty for a violation of its provision?—A. The law is in the book before you. If you will let me have it a moment I can tell you. The damages provided by the act are triple the amount of damages established on the trial of the action in a court at law.

Q. A violation is, then, not made a misdemeanor?—A. No, it is

Q. Did you pay considerable attention to the management of the railroads in this State during your term of office?—A. Yes, sir; I devoted my entire time to it.

PROCEEDINGS ONLY BROUGHT BY COMMISSIONER ON COMPLAINT.

Q. Did you look into the subject of preferences and rebates and discriminations?—A. I did not, from the fact that there was no complaint made before the commissioner, the commissioner having no power under the act to institute any proceedings of his own motion. He can bring only such proceedings as may be brought before him upon complaint. No complaints were ever made to me while I was in office in regard to rebates.

Q. Was there no complaint made in a formal way for the purpose of bringing the matter forward and creating a public sentiment in regard to it?—A. No, sir; there was not a single complaint ever filed in my office in regard to rebates.

STREET TALK IN REGARD TO REBATES.

Q. Did no one engaged in business in Denver ever speak to you about rebates being granted?—A. They spoke to me on the street, and I said to them if they would file their complaints, I would order an investigation immediately; but they never would do it.

Q. Did they not speak to you on the street sufficiently often to awaken your curiosity, so as to lead you to inquire into the truth of the charges?—A. My curiosity was awakened, but I had no power to proceed unless a complaint was lodged with me.

Q. But could you not have found out to what extent the rebates existed? If the evil was embodied in the whole railroad system of the State, you could have reported to the next legislature for further action. My object was to ascertain what you found out in regard to rebates.—A. Nothing, only the report on the street that there were firms that had rebates.

FIRMS MENTIONED AS RECEIVING REBATES.

Q. What firms did you hear mentioned prominently?—A. There were the Struby-Estabrook Mercantile Company and the Morey Mercantile Company.

Q. State their business as you state the names of the firms.—A. The Struby-Estabrook Mercantile Company are dealing principally, I think, in groceries. The Morey Mercantile Company is in the same business. Brown Bros. are in the same line of business. The two Cornforth concerns—

Q. Are they dealing also in groceries and provisions?—A. Yes, sir; and I heard Daniels & Fisher's names mentioned as receiving rebates.

Q. Were they in the dry goods business?—A. Yes, sir; in dry goods.

Q. And did you also hear the name of the Omaha and Grant Refining and Smelting Works?—A. Yes, sir. That was generally conceded to be a firm that was receiving rebates.

Q. You heard of that quite prominently, did you?—A. Yes, sir.

Q. Were there any other interests that were reported to you as receiving this advantage?—A. I think not; only the smelters and the wholesale grocery men and dry goods men.

## CHARGES OF DISCRIMINATIONS ON COAL.

Q. Were there any coal people?—A. Well, yes, sir. There were some two or three complaints alleged before me against different roads in regard to discriminations on coal, but none in regard to rebates.

Q. Complaining that who received advantage of the discriminations?—A. There was no complaint alleged against the Union Pacific Company on coal matters, with the exception of discrimination in furnishing cars. None in regard to rebates.

Q. To what company did they furnish cars, as was alleged?—A. The allegation was, or one complaint was (Goodrich & Marfell made the complaint), that they could not get any cars at their mines.

Q. Did they complain that the cars were furnished to some favored rivals?—A. Yes, sir; they complained that there were plenty of cars furnished to the Marshall Coal Company.

## THE GOODRICH AND MARFELL CASE.

In the Goodrich & Marfell case I drew up a demand, under our statute, which provides how cars shall be furnished. They instructed Mr. Marfell to serve it upon the station agent and upon the superintendent of the company. Then I sent a copy to Mr. Gallaway, and notified him of the complaint, and also sent a copy of the complaint, and received a reply from Mr. Gallaway that he had instructed the agent to furnish cars. I saw Mr. Marfell a short time afterwards, and he said cars had been furnished him, so that the complaint went no further.

## THE PATTERSON CASE.

In that connection, Mr. Patterson came to me a few days after that and made the same complaint, and wanted to know how to proceed. I told him to proceed in the same manner. I explained to him what I had done in the Goodrich & Marfell case, and told him to proceed in the same manner, and to make a written demand, and if they did not furnish the cars to him to make a complaint to me and I would proceed under the statute fixing the ratio, the power being given to the commissioner to fix that ratio of cars which should be furnished to the various companies.

Q. Did Mr. Patterson proceed as advised?—A. I think he did.

Q. Did he make any other complaint to you?—A. No, sir.

Q. That is all he said?—A. That is all there was of it.

Q. That was all in relation to those cars?—A. That was all the complaint he made to me.

## "MILLAGE AND TRANSIT."

Q. In connection with the milling interest—the flour or grists—did you hear anything about rebates?—A. No, I never did. Never was any complaint made. There was a complaint across street that there were certain firms getting what contracts, where they would purchase grain and then carry it right along on the same contracts.

By Commissioner LITTLE:

Q. That was called millage and transit, millage and transit.

## GENERAL FACILITIES AFFORDED IN COLORADO BY THE UNION PACIFIC.

By Commissioner ANDERSON :

Q. In regard to the general facilities afforded by the Union Pacific Railway in the State of Colorado for the successful and advantageous transaction of business, what have you to say?—A. In 1885 I went over the entire Union Pacific system, including the Utah and Northern and Oregon Short Line, to examine their road in reference to the facilities for furnishing communities in other localities in other States and Territories, and to get acquainted with their system. I inspected every road included in that system, and I found that the people of this city were, generally, furnished as good facilities as were furnished by this company in other States and Territories along the line of the road. There were a few exceptions.

## RECOMMENDATION TO ESTABLISH DEPOT AT EMPIRE.

There was one complaint in regard to terminal facilities upon the Colorado Central. There was one complaint made and I made a recommendation that they establish a depot at that point.

Q. Have they ever done so?—A. No, sir; they never did. They still, I suppose, have it under advisement. They have always informed me—

Senator HENRY M. TELLER. I wish you would state where that was. The WITNESS. That was Empire.

Senator HENRY M. TELLER. Did you not make the same recommendation in reference to Central City?

The WITNESS. No, sir; there never was a complaint in regard to the terminal facilities at Central City.

Senator HENRY M. TELLER. You have no depot there, have you?

The WITNESS. There never was any complaint. I never heard even a verbal complaint at Central City.

## ADEQUACY OF FACILITIES FURNISHED BY UNION PACIFIC.

By Commissioner ANDERSON :

Q. In regard to this answer you have just made, you have simply stated that the facilities were as good as were given elsewhere. Will you please state whether the facilities are equal to the requirements of trade, in your judgment.—A. I think they are, generally.

By Commissioner LITTLE :

Q. How do they compare with the facilities furnished by other companies?—A. I think they are fully as good as those given by other companies in the State.

## RATES HIGHER IN COLORADO THAN IN OTHER STATES.

By Commissioner ANDERSON :

Q. In regard to the rates prevailing in Colorado, have you made any examination or comparison of those rates with the rates existing in other States similarly situated?—A. Yes, sir.

Q. What have you to say as to that?—A. The rates in this State are considerably higher than in other States.



## UNION PACIFIC RATES NOT HIGHER THAN RATES OF OTHER ROADS.

The rates on the Union Pacific Railway, and its system in this State, are not any higher than the other roads in this State, with the exception of the short mountain division of the Colorado Central. There, it is considerably higher than the rates ordinarily on mountain roads in this State.

Q. How do the rates on the Union Pacific compare with the Denver and Rio Grande, the Atchison, Topeka and Santa Fe, the Missouri Pacific, and the Chicago, Burlington and Quincy?—A. They are about the same in this State; that is, the same as these roads in this State.

## LOWER CHARGES FROM PACIFIC COAST TO MISSOURI THAN TO DENVER.

Commissioner ANDERSON. As an illustration, it was stated in regard to a car load of California fruit, that it could be shipped from San Francisco to the Missouri River via the Union Pacific for a little over \$1 a hundred, but being shipped to Denver it cost \$1.95.

The WITNESS. That has been true of all the roads.

Commissioner ANDERSON. That is what I wanted to know.

The WITNESS. That has been true of all the roads during the two years while I was in office. In the shipments from the Pacific coast to the Missouri River the rate was less than it was from the Pacific coast to Denver over all the transcontinental lines.

Q. Is one of the factors that brings about that result the fact that at the Missouri River the California traffic enters more directly into competition with the Atlantic traffic?—A. I suppose it is; yes, sir; that is the reason for it. It is supposed that the water traffic, the ocean traffic, affects that to that extent. We are really, as far as that traffic is concerned, the local point along the line of those roads.

Q. What other information can you give us in regard to the administration of railroad affairs of this corporation in Colorado?—A. I do not know what you want. I can give you a good deal.

## RATES TOO HIGH ON THE COLORADO CENTRAL.

Q. We want to be informed generally as to whether the management of the Union Pacific gives satisfaction to this community, and if it does not, whether the railroad company is to blame, or whether the community is unreasonable. Will you give us all the facts within your observation?—A. There has been on the Colorado Central Road, which is nearly a branch of the Union Pacific, a good deal of complaint for years. They filed a complaint with me in July, 1885, and I investigated that whole question of rates on that mountain division, and came to the conclusion that their rates were too high, that the complaint was well founded; and I recommended a reduction of rates. The tariff on all classes of merchandise, and coal, and ore, and in fact everything that was shipped over the road, was in my estimation, from all the evidence obtained upon the trial, considerably too high. The recommendation that I made as commissioner was not adopted by the company. On the 1st of May, 1885, the Union Pacific Company reduced the rate on ore, on that mountain division, 25 per cent. and the rate on coal 20 per cent. The Union Pacific claimed that that community up there had agreed to be satisfied with that reduction, if it would be made, and they claimed that when this complaint was filed that their rates were no higher than they ought to be. Since then there has been no reduction.

## INCREASE OF TONNAGE IN COLORADO.

There has been on the tonnage an increase on all of the roads in the State, and the branches, with the exception of two. There has been considerable increase of tonnage in 1886 over 1885.

Q. Will you state the exceptions?—A. The decrease of tonnage on the Georgetown, Breckenridge and Leadville in 1886 over 1885 was 1,143 tons. That is upon the basis of 1 ton per mile. The decrease on the Golden, Boulder and Caribou was 6,691 tons for 1 mile. The increase on the Colorado Central was 277,539 tons; on the Denver, South Park and Pacific, 4,743,624 tons.

By Commissioner LITTLER:

Q. Is that an increase?—A. An increase.

By Commissioner ANDERSON:

Q. That is a mile ton?—A. A ton carried one mile. The Denver and Boulder Valley was 336,304 tons; the Denver and Middle Park, 18,991 tons; the Greeley, Salt Lake and Pacific, 285,605 tons; the Union Pacific Consolidated, 1,046,378,637 tons. Excepting the Union Pacific Consolidated, the increase tonnage in this State on their roads was 5,654,229, after deducting the decrease on the two roads.

## RATE OF FREIGHT AS LOW AS EVER.

Q. Have the local rates remained the same?—A. It was the same for 1886 that it was in 1885. Notwithstanding this increase of tonnage, if the company had charged the same rate per mile on its tonnage of 1886 that it charged in 1885 it would have made on its entire system \$1,406,153.64 more revenue than it did get. That is owing largely to the low rate of freight that existed at the time of this transcontinental war and the competition that grew up immediately after it and before things got settled.

Q. The rate of freight is as low as it ever was; is that not so?—A. Yes, sir.

Q. Do the rates remain down?—A. Yes, sir; the rate of freight is as low at this time as I think it has been any time in the history of the road in this State.

## RELATION OF BRANCHES TO MAIN LINE.

Q. Have you ever given any attention to the question of the relations which the branches hold to the main line in the State of Colorado?—A. Somewhat.

Q. Do you think the Denver and South Park is an advantage or a detriment to the Union Pacific Railway system?—A. The way in which it has been managed, it has been a detriment to the system. It has a piece of road that is very expensive to operate; that high-line road. I think it would be an advantage to the system, as a whole, if it were lopped off the main line.

Q. Did you ever understand why the route by Buena Vista to Leadville, in common with the Rio Grande, was given up?—A. I heard both sides of that story. The Union Pacific people claimed that they could not get trackage over that road any longer, and the Denver and Rio Grande people claimed that they were perfectly willing to give them trackage over that road at a reasonable rate.

...what is your judgment?—It is a benefit to the main line, the best paying piece of road here, and it is a benefit to the rest of its line. Is it your judgment that it is a benefit to the main line?—It is; it is. Is it a benefit to the main line?—It is a benefit to the main line, which it furnishes to the main line, and it is a benefit to the main line, which it furnishes to the main line, and it is a benefit to the main line, which it furnishes to the main line.

#### OTHER COLORADO BRANCH LINES

What other Colorado branches are there?—There are a few pieces of road here that are all the way from the main line to the coast.

What is your judgment as to the small branches?—They are small branches, and state whether they are an advantage to the main line system.—A. They are an advantage to the main line system, and they are used only for that purpose.

#### AN ADVANTAGE IS "GIVEN"

They are worthless for any other purpose than as feeders.

Will you state exactly what you mean by feeders?—A. They are business for the main line.

That is, does the interchange of traffic by reason of the main line, prove a benefit to the whole system?—A. It is a benefit to the main line, the traffic of the localities through which these roads run keeps it away from the other roads.

Is it your judgment that that advantage to the main line does counterbalance the loss which may be incurred in the operation of a branch itself?—A. I think so.

tain as to every particular piece of road by itself. It was a general impression that I had from the character of the traffic over the road, the commerce over the road, and the amount that reached the main line that led to my conclusion.

Q. Have you formed any conclusion relating to the adjustment of the debt?

#### LOCAL BUSINESS OF MAIN AND BRANCH LINES.

By the CHAIRMAN:

Q. Excuse me. Before you go to that subject I would like to ask him a question in this connection. How does the volume of business over the branch roads in Colorado, the local business, compare with the local business on the main line, comparing the same distance?—A. They have about the same amount of local business that they had along anywhere in this western country. The most of their short branch roads, local roads, in this State (outside of the Colorado Central and the Denver, South Park and Pacific) are roads, branches, and pieces that go to coal mines and stone quarries, and some of these branches do hardly any local traffic outside of those products.

Q. What would be your conclusion, based upon your observation, as to the volume of business, local, as compared with the same distance, local, upon the main line?—A. I think they compare fully as well as they do on the main line; and some of them have a great deal more than the local business along on the main line.

#### PLAN OF SETTLEMENT.

By Commissioner ANDERSON:

Q. In regard to the subject of the adjustment of the debt due to the Government of the United States by these railroads, have you given it any attention?—A. Yes, sir; some.

Q. Have you formed any conclusion as to what is the best thing to do?—A. Yes, sir; I formed a very decided opinion.

Commissioner ANDERSON. The Commission would be pleased to hear from you.

#### THE UNION PACIFIC SHOULD HAVE TIME.

The WITNESS. I think it is wisdom and policy on the part of the Government to give the Union Pacific road a fair length of time in which to pay its indebtedness. I think it would be a benefit, not only to the Government itself, but to the road, and to the community through which the road passes. I do not think it would be advisable for the Government to attempt to operate that road. I do not think that the road will be able to pay its indebtedness falling due in 1896 and 1897, and that an extension will have to be granted to the company.

Q. Do you mean it would have to be granted to the company, if the company desires to continue the management of the Union Pacific Railway in its present form and ownership?—A. Yes, sir.

Commissioner ANDERSON. They might sell the property to the highest bidder.

#### THE GOVERNMENT SHOULD NOT OPERATE THE ROAD.

The WITNESS. They either want to do that or give them time. I do not think it would be advisable for the Government to attempt to operate the road.

Commissioner ANDERSON. But there is the other alternative open; that is, to close the relation wholly out, so that the Government would be out of it entirely.

The WITNESS. Yes, sir; it is a question for the Government to determine which is for the best interest of the Government to do. I am inclined to think that if the company is dealt with liberally by Congress, they will in the end be able to pay, under an economical management of the road. The present management certainly is not responsible for the evils and misdeeds of the management of years ago. The cost of the road was very much more than it would be at the present time, or to lay down the same road at the present time. I mean the cost of this South Park, for instance. The actual cost of that road was less than \$19,000 a mile. I had a report made to me while I was commissioner to that effect, by the party who was superintendent of the construction. Of course, upon the basis of the stocks and bonds that they have got on the road now, they never can pay interest and dividends.

Q. Are you talking of the Denver and South Park, or did you go back to the Union Pacific?—A. Not only on the Denver and South Park, but on the main line.

Q. On the Union Pacific?—A. Yes, sir.

#### DIVIDENDS AND INTEREST.

Q. Did they never pay dividends?—A. They never will pay dividends and pay the interest on their bonds honestly with the present stock and bonding of the road. You see, it amounts to about \$105,000 a mile.

By the CHAIRMAN:

Q. Do you not know that they did pay \$23,000,000 in dividends from 1877 to 1884?—A. Yes, sir.

Q. And that they built over 2,000 miles of branch lines?—A. Yes, sir. Very much of that building was out of the earnings of the road, too.

#### GOVERNMENT SHOULD NOT ENFORCE THE PAYMENT OF BONDS WHEN DUE.

Q. What do you mean by the United States Government dealing liberally with this company? Has it not dealt liberally with it?—A. I do not know but it has. In the future, in regard to enforcing payment of those bonds, I do not think they can pay the bonds at the present time, unless they should negotiate and make a loan in some way and pay them in that way. They cannot pay it out of the revenue of the road between now and that time.

#### SUPLUS EARNINGS.

Q. Have you a knowledge of their surplus earnings since 1884, since they stopped paying dividends?—A. I have a knowledge of two years that I was commissioner.

Q. What information have you as to the surplus earnings since they stopped paying dividends?—A. The reports they made to me under oath.

Q. What is the amount?—A. I could not state now without referring.

Q. Is it over \$9,000,000?—A. Yes, sir.



## EFFECT OF AN EXTENSION UPON THE COMMUNITY.

Q. What have you considered would be the effect of an extension or a settlement, in closing out by foreclosure, upon the community at large?—A. I do not know that a foreclosure of the road, if it passed into the hands of a good company, would affect the communities along the line of the road materially. If the company is given time by which it can pay its indebtedness, and given opportunity to protect itself by throwing out feeders along the line of the road and protecting its territory, it can increase the revenues of the road very largely. Without that the other companies are stripping it of its territory and leaving it without resources with which to earn sufficient to pay that indebtedness.

## THE EFFECT AS TO RATES.

Q. What would be the effect as to the rates, passenger and freight?

The WITNESS. In what event?

Commissioner ANDERSON. In either.

The WITNESS. In either a sale, or what?

Commissioner ANDERSON. An extension, or foreclosure.—A. I think the rates of that company will depend altogether upon the rates established by other lines going through this section of the country. I think the rates will be maintained by the present associations and agreement just the same as they were by the pools. I do not think the interstate commerce law will help the people of this country, through which these roads pass, at all in regard to that. I think the agreements that they have made and are making in regard to the maintenance of rates will be just as effectual to maintain them as the old pool system.

Q. Do you think that whatever may be the settlement, the community at large will not be affected in any way?—A. I do not think they will materially. If it should be sold out to another company, of course they would have to adopt a policy that would bring them traffic, and in order to get traffic they would have to make the rate the same as the other road, no matter what company operated it.

## A POOL CONTROLLED BY LAW AN ADVANTAGE TO THE COMMUNITY.

Q. What has been the effect of a pool arrangement in your State as to rates?—A. It has been to maintain rates.

Q. Is the result of a pool or a combination to maintain rates in the interest of a railroad or in the interest of a community?—A. That depends altogether upon the rates named in the pool. If the pool was managed rightly, it would be a benefit to the community. If it is not managed honestly, and a fair reasonable rate established by a pool, then it is a disadvantage to the communities along the line of the road. A pool will maintain stable rates, that is, until they get to stealing it from one another, and then they get into another row and make another pool, so long as they maintain them themselves. If a pool could be controlled by law I think it would be an advantage to the communities and shippers along the line of the road, because it would make a stable rate.

Q. Do you know of any pool that was ever managed honestly?—A. No, I never did. I think if the General Government would pass a law, and the States also, recognizing the validity of pools, and having them under the supervision of the law of Congress and of the States where they could control them, it would be a benefit. Otherwise I do not think pools are beneficial.

**Q.** Do you know of any agreement to maintain rates among railroad companies that was ever substantially carried out by the parties to the agreement?—**A.** Ostensibly they are always carried out, but in point of fact they are not, as between themselves. Every railroad in its own interest is trying to secure all the traffic it can; if it cannot do it under the pool agreement, they are going to do it on the sly.

#### METHODS OF RAILWAY COMPANIES WITH EACH OTHER.

By Commissioner ANDERSON:

**Q.** What are the varied methods of stealing the business from each other?—**A.** Soliciting it.

**Q.** What others?—**A.** Rebates.

**Q.** Secret rebates?—**A.** Yes, sir; secret rebates.

**Q.** What others as to capacity of cars? Is that also in use?—**A.** Yes, sir; that is also.

#### DIVERSION OF FREIGHTS BY POOLS.

The CHAIRMAN. And as to the diversion of freights?

The WITNESS. Well, I think the pool commissioners generally try to distribute freights equally over the lines in the pool, but freight agents, notwithstanding that, will seek to move freight over their line that does not come under the control of the pool commissioner, by getting the shipper to select a route for his freight. Of course, if the freight comes to the pool point, it is distributed to the lines equally, unless the shipper has routed his freight. Then, of course, it has got to go according to the route fixed by the shipper. Sometimes that is not the case, however, and complaints were made to me during my administration of the office in regard to that matter. But they were promised to be rectified in the future, and they never went to a determination of the commissioner on the point. In fact, so far as interstate commerce is concerned, the commissioner had no power or control over them. It was only in regard to local freight.

**Q.** Do you know of any arrangements among the railroads of Colorado by which, under an agreement, the freight was taken from the roads aided by the Government and carried over the unaided roads?—**A.** I have not. I never have understood that that was so. My understanding of the percentage which the Union Pacific got on this business was that percentage that was agreed upon by all the roads, and was attempted to be carried out by the pool commissioner.

**Q.** If the Union Pacific entered into an arrangement as to the distribution of freight in a pool with other railroads, would not the freight be diverted from the Union Pacific to the extent of the concession made by the Union Pacific in a freight agreement?—**A.** It would.

**Q.** That would be the effect of it?—**A.** That would be the effect of it, but it would get its percentage of business, whether they had the haul or not.

#### EFFECT UPON THE EARNINGS OF THE UNION PACIFIC.

By Commissioner LITTLE:

**Q.** What effect would that have upon the earnings of the Union Pacific?—**A.** That I cannot tell you.

**Q.** Would it have any effect?—**A.** If they had to rustle for all the business that they got, I am inclined to think, with the feeling along the line

of the road and in communities where it came in competition with other roads, they would not get as much freight as they would under their pooling agreement.

By Commissioner ANDERSON:

Q. Would not get as much money, do you mean?—A. No, sir; they would not get as much money if they had to rustle for their own business.

By Commissioner LITTLER:

Q. The percentage of course, is fixed by these pools?—A. Yes, sir.

Q. And it does not make a particle of difference which company transports the freight?—A. Not a bit.

Q. The only question is to the aggregate amount of freight transported in pursuance of the pool, is it not?—A. Yes, sir.

Q. So that it does not make a particle of difference whether the freight is diverted to the Union Pacific or from the Union Pacific road?—A. No, sir; not a bit.

By Commissioner ANDERSON:

Q. Provided the percentage is adjusted?—A. Yes, sir.

By Commissioner LITTLER:

Q. Provided they do not get cheated in making the pool contract?—A. Yes, sir, or in the adjustment; and I do not think the class of men that are managing that road would be cheated in that way. I think they have tried their very best to maintain their rights to this traffic in this country.

#### PACIFIC MAIL SUBSIDY.

By Commissioner ANDERSON:

Q. Have you ever looked into this subject with reference to the allowance to the Pacific Mail?—A. I never looked into it to ascertain whether it was a fair adjustment and allowance made to that company. It was no part of my duty. I suppose if it was satisfactory to the company it ought to be satisfactory to the communities as long as they were not damaged by it.

By the CHAIRMAN:

Q. Would not the Union Pacific Railway Company have to consent to a diversion of a part of the freight before they could get the percentage in the pool?—A. That would depend altogether upon the tonnage of the various roads that went into the pool. If their tonnage were greater than the other roads, then it was a concession on the part of the other roads in favor of the Union Pacific.

#### CONCERNING FORECLOSURE OF FIRST MORTGAGE.

By Commissioner LITTLER:

Q. Recurring to the subject of the foreclosure of this first mortgage, I understood you to state that the foreclosure of the first mortgage and the sale of the property would not materially affect the interests of the people at large. I now ask you to state whether the foreclosure of the first mortgage and the sale of the property at a sum only equal to the amount of the first mortgage, the people of the United States at large, or the people of the State of California, would be seriously affected in the loss of their property?—A. Yes, sir, the people at large, the Government, would be seriously affected in the loss of their property, and the indebtedness against the company. But the people of the State of California

munities along the line of the road. Their proportion of it would be so small that it would not affect them.

Q. Do you mean it would not affect the local communities along the line of the property?—A. Yes, sir.

**Q.** Would it not affect the Government of the United States to the extent of the entire loss of its debt?—**A.** Yes, sir.

**By the CHAIRMAN :**

**Q. Have you any other suggestion to make to the Commissioner?—**

**A. I do not think I have.**

**Q.** Or any other information to impart?—**A.** I do not think I have, unless it is on the subject of legislation.

**The CHAIRMAN.** We will be glad to hear you on that question.

**The WITNESS.** Any question you desire to ask I will answer. I have no information on that subject to give.

## METHODS ADOPTED BY UNION PACIFIC IN INFLUENCING LEGISLATION.

**Q.** What part has the Union Pacific Railway Company taken in the State of Colorado in influencing legislation?—**A.** The same interest that the other companies have.

**Q.** What has been that interest?—**A.** They have adopted about the same methods that they have in other States to influence legislation.

**Q. What are the methods in other States?—A.** About the same as those in those States where you have taken testimony (in Kansas City and in Omaha) in regard to the influencing of those legislatures.

### MORAL SUASION, DINING AND WINING.

**Q. What are the methods in Colorado?—A. Ostensibly, moral suasion.**

**Q. Actually, what are they?—A. I do not know. I do not think that there has been a very large amount of money paid to members of the legislature; I do not know that there has been any; that they have been looked after by railroad lobbyists, taken care of when they have been here at the State government, there is no question. They have been treated and argued with until opinions have been changed. There is no question about that. They have been wined and dined as legislators generally are. We are not behind the Eastern States in regard to the way in which we treat our legislators. I think this last legislature when it convened was fairly in favor of some wise legislation in this State.**

### CHANGE OF OPINIONS OF LEGISLATORS.

By Commissioner LITTLER:

Q. In relation to railroads, do you mean?—A. Yes, sir; in relation to railroads. Opinions changed after they got to work.

By the CHAIRMAN:

to work?—A. Well, the railroad companies and the mem-

What instrumentalities or the opinion representing

that is a question that I  
be outside. Of course, if

that people on the out-

side cannot know. There have been suspicions that it has been done. Whether those suspicions have any foundation or not, I do not know.

Q. What did you see on the outside?—A. I saw men that were very firmly in favor of railroad legislation change frequently on that subject before they got down to voting on the question.

#### RAILROAD LOBBIES.

Q. What other methods than moral suasion and wining and dining did the railroad agents, especially the Union Pacific Railroad agents, adopt?—A. None that I know of personally. They usually have a lobby—the railroad interests have a lobby—to protect their interests. When there is any legislation to be had antagonistic to railroad companies they generally send a pretty social, jovial lot of fellows to do it; to talk with the legislators, and they convince them, in some way or other, that is, enough of them, so that they can get a majority when they come to vote.

Q. How long have these methods that you have spoken of been used in Colorado?—A. They have been established ever since the subject of railroad legislation was first broached.

#### EFFORTS TO CONTROL NOMINATIONS.

Q. What part has the Union Pacific Railway Company, through its employes or officers, taken in the influencing of nominations for members of the legislature?—A. I do not know as it has ever sought to control conventions since I have been in the State. It very carefully looks over the men who are nominated. They are not so particular whether they elect a Republican or beat him, if he is against them on a railroad question. They are what you might term "free lances" in the election of a legislature. They protect their interests the same as any other corporation or classes of business protect themselves from what they claim to be unwise and unjust legislation.

#### OTHER LOBBYISTS.

Q. What other classes in the community participate in legislation or the influencing of legislation to the extent that railroads do?—A. I do not think there are any in this State.

Q. Do you know of any class of lobbyists representing any interests in the State of Colorado equal to the lobbyists of the railroads?—A. None so persistent, unless it be a lobbyist that comes down on a county-seat question.

Q. How do they look over the field to ascertain whether the nominations are of railroad men or not?—A. They try to find out the opinion of those men on those subjects.

Q. How do they find that out?—A. They find out from their friends.

#### THE COMMUNITY IN FAVOR OF RAILROAD LEGISLATION.

Q. Have you any knowledge of any particular persons when you speak of a railroad making inquiries as to proper nominations?—A. I have not any particular one. A large majority of the people of this State are in favor of railroad legislation. There is no question about that. And in going over the State during the canvass, both last fall and two elections ago, in the election of the legislature, the majority of the



communities would put up those that were in favor of railroad legislation, and each party would vie with the other to see how far they could go on the subject of stringent railroad legislation, both parties claiming that they were in favor of it. There is very much more of that in our elections to accomplish the election of particular persons to the legislature, in both parties, than comes to the surface when they get to the legislature. When the legislature convenes the railroads are on hand to see that they are not attacked by stringent railroad legislation. The people are not so vigilant in regard to their rights, and I think it is owing to that very largely that we do not have more railroad legislation than we do. The people do not stand up and fight as persistently when the legislature meets as the railroad companies themselves do.

Q. If the sentiment of the people of the State of Colorado was in the direction of wise railroad legislation, and it was prevented in the last legislature, was it due to the efforts of the combination of the railroads in the State of Colorado through their lobbyists?—A. Entirely so.

Q. Have you any other suggestion to make?—A. No, sir.

By Mr. WILLARD TELLER:

Q. I would like to ask one question. The station, you say, that was recommended was what station? Was it Empire?—A. Empire Station.

Q. Empire Station is situated between Georgetown and Lawson, is it not?—A. Yes, sir.

Q. How far from Lawson?—A. About a mile and a quarter, I think.

Q. It is a little more than that, is it not?—A. A mile and a quarter or a mile and a half.

Q. How far is it from Georgetown?—A. I think about four miles, if I recollect right.

Q. And there was a good road from the place where the station was at Empire down to Lawson, was there not?—A. Yes, sir.

Q. Right down the creek?—A. Yes, sir.

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DENVER, COLO., *Wednesday, July 13, 1887.*

DE WITT S. WOODS, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am the secretary and manager of the Jackson Coal Company.

Q. Where is your place of business?—A. In Denver. That is, my office is in Denver.

Q. Where are the Jackson mines?—A. They are situated at Canfield.

Q. Where is Canfield?—A. About a mile and a quarter west of Erie. About 36 miles from Denver.

Q. On what road?—A. The Union Pacific.

#### RELATIONS OF JACKSON COAL COMPANY WITH THE UNION PACIFIC.

Q. Do you ship over the Union Pacific Railroad?—A. Yes, sir.

Q. What facilities do you have for shipping?—A. They run their cars direct to our mine and we load them.

Q. Do they furnish you with switching and side tracks?—A. No, sir; we put in our own side tracks.

- Q. Do you pay for any switching?—A. No, sir.
- Q. What rates have you been paying?—A. One dollar a ton from the mine to Denver.
- Q. Has that been the open rate?—A. Yes, sir.
- Q. How does that rate compare with that to other mining companies?—A. I believe they are all the same; so rated, at least.
- Q. Has the Jackson Company ever had any special agreement with the Union Pacific Company as to rates?—A. No, sir.
- Q. Have they ever applied to the company for special rates?—A. No, sir.

## NO REBATE.

- Q. Has the company ever had a rebate?—A. No, sir.
- Q. Have you any knowledge of any other company that has a preference or preferential rate by way of rebate or allowance?—A. Only what I have heard testified here yesterday and to-day.
- Q. Was that the first knowledge you had of it?—A. That is the first knowledge I have had of it. Yes, sir; I have heard it asserted that they had some kind of rebate, but I did not know what it was.
- Q. What is the difference between the rate you pay and their rebate?—A. Sixty cents a ton. According to the testimony here, they say they got 40 cents a ton rebate.
- Q. What effect has that upon your business?—A. It cuts us to a great extent.
- Q. Is that the competing company?—A. Yes, sir.
- Q. How far are the mines from you?—A. About 10 or 11 miles.
- Q. Are they beyond or nearer?—A. They are nearer to Denver over the new line.
- Q. What is the volume of business of your company compared with that company?—A. I presume our volume of business is nearly as large.

## DECREASE IN BUSINESS DUE TO NEW TARIFF.

- Q. Have you at any time observed in the management of your business concern that there is a decrease or increase of business?—A. There is a decrease.
- Q. Has that been the result of the management?
- The WITNESS. The result of the management of what?
- The CHAIRMAN. Of your company.
- A. No, sir.
- Q. What is it the result of?—A. The result of the rate being made lower than we can afford to produce the coal.
- Q. To what extent has that affected your business?—A. It has curtailed it very materially.
- Q. Did I understand that you just discovered that?—A. That rate has recently been made.
- Q. When did you discover the decrease in your business?—A. Since that rate has been made.
- Q. When was the rate made?—A. My recollection is that it took effect the 1st of April.

By Commissioner LITTLE:

- Q. Do you mean this rebate in favor of the other company?—A. No; I mean the new rate. That was the 1st of April, was it not, Mr. Goodrich?
- Mr. GOODRICH. The 1st of June.

By the CHAIRMAN:

Q. The 1st of April; yes. The interstate-commerce law went into effect on the 5th, and the rate was adjusted, I suppose, to that law. When did you discover the decrease in your business?—A. I discovered it since last fall. Yes, more than that; for over a year.

Q. What did you attribute it to?—A. To the rates of coal, and to the coal being sold at a less rate delivered in Denver than I could possibly do it by the Marshall Coal Mining Company.

#### REBATES TO COMPETITORS.

Q. How did you account for the possibility of a competitor selling under you?—A. Only from what I formed in my own mind.

Q. What did you form in your own mind?—A. That they were getting a rebate.

Q. Then the first suspicion you had of a rebate was when you discovered the decrease in your business by their underselling?—A. Yes, sir.

Q. How far has that injured your business?—A. One company that it was furnishing with coal it cut me out of entirely.

Q. If continued, what would be the effect?—A. It would wipe out the business of all the coal companies.

Q. Do you mean other than the Marshall company?—A. Yes, sir.

Q. Have you any other information that you can give the Commission concerning discriminations in the way of rates?—A. I will try and answer any questions you may ask.

#### EFFECT OF DISCRIMINATIONS ON INDIVIDUALS AND COMMUNITIES.

Q. What other knowledge have you as to discriminations on the part of the Union Pacific Railway Company as to individuals and communities?—A. I do not know that I have any.

Q. Did you apply to the company or any of the agents here when you suspected that special rates were being allowed?—A. I asked Mr. Clark—Mr. D. O. Clark, superintendent—if this matter could not be adjusted so that we could be put upon a fair basis with the Marshall Coal Company, or any other company. He said he did not know how it could be done. He said, "If you will get your people together and make your statement, perhaps it may be done," but he did not know.

Q. Did you get your people together?—A. Yes, sir.

Q. What was the result?—A. We have never received any result from it yet.

Q. Did you make application after the meeting?—A. We talked to Mr. Clark about the matter, personally; yes, sir.

Q. What was his answer after your meeting together?—A. He said he could not say what the result would be.

Q. When was this application made?—A. Some four or five weeks ago.

Q. Have you any knowledge as to any other discriminations to other individuals or communities?—A. No, sir.

Q. Have you any other information or suggestion that you can give to the Commission?—A. No, sir.

#### COST OF PRODUCING COAL.

By Commissioner LITTLE:

Q. What does it cost you to produce coal at the mine?—A. That varies with the amount produced.

Q. Do you pay for any switching?—A. No, sir.

Q. What rates have you been paying?—A. One dollar a ton from mine to Denver.

Q. Has that been the open rate?—A. Yes, sir.

Q. How does that rate compare with that to other mining mines?—A. I believe they are all the same; so rated, at least.

Q. Has the Jackson Company ever had any special agreement with the Union Pacific Company as to rates?—A. No, sir.

Q. Have they ever applied to the company for special rates?—A. No, sir.

#### NO REBATE.

Q. Has the company ever had a rebate?—A. No, sir.

Q. Have you any knowledge of any other company that has received or preferential rate by way of rebate or allowance?—A. What I have heard testified here yesterday and to-day.

Q. Was that the first knowledge you had of it?—A. That is the knowledge I have had of it. Yes, sir; I have heard it asserted they had some kind of rebate, but I did not know what it was.

Q. What is the difference between the rate you pay and the rebate?—A. Sixty cents a ton. According to the testimony here they got 40 cents a ton rebate.

Q. What effect has that upon your business?—A. It cut great extent.

Q. Is that the competing company?—A. Yes, sir.

Q. How far are the mines from you?—A. About 10 or 11 miles.

Q. Are they beyond or nearer?—A. They are nearer to Denver than the new line.

Q. What is the volume of business of your company compared with that company?—A. I presume our volume of business is nearly

#### DECREASE IN BUSINESS DUE TO NEW TARIFF.

Q. Have you at any time observed in the management of your business concern that there is a decrease or increase of business?—A. There is a decrease.

Q. Has that been the result of the management?

The WITNESS. The result of the management of what?

The CHAIRMAN. Of your company.

A. No, sir.

Q. What is it the result of?—A. The result of the rate being lower than we can afford to produce the coal.

Q. To what extent has that affected your business?—A. It has tailed it very materially.

Q. Did I understand that you just discovered that?—A. That has recently been made.

Q. When did you discover the decrease in your business?—A. That rate has been made.

Q. When was the rate made?—A. My recollection is the effect the 1st of April.

By Commissioner LITTLE:

Q. Do you mean this rebate in favor of the other company?—A. I mean the new rate. That was the 1st of April, was it not?

Mr. GOODRICH. The 1st of June.

Q. Take the average production, what does your coal cost you delivered on the cars or at the mouth of the shaft?—A. It runs from \$1.40 to \$1.75.

Q. How does your production compare in volume with that of the Marshall mine?—A. It probably is not as large.

Q. Have you a pretty fair knowledge of the Marshall mine and the cost of production of coal in that mine?—A. I have not. I never was at the Marshall mine in my life.

By the CHAIRMAN:

Q. What is the capital of your company?—A. The original capital was \$25,000.

Q. What is the present capital?—A. Over \$40,000.

DENVER, COLO., *Wednesday, July 13, 1887.*

HENRY GOODRIDGE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Coal, lime, and wood.

Q. Where do you carry on business?—A. In Denver.

Q. How long have you been in business in Denver?—A. Sixteen years.

Q. Have you been in the same business during all those years?—A. No, sir. About eight years in the coal business and building material.

#### THE STUART COAL MINE.

Q. Are you interested in any mining company?—A. Yes, sir.

Q. What company?—A. In the Stuart mine.

Q. Where is the mine located?—A. At Erie.

Q. On what road?—A. On the Denver Pacific.

Q. How near to the Marshall mine?—A. I should think it was 7, 8, or 9 miles. I do not know the exact distance.

Q. What have been the facilities afforded to you by the Union Pacific Company for shipments?—A. At times they have given cars enough, and at other times we have had to stop. Once we had to apply to Judge Felker to have cars supplied to us. We did not have enough to do our business.

Q. Have you switching and siding facilities?—A. Yes, sir.

Q. What rates do you pay?—A. We pay \$1 a ton.

Q. Is that the open rate?—A. Yes, sir.

#### AN ALLOWANCE OF \$1,340.

Q. Have you ever had a rebate?—A. No, sir; we never had a rebate. We have had an allowance made for a discrimination that was made against us once.

Q. What was the allowance for?—A. They were shipping coal to their own agents here at 25 cents a ton and charging us \$1.

Q. What appeal did you make to the company to secure the allowance?—A. We made an appeal to them and made our claim.

Q. What was the result of the appeal?—A. They paid us back the difference.



Q. What was stated at the time of the adjustment of the appeal?—  
A. I made an application to them several times to get the allowance, and I found they took no notice of it. The freight agent put us off from time to time, and we put it into an attorney's hands to collect, and finally they paid us back the \$1,340 or \$1,350.

Q. When was that payment made?—A. That was made in 1885.

Q. After that what rate did you pay?—A. A dollar.

Q. Was that the open rate?—A. Yes, sir.

Q. Did they still continue the shipments to their own agents at 25 cents?—A. No, sir; I think not.

#### REBATE TO MR. BINFORD.

Q. Had you had knowledge during that time, or during the time you have been engaged in business, of the allowance of a special rate by way of rebate to other coal shippers?—A. At that time I knew that they were allowing or charging Mr. Binford here at Denver 25 cents a ton.

Q. Who was Mr. Binford?—A. He was the agent for the Union Pacific Coal Company.

#### THINKS THERE WERE OTHER REBATES MADE.

Q. After your settlement, however, had you knowledge of any rebates, or allowance, or special rates being allowed to other competitors?—A. No, we had no knowledge; but I thought that there was a rebate made.

Q. When did you think that?—A. At various times. I went to Mr. Keeler at different times, and told him that I was well satisfied that the Union Pacific Coal Company was getting a lower rate than we were, and said I, "You give us the same rate." We did not care anything about the Union Pacific Coal Company, or D. O. Clark, but said I, "We cannot sell coal if you give them a better rate than we are getting."

Q. What was his answer?—A. He said they were not giving any one a better rate than we were getting.

Q. What led you to suspect that others were having a rebate?—A. Our agents outside said they could buy coal so much cheaper than we could furnish them with it.

Q. What effect did it have upon your business?—A. It injured our business.

Q. To what extent?—A. Several hundred dollars a month.

#### AFFECTED BY THE MARSHALL COAL COMPANY.

Q. When did you discover a decrease in your business by reason of this underselling?—A. It has been a gradual decrease for this last year, and more especially since the Marshall Coal Mining Company has taken hold of the Marshall mine.

Q. If continued, what would be the effect upon your business?—A. It would break us entirely up. We could not ship coal, and cannot now, and compete with them.

Q. How much capital have you invested?—A. About \$20,000.

Q. Do you know of any other special rates being allowed to other shippers?—A. No, sir.

Q. In any other business?—A. No, sir.

Q. Do you know of any discriminations in favor of individual communities?—A. No, sir. We called on Mr. Clark and Mr. J

about a month ago and laid this case before them, and told them how it would affect our business, and they said there was no difference; we had the same rate as the Marshall Coal Company. I told D. O. Clark, "I am satisfied it is not so." Said he, "You are getting just the same rates." Said I, "I will see the Marshall Coal Company and see if we can get them to advance the price of coal."

THE COMMUNITY NOT BENEFITED BY REBATES OR PREFERENTIAL RATES.

Q. What effect has a rebate or a preferential rate or a favor of the character that the Marshall Coal Company enjoys upon the community at large other than the mere shipper?—A. The community at large does not reap the benefit of it. There is our agent in Fort Collins; we had a letter from him last week. He said that the Marshall Coal Company was selling coal at \$1.50 a ton at the mine. As I understand, in sending their bills out—billing their coal—they did not send a freight bill with their coal; they just put their coal and the freight together and collected from these men.

Q. If the system of special rates is continued, and you, with other coal shippers now in competition with the Marshall Company, are compelled to go out of business, does it not place the price of coal to the community absolutely in the power of the Marshall Company?—A. Yes, sir.

Q. Have you any other suggestions to make to the Commission?—A. No, sir; I do not know that I have any suggestion.

Commissioner LITTLER. Senator Campbell is here as I understand. He is one of the gentlemen of whom we wanted to inquire with reference to the frauds alleged to have been perpetrated in connection with the election of United States Senator. I would like to hear him.

The CHAIRMAN. There is no objection.

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DENVER, COLO., *Wednesday, July 13, 1887.*

JOHN CAMPBELL, being duly sworn and examined, testified as follows:

By Commissioner LITTLER:

Question. Where do you reside?—Answer. Colorado Springs, in this State.

Q. How long have you lived in this State?—A. I have lived here about between seven and eight years.

Q. What is your business?—A. I am an attorney.

Q. How long have you practiced law?—A. Nearly eight years.

MEMBER OF STATE SENATE.

Q. What official position, if any, do you hold in the State of Colorado at the present time?—A. I am a State senator from the eighth senatorial district, El Paso County.

Q. When were you elected?—A. I was elected last fall.

Q. What is the length of your term?—A. Four years.

Q. Were you ever elected to a State office before?—A. Yes, sir; I was a representative in the lower house.

Q. When?—A. Two years before that.

MEMBER OF COMMITTEE APPOINTED TO INVESTIGATE CHARGES OF  
CORRUPTION.

Q. You were appointed, according to the journals of the last legislature of Colorado, to investigate certain charges of corruption in connection with the election of a United States Senator, were you not?—

A. Yes, sir.

Commissioner LITTLER. I will get you to state all that you did and all that was done by the committee, and all you may know, in relation to these charges.

The WITNESS. I know that certain charges were made through the newspapers, the Denver Republican—the Tribune-Republican I think it was called then—that there was corruption in the election of United States Senator, and that the election of Senator Teller was secured through corruption and through combination, I think, of the Western Union Telegraph Company and of the different railroad companies of the State; and a joint committee was appointed, consisting of three from the senate, I think, and four from the house, to investigate those charges. Senator Hill was subpoenaed as a witness.

SENATOR HILL AND EDITOR OF TRIBUNE SUBPŒNED.

Q. Were you one of the committee?—A. I was one of the committee from the house. There were four from the house. Senator Hill was subpoenaed as a witness. I think Mr. Cooper, the managing editor of the Tribune (Republican), was also subpoenaed. All the witnesses who professed to know anything in regard to it, and Senator Hill, came before the committee. While my memory is not refreshed, and I do not recollect exactly what occurred, my recollection is that he swore at that time that he had no knowledge or information that he could give the committee in relation to any corruption, and that he knew nothing at all about it. That is my recollection. I suppose the journal of the time would exactly show what he swore to.

Q. What other efforts were made by the committee to ascertain the truth of those charges?—A. The committee asked him for information, if he could give the names of any who did know about those charges, and he said he could not give any information. Subpœnas were issued for Mr. Cooper. I think Mr. Cooper never responded to the subpoena.

COMMITTEE NOT APPOINTED FOR PURPOSE OF WHITEWASHING.

Q. I will get you to state whether that committee, so far as the senate was concerned, was or was not appointed with reference to whitewashing the matter?

The WITNESS. The senate, you mean?

Commissioner LITTLER. Yes.

The WITNESS. I was a member of the house and not of the senate.

Commissioner LITTLER. My remarks are also directed to the house.

The WITNESS. It was not, so far as I know. I know I was not appointed with any such motive in view.

Q. Did you have anything to do with your appointment?—A. I did know it until the speaker read my name.

Q. You did not solicit this place?—A. No, sir.

What were the relations of the speaker of the house to this Senatorial contest? Who was he for? Was he running for Senator himself?

—A. He was Mr. Hill's man. He was elected as a Hill man, and

in the contest over the speakership he was recognized as the candidate of Mr. Hill for speaker, and was so elected; and he is the gentleman who appointed me as a member of that committee.

#### CHARACTER OF THE COMMITTEE.

Q. Not including yourself, what was the general character of that committee? How did it compare in point of intelligence and integrity with the members of the Colorado legislature?—A. Aside from myself—of course not speaking of myself—the committee, I think, was selected from the leading members of the house. The committee was composed from the house of two Republicans and two Democrats. Mr. Rathbon was Mr. Hill's special representative, and the Democrats were Mr. Pence and Mr. Quillan, the two leading Democrats of the house.

Q. In what esteem were those Democrats held by the Democratic party as represented in the house?—A. Of the very highest esteem, and are yet.

Q. Were they, or not, selected with reference to their recognized position in the party?—A. Yes, sir; Mr. Pence was the Democratic candidate for speaker. The Democratic caucus chose him, and he and Mr. Quillan were the leaders of the Democrats in the house, and they are as good men as there are in this State, in my judgment.

Q. Did you make every effort in your power to get at the bottom facts in relation to these charges?—A. Yes, sir; and when any one was brought up, nothing ever came of it. We could not arrive at anything.

#### THE ALLEGED RAILROAD CORRUPTION FUND.

Q. That is all I desire from you on that subject. It has been stated here that there was a large railroad corruption fund raised and used upon the legislature for the purpose of influencing legislation. Will you state whether you have any personal knowledge in relation to that matter?—A. No, sir; I have not.

Q. Through your association with members and your observation of their conduct from the time they were sworn in until the end of the session, was the conduct of any one or more of them particularly suspicious in relation to this railway subject?

The WITNESS. Railway legislation?

Commissioner LITTLER. Yes.

The WITNESS. To which session do you have reference?

Commissioner LITTLER. The last session.

The WITNESS. No, sir; I think not.

#### LEGISLATORS WHO CHANGED THEIR MINDS.

Q. Can you recall any gentlemen who were loud in their declarations in favor of rigid railway legislation at the start who changed their minds and subsequently voted against the legislation?—A. I think there were some; yes, sir. I am not so sure with reference to the senate; but I think there were in the house.

Q. From your knowledge of those gentlemen and of their character for integrity, have you any reason to believe that their minds were rechanged through improper influences, or was it the result of a thorough discussion of the questions involved?—A. That would be a pretty difficult question for me to answer. I cannot pretend to know what the

motives of men are. I know that some of them changed rather suddenly. Perhaps not suddenly, but between the time of the convening of the legislature and the close of it. I know there were changes that were somewhat surprising—I may say both ways, for that matter.

#### NO KNOWLEDGE OF CORRUPTION FUND.

Q. Then, as I understand you, you have no knowledge whatever of the existence of the fund I have described, have you?—A. No, sir; no personal knowledge of it at all. I did not know anything about that. Of course we always hear rumors to that effect.

Q. From your observation in and out of the house, was there anything which led you to believe that there were large sums of money being scattered by lobbyists among members? In other words, was there more currency in circulation about that time than the current demands of the country seemed to require?—A. Not as far as I know. I did not see any of it. I cannot say that.

#### NO REFLECTION ON SENATOR TELLER.

Mr. HENRY M. TELLER. I wish you would ask him about the legislature of 1885, of which he was a member.

Commissioner LITTLER. I do not understand that there has been any evidence given before this Commission which reflects in the remotest degree on your conduct during that session. We think this is a sort of side show, any how, and we would not have gone into it but for the fact that the Union Pacific Railway Company has been connected with it.

Mr. HENRY M. TELLER. I would like to say a word about that.

Commissioner LITTLER. I will hear you after we get through with this witness; but if you [addressing the witness] have any knowledge of any corruption during the session to which the Senator refers, we will be glad to hear you on his account.

The WITNESS. I can only say with reference to that that there were two gentlemen I have in mind that were nominated and elected as Teller men, and when they came into the legislature they voted for Senator Hill. That is the only change that I know of after the session began. It was in that direction.

Q. You do not know of Senator Teller buying over any of the Hill men, did you?—A. No, sir; I never heard of it.

#### FINANCIAL RESOURCES OF THE CONTESTANTS FOR SENATE.

Q. What are Senator Teller's financial resources?—A. I always understood they were rather limited.

Commissioner LITTLER. I mean compared with the demands which would be required in order to secure a legislature.

The WITNESS. Exceedingly limited, compared with some other people in this State.

Commissioner LITTLER. It is already in proof that his competitors were in better circumstances financially than himself.

The WITNESS. Yes, sir. I will say that I was a Teller man.

Q. I will direct your attention now to the question whether you have understood the relations between the Government and this railroad, and particularly whether you have thought of any scheme by which this business can be secured, either by an extension of the time for payment or otherwise?—A. No, sir.



Q. You have not considered that question?—A. No, sir.

Q. You have no opinion on that subject?—A. No, sir.

By the CHAIRMAN:

Q. What did I understand you to say your business was?—A. I am an attorney.

Q. Are you retained now by any of the railroad companies in Denver?—A. I am retained by the Atchison, Topeka, and Santa Fé, or rather the Denver and Santa Fé, in securing the right of way through El Paso and Douglas Counties.

Q. By what other companies are you retained?—A. Not any now.

Q. By what other companies have you been retained?—A. I worked for the Denver, Texas and Gulf; that is, the old Denver and New Orleans, running from Denver to Pueblo.

Q. When were you first employed as attorney for the company?—A. The first year it was built through El Paso County—I think it was 1881 or 1882.

Q. Have you been continuously employed as their attorney?—A. No, sir; I was employed until the right of way was all secured, and I think one or two years afterwards.

#### RAILROAD PEOPLE IN ATTENDANCE ON LEGISLATURE.

Q. During your membership in the legislature, did you observe any of the officers or agents of the Union Pacific Railway Company about the legislature?—A. I have seen Mr. Choate, I think it is—the tall gentleman. I think he is connected with the Union Pacific. I saw him about there last winter.

Q. Whom else did you see connected with the railway company?

The WITNESS. With the Union Pacific?

The CHAIRMAN. Yes.

The WITNESS. I do not know many of the officers of the Union Pacific. I do not know whether there were any others or not. There may have been a number of them.

Q. Did you see Mr. A. H. Williams there?—A. No. I think I saw him there, though, the session before.

The CHAIRMAN. I am speaking of any session of the legislature.

The WITNESS. I think I saw him there at the session of 1885.

#### ARCHIE WILLIAMS CONSIDERED AS THE UNION PACIFIC LOBBYIST.

Q. Whom else did you see there connected with the Union Pacific Railway Company?—A. I may have seen a great many, but he was the only one I knew. I think he was considered the lobbyist of the Union Pacific Railway Company of 1885. Archie Williams, I suppose, you have reference to.

Q. Did you see Mr. Pat. Touhy there?—A. I do not know him. I may have seen him, but I do not know him.

Q. What were these men doing there?

The WITNESS. Archie Williams?

The CHAIRMAN. Mr. Choate, Mr. Archie Williams, and any others that you saw?

The WITNESS. I think I saw Archie Williams talking with the different members. I think I have. I have seen him at the lobby of the Windsor, more than at any other time, in the evening.

Q. Did he talk with you?—A. No, sir. I do not know him. I never spoke to him.

Q. Did he talk with any members who afterwards spoke to you about the conversation?—A. I do not know. I do not know whether any of the members I talked with talked with him or not.

Q. Did they talk of the Union Pacific Railway Company?—A. Not as far as I know.

Q. Were these men known as open lobbyists of the Union Pacific Railway Company?—A. I think Mr. Williams was. I so considered Mr. Williams. I supposed he was.

## RAILROAD LEGISLATION.

Q. How was Mr. Choate recognized?—A. I think he was the general superintendent, and I think he was understood to look after what I would call railroad legislation. I think so.

Q. Was there much railroad legislation in that legislature?—A. There were a great many bills introduced; yes, sir.

Q. In what direction were the bills? Were they in the interest of railroads or against them?—A. That depends altogether upon how one would look at it. I thought some of the bills were in the interest of railroads. I thought in the end it would have resulted in the interest of railroads. I do not suppose they thought so.

Q. In your observation, were there many bills against the railroad interests?—A. There were some that I considered against the railroad interests.

Q. Was there any hostile legislation as against railroads? Was any passed?—A. No, sir; I do not consider it so. The only railroad bill that I know of that was ever passed was the bill during the session of 1885. I do not consider that hostile.

Q. What was it?—A. The commission bill, so called. I do not consider that a hostile measure.

Q. Were the number of bills introduced in the legislature proportioned to the sentiment prevailing throughout Colorado upon the question of railroad issues?—A. I would suppose so; yes, sir.

## SENTIMENT OF THE LOWER HOUSE.

Q. Was the lower house, the house of representatives, in favor of the legislation that was introduced?

The WITNESS. You mean in which particular session?

The CHAIRMAN. In 1886.

The WITNESS. 1887; the last one?

The CHAIRMAN. Yes.

The WITNESS. I think it was. They were in favor of the most stringent legislation.

Q. Where did the legislation fall?—A. It fell in the senate.

Q. How did you stand in the lower house?—A. I voted for the bill that was passed when I was in the house.

Q. You voted, as I understand, for the bill that passed the house of representatives, but which failed in the senate? Is that it?—A. Yes, sir; three years ago.

Q. Was that in 1885?—A. In 1885; yes, sir.

## SENTIMENT OF THE PEOPLE.

Q. Did you regard that legislation which was introduced, and which the railroads suspected was against their interests, as representing the

sentiment of Colorado?—A. I think the bill that passed the house in 1885 was not at all in advance of the sentiments of the people. I did not so consider it. I think that some of the measures that were introduced went to a greater extent than the sentiment of a majority of the people of the State. I think there were some bills introduced that were entirely unconstitutional, and that have been so declared. In that sense I do not think the people of the State would be in favor of bills of that kind.

Q. How was the legislation prevented?—A. I think it was prevented by the railroad companies and their agents.

#### THE ROLLINS BILL.

Q. Do I understand you to say that you voted in favor of all the bills that you regarded as respecting the sentiment of the State?—A. Not all the bills. A number of bills were introduced at the beginning of the session. I could not tell you how many. Then they were sent to the railroad committee, and then the committee formulated a bill, which went by a particular name, but was really a bill that was framed by the committee itself, and that was the bill that was passed. It was made up of a number of other bills.

Q. Was the bill you voted for the bill under which Mr. Felker was appointed?—A. Yes, sir; called the Rollins bill. I think that was the title of it.

#### TO PREVENT DISCRIMINATIONS AND REBATES.

Q. What effect had it so far as the enforcement of any railroad control was in that bill?—A. As I understand the bill it prevented discriminations and rebates, but it did not give any power to the commissioner to enforce his decrees or his advice or his recommendations.

Q. Were there any penalties?—A. I think there were penalties, such as triple damages for rebates.

Commissioner LITTLER. The statute itself is the best evidence.

The CHAIRMAN. I want to know all about the statute. That is what I am asking for, for I do not know.

The WITNESS. I could not tell you all about the statute, because I have not refreshed my recollection about it.

Q. Could the Commissioner enforce the penalties?—A. As to that I do not know.

Q. Was not the legislation merely advisory?—A. That is what it is, an advisory commission.

#### THE COMMISSIONER HAS NO POWER TO ENFORCE HIS DECREES.

Q. It actually did not change the position, so far as the regulation of the railroads of the State was controlled, did it?—A. I presume it was like this: It gave the power to the Commissioner to inquire into certain alleged violations of law, if certain persons made the complaint; but I do not understand that it gave him any power to enforce his decrees with reference to rates or any thing of that kind.

Q. Did that bill satisfy the sentiment of the people of the State of Colorado?—A. A portion, but not all, I think.

Q. Was it not an effort on the part of the railroads simply to meet in an indirect way the sentiment of the people of the State?—A. I think the railroads wanted to kill that bill; a part of them did.

**Q.** If they wanted to defeat any of the other bills, could they not have defeated them?—**A.** They might have been able to defeat it, but they did not defeat it. I talked to one man who was a representative of one of the railroads. He did not want any railroad legislation, he told me. So, if he was the exponent of the railroad interests, I take it that they wanted to defeat all the railroad legislation. I do not think all railroad companies wanted to.

**Q.** Was it not a fact that the bill was so weak and ineffective that the railroads did not care whether it passed or not?—**A.** I think that some of them were indifferent, and I think some were not.

**Q.** What railroads were not?

The **WITNESS.** Were not indifferent?

The **CHAIRMAN.** Yes.

The **WITNESS.** I think the Denver and Rio Grande were not indifferent.

**Q.** What other railroads?—**A.** I can only say as to that that I think the Union Pacific was indifferent as to that; but I think the Denver and Rio Grande did not want that bill passed. That is my impression. I may be mistaken with reference to it.

**Q.** Have you any knowledge as to the participation of the Union Pacific Railway employes, officers, or directors, or any of its managers, in influencing the elections at the primaries, or at the general elections?—**A.** No. I do not live on the line of the Union Pacific, and so I do not know anything about that. I live on the line of the Denver and Rio Grande.

**Q.** Where do you live?—**A.** At Colorado Springs, south of Denver.

#### LOCAL LEGISLATION.

**Q.** Do you know of any local legislation that has been hostile to the railroad interests?

The **WITNESS.** That has been passed?

The **CHAIRMAN.** Yes; any local legislation in Denver or Colorado Springs?

The **WITNESS.** I do not know of any legislation that has been passed, except that bill.

The **CHAIRMAN.** I am speaking of local legislation in towns or communities where efforts have been made hostile to railroads, through their councils.

The **WITNESS.** I do not know that they have any power.

**Q.** Have you a Denver council?—**A.** Yes, sir. You mean with reference to local regulations?

The **CHAIRMAN.** Yes.

The **WITNESS.** I do not recollect anything that is hostile.

The **CHAIRMAN.** That is all, unless you have some suggestion to make.

The **WITNESS.** I do not know that I have anything to say.

#### NOT AN ATTORNEY FOR RAILROAD COMPANIES WHILE A LEGISLATOR.

By Commissioner **LITTLE:**

**Q.** I want to ask you another question. You stated that you were attorney for the Denver and Rio Grand Company, did you not?—**A.** No, sir; the Denver and Santa Fé Railroad Company.

**Q.** Did you sustain that relation to them when you were in the senate or in the house?—**A.** No, sir. I did not sustain any relation to them. When I was elected to the house and senate, my relations with and

my salary from the railroad company ceased; I did not have anything to do with them. I did not have anything to do with the Denver, Texas and Gulf since that; I might say that the Denver and Santa Fé Railroad Company did employ our firm when I was a member of the senate, and I did not know anything at all about it until a few days before the close of the session.

Q. You were not influenced in your action in anything you did there on that account?—A. Not at all.

#### THE RAILROAD AND THE SENATORIAL CONTEST.

Q. Do you know whether the Denver and Rio Grande, or any of these railroads took a hand in the election of the United States Senator?—A. I only know this, that I was very vigorously opposed by the Denver and Rio Grande—that is, by the friends of the Denver and Rio Grande—at Colorado Springs.

Q. Did they oppose your election?—A. Yes, sir; they opposed my nomination and election by an independent ticket in the field. That is all I know. When I say the Rio Grande, I mean the friends of the Rio Grande at that place. I do not know what part the company itself took; I do not know anything about that.

Q. Do you know of any other company in this State taking any part in the Senatorial election?—A. I do not; I only know personally with reference to my own county.

Q. Do you know the feeling or sympathy or inclination of the railroad companies of this State to the respective candidates for Senator at the time Senator Teller was elected?—A. I know something; yes, sir.

Q. Will you state what you know?—A. All I do know is that the general supposition was that the Denver and Rio Grande was opposed to his election; that was my understanding of it; also the Burlington.

Q. What other roads?—A. I think the Santa Fé; I am not quite sure with reference to the Santa Fé.

Q. Whom were these companies supposed to be for in that contest?—A. For Senator Hill, I suppose.

#### WHO THE UNION PACIFIC FAVORED.

Q. What was the understanding as to the Union Pacific; for whom was it?—A. I suppose the Union Pacific was for Mr. Teller, although I do not know.

Q. Do you know what they did in the way of promoting his election, if anything?—A. No, sir; I do not know of anything.

Q. Did these lobbyists of the Union Pacific of whom you have spoken, who were around the legislature, participate in the election of the United States Senator?—A. No, sir. I did not see them, I think, until after the question of railroad legislation came up. I may say this with reference to the candidacy of Mr. Teller, it was generally understood that Mr. Teller was not a candidate until a short time before the election. I was elected, supposing that I would vote for Mr. Teller if he was the candidate.

By Mr. HENRY M. TELLER:

Q. Was it publicly known that you would vote for me if I were the candidate?—A. Yes, sir; I was elected, in other words, against Mr. Hill. Anybody to beat Mr. Hill. That was the ground of my election.



DENVER, COLO., *Wednesday, July 13, 1887.*

HENRY M. TELLER, being further examined, testified as follows:

By the CHAIRMAN:

Question. Senator Teller, did I understand you wanted to say something?

REPLY TO MR. HILL'S STATEMENT.

Answer. I do not wish to appear before this Commission as a person having a grievance, but Mr. Hill appeared before this committee and testified, as I understand, without any qualification, that the Union Pacific joined all the railroads of this State in putting up money to secure my election. I have pronounced it as distinctly as I could to be without the slightest foundation, as the Commission know. That leaves my word against his. If nobody was affected but this community I should be entirely willing to leave it there, but this is a matter that goes to the nation. Of course I do not think you have any jurisdiction over the Atchison, Topeka and Santa Fé, the Rio Grande, or the Burlington roads, which were the railroads that must have joined with the Union Pacific if his statement is true. But you do have complete and absolute control over the Union Pacific, for the purpose of determining whether it has violated its duty in this particular, and you have the right to go into the investigation of the others, it seems to me, and inquire of those roads also. I think Mr. Hill should be compelled, before this Commission, to state positively where he gets his information, or he should be compelled to decline to produce his witnesses. I do not know that the Commission would feel that they had the authority to compel him to disclose the names of those people whom he says he has forgotten, who told him this, or the names of those people who, he says, decline to allow their names to go before the public; but at least the Commission should insist that he come here and do one or the other.

ASKS A THOROUGH INVESTIGATION OF THE CHARGES.

If he furnishes the list, I think the Commission, in justice to myself and to the railroad company (the Union Pacific) under investigation, should call the witnesses whose names he furnishes, and see what they know about it. If he declines to furnish the names, then it seems to me, in order to make this examination, as it ought to be, exhaustive, and to determine what the conduct of this company has been, the Commission should call, for instance, Mr. Dickinson, who was the local superintendent at the time, as I learn from statements made here to-day—a gentleman whom I should not know if he stepped into the room now—and ascertain from him what influences that company did exert, or attempted to exert, on this election, and whether it did anything for me or not. I am entirely willing, never having passed a word with him on the subject, that the Commission should call him. I think it should call upon the man who handles the money of this company, whom I do not know. The Commission can find out who he is, and he must know if there was any money paid out for that purpose. Then I think the Commission should call the man who handles the money of the Burlington company and ascertain from him whether that company paid out any money, directly or indirectly, for the purpose of influencing the Senatorial election. And the same as to the Atchison, Topeka and Santa Fé, and the same as to Mr. Jackson, of the Denver and Rio Grande. If they put up this money then there is some record of it, and it is in shape so that

these men, under oath, must disclose what they know about it. I think that is due to the railroad company. I do not know that I can ask it as due to me, because I seem to be outside of this question.

DUE TO THE UNION PACIFIC.

But it is due to the Union Pacific to have the Commission at least satisfy themselves whether the Union Pacific has been doing such acts. Of course, the Commission may satisfy themselves in other ways, but I only suggest this, and the making of an exhaustive and thorough and complete vindication. It would refute the charge which this man has made, which I pronounce without qualification to be untrue in every particular. It is not a question that I can present to the Senate. It is not a charge that I have spent a dollar. This Commission knows that by the rules of the Senate it would be contrary to precedent to investigate the declaration that somebody else had spent money for me, without charging me with knowledge; the Senate would not entertain it for a moment. That question was thoroughly and fully settled in the Payne case. Knowledge must be charged to have come to me. If Mr. Hill had said Senator Teller knew this at the time and encouraged it, the Senate would take cognizance of it, but as he does not I am left without redress, except in the confidence of the people of this State, but as far as that is concerned I do not ask the Commission to vindicate me in any manner.

THE NAMES PRODUCED BY MR. HILL.

The CHAIRMAN. The Commission has called upon Senator Hill to produce the names before this Commission. He has given two names and the sergeant-at-arms has made every effort to find them.

The WITNESS. Will the Commission give me the names, and I will assist them in finding them?

The CHAIRMAN. E. O. Wolcott and W. H. Price.

The WITNESS. I would like to say as to Mr. Wolcott, he was no friend of mine. He was a supporter of Mr. Hill in that contest. I do not know who Mr. Price supported, or anything about it. I am told he is in the community. He is not a friend of mine, as I understand. I think I can secure him before the Commission. Mr. Wolcott is not in the State.

The CHAIRMAN. I will say this, so far as the Commission is concerned, that it has called for and means to insist upon the production of the names.

The WITNESS. I am obliged to the chairman. I did not know what had been done.

The CHAIRMAN. Three names were given by Mr. Hill: Mr. Came, Mr. Willard, and another man who has already been examined.

The WITNESS. I was not aware that he had furnished any names at all.

The CHAIRMAN. They were Mr. W. A. Willard, clerk of the district court, Mr. V. G. Came, Mr. W. H. Price, Mr. Wolcott, and another man. There were five names in all.

Commissioner ANDERSON. Did he give Mr. Choate's name?

The CHAIRMAN. I do not know.

Commissioner ANDERSON. Mr. Choate's name was furnished to me by some one as having acted in the same direction.

The WITNESS. I do not think I had ever seen Mr. Choate at that time.

## UNION PACIFIC LOBBY NOT ON THE SCENE.

Mr. WM. B. FELKER. I simply desire to say that I was present during the whole of that Senatorial contest in 1885, and was present before that legislature urging railroad legislation and endeavoring to secure a law for this State. The lobby for the Union Pacific did not appear on the scene that winter until after the election of United States Senator. During the election of the United States Senator I knew of no person connected with the Union Pacific Railway Company that took part in that election.

H. M. TELLER.

DENVER, COLO., *Wednesday, July 13, 1887.*

WILLIAM B. FELKER, being further examined, testified as follows :

By Commissioner ANDERSON :

Question. Who was present in the legislature on behalf of the Union Pacific after the election was over.—Answer. In regard to railroad legislation ?

Q. Yes.—A. Mr. Williams managed the matter; he was the chief man.

## NAMES OF UNION PACIFIC LOBBYISTS.

By the CHAIRMAN :

Q. Do you know all the lobbyists of the Union Pacific Railway Company ?—A. I did then; I knew pretty nearly all of them.

Q. In your testimony did you name them all ?—A. No; I did not.

Q. Will you name now all that you omitted ?—A. I did not understand that you asked me who they were.

The CHAIRMAN. I would like to have the names.

The WITNESS. Which session ?

The CHAIRMAN. Any session at all within twenty years; give the Union Pacific Railway Company lobbyists.

The WITNESS. The persons who appeared at this last session were Mr. Choate and, as I understand it, Mr. A. M. Stevenson. They were the principal ones.

By Commissioner ANDERSON :

Q. Was Mr. Stevenson the gentleman who had been in the senate previously ?—A. Yes, sir.

By the CHAIRMAN :

Q. Was he in the session before ?—A. At the session before there was Mr. Williams and the local men here in this city principally.

Q. Who were they ?—A. Mr. Dickinson was around once in a while. I do not think Mr. Dickinson said very much to the members. He was around with the railroad people, but I do not think he approached the members; and I do not think he did last winter, but he was encouraging the boys. Mr. Touhy was around for the same purpose. I do not think Mr. Touhy approached any of the members and talked with them. I never saw him talking with any of the members, but he was around with the railroad lobby and entertaining the boys at the bar and around in the lobby.

Q. What is your business?—A. I am a railroad man.

Q. What connections have you had with railroads?—A. I have worked for them as agent and traffic manager.

Q. Agent for what road?—A. I have worked for the Rock Island road, and for the Union Pacific, and for the Rio Grande.

Q. What positions have you held under the Union Pacific?—A. I was general agent here for a long while.

Q. During what years?—A. In 1878 and part of 1879, here, and in Leadville part of 1879 and 1880.

#### CONSOLIDATION OF KANSAS PACIFIC WITH UNION PACIFIC.

Q. Were you here during the year of the consolidation of the Kansas Pacific with the Union Pacific?—A. Yes, sir.

Q. Do you know anything of the details of the negotiations that led to that consolidation?—A. No, sir.

Q. Did you know the Saint Louis people who held the stock of the Kansas Pacific?—A. I knew Mr. John B. Perry. He was the only one I knew, I believe, who was interested.

Q. Did you know of anything of the circumstances under which he passed his stock to Mr. Gould?—A. No, sir.

Q. Do you know anything concerning the examination of the Kansas Pacific that was required by Mr. Gould to be made by Mr. Dodge and Mr. Humphreys?—A. No, sir.

Q. Do you know the fact that they made an examination of its condition?—A. I have heard so.

Q. Do you know anything relating to the condition of the Kansas Pacific at that time?—A. No, sir.

Q. Either as to its physical condition or its finances?—A. No, sir.

#### PURCHASE OF MISSOURI PACIFIC BY GOULD.

Q. Were you living here when Mr. Gould visited this country and made the purchase, shortly afterwards, of the Missouri Pacific, from Mr. Garrison?—A. I presume I was living here. I do not remember it now.

Q. Do you know anything of the circumstances of that purchase?—A. No, sir.

Q. What position did you hold at that time? It was in the fall of 1879 and the spring of 1880.—A. I was then representing the Union Pacific and the South Park roads in Leadville.

Q. What position did you hold in the Union Pacific?—A. I was their general agent.

Q. Freight agent or passenger agent?—A. Both.

Q. Residing here?—A. I have always lived here; yes, sir.

Q. Were the rates made on coal within your jurisdiction at that time?—A. No, sir.

Q. Had you any connection with the making of coal rates?—A. No, sir.

Q. Or of any transportation rates at all, for freight?—A. I made the rates for freight in to Leadville, and bullion out.

Q. That is, of all merchandise in to Leadville, and bullion out?—A. Yes.

#### CONCESSIONS TO SHIPPERS.

Q. Do you know whether any discriminations were made in favor of certain shippers at that time?—A. Well, it is a long while ago. I do not think that I ever discriminated.



Q. How sure are you? Do you not recall the fact that certain purchasers were preferred at that time?—A. No. I generally gave everybody an even show on their freight, if they shipped with me.

Q. Did you not recognize some parties by making preferences for them in an indirect way?—A. Not unless I did it for all my customers.

Q. Well, what was the way in which you did it for all your customers?—A. I do not recall now any circumstances. We may have given some concessions on bullion or coke.

Q. How was the concession brought about, by a concession in rate or in money?—A. Sometimes we gave a smelter his coke at a little less.

Q. What shippers do you remember whom you helped by giving them their coke cheaper?—A. I think we gave them almost all. I had business from La Plata. That was Witherell's. I had business from the "Grant." I had business from the Ohio and Missouri. I think I had business from all of them. Possibly not from the American.

Q. What was their business transportation of ore—from what points to what points?—A. It was principally bullion. Some went to New Jersey and some to Kansas City.

Q. The bullion came out of Leadville?—A. Yes, sir.

#### EXTENT OF CONCESSIONS.

Q. Have you any books that will show the extent of the concessions made by you?—A. That was seven years ago. I used to keep a little memorandum of it, but I do not know where it is now. I presume, after some little trouble, I might hunt it up; but I might not find it.

Q. How extensive is the memorandum?—A. It is an ordinary memorandum of what I was to do.

Q. Does your book contain the transactions of thirty or forty different shippers?—A. I should judge that many, may be more.

Q. What will the concessions effected by the cheapness of the delivery of coke figure up, in money?—A. It all went into Leadville over the Rio Grande and Union Pacific. There was not much freight collected on it. The two roads were in competition for that business, and they both sent coke in there pretty cheap.

#### RATES ON COKE SHIPMENTS.

Q. Was the Utah Forwarding Company established in Leadville?—A. I do not think they were at that time. Who are the parties?

Q. Did they forward coke to Leadville?—A. Lyman was the superintendent of the company, and he furnished a good deal of coke there, in the spring of 1881.

Q. At what rate was that coke transported to Leadville?—A. I think we furnished it to the smelters at about \$20 or \$21 a ton. But that is only a guess.

Q. Was not a large part of it delivered without charge?—A. I think not.

Q. Was none of it delivered free of charge?—A. I think not.

Q. Was not coke forwarded by you from the Missouri River at a tariff of \$1 per ton for transit?—A. No, sir.

Q. For no one?—A. For no one.

Q. But you say that there was coke carried in there, substantially for nothing?—A. It was not from the Missouri River, but from the junction down there at \$1 a ton.



Q. What junction?—A. I have forgotten the name of the junction. There was some coke, I think, that went for a dollar a ton, but it was not from the river. It struck the Kansas Pacific at a place whose name I forget now.

Q. Was it on the main line?—A. On the Kansas division.

Q. Was it on this side of the river?—A. Yes.

Q. Junction City?—A. I think the Union Pacific Company got about \$1 a ton on some of their coke.

Q. This point that you cannot recall is in the vicinity of Kansas City?—A. It is on this side, west of Kansas City.

Q. So that the haul was how long?—A. Over 500 miles.

Q. How long did that transportation of coke at \$1 a ton continue?—

A. I think that fight lasted thirty or sixty days.

#### REASONS FOR MAKING THE CONCESSIONS.

Q. What induced you to make such low rates?—A. The Union Pacific Railway Company had not had any bullion up there from the first day of November, 1881, until May, and they asked me to go up there.

Q. What did you find when you got up there?—A. That they had a pool agreement that was not lived up to. They had not got the freight, and it was my business to get the freight. I got it.

Q. What method did you adopt?—A. I had many friends there in this business, and they gave me the shipments.

Q. In consideration of what promise on your part?—A. I did not make them any very great promises. I told them we would treat them as well as any other road; and if they had any better rates than we were giving, we would make them the same.

Q. Did any of them show up?—A. I think some of them did. I cannot remember the instances.

Q. Did this cheap rate on coke come out of that visit?—A. I do not understand you.

Q. Did you not find that by agreeing to forward coke at \$1 a ton you would be enabled to get freight?—A. Oh, yes; by giving them coke at a low rate, that would make them friendly, of course.

Q. Who were the parties to whom you furnished coke at \$1 a ton?—A. We got more than \$1 a ton. I was speaking of the transportation.

Commissioner ANDERSON. I am speaking of the transportation.

The WITNESS. We gave coke to all, I think.

Q. Did they all get the same rates?—A. All that shipped with me did. The La Plata, the Ohio and Missouri, the Grant, the Elgin. I think I did business with all except the American. I do not think I ever did any business with the American.

Q. Whose coke was this that came from the junction?—A. It was Connellsville coke.

Q. Coming from Pennsylvania?—A. Yes, sir; I think it was Connellsville coke.

Q. Who had the handling of it and who sold it to those people?—A. This man Lyman was the manager for some company, but I do not remember the name of the company now.

Commissioner ANDERSON. We will assume that it was the Utah Forwarding Company.

The WITNESS. I guess it was.

#### EFFECT UPON OTHER COMPANIES.

Q. The effect of this rate was what?—A. They had to give the smelters cheap coke.

Q. How would it do that unless the Utah Forwarding Company were sell under the market price?—A. We were competing with the Rio Grande. They could furnish coke very cheaply. The only coke we had was the Connellsville coke, and we had to furnish it at the same price as the El Mora coke. I think we got \$2 more for it than the El Mora Company. But it was necessary to get it in there cheaply to compete with the Rio Grande coke.

Q. Did the Utah and Northern reduce the rate after you were there, did they sell at the same price as before?—A. A concession was given the smelters.

Q. Do you know how the coke was sold to the smelters?—A. I think 2 or \$23 a ton.

Q. What was the price of coke before you reduced the rate?—A. I cannot tell you that.

Q. Was any transported before you reduced the rate?—A. Yes.

Q. What was the rate before the reduction?—A. I cannot tell you.

Q. Do I understand you to say that it was \$6 a ton from the Junction to Leadville?—A. I do not remember what it was.

Q. You say the Union Pacific Railway Company has never paid you for that trip?—A. No, sir.

Q. Were they to pay you?—A. The attorneys have six or seven letters from the traffic manager, urging me to go there.

#### PECULIAR METHODS OF THE UNION PACIFIC.

Q. Was it not part of your duty, as an agent of the company, if you are directed, to go there?—A. Well, the Union Pacific Railway Company has peculiar ways; that is, the old management. They do not conduct business as most railroads do.

Q. Why was it that you, being the agent of that company, and being requested to go to Leadville, claimed that thereby there was an indebtedness from, or a liability of, that company to you, incurred which has never been discharged? What did they agree to pay?—A. They agreed to pay me \$200 a month and my clerk hire.

Q. You mean to say you never have received your salary?—A. I mean to say I never received but \$150 a month from them while I was there.

Q. What was your salary before that?—A. My salary was always \$200 a month from them.

Q. Then what you mean is that there is a difference between you and the officers of the company as to what you were entitled to for that trip?—A. There cannot be any difference, because that is very plain. The attorney is here and has seen the letters from the general traffic manager urging me to go there and offering me the pay.

Q. What pay?—A. My old pay; \$200 a month.

Q. You were there a month?—A. I was there over a month, I guess.

Q. Are there any other peculiarities that you have in mind when you referred to their peculiar methods of management, at this time?—A. Well, yes; I do not know of any other railroad that has been managed just like the Union Pacific.

#### CRITICISM OF MR. CHOATE'S MANAGEMENT.

Q. Indicate to what particular you refer.—A. Well, take the superintendent here, who is a graduate from some asylum in Mas-

setts, who is in charge of hundreds of thousands of dollars and miles of roads, who has not had any experience, and who does not know anything about railroads. I should judge that a road should have something back of it to stand such management.

Q. Who is the gentleman to whom you refer?—A. His other name is Choate.

Q. In what particular do you criticise his management?—A. Well, he does not know a little bit.

#### CANNOT SPECIFY THE PARTICULARS OF MISMANAGEMENT.

Q. Can you not describe something he does or fails to do, so that it will indicate to us in what respect his management is open to criticism?—A. Well, suppose you should hire me to make a bust of Grover Cleveland, and I would not know a block of marble from a chisel?

Q. I want to know whether you can indicate something in his management that is detrimental to this community or to the company?—A. I say that the road has been mismanaged.

Q. Cannot you specify?—A. You can find it out in the departments here.

Q. Is it in charging rates that are too high?—A. No, sir; it is in having bad management. Have they had any management here until Mr. Potter came? He is an "all round" railroad man, and if any man can bring out the Union Pacific Railway Company he can.

Q. Are there any other qualifications you find fault with, besides being the graduate of an asylum?—A. Yes; keeping things in the family. You had one man here the other day who said he was discharged because he tried to equalize rates and rebates. I do not believe that was the reason why he was discharged.

Q. To what man do you refer?—A. Mr. Came is his name.

Q. Is there anything else you have to say in regard to mismanagement?—A. Well, I did not want to say that. This was drawn out from me. I am only answering questions.

Commissioner ANDERSON. You made the remark that the road was badly managed.

#### CRITICISM OF MR. KIMBALL'S MANAGEMENT OF SOUTH PARK ROAD.

The WITNESS. Well, I read in the paper this morning an editorial, in the Republican, that Mr. Vining had ruined the South Park by his policy. I say that while he was in charge of the freight department of the South Park the road will show a bigger tonnage; that he made more money for it than any man has since then. Mr. Vining was not only an honest man, but an able man. He has gone. Now they have got Mr. Kimball. I guess he is an honest man. But if I was playing it, I would play it with a copper. [Laughter.]

Q. That is specific as to name, but it is not specific in the respects in which you criticise it. In what respect does Mr. Kimball mismanage the road?—A. I do not know how he has managed it well.

#### INJUDICIOUS IN SELECTION OF SUBORDINATES.

Q. How is he injudicious?—A. I think he is injudicious in the men that are around him. Take the Burlington road, that came in here years after the Union Pacific. They have more business than the Union Pacific has.

**Q.** What men has he that mismanage?—**A.** Is it fair to ask me? When you are gone from here you will be gone, and I will have to live here. You go away from here, and you leave me to bear the burdens, and I will have this great corporation down on me. I can tell you that the Union Pacific people follow a man. They blackball him. Mr. Kimball is a threatening man. I have got his letter threatening me.

**Q.** As you have already got the discharge of Mr. Kimball—

**The WITNESS** (interposing). Well, I am trying to make it up.

**Commissioner ANDERSON.** As you have incurred his displeasure, I should think you might bear the brunt of the displeasure of the men under him.

"HOW SMART HE IS."

**The WITNESS.** I do not think any man can conduct railroad business that is not truthful. I have got Colonel Dodge's statement that you can run a railroad with lying for six months, and after that it is hard work. Mr. Kimball has done it for two years. That shows how smart he is. [Laughter.]

**Commissioner ANDERSON.** We shall be glad if you can indicate the names of the men you criticise, their management, the rates they make, or the selections of improper persons to attend to the subordinate departments, from which we can judge whether you really make a serious criticism of the management of this road.

**Q.** While you were the agent of the company did you ever use station funds for the purpose of paying charges for running the stone quarries?—**A.** No, sir.

**Q.** On any occasion?—**A.** Not that I remember now. I was not station agent in that territory. That coal comes from Boulder and up there.

**Q.** You never did apply station moneys that came under your control to any such purpose?—**A.** Not that I know of now.

**Q.** Was any such charge made against you?—**A.** Not that I know of.

**Q.** You would know it if such a charge was made?—**A.** Well, I do not know. If I should keep a record of all the charges that were made against me I should have a heap of a book.

**Q.** How did you come to leave the company?—**A.** I do not know whether they asked me to leave or whether I left. I just quit.

**Q.** Were there any letters passing between you?—**A.** No letter of regret passed between us.

**Commissioner ANDERSON.** I judge that the feeling between you and the company is not friendly.

**The WITNESS.** Oh, the company is all right.

**Commissioner ANDERSON.** I am talking of the officials whose names you have used.

**The WITNESS.** Some of them I do not like; no, sir.

#### LENDING MONEY TO LEGISLATORS.

**By Commissioner LITTLER:**

**Q.** Do you know anything as to the Union Pacific Railway or its officers interfering with the legislation of the State?

**The WITNESS.** How interfering?

**Commissioner LITTLER.** By unlawful or corrupt means, or by the use of money improperly.

**The WITNESS.** I do not believe that there is any legislator that ever was bought. They may have had some friend that was in hard luck



and who was loaned some money, and of course he would feel friendly. But I do not think there was any legislator bought.

Q. Can you give this Commission any information as to the distribution of money, gratuitously or otherwise, to legislators or their friends?—

A. No, sir; I could not.

Q. You have not been about the legislature much?—A. No, sir; I have not.

Commissioner LITTLE. It is our duty to ascertain how this property is being managed now, and how it has been managed in former years. We would be greatly obliged to you if you would point out specifically the defective management of this property during the period to which you have already alluded.

The WITNESS. I do not know that I can do that. That is a good deal like asking me about a man being honest. He is either honest or he is not. A man is either able to manage a property or he is not.

Q. You referred to Mr. Choate as a man not competent to manage the business here. I suppose you have good grounds for saying so.—

A. Suppose I had been drawing a cart all my life, and you put me in a pulpit to preach.

The CHAIRMAN. We would prefer that you answer the questions, and not put questions to the Commissioners.

The WITNESS. I beg your pardon. That is the only way I can answer it. I have tried since I have been here to give straightforward answers. If I have done wrong, I regret it.

The CHAIRMAN. You have not done anything very wrong.

The WITNESS. I did not know but what I had.

The CHAIRMAN. If you will tell us how the company has suffered a loss of its revenue, in any way whatever, you will oblige the Commission.

The WITNESS. I do not know of any particular cases. I know they have lost business in the past by mismanagement. I know that one firm in Port Collins drove their horses down to the Burlington road. Is that good management?

Commissioner LITTLE. Well, you are on the stand.

The WITNESS. I only want to know whether I am right, that is all.

#### THE PRESENT SUPERINTENDENT A CAPABLE MAN.

Q. Can you give any other instance in which the company has lost freight?—A. Well, I do not believe a man can go into the office here and get an answer from them. They have to go to Omaha. Understand, I do not criticise the present management. I believe they have a railroad man at the head of affairs now.

Q. Do you mean that the man representing them here is not invested with discretionary powers, or that they are afraid to trust him with that sort of power, so that he cannot give answers?—A. I am referring to the freight and passenger men here.

Q. How long have they been here?—A. Some years, I believe.

Q. You indicated a moment ago that some of these men had been appointed on account of consanguinity. Can you indicate who they are?—A. Mr. Kimball had his brother-in-law in office here. He is not in the employ of the company now. I think there is one relative in the law department here. Of course, I do not know them all.

Q. Can you give this Commission any further information in relation to the several subjects of inquiry with which it is charged?—A. Well, I do not know as I understand just what that is.



## DOUBT OF GOVERNMENT GETTING ITS MONEY.

**Commissioner LITTLER.** This Commission is charged with the investigation of the relations between the Government and the Union Pacific Railway Company, and particularly as to how the Government can get its money from the company. Can you give us any information on that subject?

**The WITNESS.** How they can get their money?

**The CHAIRMAN.** Yes.

**The WITNESS.** No, sir; I do not see how they can ever get their money.

**The CHAIRMAN.** If there is any statement that the Union Pacific people wish to make to the Commission, the Commission is prepared to hear them.

**Mr. WILLARD TELLER.** I would like to have Mr. Adams, the president of the company, explain the circumstances under which the contract with the Consolidated Marshall Mining Company came about.

**The CHAIRMAN.** We shall be glad to hear Mr. Adams.

DENVER, COLO., *Wednesday, July 13, 1887.*

**CHARLES FRANCIS ADAMS**, being further examined, testified as follows:

## COMPLAINTS OF THE MARSHALL MINE.

When I came to Denver, shortly after I became president of the Union Pacific company, I found great complaints existing on the part of the then proprietors of the Marshall mine against the Union Pacific Railway Company, which was itself, through the Union Coal Company of Colorado, a miner of coal. It was complained by the Marshall Coal Company that the Union Pacific, having gone outside of its functions as a common carrier and become a miner, yet made as a common carrier such rates and so dealt with the whole situation that they were unable to sell coal. I looked into the matter with great care. The then proprietor of the mine appeared, and I endeavored to adjust the difficulty. I found that I could not do so. And, on looking the field over more carefully, I came decidedly to the conclusion that it was for the interest of the Union Pacific to confine itself, in Colorado, to its strict duties as a common carrier and to have nothing to do with mining.

## THE COMPANY DECIDE TO SELL THEIR MINING INTERESTS.

My reasons for reaching this conclusion were twofold. In the first place, I was satisfied what with the price of the coal at the mine's mouth and the railroad rate added thereto, the private miner, whether he had a fair chance at the market or not, certainly did not believe that he had a fair chance at the market, and that we could not persuade him that he had a fair chance. In the second place, there were at that time very great labor troubles in Colorado; and the Union Pacific, as a railroad company, had labor troubles enough on its hands without also having labor troubles as a miner of coal. I therefore submitted to the board of directors a recommendation that I be authorized to dispose of the entire mining interests of the company in Colorado, so that the company thereafter might confine itself strictly to its duties and liabilities as a common carrier. My recommendation was adopted.

## SALE OF THE MARSHALL MINE.

About that time Messrs. Moffatt, Quintard, Chaffee, and others bought the Marshall mine. They came to me in relation to the matter, and I took it up personally with them. It is one of the very few traffic matters I have ever taken up personally during my connection with the Union Pacific. Mr. Callaway, the general manager of the company, came to New York, and we there met Messrs. Quintard, Moffat, and Chaffee, and passed several days in negotiation. No director, officer, or stockholder of the Union Pacific, so far as I have ever been able to discover, has been directly or indirectly interested in the Marshall Coal Company from that day to this. It was one of the conditions of the negotiation that the mining part of the business was to be in the hands of an entirely separate company, in which neither the Union Pacific nor any one connected with the Union Pacific should have any interest. Finally, as a result of much negotiation, we reached a conclusion, which I mainly formulated. It was based upon my old experience in Massachusetts and the East, and, I thought at the time, was going to relieve us of what had become a heavy burden. The coal company agreed, for a nominal consideration, to take off our hands all our coal interests in that region, and consolidate them with the Marshall mine.

## THE MARSHALL MINING COMPANY TO FURNISH COAL AT COST.

As I remember the arrangement, in consideration of that, this being done, the Union Pacific was to have its coal, whatever it required for its own use, not exceeding a very large amount—my impression is that it ran over 100,000 tons a year—for actual cost. The Marshall Mining Company was to receive no profit on that portion of its output. It was the consideration that was paid us for their taking our coal business off our hands.

## A REBATE GIVEN ON THE REMAINING OUTPUT.

It is a long while since I saw the contracts, and they may possibly have been since revised by the traffic department. We were then to carry the remaining output of the coal company at a given price per ton. They were discussing, as part of their plan, the expediency of introducing improved machinery and getting out vast quantities of coal at a lower price than had ever before been done in Colorado. They expected to carry their coal over a large territory—even into Kansas. As an inducement to them to make the proposed outlay the Union Pacific agreed (as I remember) that in case they transported over our line in excess of a given amount of coal (a very large amount, 80,000 tons of coal, or it may have been 100,000; I remember I figured it very carefully at the time, but in excess of a certain amount) we were to give them a rebate of, I think, 40 cents a ton, on the recognized principle that we could better afford to carry 100,000 tons at 60 cents than 20,000 at \$1. We thought we should make more money by so doing. That was the consideration involved. It was suggested to me (arising out of my experience in the East) that this might constitute a discrimination.

## OTHER MINES TO RECEIVE SAME TERMS, UNDER LIKE CIRCUMSTANCES.

I then further stipulated that the rates given to this mine should be *given to any person who shipped under the same conditions as to quan-*

tity, &c. It was to be an open agreement; and any other company coming forward with similar terms and under similar conditions was to be entitled to the same advantages. That was agreed to, according to my recollection. The contract was then signed. It has since been in the hands of the traffic department, and I really am unable to say what the success of the Marshall Coal Mining Company has been or what further negotiations may have taken place between the traffic department and the company, except that Mr. Quintard came to me last winter and said they were moving an amount of coal so large that they could not get rolling stock enough to carry it. I then suggested that they should buy their own rolling stock, and that we should haul it, allowing them so much a mile for use of the cars. Whether or no that was ever done I do not know; but that was the last I heard of the Marshall Coal Company.

UNION PACIFIC IN NO WAY CONNECTED WITH ANY MINING BUSINESS.

By Commissioner LITTLER:

Q. Was this arrangement made public?—A. I have no reason to suppose that it was. It was like any other of our traffic arrangements, so far as I am aware. I merely have one thing to add (I have already said it, but I wish to repeat it), that, to my knowledge, no person connected with the Union Pacific Railway Company is interested in the Marshall Coal Company. If any such person is interested in the Marshall Coal Company it has been kept strictly secret, and is contrary to the express intention of the board of directors. It will appear all through my correspondence, if the Commission has a desire to look at it, that the whole object of the move was to take us out of this mining business in Colorado and confine our operations strictly to our business as a common carrier.

CLAIM OF MARSHALL MINE FOR DAMAGES.

Q. Do you recollect anything of the claim for damages growing out of that matter?—A. The Marshall mine was on fire at one end. It had been set on fire by our locomotives. The proprietors made this the subject of a very grave claim. They brought suits, which were in the legal department. Altogether the old Marshall Coal Company was one of the most troublesome matters we had to deal with when I became connected with the company.

TRAFFIC ARRANGEMENTS WITH OTHER MINES.

By the CHAIRMAN:

Q. How many such traffic arrangements did you have?—A. I cannot say. I remember this particular one, because it was a very vexatious one. But I have been very rarely called in by the officers of the traffic department. On that occasion I was called in because a change of policy was then inaugurated.

Q. How many such traffic arrangements has the company got?—A. That I am unable to tell you. The subject belongs to the traffic department, and I never interfered with it.

Q. Have you, individually, made half a dozen such traffic arrangements?—A. I should say certainly not. Perhaps I might recollect; but I cannot recall, except where other rail companies were concerned, being called upon to act by the general

or the head of the traffic department half a dozen times since I have been president.

**WILLING TO MAKE SAME RATES WITH ALL MINES.**

Q. Do I understand you to say that you are prepared to make the same agreement with the mine at Jackson, and also with the one at Erie?—A. I understand it so.

Q. Is the company prepared to do that?—A. Undoubtedly, at once, Mr. Chairman.

Q. And with any other mine?—A. And with any other mine. Exactly the same contract with any other mine. That was specially agreed upon at the time this contract was executed; and it was understood that the privilege was to be open to all.

**NOT GENERALLY UNDERSTOOD BY MINERS.**

Q. Was there any publication of that agreement, so that other miners might know?—A. I am unable to tell you. If they had come to us with the proposition we should have spread the thing before them at once. At least it would have been the duty of the traffic department so to do.

Q. If they did not make such a proposition it would have been very disastrous to other coal companies?—A. I should think not.

**WHAT AFFECTED OTHER MINES.**

The CHAIRMAN. The effect was to drive almost all coal shippers at Erie and Canfield out of business?

The WITNESS. I should have to look into the matter first and see whether it was not other considerations that drove them out; inferior quality of coal, and inferior arrangements, tools, machinery, and appliances, resulting in higher prices for their output of coal.

The CHAIRMAN. They testify that they applied to the traffic manager and were informed that no special arrangement had been made with the Marshall Coal Company?

The WITNESS. I cannot answer as to that. I should have to go into the matter and ascertain about it.

Q. The question of the fire in the mine was not a factor in the making of this agreement?—A. Not the slightest. It was not alluded to.

Q. It did not enter into the arrangement?—A. No. In fact I had forgotten that there was such a fire until Mr. Teller referred to it.

The CHAIRMAN. Suppose you look up the bond that was given at the time.

The WITNESS. What is it?

Commissioner ANDERSON. It is a paper that Mr. Rubidge testified was given to your company at the time the contract was made.

The WITNESS. Oh, yes; I remember this. (Referring to the paper.) I can only say I had forgotten it. It made no impression on my mind at the time. I remember this portion of the agreement about the Welch mine, for at the time it entered largely into the discussion. Mr. Chaffee agreed to obtain the consent of Mr. Welch to this arrangement.

Q. Refreshing your memory, then, by reference to the bond, the fire matter must have been a factor?—A. All I can say is that it never was particularly discussed, although I see it is put in here.

Q. Then, so far as you conducted the arrangement on the part of the company, it was of no importance in the consultation?—A. I do not

remember its being even alluded to once in the negotiation. But, remember, it was all nearly three years ago, and a good many things have happened during these three years, and this has not been one of the most considerable. I remember this paper very well as a whole.

AMOUNT OF REBATES TO MARSHALL MINING COMPANY.

Q. It has been testified here to-day that the Marshall Coal Company has received, in eighteen months, \$22,000 in rebates, and that the contract has about three and a half years yet to run, and that the money in rebate consideration was for damages done by fire.—A. Well, I did not know it. This is the first I ever heard of it.

Q. If not for damage done by the fire, what would the money consideration be for?—A. I know nothing about the money consideration. We have hundreds of traffic contracts of every description. But I should have said that the payment in this case was on the ground of the very large shipments of Marshall coal, if I had been asked to explain it.

Q. Please look at the signature to this agreement, and, if you can, say whether that agreement was subsequently altered.—A. That I cannot tell you. It could have been altered, undoubtedly, by mutual consent.

Q. Do you recall signing any other agreement of that character?—A. I do not. There has been a good deal of correspondence between the general manager and myself in relation to this matter, and I have a sort of recollection that the contract, in some respects, did not work satisfactorily, and I probably told the general manager, in whom I had perfect confidence, to agree to such changes as he suggested. I may have so instructed him. I could not vouch for it.

Q. But if they have been getting the rebates regularly, right along, there could not have been any subsequent modification of the agreement?—A. I do not know about that at all.

Q. Could there have been in that particular?—A. Yes; there might have been a modification either in the amount of coal for which the rebate was to be allowed or the amount of rebate that was to be allowed in consideration of the quantity, or in other respects.

Q. But the amount of the rebate could not have been changed?—A. Yes, it might have been changed by mutual agreement.

The CHAIRMAN. It has been testified here to-day that they have been continuing under that contract and receiving the same rebate.

TERMS OF THE ORIGINAL CONTRACT STILL MAINTAINED.

The WITNESS. Then it has not been changed. I have not read the evidence of to-day. I wish to say that I am speaking from memory, dating back several years, as to a matter which at the time gave me a deal of trouble, and in which I had hoped that I succeeded in effecting a settlement which would be beneficial to the company and relieve the railroad company from a source of considerable trouble. I believe it made some impression on my mind.

By Commissioner LITTLER:

Q. Have you anything else you wish to say?—A. The Commission has been having a prolonged session, and there are any matters on which they would like to hear from me. I am glad to answer any questions they may ask.



Commissioner ANDERSON. The matters are very voluminous, but it is for you to decide whether you have anything to say about them.

The WITNESS. I have merely read the newspaper report of the matters coming before the Commission.

#### RELATIONS OF UNION PACIFIC TO THE LEGISLATURE.

Q. Have you anything to say in behalf of your company now?—A. I should like to put in some evidence, but a large portion of it would be documentary and other portions would depend on officers who are not here now. I should have also to read over the stenographer's notes and indicate the points on which we would like to put in further evidence on our side.

Commissioner LITTLER. That would be for a future time.

The WITNESS. Yes, that would be for a future time.

Commissioner ANDERSON. The subject of the relations of this company to the legislature has been alluded to at some length, with assertions more or less distinct that the company has used money for the purpose of defeating what it considered hostile legislation, or for the purpose more particularly of influencing the election of Senator Teller as against Senator Hill. Will you tell the Commission whether it has been your practice to discuss the attitude which the company should take with reference to measures pending in the Colorado legislature between yourself and any other officers of the company?

#### COUNSEL EMPLOYED TO REPRESENT ITS INTERESTS.

The WITNESS. Yes. When these measures related to railroad matters, of course. We hold that it would be just as absurd to call upon us to abstain from going into the courts of justice when we are sued there and not appearing to defend ourselves for fear we would influence the jury, and therefore suffer default in every suit brought against us, as it is to insist that when we are arraigned before the legislature, as we have been, we must not appear there before committees. Business is brought into the legislature and referred to committees. I hold that it is our duty to instruct counsel always to appear before legislative bodies and see that the interests of the company suffer no detriment.

Q. In the last two sessions of the legislature, will you state to the Commission the gentlemen whom you have named as counsel for that purpose?—A. Here in Colorado, Mr. Willard Teller is our regular counsel; but he has given very little attention, so far as I know, to legislative business.

#### THE SENATORIAL CONTEST.

Two years ago a Senatorial contest was pending in Colorado. The Union Pacific was peculiarly anxious at that time, under instructions given directly by me, to have nothing whatever to do with the contest—to support no one, and to attack no one. The choice of a Senator was none of our business, as I informed our representatives, and they were to let that matter severely alone. Mr. Teller, our counsel, was a brother of Senator Teller, one of the candidates. I understood at the time that his views as to the senatorship did not agree with those of his brother. That was none of my affair. But I did propose to keep the company wholly clear of any connection with the struggle. Therefore I gave directions, on the recommendation of Mr. Callaway, that, so far as our legislative business for that session was concerned, it should be

Q. Do you remember whether he came up here before or after the Senatorial contest was concluded?—A. I do not remember. It was Mr. Callaway who made the recommendation to me to send Mr. Williams here, and I approved of his suggestion, as was my custom.

**Q.** As to the legislature of 1886, what gentleman did you get to represent you at the legislature?—**A.** I instructed no one to represent us. All my information came from Omaha. I knew nothing about it myself, but I was advised from Omaha that it would probably be unnecessary for us to put in an appearance at all; it was a general railroad question, and the local roads would best attend to it.

**Q.** Do you know anything about instructions having been given to Mr. Choate to ascertain the status and condition of members of the legislature?—**A.** I know nothing about such instructions. I do not doubt that Mr. Choate was looked to for information. He is our representative in Denver, and I have no question that, as to the general situation, Mr. Choate had his instructions, as he is always instructed about things in general, whether relating to the operating department or otherwise.

Q. Do you know whether Mr. Wolfcott was called in in 1885 or 1886?—

A. I have no particular knowledge on that point, or as to those years.

**Q.** Do you know anything about any money provision being made to cover expenditures that might be incurred in appearances before committees, or other legislative arrangements?—**A.** No; all such arrangements were made by others, and were only generally reported to me.

Q. No such vouchers have ever been called to your attention?—A. No; I think not; the only vouchers ever called to my attention were general vouchers which came down from the Omaha office.

Q. Do you remember whose vouchers they were?—A. No; they came in the regular order of business.

**Q.** Do you remember vouchers from Mr. Williams in connection with that matter?—**A.** No; Mr. Williams, I think, had nothing to do with matters here last winter.

**Q. Mr. Williams** was your representative, gentlemen? **A. He**  
has been for years our counsel at Topeka; the **Judge**  
**Usher.**

Q. Was Mr. Williams employed elsewhere employed to do any Eastern work?—A. No, sir, not to my knowledge.

Q. Was he employed at Washington in detail as to the time before I was there? He was in Washington before I was there.

never been there since; his acquaintance in Kansas is very large; and he naturally was looked to for assistance in any legislative work about which members of Congress from Kansas were concerned; he knew them all intimately.

Q. Have you stated all you know in reference to the connection of this company with the legislature, or with the election of members of the legislature?—A. Yes; I have never had anything to do with the election of members of any legislature.

#### POLITICS NOT THE BUSINESS OF THE COMPANY.

Q. You have never had any reports made to you in the matter of assisting the election of a member from such a county, or such another county?—A. I do not remember to have ever had any reports on such matters; my instructions to our subordinates, ever since I have been connected with the company, have been to let politics severely alone—that our business was to run a railroad; and the business of our counsel was to present our side of the question to the legislature at the proper time, just as they would present our side of a case before a court of law.

By the CHAIRMAN:

Q. You are not familiar with the vouchers on file at Omaha?—A. I am not.

Q. So that if such vouchers were on file, you would know nothing about them?—A. No.

The CHAIRMAN. We found quite a number of charges on the vouchers filed at Omaha, of men employed at Kansas and Nebraska to go to the legislature; half a dozen of them.

The WITNESS. I should think that very likely, and entirely proper and legitimate; but I never saw any such vouchers.

#### DUTIES OF THE PRESIDENT OF THE COMPANY.

Q. Such information would never reach you?—A. It would no more reach me than similar detailed information as to conducting a defense in some case in a civil court; I should never expect Mr. Teller, for instance, to correspond with me in relation to expenses incurred in defending a suit for damages in a civil case involving \$20,000 or \$40,000; I should not even hear of such a case; his correspondence is with Mr. Poppleton, and it would reach me only in the report of the general counsel at the end of the year, which I examine cursorily.

Q. Such matters are, then, left entirely to the subordinates of the railroad in the department in which they are carried on?—A. Certainly; the president of the company has to attend to general work only; the detailed legislative work would be precisely like the detailed legal work, and would not reach the president at all; the only legislative work I have ever had to attend to, and to which I have given any personal attention, has been the Congressional work in Washington; that I have given personal attention to; I know all about it.

Q. So that if it has been done by the company it has been done without your knowledge?—A. And against my orders.

#### SYSTEM OF RAILWAY REBATES.

By Commissioner ANDERSON:

Q. It has been testified to before us that a very large amount of money has been allowed in rebates to a variety of people, the largest

amount being in relation to transportation of ore for the use of the Omaha and Grant Smelting Works. What have you to say as to the existence of the practice of allowing rebates?—A. I plead guilty, at once, on behalf of the corporation to conducting our business in the manner usual among railroad corporations. The whole system of railroad rebates is a matter of public notoriety that has been recently investigated at great length by the Cullom committee of the United States Senate. The result of their investigation has been the passage of the so-called interstate commerce law, which, undoubtedly, was intended to strike at a great evil. Before that law was passed the Union Pacific had to conduct its business as its competitors conducted theirs. The alternative was that the company would have to go out of competitive business. And the Union Pacific was a railway, and could not go out of the competitive business. It was built to do business, and could do it only in the way other railroads did it.

### REBATES TO SMELTING COMPANIES.

**Q. Please explain how the failure to allow the very large rebates would have caused a loss of business, and what amount of business.—**

A. I can explain it very readily. There has been no portion of the system of rebates which has been more vicious, in my opinion, than that which related to rebates given to smelters. When I became president of the Union Pacific I made an honest and resolute effort to break the whole system up. I believed it to be unnecessary, and that it was the cause of a great loss to the company; it was a most vicious way of conducting business. I found, after months of effort, that if I persisted in the line which I had marked out, the result would simply be that the smelters on the line of the Union Pacific would be bankrupted, and the smelters on competing lines, receiving their rebates from those competing lines, would take the business, which we and our smelters would lose. I had the alternative presented to me, therefore, of having our smelters bankrupted and the Union Pacific left out of business, or of consenting to conduct business in the usual though vicious way. Like many others before me, I had failed in my efforts at a reform, and I had no alternative but to let the Union Pacific go on doing business in the regular, recognized way of doing business until events took another turn.

**Q. Why, then, not meet this difficulty by an open cut or an advertised allowance of rebate which would go finally to all smelters on the line of the Union Pacific Railway?—A.** Because the immediate result of so doing would have been that the Atchison road, acting with the Pueblo smelters, and the Burlington road, acting with the Aurora smelters, would, by a secret arrangement have secured the traffic and the Union Pacific would have lost it. The other smelters would have enjoyed a secret, unpublished advantage.

Q. Did any smelters on the line of the Union Pacific Railway, other than the Omaha and Grant Smelters, apply to you for a rebate?—A. They did.

## APPLICATIONS OF SMELTING

Q. What companies applied?—  
Company applied.

Q. Did any other company apply?—A. The American Spring Company apply?—A. Yes, in the spring.

Q. What was the result of their application?—A. I referred them to the general traffic manager.

Q. Was the result ever reported to you?—A. Never.

Q. Do you know what the result was?—A. No; I do not. I then fully recognized the fact of my own failure to reform the difficulty, and as business had to be carried on in the old way, I thought it was useless for me to interfere further; accordingly I left the whole matter to those in charge of the traffic department.

Q. Did you hear any result as to the Kansas company?—A. I did.

Q. What was the result as to that company?—A. They came to me again and wanted me to interfere in their behalf.

Q. Well, why should not they have had as good terms as the Omaha company?—A. I told them I thought they ought to have the same terms.

Q. What happened in the matter?—A. I told them that, unfortunately for them, I was a stockholder in their company and that incapacitated me from interfering in their behalf.

Q. Did they get a reduction?—A. I apprehend not.

Q. How long ago was the application made?—A. The last application I refer to was made, I think, about eight months ago.

#### REFERRED TO GENERAL TRAFFIC MANAGER.

Q. To whom did you refer it?—A. I referred it to the general traffic manager; or, rather, I referred them to the general traffic manager.

Q. That is, to Mr. Kimball?—A. Mr. Kimball.

Q. Without interfering actively did you not, for the purpose of satisfying your curiosity, ask Mr. Kimball whether he had gratified them?—A. I never asked Mr. Kimball any questions on the subject.

Q. Did he never mention it?—A. No.

Q. Have you any suggestion to make as to why he did not grant it to them after having given it to the people at Omaha; it would not be because you were a stockholder that he refused it?—A. No; but he certainly did not show them any favor because I was a stockholder in their company.

#### REASONS WHY THE APPLICATION WAS REFUSED.

Q. Why should he refuse it?—A. The probable reason was this—at least I should infer that the probable reason was what I have already indicated. In the way in which the smelting business is practically done there are certain railroad companies behind the smelting companies. There are not many smelting companies in the country. The Atchison road was behind the Pueblo company; the Chicago, Burlington and Quincy was behind the Aurora company, and, as I understood, after my failure to improve matters, the Union Pacific was behind the Omaha and Grant Smelting Company. It was a method of doing business of which I entirely disapproved, and I had expressed my disapproval of it in the most distinct terms to the general traffic manager and before the Cullom committee. It was too strong for me, however, and could only be ignored at a business cost to the company which I did not consider myself as warranted in incurring.

Commissioner ANDERSON. But we do not hear why the giving of a general rate to all shippers should take away ore from your line.

The WITNESS. I left it to the traffic manager. A general rate would necessarily be an open rate, and our competitors would at once have



an open rate by a more advantageous secret rate which would have taken us and our smelters out of the market.

Q. Your conclusion is that the Union Pacific Railway Company stood behind the Omaha and Grant Smelting Works, because the Chicago, Burlington and Quincy was behind another?—A. You have heard my explanation. The ground on which the Kansas City company was left, as I was informed by the Kansas company, was that the haul to Kansas City from the region they wished to reach was 250 miles farther than the haul to the Grant company at Omaha, and I was unable to deny that fact. From a common point (Cheyenne) it is 250 miles farther to Kansas City than it is to Omaha.

Q. That explanation would not apply to the Boston and Colorado works?—A. It would not.

Q. And as to those works you are unable to give any definite explanation?—A. None except the one I have given, that the Union Pacific made a contract with the Grant company. I never saw the contracts if they were produced in the papers here. What terms were offered to the Boston and Colorado I never knew. Mr. Hill came to see me about the matter some three months ago, and we had some conversation. I expressed to him the same views that I have expressed here; and I understood him to accept the logic of the facts, although he did not recognize the justice of the situation any more than I. But he intimated to me at the time that he did recognize the logic of the facts.

#### PUBLICITY A FEATURE OF SUCCESSFUL RAILROAD MANAGEMENT.

By the CHAIRMAN:

Q. Have you not always advocated publicity as one of the successful features of good railroad management?—A. I have.

Q. Have you changed your opinion?—A. I have not.

Q. Have you applied publicity to the management of the Union Pacific Railway?—A. I have not.

Q. Why not?—A. Because other and competing lines would not apply the same publicity. I could not show my hand unless the other companies would do the same.

Q. How are you to do it?—A. It is no use for me to slaughter the interests of the company intrusted to my hands. If I am playing a game of chance, and I show my hand where nobody else engaged in the game does, the effect is not to be long waited for.

#### EFFECT OF INTERSTATE COMMERCE LAW.

Q. What is to be the effect on the country if this vicious system continues?—A. As I understand it, the interstate commerce law has broken it up. This whole thing is no new matter. It is a matter that has long been under investigation, and one which we have been struggling against for years.

Q. Has it broken up in Colorado?—A. The interstate commerce act has broken it up so far as interstate commerce is concerned; and when similar law applies to State commerce this company will be glad to do as well by the law as any other company.

#### RATES ARE NOW MADE PUBLIC.

Q. Are they not now making arrangements for the maintenance of rates?—A. Yes. The rates are public and are common to all.

Q. But, notwithstanding the arrangement for the maintenance of rates, does not each of the companies turn around and make secret rates immediately—even now?

The WITNESS. Under the interstate commerce bill?

The CHAIRMAN. Yes.

The WITNESS. Not that I am aware of.

Q. Have you examined the question at all in detail?—A. No; not in detail.

Q. Have you examined the facts?—A. No; not closely.

Q. Do you now feel qualified to express an opinion?—A. My understanding is that since the passage of the interstate commerce bill—at least my information from the traffic department has been—that there have been no cuts and no private arrangements; the rates have been published and are open to all. If anything of another character has been developed it has not come to my knowledge.

Q. Do you submit questions of that kind to your subordinates, as you do questions of legislation?—A. In the case of the Union Pacific, the head of the traffic department manages the business of the traffic department and is responsible for it. When I meet him we talk matters over, and we canvass his department as I canvass matters in other departments when I meet with the heads of those departments.

Q. And if he fails to report an infraction of the law you would be without the knowledge of it?—A. I would be without knowledge of it until we were sued, or something of that kind occurred, and then I would hold him responsible. I must depend on my subordinates, just as the President of the United States does, just as the head of an army does. If my subordinates are found unfaithful they will have to be discharged.

#### REFORMS MUST BE GRADUAL AND GENERAL.

The CHAIRMAN. I do not see, however, how you can bring about an improvement as to the publicity of railroad management, if you do not have the facts before you.

The WITNESS. I cannot undertake to reform the whole world, or to attend to all of its details, at least not in a day. If, when I became president of the Union Pacific, I had said, "I must have certain reforms go on, regardless of consequences, and make them," I should have had the railroad bankrupted on my hands at a very early day.

Q. Then publicity is more of a theory than a practical matter?—A. Not at all. But when it comes it has got to be general. A man who to-day undertook to manage a railroad on wholly correct principles would be much in the position of Don Quixote when he ran his tilt muck with the windmill. He would be in the ordinary position of the man who advocates a doctrine far in advance of his time—whether a doctrine of free trade, of morals, or of religion, or of anything else. If being in a position so to do he undertakes to put his theory into practice before the conditions are ripe for it, he merely by so doing sets his cause back for years.

Q. Do you think the tendency to publicity is increasing or decreasing?—A. I think when I look back twenty years over my experience it is increasing very fast. I think the change has been as fast as we have any right to expect.

#### MANAGEMENT OF THE DENVER AND SOUTH PARK.

By Commissioner ANDERSON:

Q. What knowledge have you in regard to the management of the *Denver and South Park*? We have been informed by Governor Evans

## THE POOL SYSTEM IS BROKEN UP.

Q. Has it in its operation effectually broken up the pool system of the country?—A. Entirely, as I understand it.

Q. How do you regard such a result, favorably or unfavorably?—A. I regard it as unfavorable.

Q. From your experience and observation what has been the effect on local and through rates? Has it tended to lower or increase them?—

A. It has tended to lower the local rate and increase the through rate.

Q. What has been the general effect of that?—A. I am awaiting information on that point. The impression on my mind is that the disturbing effect of the interstate commerce law will be less than was apprehended; but in that I may be wrong. I am very distinctly on record as having (with certain exceptions of considerable importance) expressed my decided approval of the general principles of the interstate commerce act. I do not pretend, as yet, to be clear in mind that in so doing I was right.

## THE DIFFERENCE BETWEEN A POOL AND AN AGREEMENT TO MAINTAIN RATES.

By the CHAIRMAN:

Q. What is the difference between a pool and an agreement to maintain rates?—A. A pool is a matter of adjustment of balances, and an agreement to maintain rates is a matter of good faith only.

Q. Then a pool is not a matter of good faith?—A. Good faith is at the bottom of it; but the money receipts are returned to the commissioner, who divides them. In the other case no returns are made to any one; each party takes what comes to him and keeps it all.

Commissioner ANDERSON. In a pool it makes no difference to the business how much of the work either member does?

The WITNESS. None whatever.

Q. Does the maintenance of rates form a part of a pool?—A. Yes.

Q. Is it not an essential and vital part of the pool?—A. Undoubtedly.

Q. Is it not the basis of the pool?—A. Not necessarily. The basis of it is the making a return of all the money received into the hands of a pool commissioner.

Q. But is not the distribution of the balances a matter arising out of the maintenance of rates?—A. Not necessarily. That is a great fallacy. For instance, if in a pool consisting of three parties one of them cuts the rate, very good; he pays the full rate into the pool all the same. What he is struggling for is a large tonnage, to show a large amount of business.

Q. But a good deal of pooling is in existence, so long as the conditions for maintaining rates exist, under present circumstances?—A. No, none whatever.

The CHAIRMAN. You have just said that that is a very essential part of a pool.

The WITNESS. If two of us publish a tariff and agree to stand by it, it is a mere matter of good faith and there is no element of a pool in it. It is a matter of good faith such as would be made between any two men engaged in trade.

## THE WEAK POINT IN POOLS.

By Commissioner ANDERSON:

Q. Still, in the application of a pool in which three companies share in the proportions of 25, 35, and 40 per cent., respectively, all those com-



panies will get more money by maintaining rates, and will be interested in having them kept up as much as possible; because, the aggregate of the receipts being enlarged, the share of each road will be enlarged?—A. Undoubtedly. I have had to do with pools for years before I had anything to do with the Union Pacific. The weak point in a pool always is the struggle for a record, for the tonnage. If you have three companies in it, two of them having 20 per cent. and the third 60 per cent., the 20 per cent. companies will fight for a record, for the tonnage. They will sometimes even carry the freight for nothing, in order to get up their proportion. The vital element of a pool is the payment of all money received into a common fund and the return of the money, in fixed proportions, to each party to the pool.

By Commissioner LITTLE:

Q. Why do you not make your contracts for such a term as to make the pool unnecessary?—A. When I was arbitrator of the trunk lines, an appeal for a new award was actually made before I had filed the first award. We never got the companies who wanted a larger percentage satisfied until they get their increased percentage.

The CHAIRMAN. That is all at present, unless you have something further to communicate.

The WITNESS. I shall be very happy at any time to give the Commission any information they desire.

CHARLES F. ADAMS.

DENVER, COLO., *Wednesday, July 13, 1887.*

WILLARD TELLER, being further examined, testified as follows:

The WITNESS. I want to make a reference to the date of the liens in the suit of Given and Abbott, entered in this county the last day of December, 1881.

THE GIVEN AND ABBOTT SUIT.

By Commissioner ANDERSON:

Question. The property was not located in this county?—Answer. No, sir; and our statute requires, in order to make it a lien, that a transcript of the judgment be filed in the county. That was not done. Mr. Dillon became the owner by assignment on the 5th of February. On the 6th of February execution was issued to this county and a considerable portion of personal property and a small amount of real estate was levied upon. Subsequently an execution was issued to Jefferson County and Weld and Boulder Counties.

Q. Before the issue of the execution in those other counties the transcript of judgment had to be filed in those counties?—A. No, not under our statute. The transcript of judgment is only filed for the purpose of making the judgment a lien; so that the judgment in Boulder did not accrue until the 31st day of July, 1882. The lien on the judgment, in the case of the Marshall Mining Company, commenced attachment on the 25th day of January, 1882.

Q. Who was acting as Mr. Dillon's attorney?—A. He acted as such. That is, the money was set apart and the judgment assigned.

Q. You knew that the larger portion of the money was not in this county?—A. Yes, sir.

Q. Then how did it happen that the transcript was not filed where it should have been filed?—A. There were no suits against the company and no claims against the company after this. There were two suits—that of the Marshall Mining Company and of a Saint Louis supply company; but they had both been commenced before Mr. Dillon got his interest in it; and, as we were acquainted with the situation of the company, we had no fears, and no suits were ever commenced.

Q. Was not this Denver, Western and Pacific substantially insolvent at this time?—A. Yes; but it had no debts here except the debt of Given and Abbott, the debt of the Saint Louis company and the claim of the Marshall Mining Company, except the claims that had already been instituted in condemnation proceedings.

Q. It would seem that when Mr. Dillon was taking an assignment of a judgment recovered against an insolvent company that had real estate in an adjoining county, the transcript of a judgment recovered here should, for prudential considerations, have been filed in the county where the real estate was situated. That would have cut off the other lien, would it not?—A. It would not have cut off that lien, because before Mr. Dillon got the assignment the suit of the mining company had been commenced and the attachment was served.

Q. I understood you to say that they were not served until the 25th of January, 1882.—A. Yes; but Mr. Dillon did not get his assignment of the judgment until the 6th of February, 1882. We commenced the suit before Mr. Dillon had any interest in the company, to our knowledge; and the moment he got it we turned it over to other parties, because we could not carry it on.

By the CHAIRMAN:

Q. Have you anything else that you wish to say?—A. No, sir.

The CHAIRMAN. Is there any one else you wish to examine?

Mr. TELLER. I would like to examine Mr. Bruce Johnson. It is only in respect to some matters that Mr. Clark testified about the milling company.

The CHAIRMAN. Mr. Johnson does not seem to be present. We will examine Mr. Ferguson.

DENVER, COLO., *Wednesday, July 13, 1887.*

J. H. FERGUSON, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. Where do you reside?—Answer. In Denver.

Q. What is your business?—A. I am in the cattle business at present.

Q. Have you been in the lead business?—A. Yes, sir; for several

years.

When?—From 1878 until a few months ago.

PENNSYLVANIA LEAD COMPANY.

Q. How did you get your interest in the company?—A. I was employed by the company to attend to their arrangements.

Q. How did you get your interest in the company?—A. The purchase of transportation.



# U. S. PACIFIC RAIL

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ment assigned.

Q. You knew that the la  
in this county?—A. Ye

Q. Where did you purchase your ore generally?—A. In those days we had a smelter about 30 miles from Salt Lake.

Q. Where did you buy your ore?—A. Chiefly in that neighborhood; on the narrow-gauge roads running into Salt Lake.

Q. Where was the bullion transported to?—A. To Pittsburgh from Salt Lake.

Q. That would pass over what road?—A. Over the Union Pacific road then. That was before the Denver and Rio Grande reached Salt Lake.

#### CONCESSION IN RATES.

Q. Who made the freight rates with the Union Pacific Railway Company?—A. When I was engaged by the Pennsylvania Lead Company they had some arrangement that had been made by Mr. Clark and Mr. Gould with the president of the company, and they did not understand how to get at the collection of the rebates properly; and, I being a railroad man, they hired me to attend to that sort of business. When I went to Salt Lake they were in a kind of mix in the matter. I went to Salt Lake and subsequently to Omaha, and spent several weeks there and fixed up that particular part for them, amounting to several thousand dollars. After that we were notified by Mr. Vining that we were to have no further concession in rates.

Q. What concession was it that had been given to you before?—A. I think it was a rebate of \$4 a ton from Salt Lake to Omaha. But it is several years since and I am not positive as to the exact figure. It was just one matter.

Q. And what was the full rate?—A. Fifteen dollars from Ogden to Council Bluffs.

#### THE OMAHA COMPANY FAVORED SUBSEQUENTLY.

Q. You say that Mr. Vining declined to continue this arrangement?—A. Yes, sir; we were interfering with the operations of the Omaha company.

Q. When was it that this happened?—A. In 1879.

Q. Did Mr. Vining assign, as a reason that he could not make these concessions, the fact that it would interfere with the Omaha company?—A. No, sir; he did not; but we found it out afterwards, that we could not buy the bullion when the Omaha company wanted it.

Q. What company do you refer to that you judge you were interfering with?—A. The Omaha Smelting and Refining Company at Omaha.

Q. On what do you base the assertion that that was the reason why Mr. Vining refused to make the concession to you?—A. Because the Omaha company could buy all the bullion they wanted in that country, when they wanted it, and we could not, or anybody else for that matter.

Q. And your conclusion on that was that they had got better rates than you had?—A. Most decidedly.

Q. Are there any other circumstances that might give them the advantage over you, such as having more extensive appliances and a more economical way of operating the ore?—A. I am referring now to bullion shipments entirely, and my impression is that our facilities were about the same. It is not a very difficult matter to get at. I myself, once figured out the number of men they employed and about what they paid their men, the cost of fuel, and other matters.

## BULLION FROM WOOD RIVER.

Q. They were not purchasers of bullion, they were purchasers of ore?—A. They were purchasers of bullion. They were purchasers of both. They have both a smelting and a refining works.

Q. Do you remember the fact that there was a smelter on the Wood River, in the Utah northern country?—A. I do, well.

Q. Who supplied that smelter with ore?—A. I do not know; we had some dealings with them.

Q. What connection had you with that smelter? Did you buy bullion there?—A. We made a contract with them for, I think, twenty car-loads of bullion, to be shipped to Bullion.

Q. Did you have any competitor in that business?—A. I presume so. I presume the railroad company had more business than ours.

Q. What rate did you get for your twenty car-loads?—A. Fifteen dollars a ton from Ogden to Council Bluffs—the Missouri River.

Q. Was that the open rate or was that the rate given to you?—A. That was the open rate; we never had anything else, after our first transaction.

## RATES TO PENNSYLVANIA COMPANY INCREASED.

Q. What happened in regard to it so that they made a different charge to you?—A. I noticed, after three or four car-loads had come forward, that they were billing it at \$20 a ton from Ogden to the river. That was an increase of \$5 in the rate. I first took the precaution, however, to ask Mr. Vining whether there had been any change in my rate. He said no. I then showed him that it was billed at \$5 a ton advance. He said then that that was the rate. Subsequently, I learned from the claim agent of the Union Pacific road (Mr. Goble) that the reason the Union Pacific advanced that shipment was that the parties making the bullion had refused to buy their fuel from the Utah Forwarding Company, which was a concern established to supply the people in that district with coke and the freighters with grain. I think on that account they put up the rate on that shipment. I told Mr. Vining that that did not hit them at all; it hit us. He said that that did not make any difference.

Q. Do you know whether they put the rate up on other people besides you?—A. I know they did not. The open tariff rate was \$15 then.

## THE UTAH FORWARDING COMPANY.

Q. How do you know that the same policy was not pursued as to other purchasers of bullion, for the purpose of forcing the smelter to take coke from the Utah Forwarding Company?—A. Well, we bought the whole product at that time. The smelter went out of existence very soon afterwards, however.

Q. In regard to this Utah Forwarding Company, what coke was it that they forwarded into this Western country?—A. Connellsville coke.

Q. Who first introduced the use of this coke at Leadville?—A. I did. I think I shipped the first car-load that ever went there.

Q. When was that?—A. In the fall of 1878.

Q. Before there was railroad connection?—A. Yes, sir. We hauled that from the end of the South Park into Leadville. It was delivered in Leadville at about \$65 or \$70 a ton.

Q. Did they continue to supply Leadville for several years afterwards?

The WITNESS. Will you allow me to make a statement?

Commissioner ANDERSON. Yes. I understand that there was a reduction of rate to \$1, and there must be an explanation if you can make that.

#### CONNELLVILLE COKE SHIPPED TO LEADVILLE.

The WITNESS. Yes. I was in Leadville, in the interest of the Pennsylvania Lead Company, in the fall of 1878. I saw that there would be a field there for Connellsville coke. The fuel they had was very poor for the ores they were refining. The first shipment made into Leadville was a trade with Gage, Hageman & Co., a firm that has long since gone out of existence. It was really a trade. I traded them 10 car-loads of coke for 10 loads of bullion, paying them the difference. That was the first car-load of coke that went into Leadville. When I returned East I telegraphed a friend at Kansas City, and he met me at the Coates House in Kansas City, and we organized a company. He was to take charge of the coke at this end and I was to attend to it at Pittsburgh. We kept up the shipments for several months and made some money on them. Subsequently Mr. Vining discovered that we were making some money that the Utah Forwarding Company should make, and he made a rate of \$1 per ton from the Missouri River. Of course that squeezed us out of the business.

#### RIO GRANDE COKE.

It did not do him very much good though, because a few months afterwards the Rio Grande people got into Leadville with their coke, and had only to haul 300 or 400 miles, against 1,750. But I believe it is true, and I have heard it stated, that Mr. Vining lost his company a large amount of money on that transaction.

Q. From whom did you learn that?—A. I have learned that from different railroad officials with whom I came in connection. I cannot state it for a fact, because I do not know; but I believe there is good ground for the statement.

Q. Who was the commissioner of that pool?—A. I think Mr. Midgely was then. I am not positive as to that.

#### A WHEEL WITHIN A WHEEL.

Q. Do you know what persons were interested in the Utah Forwarding Company?—A. I cannot say. But it is a matter of common talk that it was a wheel within a wheel; that it was the Union Pacific Railroad officials.

Q. When you say it was a "wheel within a wheel," what do you mean?—A. You can find out from any man that did business in Salt Lake City.

Q. Where can we see their books?—A. Their chief office is in Salt Lake City.

Q. Their business still exists, then?—A. It still exists, I believe; yes.

Q. Who is the president?—A. C. W. Lyman is the general manager and George Y. Wallis, I believe, is the president of the company. There is something that put a very peculiar complexion on that coke business. At the time I formed the partnership I have mentioned in that business there was a great demand for coke. I learned that the Dayton Car Company were building one thousand two hundred and fifty

cars for use on the Harrisburg, Galveston and San Antonio road for delivery at Ogden. I obtained permission from the builders to load those cars west with coke. They were new cars. The Utah Forwarding Company, who were supplying most of the coke in Utah at that time, made a bad break on us through Mr. Vining, to get possession of those cars, claiming that we had no right to them. Mr. Vining went so far as to write Mr. Roberts, the president of the Pennsylvania Company, about it, and Mr. Roberts replied that he had no right to change the arrangement. The Utah Company was so pressed for coke that they had to buy from us, and they bought several car-loads from us. Through an error of the Omaha office the vouchers were sent to me, and I found that the coke was paid for by the Union Pacific, checked from the treasurer's office. I took a copy of the voucher and check, &c. There was a memorandum attached to it sending the voucher to G. Y. Wallis, Salt Lake City.

Q. When was this?—A. In 1880 or 1881.

At 10.15 p. m. the Commission adjourned, to meet upon the call of the Chair.

LEADVILLE, COLO., *Thursday, July 14, 1887.*

The Commission met upon the call of the Chair, all the Commissioners being present.

CHARLES T. LIMBERG, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where do you reside?—Answer. Leadville, Colo.

Q. What is your business?—A. Smelting.

#### ARKANSAS VALLEY SMELTING VALLEY.

Q. What is the name of your company?—A. The Arkansas Valley Smelting Company.

Q. How long have you been engaged in business?—A. Since 1882, in the present business.

Q. Where are your works located?—A. About 2 miles outside of the city limits.

Q. Have you had any business relations with the Union Pacific Railway Company?—A. Yes; with the Denver and South Park branch.

Q. What have been the facilities and accommodations afforded by the Union Pacific Railway Company to you as a shipper?—A. They have furnished us at times with coke, but more recently they have been carrying our bullion.

#### THEIR SHIPMENTS.

Q. Have you had all the facilities in the matter of shipment that met your wants as a shipper?—A. Yes, sir.

Q. What have been the freight rates?—A. The fixed rates on bullion have been \$12 a ton between here and Denver.

Q. What shipments do you make other than bullion?—A. That is our principal shipment. We sometimes ship products such as molybdenum, but the matter has been going over the Denver and Rio Grande.

Q. Do you ship beyond Denver?—A. Our bullion goes sometimes the Missouri River and, again, to Chicago or to Pittsburgh.



Q. Has the discrimination, so far as your company is concerned, continued only for four years?—A. It started when the Omaha and Grant started in Denver; ever since they have been bears in this market and since the Pueblo has come in heavily it has been down-hill business with the smelting industry in Leadville.

Q. Do you know of any other complaints?—A. No, sir; that is the principal complaint.

#### AN APPEAL TO THE COMPANY.

Q. Have you made any appeal to the company?—A. Yes, the smelters of Leadville generally appealed to Mr. Kimball and Mr. Jackson, I think, two years ago. We laid the whole matter before them, and showed them that we could not exist at the rate then prevailing—or the present rate. They took it under advisement. I learned afterwards that Mr. Kimball saw Mr. Edward Eddy and asked his advice as to whether it would be better to cut the rate. Mr. Eddy told me that he said to Mr. Kimball that whatever cut the railroad gave the smelters the benefit would go to the miners, and that the smelters would get no benefit from it at all; and he stated that Mr. Kimball had accepted his advice, and would not cut the rate.

#### REFUSAL TO MAKE CHANGES.

Q. What was the result of that interview?—A. They refused to make any changes.

Q. So that it continues to-day the same as during the time of the complaint?—A. Yes, sir.

Q. How many railroads have you coming into Leadville?—A. Two at present; the two pool roads—the Denver and South Park and the Denver and Rio Grande.

Q. Has there been any difference in their freight charges at any time?—A. They have had a higher rate on ores going out. But that is six years back. At that time the ore rate was \$9 as against \$12 on bullion. The ore rate has been reduced to \$5 and the bullion rate has remained unchanged ever since the railroads entered here.

Q. As between the two roads, has there been any cut of rate on the same article?—A. That is a thing we cannot prove. I think there has been. I learned from a friend of mine who wanted to start a new smelting company here (the Holden Company) that they would get a \$3 rate from Leadville on ores, and that they could compete very successfully and make money.

Q. Did they say what company was to allow the rebate or special rate?—A. No, sir; they may have told him, but the gentleman did not tell me. He is here in the city now.

Q. Have the two companies kept the same open rate on the same articles?—A. Yes.

#### NO COMPETITION BETWEEN THE TWO ROADS.

Q. Has there at any time been any competition or cut of rates between the companies?—A. None that I know of. There has been no rate war here in Leadville.

Q. Since the two companies have been here, have the rates been higher or lower than when only one company was here?—A. The bullion rate has been the same all the way through, and the ore rate, as I have said, has been lowered to \$5 per ton.

Q. Both companies are now maintaining the rate you have stated—\$5?—A. Yes, sir.

By Commissioner ANDERSON:

Q. Twelve dollars on bullion?—A. Twelve dollars on bullion.

By the CHAIRMAN:

Q. Have the companies had a pool here?—A. Yes, sir.

Q. How long has the pool continued?—A. I think for five years or over.

Q. Do you know of any other complaint?—A. No, sir.

#### THE COLORADO MIDLAND.

By Commissioner ANDERSON:

Q. What other railroad is about to come to Leadville?—A. The Colorado Midland.

Q. When do you expect that to be completed to Leadville?—A. We think they will reach Leadville about the end of August. That is the nearest calculation we can make.

Q. When you speak of a pool between the Denver and Rio Grande and the Denver and South Park, you mean to say that there is a pool now existing between those roads?—A. To my knowledge; yes, sir.

Q. Do you mean since the passage of the interstate commerce law?—A. Yes, sir.

#### DIVERSION OF FREIGHT.

Q. What knowledge have you on the subject?—A. Only this: that the two roads maintain the same rate. Neither one has approached us and offered us any inducements to ship over their road. In fact, they divert our shipments. Our shipments are diverted just the same as before the interstate commerce act went into effect; the commissioner diverts the freight.

Q. Have you a commissioner here now?—A. The joint agent, I should have said.

Q. Who is the joint agent?—A. Mr. Samuel Brown.

Q. Are you aware that the maintenance of a pool at present would be in violation of law?—A. I was not aware that it would be, on local roads.

Q. For the State business you think the pool is still in effect?—A. Yes, sir.

Q. You speak of traffic being diverted. You mean that merchandise consigned by one route is sent by another route?—A. Well, in our business I mean this: that when the joint agent here sees fit to put in South Park cars he will do so, and load our product on them. At other times, when he thinks the South Park Company has received an *excess* freight, he will put in Denver and Rio Grande cars.

Q. How does that indicate a pool; do you mean that the two companies have agreed to take the aggregate result of all the business to pay a certain percentage of it to the Rio Grande and a certain percentage to the Denver and South Park?—A. Yes, sir, understanding.

Q. What percentage do I understand that each receives?—A. I do not know.

Q. Have you any knowledge that such an agreement exists?—A. The knowledge I have is the same knowledge that

have. I understand that it exists, because they handle the freight in such a way as to lead us to believe that it exists. In fact they frequently tell us that one road has an excessive freight and another road a shortage.

Q. How would that necessarily prove that there was a pool?—A. If one road should complain of being short on freight it strikes me that there is some understanding between the two roads that the freight should be equally divided.

#### DISADVANTAGE OF EXISTING RATES.

Q. There may be an understanding without a pool. There may be an agreement, in other words, to maintain the rate and divide according to the traffic actually carried?—A. Yes. Well, that would be my understanding of a pool, if they maintain the rates and share the freight.

Q. In regard to this rate of \$12. Do you say it shuts the market out from you in competition with the valley smelters?—A. Five dollars on ore and \$12 on bullion works against us. It allows the valley smelters to come here at a rate that we could not touch.

Q. But, as matter of fact, does the rate cause that bullion to cost you such a figure in the markets where you desire to sell it that you cannot compete with the base bullion sent forward by the valley smelters?—A. Yes; figuring the value of the bullion and also the additional price we pay on our fuel. Combining the whole business, it works to our disadvantage.

Q. Does it cost you more to reduce here than in the valley?—A. Yes, sir.

#### WAGES AND FUEL EXPENSIVE.

Q. Is it because the fuel is more expensive?—A. Yes.

Q. And are wages higher?—A. Yes; but I would not take that into account here, because that is our misfortune.

Q. Is it not also your misfortune that fuel is higher?—A. I think not; because it is carried into Leadville as into Denver, and is carried over the divide. I do not see why we should pay \$3 or \$4 more for fuel than they do in Denver.

Q. How is it carried into Denver?—A. From the coke ovens at El Moro over the divide. Into Leadville it is carried up hill, from Pueblo to Leadville.

Q. Still the price of coke at Denver is fixed by considerations over which we can have no possible control, and if the consequence is that fuel is higher here than in Denver, it would appear to be the misfortune of Leadville?—A. The Union Pacific has nothing to do now with our coke. It is the Denver and Rio Grande Company. But there was a time when the Union Pacific Company did bring coke, and by agreement with the two companies it was stopped. So that there must have been some understanding by which the Union Pacific Company profited, and by which the Connellsville coke stopped coming in here.

Q. After that the Union Pacific coke was delivered, the rate of freight being only \$1. Was that not so, for some time?—A. I do not know what the freight was, but the coke was brought in here in competition with the Denver and Rio Grande Company.

Q. Do you know who came here to make the arrangement?—A. It was a gentleman from Omaha that I purchased from; I could not give his name now; I have a record of it on my book.

Q. Do you remember a Mr. Ferguson coming in here to make the arrangement?—A. I do not think I remember him. You mean Mr. G. H. Ferguson, of the Mingo Company.

## RAILROAD COMPETITION WITHDRAWN.

Q. Do you know the Utah Forwarding Company?—A. I have heard of it.

Q. They have sent coke here. It was their coke that came here when it entered into competition with the Denver and Rio Grande?—A. I remember there were two or three parties here at the time, offering coke; I made my purchases from an Omaha house; it was Connellsville coke, and was furnished by way of Omaha.

Q. You say that some arrangement was made between the two roads so that the Union Pacific Company was withdrawn and competition was withdrawn, and you were left to the price that the Denver and Rio Grande thought proper to charge for Leadville coke?—A. Yes, sir.

Q. Is there any other circumstance besides the cost of your fuel and the rate of your wages that makes it more expensive to reduce the product here than in the valley?—A. That is all I know of.

Q. Can you work to the same advantage all the year round that they can down there?—A. Our operations are somewhat more expensive during the winter months; there is no great difference, though—not enough to cut a figure.

## EXCESSIVE RATES.

Q. Do you think the rate of \$12 per ton for bullion excessive, as considered in comparison with similar services rendered under similar circumstances elsewhere?—A. I think \$5 excessive, as to the ore.

Q. Only as to the ore?—A. As to any article delivered from Leadville to our competitors in the valley.

Q. But in view of the difficulties of approach and the cost of building the road and the profit that may be made for it, do you believe that \$12 a ton for base bullion transported from here to the points you have named is an excessive and exorbitant rate?—A. That I cannot tell; I have no idea of the cost of operating a railroad; I can only make a comparison between the two articles—between bullion and ore.

Q. The main ground of your complaint is, as I understand it, that the price fixed for the ore, without saying that it is low absolutely, is low as to the price fixed for the bullion, and that results of the two together is to enable the valley people to buy the ore, and to impair the profits of the smelters?—A. Yes, sir.

## RATES NOT PROPERLY ADJUSTED.

Q. In other words these are unbalanced rates. You think that either the bullion price ought to be lowered or the ore price ought to be raised?—A. Yes, sir.

Q. Either the one or the other?—A. Yes, sir.

Q. Do you feel pronouncedly that the bullion should be lowered?—A. I should feel that the bullion price. At present the ores of Leadville are sold at a low price. By reducing the cost of smelting the ores of Leadville are sold at a low price. Low prices for the ores of Leadville can be treated as a disadvantage to the smelters.

dollars a ton in our camp here; whereas, if you reduce the price of ore, it would not help the low-grade ores at all.

Commissioner ANDERSON. It is largely a matter of judicious and intelligent administration of this industry, rather than a pointed complaint against a railroad as charging an exorbitant rate, as it strikes me.

The WITNESS. In what way?

Commissioner ANDERSON. I mean to say that it is a matter that the interests of the railroad and the interests of the industries here ought to settle by intelligent conference among themselves, rather than to be regarded as a serious complaint of an exorbitant and improper charge.

#### DISCRIMINATION AGAINST ARKANSAS VALLEY COMPANY.

The WITNESS. Of course, it rests with the railroad companies what charges they will make. They run their business and try to run it at a profit, and we cannot tell whether \$12 is exorbitant or not; but if they furnish our competitors an article at \$5 freight and charge us on our product \$12 "down," we think it is discrimination against us. We do not desire to dictate to the railroads what charges they should make.

By the CHAIRMAN:

Q. It forces you to either go to Denver or go out of the business?—A. Yes, sir.

By Commissioner ANDERSON:

Q. How many miles of transportation do you get for the \$12—152, is it not?—A. I think it is between 140 and 170 by the South Park, and by the Rio Grande it would be more—about 180.

Q. Do you know what the volume of the traffic is per annum?—A. I do not.

Q. Do you know any of the figures relating to the daily, weekly, or monthly amount that goes over the road?—A. No, sir; I do not. I saw the figures two years ago, but they have slipped my memory. The Leadville business has been very large.

Q. Do you know whether the gross tonnage is increasing or not, either of ore or of bullion?—A. No, sir; I do not.

#### DIVERSION OF TRAFFIC.

By the CHAIRMAN:

Q. Do you know whether there has been a diversion of freight at any time from the Denver and South Park to the Denver and Rio Grande?—

A. They have changed freight frequently at Malta. They have even gone so far as to take bullion out of a car of one road and load it onto the car of another road. That is, of course, hearsay with me. I have not seen it, but my men have reported it to me.

Q. Where is Malta?—A. Malta is a small station on the Rio Grande, about three miles below this town.

Q. How long has this diversion continued?—A. That has been done, off and on, for some time back. I have not heard of it for the last six months; but during the last year I heard of it several times.

Q. Have you any other suggestion or information to give to the Commission?—A. No, sir.

Q. Do you know of any other communities in the neighborhood of Leadville that are discriminated against by the Union Pacific Railway Company, or by the Denver and South Park?—A. No, sir; I do not.



Do you know of any complaints?—A. No, sir.  
 Have you knowledge as to special rates or discrimination with  
 as to other shippers?—A. My knowledge is only hearsay. I  
 at the merchants of Leadville have been favored at times; that  
 have received cut rates from the Union Pacific Railway Company.  
 Has it been general?—A. That I do not know.  
 Have there been any complaints in the community that certain  
 of shippers were receiving special rates, as against others?—A.  
 That I have heard of.

LEADVILLE, COLO., *Thursday, July 14, 1887.*

H. I. HIGGINS, being duly sworn and examined, testified as fol-  
 lowing:

By the CHAIRMAN:

Question. What is your business?—Answer. Smelting.

Q. Where is your place of business?—A. In Leadville.

Q. How long have you been engaged in business?—A. I have been  
 engaged ever since 1880, I think; but I have only been in here since  
 about four years ago.

Q. Are you engaged in business as an individual or in a company?—  
 A. A company.

#### THE AMERICAN MINING AND SMELTING COMPANY.

Q. What is the name of the company?—A. The American Mining  
 and Smelting Company.

Q. What have been the facilities and accommodations afforded you by  
 the Denver and South Park Railway Company as to shipments?—A.  
 I have no fault to find as to facilities. However, we have done very  
 little with the South Park road.

#### COMPLAINTS AS TO RATES.

Q. Have you had any complaints, or do you know of any, as to the  
 rates of freight charged by the Denver and South Park Railway Com-  
 pany?—A. Well, I have felt as though they were exorbitant rates.  
 That is, the open rates made by both roads.

Q. What road do you ship by?—A. The Denver and Rio Grande.

Q. Have you shipped by the Denver and South Park?—A. We have  
 never shipped that way. But some of our freight has been diverted by  
 the pool commissioner—through his orders.

Q. When you say the rates have been exorbitant, and you so regard  
 them, what do you compare them with?—A. Well, I consider 8 cents  
 per ton per mile on freight an exorbitant price. I never heard of it  
 in any country. That is the price on bullion from Leadville to  
 Denver, counting the South Park mileage, which is a short  
 distance, about 100 miles. The rate is within a fraction of 8 cents  
 per ton per mile. That is what I consider an exorbitant rate.

Q. What is the rate from Leadville and Denver.

A. From Leadville to Denver on the Denver and South Park Railway.  
 I cannot answer that,  
 but I can get it up.

## DISASTROUS EFFECTS UPON BUSINESS.

Q. What effect has the rate on your business?—A. It has a very disastrous effect.

Q. In what way?—A. Well, in a general way, it is impossible for us to make any profit here from the smelting business; principally on account of the rates on bullion down, and on our fuel—coke and coal.

Q. How long have the rates continued that way?—A. Ever since I have been here.

Q. Was there any change at the time of the removal of the Omaha and Grant Smelting Works from this section to Denver?

The WITNESS. On bullion?

The CHAIRMAN. Yes.

A. No, sir.

## EVASIVE ANSWERS TO APPEALS.

Q. Have you made any appeal to the company?—A. Many times.

Q. Have you made an appeal in writing?—A. In writing; yes, sir.

Q. What has been the answer?—A. Well, it has been evasive. Most of the appeals have been made personally. When the subordinates are here they say, "We expect Mr. Adams or Mr. Callaway or somebody else out here soon and we will take this matter up." At one time we got them all here, Mr. Adams, Mr. Callaway, Mr. Jackson, and Mr. Goble and the chairman of the Denver and Rio Grande were here, and we went to them, but we got no relief. I remember a conversation I had here with Mr. Adams, Mr. Callaway, and some others two or three years ago. Mr. Adams was anxious to know what our grievances were, and we went over the whole case. He said he had so much to see to in the general matters of the Union Pacific Railway that he could not attend to details. We told him that we did not expect that, but that if he would instruct his subordinates, one of whom was there (Mr. Callaway), to look into the matter and give us relief, if we wanted it; that was all we asked. Then he said, "Supposing we do not make any change and you do not get any relief; in the language of Boss Tweed, 'What are you going to do about it?'" My reply to that was that one of three things would certainly happen. He became very much interested and wanted to know what those things were. I told him at once that the two roads, the Union Pacific road and the Denver and Rio Grande road, would come to the relief of the smelting industry of Leadville. That was the first proposition. Failing in that, the smelters would endeavor to relieve themselves, and if they could not do that they would go out of business. "What do you mean by 'relieving themselves'?" I suppose you would build another railroad?" "No; we would not think of anything of that magnitude, Mr. Adams; but we might haul our bullion down the valley by bull-team, and we could haul it that way cheaper than we can get it done by railroad. If anybody would come along and build a railroad we would give them all the aid we could." He says, "We have got a railroad that we will sell you." I said, "We cannot buy it." He said, "We will lease you our South Park road at 6 per cent. per annum on its present value; that is, what it would cost to build." I said, "Well, possibly that is the best way out of the difficulty. It is a large proposition, however, and I will not tell you that we will or will not take it up. But it looks to me as if there was a way out of it. The proposition is so large that I do not feel authorized to say yes or no about it. I will consult our friends and associates. If you will reduce that proposition to writing I will con-

my associates, and I think I will advise them to accept it and run railroad themselves." "Well," he says, "of course, as you say, the proposal is one of rather considerable magnitude, and I do not feel authorized to make a proposition of that kind in writing without seeing directors." That is the last I ever heard of it. He had no more of renting the road, I suppose, than I had of renting it. All there about it is, they had us, and they proposed to keep the thumb-screw us. That is the way it looked to me.

#### THE MIDLAND ROAD.

Q. Taking the three propositions, the road not helping you and you being able to help yourselves, have you gone out of business?—A. ; but we have been able to help ourselves.

Q. How?—A. We got another railroad to start; coming in here within thirty days from that date. It would never have come if we had been fairly dealt with.

Q. What is the name of the new road?—A. The Midland road.

Q. Have any of the shippers resorted to hauling the bullion down by the river?—A. No; we know what the result of that would be; so do you, resume.

#### DISCRIMINATION AGAINST LEADVILLE BY DENVER AND SOUTH PARK ROAD.

Q. From your information, do you believe that the rates made by the Denver and South Park to the shippers of Leadville, on bullion, is a discrimination against Leadville in favor of Denver?—A. I do; yes, sir. The rate on bullion from there East—you may get from Denver—from the Missouri River, say from the Missouri River to Chicago, three-quarters of a cent per ton per mile; from Chicago to New York half a cent per ton a mile. But you get from Leadville to Denver 8 cents per ton a mile.

Q. What would have been the result if you had resorted to teams?—A. The result would have been that they would have frozen the teams out.

Q. How?—A. By lowering the rate so that they could not haul. Then they would be left with their stock on hand.

#### DIVERSION OF FREIGHT.

Q. A moment ago you spoke of the diversion of freight from the Denver and Rio Grande to the Denver and South Park. Will you please explain what you mean by that?—A. I mean that about fifty cars of our freight were shipped by the Union Pacific road instead of the way we signed it. As soon as it came to my notice I notified the pool commissioner that if he did any more of that business I should hold him personally responsible for any damage that might accrue. Which I certainly should have done. I will ship my freight as I wish.

By Commissioner ANDERSON:

Q. That was Mr. Brown, was it?—A. No, sir; Mr. Rich.

By the CHAIRMAN:

Q. When was this diversion made?—A. Some time last year.

Q. Had it been done before?—A. Yes; to some extent; but not to great an extent. This was an amount of fifty cars; and it had been started before I knew it.

Q. Do you know whether there has been any diversion between those roads since April?—A. I do not.

#### COMPLAINTS OF RATES ON FUEL.

Q. What other complaints have you knowledge of as to rates?—A. I complain of the fuel. I think that is high and unreasonable.

Q. What are the rates on fuel?—A. The rate on coke is \$12.

Q. From where to where?—A. Delivered in Leadville.

Q. From what point?—A. Sometimes from El Moro, and sometimes from Crested Butte. Of course the Union Pacific Company is only indirectly interested. They have no coke. We get our coke from the Rio Grande road. When we have asked for a reduction on coke the answer has been that they could not do that without the permission of the Union Pacific, for the reason that they were in the pool, and the price of coke was fixed and understood, and could not be changed without the consent of the Union Pacific people; and, while they would be glad (of course) to put it down, the Union Pacific Railway Company would not allow it.

Q. Why would not the Union Pacific Railway Company allow there reduction?—A. I cannot tell you why.

Q. Do you know of any explanation?—A. No; I do not.

Q. Do you know whether this arrangement as to coke has changed since the 1st of April?—A. I know the prices have changed, and I have understood that the same relative proportion of business has been divided. But it is simply a local matter they claim.

#### EFFECTS UPON COMMUNITY OF EXISTING RATES.

Q. How does the rate affect the business of the community?—A. Quite seriously, I think. There are twenty-three furnace stacks, I think, in Leadville; and I do not think half of them have been running during the past year. And were it not for the hope we have for some relief in the future (we have kept them up now for a year and a half or two years) there would not have been a stack running in Leadville to-day; not one.

Q. Do you know of any other complaints?—A. I have no knowledge of any other. I know very little of the general rates.

#### RELATIONS BETWEEN UNION PACIFIC AND DENVER AND RIO GRANDE.

By Commissioner ANDERSON:

Q. I would like to know a little more about the attitude of these two roads in reference to Leadville business. Is the Union Pacific Railway Company an active competitor with the Denver and Rio Grande for business in Leadville?—A. Yes, sir.

Q. They have an agent constantly here?—A. Yes; and they have a joint agent.

Q. But does the special agent of the Union Pacific Railway Company solicit freights for his road here?—A. I do not think there is much solicitation done here in our business.

Q. With whom have you conversed with regard to the relations existing or which were to exist between those two roads with reference to Leadville business?—A. Mr. Hughes and Mr. Jackson.

Q. Mr. Hughes is of the Denver and Rio Grande?—A. Yes.

Q. And Mr. Jackson is of what road?—A. The same road.



Q. And who else?—A. No one else, except these interviews I told you we had here.

Q. Have you conversed with any of the officers of the Union Pacific Railway Company with reference to the relations existing between those two roads?—A. No, sir; we have done very little business, almost none, with the Union Pacific Railway Company.

#### THE UNION PACIFIC VETO ON RATE REDUCTIONS.

Q. Then it is largely surmise on your part that the Union Pacific Railway Company had entered into arrangements which gave it a veto on the reduction of freight rates by the Denver and Rio Grande?—A. Oh, no; it is a matter of information derived from those I have talked with.

Q. With whom have you talked?—A. Mr. Hughes and Mr. Jackson.

Q. They are both in the Rio Grande road?—A. I know; but they are familiar with the rates of both roads.

Q. What did they say?—A. I cannot tell you exactly.

Q. How long ago was this?—A. I do not think I said anything to them for six months.

Q. Are you sure you have done so within three or four years?—A. Oh, yes; over and over again.

Q. Which of these gentlemen made the statement that the Rio Grande road could not reduce the rates on coke without the permission of the Union Pacific Railway Company?—A. I think both of them did.

Q. Who is the pool commissioner to whom you refer?—A. Mr. Rich, of Denver.

#### POOL PERCENTAGES.

Q. What do you understand the relation of those roads, as to the percentages in the pool, to be?—A. Well, I understand that lately the percentages have been changed a little on passenger business. I think it was 60 per cent. and 40 per cent.

Q. Sixty per cent. to the Rio Grande and 40 per cent. to the Union Pacific?—A. I think so; or two-thirds to the Rio Grande and one-third to the Union Pacific. Lately I understand that they had a change as to passenger rates of 60 and 40 per cent.

Q. Do I understand that it is now two-thirds and one-third on freight, and 60 and 40 on passengers?—A. That is as I understand it.

#### AMOUNT OF RAILROAD BUSINESS AT LEADVILLE.

Q. Have you any knowledge of the magnitude of the railroad business of Leadville.

The WITNESS. In dollars and cents, or in tonnage?

Commissioner ANDERSON. In tonnage, we will say.

The WITNESS. I can give you an approximation of the entire business in dollars and cents for the past year.

Commissioner ANDERSON. Well, give us that.

The WITNESS. Last year the business of Leadville was about \$2,500,000.

Q. Does that include both freight and passenger?—A. Yes.

Q. Do you know, with reference to the cost of the construction of the roads, the expense of operating the roads, and the expense of their equipment and repairs, whether this business was such as to yield them an extraordinary revenue?—A. Only in a general way. We all know



that it costs very much more to construct a road through a country like this, and probably considerably more to operate it, than it does lines East. We understand that. But we think that there is a point where they should stop.

Q. Well, is not that point reached when their profits exceed a reasonable return on what it has cost them?—A. That is one way of measuring it.

Q. Is there any other just way of measuring it?—A. I never heard of any such rates before, anywhere, as the prices we are paying.

Q. Have you heard of many such railroads elsewhere?—A. Well, no; not many.

Q. Does not a portion of the difficulty arise out of the fact alluded to by the prior witness, that there is a discrepancy or want of balance between the rate charged on ore and the rate charged on bullion, so that the valley smelters take the ore here at such a price as to make it unprofitable for the local smelter to bid for the ore?—A. Yes, sir.

#### NO COMPLAINTS AS BETWEEN INDIVIDUALS.

By the CHAIRMAN:

Q. Have you any other suggestions?—A. No; I do not know that I have. The matter of fuel is the only matter I thought of presenting.

Q. Do you know of any complaints existing in the community as to special rates, discriminations, or rebates?

The WITNESS. You mean as between individuals in the same place? The CHAIRMAN. Yes.

A. No; I do not know anything about that.

Q. Have there been any complaints?—A. Not to my knowledge.

LEADVILLE, COLO., *Thursday, July 14, 1887.*

ALBERT SHERWIN, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Smelting.

#### MANVILLE SMELTING COMPANY.

Q. Where is your place of business?—A. In Leadville.

Q. Do you conduct your business under an individual name or a firm name?—A. Under a firm name.

Q. What firm name?—A. The Manville Smelting Company.

Q. How long have you been in business?—A. With that company since the spring of 1883.

Q. Have you made shipments over the Denver and South Park Railroad?—A. No, sir; my shipments have been made over the Rio Grande, but they have been diverted somewhat over the South Park.

#### DIVERSION OF TRAFFIC.

Q. When were they diverted?—A. Well, I cannot state just at what time, but at different times during the last three or four years. I have not known of any being diverted for the last three or four months, perhaps six months.

Q. How were they diverted?—A. They were diverted from the Rio Grande cars to the South Park cars.

By Commissioner ANDERSON:

Q. And they were hauled over the South Park road?—A. Yes.

By the CHAIRMAN:

Q. Had you made arrangements to ship them by the Denver and Rio Grande?—A. Yes; and loaded them in the cars on that road.

Q. Did you deal with the Denver and Rio Grande agent?—A. Yes.

#### ORDERED BY POOL COMMISSION.

Q. How soon afterwards did you ascertain that they had shipped them over the Denver and South Park?—A. I could not say just how soon, but I found that they had been diverted, and talked with the agent about it. He said they did that by the orders of the pool commissioner.

Q. Was the agent of the Denver and Rio Grande the agent of the Denver and South Park?—A. Yes, sir.

Q. He was acting for both roads?—A. Yes, sir.

Q. What did you understand to be the arrangement made by the company, so that the pool commissioner directed this diversion of freight after you had billed it over the Denver and Rio Grande?—A. I understand it had been the pool arrangement between the two companies.

Q. Do you know the extent of the diversion of freight?—A. No, sir; I do not.

Q. Do you know how general it has been?—A. I know that there has been more or less of it done, for I have seen some of it done. However, I have not seen my own freight diverted or changed, but have known through others of its being diverted, and I have seen other freight changed from the Rio Grande cars to the South Park, from other smelters here.

Q. What do you know of the facilities and accommodations afforded to the community by the Denver and South Park Railroad Company?—A. Well, I only know that it is similar to what is done on the other road. The price has always been the same, as I understood it, for both freights and passengers, for the last four years.

Q. You have heard the testimony of the witnesses who have preceded you. Do you corroborate generally the details?—A. Yes; I should, generally.

Q. What, in your judgment, will be the effect of such rates if continued by the roads, upon the community here?—A. I should think it would be detrimental to the community and to business interests here.

Q. Have you anything to add in the way of information or suggestion, other than has been testified to by the other parties?—A. No, sir; I do not think I could add anything to what has been testified to by them.

Q. Have you any other information or suggestion that you can give to the Commission?—A. I do not know that I have.

#### SPECIAL RATES OR REBATES.

Q. Have you any knowledge as to special rates or rebates allowed to shippers?—A. No, sir; I have none at all. I know that I have not had any, and I do not know that anybody else has.

Q. Do you know whether the practice of the Denver and South Park Railway Company, through its agents, has been to secure

offering inducements of a special rate?—A. No, sir; not for the last four years.

Q. Was it so prior to that time?—A. I think there was a time when there were inducements offered; but it is five (perhaps six) years ago. When the road first came in here there was a little time, I think, when there was some special inducements offered; but yet I do not know that our rate on bullion has ever been any different since the roads came here. I do not think it has, since the two roads were running.

#### AGREEMENTS TO MAINTAIN RATES FAVORABLE TO RAILROADS.

Q. How does the volume of business compare as between the two roads?—A. That I do not know. Only I have heard it from some of the agents of the road that the percentages were at one time 60 per cent. to one road (the Rio Grande) and 40 per cent. to the other. I understand, lately, it is 66 $\frac{2}{3}$  and 33 $\frac{1}{3}$ . That is not anything that I know positively, though, but have heard it from the employes.

Q. Is an agreement to maintain rates, in your judgment, favorable to the railroad companies or to the community?—A. Well, it might be, I suppose, under certain circumstances, favorable to both, perhaps; but it would be favorable to the railroads, I should think, anyway.

Q. What effect on the community has an agreement between companies to maintain rates?—A. Well, ordinarily, I should suppose it had a bad effect. That is, the rates would be more liable to be higher than they would be if they had not an agreement of that kind. Rates generally, I should suppose, under those circumstances, would be kept higher than if there was competition.

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LEADVILLE, COLO., *Thursday, July 14, 1887.*

SAMUEL M. BROWN, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. Where do you reside?—Answer. In Leadville.

Q. What is your occupation?—A. Agent of the railroads here.

#### AGENT OF UNION PACIFIC AND DENVER AND RIO GRANDE ROADS.

Q. What railroads?—A. The Union Pacific and the Denver and Rio Grande.

Q. How long have you been such agent?—A. A little over a year; not quite a year and a month.

Q. Were you agent of one of the companies before that time?—A. No, sir.

Q. Your knowledge, then, of their business is confined to this last year?—A. Well, somewhat. I have been connected with the Rio Grande here for seven years.

Q. What connection had you with the Rio Grande before that time?—A. I was a cashier.

#### DIVERSION OF TRAFFIC.

Q. It has been stated here that on a number of occasions year or two merchandise consigned by smelters from

Rio Grande, has been changed under your directions and shipped by the Denver and South Park. Please explain to what extent that has happened.

The WITNESS. Merchandise?

Commissioner ANDERSON. Bullion more especially.—A. Yes, sir.

Q. That has occurred?—A. It occurred up to last September, during the time I was agent. Not since then.

Q. Please state why the directions of the shipper were not followed.—A. They were not followed because the bullion particularly was diverted to the South Park to keep up their percentage—that is, the Union Pacific.

Q. Was that with the consent of the Denver and Rio Grande officials?—A. Yes, sir.

#### BY ORDERS OF THE OFFICIALS.

Q. By whose orders was that done?—A. By the orders of the officials, and, except in a few instances, by the consent of the shipper.

Q. By the order of Mr. Rich also?—A. Yes, sir. The orders came from Mr. Rich.

Q. To what extent did this occur, to your knowledge—about how many car-loads?

The WITNESS. Within what time?

Commissioner ANDERSON. During any time that you have any knowledge of it.

The WITNESS. During the time I was agent?

Commissioner ANDERSON. Yes.

The WITNESS. I suppose, probably, during the time I was agent, 200 car-loads—more or less.

Q. Was the diversion always from the Rio Grande to the Denver and South Park, or was it sometimes one way and sometimes the other?—A. Always to the Denver and South Park.

#### INSTRUCTIONS CAME FROM POOL COMMISSIONER.

Q. What were those instructions you received? Did they send you instructions showing that the Union Pacific Railway Company's quota was falling off, or did you know what it ought to have been, and when it fell off make this diversion?—A. I knew how the percentages were here, but I could not tell how they were running in the whole pool; consequently the orders came from the pool commissioner, Mr. Rich.

Q. With what officials of the Union Pacific Railway Company did you confer on this subject?—A. In case of diversions to the Union Pacific I never conferred with them particularly, because the diversions were to them. If the diversions were from them the conference would have been with them probably.

Q. With what officials of the Rio Grande did you confer?—A. With Mr. Hughes, the traffic manager, principally. The orders came through the pool commissioner.

Q. To whom do you attribute the fact that the Rio Grande Company did not receive from the Leadville smelter the outgoing bullion and merchandise?—A. Well, it was handled by the smelters some other way. For

#### THE POOLING AGREEMENT.

Q. Do you know what the pool agreement was between the Denver and Rio Grande and the Union Pacific?

Q. Do you know what the pooling agreement was?—A. A pooling of percentages and earnings, on a revenue basis.

Commissioner ANDERSON. I understand. But do you know what its terms were?

The WITNESS. As regards percentage?

Commissioner ANDERSON. Yes; and how long it was to run and whether it was to be revised, and whether it applied to passengers and freight both, or only to one or the other.

The WITNESS. It applied to traffic of all kinds from common points. The percentages were at one time, since I have had charge, 66 $\frac{2}{3}$  and 33 $\frac{1}{3}$ ; and now they are 65 and 35 on freights, and 40 on passengers.

#### IN FORCE SINCE 1882.

Q. When did this pooling agreement commence, do you know?—A. It has been in force since 1882.

Q. Since the time the right of common trackage over the Buena Vista ceased?—A. No, sir; they had a pooling arrangement from the time the two roads first ran in here. It was broken afterwards.

Q. Before or after the high line was finished?—A. Before.

Q. Do you know what provision there is in the pooling agreement for its revision?—A. No, sir; I do not.

Q. Does not the readjustment depend upon the amount of business that has been actually done by the companies for a given period?—A. I would presume so, though I do not know.

Q. And is not that the reason why the Union Pacific Railway Company was interested in having its quota maintained? A. Yes, I presume so.

Q. Do you know whether there was any provision in the pooling agreement as to the period that it was to last without revision?—A. I think there was; but still I do not know what the length of time was.

Q. Do you know whether the agreement was in writing?—A. It was; I so understand.

Q. Have you ever seen it?—A. I have seen it, but never read it thoroughly. I have seen a copy of it, but it is not in my possession, and I never read it thoroughly.

#### FORMER POOLING PERCENTAGE.

Q. What was the pooling percentage before you became joint agent?—A. It was 66 $\frac{2}{3}$  and 33 $\frac{1}{3}$  at the time I took charge; it was what it had been.

Q. Which it had been for some length of time?—A. Not so very long, I think, but for some time.

Q. Do you know that for some time prior to that it had been 60 and 40?—A. It had been always 60 and 40.

Q. Until it became one-third and two-thirds?—A. Yes; until it became one-third and two-thirds.

#### DECREASE OF UNION PACIFIC BUSINESS COMPARED WITH DENVER AND RIO GRANDE.

Q. To what do you attribute the fact that the amount of business done over the Union Pacific Railway appears to have decreased, as



pared with the amount of business done over the Denver and Rio Grande, to the present time?—A. Well, one important factor is that ore that was shipped from this camp all went to the Pueblo smelter. It was a very important and very large revenue to the Rio Grande, as it went over the Rio Grande. Another factor is that the million went, principally, to Pueblo and by the Santa Fé. The ore, until the last year or so, was not going to Denver except in very small quantities.

Q. Why not? Was the rate higher over the Union Pacific?—A. No, sir; it was the same to Pueblo that it was to Denver.

Q. Was it due then to a rebate or cut from the Denver and Rio Grande or the Santa Fé road?—A. Not that I know of.

Q. Would that be your judgment as a railroad man, if you found the ore coming that way, when the rates were the same?—A. No, it would not. I never supposed there were any rebates paid on ore. I have always been told so, and I take it for granted.

#### EXPLANATION OF THE DIVERSION.

Q. What would be your explanation of the fact?—A. That the ore was going to Pueblo and not to Denver. What has been going to Denver it has not been required to divert to the Union Pacific.

Q. But I am asking an explanation of the fact that for quite a period the proportion of ores that had previously gone to Denver decreased and the proportion to Pueblo increased?—A. They had not previously gone to Denver.

Q. Then what would be your explanation of the fact that, the rebates being the same, the ores sought the smelters at Pueblo, and did not go to Denver?—A. I presume the smelters at Pueblo had to have lead ore, and the smelters of Denver were supplied.

Q. Supplied from where?—A. From other points. They had lead mines of their own.

Q. You say the ores do move to Denver now?—A. Yes, sir.

Q. Have they not the same supply from other points that they had before?—A. I presume they have.

Q. And the rates are the same as they used to be?—A. There is another smelter started at Denver that draws his sources, in a great part, from Leadville, I think.

#### PUEBLO SMELTERS HAVE HAD TO QUIT.

Q. Which one is that?—A. The Holden. The Grant Company is drawing heavily from here, and the Pueblo smelters have had to quit.

Q. You say they have had to quit?—A. They did quit. I suppose they had to.

Q. What do you mean by saying they had to quit?—A. I presume they had to.

Q. Do you refer to any irregularity in tariff or charges when you say they had to quit?—A. No irregularities that I know of or have any suspicion of.

Q. What line has been run in the shipment of ore to Denver in 1896 as compared with 1886?—A. It has increased 75 per cent.

Q. How much more than in 1886?—A. It is running at about the same thing.

Q. Now, I think the bullion is...

## PRICE PER TON ON BULLION.

Q. What is your judgment as to the price of \$12 per ton on bullion to Denver, taking into account the services and the cost of operating the road; is that an exorbitant rate or not?—A. Well, I think it is a high rate.

Q. And what have you to say in regard to the rate of \$5 on ore?

The WITNESS. You just want it from my standpoint, do you, entirely?

Commissioner ANDERSON. Yes.

A. I think, as a protection to the smelters at Leadville, it is not any too low.

## RATE HIGH COMPARED TO COST OF PRODUCTION.

Q. How much reduction, in your judgment, should there be on bullion to make it conform to similar services in other localities?—A. I am not conversant with rates on bullion from other localities.

Q. Then why do you say that you consider it a high rate; what do you compare it with?—A. I compare it with the cost of producing it here somewhat.

Q. Do you compare it with the cost of transportation and the question of whether it yields a large profit to the carrier or not?—A. Well, I compare it with the rate from Pueblo and Denver to the Missouri River, which is \$8, as compared with \$12 here. I think that compared with that it is a little high.

## COST OF TRANSPORTATION.

Q. Is the cost of transportation from Pueblo to Denver and the Missouri River the same as the cost of transportation from Leadville to Denver over the Denver and South Park or the Denver and Rio Grande?—A. No, sir; it would not compare. It is very much less.

Q. Do you know the cost of transporting a ton of bullion from Leadville to Denver over either of these routes?—A. No, sir; I cannot tell you.

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LEADVILLE, COLO., *Thursday, July 14, 1887.*

H. I. HIGGINS being further examined, testified as follows:

## RATE ON ORE.

The WITNESS. You asked me as to the rate of \$12. The rate from Salt Lake, for instance, to the Missouri River has been for several years \$17. It has been \$22 from Leadville to the Missouri River until the interstate commerce law went into effect on the 1st of April. They then made the Salt Lake rate \$18 to the river and the Leadville rate \$20.

By the CHAIRMAN:

Question. What was the cause of your preference for the Denver and Rio Grande as against the Denver and South Park?

## PREFERENCE FOR THE DENVER AND RIO GRANDE.

Answer. I do not know; only when I first came here we did business with the Denver and Rio Grande, and their connection was the

Burlington road. I was, for a great number of years, connected with that, and, other things being equal, I would naturally prefer to send freight that way.

Q. Have the shippers generally preferred the Denver and Rio Grande as against the Denver and South Park?—A. No; not that I know of.

Q. Is there about an equal division of sentiment?—A. So far as I know.

#### PUEBLO SMELTERS PAID TOO MUCH FOR ORES.

Q. What was the trouble with the Pueblo smelters that they went out of business?—A. I think they had been paying too much for ores here. Mr. Brown said that the ores went from Leadville to Pueblo in large quantities; and my impression is that they paid much more for the ores here than Denver would, or than they could. Recently they have not been doing it. Their management has changed, so that the ores now are mostly going to Denver instead of to Pueblo.

Q. Have you any other explanation?—A. No, sir.

Q. Or any other suggestion?—A. No, sir.

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LEADVILLE, COLO., *Thursday, July 14, 1887.*

CHARLES BOETTCHER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am in the hardware business.

Q. Is your place of business in Leadville?—A. At Leadville. I have been in business at one time at Denver.

Q. How long have you been in business in Leadville?—A. About 9 years—going on to that.

Q. Are you engaged in business individually or under a firm name?—A. I am alone.

Q. Have you had any business transactions as a shipper with the Denver and South Park Railway Company?—A. Yes, sir.

Q. What has been the nature of your business relations with them?—A. As far as I know, very friendly.

#### FACILITIES AFFORDED DENVER AND SOUTH PARK RAILROAD.

Q. What have been the facilities and accommodations afforded by the Denver and South Park Company?—A. I do not know that there was any difference between the two routes. One was about the same as other.

Q. What character of goods do you ship over the Denver and South Park?—A. Hardware of all kinds—iron, nails, steel, and a general stock of hardware.

Q. Between what points?—A. Between all points. We buy in Chicago, Saint Louis, Pittsburgh, New York, and different places.

Q. How many competitors have you in your business?—A. There is quite a number here; three or four, I think

#### RATES.

Q. What rates have you paid?

The WITNESS. Rates from where?

The CHAIRMAN. From the points of shipment over the Denver and South Park, or over the Union Pacific and its branches—local rates or through rates.

A. Our rates to Leadville are all local rates. It makes no difference where you ship from. If you ship from New York the goods will be shipped to Denver and a local rate charged from there on to Leadville.

Q. Have you always paid the open published tariff rate?—A. I have lately; yes, sir.

Q. What did you pay before?—A. Well, I do not know. It was quite a little while ago.

Q. From whom did you get the rate?—A. From the Union Pacific.

Q. Did you make application for a special rate?—A. Yes.

Q. To whom did you make the application?—A. I do not remember now to whom I did make it.

Q. To the local agent or to the general manager?—A. There was an agent here who was sent here from Omaha. I do not remember who it was, now.

#### SPECIAL RATES.

Q. How long ago was it that you had this special rate?—A. That is quite a while ago. I think it is about four years ago. I do not remember just when it was—that is, I do not remember whether three years or four years; I guess, four years.

Q. What difference was there between the special rate and the tariff or published rate?—A. I cannot tell you now just what difference there was. I would have to look that up. I cannot tell you without referring back.

Q. The Commission has in its possession all the rebates, and I only ask you for your recollection. We have them from their books at Omaha. How long did you have the special rate?—A. To make a rough guess, I should think two years.

Q. Did you pay the full rate?—A. Yes, sir.

Q. Was the difference refunded to you by way of rebate?—A. Well, you can call it rebate; yes.

Q. On what class of goods?—A. That was on a general class of goods.

Q. Had all your competitors the same rebate?—A. I do not know. I was not looking out for them.

Q. Was the rebate offered to you as an inducement to secure your shipments?—A. I guess it was.

#### DISCRIMINATIONS.

Q. What other discriminations do you know of, so far as this community is concerned?

The WITNESS. As far as the rates go at the present time?

The CHAIRMAN. At the present time, or any other time?

A. I think the rates are too high at the present time, altogether.

Q. But I am speaking of discriminations in favor of one shipper as against another.—A. I do not know of any in Leadville at the present time.

Q. Was the rebate or special rate any advantage to you?—A. Yes.

Q. Were you enabled to sell your goods lower than your competitors?—A. I was enabled to reach towns that I cannot reach now.

Q. Could you undersell your competitors?—A. I did not try to.

Q. Was it necessary, in order to get the trade?—A. Yes.

Q. Did you get the trade?—A. Yes.

Q. Did you undersell?—A. Well, that is something else, again.

Q. How else would you do it?—A. We had the goods to sell and offered to sell them.

Q. So that the rebate or special rate you had, gave you that advantage over your competitors at Leadville?—A. I do not know that it gave us any advantage. We sold a good many goods here.

Q. Do you know of any other discrimination among other shippers?—A. I do not, sir.

Q. Why was your rebate stopped?—A. I guess they formed a pool here in such a way that there was not anybody who got a rebate.

Q. What did the pool have to do with rebates?—A. As long as they had their percentage, what was the use of giving a rebate?

Q. Who had the percentage?—A. All the railroads.

#### EFFECT OF POOLS ON REBATES.

Q. I would like you to explain what effect a pool has on a rebate?—A. If the roads were pooled, and they divided the profits, it would not be necessary to give any of it away, would it—if they were in a pool and divided the profits?

The CHAIRMAN. My observation is that after a pool is consummated, within a few hours (and less than that, sometimes) each road goes about cheating the other by special rates.

The WITNESS. Oh, we have not got that kind of people up here.

Q. What other complaints have you?—A. My present experience is that we cannot go a few miles out and sell a thousand dollars worth of goods. It is out of the question for us to ship goods and reship them again.

Q. How do the people in all those towns get their goods?—A. Over the same line. Take the rate to Malta, for instance. It is five cents per ton less than to Leadville.

By Commissioner ANDERSON:

Q. From where?—A. From Chicago, or Saint Louis, or anywhere. Take the next town—Granite—which has a rate, I believe, of 20 cents less than Leadville. So that I cannot get goods in here and reship them again at that difference.

Q. What effect has that on this community?—A. We are obliged to sell all our goods in this town. We cannot go out of town either one way or the other. Now, take Robinson, for instance, which, I think, is the next town on the South Park. We cannot sell a dollar's worth of goods over there. You can take any town you like. This town is handicapped by railroads any way you want to look at it, or any point you want to go to.

Q. How long has it continued?—A. For the last four or five years.

Q. Was it that way when you were getting a special rate?—A. Yes; and that special rate let me into those towns that I cannot reach now.

#### DEPRIVED OF SPECIAL RATE, AND NO EXPLANATION GIVEN.

Q. Did you make a protest to the company when they cut off the special rate?—A. Well, I naturally did.

Q. How did they make answer?—A. They quit.

Q. What do you mean by "they quit"?—A. They stopped the special rate, and that is all the satisfaction we ever got.



The CHAIRMAN. From the points of shipment over the Denver and Rio Grande, or over the Union Pacific and its branches—local through rates.

A. Our rates to Leadville are all local rates. It makes no difference where you ship from. If you ship from New York the goods are shipped to Denver and a local rate charged from there on to Leadville.

Q. Have you always paid the open published tariff rate?—A. Yes, lately; yes, sir.

Q. What did you pay before?—A. Well, I do not know. It was a little while ago.

Q. From whom did you get the rate?—A. From the Union Pacific.

Q. Did you make application for a special rate?—A. Yes.

Q. To whom did you make the application?—A. I do not know now to whom I did make it.

Q. To the local agent or to the general manager?—A. The local agent here who was sent here from Omaha. I do not remember it was, now.

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Q. Did they give you any explanation?—A. No, sir.

Q. With whom did you talk about it?—A. Oh, I have talked to the different officials that I have met. I do not remember the general freight agent's name now. There has been a number of changes in that office.

Q. Do you know of any other complaints?—A. These gentlemen who represent the smelters have given you a full account of their complaints. They have given it to you as well as I can.

#### RATES TO LEADVILLE HIGHER THAN ELSEWHERE.

Q. Do you know of any additional information further than what they have given?—A. No; I do not know that I can give you any. The rate to Leadville seems to be higher than to any other place in the State. I do not know any other place in the State where the rates are higher.

Q. What would be the purpose of making the rates so high here?—A. Because they can get it, that is all.

You were speaking, a moment ago, about shipping here. When we were hauling goods from Colorado Springs I paid on an average 75 cents for my goods. The lowest rate I get now is \$1. Lately, I believe, they have made it 85 cents; but it has always been \$1. Before we had a railroad in this town my goods never averaged me to exceed 75 cents a hundred pounds for freight. And I can haul goods to-day in this town for that.

The Commission then adjourned, to meet upon the call of the Chair.

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#### FORT COLLINS, COLO., *Saturday, July 16, 1887.*

The Commission met upon the call of the Chair, all of the Commissioners being present.

GEORGE W. BAILEY, being sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am an attorney-at-law, and am now editing the Fort Collins Express.

Q. How long have you been in business at Fort Collins?—A. Two years last November.

Q. Were you living here prior to that time?—A. I came here in 1873 and remained until 1882. I was over at Middle Park for two or three years, and came back two or three years ago.

#### COMPLAINTS CONCERNING STONE SHIPMENTS.

Q. Have you any knowledge of any complaints existing in the community at Fort Collins in reference to the shipment of stone from quarries controlled by the Union Pacific Railway?—A. Only in a general way. Of my own knowledge I know nothing about it.

Q. What have been or are the complaints?—A. The complaints are usually when those parties owning private quarries desire to ship stone to other parties than the Union Pacific, that they are unable to get cars. If the Union Pacific happens to want the stone, they can get all the cars that are necessary to do the shipping; but if the owners of these quarries prefer to sell out to different parties, then the company

refuses or fails to let them have a sufficient number of cars. One party—I cannot recall his name now—who owns a quarry, told me that he had been selling his stone to the company, but they were to pay him every thirty days; that his pay was behind sixty days, and he was unable to pay his men and they had quit him; that the parties who represented they were acting for the company had made repeated efforts to buy his cars.

By Commissioner LITTLE:

Q. What is the name of that man?—A. I cannot recall his name.

By Commissioner ANDERSON:

Q. Where does he live?—A. He lives in the neighborhood of Stout.

By the CHAIRMAN:

Q. How many quarries are there in this neighborhood?—A. A great many.

Q. What are the names of the quarrymen or companies who control them?—A. Cliff is one.

Q. Where is he?—A. I think he is in town. And Cavanaugh is another.

#### RED STONE QUARRIES.

Q. Does he live here?—A. No; he lives about Stout. Mr. Wilson controls the Red Stone quarries. The Red Stone quarries are some distance from the railroad. They have trouble, or have had trouble, about getting cars and facilities for loading their stone—something of that kind.

Q. What other quarries are there?—A. There are these Red Stone quarries and numerous gray sand-stone quarries. I could not make a guess as to how many there were.

Q. Are they all engaged in business now?—A. No; not all of them.

Q. When did they go out and what ones went out of business?—A. I am unable to tell. They work off and on as they can get a market for their stone or get cars to shift their stone, and when they cannot, of course, they quit.

Q. Where is the market for their stone?—A. In Denver, and Omaha, and Lincoln, and Kansas City.

Q. How else can they get to Denver except over the Union Pacific Railroad?—A. They cannot, unless they go over the Union Pacific road.

#### INSUFFICIENT CAR SERVICE.

Q. Why have they not a market?—A. The complaint is that they are unable to get the cars to ship their stone. They have no trouble about finding a market for their stone, but they cannot get the stone there.

Q. There is no trouble about the Union Pacific carrying all their own stone out, is there?—A. No; they seem to be able to carry their own stone.

Q. Have they furnished plenty of cars to their own quarry?—A. I have not heard any complaint that they have not. Of course we would not be apt to hear complaints from that source.

Q. From your observation, are there plenty of cars to carry stone in and out for the Union Pacific quarries?—A. Yes, sir; as far as I know.

Q. Has that been going on when the other men were complaining of the want of cars?—A. Yes, sir.

By Commissioner LITTLE :

Q. Is there a large amount of business done in this stone-quarrying?—  
A. The shipments here amount to about 750 cars a month. The quarrymen say that it could be increased one-half or two-thirds if they had proper facilities for transportation.

#### INJURY TO PRIVATE QUARRIES.

By the CHAIRMAN :

Q. What has been the effect on the other shippers of stone of the refusal to give them cars or give facilities for shipment?—A. In 1880 there was no switch running up there and they hauled all of their stone to Fort Collins by wagon and loaded it on the cars. The Union Pacific owned no quarries there at the time. Quarries that then worked twenty or thirty men are now idle most of the time. So the conclusion we arrived at is that the ownership of those quarries by the railroad company has injured the private owners so that they are unable to haul their stone to this place by wagon and compete with the railroad companies. If they are unable to get cars to ship their own stone, the quarries remain idle.

Q. Do you know the rate paid between here and Denver and other points by the shippers?—A. No, sir; I do not.

Q. Do you know whether there has been any complaint as to special rates?—A. No; I do not.

Q. Do you know whether there has been any complaint that the Union Pacific Company enjoyed a rebate upon the actual cost of shipping that they gave to the public upon their freight?—A. I have not heard that they did.

Q. What other individuals than those that you have given us the names of in the town here are engaged in the quarry business?—A. I do not know of any. I know that there are a great many who own quarries, but just who they are I do not know. I have not looked into the matter much as to the ownership.

UNION PACIFIC SHIP 600 CARS MONTHLY, OTHER QUARRIES 100 CARS.

Q. Has the Union Pacific quarry interest absorbed the whole business?—A. Practically they have. The Union Pacific Company ship about 600 cars a month, so the agent here tells me, and from all the other quarries combined there are about 100 shipped every month. The most of them come from the red-stone quarries. The red-stone quarries furnish a class of stone which the Union Pacific Company has not, and of course there is no opposition.

Q. What is the capacity of the quarries outside of the Union Pacific quarries?—A. That would only be limited by the demands. The supply is equal to almost any amount.

Q. If facilities were afforded, could they produce 600 cars a month, equal to the business done by the Union Pacific?—A. Yes, sir; more than that; many times more than that.

Q. How much greater is the capacity of quarrying this stone than the Union Pacific quarries?—A. I think they produce only a small fractional part of the capacity of the stone business here; that is, what it could be grown to.



EXTENT OF UNION PACIFIC QUARRY INTEREST.

Commissioner ANDERSON. The agent tells me that the company owns 320 acres, and there is an unlimited amount of it.

The WITNESS. Yes, sir; there are thousands of acres.

Commissioner LITTLER. Describe it.

The WITNESS. Just beyond the first row of hogbacks there is a valley between the two ridges of hills. Each of these hills is filled with this gray sandstone, which may be obtained either in paving blocks, or thicker, for building purposes. There are three of these ridges that are just a mass of stone for 12, 13, or 14 miles along. You can see that you can form no estimate of the amount of stone here.

By the CHAIRMAN:

Q. It is unlimited, is it not?—A. Yes, sir; unlimited.

UNION PACIFIC MONOPOLIZES THE BUSINESS.

Q. So that the present arrangement of the Union Pacific Company as to the shipment of this stone has the effect of concentrating all the stone in Union Pacific hands, or keeping it out of the market entirely, has it not?—A. Yes, sir; that is the practical result of it.

Q. Is not the effect that all the smaller or larger quarrymen, with all the capacity that they have, are unable to conduct business because of the lack of accommodations and facilities furnished by the Union Pacific Railway?—A. That seems the tenor of the complaints.

DESCRIPTION OF THE STONE.

Commissioner LITTLER. I wish you would describe the layers of this stone and how it is found, and whether it is difficult to get it.

The WITNESS. The hills from the west run up at an angle of about 45 degrees, and on the eastern side they break right off straight. The stone lies in layers pitching with the angle of the hill, and these layers vary in thickness from 1½ to 2 inches to 2 or 3 feet.

By Commissioner LITTLER:

Q. What are the thickest layers?—A. From 3 to 6 feet, I should think. There are some after they get down deep in the mining that are of a great thickness.

Q. The layers are perfectly smooth, are they?—A. Yes; perfectly smooth.

Q. Will you describe their appearance as they come out of the quarry?—A. They come out in slabs, varying. The hill is cut by seams regularly, so that most of them come out in the shape of a parallelogram. Not square, but sometimes square, sometimes not. These slabs vary in size from 2 feet square, or a foot and a half, by 4 or 5 feet to 10 or 15 or 20 feet square, and vary in thickness from an inch and a half to several feet.

EASILY QUARRIED.

Q. Can you get out almost any size rock you please there?—A. Yes, sir; you can get out any size rock you please. That is, any size that a man ought to want.

Q. That is any size that machinery and men can handle?—A. Yes, sir. In the red-stone quarries, for instance, they get out blocks of stone weighing from 10 to 14 tons.

Q. Are those red-stone quarries in layers also, as the gray stone is?—A. Yes, sir; but much thicker.

Q. What is there immediately over the stone? Is it covered with a large amount of soil, so that it is costly to remove, or does the stone come right to the surface?—A. It comes right to the surface. Of course, right at the top there are small broken fragments of stone and a little earth, varying in thickness from an inch or two to several feet.

#### EXTENT OF THE STONE DEPOSIT.

Q. You describe the length of those quarries as from 12 to 14 miles. How wide are they?—A. Where there are quarries located now they are 2 or 3 miles wide, but really if there were facilities for moving stone they would be 8 or 10 miles.

Q. Do you mean 8 or 10 miles wide?—A. Yes, sir.

Q. Then, practically, there is a region of country there from 12 to 14 miles square with nothing but stone quarries?—A. Yes, sir. Of course, there are places in there where the stone would be difficult and expensive to work.

Q. Of this vast area does the Union Pacific only own a half-section, or 320 acres?—A. I do not know how much; it is only a small portion.

#### DEPTH NOT ASCERTAINED.

Q. How deep are they able to mine this stone? Is there anything to interfere with their going down to a great depth? Do they come to water?—A. There is no interference, I understand, from water, and the depth would only be limited by the depth of the stone. Of course, we have no knowledge as to that.

Q. Has not the depth been ascertained yet?—A. No; I have not heard of it. If it has, I have not learned it. You can form a slight conception of the amount of stone there from hearing it spoken of.

Q. Is this a fair sample of the surface of the stone as it comes out? I refer to these blocks of stone here on the cars.—A. Yes, sir; that is just the way it comes out.

Commissioner LITTLE. They appear to have been sawed out.

The WITNESS. Yes, sir.

Q. Is the surface of all the stone that comes out as smooth and handsome as that?—A. All of it, I guess. All that I have seen is as smooth as that.

#### SWITCHING FACILITIES OF THE QUARRIES.

Q. What are the switching facilities down at these quarries, with reference to the quarries that do not belong to the Union Pacific? Have they tracks running into these private quarries?—A. I understand not. At the Red-stone quarry I believe they are now building a switch to run up to their quarry.

Q. So that even if these private quarries had the cars, they could not get them to their quarries so as to compete fairly with the Union Pacific quarry?—A. I understand that some, at least, of the other quarries are so near the railroad there would be little difficult. Mr. Cliff and Mr. Bradley, owners of the quarries up there, are better acquainted with the country than I am.

Q. If they had sufficient switching facilities and cars and motive power, could not the product of this stone business be increased many times over?—A. Yes, sir; it would be unlimited.

COMPLAINT OF NOT GETTING CARS.

By Commissioner ANDERSON:

Q. I would like to know a little more definitely who made this complaint that you speak of, about not getting cars?—A. I think that is a pretty general complaint.

Q. Who made it to you?—A. It has been so general at different times that that covers nearly every person that is interested in the business.

Q. Are there not persons present, whom you know, who can give the times and occasions when they have not received the facilities that they have asked for?—A. There are persons present whom I should think could.

NO COMPLAINT AGAINST RATES.

Q. Is it a fact that you never have heard of any complaint relating to rates?—A. I never have heard of any complaints relating to rates.

Q. Have you never heard that the rates were so high that the markets were cut off by reason of the amount that had to be paid for freight?—

A. No; I have never heard that in regard to the stone business.

Q. Has it been confined to this refusal to furnish transportation?—A. Yes.

NO THREATS AGAINST SHIPPERS FOR COMPLAINING.

By the CHAIRMAN:

Q. Have the railroad authorities here at any time made any threats as to shippers, because of the complaints that were made?—A. Not that I know of.

Q. Did you ever hear of any citizens, for fear of the railroad authorities, declining to make any complaint?—A. No, sir.

Q. Do you know of any officer, agent, employé of the Union Pacific Company being directly or indirectly interested in the quarry business?—A. No, sir.

Mr. LETT. May I ask a question?

The CHAIRMAN. Certainly.

INSUFFICIENT CAR SERVICE.

By Mr. H. C. LETT:

Q. You state to the Commission about cars. Do you know of any particular person who asked that question that has never been furnished cars, or cars were refused to when the company had them to supply?—A. I believe the company said they did not have them.

Q. Can you state any particular time you had any knowledge of that kind?—A. No, sir. The question was when they were unable to get the cars, the company said they did not have them.

Q. Who has been refused cars? Give me the name of any one person?—A. I believe I have heard Mr. Cliff, one of the owners of the quarries, state they were unable to get cars.

Q. To whom does Mr. Cliff sell stone?—A. I do not know. He is in the room.

Q. He is here now?—A. Yes, sir. I have mentioned him. I do not know as I remember just when, but the complaint has been general.

Q. You do not know that the company has never been short of cars, time and again do you?—A. No; I do not know anything about it.

Q. You do not know that there are weeks at a time that we are unable to get cars to furnish either for Mr. Cliff or anybody else, do you?

A. No, sir; I do not.

Q. You do not know anything about that?—A. I do not know anything about it.

#### RED STONE QUARRY.

Q. You speak of the red stone. Do you say that does not interfere with the business of the Union Pacific?—A. I should say I think not. It is a different quality of stone.

Q. You never heard Mr. Wilson, the superintendent of that quarry, ever making a complaint, did you?—A. No, sir; I am not acquainted with Mr. Wilson.

Then you do not know anything about the red-stone quarry, or any complaints coming from that quarry, do you?—A. Only as a matter of general talk. I do not pretend to speak of these complaints of my own knowledge. They are only talk that we hear.

#### COMPLAINTS AS TO SWITCHING FACILITIES.

Q. Did you ever hear of any person making complaint of not getting tracks or switches into their quarries in order that they might do their business?—A. I have heard the employes of the red-stone quarries.

Q. You do not know anything about that. But I mean where the Union Pacific are doing business, where there would be naturally a competition. Do you know of any person ever asking for tracks or switches who has been denied?—A. No, sir; I do not know that they have ever asked.

Q. You never heard that?—A. No, sir.

Q. Also you do not know whether they have ever been refused a car that could be supplied them or not?—A. No, sir.

By the CHAIRMAN:

Q. Have the officers or employes or agents of the Union Pacific Railway Company participated in any way in influencing elections in this locality, general or local?—A. I guess not.

Q. Have there ever been any complaints in that direction?—A. I have never heard of any.

By Commissioner LITTLE:

Q. What did you ever hear of the employes or managers or owners of red stone say about their failure to get cars?—A. I have heard nothing about their failures to get cars. It was the lack of switching facilities. The company, I understand, agreed to put in switches for them at various times.

Q. They have not done so?—A. I believe the material is on the ground now. I understood it was.

By Commissioner ANDERSON:

Q. Is it a Union Pacific connection?—A. No, sir.

Q. On what road is it?—A. This switch would run from the Union Pacific. That is the only road we would have.



FORT COLLINS, COLO., *Saturday, July 16, 1887.*

JOHN T. CLIFF, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I keep a little store here in town, and I run a quarry outside as well.

#### QUARRY AT SPRING CAÑON.

Q. Where is your quarry located?—A. In Spring Cañon.

Q. How near are you to the Union Pacific quarry?—A. From a mile and a half to 2 miles. About 2 miles from the upper quarries.

By Commissioner ANDERSON:

Q. East or west?—A. I am north of them. They are south of me about 2 miles.

By the CHAIRMAN:

Q. Are you nearer Fort Collins than are the Union Pacific quarries?—A. I am about 2 miles nearer.

Q. What is the capacity of your quarry as compared with the Union Pacific?—A. We have nothing of the capacity of theirs, of course, because we have not got the means to work it as they have.

Q. How many acres have you?—A. Forty acres.

Q. What have been the facilities afforded you by the Union Pacific Railway Company?—A. Of course we have not got the privilege of shipping the same as they have. We can ship all the dimensions of stone to them that we can get out, but as to shipping any outside contracts, which would be a great benefit, we have not got the tracks in the quarries to do it, and it would not pay us to take it out by teams.

Q. What kind of tracks ought you to have?—A. If we had tracks running up and down our quarries the same as they have, it would be a benefit; but we would have nothing but a spur from the main track.

Q. Have you made application to the company for better facilities?—A. No, sir; I asked them for the spur merely to load what I could, and they put it in. They began a year ago last summer.

Q. Have you made any complaints to the company about the lack of facilities?—A. No, sir; I have not.

Q. What rate have you paid on your stone?—A. We used to ship outside of them, and we paid \$20 a car to Denver, and to Fort Collins it was 3 cents a hundred. I believe that is the rubble; 30 cents a thousand. I never shipped more than three car loads in here of rubble in my life. It would not pay.

Q. What other methods of shipment had you?—A. We have flagging.

The CHAIRMAN. You spoke of some other way of shipping just now?

The WITNESS. I say if we had our switches running in up and down our quarry, so that we could load from our derricks, it would be a big advantage; but we have never asked the privilege.

Q. Why have you not asked?—A. Because we have never opened the quarry sufficiently to warrant it.

#### INSUFFICIENT CAR SERVICE.

Q. Have you any complaints to make against the Union Pacific on account of lack of facilities?—A. No; I do not know that I have. Of course



their rates have always been higher than we could pretend to ship outside. There was one contract I took in Boulder, when they were building the court-house there. I turned out \$400 or \$500 worth of stone, and I asked them for cars and they refused me then half enough cars to load, and I never loaded it.

Q. Why did they refuse it?—A. Because I had no switch there. We used to load on the tracks. We used to load there all along.

#### SUPERIOR FACILITIES OF UNION PACIFIC QUARRIES.

Q. How many quarries other than those of the Union Pacific have the facilities that the Union Pacific quarries have?—A. Not one on the road. There is nothing but a spur from the main track to haul three or four cars.

Q. What effect has that had upon the other quarrymen?—A. If they had the tracks running up and down the quarries the same as the Union Pacific they could heave it right on the cars, and it would probably save \$8 or \$10 a car, with teams and loaders. For that reason they can ship cheaper than we can, and we cannot compete with them; and for that reason we have never bothered with it.

Q. Do you mean to say that you have given up quarrying on that account?—A. We have not given up quarrying. We are quarrying all we can, and teaming to town and shipping to them at the present time. We are loading cars chiefly with curbing for them, and selling our curbing to them, all we can get out. When we get a car-load we give them an order and they switch in a car and we load it.

Q. Do you prefer to sell to them and make your contracts through them?—A. We have got to, because we have no other way to do. I never asked for any rates to ship east.

#### OTHER QUARRIES SELL TO UNION PACIFIC QUARRY.

Q. To what extent do the Union Pacific quarry people buy the stone of the quarrymen?—A. I suppose they buy it cheaper than they can quarry it.

Q. Do the quarrymen sell to the Union Pacific because they cannot ship it out in any other way?—A. I do not know. They never asked for any other way. They come to them and offer a price and they talk it up and sell to them.

Q. Do you know of any special rates being granted to other quarrymen?—A. No, sir. We along there have no other way to do except to sell to them. We have no rates, and never ask for any.

Q. When you did ship stone, did you pay the open public rate?—A. I paid \$20 a car from the track to Denver, and when we hauled it to the switch, 3 miles south of here, we paid \$15 a car.

Q. Was that the open rate to everybody?—A. It was the open rate to all the parties at that time.

Q. Was that the public tariff?—A. That was the public tariff that I knew of. I did not know anything different at that time. Whether they charged any more or as much as to themselves, I do not know.

By Commissioner ANDERSON:

Q. What was the capacity of the car on which you paid \$20?—A. 20,000 pounds. If we loaded anything over that we paid extra. That was the capacity that we were allowed to load.

By the CHAIRMAN:

Q. Do you know whether any other shippers have any private or special rate with the Union Pacific?—A. I do not know. I never asked and never heard them say.

#### INSUFFICIENT CAR SERVICE.

By Commissioner ANDERSON:

Q. When was this time that they refused to give you cars?—A. That was the time the Boulder court-house was built. It must be four years ago, I guess.

Q. Why would they not let you load on the tracks?—A. I could not tell you why they would not do it.

Q. Whom did you ask?—A. I asked the officials up there of the road. There was a man by the name of Stout, and one named Constable, who were the superintendents at that time.

Q. Was that before the Union Pacific was doing business on its own account?—A. I think so; I could not say, at that time; but Stout and Constable were the superintendents for that quarry at that time.

Q. Did you ever complain of the refusal?—A. Yes, I did.

Q. To whom did you complain?—A. I went to the man that had the contract with F. O. Brown and Robert L. James, at Denver, keeping the Brunswick Hotel at the time; I wrote to him and he came to me and said he would go and see the officials about it. Whether or not he did I could not say, but he told me he could not take the stone because I could not get the cars. That was all I could tell you about it.

Q. Has any refusal of that character occurred since?—A. No, sir; not with me.

#### EXTENT OF SWITCHING FACILITIES REQUIRED.

Q. In regard to putting in this switching; how much of a job would it be? How long a switch would you require?—A. If we were going to put in a switch there it would take probably a thousand feet to where we are now, and then make a derrick. It would make it handy to put it on the main branch.

Q. At whose expense are the switches of that kind put in?—A. I do not know. As to what I had done I did my own grading, and the Union Pacific furnished the material and put it in.

Q. Do you mean they put in the spur?—A. Yes, sir. How it would be if the company ran a long switch along there, I could not tell; I do not know whether they would do the grading or I would. I never asked them.

#### METHOD OF PAYMENT BY UNION PACIFIC QUARRIES.

Q. How do they pay you for your stone; on what time?—A. Twenty cents a foot.

Q. Do they pay cash or after thirty days?—A. Thirty days, thirty-five days, and sometimes sixty days; just as they get around to it. When they first shipped it, it generally ran sixty days, and afterwards thirty days.

Q. Then they generally kept you waiting for your money?—A. No, sir; it might be a few days under or a few days more. We have always had our money promptly enough.

By Commissioner LITTLE :

Q. Have you any complaint to make about the manner in which you have received your payment ?—A. Not at all; only sometimes they discount a little too much at Omaha.

Q. What do you mean by that ?—A. Probably some of the stone did not come according to their wants, and they discount it off.

Q. Do they discount the paper ?—A. No, sir—that is cash. That is dollar for dollar.

#### QUARRIES NEAR FORT COLLINS.

By the CHAIRMAN :

Q. How many quarries are nearer Fort Collins than are the Union Pacific quarries ?—A. We are all a little nearer; I am about the furthest of all, except the Union Pacific. There are five quarries working, I guess, right alongside of the track, and I believe there are three spurs run in within 2 miles, or 3 miles at the furthest. We will call it 3.

Q. Are they all nearer than the Union Pacific ?—A. They are all nearer this way. They are right on the Union Pacific track.

Q. Are they all working now ?—A. Yes, sir; every man is working all he is able to work. I shipped for the Union Pacific Company.

Q. Can they compete with the Union Pacific Company ?—A. Oh, no; they cannot expect to do that.

Q. Why not ?—A. Because we want more money to open up the ground and have a bigger capacity in order to compete with them.

Q. Suppose they had the money to open the ground, how could they compete ?—A. They could compete then. They have as good rock as the Union Pacific has.

#### DIFFICULTY IN REACHING A MARKET IN COMPETITION WITH UNION PACIFIC QUARRIES.

Q. How can they get it to market ?—A. That is the point. I do not know what facilities they would give people for shipping it. Whether they could get terms to compete with them, I could not tell. That is what we want to get at, or want somebody to get at for us, to know whether it would be so.

Q. If facilities were afforded, would the citizens be willing to put in capital ?—A. I think they would be willing to do it.

Q. Have they capital to do it ?—A. I do not know why there should not be.

Q. Has the drawback been because of the improbabilities of getting proper rates ?—A. The market has never been big enough to go outside, like the present time. Now the market is spreading right out. I could have sold out the other day to a Chicago building committee. Mr. Southerland went to Omaha and talked with Mr. Kimball for three hours, and he could not get rates to ship flagging east. He could get rates for any other kind of stone, but not for flagging.

#### CHICAGO CAPITALISTS DETERRED FROM PURCHASING BY HIGH RATES.

Q. What are the names of the people who compose the Chicago company ?—A. I think the gentleman's name was called Netherland. I think they are Eastern capitalists. Netherland Brothers—they employ about 2,500 men. They are a building committee, he told me. He said they had one firm in Chicago, and another in Kansas City, and another in

Saint Louis; and soon, he said, they would be in Denver. But, he said, "We want to get Colorado stone to the Chicago market, but we cannot get rates to do so." That is the gentleman who told me.

Q. Did he say from whom he could not get rates?—A. He said he went to Kimball, in Omaha, and talked with him about it.

COULD NOT GIVE RATES FOR FLAGGING TO COMPETE WITH UNION  
PACIFIC MARKET.

Q. What did Kimball say to him?—A. He told him that he could not give him rates for flagging to compete with the Union Pacific market. Those are the words he told me over in the house, sitting down, a month ago.

Q. He could not give rates for flagging to compete with the Union Pacific stone?—A. Yes, sir.

Q. Why?—A. I could not tell you why.

Q. Did he give any explanation to you of what Kimball said?—A. No, sir; he did not. He told me that was the reason he had to give up all thoughts of getting Colorado stone on the Chicago market, because they could not get the rates. Those were the last words he told me. What the rates were he did not tell me, and I did not ask him.

Q. Is there no other way for you to get to the market or to Chicago except over the Union Pacific?—A. No, sir; not at all; not here.

Q. Have you anything else to say?—A. No; I have nothing to say that I know of.

By Commissioner ANDERSON:

Q. How far is it from here to Denver on a straight line?—A. I believe the nearest way they can get there is about 80 miles; somewhere about that. I do not know the exact distance.

STOUT AND CONSTABLE GOT CARS.

By the CHAIRMAN:

Q. Have you any other suggestions to give or any complaint to make?—A. No, sir.

The CHAIRMAN. Have you any questions to ask, Mr. Lett?

Mr. LETT. I will call the witness's attention to one thing. I will ask you as to the time you had trouble about getting cars and the time this extra freight was paid, if it was not before the Union Pacific had quarries, and when Stout and Constable were running them?—A. I do not know whether the Union Pacific had control at all.

Q. Was it not when Stout and Constable were running the quarries?—A. Yes, sir; they were at that time. They went to work then, and furnished the same contract that I had got my stone out for at that time; Constable and Stout did.

By Commissioner LITTLE:

Q. Did they get cars?—A. They got cars. They were running cars every day.

By the CHAIRMAN:

Q. They were the people who sold to the Union Pacific?—A. They were selling to the Union Pacific, and shipping everywhere and anywhere at that time.

Q. Did you ever hear of Constable and Stout having special rates?—A. I heard such talk outside, but I cannot prove it by any fact. I have heard that they were shipping for \$10, and we were paying \$20 at the time. I heard so from outside parties, but I cannot prove it.



FORT COLLINS, COLO., *Saturday, July 16, 1887.*

JOHN J. BRADLEY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Stone contractor and quarryman.

LOCATION OF WITNESS'S QUARRIES.

Q. Where is your quarry?—A. To the west and southwest of the town here.

Q. West of Fort Collins, do you mean?—A. Yes, sir.

Q. How far west?—A. I have one quarry about  $5\frac{1}{2}$  miles west, and another one about 10 miles southwest.

Q. Are both of your quarries nearer to Fort Collins than the Union Pacific quarry?—A. One is, and one is farther away.

Q. How many acres have you of stone?—A. I have 120 acres in one and 160 in another.

WORKING UNDER DISADVANTAGES.

Q. How long have you been in the quarry business?—A. My brother and I came here about seven years ago, when that country out there was a desert, and when we, under great disadvantages, developed that country and opened out those quarries, and in this stone we built up quite a trade. We had from one hundred and fifty to one hundred and seventy men working. That was previous to the Union Pacific Company coming in.

METHOD OF TRANSPORTATION.

Q. How did you get your stone to market then?—A. We hauled it on wagons from the quarries to Loveland and Fort Collins.

By Commissioner LITTLE:

Q. How far away was Loveland?—A. It was 7 miles from our south quarry and 5 or 6 miles from the north quarry.

Q. On what road is Loveland?—A. It is on the Colorado Central.

The CHAIRMAN. Go on with your statement.

DIFFICULTY OF OBTAINING CARS AFTER UNION PACIFIC BOUGHT QUARRIES.

The WITNESS. We built up considerable business there, and it was a great help to the town here. We bought all our provisions and clothing for the men here in the town. We had a contract then with the city of Denver to pave the city. At this time the Union Pacific had no quarries here of their own, and we had no trouble in getting cars. As soon as the Union Pacific came in we tried to get cars, and we got them for a little while at the end of a switch. We found that while they would not deny us cars, they would say: "Well, yes; you can have cars"; and when we sent for them and ordered them, "We have not got them to-day," and "We have not got them" to-morrow. You can understand the position we were in. With the contract on hand, and our men and material there, they could put us off from day to day.

EFFECT OF DISCRIMINATION.

We had to give up our Denver contract altogether and discharge our men and let our quarries lie idle, from the simple fact that we could



not get the facilities to ship that we could get before the Union Pacific got their own quarries. I went to Cheyenne and took quite a number of contracts, and I waited thirty-one days here to get cars. While they did not refuse me directly, they put me off. In that thirty-one days I got one car. The result was that I had to throw up my contracts in Cheyenne, and the Union Pacific flagging went in and filled those orders that I had procured. Mr. Hammer, the agent of the Union Pacific Company at Cheyenne, said: "It is no use in your trying to compete with us; we know how to work it. You cannot ship those flags here." I had to throw it up at a loss, besides all the time I was waiting.

#### CLOSING UP OF COMPETING QUARRIES.

By Commissioner ANDERSON:

Q. What is the name of the agent?—A. Pete Hamma. Then I wrote to Mr. Kimball, at Omaha, and asked if they would sell direct to me from their own quarries, or give me facilities to ship stone myself. I got no answer, and I wrote to Mr. Lett, in Denver. After a while I heard that this matter was referred to Mr. Lett. I got no satisfaction at all. The result was I had to shut up my quarries and buy of the agents here. Their agent would find what we could make it for, and they would come right down. The result was I had to shut up.

By the CHAIRMAN:

Q. How long has this continued?—A. From the time the Union Pacific Company put in tracks to their quarries.

By Commissioner LITTLER:

Q. How long ago was that?—A. That was about five years ago, I guess, since they commenced operations.

#### UNION PACIFIC HAD AN AGENT AT CHEYENNE.

By the CHAIRMAN:

Q. What is the effect upon your business?—A. The effect is that we have to throw up our business altogether, or work at a disadvantage.

I went to Mr. Gray, their foreman at the quarries, and asked for rates to Cheyenne, and asked them to sell direct to me, so that I could get material from the company, or to give me a track, so that I could ship stone myself. Mr. Gray said, "We cannot put a track in. We have got an agent in Cheyenne." By the way, I believe Mr. Lett wrote to me, and I believe I have the letter here, saying that it would be better for me to buy from the agent at Cheyenne. You see, the result of that is that their agent there can undersell me, and if I get a good contract, they can put down the price. They have got me.

Q. Have you that letter?—A. I have not got it with me. I did not expect to be here. I asked Mr. Lett if they would buy the stone of me; provided I sold the stone to them, would they get the switch. "Well," he said, "what stone we cannot get ourselves, we will buy of you." Said I, "What am I going to do with the stone if I get a lot out?" "Well," he said, "that is not our business. If we have to get out a lot of curbing, and we cannot get it ourselves, we will buy of you." The result was that we had to shut down.

#### REFUSAL TO FURNISH CARS FOR QUARRY WITHIN 200 YARDS OF TRACK.

Q. Are your quarries shut down now?—A. Yes, sir; except what little we can haul in by wagon. I have an agent on redstone. I came

down to town here and asked for a car. We had a side track for the company's benefit. I asked them to give me a car to furnish some red-stone to finish a contract I had here, and I could not get it, and I had to haul the stone to Loveland, about 17 miles, where I could get a car. There was a track within 200 yards of my quarry, but they would not let me have a car there.

#### COMPELLED TO SELL TO UNION PACIFIC QUARRIES.

Q. Would the output of your two quarries equal the output of the Union Pacific quarry?—A. If we had the facilities for shipping it. While I was waiting thirty-one days they had on an average eight, ten, or fifteen cars on the track idle, all the time.

Q. Are they purchasers of stone of the other quarries, generally?—A. They purchase one class of stone; that is the curbing. If a fellow gets out anything else, it is all right; he can keep it.

Q. The effect is, as I understand you, to compel the quarrymen to sell to the Union Pacific quarries, or to go out of business?—A. That seems to be the effect. Indeed, it is the effect, as far as I can see, with all the quarries. It is the effect on me.

Q. Have the Union Pacific authorities been soliciting the purchase of other quarries?—A. Not that I know of.

Q. Have they had their agents out trying to buy?—A. Not that I know of.

#### HOW THE UNION PACIFIC ACQUIRED TITLE TO STONE QUARRY.

By Commissioner LITTLER:

Q. Do any of the officers of this company own any interest in this stone quarry, to your knowledge?—A. I do not know.

Q. Do you know in whom the title stands of this stone quarry which the Union Pacific operates?—A. No, sir; there was a man working for us that took up that claim, and, as I understand it, the Union Pacific hired a man by the name of Brown to jump on him. I was going up to Collins that night, and this Brown and another fellow held the fort with a rifle apiece, and would not let us get into the cabin. There was a man in Denver backing up this man that held it, until he was "busted" himself, and Brown got the claim and then the Union Pacific Company got it, and Brown went away on a big drunk, and that settled it.

#### LACK OF CAPITAL NO OBSTACLE TO WORKING QUARRIES.

Q. Have you sufficient capital to work your quarry, if the proper facilities were afforded?—A. We went in there without any capital and worked up that business and developed those quarries, and we had 150 to 175 men working, and were making quite a success of it, and were making money, before the Union Pacific people put their road in.

Q. Then it is not the fact that it is for the lack of sufficient capital that these quarries are not worked?—A. No, sir; not by any means. The quarries pay for themselves. We ran our quarries without any capital at all. We sold our stone on thirty days, and paid our men on thirty days. We had no trouble to work the quarries at all.

#### CONDITION OF STONE BUSINESS BEFORE UNION PACIFIC HAD QUARRIES.

Q. Was there prior to the Union Pacific going into the quarry business any complaint of inability of the men of this section to furnish the stone that was demanded?—A. No, sir.

**Q.** Were you able at that time to meet all the demands?—**A.** We were able to meet all the orders that came in. We furnished all the orders that came to us.

**Q.** Were the efforts to push the stone into the market as great as they are now?—**A.** Oh, no; of course not. Of course a private company or private people could not push that business like a railroad company.

**Q.** Was it the lack of capital that prevented you from pushing it, or the lack of railroad facilities?—**A.** No, sir; at that time, before the railroad came, the stone business was a local affair. It was just beginning to grow. As it began to develop in various cities, we found the ability to supply the orders.

#### CHARACTER OF STONE.

**Q.** How many car-loads a day were you capable of producing with 175 men?—**A.** I really do not know. We probably used to ship four or five or six cars a day.

**Q.** Is this stone easily quarried?—**A.** Yes, sir; where we have it lying in layers right on the top of the ground. It was like leaves of a book on top of the ground, and all we had to do was to break it off the size that was necessary.

**Q.** This is a sample of it out here on the track now, is it?—**A.** Yes, sir.

#### FAILURE OF UNION PACIFIC TO REDEEM PROMISES OF FACILITIES.

By the CHAIRMAN:

**Q.** Have you any other information to give to the Commission? Do you know of any other complaint?—**A.** None only this; that at the time the Union Pacific first came in there they promised us, through their agents, switches and side tracks, and when they got in there we found they would not or did not give them to us. We held two or three meetings in the town, and we appointed a man to ask satisfaction of the company, but we could not get any satisfaction at all. The great trouble was, it was a kind of stave-off, and we could not get any satisfaction until they wore us out.

**Q.** Have they worn you out?—**A.** Yes, sir; they have worn us out, that is a fact.

**Q.** What will be the effect if they continue this?—**A.** I cannot tell. The effect on me is that I have just got to let the quarries lie, and go to work at different work.

#### OTHER QUARRYMEN.

By Commissioner ANDERSON:

**Q.** What other men are there here that are in the same business that you are?—**A.** I do not believe there is any one in town to-day.

**Q.** What are the names of some of the others?—**A.** Lord, Kane, Leisher.

**Q.** Will you give the names of all of them?—**A.** That is all I remember just now. There have been others in with them, who had to quit and go out.

Commissioner ANDERSON. I want their names.

The WITNESS. I do not remember their names now.

**Q.** Have they quit and gone out?—**A.** Yes, sir.

Q. Was their business the same as yours?—A. Just the same. The Union Pacific will buy only one class of stone of them, and you see they cannot quarry all that way.

#### ALL "STAND OFF" IN REGARD TO FACILITIES.

Q. I want to know whether they had the same experience you had in regard to asking for cars and being staved off and not getting them, while the company was supplying itself sufficiently to meet the demands of trade.—A. I can say this much: that this has been the case with Kane, Lord, and Leisher, when I have been at Cheyenne and other towns, trying to get stone from them, that they would be put off from day to day for cars, and the result is that we could not not make a contract on time.

#### METHOD OF WORKING QUARRIES.

Q. How many quarries can you specify that have been closed since the Union Pacific has been operating in stone?—A. These quarries are in this shape: There is quite a territory, and the man that owns a piece of land will, for the royalty, allow a company, or two, or three, or four men to come in and quarry the stone for the company. After they work it for awhile they find they cannot make it pay, and they go off. The whole stretch of hills has been opened by various men in that way, and they have gone off because they could not make it pay.

Q. Do you now refer to those who work and pay a royalty to the owner?—A. Yes, sir.

Q. How many such cases can you cite?—A. There are quite a number that I cannot remember. I could, of course, get the facts, if I had time to think them over and investigate. But I cannot remember just now.

Q. Who are the principal owners of these quarries?—A. Mr. Lord, Mr. Kane, and Leisher, Mr. Cliff, and myself.

Q. Are any of those gentlemen in this city to-day?—A. No, sir; I do not think they are.

#### AREA OF QUARRIES.

By the CHAIRMAN:

Q. What is the extent of the area covered by those quarries?—A. Take them altogether there must be 10 or 12 miles of good quarry there, and probably a quarter of a mile wide; not quite that.

FORT COLLINS, COLO., *Saturday, July 16, 1887.*

JOHN T. CLIFF, being further examined, testified as follows:

By the CHAIRMAN:

Question. Perhaps you could give some of the names Mr. Bradley could not recall. Can you state any other than those mentioned by Mr. Bradley? I refer to the men who have been quarrying and have gone out of the business because of the lack of accommodations or of their ability to compete with the Union Pacific quarry.

#### ONLY A DEMAND FOR FLAGGING.

Answer. When they were quarrying there there was scarcely any demand for anything but flagging, and when the flagging market shut



down they had to quit because there was no demand for that stone. It was three or four years ago, in Denver, when they were flagging the streets.

Q. Who were they?—A. Some outsiders. I do not know that I could name any one particularly. A man by the name of Charles Smith has gone away entirely. There is a man running that now named Cavanagh. There was no curb wanted at that time. It was all the demand of the market at that time for flagging.

The CHAIRMAN. Perhaps Mr. Lett would like to ask Mr. Bradley a question.

FORT COLLINS, COLO., *Saturday, July 16, 1887.*

JOHN J. BRADLEY, being further examined, testified as follows:

By Mr. LETT:

Question. You spoke of Mr. Hamma being the agent. Do you know in what capacity he has worked for the Union Pacific Company?—Answer. I do not.

Q. Do you know that he buys all the stone he can get?—A. I do not know anything about his business, only he represents the company there.

APPLICATION FOR A RATE TO CHEYENNE.

Q. Did you ever make an application for a rate to Cheyenne that you did not get?—A. Yes, sir; I made an application. If I am not mistaken, you are Mr. Lett?

Mr. LETT. Yes.

The WITNESS. I made an application to Omaha, as I stated, and to Mr. Lett, in Denver; and, if I am not mistaken, Mr. Lett referred me to Mr. Hamma, and told me I had better buy my stone of him. I went to Mr. Gray, at the quarries, and he would not give me any price at all at the quarries, and told me I had better buy of Hamma.

By the CHAIRMAN:

Q. Will you please furnish to this Commission a copy of that letter, if you can find it? You can mail it to us at Cheyenne.

Commissioner ANDERSON. Perhaps Mr. Lett has a copy of it.

HOW HAMMA PURCHASED STONE.

Mr. LETT. I think he stated correctly about that, and I can explain it. Probably he would corroborate me. Mr. Hamma had for a number of years, long before the Union Pacific Company came in, operated the quarries, and he was the party that bought stone directly from the company. He buys it and pays "C. O. D." He has the same rate of freight that everybody else has. In reference to referring him to Mr. Hamma, he could do just the same with Mr. Hamma that he could with the quarry. There would not be a particle of difference. He could get the same rate. He could ship it himself from his own quarry or from our quarry, provided—

Commissioner LITTLER. You had better be sworn if you want this to come in as evidence.

Mr. LETT. He is asking me a question. I will be sworn, if you wish.

The WITNESS. I would like to ask him why it was I could not buy stone direct from the company as well as Mr. Hamma.



Mr. LETT. I never knew of any reason.

The WITNESS. I asked you to sell stone to me direct, as it was annoying to get it from Mr. Hamma, and I asked you if I could not ship my own stone.

Mr. LETT. I will be sworn.

FORT COLLINS, COLO., *Saturday, July 16, 1887.*

HENRY C. LETT, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am superintendent of the stone department of the Union Pacific road.

Q. How long have you been connected with that department?—A. About three years.

#### DUTIES OF SUPERINTENDENT OF STONE DEPARTMENT.

Q. What are your duties?—A. To look after everything that belongs to the stone department—getting out stone and finding a market for it, and everything that pertains to getting out material for individuals or companies.

Q. Do you make contracts?—A. Only with contractors and builders. We furnish the raw material.

Q. How many quarries have you?—A. Two.

Q. Where are they?—A. One is in this county.

#### THE STOUT AND BUCK HORN QUARRIES.

Q. Will you name the county?—A. This is Laramie County. It is known as the "Stout Quarries." The other is the "Buck Horn Quarry." I think it is also in Laramie County, about seven miles distance from "Stout."

Q. What position did you hold before you were superintendent of the stone department?—A. I was a resident of Nebraska for twenty years; and before that I was engaged in various businesses—real estate and railroads. When I came here I came principally for health. The first year I worked for Mr. Stout, and did some business for him. He is the same man that ran these quarries.

Q. What position did you hold under Mr. Stout?—A. I was not in any particular position. I just attended to any business that he referred to me, as I was here without any special business, being out for health that year. Being well acquainted with him, he referred a great deal of his business to me, and I transacted it for him.

Q. Was he the principal quarryman at that time here?—A. He was the lessee of these quarries.

Q. How did he ship his stone out?—A. He shipped it by the Union Pacific road.

Q. What rate did he pay?—A. I do not know. I never was familiar with that part of his business.

Q. Do you not know whether he paid the open tariff rate or a special rate?—A. No, sir; I do not know. I had nothing to do with that.

Q. Were there any other quarries competing with him at that time?—A. I do not know. About the same as they are now, I think.

**Q.** Had he not a monopoly of the business out here?—**A.** I do not know that he had. I thought he grew into probably doing more business than any one else, because he had more money than the balance of the quarrymen; but outside of that I do not know.

**Q.** Had he not more facilities than any other quarryman?—**A.** No, sir; I do not think he had, except the company had these tracks in there. They belonged to the company.

**Q.** Were the tracks being in there an advantage or disadvantage?—**A.** They would be an advantage. The company owned the tracks and owned the quarries.

#### THE UNION PACIFIC QUARRIES.

**Q.** After Mr. Stout went out of business, you assumed control of the business out here for the Union Pacific Company?—**A.** Yes, sir.

**Q.** What advantage in facilities have the Union Pacific quarries over other quarries located near Port Collins?—**A.** They have none, with the exception of the improvements they have put in for themselves, or that were in. There is no local advantage. In fact, I think there are better quarries right along where these gentlemen are speaking of than the Union Pacific quarries; considerably better.

**Q.** Do I understand you to say that the Union Pacific, in reference to the tracking facilities, have no more advantages for shipping than the other quarries?—**A.** I do not mean to say that. I mean to say there is no advantage in the quarry, so far as that is concerned. This man Stout had developed these quarries during his lease for probably two years, I should think, and there was more work done there than where these other men were working. Consequently there were more tracks put in. But after the Union Pacific took the quarries from Stout we put in a great many improvements of our own.

#### SWITCHES ALWAYS PUT IN WHEN ASKED FOR BY COMPETING QUARRIES.

As to these persons that are quarrying outside, in every instance that I remember of where they have asked for a switch, or where they were able to or wanted to produce any stone, the switch has been put in without a murmur from the company. That has been so in every instance. They generally apply to me and ask if there could not be switches put in, in order to get stone out, and I have applied to the company in order to get switches put in, and every switch that I have known of that has been asked for, unless it called for some extraordinary expenditure, the company has put in.

**Q.** How many acres has the Union Pacific?—**A.** I think about 320 acres in all.

**Q.** Then they have but a small proportion of the quarry land?—**A.** Yes, sir.

#### ADVANTAGES OFFERED BY UNION PACIFIC TO COMPETING QUARRIES.

**Q.** Is not the effect of the facilities afforded by the Union Pacific to their own quarries to compel other quarrymen to ship through or sell to the Union Pacific, or to go out of business?—**A.** No, I think not.

**Q.** How can they compete with the Union Pacific?—**A.** I will tell you. It has been the theory and practice of the company, and of this department of it, to assist any person who had a quarry and had stone

that he wanted to get out and ship on his own account, by giving to him the lowest possible rate that has been afforded to any person. Our freight rates have been made on account of competition that we have had to meet of stone coming from eastern quarries. There is not to-day a quarryman in this county or in this State who cannot ship on the very same rates we are having. And more than that, I will be glad to have them take 1,000 acres on contracts, and they can have all there is in it.

Q. Have you always furnished the cars demanded by those quarrymen?—A. I think so, as far as it was possible.

Q. Have you furnished the cars equally as readily to the other quarrymen as to the Union Pacific quarries?—A. That is something, of course, I do not have any control of. I make applications for cars just the same as Mr. Bradley would.

#### TROUBLE OF GETTING CARS.

Q. Do you have any trouble to get your stone out?—A. Very much, indeed; yes, sir.

Q. Do you ever have any trouble to get cars from the Union Pacific?—A. Very much, indeed. It is one of the great troubles in our department.

Q. To whom do you complain?—A. To the train dispatcher, Mr. McMasters, in Lincoln, and then to Mr. Choate, and if they are still slow with cars we complain to Mr. Kimball, who is at the head of this department.

Q. Have you not had cars standing out here empty when the other quarrymen needed them?—A. I think not. The agent could answer that better than I, but we are always in trouble about cars.

#### NO PREFERENCE IN THE MATTER OF CARS.

Q. Have you not a preference over the other quarrymen?—A. No, sir; never was such a thing expressed or uttered to me by these men.

Q. Do you make bids for stone contracts in Denver?—A. Yes, sir.

Q. Are you not enabled to underbid other quarrymen?—A. No, sir.

Q. Do you not do it?—A. No, sir.

Q. Do you not furnish stone at better prices than other people?—A. Simply because we have better facilities. The same facilities are open to any man who wants to furnish stone in this State.

Q. Would you not, if you wanted to get a large contract, make a rate so that you could underbid some other person?—A. No, sir.

Q. Then you do not do that?—A. No, sir.

#### RECOMMENDATION TO PURCHASE STONE OF CHENENNE AGENT.

Q. What did you mean when you directed this gentleman, Mr. Bradley, to go to the agent of the Union Pacific, located in Cheyenne, to buy his stone?—A. I will explain that. I do not remember his making application. I do not know that I understood Mr. Bradley to say that he made application, only to buy stone at our quarries and furnish it at Cheyenne. That is the way I understood it. He went to Mr. Gray, the foreman of our quarries, to buy stone to furnish on some contract he had at Cheyenne. If he wrote me, while I do not remember the exact letter, I know what I would be apt to say. I think it would be this, and it would compare with the letter, what if he wanted to buy

stone of our quarries for Cheyenne, it would be better for him to go to Mr. Hamma, who is the person who has been doing, I may say, all the stone business of Cheyenne, and he would give him figures as low as we would give him at the quarries. That is what I mean. I say that for the reason that if Mr. Hamma has ever increased the price of our stone, as agent or as acting for himself, it was against the instructions of our department.

#### AGENT FOR STONE ON KANSAS DIVISION.

Q. Have you not, as superintendent of your department, agents out selling stone?—A. No, sir.

Q. Have you not had them out?—A. On the Kansas Division. I think about two years ago we had one man that used to go from one town to the other to sell stone on the Kansas Division.

Q. Did they not do all they could to sell the stone?—A. Yes, sir.

Q. Did they not try all the inducements possible?—A. Yes, sir.

Q. Would it not be natural for your company to take advantage of the fact that the Union Pacific owned the quarries and get a preference?—A. I never heard of it coming up.

#### OTHERS CAN BUT NONE DO SELL STONE.

Q. Will you explain to me why no one else in this neighborhood is able to sell stone out here except the Union Pacific quarries?—A. That is not the case.

Q. Is not that the fact?—A. No.

Q. Who else sells stone here?—A. They can sell it.

Q. Who does?—A. I do not know that anybody does.

Q. How is it that they do not?—A. Because they do not open their quarries to produce the stone. I mean to say, they can do it, for they have every opportunity and every facility to do it. They can get it from the Union Pacific Company any day they will apply for it, if they will open their quarries and find a market for any kind of stone they have to sell.

#### LACK OF CAPITAL THE CAUSE.

Q. Is it a lack of capital that prevents them?—A. I think it is.

Q. Do you mean to say to the Commission that the large proportion of the stone, of which the Union Pacific Company only has a fraction, is unquarried and unsold and unmarketed because of the lack of capital?—A. I think so, and for lack of the facilities for getting it out, which means capital. It takes a great deal of money to quarry this stone and get it ready for the market.

#### HOW BRADLEY WORKED A QUARRY BEFORE UNION PACIFIC BEGAN BUSINESS.

By Commissioner LITTLER:

Q. Can you explain to the Commission how Mr. Bradley worked successfully one hundred and seventy-five men in the stone quarry business before you got here?—A. I think I can do that clearly, from my information. That was before the Union Pacific had any quarries, or was operating any, when he was working that number. The city of Denver had passed an ordinance requiring every person that owned a lot to put sidewalks or flagging down in front of their lot. It forced the people to look in every direction to get stone to comply with that ordinance. Mr. Bradley and other persons that were furnishing the

material came in and furnished the stone to the contractors who were laying those walks. A short time after that law was passed, I think it was decided by the courts that it was not a good law, or that it was unlawful for the city to make such a requirement. The result was that those big contracts procured under the law requiring people to flag their front doors fell to pieces, and there has been very little flagging furnished there ever since. That was why Mr. Bradley, who had a large contract, was able to supply a large amount of it at that time.

Q. Why is it he is not able now to work that quarry with one hundred and seventy men, with such facilities as the road can furnish?—A. He can do it with the same facilities we have.

Q. Can you explain why he swore that he had been compelled to abandon the business entirely on account of the management of this roads?—A. I cannot explain why he swore that.

Q. Can you explain the fact that he has gone out of business?—A. I do not know any reason why he has gone out of business. I know that I am getting all for stone that I can possibly get, and I keep up the price as high as any outside quarrymen.

#### FREIGHTS ON STONE.

Q. Are you making money?—A. No, sir.

Q. How much do you make on freights?—A. I do not know anything about it.

Q. Do you know what the freights are?—A. I know what the aggregate is at the end of a year, but that does not belong to my department.

Q. Is not the aggregate very large?—A. I know there is a special rate on stone.

Q. How many cars do you ship a month?—A. Sometimes from three hundred to five hundred.

Q. How much do you charge per car from here to Omaha and Lincoln and Kansas City?—A. So much a hundred pounds.

Q. How much does it amount to per car?—A. It runs all the way from \$30 to \$50 a car. It is owing to the class of material. I mean to say that every man has an opportunity, and can have an opportunity, of developing his quarries and getting the same rate of freight, and I will not cut his price.

#### CARS FURNISHED BY COMPANY.

Q. Do you pretend to say that this company is to-day furnishing all the cars that are required here for the stone which is demanded throughout the country?

The WITNESS. On the line of our road?

Commissioner LITTLER. Yes.

A. Yes, sir; as far as comparing them with ourselves. We are short of cars all the time.

Q. As I understand you, you ship from three hundred to five hundred cars a month?—A. Yes, sir; some months.

Q. Do you sometimes ship more?—A. Yes, sir.

Q. Does anybody else, or do all the balance of the stone men put together, ship half that many cars over your road?—A. No, sir; all the quarries have not developed so as to do it.

Q. But this man Bradley says that he has quarries sufficient to work one hundred and seventy workmen. How many men do you work?—A. I work from three hundred to four hundred.



**Commissioner LITTLE.** He says he can ship from four to five car-loads a day.

**The WITNESS.** He can ship it if he wants to. I would give him a market, and a better market than he can get himself, because we have more than we can do.

#### FREIGHT AND COST OF PRODUCTION.

By Commissioner ANDERSON:

**Q.** If you add together the cost of getting out a thousand tons of stone, and to that add the rates that the stone department charges for freight which has to reach a market either at Denver or at any point on the Missouri River, and then in another column put down the proceeds of the stone sold at the price fixed at the competing point, which of these two figures would be the larger?

**The WITNESS.** Do you mean the freight?

**Commissioner ANDERSON.** I mean the freight and cost of production compared with the selling price. Which is the larger?—**A.** My balance is such that there is very little difference.

#### EFFECT OF FREIGHT ON PRICE OF STONE.

**Q.** In other words, does not the freight charge take substantially the difference between the selling price and the cost of getting it out of the quarry?—**A.** Yes, sir, I think possibly that is so. I know there is no money in getting it out. Our freight charges are governed by our competition east.

**Q.** Is your freight charge governed by the competition east?—**A.** Yes, sir; and we do not make anything for getting the stone out. So I do not see how it could be anything else.

**Q.** If you made the rates of freight less would that affect the price at which you sold the stone, or would that price remain the same as long as the competition remained the same?—**A.** I do not know how that would be.

**Q.** Is it not clear that you could get a price for the stone as long as there was a market for it, and that the freight, as far as freight was concerned, would make no difference at all?—**A.** No; the freight is something I do not pretend to know anything about. What is required of me is the production of the material.

#### LOWERING OF FREIGHT RATES.

**Q.** If the Union Pacific Company gets stone out at a given cost of production, and chooses to carry it to Omaha without charging any freight at all, that does not affect the price for which it sells that stone. The price for which it sells the stone is fixed by the competition at the Missouri, or at the other points of sale. Is that clear?—**A.** Yes, sir.

**Q.** If you chose to lower the rates of freight that would not affect the selling market price at Omaha or any other point, would it?—**A.** Yes, sir; it would affect the price at Omaha, because we should put it in cheaper, probably.

**Q.** Why would it?—**A.** Because as you could not get the market price?—**A.** We would drive the market down to do so.

**Q.** What other effect would it have?—**A.** It would drive the freight here let in, and the price of the stone would thus be able to—**A.** I

do not think it would. Of course we were cutting at the competition east, but that is the question, whether the company could afford to haul it for less than it is. I know we could not get it out here any cheaper than we are. I could not answer that question, but the freight department could.

**FREIGHT CHARGE THE DIFFERENCE BETWEEN COST OF PRODUCTION AND SELLING PRICE.**

Q. I want to know whether the mode of doing the business does not take for the freight charge of the railroad the entire difference between the cost of production at the mine and the selling price fixed by competition at the selling point?—A. I think it would, if that were the true state of facts.

By Commissioner LITTLER:

Q. Does not the statement you made awhile ago, that there was no money whatever in mining the rock, explain the fact that there are none of those other quarries at work, and that you take all there is in it in freight charges?—A. No, sir; I do not believe it, because we are getting more for stone than ever before.

Q. I understand that there is no money in quarrying stone. Is that so.

The WITNESS. Not to say anything about freight?

Commissioner LITTLER. That explains why nobody else is in the business.

The WITNESS. I do not think it does.

Q. Why?—A. Because they have the same opportunities now as before, with the same privileges.

Q. But does not the fact remain that you charge a rate from here to the markets which consumes the entire product, so that there is no clear profit left for getting the stone out and putting it on the cars?—A. I do not think that is the case, because I do not think the price they are charging for transportation is so unreasonable. If it is, somebody else must determine that.

**FREIGHT CHARGES TO OMAHA.**

Q. How far is it from here to Omaha?—A. Nearly 600 miles.

Q. And you charge \$40 a car?—A. From \$30 to \$40 a car on an average. If they are charging more freight than they ought to it would solve that question. But there is certainly more demand for stone than we can all furnish.

**CHARACTER OF LABOR EMPLOYED.**

By the CHAIRMAN:

Q. Where do your men working in the quarry live?—A. They are the element we pick up off the corners of the streets and everywhere. We hire any man that wants to work.

Q. Is there a settlement about the quarry?—A. No, sir; they are usually single men; men who tramp in from every limit of the earth.

Q. Do you give single men a preference?—A. No, sir.

Q. Have you a company store there?—A. No, sir.

By Commissioner LITTLER:

Q. How much a day do you pay to your men?—A. Two dollars is the cost of labor.

## THE COMPANY BOARDING-HOUSE—NO INTEREST IN STORE.

By the CHAIRMAN:

Q. How are they provided with merchandise and provision?—A. The man that owns the boarding-house has leased it to the company. He has a little store, with cigars and tobacco, and overalls and boots, &c.

Q. What interest has the stone quarry in the store?—A. Not one nickel, except the rent. He pays \$100 a month.

Q. Does the stone quarry furnish the capital to stock his store?—A. No, sir; not a particle.

Q. Was he invited to come there by the company?—A. Three or four men have owned it since they started there. When Stout sold his quarry and all the appliances he had there, I think he sold it, as far as I knew at that time, all in a lump for a certain price; and that took in the cooking utensils and dishes and mattresses and all the little things that belonged to the house, even including the house itself. They sold it outright to a party who paid the cash for all the store appliances, and leased the house at \$100 a month, which he has been paying regularly. Two or three changes have been made since that time. They have sold out one to another, but the company has no interest in it whatever.

## NO UNION PACIFIC PEOPLE INTERESTED IN QUARRIES OR STONE LANDS.

Q. Do you know of any officer or employé or agent of the Union Pacific Company being directly or indirectly interested in any quarry business or quarry lands or stone lands?—A. No, sir; I do not know of any one, and I do not believe there is a man that belongs to the company that has a nickel of interest as an individual. To the best of my knowledge I think I know all there is about it.

Q. Do you know of any company or syndicate, directly or indirectly connected with the Union Pacific Railway Company, that has an interest in any of the quarry lands out here?—A. No, sir; I do not think there is any such thing existing.

Q. Do you know of any formation of a company or syndicate for the purpose of securing control of the quarry land in this neighborhood by the Union Pacific Company?—A. I do not know of any such thing and I do not believe there is any such thing existing. The company, I am satisfied, does not want any more quarry lands.

Q. But do they not still continue in the business?—A. They have got all they need for one hundred years.

## VALUE OF UNION PACIFIC QUARRYING FACILITIES.

Q. What would be the cost to a quarryman to have facilities in his quarry equal to those of the Union Pacific Company?—A. I could not give it, but it would be worth a great many thousands of dollars to have the same facilities we have. We have got, I suppose, \$20,000 or \$25,000 in it. That would not pay for our facilities there.

Q. Did the Union Pacific Railway Company originally pay for these facilities?—A. They paid for them when they took the quarry from Stout. Stout had a few derricks when the Union Pacific took it, very imperfect ones, and afterward it was put into my hands, and we improved the derricks and put in new ones, and finally put in a steam cable, and used all the means that we could use to handle stone as cheaply as possible.

## OTHER QUARRYMEN COULD COMPETE.

Q. Must not any individual engaged in the stone-quarrying business, before it is possible for him to compete with the Union Pacific stone quarries, put in the additional capital of \$20,000 to \$25,000?—A. No, sir; I do not think it is really necessary. It would require that, possibly, to do as much business as we do; but he might do business and meet all the competition that we would offer with a great deal less money, because it is not necessary for any quarryman to go over there and put in that amount of expenditure. I am sure that I could take some of those quarries that those gentlemen spoke of and work them in a small way a great deal cheaper than we are doing, because we are there and we are fixed, and we cannot very well extricate ourselves.

## OFFERS OF FACILITIES TO OTHER QUARRYMEN.

Q. Then could you sell to other contractors, located at Denver and Cheyenne, equally with the agent of the Union Pacific quarry company?—

A. I could, if some person was managing it the same as I propose to offer to every man that has stone to sell, for the reason that we all can not furnish the amount demanded.

Q. Do you make that an open offer to quarrymen?—A. Yes, sir; to everybody on the Union Pacific system. It is open from now on, for all the stone they can get out, and we will not interfere with them. We will give them as reasonable facilities as to cars in proportion to our demands. I do not think it has ever been refused.

## WHY BRADLEY WAS REFERRED TO DENVER AGENT.

The CHAIRMAN. Mr. Bradley, did you wish to ask a question? A while ago I think you wanted to ask this witness about a letter with reference to the selling of stone in Cheyenne.

Mr. BRADLEY. The question I wanted to ask was this: Why was it that I was referred to Mr. Hamma instead of your answering the question I asked when I requested you to sell to me direct? Why was it I could not go to the quarry and buy stone at the same rate as Mr. Hamma, instead of buying it from Mr. Hamma and paying a commission at Cheyenne?

The WITNESS. I answered that. I answer that you could. If I wrote a letter of that kind you misunderstood me, or it was something I knew nothing about. You can buy of us the same as you can of Mr. Hamma, or the same as Mr. Hamma can of the quarry; and if Mr. Hamma makes anything he makes it on his transfer and his management there, but not from our giving him any better rate than we would give Mr. Bradley. We do not allow any greater rate charged for freight on our stone on the cars.

## THE PROFIT FOR HAULING AND TRANSFERRING.

Mr. Hamma, I understand, claims his profit is for the hauling and transferring, and we prefer to have a man that does all the stone business of a town to look after it, but not to the detriment of any contractor. If it is done I do not know it. That is the reason why I referred him to Mr. Hamma, because Mr. Hamma was compelled by his arrangements with me to give any outside contractor the same rate on board of the cars there. If not, I would furnish it myself. I



would not refuse Mr. Bradley, if he stated to me that Mr. Hamma would not let him have stone on board the cars in Cheyenne at the same figures that he paid for it himself. We never have done that to any agent anywhere. They may have done it without my knowledge.

Mr. BRADLEY. And yet, Mr. Lett, the fact remains the same, that I wrote to Mr. Kimball in Omaha and he referred me to you, and I wrote to you and that was the unsatisfactory reply, and I went to Mr. Gray, and it seemed to be the same business all the way through. I was not refused the car, but I lost by it. I could not get any direct information from any parties concerned with the company.

The WITNESS. That is something I do not know anything about. I never heard of it before. Mr. Gray would not have any power. All orders are referred to our headquarters in Denver. All prices are given there.

#### RAILROAD AGENTS FOR STONE.

We give the agency, or we look to some man who is the stone-man in a small town to work up the business. As every agent will inform you, the instructions to them are that as to any other person in that town wanting stone there is a printed list of prices from which they can order it from the quarry and pay the rate of freight, which is the same that that particular agent has. He is given not one cent of privilege over any other individual that wants to order it from the quarry. That is a fact, and I think there are a hundred letters out of that kind, where persons are referred to agents in the town, and "if you cannot buy refer to me and I will send you the stone direct."

#### THEY GET NO COMMISSION.

Q. What commission do the agents get?—A. They do not get any.

Q. How are they paid?—A. They are generally contractors. They are not my agents; they are simply persons buying the stone direct and paying for it cash on delivery.

Q. What did you pay your agents?—A. I never paid any.

Q. What did you pay your agents that you had out?—A. I never had but one employed, named Wallace. He was on the pay-roll on a salary, and he was in Kansas, where there was no competition, except in Fort Scott and Joliet.

Q. What salary did he get?—A. One hundred and twenty-five dollars a month. That is the only man we ever had out on the road to sell stock.

#### KIND OF STONE BOUGHT BY COMPANY.

By Commissioner ANDERSON:

Q. Do I understand you that you buy at the quarries all kinds of stone from any of these men who have it to sell?—A. No; I do not know that we do. I do not know that we ever had any application particularly. Occasionally we have for flagging. But we bought all the good flagging we could get a market for.

Q. Have you bought anything else?—A. Curbing; yes, sir. We get all we can.

Q. How about dimension stone?—A. Flagging would be dimension stone. I often would buy that if I had orders to fill; frequently would buy it.



Q. One of these men says that the company will buy when they have not produced a sufficiency themselves to fill the market demand; is that true?—A. I think that is true, for the reason that when we have been slack ourselves in the past we would keep our forces to work and take the stone off the ledges and bring it out and dump it along the side tracks at the bottom of the hill. We use the Denver yard for the dumping-yard.

#### SPECIAL RATE ON STONE.

Q. About these rates; do you say there is a special rate allowed by the freight department to this stone business in making up the statement of the freight earned by the stone transporters?—A. There is a special rate on all stone.

Q. What is the percentage off, or the rebate?

The WITNESS. Rebate to whom?

Commissioner ANDERSON. Off the tariff rate?

The WITNESS. I do not know what their regular tariff rate is. I never worked under it.

Q. If you do not know what the tariff rate is, how do you know there is a special rate?—A. Because I know it is given to me as a special. The general freight agent sends to me at the first of the year a special freight rate for nearly all the towns on the entire Union Pacific system.

Q. Is that the rate you have given us when you gave 3 cents to this point, 5 cents a hundred to Denver on rubble, and 10 cents on dimension?—A. Yes, sir.

#### OPEN TO EVERYBODY.

Q. Is that what you call a special rate?—A. Yes, sir; which is open to everybody, I am sure.

Q. When you say it is open to everybody do you mean to say it appears on their printed tariffs?—A. I do not know anything about their printed tariff. I am furnished with that through the freight department to my department.

Q. Does your department make it public in any way by putting up a list in your office, or by publishing it or giving notice of it in any way?—A. We do not in my office, because that does not come under my management. I get those rates for this purpose: A man will want a car of stone at Salina, Kans., or at Corona, Nebr., and he will ask this question: "What will you give me a certain kind of stone for, free on board of the cars here?" That special rate is fixed for this particular point. I put the price for the stone and add the freight, and then give them the price laid down on board the cars for this particular point. It is furnished to me for that purpose. It has never been changed at any time during the year. They give it to me, I think, soon after the first of the year, from the general freight department.

Q. So that the purchaser at these different points pays the cost of production with the freight added?—A. Yes, sir; when they ask it in that way. If not, I put the price of stone on, and then this freight follows.

#### THE REGULAR PUBLIC RATE.

By Commissioner LITTLER:

Q. Is there any business ever done under the regular public rate?—A. I do not believe there is.

Q. What sense is there in having a public rate if it is disregarded totally?—A. I do not know what the public rate is. I will answer that by taking it back.

Q. Is there a public rate?—A. I do not know.

Q. Is this special rate known to all these shippers?—A. I think so.

Q. Do you know that it is?—A. No; they never ask me.

Q. How do they ascertain the rate when they want to ship a car-load?—A. They frequently ask me, and I give it to them. There is never any reservation.

Q. Why do you not publish it?—A. I should think they would be glad to do it.

Commissioner ANDERSON. Mr. Bradley, do you all know it?

Mr. BRADLEY. At the present time there has been no use of asking it.

Commissioner ANDERSON. Do they know?

Mr. BRADLEY. I do not know.

The WITNESS. Ask him if they ever asked. I do not think he ever asked.

Commissioner ANDERSON. Is your contract with Mr. Hamma in writing?

The WITNESS. I never had a contract. He simply buys the stone he wants and orders it and pays for it.

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FORT COLLINS, COLO., *Saturday, July 16, 1887.*

JOHN J. BRADLEY, being further examined, testified as follows:

RESULT OF REFUSAL TO ALLOW SPECIAL RATE ON STONE.

By the CHAIRMAN:

Question. Do you want to state anything further?—Answer. I would like to say that my brother and I opened up some sandstone quarries at Natural Fort, 14 miles south of Cheyenne, and we asked for special rates, so that we could ship this stone to Cheyenne and to Denver, and they said there was no special rate on stone there; that we had to pay the local rate. And the result was we could haul it cheaper 14 miles on wagon than to ship it on cars to Denver. We could not ship it at all, because they wanted us to pay the local rates for that stone to Denver, and the result was we had to abandon that quarry.

By Commissioner LITTLER:

Q. When was that?—A. Two years ago.

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FORT COLLINS, COLO., *Saturday, July 16, 1887.*

GEORGE E. BRISTOL, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. A physician.

Q. How long have you been in Fort Collins?—A. Three years. This is the third year.

GENERAL

EXAMINATIONS.

Q. Do you know  
the facilities

as to  
—A. I

know of general complaints. I do not know that I could specify any particular complaints in regard to discriminations.

Q. What are the general complaints?—A. The general complaints are that we are obliged to pay higher rates than surrounding towns on our goods, and we are obliged to pay more freight from Fort Collins to Denver than Denver pays to Fort Collins; and that we are obliged to pay more freight from Fort Collins to Cheyenne than Cheyenne pays to Fort Collins. I believe the rates are now a little more than double from Fort Collins to Denver what they are from Denver to Fort Collins, and about the same from Fort Collins to Cheyenne as from Cheyenne to Fort Collins.

#### EXTORTIONATE FREIGHT ON COAL.

Q. What effect has that upon the community?—A. We do not like to pay more for our goods than they do elsewhere. That is all. We regard it as an unjust discrimination; that is, I have been informed that we had been obliged heretofore at times to pay \$2.25 a ton freight on coal here, and that they have carried coal by here from the same mine to Laporte, 5 miles beyond, at \$2 a ton; also at Windsor, 12 miles below here. I have been informed so. I could not tell that of my own knowledge. I have never shipped any coal.

#### FORT COLLINS "SIDE-TRACKED."

Q. Do you know of any other complaint?—A. One complaint is that they have side-tracked us. They have closed this branch of the road north of us here, and give no communication to the country lying north of here.

Q. What is the branch that you mean?—A. The main line.

Q. Will you name it?—A. The Colorado Central line. They have closed the line from here to Cheyenne. That has been abandoned for four or five years.

Q. How much better off were you when you had it?—A. I could not tell how much, but certainly we were very much better off than we are now. We had direct connection with Cheyenne, and of course the main travel from Cheyenne to Denver was through here. Now it is through Greeley. It does not come here at all. We are simply side-tracked.

Q. Do you know of any other complaints?—A. No, sir. I do not know of any special complaint that I can think of at present.

Q. Have you any other information that you can give the Commission?—A. I do not know that I have. No, sir.

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FORT COLLINS, COLO., *Saturday, July 16, 1887.*

A. H. PATTERSON, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Handling coal and farming machinery.

Q. Where is your place of business?—A. Fort Collins.

Q. How long have you been in business here?—A. About eight or nine years.

Q. Have you had business relations with the Union Pacific Railway?—A. Yes, sir.

## DISCRIMINATIONS ON SHIPMENTS OF TWINE.

**Q.** What has been the nature of your business?—**A.** On our goods handled I have got some freight bills here now. I short time ago, with another party in Loveland, I cannot think of the name now, we shipped a car of twine between us. The rate on this twine from Saint Louis to this point was \$1.25 a hundred; the rate on twine from Denver to here is 15 cents a hundred; that is the local rate. We shipped a car of twine to Longmont, and he was to take his half car out there and send the other half here to me. The twine from Longmont to here cost me 23 cents a hundred, when I could have hauled it from Denver for 15 cents a hundred. There are goods that cost us 20 cents a hundred from Denver to Fort Collins.

**Q.** Just name the articles?—**A.** That was on hay-rakes; there are two freight bills on road carts; they are sixteen days apart; one is 30 cents a hundred and the other is \$1 a hundred from Denver to Fort Collins. There is the same class of goods at 20 cents—farm wagons—20 cents, 30 cents, and \$1.

## CHARGES ON COAL.

By Commissioner LITTLER:

**Q.** What is the explanation of this discrimination?—**A.** I do not know.

**Q.** Are the balance of those bills the same?—**A.** No; some of these are for coal.

The CHAIRMAN. Just give us the coal bills.

The WITNESS. There is a car of Rock Springs coal, the bill of which I now produce, which is \$6.25 a ton here; they are retailing it in Denver at \$6.

## THE MARSHALL COAL MINE CASE.

By the CHAIRMAN:

**Q.** What is the difference in distance?—**A.** They haul further to Denver than to here; they retail it at Missouri for \$6.

The CHAIRMAN. You can call them off, so that we can get the coal bills on the record.

The WITNESS. When Mr. Langford owned the Marshall coal mine, he charged me \$2.25 a ton at the mine for coal; and the freight rate at that time, I think, was \$2. I wanted a reduction at the mine, so as to get it here cheaper, and he told me there was no use of that, because every dollar that he would reduce it at the mine they would add to it on freight. He said he would try 25 cents off. The next car of coal I got I paid the additional 25 cents in freight. It did not make any difference in the price of coal. They have got now \$2.25 a ton freight on coal from the Marshall mine to here, and from the Marshall mine to Greeley it is \$1.50 a ton, the same distance.

## COAL DELIVERED CHEAPER AT GREELEY.

The result is, the farmers living between the two localities all go to Greeley. I asked a gentleman in authority that was looking up freight matters—I tried to get a reduction in the price of freights here—why they delivered coal cheaper at Greeley than they did here, hauling it the same distance, or perhaps a little further to Greeley, from the same mine. "Well," he said, "there are some other mines down here on Little

Thompson, below there, where people from Greeley can go to the mine and back in a day with teams, and it takes you folks at Fort Collins two days." That was the only reason they gave for charging more; it was not because it cost any more to haul it, but because they could do so. They have now the rate on coal, and I suppose it would apply to the quarrying business too. They are delivering this coal for somewhere about the cost of mining, but they have added all that reduced price to the freight, increasing the amount of freight, so that it shuts off all other coal mines competing with the Union Pacific Company. Of course, I expect the Union Pacific to shut down on me in the coal business now for giving this evidence, but it will apply to the quarry as well as to the coal. The money is made out of the freight and not on the material.

#### SHIPPERS HAVE TO BRING UNION PACIFIC COAL.

Q. How many coal shippers are here in Fort Collins?—A. Four.

Q. Are they all equally competing in the buying and selling of coal?—A. There are four of us. I handle the Union Pacific coal and the others handle coal from the individual mines outside of the Union Pacific; but now they cannot handle outside coal. They have got to buy the Union Pacific coal or none at all. If there are four dealers in town, they do not all want to handle the same coal. If a man works up a trade and gets up a business on a particular coal, he does not want everybody else to handle the same coal.

Q. Do you know whether any of the coal shippers have a special preference over the others?—A. No, sir; I do not think so.

Q. Is not the effect, then, to compel them to buy the Union Pacific coal or go out of business?—A. Or go without.

#### OTHER DISCRIMINATIONS AGAINST FORT COLLINS.

Q. Have you any other information to give the Commission?—A. I think not. But they charge us now 50 cents a ton more for freight from the mine to here than to Loveland, 12 or 14 miles from here. But at one time there was a greater difference than that, because the Loveland people could go, like the Greeley people, to a mine that took us longer to go to. It is a fact that they shipped coal to Laporte, 4 or 5 miles west of here, a little town that uses one or two cars a year, for 25 cents less than they ship coal to here. They always ship coal to Windsor for 25 cents a ton less than they do to here, and haul it right through here.

#### FUTILITY OF COMPLAINTS.

Q. Have you made a complaint to the Union Pacific Company?—A. I have done a great deal of complaining to parties I thought were in authority.

Q. What was the answer?—A. That was the only answer that I got from a man who was a representative of the company, who was going to fix freight rates. They gave me a reduction here on this coal question, but I think they reduced here 50 cents a ton and added 50 cents to the Greeley coal. In a little while our tariff was put back 50 cents and it was reduced at Greeley 50 cents. I asked the reason, and he gave the reason that I stated awhile ago.

#### CENTRAL COLORADO USED TO BUY UP DENVER PACIFIC.

Q. Why do you say that because you give this evidence the Union Pacific people will shut down on you?—A. We do not know that they will; but we feel it.



**Q. Why?**—**A.** For this reason: When they came in here with this Greeley, Salt Lake and Pacific road several years ago, this Colorado Central was running. The Colorado Central Railroad was used for the sake of buying up that Denver Pacific road. At the time the Union Pacific got control of the Kansas Pacific, the business was going over the two roads—the most of it over the Denver Pacific. As soon as they got full control of the Kansas Pacific, they tried to buy the Denver Pacific, but did not buy it at the figure they wanted to, and they sent all the through travel over the Colorado Central to Cheyenne. The Denver Pacific was only doing a local business and could hardly make its expenses, so that its stock was reduced to almost nothing. As soon as they picked up the stock of the Denver Pacific Railroad they took the entire travel off of this railroad and advanced it to 100 cents on the dollar, and shut this part of the country off entirely.

#### BUILDING THE GREELEY, SALT LAKE AND PACIFIC.

Then they came in to build this Greeley, Salt Lake and Pacific. They had a right of way man here that drew up a contract, and they had their articles of incorporation filed, &c., that this road was going clear through, west, to Salt Lake. They got us to guarantee a right of way. Ten or fifteen of us signed the guaranty. They ran up to these stone quarries and stopped. Instead of condemning the right of way, and then collecting it from us, or giving us the opportunity to condemn the right of way, they went to work and bought it and charged us for the whole affair. They got some money out of it and sued us for the balance, and we compromised it a few days ago. They always looked to me as though they had a spite against us at the time on account of this lawsuit about the right of way. They ran the railroad up into the quarries here, and then stopped. They represented that it was a main line running to Salt Lake. As soon as they got to the quarries they abandoned it from here to Cheyenne, and a person now going to Cheyenne has to go to Denver and Greeley and then up.

**Q.** Do you know of any special rates or rebates given to any particular shipper at Fort Collins?—**A.** No, sir.

FORT COLLINS, COLO., *Saturday, July 16, 1887.*

WILLIAM N. BAILEY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

**Question.** Where do you conduct business?—**Answer.** At Fort Collins.

**Q.** What is your business?—**A.** Coal and grain implements.

**Q.** Have you heard the testimony of Mr. Patterson?—**A.** Yes, sir.

**Q.** Do you corroborate it in its details?—**A.** Yes, sir.

#### THE UNION PACIFIC TRYING TO "FREEZE OUT" COMPETING COAL DEALERS.

**Q.** How has the policy of the road affected your particular business?—**A.** The coal that I have handled, I think, for the last five years the Union Pacific Railroad Company has been trying to freeze out of the market entirely. Two years ago, when the Union Pacific road

first got control of this Marshall mine, there was an agent here at the time, and he was over to see me to try to prove it was to my interest to handle that coal, and when he found he could make no arrangements whatever, his closing words were, as near as I can recollect, it was only a matter of time when I would be forced to handle their coal or quit the business; and they have evidently worked that way ever since.

Q. What is the name of the agent?—A. I do not remember. His coal office is at the union depot at Denver.

Q. What coal were you handling?—A. The Potts.

#### INABILITY OF OUTSIDE COMPANIES TO MINE.

Q. Where is the mine?—A. A little west from Boulder, in the neighborhood of the Marshall. During the last year in the coal business the effort has been to raise the freights, about the 1st of June, 25 cents a hundred. The company has taken off of the price of their coal at the mine, so that it leaves the price as it formerly was, except the outside coals. They have the price down so that outside companies cannot afford to mine it and sell it at that price and make expenses.

Q. Have you anything else to add to the testimony of Mr. Patterson?—A. No, sir.

Q. Have you any other suggestions or information to give?—A. No, sir.

The Commission then adjourned, to meet upon the call of the Chair.

CHEYENNE, WYO., *Monday, July 18, 1887.*

The Commission met upon the call of the chair, all the Commissioners being present.

FRANCIS E. WARREN, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where do you reside?—Answer. At Cheyenne.

Q. How long have you resided there?—A. Over nineteen years.

Q. What has been your business?—A. I have been engaged in merchandising all the time and stock-raising most of the time.

Q. When were you governor of the Territory?—A. During the last eleven months of 1885 and the first ten months of 1886.

#### LINES OF RAILROAD COMING INTO CHEYENNE.

Q. How many railroads have you coming into Cheyenne?—A. We have at the present time the main line of the Union Pacific, which passes through from here to the West. We have the Denver Pacific (so called) from the south, and the Cheyenne Northern, now being built, running north.

Q. Are all the roads you have named under the control of the Union Pacific Railway?—A. They are.

By Commissioner ANDERSON:

Q. The Colorado Central branch is discontinued?—A. I was about to add that that branch has not had service on it or been kept in repair for a number of years.

## CHARACTER OF FACILITIES AFFORDED BY UNION PACIFIC

By the CHAIRMAN:

Q. What have been the facilities afforded by the Union Pacific Company to this community regarding freights and passengers?—A. They have been good of late years.

Q. Have there been any complaints as to facilities and accommodations?—A. There have been, of course, the usual complaints of one train a day each way, and but one through mail; but I think no complaints as to the train service or the manner of running or the accommodations furnished for freight or passengers.

## COMPLAINTS OF FREIGHT AND PASSENGER RATES.

Q. Have there been any complaints as to the freight rates or passenger rates between different points?—A. The freight rates and passenger rates were very frequently complained of, and quite generally in the early days of Cheyenne; but within the past four years, other than general complaints that are always made of railroads (that rates are high), I think there has been no other complaint.

Q. What were the complaints in former years?—A. That local business was not fostered. That the through business was favored, as against the local business.

Q. How long ago did those complaints exist?—A. From the opening up of the line to, perhaps I might say, within four or five years.

## NO GENERAL COMPLAINT OF SPECIAL RATES.

Q. Have there been any complaints as to special rates in favor of shippers in this community?

The WITNESS. Do I understand you to mean rates granted to one party and not granted to another?

The CHAIRMAN. Yes.

Commissioner ANDERSON. And that have been kept private?

A. I have heard no general complaint of that nature, and of my own knowledge, I know of no regular system of special rates.

## CHARACTER OF TRAFFIC AT CHEYENNE.

Q. What is the nature of the traffic that goes out and comes into Cheyenne?—A. The largest shipments going out are of cattle. When I say Cheyenne I mean parties shipping from here; cattle, sheep, and wool have been the principal things.

Q. What do you get in Cheyenne?—A. General merchandise.

Q. Have there been any complaints among the cattle shippers that some individual shippers enjoyed special rates, rebates, or preferential rates?—A. I do not know that I have heard any such thing that was worthy of notice within. I might say, eight or ten years since, that I think that cattle have been generally shipped on the same rate.

## THE UNION CATTLE COMPANY.

Q. Have you a cattle company here known as the Union Cattle Company?—A. Yes, sir.

Q. Who compose that company?—A. I am not certain as to the number. I think Mr. Thomas Sturgis is president.

Q. What proportion of the business of cattle shipments have they controlled?—A. They have been one among perhaps forty or fifty companies that might not average as large in size, but that would average nearly the same shipments. Then there have been probably one hundred or more shippers of cattle that would average from a tenth to a half as many. I am simply giving that as an estimate.

Q. Have there at any time been any complaints in the community that the Union Cattle Company enjoyed special rates by way of rebate as against the other shippers?—A. I have never heard such a complaint.

#### UNION PACIFIC PEOPLE NOT INTERESTED IN SHIPPING OR BUSINESS ENTERPRISES.

Q. Do you know whether any officer, agent, or employé of the Union Pacific Railway has been at any time connected, directly or indirectly, with any of the shipping interests or business interests of this community?—A. No, sir; I do not know of any. It is difficult, in regard to a stock company, of course, to know who own the stock, but I have no reason to believe that any such persons have been interested in the companies.

#### NO RECENT ATTEMPT TO INFLUENCE ELECTIONS.

Q. Do you know whether the Union Pacific Railway Company, through its officers, employes, or agents, participated in any way in influencing elections in the Territory?—A. I think that during late years they have neither participated in the elections, in influencing them, or as a general thing, allowed their employes to run for office or to influence others. In former times, perhaps ten or fifteen years ago, there may have been instances of that kind. I think there were.

Q. How did they take part in elections in early years?—A. In the same way, perhaps, that a private firm or corporation would; by the influence exerted at the polls, and before that time, through their employes.

Q. What was the purpose—to secure benefits as a corporation?—A. I think more to avoid legislation which might be against their interest than to influence legislation.

#### HOSTILE LEGISLATION.

Q. Has there been any hostile legislation, as against the Union Pacific Railway Company, enacted at any time?—A. I think there has been nothing of a hostile nature for some time. There has, of course, at times been such legislation introduced. But I think very little has been enacted.

Q. What was the character of the legislation introduced that was regarded as hostile to the railroad interests?—A. Well, there have been at times legislation that would require excessive payments in case of damages to persons employed in the handling either of the road or its coal mines.

#### PAST PARTICIPATION.

Q. Do you know of any officer, employé, or agent of the Union Pacific Railway Company participating in influencing legislation—do you know them by name?

The WITNESS. Are you speaking now of the present time?

The CHAIRMAN. Of the past.

A. I should have to refresh my memory on that, because it would have been the local agents and operatives who were here, and they have all been changed. We have no one here now that was here at the time I speak of.

#### THE UNION PACIFIC IN WYOMING.

Q. Have you any other information that you can give to the Commission?—A. In finishing this subject I would say that during the legislature that last convened here there has been a total absence of any seeming influence exerted on the legislature by any one representing the railroad.

I wish to suggest to the Commission, as I understand one of the subjects for its consideration to be branch lines of the Union Pacific, that one of them is very peculiarly situated. In this Territory, some 260 odd miles by 300 and odd, we have the Union Pacific entering at the southeastern corner and passing through the southern portion of the Territory and out near the southwestern corner. [Referring to a map of the Territory of Wyoming.] Observe the streams, the way they pass, and the mountains making these boundaries. During the early part of the life of the Territory and up to a few years ago we enjoyed the trade on the southern portion of the Territory, along the line of the Union Pacific—the trade of about the entire Territory. Notice these wagon roads coming down from through the Territory. During the last two years of railroad building other lines are approaching and are very rapidly absorbing the business of the southern part of the Territory, and particularly Cheyenne.

#### THE NORTH WESTERN RAILROAD.

We have on the eastern side of the Territory, for instance, the Northwestern Railroad. It entered the Territory about 100 miles north of Cheyenne and passed along old Fort Fetterman, and from there along the north branch of the Platte and old Fort Casper. They are taking freight from old Fort Fetterman, but are laying rails to Casper, and will be ready to ship cattle from there this year. They are taking a very large proportion of business that way that formerly came to the road here, and which would come here now if the present Cheyenne Northern was extended and if other branches were built. Our interests, of course, are not specially with the Union Pacific. Our interests are with the city, and the city is located on the Union Pacific.

#### BRANCH LINES ADVOCATED.

It seems to us that there should be feeders thrown out from here to various points in the Territory in order to develop the Territory and maintain the business of the road. On the line of the Northwestern road the shipments of cattle last year amounted to not less than \$300,000 in freights, that formerly went from points near Cheyenne. The supplies for all the ranches are coming that way now from the east, rather than from here. Nearly all of these interests are represented in Cheyenne. They are represented by parties who, perhaps, own the majority of a herd, or if it is a private herd, it is owned by parties living along the southern line, who will be obliged to ship the Northwestern, because of the fact that the Union Pacific has branch lines in that direction.



## THE BURLINGTON AND MISSOURI.

The Burlington and Missouri is now approaching the Territory at a point about 65 miles south of Cheyenne, with the intention (according to their plat) of passing westward between the Northwestern and Cheyenne. They are coming into the Territory where the Territorial line crosses the Platte River, passing west to Fort Laramie, from there some 75 miles south of Fort Fetterman, and from there westward to the north of the Sweetwater River.

## ITS DISTANCE FROM UNION PACIFIC.

By Commissioner LITTLE :

Q. How far is that north of Cheyenne?—A. About 80 to 110 miles north of Cheyenne, and about the same average distance from the Union Pacific. At some points it will be not more than 40 or 50 miles from the Union Pacific.

By Commissioner ANDERSON :

Q. And how far west from Cheyenne?—A. It will come north of Cheyenne 80 to 100 miles, and of course pass on westward, not affecting Cheyenne west, but affecting the points of the Union Pacific that I spoke of.

## ADVANTAGE OF CONSTRUCTION OF BRANCH LINES TO UNION PACIFIC.

By Commissioner LITTLE :

Q. Have you made all the statements you desire to make?—A. I wish to say that business that has been enjoyed by the Union Pacific at Cheyenne, Laramie, and Rock Creek is already largely taken by these lines built north. Very nearly all the business could be brought to the Union Pacific, owing to the ownership being along the line, if branches could be thrown out from the Union Pacific connecting with it. What is true of Cheyenne and the towns connected with it is true of the towns along the road in Wyoming Territory.

Q. You have spoken of the policy of building branch lines. I would like you to describe the character of the country west of Cheyenne, and locate the points from which branch lines should, in your opinion, be thrown out in order to control the trade.

The WITNESS. Commencing at Cheyenne?  
Commissioner LITTLE. Yes.

## WHERE BRANCHES SHOULD BE BUILT.

The WITNESS. Commencing at Cheyenne and following up the portion of the Cheyenne Northern road already built, it should be extended across the Platte River, branching there with one branch running northwest, extending up into Johnson County, which is in a good agricultural country as well as a live-stock country. There should be one branch of the Cheyenne Northern from the Platte River, running north of northeast into Crook County, into a mineral, agricultural, and stock country.

## A MINING AND TIMBER COUNTRY.

There should be branches from Laramie City both north and south; south into a mining and timber country, north into an agricultural and live-stock country.

By Commissioner ANDERSON :

Q. How far is Laramie City from Cheyenne ?—A. About 56 miles ; on the other side of the range.

Q. What is the population ?—A. Something like three or four thousand ; four thousand probably. There should be branches also from the Platte River near Rollins or Fort Steele running north and south. These branches would touch and reach a mining country, especially the northern branch, which would reach a country that is largely productive in oil, soda, iron, and other minerals. I might also say that the Cheyenne Northern passes through an oil country in southeastern Johnson and Cook Counties. The branches, if constructed to meet the Union Pacific, would have the advantage of the influence of those who live along the Union Pacific and who largely own these different interests in the north. In the absence of other roads the entire Territory was tributary to Cheyenne, and the men having capital have largely been inhabitants of towns along the Union Pacific.

#### RESOURCES OF COUNTRY ALONG PROPOSED ROUTES.

By Commissioner LITTLER :

Q. What is there along these proposed routes to support these railroads ? Be specific, and give particularly a description of the country and its resources and the elements it contains that are requisite to the support of a railroad.

The WITNESS. Do you wish me to take them up in detail ?

Commissioner LITTLER. Yes.

A. Crook County and the northern portion of Laramie and Albany have well-watered lands ; are at present quite largely filled with cattle, horses, and sheep ; and there is a fast growing agricultural element.

#### WYOMING DEPENDENT ON IRRIGATION.

Q. In that connection state whether the country is dependent on irrigation or not, or whether there is a sufficient rain-fall.—A. I will state generally that Wyoming depends on irrigation. But all of Eastern Wyoming, and especially Southeastern, is filled with "benches" along streams, capable of producing without irrigation. This is specially true of Crook County.

Q. What do you mean by "benches" ?—A. Where a stream passes along, the immediate land on each side would be flat, and perhaps in some places a sort of marsh. It would rise a few feet from there, and then descend in a gentle slope, rising, perhaps, slightly towards the stream. I call those benches.

#### PETROLEUM, GOLD, SILVER, AND IRON.

Commissioner LITTLER. Mention the other resources, if any.

The WITNESS. There are very extensive deposits of petroleum oil, of soda, iron, and other minerals.

Q. Are gold and silver among the minerals ?—A. Gold and silver are found along the main chain from north to south in the Territory.

Q. Are the mines developed ?—A. The mines are largely undeveloped, owing to the lack of railroad facilities.

Q. Suppose these branches are not built by the Union Pacific, I suppose they will be built by the Northwestern or some other road, will they not ?—A. I presume they will ; they are being built by the North western now.

## EFFECT OF FAILURE OF UNION PACIFIC TO BUILD BRANCHES.

Q. Would they not conserve the interest of the people and the Territory if built by some one else?—A. They would not conserve the interest of the people living along the southern portion of the Territory and along the line of the Union Pacific.

Q. Have you estimated the number of miles of branch road which you consider necessary to develop the Union Pacific system and the Territory?—A. I have not, because I believe, as a railroad proposition, those branch lines should be developed according to the business that passes along them.

Q. What effect will the failure to build these branches have upon the Union Pacific Railway?—A. The same effect that it would have to take the limbs off a tree.

## CHARACTER OF UNION PACIFIC SECTION OF WYOMING.

Q. What is the character of the country in Wyoming through which the Union Pacific Railroad runs, particularly with reference to its capacity for the production of traffic?—A. Wyoming is, generally speaking, a barren country; especially a barren-looking country from the Union Pacific into the western part of the Territory. It seems to have been built originally through as barren a portion, perhaps, as there is in the Territory, if not the most barren.

## UNION PACIFIC SHOULD BE ALLOWED TO BUILD BRANCHES.

By the CHAIRMAN:

Q. Why should the United States Government contribute to the construction of these branch lines?—A. I am not able to state what should be the connection between the United States and the Union Pacific Railway Company; but I say, as a business proposition, that the Union Pacific Railway Company, in order to maintain its business and serve this country, should have the same facilities as other roads, or be allowed by the United States to protect its trunk by throwing out branches.

## RELATION OF BRANCH TO MAIN LINE.

Q. I call your attention to the fact that since 1878 the Union Pacific Railway Company has built about 3,000 miles of branch lines; that it has declared dividends from 1875 to 1884; that since 1884 it has stopped paying dividends. If your proposition be true, is it a fact that the branch lines, under the present system of the road, have contributed more to the main line than the main line has to the branch lines?

The WITNESS. Do I understand you that the falling off has been of late years on the Union Pacific road?

The CHAIRMAN. Yes; from 1884 to date.

## FORMER AND PRESENT CONDITION OF ROAD.

The WITNESS. I think if you gentlemen had passed over the Union Pacific in 1884 and would now compare the condition of the road with its then condition, you would consider the money very much better invested in the road than in paying dividends. During the time that the Union Pacific was paying dividends, it seemed to me, as an observer, that the road was not being kept up with the country; was not being

developed; but that at that time a heavy through business paid the road. In the last few years the Union Pacific seems to have been, I might say, almost renewed through Wyoming Territory. If you notice the stations as you pass through, at Cheyenne and other points, and if you notice the condition of the track, the rails and the ballast and bridges, and if you passed over it in the old times, you will notice a very great difference.

#### BRANCH LINES HAVE NOT DEPLETED THE UNION PACIFIC.

I do not think that the branch lines have depleted the Union Pacific road in any measure. The Union Pacific Railway is over 400 miles long in this Territory. Unless there is a very heavy through business, if there are no branches out, north and south, I do not see how it can pay the expenses of running the railroad, because there is so little that is immediately on the road and so much that lies back from the road that is naturally tributary to it. In speaking of these matters I am speaking of the interests of Cheyenne particularly, but also of Southern Wyoming, that depends on the Union Pacific for the development of the country.

#### CONSTRUCTIVE MILEAGE.

Q. Have you considered the question of constructive mileage with reference to the branch lines?—A. No, sir.

Q. Have you considered the question of allowing to a branch line a mile and a half of straight mileage as against a mile on the main line, in the adjustment of the balances resulting from business?

The WITNESS. In other words, the road receives more for handling its freight on the branch lines than on the main line?

Commissioner ANDERSON. The branch lines receive more.

The WITNESS. Well, I think they should receive more. The business originates there. The business on the branch lines must necessarily be less than the total business of the main line, and I should consider it should receive a larger mileage allowance for the business handled.

#### EFFECT ON MAIN LINE.

Q. What effect would it have on the receipts of the main line?—A. It would very largely increase the mileage, and would necessarily increase the receipts.

Q. Would it not have the effect of diverting the receipts from the main line to the branch lines, to the extent of one and a half miles on the branch lines to one mile over the main line?—A. Unless the proportion was greater than that, I think not.

#### BRANCH LINE NECESSARY TO REACH RESOURCES OF THE TERRITORY.

By Commissioner LITTLE:

Q. Your theory, as I understand, is that where thrown out into a rich region which connects the main line by a branch line, the more business to it and receiving a long haul of freight but for the construction of the branch line.

Q. In other words, that unless it connects the main line the resources of this Territory reach the main line?—A. Emphatically.



connection, that the first proposition is that there should be some manner in which the Union Pacific could construct its branch lines as cheaply as its competitors. There should be the same facilities for that, or the business will go to those who can build the cheapest and maintain a road the cheapest.

#### COST OF BUILDING RAILROADS IN WYOMING.

Q. You may state now what it costs to build and equip a railroad in Wyoming Territory.—A. I am not well enough versed in the cost of railroad materials to give a definite estimate.

Q. Have you a sufficient idea of the topography of the country to state whether it will cost more or less than on the plains here?—A. It must cost very much more in a mountainous country than on the plains.

Q. Would these projected lines, of which you have spoken, run through a mountainous country, requiring large expense, such as bridges and trestles, or would the country be such as would not need those?—A. Very many of them would be built in a country easy to construct in. There may be points on each line passing through a rugged country.

#### PLAN OF SETTLEMENT.

Q. I was about to ask you whether you have considered the relations between the Government and this property, with the view of determining what legislation, if any, should be had in relation to the indebtedness of the Union Pacific Railway Company?—A. The only way in which I could treat that would be the same way that I would treat a debtor, if I were a creditor, or treat a creditor, if I were a debtor. The Government being a large creditor of this road, I believe it should secure itself upon all the property that it can obtain; and it should arrange the payments in such a way that the debtor can pay without having the property pass as a pledge to the creditor. I believe the payments should be commenced as soon as possible, and be as large as the property is capable of paying.

#### EFFECT OF EXTENDING TIME OF PAYMENT.

Q. Would you or not favor an extension of time for the payment of the present indebtedness of the Union Pacific Railway Company to the Government if it appears, on all the facts, that it is unable to pay the debt at maturity?—A. I certainly should.

Q. What effect would such an extension have on the substantial interests of this northwestern country through which the road runs, and how would it affect the material interests of the people?—A. If liberty is given the corporation to act exactly as other corporations do—to construct lines wherever there is business that would either pay the branch or main line—or even if there is a loss to the branch line, that would pay the main system, it would be a great benefit to the Territory, and especially to the road, in developing the country along its line, and passing business along this way rather than passing it over the "divide" by another route.

#### EFFECT OF COMPETING LINES.

Q. Do you know whether the Burlington road, the Rock Island road, and the Atchison and Santa Fé, or any other of the great trunk lines, are threatening to build, or are actually building into Wyoming Territory?—A. The Burlington and Missouri have notified shippers at Fort



Laramie, a trifle north of us, that they will deliver freight in December, and they are now constructing their road to that point. They have filed their papers in the Territory and mapped out a line nearly, if not entirely, north of us.

Q. Assuming that all these great trunk lines should build into what may be properly termed the Union Pacific territory in Wyoming, and thereby draw to their lines the traffic which legitimately belongs to the Union Pacific, what effect would it have on the Union Pacific Railway?—A. My judgment is that it would leave the portion of the Union Pacific Railway through Wyoming almost bare of local business.

#### NECESSITY FOR CONSTRUCTION OF BRANCH LINES BY UNION PACIFIC.

Q. Is it your opinion that by the construction of those proposed branch lines the main line through Wyoming could increase its earning capacity, and thereby the entire system be benefited?—A. I believe, first, that it would improve the business and add to it. I believe, second, that the business of the Union Pacific will be very much less than at present unless they are constructed.

Q. I asked you whether the Union Pacific Railway, as now constructed through Wyoming, will have more or will have less business in case the branch lines are constructed?—A. I do not see how the road can be maintained unless there is a much larger through business.

Q. Do you mean to say that the earning capacity of the main line through Wyoming will depend on the through traffic which it will receive almost exclusively?—A. That will be so, unless these branch lines are built so as to have the country that is tributary to the Union Pacific Railway retained for it. The business will otherwise go over the other road.

#### TO KEEP UP WITH DEVELOPMENT OF THE COUNTRY.

By Commissioner ANDERSON :

Q. Have you completed the enumeration of the branch lines that you consider necessary?—A. I have only given those I am particularly familiar with. I wish to say that changes are taking place in the country from time to time that cannot be enumerated now. But I speak of the necessity of keeping up with the development of the country by the building of branch lines.

#### PRODUCTS OF NORTHERN WYOMING.

By Commissioner LITTLE :

Q. How far is it from here to the Northern Pacific?—A. The nearest point is about 300 miles.

Q. It is in Montana, is it not?—A. Yes, sir.

Q. What is the character of the country in the extreme northern portion of Wyoming, and what is it adapted to?—A. In the extreme northern portion there is the Yellowstone Park. Immediately east of the mountainous country that would be useful only for minerals. West of there is the Wind River and Big Horn country, where, the raising of wheat and oats.

A. I think they are raising corn there; but it is raising corn as wheat and oats. East of the river we have a very rich agricultural country, in the Wind River and its tributaries, and a very ex-

cellent cattle country immediately south of there. The same may be said of the territory eastward, through Crook County.

#### WHERE ITS TRAFFIC GOES.

Q. Does the Northern Pacific reach the northern portion of the Territory with branches?—A. I think there are none that enter the Territory.

Q. How does the traffic that is there go?—A. There is a little pocket in the north of Johnson County by which traffic comes down the river to Miles City, on the Northern Pacific, but only a small portion. The business of Buffalo is largely controlled by men living on the Union Pacific.

Q. Does it come down the river, or is it hauled?—A. It is now hauled to the Northwestern road, but would, more than nine-tenths of it, in my judgment, come over the Union Pacific if the Cheyenne Northern were extended across the Northwestern to reach it. The business connections there are all with Cheyenne. Buffalo was started by people from here. The interests of the business begin in Cheyenne and reach as far north as the northern part of the Territory; and it is the same with the towns on the Northern Pacific. The new towns have been started mainly by men who have gone from Buffalo and who wish to keep up connections with the Union Pacific.

#### THE CHEYENNE NORTHERN.

Q. How far does the Cheyenne Northern now extend?—A. Freight is taken 75 miles, I believe.

Q. They are actually constructing it now, I believe?—A. Yes.

Q. To reach these points you suggest would require how many miles more of construction?—A. There should be 300 or 400 miles more constructed. But with 100 miles of construction the business could be very largely controlled at present. Understand, that the branches could be (as a business proposition) extended from time to time as the business developed. At the present time, if the Cheyenne Northern were 100 miles farther north, with these cattle yards owned by people living on the Union Pacific, nearly all that business could pass through here on the way East.

Q. Where are your own personal interests?—A. In Southern Wyoming and Northern Colorado.

Q. You have shipped exclusively over the Union Pacific then?—A. Yes.

#### RATES ON CATTLE SHIPMENTS.

Q. What are the rates on cattle shipments?—A. I think they are \$115 a car from here to Chicago at the present time.

Q. How long have they been that much?—A. I shipped no cattle last season. In shipping sheep, I think I paid \$118 through.

Q. Have you yourself ever been allowed a rebate or special rate?—A. I have never been allowed a rebate or special rate unless on some special occasion, to cover some special short-coming.

#### "DOUBLE-DECKERS."

For instance, I engaged last year double-decked cars for sheep. They were not obtainable on the day I shipped. Ordinary cars were shipped on the same day and at the same price, and rebates were made so as to make up the difference—as if I had "double-deckers" originally.

**t do you mean by the difference?—A.** A car for the ship-  
**deep** has two stories and holds twice as many as what we call  
**decker.”** During the time that I had to ship they were not  
**pply, at this point, the double-deck cars.**

## A REBATE ON WOOL.

in adjusting the account they fixed the price just as if you a-deckers?—A. Yes, sir. I have had, in one instance, a rebate under this condition of affairs. My wool was being taken out west of Cheyenne, and would be taken off at perhaps half a percent points, mainly east, where the rates were less than at . The proposition was made that I could pull it off at one place Cheyenne, and that the rate would be equalized. In that case necessary to bill out from Cheyenne. mean various points east as well as west of Cheyenne?—A.

**Commissioner ANDERSON :**

took the average rate?—A. I took the average rate.  
how far was the most easterly point?—A. Thirty miles.

### TARIFFS ON POINTS WEST AND EAST OF CHEYENNE.

Is there any difference in the tariff on wool from points west and east of Cheyenne and Cheyenne itself?—A. I have not in-  
to the last year.

**Commissioner LITTLE:**

Is this country fatten cattle ready for beef?—A. Yes, sir. I received any special rates or rebates unless to cover some of the kind I have referred to.

Commissioner ANDERSON :

are they been very numerous?—A. No.

**PUBLIC SENTIMENT ON CONSTRUCTION OF BRANCH LINES.**

the subject we have been discussing—the branches and their development of Southern Wyoming—a matter of frequent interest to persons interested in these matters in this country?—who have occasion to have their attention called to it as I have had to in my business cannot find, I think, to see the

views which you have expressed; the views of  
concerned heretofore—A. A. M. C. B. S.  
interior of the same, and the outside,  
and the interior of the same.

...of the view  
for some

on the officers here to express the necessity of extending the Cheyenne Northern.

TO WHAT EXTENT GOVERNMENT SHOULD ASSIST UNION PACIFIC.

Q. Why should the United States Government assist the Union Pacific Railway Company in building branch lines any more than any other companies that you have named?—A. My judgment is that the United States should not assist the Union Pacific Railway Company in any way differently from what it should assist any other road. I believe the relations should be those of debtor and creditor, and that the Government should only assist the Union Pacific as far as it will assist itself. I believe the Union Pacific should be held to a strict accountability to the Government, but that it should be put in a position where it can assist the Government and meet its obligations.

TEMPORARY DECREASE OF PAYMENTS TO THE GOVERNMENT.

Q. Is not the effect of the construction of branch lines to divert the funds of the Union Pacific Company and decrease the amount of the payments to the United States Government?—A. Eventually it would increase the amount of those payments, but it would decrease it perhaps at the time of this building.

\$23,000,000 IN DIVIDEND.

Q. Are you of that opinion, notwithstanding the fact that the Union Pacific Company, from 1875 to 1884, declared dividends to stockholders of more than \$23,000,000?—A. During that period the railroad had little or no opposition or competition in this territory, and was able to make a great deal of money that it cannot make now. Then, too, I believe the road was neglected in a large measure. There was not money enough expended on the road to keep it good, and this money was expended for dividends when a large portion of it should have been kept in the road.

COMPETITION.

My observation, for the past few years, has been that the road has lately had to contend with a fully equipped road, starting, say, in 1884 or thereabouts, and with competition which has approached from both north and south—more particularly east of here, but even throughout the Territory. Points like Cheyenne and Pine Bluffs, east of here, were shipping hundreds and thousands of cars of stock which are now taken by the Northwestern east of here, and they were able to pay dividends better than they can now. The question now is whether the Union Pacific Company can pay anything more than its running expenses; and, if so, whether it should not have lines to recover this business and maintain its road and make it a business success. I have no interest in the Union Pacific or in the Government, other than being a citizen of the United States and living in a community through which the Union Pacific road runs. The relations of the road and the Government should be those of business parties.

Q. What effect would an extension have on the business of the community, as to freight rates and passenger rates?—A. I do not know that it would materially affect them. But if it placed the Union Pacific in possession of the necessary funds to develop the country it would, of course, in that, increase the business.

## THE "EVENERS' ASSOCIATION."

Q. Have you ever heard of the "Eveners' Association"?—A. If so have forgotten it now.

Q. Do you recall any such title?—A. I cannot remember it.

Q. Do you recollect it in connection with the cattle business?—A. O, sir.

Q. Did you ever hear of an association known as the "Eveners' Association," composed of a number of people who combined for the purpose of making contracts for freight rates as to cattle?—A. I have heard of no such association. I have known of committees having been appointed here and sent east to obtain rates for the shipping of cattle, because it is an industry that freights cut a large figure in.

Q. Then the Eveners' Association never cut a figure in Wyoming?—A. I think not.

Q. Have you any other suggestion or information to give the Commission?—A. Nothing, I believe, unless you have some questions to ask.

CHEYENNE, WYO., *Monday, July 18, 1887.*

C. W. RINER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am now in the real estate and insurance business.

Q. What public position do you now hold?—A. I am mayor of the city.

Q. How long have you been mayor?—A. I was elected last January.

Q. How long have you resided in Cheyenne?—A. Permanently fifteen years.

## COMPLAINTS OF HIGH RATES.

Q. What have been the facilities and accommodations afforded to the community by the Union Pacific Railway Company?—A. That of simply transporting freights in and out of the city.

Q. Have there been any complaints in the community as to the facilities and accommodations afforded by the company?—A. Yes; that of freights being sometimes high here when there was no competition.

Q. What was the character of the complaints as to high rates?—A. That they made high prices in the city.

Q. How high were they, and between what points?—A. From Omaha here, and from here to intermediate points.

## RATES REDUCED TO SOME EXTENT.

Q. Have the rates been reduced?—A. To some extent; yes, sir.

Q. What is the difference now between those high rates and the present rates?—A. There is not a great deal of difference. Our rate now, I believe, has been made to correspond with the Denver rates, and the freight rate is not very different from what it was during the time I was in the grocery business here, seven years ago.

By Commissioner ANDERSON:

Q. The rate from Omaha here?—



## RUMORS OF PREFERENCE TO SPECIAL SHIPPERS.

By the CHAIRMAN:

Q. Have you any knowledge of complaints as to preference being given to special shippers?—A. I have never heard a great deal of that; no, sir.

Q. Has there been any of it?—A. Occasionally; simply in the way of rumor. I have heard it said sometimes that they thought Governor Warren got rebates. On my inquiring of Governor Warren, he always assured me that he did not.

Q. What other shippers?—A. I have known of no particular cases where, on investigation, it has been brought to light that there have been any rebates.

## DISCRIMINATIONS.

Q. Has there been any complaint in the community with reference to discriminations against Cheyenne or any particular part of the community around Cheyenne?—A. I think, since the interstate commerce bill went into effect, there was found to be some discrimination between this point and some southern point; for instance, Greeley and Fort Collins, as between Denver and this neighborhood. The matter was brought to the attention of the railroad authorities, and they gave immediately the same rates to those points that they gave from Denver to those points.

Q. This was since April 1?—A. Yes.

## NECESSITY OF CONSTRUCTING BRANCH LINES.

Q. You have heard the testimony of Governor Warren. Have you any additional facts to give to the Commission?—A. I think the governor has very nearly covered the ground, and I think has given about the sentiment of the business community here, as a rule. The matter was talked up pretty thoroughly in our board of trade meeting, and that seems to be the general impression in the business community, that unless the Union Pacific is enabled to build branch lines and hold the business, or get back the business which has been diverted largely from the line, it will not only hurt the interests of the Union Pacific Railway, but those of a good part of their territory, and particularly Cheyenne, because heretofore it has been largely tributary to Cheyenne.

Q. Have you ever heard of the Eveners' Association?—A. No, sir.

By Commissioner LITTLE:

Q. I understand you to adopt the views expressed by Governor Warren, generally?—A. Yes, sir; I do.

Q. And you cannot add anything material to what he said?—A. No; I think he has covered the ground very largely, and I do not see that there is anything else.

CHEYENNE, WYO., *Monday, July 18, 1887.*

E. A. SLACK, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Publisher of a daily and weekly paper.

- Q. What is the name of the paper?—A. The Sun.  
 Q. Your place of business is where?—A. In Cheyenne.  
 Q. How long have you been here in business?—A. In Cheyenne eleven years, and in the Territory nineteen years.  
 Q. How long have you been publishing a newspaper?—A. Eighteen years.

## COMPLAINTS AS TO FACILITIES AND ACCOMMODATIONS.

Q. Have you any knowledge of complaints existing as to the facilities and accommodations afforded to the community by the Union Pacific Railway Company?—A. Yes, sir.

Q. What are the nature and character of the complaints?—A. There have been a great many complaints made prior to the past year, I should say, principally that the policy of the road was not sufficiently enterprising and was repressive rather than aiding in the development of the industries of the Territory—the mineral interests and others.

## DESIRABILITY OF CERTAIN SPECIAL RATES.

Q. What were the rates that were charged?—A. I do not know just what the rates were, but they were probably just the regular tariffs. I do not know that they are any lower to-day, but it was the opinion that the company ought to have given special rates to certain parties that were opening certain mineral industries. For instance, there is iron ore and soda and coal in the Territory, to which it is believed the company ought to have given special rates to develop those industries, and that in the end it would have paid the company to do so.

## PASSENGER RATES,

Q. What other complaints do you refer to?—A. The passenger rates in the Territory were high. I think, though, that they have been twice reduced in the last year and a half, so that I hear nothing about that now.

Q. Was any action taken by the board of trade with reference to these complaints at any time?—A. The board of trade passed a resolution in regard to the rates to Fort Collins and some other points near Cheyenne, as being higher than they were from Denver to those points, asking the railroad company to give attention to it. They afterwards reduced the rates.

Q. Were there complaints that the company allowed special rates to certain shippers, as against the open, published rate?—A. No, sir.

Q. Have you ever had any complaints as to a rate for freight or passengers (especially freight) differing from the open, published tariff?—A. No, sir.

Q. Of what other complaints have you any knowledge?—A. I do not recall any other.

## SATISFACTORY RATES ON CATTLE.

Q. Have the cattle shippers had satisfactory rates?—A. I think they are pretty well satisfied.

Q. How was it before they were satisfied?—A. I think the complaint about the rate beyond Omaha.

Q. Have all the cattle shippers, as far as you know, same rates?—A. I think so, as far as I know.

Q. Do you know of any other complaints?—A. No, other.

Q. Have you heard the views expressed by Governor Warren concerning these matters?—A. Yes.

Q. Do you corroborate his views?—A. I do; I agree with him in the main.

#### EFFECT OF SPECIAL RATES—THE DEVELOPMENT OF INDUSTRIES.

Q. Have you any detailed information to give beyond what he gave?—A. In addition to what he said, I think the company should have the right, where they wish to encourage the development of any mineral resources or industries, to make a rate that would favor their development.

Q. Have they not that right?—A. Well, I do not know whether, under the law, they have or not. They did not do it when they had the right. I do not know whether they have the right now or not.

Q. What effect would a special rate on one industry and to one shipper have on the other persons in that industry?—A. It would be a damage to those who did not have it.

Q. Then, I understand you that the special rates should be allowed to all?—A. Yes; on latent industries, to develop the property.

Q. I understand you that it should not be a special, private rate, but that the open, published tariff should be such as to develop the industries?—A. Certainly.

#### THE ROCK SPRINGS COAL MINES.

By Commissioner ANDERSON :

Q. Do you know anything in relation to the coal mines at Rock Springs? They are managed by the Union Pacific Company, itself, are they not?—A. Through Beckwith, Quinn & Co.

Q. Have there been any complaints made with regard to the management of the coal interests there?—A. Yes, sir.

Q. What are they?—A. There have been complaints made, for one thing, that they employed Chinamen.

Q. Is there any complaint made as to the price they charge for coal at various stations on the road, comparing distant stations with near stations—for instance, comparing Cheyenne with Omaha?—A. There has. The complaint is made that they charge \$6.25 a ton for Rock Springs coal delivered at the place where it is used—at the house or business place where it is used, and only \$6 at Omaha. Now, whether it is true that they deliver it at the house, in Omaha, for \$6 I cannot say.

Q. Still, the price is, substantially, the same, and the distance is—what?—A. It is 516 miles farther to Omaha.

Q. How is it at other points between here and Omaha?—A. The rate, I think, is the same to Laramie City that it is here; and it is about 56 miles west of here.

#### COMPETITION FROM COLORADO.

Q. Do any of these points on the line of the Union Pacific road receive any coal except from Rock Springs? Is there any competition?—A. Cheyenne receives a large amount of coal from Colorado, of which the company only has the freight.

Q. And is it that competition which determines the price—the competition of the Colorado coal with the Rock Springs coal?—A. I think not. It is an inferior quality of coal and is not sold sufficiently lower

to reduce the price of the Rock Springs coal. The price of the Rock Springs coal was recently reduced 25 cents per ton. It has been \$6.50 per ton for the last ten or twelve years.

Q. Do you know what the cost of production of the coal, at the mines, is?—A. I have heard, but I cannot say.

Q. Have you been there?—A. Yes, sir.

#### CHARACTER OF ROCK SPRINGS COAL.

Q. Describe the character of the coal and how it lies with reference to the surface, and how near to the track of the road.

Commissioner LITTLER. And how thick the vein.

The WITNESS. I have never examined the Union Pacific coal vein. I never went into the mine.

Q. Who is there in this city who is familiar with that coal mine?—A. There is no one in this city. Mr. Whaley, living at Carbon, being superintendent of the company's mines at both Carbon and Rock Springs, could give you all the information, I guess, that you desire.

Q. Mention some places where they sell that coal.—A. At every station, I guess. For instance, Rollins.

Q. How far is Rollins from Rock Springs?—A. About 125 miles east of Rock Springs.

Q. And what do they charge for coal at Rollins?—A. I do not know, sir.

Q. Do you know what the annual output is?—A. I cannot say.

#### COMPLAINTS ABOUT RATES ON COAL.

By the CHAIRMAN :

Q. Have you any grain elevators here?—A. No, sir.

Q. How many coal shippers have you here?—A. Four or five.

Q. Have there been any complaints by them as to rates?—A. Not lately.

Q. When were there any complaints?—A. It is over a year ago.

Q. What was the complaint?—A. They complained of the freight charge for coal from Colorado.

Q. Did all the coal shippers complain?—A. I cannot say that.

#### UNION PACIFIC HAS MONOPOLY OF ROCK SPRINGS COAL.

Q. Was there any particular coal shipper who had a better rate than others?—A. I think not.

Q. Was there always competition among the coal shippers here?—A. Among those who shipped Colorado coal; but I understand that the Union Pacific Railway Company has a monopoly of the Rock Springs coal and handles it by agents at each station—not their regular railroad agent, but an agent who handles that coal and who has a monopoly of that coal.

Q. How many agents have they here?—A. One.

Q. Can any other person get that coal?—A. Only through that agent.

Q. Can any other coal merchant get Rock Springs coal?—A. No, sir.

Q. If a merchant wanted that coal could he get it through anybody else?—A. No.

Q. Have there been any merchants that they could not get that coal?—A. Yes, but they could not get it.

Q. Has there been much of a demand for Rock Springs coal here?—  
A. Yes, sir.

Q. Is there more demand for that than for Colorado coal?—A. Yes.

#### AND FIXES THE PRICE.

Q. What is the effect on the community of the Union Pacific Railway Company giving to one particular shipper a monopoly of the Rock Springs coal?—A. I do not know in what way you mean.

Q. Is it not a fact that the Union Pacific Railway Company makes the price of the Rock Springs coal?—A. Yes.

Q. So that there can be no competition in the price?—A. There can be no competition; and if different persons handled it, it would be the same price.

Q. Why?—A. Because the company only allows a percentage to the agent who handles it.

Q. So that the Union Pacific Company would fix the price of the Rock Springs coal in this community?—A. Yes.

#### THE BLAIR BROTHERS.

By Commissioner ANDERSON :

Q. Do I understand that they own the whole deposit of coal at Rock Springs?—A. No, sir.

Q. Who owns it besides them?—A. The Blair Brothers own a large deposit there.

Q. Do they do any mining there?—A. No.

Q. They do not take out any coal?—A. No.

Q. Where do the Blair Brothers reside?—A. At Rock Springs.

Q. Do you know whether they have complained that they could not compete with the Union Pacific Railway Company?—A. Yes.

Q. They have complained?—A. Yes; they have complained to me about it.

Q. Is that deposit immediately adjoining the Union Pacific Railway Company's deposit?—A. It is right in the same vicinity. I could not say that it is immediately adjoining it.

Q. But it would have the same facility for loading and exporting to Cheyenne as the Union Pacific would have, as far as locality is concerned?—A. Yes.

Q. Now, what is the nature of the complaint made by Blair Brothers? Is it that the freight rates are so high they cannot compete?—A. Yes.

#### UNION PACIFIC STOCK-YARD AT CHEYENNE.

Q. How many stock-yards have you here?—A. One stock-yard.

Q. Who owns it?—A. The Union Pacific Railway Company owns it.

Q. Who conducts the business?—A. Mr. R. S. Van Tassel.

Q. Is he the lessee of the yard?—A. I think so.

Q. Has he the monopoly of the business?—A. There is no business except to ship the cattle and hold them over night.

Q. Is there not room for another stock-yard?—A. Yes.

Q. Why is there not another?—A. Because it would not pay for the parties to build fences. The Union Pacific Company, as well as the other roads, has each to build its own yard.

#### YARDAGE CHARGES.

By Commissioner LITTLER :

Q. Is there a charge for yardage?—A. I think there is no charge except for feeding—for the hay used.



Q. Who fixes that price?—A. The lessee.

Q. Suppose another individual should build another stock-yard and fix the same price, could he do business as well as the present lessee, Mr. Van Tassel?—A. I presume so.

Q. Has the present stock-yard every convenience?—A. Yes; it is on the main line.

Q. Would it pay another individual to build a stock-yard at Cheyenne?—A. No, sir.

Q. Why not?—A. Because there is no charge except for the grain and hay, and, as I understand it, a person could go and get them wherever he chooses.

Q. Mr. Van Tassel has not any competitor?—A. No, sir.

Q. Has his business been a losing business?—A. I do not know about that. I presume not.

Q. So far as the stock-yards are concerned there is no competition in the stock-yard business?—A. No, sir.

#### STONE SHIPPERS.

Q. How many shippers of stone are there here?—A. I only know of one who ships any by railroad.

Q. What is his name?—A. Mr. Bradley.

Q. What kind of stone does he ship?—A. What is called Fort Collins stone, and other building stone in Colorado. And, in addition to that, there is an agent here for the Fort Collins stone—Peter Hamma.

Q. Have you any other stone shippers here other than the Fort Collins stone shippers?—A. Mr. Hamma gets different kinds of stone, such as Colorado stone, what is called the lava stone.

Q. Have there been complaints that no Fort Collins stone could be got here except through the agent of the Union Pacific Railway Company?—A. I have no knowledge of it.

Q. Did you ever hear of the Eveners' Association?—A. No, sir.

Q. Have you any other suggestion to make?—A. I believe not.

CHEYENNE, WYO., *Monday, July 18, 1887.*

C. W. RINER being further examined, testified as follows:

By Commissioner LITTLE:

Question. Have you any information as to the coal business here?

#### COAL BUSINESS AT CHEYENNE.

Answer. Yes, sir; the Union Pacific Railway Company controls the price of coal in this town. They own the Rock Springs mines. Of course, as they own the mine, they have made the rate at that point here, so that it is really prohibitory to shipping Rock Springs coal to this point. The only use is Colorado coal. It is very inferior in quality to the coal, and the freight rate on that is such that it is less than Rock Springs coal, or \$2 a ton; the principal shipping point at Cheyenne.

#### NEARLY A COMPLETE MONOPOLY.

The effect of this rate amounts to a monopoly. The Union Pacific Railway Company, does

so. Of course, they admit the Colorado coal into the market at a dollar a ton less than they sell the Rock Springs coal. I presume the Colorado coal furnishes about half the consumption of the two.

#### COLORADO COAL.

By Commissioner ANDERSON:

Q. What is the total consumption?—A. I have never looked that up. I think the Colorado coal, however, during the cold season—which is, perhaps, seven or eight months in the year—averages 125 to 150 tons a day.

Q. You say you are a coal shipper yourself?—A. Yes, sir.

Q. Of Colorado coal?—A. Yes.

Q. Does it really compete with the Rock Springs for all purposes?—A. It is not so good a family coal as the Rock Springs coal; and, of course, the wealthy people in town buy Rock Springs coal even at a dollar a ton higher in preference; while there is a class of people in town that buy the Colorado coal at a dollar a ton less.

#### COST OF PRODUCTION OF ROCK SPRINGS COAL.

Q. Do you know the cost of production of the Rock Springs coal at the mines?—A. No.

Q. Do you know approximately; is it over \$1.25?—A. I judge not. From \$1 to \$1.15 I think is the cost of mining it where we get it, and I think the Rock Springs is about as easily mined as the other; perhaps not quite so. It is a harder coal.

Q. What are the nearest points to the mine where this coal is mined?—A. Green River, I think.

Q. Do you know whether they charge the same price, substantially, for the coal at Green River that they charge at Cheyenne?—A. I do not know.

#### PRICES OF COAL.

Q. Do you know whether they charge, substantially, the same price at all stations between Rock Springs and Cheyenne?—A. That is my impression; except, perhaps, in the immediate vicinity. I know they charge the same at Laramie City that they charge at Rock Springs.

Q. So that, nominally, the cost of production, added to a freight rate, which is, substantially, the same for all intermediate points, fixes the price of coal?—A. Yes, sir.

By the CHAIRMAN:

Q. Have you anything else to add?—A. I think that is all.

CHEYENNE, WYO., *Monday, July 18, 1887.*

MARSHALL SMITH, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am a grocer, and I handle coal.

Q. Do you do business in Cheyenne?—A. Yes, sir.

Q. How long have you been in business here?—A. Nearly three years.

## COLORADO AND ROCK SPRINGS COAL.

Q. What kind of coal do you handle?—A. The Stewart coal, from the mine of Goodrich & Marfel.

Q. It is known as a Colorado coal?—A. Yes, sir.

Q. Do you deal in Rock Springs coal?—A. No, sir.

Q. Why not?—A. Well, there is but one man that handles Rock Springs coal in the town. That is Mr. Van Tassel.

Q. Would you deal in Rock Springs coal if you could? Is it a better quality of coal than the Colorado coal?—A. Yes, sir.

Q. Is there more of a demand for it than for Colorado coal?—A. Yes, sir; in this part of the country.

Q. Have you endeavored to get Rock Springs coal?—A. No, sir; not from the company at all.

Q. Have you made application to buy Rock Springs coal?—A. Never, only from Mr. Van Tassel. I have bought it from him, not from the company.

Q. Have you made application to buy Rock Springs coal at the mine?—A. No, sir; I never did.

Q. Did you buy Rock Springs coal from Mr. Van Tassel?—A. Yes, sir.

Q. What price did you pay?—A. We only get a little for our customers. Our shed was burned a month or so ago, on the track, and for that reason we are not handling or storing coal any more, because we have no place to store it at the present time, and there is not a very large demand for it. We are buying of him when we have a demand for it from a customer. We are paying now \$5.75 for it.

## EFFECT OF THE ROCK SPRINGS COAL MONOPOLY.

Q. What effect on the coal business has the failure on your part to get Rock Springs coal?—A. It certainly has made a great difference for our trade; because we could sell lots of it if we had it.

Q. It sends all the trade of Cheyenne, to Mr. Van Tassel—that is, those who want Rock Springs coal?—A. Yes, sir; they are compelled to go there.

Q. Are all the coal-shippers compelled to deal through Mr. Van Tassel?—A. If they get Rock Springs coal they are.

Q. Do any of them deal in Rock Springs coal?—A. Nothing more than like myself, when they have an order. When they have a customer who wants it, they get it from Mr. Van Tassel.

## COAL DELIVERED AT PRICE OF FREIGHT.

Q. Do you know of any complaints existing among the merchants as to special rates being given to particular merchants in Cheyenne?—A. No, sir; I know nothing about it; that is, nothing definite. The only point that I do know is that what is claimed to be Rock Springs coal (screenings and nut coal) has been sold here for just about the same price that the freight would be. It does not give us a chance to put in any coal for the kind.

Q. Does Mr. Van Tassel supply the coal?—A. I suppose he does; although on that I cannot say positively. I think that everything that comes in that way through

## DISCRIMINATION IN FURNISHING CARS.

Q. Have you any other information to give the Commission?—A. There have been times in the busy part of the season when we could not get a car of coal up from Erie for two or three weeks, and yet Van Tassel was getting two, three, four, five, and six cars of coal from the west every day; and the complaint was that they were special cars. A little over a year ago we were kept in that way, and I wrote to Goodrich & Marfel about it, and they went to the Railroad Commission, and they got cars after that. It was the same in Denver as here. They could not get coal from the Erie mines; yet the books will show, almost every morning, all the way from one to six cars of coal for Van Tassel coming from the west.

## PLENTY OF CARS FOR UNION PACIFIC COAL.

Q. When cars were scarce, as far as you were concerned, Van Tassel was getting plenty of cars?—A. Yes, sir. We could not get a car; and our teams and men were lying idle, waiting for coal.

Q. Have you any knowledge of special rates of freight on merchandise—some merchants getting it and others not?—A. No, sir; I have not; because here I am doing a retail business, and not shipping goods by the car-load in any quantities. I used to be in Denver in business, and then I used to know something about it.

By Commissioner LITTLER:

Q. Mr. Van Tassel has a complete monopoly of the coal trade here, as far as you are concerned?—A. He has, of the Rock Springs coal; and that is the principal part of the coal of this country, when people want to get it.

## DISCRIMINATIONS IN STOCK-YARD BUSINESS.

By the CHAIRMAN:

Q. Have you ever been engaged in the stock-yard business?—A. No.

Q. Have you any knowledge of preferences being given to those engaged in stock-yard business?—A. No; nothing special. The only point I know anything about is this: An old friend of mine from Nebraska was here with stock and came to buy hay of me. I sold him the hay at a certain price, and he came back and said he could not take it, because, if he took the hay of me, he could not have the use of the stock-yards, because Mr. Van Tassel had the stock-yards and they had to buy their hay of him, and they had to pay \$7 or \$8 a ton more for the hay than I sold it to him for. That is the only instance I know anything about.

Q. Is this the Mr. Van Tassel who is in the coal business the same man who has the stock-yard?—A. Yes.

## ROOM FOR ANOTHER STOCK-YARD IN CHEYENNE.

Q. Is there room for any other stock-yard in Cheyenne?—A. I should think there was, sir; plenty of room for it.

Q. What is the trouble, then, about other individuals engaging in the stock yard business?—A. That I do not know, because it is really out of my line of business.

Q. Has any citizen ever undertaken it?—A. Not that I know of. Of course I am not as old a citizen here as many others, and as to that point I do not know. This instance that I speak of came under my ob-

ration from the fact that the man was an old friend of mine from Ambus, Nebr., my old home.

Q. How long has Mr. Van Tassel had the stock yard?—A. That I do not know.

#### UNION PACIFIC AGENT ALSO IN HAY AND GRAIN BUSINESS.

Q. How many other businesses has Mr. Van Tassel? He has the stock-yard business and the coal business.—A. I do not know. He is in the hay and grain business, at any rate, as he needs hay and grain in his stock-yard business.

By Commissioner ANDERSON:

Q. Is he an agent of the Union Pacific Railway Company, or does he do these businesses on his own account?—A. As I understand it, he is agent of the Union Pacific Company as far as coal is concerned.

Q. How is it as far as the stock yard is concerned?—A. That I do not know.

By Commissioner LITTLE:

Q. Where is Mr. Van Tassel?—A. I understand he is not in the city.

#### WHERE HE GETS HIS GRAIN.

By the CHAIRMAN:

Q. Does all the grain that comes into Cheyenne come through Mr. Van Tassel?—A. Oh, no.

Q. What control has he of that business?—A. I do not understand that he makes a business of selling grain here to the people. It is rather what he wants to send out to his ranch. I think it is more confined to himself.

Q. Where does he get his grain?—A. I guess he buys it in Nebraska and different parts of the eastern country.

Q. Does he buy any here, in this immediate neighborhood?—A. He could only buy of the dealers here. He has bought several car-loads of Mr. Gordon, who is the heaviest grain man we have here.

Q. What is his firm-name?—A. J. R. Gordon.

Q. It is not a firm?—A. No, sir.

Q. Do you know any other business that Mr. Van Tassel is in?—A. No.

#### COAL USED BY THE ELECTRIC LIGHT COMPANY.

Q. Have you any other information or suggestion to give to the Commission?—A. No, sir, nothing particular, except that it has always been a puzzle to me to know how the electric light company could lay down coal for \$1.25 a ton and we pay \$2.25 for freight from Colorado up here. If that is not so, if I am misinformed, that I suppose can be settled.

By Commissioner ANDERSON:

Q. What coal do they use?—A. Part Rock Springs and part Carbon; but it comes over the Union Pacific Railway.

Q. Were there but a small supply of coal to the electric light company?—A. That I do not know.

Q. Has Mr. Van Tassel any interest in that company?—A. That I do not know.

Q. Has any other person any interest in the Union Pacific Railway Company as interest in the coal business?—A. That I do not know.



## THE STONE BUSINESS IN CHEYENNE.

Q. Do you know anything about the stone business here?—A. No, sir, not here. I used to know something about it in Denver.

Q. What other stone do you get here besides the Fort Collins stone?—

A. I do not know anything about it particularly, but I do not think anything else comes in but the Natural Fort stone and the Rollins stone.

Q. Has there been much of a demand for the Fort Collins stone?—A. That I cannot say, definitely, not having anything to do with that business. There is a man here by the name of Bob Bradley, a stone man, that would know all about that part of it.

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CHEYENNE, WYO., *Monday, July 18, 1887.*

FRANCOIS E. WARREN, being further examined, testified as follows:

## COAL FOR ELECTRIC LIGHT COMPANY.

The WITNESS. With regard to Mr. Smith's reference to coal for the electric light company I desire to say that that company purchased its coal direct from the railroad company, delivered at that works on a side track of the Union Pacific Railway, paying \$2.25 for Carbon slack, \$2.75 for Rock Springs slack, and \$3.75 for Carbon coal as it comes from the mine. There are no parties interested in that company, to my knowledge, that are interested in the Union Pacific Railway Company in any way.

## PRICE PAID FOR ROCK SPRINGS COAL.

By Commissioner LITTLER:

Question. What do you pay for Rock Springs coal other than the slack?—Answer. We do not use any but the slack. We use about 50 to 100 tons a week, and our grates are so fixed that slack is better for our use than the coal. We formerly purchased it from the dealers here, but it was impossible to get slack enough. In fact, we have to draw now on both Rock Springs and Carbon, and allow the company to ship without promising us enough of either.

By Commissioner ANDERSON:

Q. Please define what you mean by slack?—A. It is what is left after all the merchantable coal is taken out. It is the dust, you may say—the fine stuff.

## CARBON COAL.

Q. What is the Carbon coal you speak of?—A. It comes from Carbon, Wyo. It is a much poorer coal than the Rock Springs, and I think it is mainly used for steam. I think it is used by the company for locomotives.

Q. Are the mines worked by the company?—A. I believe so. That is, they are worked by the coal department of the Union Pacific Railway Company.

Q. It does not enter into competition with the Rock Springs for family use?—A. I think not.

CHEYENNE, WYO., *Monday, July 18, 1887.*

NATHANIEL R. DAVIS, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where do you reside?—Answer. In Cheyenne.

Q. What is your business?—A. I am a ranchman, and am also interested in banking here.

Q. How long have you been engaged in business here?—A. About sixteen years; that is, here and Colorado.

Q. Are you a member of the board of trade?—A. Yes, sir.

Q. What position do you hold there?—A. Chairman of the committee on railroad extensions and building.

Q. How long have you been connected with the board of trade?—A. Comparatively recently. Our board of trade has been only started lately.

#### FACILITIES AND ACCOMMODATIONS.

Q. Have you any knowledge of the facilities and accommodations afforded to the community by the Union Pacific Railway Company?—A. I have heard a great deal of talk, but nothing definite.

Q. Have any complaints been presented to the board of trade?—A. Not that I am aware of; nothing that has been presented to my committee.

Q. Have you had any discussion in your committee as to freight rates or accommodations or facilities furnished by the Union Pacific Railway Company?—A. No; they would not come before my committee.

#### DISCONTINUANCE OF COLORADO BRANCH.

We are a committee on railroad extensions and building; and particularly, on the Colorado branch of the Union Pacific, which has been discontinued, between here and Fort Collins, and in reference to the building of the Cheyenne Northern.

#### EFFECT OF DISCONTINUANCE.

Q. What effect has the discontinuance of the Colorado branch on the community here?—A. From here we do a considerable business; and, in order to get from Fort Collins here, the people there must go by way of Greeley, and it takes several days. Formerly it was a matter of 45 miles ride. Now it is a matter of 95 or 100. The road was built from here to Fort Collins as part of the Colorado Central. They ran a road from Fort Collins to Greeley and discontinued the part between here and Fort Collins.

Q. What information did you get as to the reason for the discontinuance?—A. They never gave us any information.

By Commissioner LITTLE:

Q. Have they taken up the track?—A. No, sir; the track is still there.

#### ALLEGED REASON OF DISCONTINUANCE.

By Commissioner ANDERSON:

Q. What is the supposed reason?—A. The county, I believe, this is hearsay with me, as I was not here at the time, for a certain amount of bonds if they would make Cheyenne

of that road. They made the terminus of the road actually at Hazard, about 6 miles from here; and I think on that ground the commissioners refused the bonds. And although they got the road operating soon afterwards they discontinued it. The road ran, I should judge, for a couple of years.

Q. But was not this place the terminus of the Colorado Central, when it was running?—A. Theoretically it was, but really it was not. We should do a large business with the people in Collins, but, as it is now, with the interstate commerce law, we can do very little.

Q. Do I understand you to say that that is the reason for this discontinuance of the road?—A. No, sir. The question was what reason was given to us. I do not know that they did it on that ground. They discontinued the road.

Q. But the question was asked you what you supposed was the real reason that actuated the railroad company?—A. I did not so understand it. I supposed that the reason was that they could run the business by Greeley and only operate one road, instead of two, and charge more freight for getting it here.

Q. As they own both roads, it could not make much difference in the freight, but it would be cheaper to operate one road than two?—A. That, I suppose, was the reason.

#### DATE OF DISCONTINUANCE.

By the CHAIRMAN:

Q. When did the road discontinue between here and Fort Collins?—A. I should say about three years ago.

Q. How long had it been running?—A. I should say two to three years.

Q. Then it discontinued just about the time of, or shortly after, the consolidation?

The WITNESS. Which consolidation?

Commissioner ANDERSON. About 1883.

The WITNESS. It was soon after that.

Q. How long after?—A. I should say about 1883 or 1884. I cannot be exact about those dates.

#### THE PROPOSED WYOMING EXTENSION.

Q. With reference to extension in Wyoming Territory, what consideration has been given to that subject by your committee—what discussion?—A. Not much discussion. But we have had some talk among ourselves in regard to it, and we are very anxious to have, if possible, the Union Pacific Railway Company aided to extend its railroad further north. As you are aware, I suppose, our county has voted them \$400,000 of bonds for 100 miles, and they were to have 75 miles built this year. But, as I understand the matter, the Union Pacific Railway Company, in its present condition, is unable to go any further than these bonds will carry it. The town of Cheyenne furnishes about all the capital that runs the business all through the northern part of the Territory, and we ought to have some railroad connection with the north. We are very anxious to have some facilities to have roads built north as far as Buffalo.

#### WHAT PREVENTS THE UNION PACIFIC FROM BUILDING BRANCHES.

Q. What is there in the condition of the Union Pacific Railway Company that prevents them from building branches?—A. We understand that the opposition of the Government holds them up.

Q. But the Union Pacific Railway Company has been continuously building branch lines, has it not?—A. It has not been continuously building them north of us. That is the point we are interested in.

Q. What other information can you give us concerning the Union Pacific system here?—A. I do not think I can give you any.

Q. What suggestions have you to give as to the construction of branch lines in the Territory?—A. Nothing, except that anything you can do to aid us in the construction of this line and the opening of the Cheyenne and Northern we shall be glad if you will do.

#### DONATION OF COUNTY BONDS.

By Commissioner LITTLER :

Q. Have you issued these \$400,000 of county bonds?—A. Yes; they are partly issued. Another installment will be issued shortly.

Q. You say you gave them as a donation?—A. Yes.

Q. \$400,000?—A. \$4,000 a mile.

By the CHAIRMAN :

Q. What would this road cost?—A. I cannot say.

By Commissioner ANDERSON :

Q. Does the company guarantee the interest on the bonds?—A. That I do not know.

By Commissioner LITTLER :

Q. What is the rate of interest?—A. Six per cent., I believe.

Q. How long do they run?—A. That I cannot say. I believe thirty years.

Q. What is the aggregate assessed valuation in this county?—A. I could not tell you that.

Q. Can you approximate it?—A. I am not very sure about the figures. But I think some \$3,200,000, I believe, for the city; and the county \$10,000,000. That is what I believe it is estimated that it will be when it is made out.

#### THE EVENERS' ASSOCIATION.

By the CHAIRMAN :

Q. I understood you had been in the ranch business?—A. Yes.

Q. Did you ever hear of the "Eveners' Association"?—A. Nothing but hearsay. There has been no such association here.

Q. What do you hear about it?—A. The only one I ever heard of was that between Chicago and New York. We never had any here that I know of.

Q. What did you hear was the purpose of the Eveners' Association?—A. I do not think I ever heard.

Q. Were you a member of it?—A. No.

Q. Were you in any way connected with it?—A. No.

#### ITS EFFECT ON RATES.

Q. Do you know what effect it had on the rates?

The WITNESS. You mean between Chicago and New York?

The CHAIRMAN. Yes.

The WITNESS. No, sir; I do not think I did.

Q. Do you know what effect the rates effected Association had upon the cattle business of the

do not think I could tell. They prohibit us, positively, from New York as a market and force us to sell in Chicago.

#### FORCING WYOMING RANCHMEN TO SELL IN CHICAGO.

Q. That is, the Eveners' Association forced the ranchmen in Wyoming to sell in Chicago?—A. That was one thing. Another was that where men shipped through Chicago to New York the stock-yard men in Chicago, who were also interested in New York, took great pains to arrange matters so that any man that shipped through Chicago to New York should lose money.

Q. How were you compelled, through the Eveners' Association, to ship your cattle from Wyoming Territory to Chicago?—A. It was the only market we had.

Q. How did you get that market?—A. By shipping our cattle there.

Q. But to get a profitable market you had to depend on the railroad rates?—A. Not exactly. We had to depend on what we could buy or raise cattle for here.

Q. What figure did the Eveners' Association cut in effecting the rate between here and Chicago?—A. I do not know that they cut any figure.

Q. Do you know what arrangement existed between the railroads and the Eveners' Association between here and Chicago?—A. I do not know there was any. I never heard of any.

#### METHOD OF CATTLE SHIPMENTS.

Q. Where did you ship your cattle from?—A. From a variety of points along this line, extending from Madison Bow to Ogalalla.

Q. At all points from which you shipped, were there stock yards?—A. Yes.

Q. Were those yards controlled by the Union Pacific Railway Company?—A. Well, on the class of cattle we shipped there was no charge for stock yards. They used no hay, and they were entirely in charge of the company. We herd our cattle out; we do not want to feed them, except at North Platte, where we sometimes have to feed.

Q. What was the toll for feeding at the different stock yards?—A. I do not remember; we always paid for hay at the stock yards; I do not remember the price per ton, but we had the benefit of the help about the yards in loading and unloading, and they put the feed in themselves at some additional expense; we thought they were pretty high, but we paid.

Q. At any point, was there any charge for looking after the cattle?—A. No, sir; that is, not between here and Chicago.

Q. Have you any other information to give the Commission?—A. Not that I can recall.

CHEYENNE, WYO., *Monday, July 18, 1887.*

GEORGE A. DRAPER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. The hardware business.

Q. Where is your place of business?—A. Ferguson street, Cheyenne.

Q. How long have you been in business?—A. For 12 or 14 years, here.



**Q. What shipments do you make over the Union Pacific Railway?**—**A.** All our shipments come over that road.

**Q. What is the character of your shipments?**—**A.** Hardware, iron, nails, &c.

**Q. From what point do you ship?**—**A.** Chicago, Saint Louis, and other points.

#### FREIGHT RATES.

**Q. What have been the rates of freight from points east to this place?**—**A.** \$1.30 or \$1.35 per hundred pounds by the car load. The local rates, fourth class \$1.50, second class \$2.45, and first class \$3.

**Q. Have the rates changed?**—**A.** They are somewhat lower than they were a number of years ago. I cannot just say what the difference is now.

**Q. Have you always paid the open, published rate?**—**A.** Yes, sir.

**Q. Have you ever had any special rates with the Union Pacific Company?**—**A.** No, sir.

**Q. Have you made any shipments out from here to Fort Collins?**—**A.** No, sir; not recently.

**Q. Have you had any trade with Fort Collins?**—**A.** We used to have a trade with Fort Collins, a year ago, but they discontinued running trains to Fort Collins, and that shut us out.

**Q. To what extent did that cut off your trade—the closing of that road?**—**A.** Quite materially; but I cannot say the amount, without going over the figures.

#### SPECIAL RATES.

**Q. Have you any knowledge of any preferential rates or special rates being given to shippers?**—**A.** I have not.

**Q. Have you any knowledge of any complaints existing in the community, of special rates?**—**A.** No, I do not think I have; that is founded on anything. In former years there used to be some complaint here about discrimination and special rates, but I do not think anything of that kind now exists.

**Q. How long ago did these complaints exist?**—**A.** About three or four years.

CHEYENNE, WYO., *Monday, July 18, 1887.*

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

By Commissioner LITTLEB :

Question. You are a merchant, I understand?—Answer. Yes.

By the CHAIRMAN :

**Q. What kind of a merchant?**—**A.** A grocer.

**Q. Where is your place of business?**—**A.** In Ferguson street.

**Q. In Cheyenne?**—**A.** Yes.

**Q. How long have you been in business?**—**A.** Nineteen years.

**Q. Have you shipped over the Union Pacific Railroad?**—**A.** Yes.

**Q. From what direction?**—**A.** East and west.

**Q. What points?**—**A.** From New York, Chicago, Saint Louis, and San Francisco.

Q. Have you paid the open or tariff rate—the published rate—on all your freights?—A. Yes, sir.

#### SPECIAL RATES OR REBATES.

Q. Have you had a special rate?—A. Not from the Union Pacific Railway Company.

Q. Did you ever apply for a special rate?—A. I do not recollect that I ever did.

Q. Did you ever have a rebate?—A. Not over the Union Pacific.

Q. Do you know of any preferential rates, special rates, or rebates being given to particular shippers as against others?—A. Nothing more than common report.

Q. Have you had business with Fort Collins, or business dealings there?—A. I used to have.

Q. When did it stop?—A. It stopped when they stopped service on the Colorado Central, in Wyoming.

Q. How long ago was that?—A. I cannot tell you how many years it is.

Q. How much trade did you do in that direction?—A. I cannot state exactly.

Q. What amount of business did you do?—A. I cannot say, now.

Q. What effect had it on your business—the closing of that road?—A. It was detrimental to my business and to the general business of the town.

Q. What did you understand, at the time, was the cause of shutting off the road?—A. I do not know that I ever heard a reason given.

#### BRANCH ROADS.

Q. What other information can you give the Commission concerning the branch road to Fort Collins, or any other branch road?—A. I think it would be beneficial to reopen that road. That is my opinion only. Or (inasmuch as the Union Pacific Railway Company now owns the Denver Pacific, or is operating it) a branch might start at a distance south of this, from the Denver Pacific, and connect, I believe, near Taylor Station with the Colorado Central. The Fort Collins travel would probably come this way in preference to going by way of Greeley and La Salle. The banking business of this town and the business of Fort Collins would be more closely connected. For instance, as all our western goods are being delivered here, we have but 45 miles of transportation to Fort Collins; and those goods could be distributed over that and in that connection, instead of being hauled through to Denver over two other lines competing with the Union Pacific, and from there distributed north. That would be an advantage to the Union Pacific road and an advantage to this community. What is an advantage, I judge, to any community is an advantage to a railroad company. We should like to see that Colorado Central road reopened, and also an extension of this road north from here to the northwestern part of this Territory.

#### THE BURLINGTON AND MISSOURI.

By Commissioner LITTLER :

Q. Which do you regard as the most important to the interests of this community?—A. The northern road, probably, if we have but one.

Q. Is there not a road now building that it is contemplated will reach Cheyenne in a year?—A. Yes; the Burlington and Missouri.

Q. What territory will the Burlington and Missouri tap, coming through, that the branch line you speak of will tap?—A. It comes from south, eastward.

Q. Does it tap the same territory?—A. No, sir; it comes east of the Denver Pacific.

Q. What other information have you that you can give the Commission?—A. I know of nothing special.

CHEYENNE, WYO., *Monday, July 18, 1887.*

ALEXANDER H. REEL, being duly sworn and examined, testified as follows:

By Commissioner LITTLER:

Question. Where do you reside?—Answer. I am stock raising, principally, and reside in Cheyenne.

Q. How long have you lived here?—A. About twenty years.

Q. What is the extent of your business as to the amount of business that you do?—A. I have been shipping cattle for the last seven years.

Q. How much do you ship annually?—A. About a thousand head.

Q. Where do you ship them to, principally?—A. To Chicago.

Q. Where are your ranches?—A. In the western part of this Territory, on Green River, what is called Ham's Port.

Q. Where is your shipping point?—A. At Waterfall.

Q. Is that west of this place?—A. Yes.

#### REBATES.

Q. Have you ever, at any time, received any rebates on shipments of cattle from here to the Missouri River?—A. None, of late years.

Q. In what years did you receive rebates?—A. I think that a good many years ago we all got a certain rebate at a certain time.

Q. Was that what they called a rebate rate, open to all the shippers, or was it confined to a few?—A. It was open to all.

Q. What was the extent of it?—A. I cannot remember now, but I think it was about 1875 or 1876.

Q. I asked how much it was. Was it a rebate on the car-load or on the head?—A. On the car.

Q. How much a car?—A. I forget now. A few dollars a car; \$3 or \$4 a car.

Q. That is, you were enabled to ship cattle to the Missouri River at \$3 or \$4 less than the published rate?—A. I do not know whether it was the published rate or not. We all shipped our cattle on that rate.

Q. Was it open to all the other shippers of cattle?—A. I believe so.

Q. What was the reason of that?—A. I never knew.

Q. Was it from competition?—A. I do not think it was. I do not think there was any competition with the Union Pacific at that time.

Q. What was the price at that time?—A. At that time I was shipping from Pine Bluff. It was then \$118, and from here \$125, I think.

Q. What are the facilities afforded by the Union Pacific Railway Company for handling stock?—A. They are very good.

#### NO COMPLAINTS.

Q. Do you know of any complaints among shippers in relation to facilities?—A. None at all, that I know of. Their rates used

Cheyenne, instead of having 4,000, as we had a few years ago, I think has now 9,000 people. It takes more to supply those people than it did before.

Q. So that, notwithstanding the competition, the Union Pacific Railway Company, in consequence of the growth of capital and the increase of value, is able to show from year to year an increase in its gross receipts?—A. I think so. They are doing more through business now than they have done for some time.

#### WHY GOVERNMENT SHOULD AID UNION PACIFIC.

Q. Then why should the United States aid the Union Pacific Company to have a monopoly of the business up here?—A. I suppose the Government want to make their property as valuable as they can, and they see the other railroads have advantages over the property of the United States.

Q. Does not the Union Pacific Railway Company enjoy the same increase as it enjoyed before it had any competition?—A. I do not think so, to-day.

Q. Are you acquainted with the figures at all?—A. No.

Q. Have you examined the figures?—A. No.

Q. Are you familiar with the gross receipts of the Union Pacific Railway Company?—A. No; I have only seen the statements.

Q. So that, as far as figures are concerned, you do not base your ideas on them?—A. Not particularly.

By Commissioner LITTLE :

Q. Notwithstanding the increase of business, is it not true that, with the branches you suggested, there would be a large increase of traffic over the Union Pacific road?—A. Of course there would. There is no question about that. It might hurt some of the other roads, though.

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CHEYENNE, WYO., *Monday, July 18, 1887.*

FREDERICK S. HEBARD, being duly sworn and examined, testified as follows :

By the CHAIRMAN :

Question. What is your business?—Answer. I am a lawyer.

Q. How long have you resided here?—A. Eight years.

#### THE COAL BUSINESS AT CHEYENNE.

Q. Have you any knowledge of the coal business in Cheyenne?—A. I was in the employ of the Union Pacific Railroad Company from February, 1879, and until about September, 1881, and during that time I was a clerk in the Cheyenne freight office in different capacities of the clerking business; and, as such, I had occasion to enter up bills received for coal, and to know the published tariff they charge for coal.

Q. What other duties had you in reference to the coal business?—A. I was the check clerk at one time; and, again, I was a bill clerk. In those positions, as I have stated, I had a knowledge of their rates; that is, of the rates at which the coal was billed. That was all the knowledge I had, and those were my duties.

Q. How was the coal billed to individuals; at the open rate or at a private rate?—A. There was not any coal billed to individuals. All



the coal, except that billed to the Government, was billed on company way bills and at \$5.50 a ton, from Rock Springs to Cheyenne.

Q. What price was the Government paying for coal?—A. I do not know what it was paying. I only know what it was billed at—\$8.50 a ton, and that was to Camp Carlin; from Rock Springs to Camp Carlin at that rate.

#### FREIGHT RATE ON COAL.

Q. What was the individual rate for coal in Cheyenne at that time?—A. All coal shipped for consumption at Cheyenne was shipped as company freight and was shipped to the company's coal agent, who, at that time, was Mr. Hamma, and was shipped at the same rate as company coal. I think I am mistaken about that. It was \$5.50 to Hamma, and the company coal I think was shipped at the rate of 1 cent per ton per mile.

Q. What other agent did the company have in Cheyenne?—A. No other.

Q. How did you sell to other agents?—A. I did not have anything to do with the selling of the coal.

Q. How could other dealers get the coal—the Rock Springs coal you speak of?—A. They could get it only through Mr. Hamma and at the rate of \$6.50 a ton, which was the retail price in the city.

Q. What was the effect of that on this community?—A. The effect was that it crowded out other dealers in that Rock Springs coal.

Q. And compelled people to purchase from Hamma as agent of the Rock Springs coal?—A. Yes, sir.

#### SPECIAL RATES TO SHIPPERS.

Q. Have you any knowledge of special rates being given to shippers?—A. Nothing, only occasionally a special rate would come as half rate on some special shipment. That was about all that I can remember. It was generally one shipment or one class of shipments, for a very short time. We would get all our orders for special rates from Mr. Shelby, who was assistant general freight agent most of the time, I think.

Q. Were there many orders for special rates from Mr. Shelby?—A. They were frequent, but I cannot say whether they were many.

Q. What class of shippers got the rates?—A. As well as I remember they were mostly employes of the road, or some one connected generally with the operation of the road. They were generally small affairs.

#### REBATES ON CATTLE SHIPMENTS.

Q. Have you any knowledge as to whether any cattle company got the rebates?—A. No, sir.

Q. Were you in a position to know whether the Union Cattle Company had a rebate or not?—A. No, sir; I was not.

Q. What years were you in the service of the company?—A. From February, 1879, to September, 1881.

Q. Did the Union Cattle Company ship then?—A. I think so.

Q. Did they have any special rate?—A. I do not know. All cattle were billed at regular rates, and billing clerks would not know.

Q. So that if a rebate was allowed it would be allowed through the Omaha office and not through you?—A. Yes.

Q. What instructions had you as to giving special rates to shippers above other shippers in Cheyenne?—A. None. Nobody was discriminated against, that I know of.



Q. Your explanation in reference to rebates being allowed by the Omaha office would apply to all special rates and rebates?—A. Yes.

Q. Were any inducements offered to shippers here by the agents of the company, by way of special rates, in order to secure shipments?—A. Not that I know of.

Q. Have you any other information that you can give the Commission?—A. I do not know what you desire. Probably not.

#### CAUSE OF DISCRIMINATION AGAINST GOVERNMENT UNKNOWN.

By Commissioner LITTLE :

Q. Why did this company discriminate against the Government of the United States by charging \$8.50 a ton for coal shipped on Government account?—A. I never was able to find out.

Q. That you state as a fact, however?—A. That is a fact, as far as the billing was concerned.

Q. They charged the Government \$8.50 a ton for coal, from Rock Springs to Cheyenne, or a little station down here?—A. Yes.

Q. Was it worth any more to ship coal for the Government than for individuals?—A. Well, they seemed to think so.

Q. Do you know of any reason why they could not have shipped on the same terms?—A. I know of no reason, except, probably, that they charged for the extra mileage, probably one and a half miles, or something of that kind.

Q. But that would be disproportionate to the distance.—A. Yes.

Q. Is it not a fact that they shipped coal to stations considerably east of here at the same price that they shipped to here?—A. I understand so.

Q. Is it not a fact that they shipped as far east as Omaha at about the same price that they shipped it here?—A. I understand so.

CHEYENNE, WYO., *Monday, July 18, 1887.*

CHARLES N. POTTER, being duly sworn and examined, testified as follows:

By the CHAIRMAN :

Question. You reside in Cheyenne?—Answer. Yes.

Q. For how long?—A. Eleven years last March.

#### EXTENSION OF BRANCH LINES.

Q. Have you any information concerning the question of the extension of branch lines of the Union Pacific Railway?—A. I do not know that I have any information except so far as the desires and sentiment of the community on the question are concerned, at different times when the matter has been discussed here.

Q. What has been the sentiment, as you have observed?—A. I think it has been in one sense, two-fold: First, with reference to the situation of the city, and also the situation of the company. So far as discussion has led to a knowledge, or would lead to a knowledge of the sentiment, it would seem that the general idea has been that the Union Pacific, as a matter of self-protection, needed branch lines both south and west in order to guard against competition and also to assist in developing the country and thereby enlarge its own traffic.

**Q.** To what particular lines do you refer?—**A.** One line particularly that I know of, southerly, between here and Fort Collins, has been discussed considerably; and a line reaching north from here, and also reaching north from other portions of the Territory, to tap the country which was being reached by other railroads from the east, so far as the north part of the Territory is concerned.

#### BENEFITS TO MAIN LINE.

**Q.** What benefits would they confer on the main line?—**A.** I think the Union Pacific, being the pioneer road here, with branch lines leading to different points in the northern part of the Territory, would control the greater share of the business, and therefore keep the traffic that in time would go to other roads. The country will certainly, in time, be embraced by other railroads. That matter had been advocated here years before it was known that any other road would build into the center of the Territory from the east; the feasibility of it was always understood, of course.

#### DESIRABILITY OF OPENING COLORADO CENTRAL.

**Q.** What effect would it have on the community to open the Colorado road and the Colorado extension in Wyoming?—**A.** My own idea is (and it is that of the community) that it would benefit the town. I believe that the benefit derived by the community would be a benefit that would necessarily be derived also by the railroad company.

**Q.** Have you any other information or suggestion that you can give to the Commission?—**A.** I have none, I think. I think that embraces everything I had desired to say.

The Commission then adjourned to meet upon the call of the Chair.

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LARAMIE, WYO., *Monday, July 18, 1887.*

The Commission met, upon the call of the chair, all the Commissioners being present.

W. H. ROOT, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

**Question.** What is your business?—**Answer.** I am dealing in agricultural implements, wagons, and machinery.

**Q.** Where do you do business?—**A.** On Second street, in Laramie.

**Q.** How long have you been in business?—**A.** I commenced in a very small way about ten years ago, the last time. I was a Union Pacific Railway contractor when the road was built.

**Q.** How many competitors have you in business?—**A.** Five of them. I believe. Some of them, however, combine the wagon business with grocery or other business.

**Q.** Have you had any business dealings with the Union Pacific Railway Company?—**A.** Yes.

**Q.** What is the character of the business?—**A.** Carrying freight.

**Q.** How long have you been shipping over the Union Pacific Railroad?—**A.** More or less for ten years.

#### FACILITIES AND ACCOMMODATIONS.

**Q.** What have been the facilities and accommodations afforded for shipment?—**A.** The facilities and accommodations are all

enough. That is, they bring the freight in in reasonable time, but if they break up anything or destroy it they never pay for it.

Q. What rates have you been paying for freight?—A. I never studied the schedule very closely. We paid \$4.85 from Towanda, Pa. From Pennsylvania to the Missouri River the freight was \$75 or \$80, and from there the freight was \$400 and odd.

Q. Each car?—A. Yes.

Q. Was that the open published rate?—A. We never knew. We never looked at that. There was no use fighting them. I have had spring wagons come here from Chicago, costing \$90, and the freight was \$60.75.

#### NO SPECIAL RATES.

Q. Have you ever had a special rate in your business from the Union Pacific Company?—A. Never.

Q. Has anybody else in your business?—A. I do not think so.

Q. Do the shippers in your lines pay the same bills that you do?—A. Whatever the bill is.

Q. Is it the same for all?—A. I never examined that. I had a wagon weighing 500 pounds, and the freight on that was \$8.47 for 57 miles from Cheyenne. They can work on that wagon and call that 1,500 pounds. They might as well call it 3,000 and compel me to pay it.

Q. Have they not a regular schedule rate?—A. Yes; but I never paid any attention to that.

#### ARBITRARY CHANGES OF RATES.

Q. Do you pay more than the schedule or less than the schedule?—A. I cannot tell anything about that. For instance, for four or five years I had wagons coming as open freight from Omaha that were \$45, and the first thing I knew they jumped the tariff to sixty-odd dollars. Instead of putting up the price they rated them differently. They make arbitrary changes that way. The first one that came I brought the matter to the attention of Mr. Clark, the agent at Laramie, and he said it was wrong. The next one that came he said there was something wrong about it, and that he did not dare say anything about it. They finally followed him up, and took it out of Mr. Clark's wages—this excess of freight. A gentleman in the bank told my brother that I should keep writing to Mr. Vining about it, which I did; and, finally, they paid me back \$14. They worry a man to death, relying on the probability that a man will, in time, shut his mouth and mind his business. I paid Mr. Clark the \$14, as he was poor and could not afford to lose it. If you could get Mr. Clark, the clerk here, he could tell you about the freight rates.

Q. What is his full name?—A. C. C. Clark.

#### SMASHED IN THE SIDES OF THE CAR.

Q. Do you know anything of Mr. Trabing receiving rebates?—A. All I know about it is that it was a matter of common report. Clarence Dunbar was one of the first merchants here (and he was drowned afterwards). Their price to them upon a car-load of flour was at a certain rate. This is the report. He went down there to get the car-load of flour and in some way, on looking over the tariff, they found they had not charged him all that thought they they could get out of him. He tendered the price and they refused it. He went and got a replevin and went down and smashed in the sides of the car. Mr. Trabing was his

competitor; and it was said that Mr. Trabing was told by Mr. Vining to make his own rate. We all have to sign an annual release here. Unless we sign the release we have to pay double. They finally drove that man out of business. He had to sell out. Unfortunately he got drowned here in the lake one day.

#### REBATES ON STUDEBAKER WAGONS.

Q. What other complaints have you to make?—A. I have been getting wagons from Studebaker, of South Bend, Ind., and Chicago. My brother-in-law, who was then in the office of the Union Pacific Railway Company at Omaha, handed me a piece of paper one day and says: "There is the amount of money that has been paid as freight on Studebaker wagons in Wyoming." There are only three men in Wyoming handling that wagon. He said to me, "15 per cent. of your money has gone where it will do the most good." Referring to the Studebakers, he said, "I paid the freight here and sent them back 15 per cent. of the amount." I wrote them a letter, and they acknowledged that they had received this 15 per cent. rebate. I think that every car-load of Studebaker's goods that ever crossed the Missouri River for years has paid that 15 per cent. to the Studebaker family for the sake of getting the freight.

Q. Have you got that letter?—A. I think I can find it. I had it a long time, but I looked for it the other day and could not find it. But I think I can find it.

Q. Will you send a copy of it to the Commission?—A. I will send you the original; I have no use for it.

#### COMPELLED TO SIGN A RELEASE.

Q. What other complaints have you heard of?—A. They have black-mailed men. If a stockman gets his cattle killed he gets one-half the value. But a Swede, or a poor devil who loses his cattle, is called into the office and has to sign a release. They shipped car-loads of goods from San Francisco to Cheyenne for \$200 less than from here. But that has stopped lately.

Q. How many coal dealers have you here?—A. There is only one coal man, William Lawrence.

Q. What do you pay for coal here?—A. \$6 and \$6.25, I think, for cash.

Q. What is the distance from Rock Springs?—A. I cannot say exactly.

Q. Who is the man who is agent of the Rock Springs coal?—A. William Lawrence.

#### "A THOUSAND AND ONE COMPLAINTS."

Q. Do you know of any other complaints?—A. Oh, there are a thousand and one little complaints. But those are the only complaints of magnitude. But there are a great many things that would be dug up eventually, if the Commission were to have a session here of any length.

Q. How many stock-yards have you here?—A. One.

Q. Whose is it?—A. It is supposed to belong to the Union Pacific Railway Company.

Q. Who runs it?—A. Mr. Clark does, I believe. He is the agent of the Union Pacific Railway Company. They have a man who looks after the stock.

Q. Is he the lessee of the stock-yard?—A. I think not; no.



LARAMIE, WYO., *Monday, July 18, 1887.*

CHARLES CLARK, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Station agent of the Union Pacific Railroad, at Laramie.

Q. How long have you been so employed?—A. About twelve years.

Q. What position did you hold prior to that time?—A. I was clerking for the agent.

#### DUTIES OF LOCAL FREIGHT AGENT.

Q. What are your duties as freight agent?—A. I have got charge of all the business here, freight and passenger.

Q. How do you fix the rates?—A. By tariffs.

Q. By published tariffs?—A. Yes, sir.

Q. Do you receive instructions?—A. Yes, sir.

Q. Where from?—A. From Omaha.

Q. Who gives you instructions?—A. The general freight agent and traffic manager.

#### SPECIAL RATES.

Q. Have you given any special rates to any shippers?—A. I do not know that I have.

Q. You would know if you had?

The WITNESS. What do you mean by special rates; one man getting cheaper rates than another?

The CHAIRMAN. Have you given anybody anything other than the published rate?

The WITNESS. No, I think not.

Q. Have you given any rate, by way of rebate, prior to April 1?—A. No, sir; not to my knowledge.

Q. Have you given any shipper any preference?—A. Not to my knowledge.

Q. What do you mean by "not to my knowledge"?—A. If I give a man a rate, that is the last I know of it.

By Commissioner ANDERSON:

Q. He may get his rebate at Omaha, and you not know it, you mean?—A. Yes, sir.

By the CHAIRMAN:

Q. Did you ever give a special rate to a man other than the published rate, and not know anything about it after you gave it to him?—A. I may have made a man a rate that I got from Omaha by an order saying "make him such a rate." I may have given him that rate. I cannot make a rate, myself, from here to the Omaha bridge.

Q. Did you give any special rates under instructions?

The WITNESS. Prior to April 1?

The CHAIRMAN. Yes.

The WITNESS. I cannot remember; I may have.

Q. Did you give special rate to Trabing's firm?—A. No, sir.

Q. Did they, at any time prior to April 1, get special rates?—A. I do not think they did.



## THE CASE OF DUNBAR.

Q. Was there any complaint, at any time, by any shipper in the same line of business with Mr. Trabing? Did Mr. Dunbar complain about the rates given to Mr. Trabing?

The WITNESS. How long ago is that?

The CHAIRMAN. If it happened twenty years ago, and you know it, we want to know it.

By Commissioner ANDERSON:

Q. How far back is that?—A. I cannot tell; it must be eight or ten years ago.

By the CHAIRMAN:

Q. Well, what happened?—A. I never heard any complaint from Mr. Dunbar.

Q. Did Mr. Dunbar go out of the business?—A. He died.

Q. What was the condition of his business before he went out?—A. I guess it was all right. He never broke up.

Q. Was there any complaint on his part?—A. Not that I know of. I never heard of it.

Q. Did you not hear it?—A. I might. I do not know.

Q. Who else might hear it?—A. I do not know. The superintendent might hear it. He was here then.

Q. Did Mr. Dunbar complain to you?—A. Not that I remember.

Q. Did you ever hear it spoken of that he was discriminated against?—A. I guess I did hear it.

Q. What did you hear?—A. I cannot tell now.

Q. What was the trouble?—A. I cannot remember.

## REPLEVINED HIS FLOUR.

By Commissioner LITTLE:

Q. Were you here when he broke open your car and replevined the goods?—A. That was a car-load of flour that came from Colorado. We had a war between this road and the Kansas Pacific, I believe, at that time; and the car came here billed at the old Cheyenne rate, and I charged the Omaha rate, and Mr. Dunbar replevined the car and took it.

By Commissioner ANDERSON:

Q. How long ago was that?—A. I cannot tell without reference to my books.

Q. About how long ago?—A. Seven or eight years ago. We had a lawsuit about it, and he got beaten.

By the CHAIRMAN.

Q. What kind of a lawsuit did you have?—A. I cannot tell. It was a lawsuit.

Q. Well, what sort of a suit was it? Was it a case of assault and battery, or what?—A. It was about this car-load of flour. He would pay it at first; and he had to pay it.

Q. Was this a common thing, that of allowing special rates, to have been connected with the road?—A. There is no special rates, to my knowledge. They all pay it.

## SPECIAL RATES TO SPECIAL

Q. Have you not had instructions from time to time to special people?—A. Well, there are

things. They used to make special rates on a car of cattle from here to Cheyenne, or something of that kind.

Q. Did they make that rate for all people on cattle to Cheyenne?—A. They ought all to have the same rate; yes.

Q. Well, did they all have the special rate?—A. There is a special rate now.

Commissioner ANDERSON. He means, did one get a better rate than the other.

The WITNESS. They all got the same rate, as I understand it. Our tariff rate was \$45 from here to Cheyenne; and we would make a special rate for that of \$30, and all would get that.

Q. Do you know of any one shipper, in any line of merchandise, having a better rate than the other shippers?—A. No, sir.

#### THE STOCK-YARD AT LARAMIE.

Q. Does the Union Pacific Railway Company operate the stock-yard?—A. Yes.

Q. What do they charge for hay to people who put their cattle with them?—A. They pay \$20 a ton.

Q. What other charges are made in the stock-yards here, besides those for hay?—A. No other; the railroad company does not get that, either.

Q. Who gets that?—A. A man has a contract, who has been furnishing the hay himself all that time.

Q. What is his name?—A. I think it is old man Sprague.

Q. Why do you "think" about it, if he is there all the time, and you know him?—A. He is not there himself; a man attends to it for him.

#### PRICE CHARGED FOR HAY.

Q. What kind of a contract has he?—A. I do not know; a few years ago Mr. Hutton supplied the hay, and got \$20, all the time, I believe.

Q. Who made the contract?—A. I do not know; Mr. Dickinson, I guess, when he was superintendent here.

Q. Who carried out the contract on the part of the company here when Mr. Dickinson was not here?—A. There was nothing to carry out.

Q. Who saw that he fed the cattle properly under the contract?—A. I did; or somebody else did.

Q. How did you know what the agreement was?—A. We knew nothing about it; there was a man there who told us how much the cattle ought to have.

By Commissioner ANDERSON:

Q. Is \$20 the regular price of hay here?—A. Yes, sir; you cannot buy it here at all for less than \$20.

Q. That was the regular price?—A. It is now.

Q. Was it then, when that man was supplying it at that rate?—A. Oh, yes.

By the CHAIRMAN:

Q. Has Mr. Sprague the contract now?—A. I do not think there is any contract at all now; but the old thing goes along.

Q. Who makes the money out of it now?—A. Well, he is furnishing the hay now.

Q. If there is any money in it he gets the money from it?—A. He gets the money for furnishing the hay, and the man that attends to it gets paid by Mr. Sprague.

Q. Where is Mr. Sprague?—A. He is on his ranch, I think.

Q. Is he connected with the company?—A. No.

#### A MONOPOLY.

Q. Are any of the officers of the company connected with the stock-yard?—A. No, sir.

Q. Is there room here for more than one stock-yard?—A. There is lots of room, but the company has only one; that is all that is needed.

Q. Could any other individual compete with Mr. Sprague for the supply of hay, cheaper?—A. I do not know whether the company would run the cattle to any other yard or not.

Q. Why would they not?—A. I do not know.

Q. Then that gives to Mr. Sprague a monopoly of the business?—A. That may be the way now; nobody has ever tried to put up any other stock-yard, or asked to.

Q. There would be no use, would there?—A. I suppose not.

Q. What does Mr. Sprague get for yardage?—A. Nothing; not that I know of.

Q. Who does get it?—A. Nobody.

Q. All that is paid is the price of the hay?—A. That is all.

#### THE COAL BUSINESS AT LARAMIE.

Q. Who has charge of the coal business here?

The WITNESS. Commercial coal—coal that is sold around town?

The CHAIRMAN. Yes.

The WITNESS. William Lawrence.

Q. How many kinds of coal are sold around town?—A. One—the Rock Springs coal.

Q. What rates has he got for coal?—A. He pays \$4.75 for lump coal.

Q. Does any other merchant here ship coal, other than Lawrence?—A. No.

Q. Has any other merchant attempted to ship coal from here, other than Mr. Lawrence?—A. Not that I know of.

Q. Has any individual ever applied for rates for coal, other than Mr. Lawrence?—A. There have been two or three people apply lately for coal, and they gave them the same rate as Mr. Lawrence got. I told them that was the rate.

Q. Prior to April 1 were any applications made for coal?—A. Not to my knowledge; not from here.

By Commissioner ANDERSON:

Q. What does he sell the coal at?—A. I think he a ton profit—from \$4.75 to \$5.75; and to employers' cents less.

Q. What is the rate on coal from the 1 dollars and seventy-five cents is the price

Q. Can you say what the freight is?—A. It is divided, without going to my books?

Q. Do you know what it costs to mine

A. No, sir.

LARAMIE, WYO., *Monday, July 18, 1887.*

W. H. ROOT, being further examined, testified as follows :

#### REBATES ON PAPER.

The WITNESS. A. S. Mercer, of the Northwestern Live Stock Journal, published in Cheyenne (of which I am the regular correspondent here), told me that they sent their expense bill back to Omaha and got half the money back on the freight on their printing paper.

By Commissioner ANDERSON :

Question. What do you mean by their expense bill ?—Answer. The receipted bill.

#### CATTLE RATES.

By the CHAIRMAN :

Q. Where is the paper published ?—A. At Cheyenne. I asked the manager of the Boomerang here if they got any such arrangement. He said they did not. That is different. There was a case of cattle, coming over this road, or horses, from up on the Oregon Short Line, or the main line. They have been in the habit of giving a Mr. Ora Haley, a very heavy shipper here, a rate of 10 cents per car per mile, and allowing him to unload his cattle whenever and wherever he liked, and to keep them as long as he liked, then feed them awhile, and so work them on down. Other people do not get those privileges and get charged a great deal more. Several years ago George Harper, of Rock Creek, and Mr. Conner (both of whom are living there yet) went to Omaha with cattle. Mr. Conner has been on the frontier all his life and is pretty sharp. Mr. Harper is rather of an innocent turn. They went into the Omaha office, and Mr. Shelby (I think it was) said, "Mr. Conner, where do your cattle come from ?" Mr. Conner smelled a large-sized rodent and went back and told them that his cattle came up from the line of Fort Mackinaw. He got a rebate of \$16 per car. Mr. Harper told them they came from the neighborhood of Rock Creek. He only got \$10. That is the difference in the treatment of those two men. There are a thousand and one things of that kind. I do not suppose that one man's life would be long enough to dig up more than 1 per cent. of their "monkeying."

#### NO MAN CAN SELL COAL WHO DOES NOT "WHACK UP."

Q. What else have you to say ?—A. I have to say that no man can get the job of selling coal in this neighborhood without "whacking" up with somebody.

Q. What do you mean by "whacking up" ?—A. I mean he has got to pay for the privilege.

Q. Why do you say that ?—A. I cannot swear to it positively; I never saw the money paid from one man's hand to another, but these men that sell the coal dare not come on the stand to admit it.

Q. To whom is the money paid ?—A. I do not know who gets it. I do not know whether Mr. Clark or Mr. Dickinson gets it, or who gets it, but somebody gets it.

Q. What shippers have you here ?—A. George & Godston ship grain here; and Mr. Trabing ships largely of grain. When he fitted up his store he claimed that he paid \$30,000 to fit it up. We have to pay \$1,000 a day on freight. And there are 3,000 people here. Some months \$40,000 a month.





would be worth \$1,000,000. There are 40 feet, solid, of soda there, 10 feet thick, and continually forming.

Q. Did the Union Pacific people buy the whole thing?—A. I think they covered the whole claim.

Q. There is no trouble now about getting the soda to market, is there?—A. If a man had a coal mine here in the middle of the town it would not do you any good.

Q. Since the Union Pacific Company has got it they have had no trouble in getting it to town?—A. No. The preparation is such that it is in the shape of glauber salts, and is in condition to make any kind of soda that the world demands.

By Commissioner LITTLE:

Q. Is there much demand for it?—A. Mr. Kirk, of Chicago, the soap man, was here, and he said that he could use more soda than this factory could produce.

Q. How much do they get out a day; how much do they ship?—A. They have been merely experimenting. They have to send to England for pans, and they have to send to Omaha; and the whole thing is in such a shape that, at times, they have not got under way. It is called the Laramie Soda Works.

W. H. ROOT.

The witness subsequently furnished the following:

#### THE STUDEBAKER REBATE LETTER.

[Wagons, carriages.—Studebaker Bros. Manufacturing Company.]

SOUTH BEND, IND., March 13, 1886.

W. H. ROOT, Esq.,  
Laramie, Wyo.:

DEAR SIR: Your favor of the 10th is received and noted. \* \* \*

We note what you discovered in looking over the railroad company's books at Omaha, but you overlooked one thing, and that was that this rebate was paid us for 1883 and 1884, and none of it for 1885. We have no recollections of your having done much business with us in 1883 or 1884, therefore we do not consider that you are entitled to any of this rebate. We will put in our claim for 1885 very soon, and whatever we get on the business going to you we will give you the proper credit for. We would say, however, that this rebate was not paid to us particularly on the Wyoming business, but on general principles, and they distributed it around among all the different car-loads we shipped, so as to look well.

Yours, truly,

STUDEBAKER BROS. MFG. CO.

Dictated by Byerley.

I haven't got to your prices yet, but will in a few days.

Also the following:

#### ANNUAL RELEASE.

Memorandum of agreement made and entered into this 1st day of January, A. D. 1883, by and between the Union Pacific Railway Company, party of the first part, and W. H. Root, of Laramie City, Wyo. T., party of the second part.

Whereas, the tariffs and classifications of the Union Pacific Railway Company provide two rates on certain kinds of freight, the transportation of which renders it liable to damage; and

Whereas, one of these rates is charged upon such freight when transported at the risk of the carrier, and the other, which is the lower of the two, is charged upon such freight when transported at the risk of the owner; and

Whereas, the party of the first part agrees to charge the rates provided in the classifications and tariffs for freight carried at owner's risk upon all freight susceptible to damage which it may transport for the party of the second part, from the date hereof until the 31st day of December, A. D. 1883.

Now, therefore, in consideration of the above agreement, the party of the second part expressly assumes all risk of damage to their freight which may occur while in transit on the Union Pacific Railway, during the period mentioned above, resulting from leakage, breakage, chafage, decay, or from any other cause incidental to its transportation, and not the result of derailments or collision of trains; and the acceptance of said reduced rates by said party of the second part expressly releases the said Union Pacific Railway Company from all liability on account thereof.

In witness whereof the party of the first part has caused these presents to be subscribed by its agent, and the party of the second part have hereunto set their hands, upon the day and year first above written.

THE UNION PACIFIC RAILWAY COMPANY,  
By C. CLARK, *Agent*.

Duplicate.

This release to be issued in triplicate, the original to be retained by the agent, the duplicate by the party of the second part, and the triplicate to be forwarded to the freight auditor.

LARAMIE, WYO., *Monday, July 18, 1887.*

F. W. OTT, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where do you reside?—Answer. In Laramie.

Q. What is your business?—A. I am publishing a newspaper.

Q. What is the name of the paper?—A. Wyoming and its Future.

Q. How long have you been publishing a newspaper?—A. About a year and a half in this town.

Q. Where did you publish before?—A. I published at Leadville, Colo., and at Columbus, Nebr.

#### FACILITIES AND ACCOMMODATIONS.

Q. During your residence here, or since your publication, have you any knowledge of any complaints existing in this community as to rates or facilities or accommodations afforded by the Union Pacific Railway Company?—A. Yes, sir; a great many.

Q. What is the nature of them?—A. Any man who wishes a car of coal, for instance, from Rock Springs, cannot get it on any consideration, at any rate whatever, but they say that their price is so much—\$4.75 per ton; that is, they say their price is \$4.75 per ton to this man, Lawrence, and every man that wants coal must buy the coal from William Lawrence. The coal cannot be got from the company, and William Lawrence will charge \$6.50 a ton.

#### THE COAL BUSINESS AT LARAMIE.

Q. What effect has it on the price of coal?—A. It had a great effect, because you cannot buy it for less than \$6.50; otherwise you could buy it for \$4 or \$5. Coal got out at Carbon is bought there at \$2 a ton, and we have to pay for the same coal \$6.50; and the same coal is sold in Denver for \$4.

Q. How near are you to Rock Springs?—A. Two hundred and forty-four miles. But I am speaking of Carbon, which is 86 miles from here. They use a great deal of coal here which they put in as Rock Springs coal. The Rock Springs coal is much the better coal.

#### SPECIAL RATES.

Q. Have you any knowledge as to special rates being given to shippers?—A. Nothing definite. It is very difficult to find out anything

definite. We can only go by hearsay—by the expressions of people themselves who have been shipping that we happen to hear.

Q. Have you any knowledge of any complaints as to shippers having special rates by way of rebates or otherwise?—A. I understand there has been cattle shipped from this town and from other towns in Wyoming, in which one man can get a rebate if he belongs to their stock association here, which protects him, and if he does not belong to the association he cannot get the rebate.

#### WYOMING STOCK OWNERS' ASSOCIATION.

Q. What is the name of the association?—A. The Wyoming Stock Owners' Association.

Q. How extensive is that association?—A. It is very extensive. I believe it is considered that the company is worth at least \$100,000,000; that is, the entire association. It is only a name that they have adopted because they started in here first, but the same company runs from north and south, into Dakota and other States and Territories. It is not in Wyoming alone that it runs. It goes, however, under the name of the Wyoming Stock Owners' Association, though it might really be called the Western Stock Owners' Association.

Q. Is it an incorporated company?—A. It is not really an incorporation, but an association of men interested in cattle raising. They associate together to help one another to control the markets and tariffs and everything else. Also to fight land cases, or to follow up men who have been stealing cattle, or anything of that sort.

#### WAITING FOR THE INTERSTATE COMMERCE BILL.

Q. So that if the shipper of cattle is not in the association he would not be able to get the special rates?—A. It was so prior to the interstate commerce bill. I do not know how it is now. People are all waiting and anxious to know how the interstate commerce bill will work on that.

#### THE STOCK-YARDS.

Q. Do you know anything about the management of the stock-yards here?—A. There is one man here that controls the stock-yards here. He feeds the cattle and charges so much. Nobody can put any hay and feed the cattle. This man has to be paid for it.

By Commissioner LITTLER:

Q. What is the market price of hay here?—A. From \$9 to \$10 a ton. And it has been as low as \$6.

By the CHAIRMAN:

Q. What does the company charge at the stock yard?—A. \$20 a ton.

#### COMPLAINTS AS TO REBATES.

Q. What other complaints have you knowledge of, here in the community, as to rates or discriminations of any kind?—A. The same case that Mr. Root stated, as to rebates. Mr. Slack, of the Cheyenne Sun, and the Stock Journal of Cheyenne (though this is hearsay) have received rebates on paper, while others cannot get it. I cannot get any rebates. I am not in with them.



By Commissioner LITTLER :

Q. Does this Boomerang paper get rebates ?—A. They do not get enough paper to get a rebate on it.

Q. Who is the editor of that paper now ?—A. A man by the name of [unclear].

By the CHAIRMAN :

Q. Is there any special agency here in charge of the coal business or the stock business ?—A. None that I know of. The Continental Company control shipments of oil here. Nobody but they can ship here.

Q. That is the Standard Oil Company ?—A. Yes.

EARLY EVERY HEAVY BUSINESS CONTROLLED BY THE COMPANY.

Q. Do you know whether any officer, employé, or agent of the Union Pacific Railway Company is interested, directly or indirectly, in the business enterprises along the line of the road ?—A. I guess they own nearly every heavy business there is on the line of the road.

Q. What I mean, outside of the Union Pacific Company, what individuals among its employés or officers have such interests ?—A. Well, to the soda works, that is considered to be a company; that if you have any complaint to make you have to go to the Union Pacific Railway Company. It is owned by Mr. Adams, the president of the Union Pacific Railway Company.

Q. Owned by the Union Pacific Railway Company ?—A. Owned by Mr. Adams's nephew, Mr. Hinckley.

PACIFIC HOTEL COMPANY.

Q. What other matter can you furnish information in regard to ?—A. The hotel, for instance.

The CHAIRMAN. Yes; that belongs to the Union Pacific Railway Company; they lease that.

The WITNESS. It is so understood here.

Q. What officers of the Union Pacific Railway Company are interested in this hotel ?—A. Every one of the officers are considered to be. They, the officers get special rates. They do not have to pay anything for the hotel.

Q. This hotel is conducted by the Pacific Hotel Company ?—A. Yes.

Q. That is like all the other hotels along the line ?—A. Yes.

Q. And they have special rates, just as all other hotels have special rates ?—A. Yes.

The CHAIRMAN. We got that information in Omaha.

By Commissioner ANDERSON :

Q. The Chairman asked you what officers had any interest in the hotel—the superintendent or president or who ?—A. It is understood that Mr. Adams is the backer of Mr. Swobe.

Q. When you say it is considered, what do you mean ?—A. We cannot prove anything, you know.

The CHAIRMAN. The Union Pacific Railway Company owns the building and a half interest. That information we got from those people, under oath.

The WITNESS. Well, that is a misunderstanding on my part. I take it back.

Q. Have you any other information ?—A. I cannot think of any other at present; but you could get lots of points if you could remain long enough here.

## THE STOCK OWNERS' ASSOCIATION.

Q. Will you give me the name of any officer of this Stock Owners' Association?—A. I have the whole list over at my office, in the paper.

Q. You have the whole list in what paper?—A. In my paper.

Q. You mean a published paper?—A. Yes.

Q. Can you give us a copy of this paper?—A. Yes.

Q. The association has \$100,000,000 capital?—A. I do not mean that the association itself has it, but the representatives, the men who form the association, are considered to own stock and such like—and everything else that they own is considered to be worth that much.

Q. You use the term "is considered" very often. What do you mean by "is considered"?—A. Well, if a man has stock on hand, for every head of cattle, for instance, he is said to be worth \$5. We sum up the number of cattle he has on the ranches, and that gives an idea of how much he is worth.

Q. Can you give us the name of any man at Cheyenne who is interested in this cattle association?—A. F. E. Warren, ex-governor, is one of them.

The CHAIRMAN. Will you send a paper to San Francisco, directed to this Commission, with the names and any other written information that you may have?—A. Yes, sir.

The Commission then adjourned, to meet upon the call of the chair.

SALT LAKE CITY, UTAH, *Wednesday, July 20, 1887.*

The Commission met upon the call of the chair, all the Commissioners being present.

PETER P. SHELBY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am assistant general traffic manager of the Union Pacific.

Q. Where are you located?—A. At Salt Lake City.

Q. How long have you been located here?—A. Since January, 1886.

## POSITIONS HELD IN COMPANY.

Q. Were you connected with the Union Pacific Railway prior to that time?—A. Yes, sir; I have been connected with the Union Pacific Company for a little over twenty-one years.

Q. What position did you hold prior to that of superintendent?—A. I have held various positions. I was general freight agent and assistant general freight agent and local freight agent at Omaha Station, and division superintendent, and so on down to the bottom.

Q. Have you named all the positions you have held?—A. Yes, sir; down to that of a clerk.

## DUTIES AND POWERS AS ASSISTANT GENERAL TRAFFIC MANAGER.

Q. What are your duties as assistant general traffic manager?—A. As assistant general traffic manager I have immediate charge of the freight traffic of Utah, Idaho, and Montana, and the east-bound Pacific coast traffic.



Q. What powers have you as to the freight traffic?—A. I have discretionary powers to a certain extent. Of course I have to submit all important matters to my superiors, with any recommendations I may wish to make.

Q. Who are your immediate superiors?—A. Mr. Kimball.

Q. Do you receive instructions from Mr. Kimball?—A. Yes, sir.

Q. Do you report to Mr. Kimball?—A. Yes, sir.

Q. How often do you report?—A. Every day.

Q. Do you report in writing?—A. Generally.

Q. Who was your predecessor here at Salt Lake City?—A. We never had any here. I am the first man that came here as assistant general traffic manager. The office was created the 1st of January, 1886, and we never had any officer here with full authority before. We had a general agent here. All the important matters were attended to in Omaha prior to the time I came here.

#### FREIGHT RATES.

Q. During your residence here, how have you fixed the freight rates, by published order?—A. Yes, sir.

Q. Have any other rates been charged to shippers?

The WITNESS. Since I have been here?

The CHAIRMAN. Yes.

The WITNESS. Yes. We have charged sometimes better rates than the tariff rates.

By Commissioner ANDERSON:

Q. Do you say better rates?—A. Yes, sir.

By the CHAIRMAN:

Q. What other rates?

The WITNESS. Your question is hardly in the right shape. Do you want to know if we had any other rates?

The CHAIRMAN. I want to get that after awhile. Have any other rates been charged to shippers?

The WITNESS. Yes.

Q. What other rates have been charged?—A. I could not say what other rates without reference to records.

Q. Have there been special rates?—A. Yes, sir; special rates.

#### PREFERENTIAL RATES.

Q. Have there been preferential rates?—A. Not exactly preferential rates, but special rates that were made upon certain commodities.

Q. What other kinds of rates have you charged; have you charged the regular rates and allowed rebates upon the rates charged?—A. Yes, sir.

Commissioner ANDERSON. That is, you have allowed rebates?

The WITNESS. We have allowed rebates.

Q. To whom have you given special rates?—A. We have given them to all the principal merchants of Salt Lake City and Ogden, and all other competing points reached by the Union Pacific system.

Q. What merchants?—A. I can furnish you a list of them, if you want it.

#### PARTIES GRANTED REBATES.

Q. Will you name the principal ones?—A. We have given them to *Remington, Johnson & Co.*, *George M. Scott*, *Zion Co-operative Mer-*

cantile Institution; in fact, all the principal merchants of Salt Lake City.

Q. Will you name the business as you go along?—A. Remington, Johnson & Co. are wholesale grocers. Mr. Scott is in the hardware business. Chon Bros. are wholesale grocers; The Zion Co-operative Mercantile Institution. Those are the principal ones here. The rebates we have given to all these concerns are given as against competing lines; that is, the rates made by competing lines.

By Commissioner ANDERSON:

Q. Will you mention the points—from where to where?—A. From the Missouri River to Salt Lake City.

Q. And Ogden?—A. And Ogden.

By the CHAIRMAN:

Q. What rates have you allowed these different firms as compared with the public open rates?—A. They would vary according to circumstances. Sometimes they would be as low as 5 per cent. from the tariff and as high as 40 per cent.

Q. How long have you continued allowing special rates to the firm you have named?—A. Those allowances were only made at certain periods when the rates were fluctuating and pools were not in very good condition.

#### TIME DURING WHICH REBATES WERE GRANTED.

Q. How long has it continued?—A. It does not exist at all now, since the operation of the interstate commerce law.

Q. When did you commence this practice?—A. We gave the rebates that I refer to, to those merchants, about the 10th of March last, and continued until the 4th of April.

Q. Had no rebates or special rates been allowed prior to the 10th of March?—A. As a rule we did not allow any rebates or special rates prior to that time on traffic between the Missouri River and Utah common points from the time we made the pool with the Denver and Rio Grande. That was in February, 1884.

Q. While it was not the rule, but the exception, how long have you continued allowing rebates, and to what firms?—A. I do not think we allowed any rebates prior to the time that I speak of, last spring, when the rates were demoralized.

Q. Do you not recall any names in the books; you were present at Omaha when names of firms located here were mentioned as having had rebates extending back two or three years?—A. No; there were no Utah firms, that I remember, mentioned at Omaha, except that there was one firm dealing in salt, I think, from Ogden to Butte.

#### DESERET SALT COMPANY.

Q. What was the name of the firm?—A. The Deseret Salt Company.

Q. Who composed the firm?—A. I do not know all the members of the firm. I know the two active men—Lyman and Wallace.

Q. Why were special rates given to that firm?—A. I think the word "special" rate in that case is not the proper word; it is a misnomer. We bought the salt from this firm, and billed it at a certain figure, and then deducted an amount from the freight earnings sufficient to pay for the salt at \$3.50 a ton.

By Commissioner ANDERSON :

Q. What do you mean by "sufficient to pay for the salt"?—A. That is all answered in Mr. Kimball's testimony. I prefer not to answer it myself, because he has answered it, and explained it in a very careful way.

The CHAIRMAN. We would like to have your explanation. You have charge of this division.

# REBATES ON SALT.

The WITNESS. These rebates that you refer to were paid before I came out here.

By the CHAIRMAN :

Q. What knowledge have you of them?—A. I have that knowledge—that we used to bill the salt at, say, \$25 a ton, and collect \$25 a ton from the consignee, and then refund from the freight charges or pay over from the freight charges to this Deseret Salt Company an amount sufficient to pay for the first cost of the salt. That is all explained by Mr. Kimball.

By Commissioner ANDERSON :

Q. What other gentlemen are connected with the Deseret Salt Company, that you recall?—A. I understand you have subpoenaed one of these gentlemen, and you had better ask them. They can tell you.

Commissioner ANDERSON. If you know we want you to tell.

The WITNESS. I do not know positively who all the members of that firm are.

By the CHAIRMAN :

Q. Who is reported as being connected with the firm?—A. I have heard that Mr. Little was one of the members, and the late Mr. Jennings was a member.

Q. Have you named all of them?—A. Bishop Sharp, I believe I heard he was a member.

Q. Who else?—A. That is all I know of.

Q. Where does Mr. Little live?—A. Here, in Salt Lake City.

Q. What is his full name?—A. I do not remember his full name.

Q. Do you know, Mr. Ritter?

Mr. RITTER. Ferrymorz.

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

Q. Whereabouts?—A. I do not know. He is a very prominent man here. He can be very easily found if you want him.

# SPECIAL RATES.

Q. What other firms received special rates prior to March 10, 1887?—A. I could not tell you without going over the records in Omaha. From the time the company commenced business up to the present time, they have in the books the name of every firm that has ever received any special rates.

Q. Do you recall any other firm to whom you allowed special rates?—A. No, I do not, now.

Q. Why were special rates given to a few shippers and not the same line of business?—A. I do not know of a case where discriminated in favor of any particular shipper under similar circumstances. We have sometimes given a man a rebate that was two or three hundred car-loads of freight, while we would give the same rebate to a man that only controlled a few hundred

## INDUCEMENTS TO LARGE SHIPPERS NOT OFFERED TO SMALL SHIPPERS.

Q. Would a man who controlled 200 or 300 pounds be compelled to ship at the open published tariff, while the other would be allowed the percentage off by way of rebate?—A. Sometimes our competitors would offer inducements to those large shippers that they would not offer to the small shippers, and we would have to meet the rates quoted by our competitors or go out of the business.

Q. When did your competitor, the Denver and Rio Grande, enter Salt Lake City?—A. In April, 1883. But we had a very active competition between our company and the Central Pacific for a year or two before that. The Central Pacific would compel us sometimes to make special rates on certain commodities that could come from either the Pacific coast or from Eastern cities.

## AGREEMENT TO MAINTAIN RATES.

Q. Had you a pool arrangement with the Central Pacific or the Denver and Rio Grande?—A. We had an agreement to maintain rates with the Central Pacific Company, which was firmly and faithfully carried out for a number of years, until some disputes arose between the Central Pacific and our company regarding rates from Ogden to Montana, and then they withdrew from that agreement. That was along about 1880. Then the rates went to pieces. Both companies commenced cutting, and the cutting lasted until 1882; and along in August, 1882, our company made an agreement or went into a pool with the Southern Pacific Company.

Q. Do you mean the Central Pacific?—A. Yes, sir. They call it the Southern Pacific now. The agreement was to divide gross rates on this business. Then the rates were maintained without any deviation whatever until the advent of the Denver and Rio Grande, which was in 1883.

## WAR OF RATES.

By Commissioner ANDERSON:

Q. What were the percentages?—A. 28 per cent. for the Central Pacific and 72 per cent. for the Union Pacific on freight from the Missouri River and on freight from the Pacific coast destined to these Utah common points; 10 per cent. for the Central Pacific, and 90 per cent. for the Union Pacific. That pool was faithfully carried out by both companies, as far as I know, until the advent of the Denver and Rio Grande, in April, 1883, and then the rates all went to pieces and fighting commenced and lasted nearly a year. The rates went down from \$3 a hundred on first-class freight, from Omaha to Salt Lake City, to 25 cents.

Q. Is that from \$3 a hundred down to 25 cents?—A. Yes, sir. We paid a great many rebates during that period. Then, after February, 1884, a restoration of rates was brought about by another pool, which consisted of the Central Pacific and the Denver and Rio Grande and its connections, and the Union Pacific.

## PERCENTAGES UNDER THE NEW POOL.

By the CHAIRMAN:

Q. What was the percentage under the new pool?—A. The Central Pacific had about the same per cent. that they had in the other pool, and the remainder was divided between the Union Pacific and the Den-



ver and Rio Grande and its connections, by allowing the Union Pacific two-thirds and the Denver and Rio Grande and its connections one-third of the remainder after taking out the 28 per cent. for the Central Pacific on the freight into Utah and 10 per cent. on the freight out of Utah.

Q. Do you mean that the Union Pacific received 48 and the Denver and Rio Grande 24, and the Central Pacific the balance?—A. Yes, sir; it would figure out that way. That would be the result. Forty-eight and a fraction, is it not; or is it just 48?

Mr. NORRIS. 48, 24, 28.

The WITNESS. That is the way it figures. You take out the Central Pacific portion first and then divide the remainder, two-thirds for us and one-third to the Rio Grande, and it amounts to the same thing.

#### CUT RATES ADJUSTED BY REBATES.

Q. How long did that pool last?—A. That pool continued—subject to certain revisions—from February, 1884, until the interstate commerce law went into effect.

Q. Did the Union Pacific maintain the rates during that time?—A. There were times when there would be a little cutting going on. Some of the connections of the Denver and Rio Grande would find they were running behind and they would cut the rates and we would meet them, and these cuts were most always adjusted by rebate.

By Commissioner ANDERSON:

Q. They were equalized by rebate?—A. Adjusted by rebate. The freight would be billed at the tariff rate and the overcharge would be adjusted by rebate.

Q. It would be adjusted as between the shipper and the company?—A. Yes, sir.

By the CHAIRMAN:

Q. You do not mean adjusted as between the two competing railroad companies, do you?—A. No, sir.

Q. Did the Denver and Rio Grande earn its share in the pool?—A. At first, I believe, they ran behind, but, on the whole, they carried about their share of the amount allotted to them.

#### DIFFERENCES IN EARNINGS MADE UP BY DIVERSION OF FREIGHT.

Q. How did you make up the difference when they did not carry their share?—A. The difference was generally made up by diversion of freight; but I wish to state that the Denver and Rio Grande diverted, under that pool agreement, as much freight to us as we did to them. I am pretty well satisfied of that.

Q. Did the Union Pacific during the contest at any time fail to earn its share, and more?—A. Yes, sir; we failed to earn our share at times.

Q. For how long a period did that last?—A. We failed during several different periods. Sometimes the Denver and Rio Grande would be ahead in the pool, and sometimes we would be ahead, but, as I said before, on the whole I think we did not earn any more money in this Utah pool than was allotted to us.

Q. How much freight did you divert to make up the Denver and Rio Grande shortage?—A. I could not say, but I believe the Denver and Rio Grande diverted as much freight to us as we did to them.



## INDUCEMENTS TO LARGE SHIPPERS NOT OFFERED TO SMALL

Q. Would a man who controlled 200 or 300 pounds be ship at the open published tariff, while the other would be percentage off by way of rebate?—A. Sometimes our company offer inducements to those large shippers that they would the small shippers, and we would have to meet the rates of competitors or go out of the business.

Q. When did your competitor, the Denver and Rio Grande Lake City?—A. In April, 1883. But we had a very active between our company and the Central Pacific for a year or that. The Central Pacific would compel us sometimes to rates on certain commodities that could come from either coast or from Eastern cities.

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Q. Had you a pool arrangement with the Central Pacific and Rio Grande?—A. We had an agreement to maintain the Central Pacific Company, which was firmly and faithful out for a number of years, until some disputes arose between Central Pacific and our company regarding rates from Ogden and then they withdrew from that agreement. That was 1880. Then the rates went to pieces. Both companies continuing, and the cutting lasted until 1882; and along in August company made an agreement or went into a pool with the Central Pacific Company.

Q. Do you mean the Central Pacific?—A. Yes, sir. The Southern Pacific now. The agreement was to divide gross business. Then the rates were maintained without any deviation until the advent of the Denver and Rio Grande, which

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By Commissioner ANDERSON:

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Q. Is that from \$3 a hundred down to 25 cents?—A. Yes. We paid a great many rebates during that period. Then, after 1884, a restoration of rates was brought about by another pool consisting of the Central Pacific and the Denver and Rio Grande and its connections, and the Union Pacific.

## PERCENTAGES UNDER THE NEW POOL.

By the CHAIRMAN:

Q. What was the percentage under the new pool?—A. The Central Pacific had about the same per cent. that they had in the old pool, and the remainder was divided between the Union Pacific and the Denver and Rio Grande.

Q. Now did you make up the difference when they did not come back?—A. The difference was generally made up by agreement on the part of the Denver and Rio Grande when the difference was not agreed upon, as much freight to us as we did to them. I am well satisfied of that.

Q. Did the Union Pacific during the contest at any time fail to share, and more?—A. Yes, sir; we failed to earn our share at times. During a period did that last?—A. We failed to share during the period when the Denver and Rio Grande were ahead, but

Q For how long? Sometimes the freight is about equal in the  
at different periods. Sometimes we would be about equal in the  
shed in the pool, and sometimes we did not even pay more money in the  
us, on the whole I think we did not even pay more money in the  
a pool than was allotted to us.  
Q How much freight did you divert to make up the balance and take  
it—A. I could not say, but I believe the freight was  
as much freight to us as we did to them.

## EXPLANATION OF "DIVERSION."

By Commissioner ANDERSON:

Q. Will you explain what you mean by "diversion"?—A. The plan we had in these old pools, which are not in existence, was this: In case one party to the pool would run, say, \$20,000 behind, we would take freight upon which the earnings would amount to \$20,000 and turn it over to that party, or they would turn it over to us, as the case might be.

Q. Did you do that without paying attention to the directions of the shipper?—A. We generally used to conform to the wishes of the shipper in the matter, and would consult the shipper about it. We never diverted any freight contrary to the wishes of the shipper that I know of.

## THE COAL BUSINESS AT SALT LAKE CITY.

By the CHAIRMAN:

Q. What kind of coal do you bring into Salt Lake City?—A. We bring Rock Springs coal and we bring coal from one or two other mines, but it is principally Rock Springs coal.

Q. What other coal comes here?—A. We have been bringing coal from a mine called the Grass Creek mine, not far from Echo. I do not know whether any is coming in from that mine now or not.

Q. Who has charge of the Rock Springs coal business here?—A. Our coal agent. It is a business that is conducted under the supervision of the superintendent of the coal department of the Union Pacific Company.

Q. How many agents have you?

The WITNESS. Here, in Salt Lake City?

The CHAIRMAN. Yes.

The WITNESS. Only one.

Q. What other company brings Rock Springs coal?—A. I do not think any other company brings it now. We are talking about having another agency established here.

Q. Do you sell Rock Springs coal by contract from the mine to any shipper in Salt Lake City other than your agent?—A. I do not know how the thing is managed in that respect just now, but we have not had any calls for coal delivered at the mine.

Q. Can a citizen of Salt Lake City buy Rock Springs coal—any other shipper of coal or dealer in coal—from any other concern than from your agent?—A. I do not know that there is any other Rock Springs coal here than that which our agent controls at present.

Q. At what price do you sell to the other dealers in Rock Springs coal?—A. We would be willing to sell it to them at a price sufficiently low to allow them a margin of profit for doing the business. We have not been asked for any coal until quite recently. I favored the establishment of another coal agency here, and submitted the matter to the Omaha office.

Q. At what price do you sell Rock Springs coal to other dealers?—A. I stated that we have not been asked for any prices.

COMPANY SELLS COAL SO LOW THAT SCARCELY ANY ONE COULD COMPETE.

Q. Why is it that you are not selling Rock Springs coal to shippers or coal dealers, other than your agent?—A. Our agent sells this coal

here at figures so low that it would be pretty hard for anybody to compete with him. We do not ask any profit for doing the work here, or any consideration, except the cost of handling it and teaming it.

Q. Do you charge nothing for the freight?—A. We charge for the freight and the price of the coal.

Q. Has not the company, through its agent, an entire and absolute monopoly of the Rock Springs coal business?—A. I do not know that it has.

Q. Is it possible for any other dealer in coal to sell Rock Springs coal in Salt Lake City?—A. We had a request a few days ago from a business man here for quotations for the coal, and I have made a recommendation that we place the coal to him at figures here so that he will have a reasonable profit for handling the coal, and so that he can sell it in competition with our own agent.

Q. How long have you been bringing Rock Springs coal into Salt Lake City?—A. I presume ever since the road was completed to Salt Lake City.

Q. How long is that?—A. I know we have been bringing it in here for fourteen or fifteen years, and probably ever since the road was completed to Salt Lake City.

Q. Then the arrangement you have named as being recommended within the last few days is the first one you ever made or proposed to give to any other coal dealer the same opportunity that your coal agent has had in selling coal?—A. I do not know whether that is true or not. I could not say that it is.

Q. When did you ever give any such opportunity before?—A. I believe we had one or two agencies, or one or two parties were handling the Rock Springs coal here, several years ago.

Q. Who were they?—A. I do not remember who they were, but you can ascertain more in relation to that from some of the other witnesses.

#### ROCK SPRINGS COAL COMPARED WITH OTHER COAL.

Q. How does the quality of Rock Springs coal compare with the other coal that comes into Salt Lake City?—A. It has the reputation of being as good as any coal that comes here.

Q. Is there as much demand for Rock Springs coal as for the other coal?—A. I could not say whether there is or not. I should presume there is more demand for Rock Springs coal, but the prices are fixed so that the other coal, which is not as good as the Rock Springs coal, is sold at about one-half a dollar a ton less. There are two or three grades of coal, and the prices vary according to the quality.

Q. What is the difference in the prices of coal?—A. I could not say off hand, but I think about from 50 cents to \$1 a ton.

Q. Over what road was the other coal shipped?—A. We have had, I think, three qualities of coal come in over our own road. Then there is a coal that comes in from Pleasant Valley over the Denver and Rio Grande that is considered almost as good as Rock Springs coal. We have, of course, to sell Rock Springs coal in competition with this Pleasant Valley coal.

#### FREIGHTS ON COAL REGULATED BY COST OF PRODUCTION.

By Commissioner ANDERSON:

Q. What is the price at which your agent sells coal here?—A. I believe it is \$6 a ton. He has different prices. He has a price for car-load lots delivered at the yard, and then he has prices for car-load lots



delivered at different places in town, and prices for lots less than car loads—one-ton lots. I could give the exact figures by reference, but I cannot from memory.

Q. Do they vary from \$5.50 to \$6.50?—A. I presume so.

Q. What is the cost of production at the mine?—A. I do not know.

Q. What is the freight from Rock Springs to Salt Lake City?—A. I could not tell from memory.

Q. Is it not a fact that you make the price here by adding to the cost of production so much freight as may be necessary to make up the price at which you are willing to sell it for here in Salt Lake City?—A. It amounts to that, I presume. We find what we can get for coal here, and what it costs us to produce it, and then we deduct the cost of producing it and the cost of delivering it and running the office here from the gross price we are able to obtain for the coal, and the remainder we allow to freight charges.

Q. Is that allowance regularly made to the freight department?—A. Yes, sir.

Q. Is it not true that you sell coal at substantially the same price at all points between Rock Springs and Salt Lake City? That is, at about \$6 a ton?—A. No; I do not think that is true. I do not think they ask that much for coal at points nearer to Rock Springs.

Q. Do you know of any change in the price?—A. No, sir.

#### SUPERINTENDENT OF COAL DEPARTMENT FIXES PRICES.

Q. Who would know about the price at which coal was selling?—A. The superintendent of the coal department has full charge of fixing the prices (subject to the approval of the general traffic manager) for all coal sold by the Union Pacific coal department.

Q. Take Evanston, for illustration. Do you know the price there?—A. No; I do not.

Q. If it should be true that the price of coal is substantially the same as soon as you get beyond the distance to which it may be profitably hauled in wagons from Rock Springs, then is it not a fact that you yourselves establish what you consider a reasonable price for coal, and make up the freight so as to absorb the entire difference between the cost of production and the price at which you sell the coal?—A. Yes, sir; the Union Pacific freight department receives the benefit of all that is received for the coal in excess of the cost of producing and selling it.

Q. Who fixes the price at which coal is sold?—A. The superintendent of the coal department.

Q. What is his name?—A. D. O. Clark. He fixes it, subject to the approval of the general traffic manager.

Q. Do you know how much coal comes to Salt Lake City?—A. I could not state off-hand how much comes here.

#### PROPORTIONS OF COAL HAULED BY UNION PACIFIC AND DENVER AND RIO GRANDE.

Q. Do you know the proportion of coal hauled over the Union Pacific and the proportion of coal hauled over the Denver and Rio Grande?—A. We handle over one-half.

Q. Do you not handle three-fourths?—A. We may handle three-fourths, but we have no way of knowing exactly how much they handle. We know what we handle, but we do not know what they handle.

Q. You speak of being willing to give rates to shippers here which would enable them to compete. Would you be willing to give rates for



transportation from the mines to other owners of coal property at Rock Springs, so that they could successfully compete with the Union Pacific?—A. I do not know.

Q. Would you have authority to do that without Mr. Kimball's co-operation?—A. No, sir.

#### CENTRAL PACIFIC CONTROLS MINES AT EVANSTON.

By Commissioner LITTLER:

Q. State whether the Central Pacific Company owns mines at Evanston or Alma.—A. I do not know that the Central Pacific Company owns mines there, but there is a mine there that is controlled either by that company or some of the men connected with the company. They get a certain amount of their coal there.

Q. How much do they get there?—A. I could not say.

Q. Is it a large amount?—A. Yes, sir; it has been large in the past.

Q. Do you know whether the Central Pacific have other mines along the line of the road?—A. I do not believe there is any coal between Ogden and San Francisco on the line of their road.

Q. Is it true, then, that they get the coal to operate their entire line from Evanston or Alma, or thereabouts?—A. No; I think not. They get a portion of their coal from up on the sound.

Q. Where is that sound?—A. Puget Sound.

#### UNION PACIFIC RATES FOR TRANSPORTING COAL.

Q. Do you know what the rates are of the Union Pacific for transporting their coal from their mines to Ogden?—A. I could give you the exact figures; it is about \$1.25 a ton.

By Commissioner ANDERSON:

Q. Will you give us the distance?—A. Seventy-five miles.

By Commissioner LITTLER:

Q. Is that about a cent and a half a ton a mile?—A. A cent and two-thirds.

Q. Have you ever examined the coal mines at Evanston or Alma?—A. No, sir.

Q. Do you know anything about their extent or capacity?—A. No, sir.

Q. Who would know all about that?—A. D. O. Clark.

Q. Where is he?—A. At Omaha.

Q. The traffic of the Central Pacific coal over your road must be very large if they have no mines along their road, is it not?—A. I do not know to what extent they use the coal that comes from Alma.

#### ALMA COAL SECOND CLASS.

Q. What is the quality of the Alma coal?—A. I have understood that it is a second-class coal.

By Commissioner ANDERSON:

Q. Is it inferior to the Rock Springs coal?—A. Yes, sir.

By Commissioner LITTLER:

Q. Does any of that coal go east of Alma or east of the mines?—A. I do not think we were carrying that coal east to any great extent, because it would be like carrying coal to Newcastle.

Q. You have a large traffic in that coal along your own line, even here to Salt Lake, I suppose, and beyond, have you not?—A. Yes.

ABUNDANCE OF COAL SOUTH OF SALT LAKE CITY.

Q. Is there any coal in this region?—A. There is an abundance of coal south of here.

Q. On the line of your road?

The WITNESS. Do you mean the line of the Utah Central?

Commissioner LITTLER. On the line of the Union Pacific or any of its branches.

A. It is not on the line of the Utah Central, but it is not very far from the line. They use the Denver and Rio Grande to come to the Utah Central line, from Pleasant Valley.

Q. Do the mines you now speak of supply this region?—A. They supply a portion of it.

Q. I mean do they supply Salt Lake?—A. They supply a portion of the coal. I could not say how much, but probably somewhere in the vicinity of 40 per cent. of it.

Q. Does the balance of it come from Alma?—A. From Rock Springs.

Q. Do you ship Rock Springs coal here?—A. Yes, sir.

Q. Do you know who owns or controls the Pleasant Valley coal mines?—A. I do not.

NO RAILROAD OFFICERS INTERESTED IN COAL MINES.

Q. Are they owned or controlled by or do any of the officers of the Union Pacific have any interest in them?—A. No; I think not.

Q. Do any of the officers of the Utah Central have any interest in them?—A. I could not say.

Q. Is it a corporation organized under the laws of the Territory of Utah that operates the mine?—A. That I do not know.

Q. Have you heard how they are operated, or by whom they are owned?—A. No; I have paid but very little attention to it.

By Commissioner ANDERSON:

Q. Do you know who is the agent of the Pleasant Valley coal?—A. No, sir.

By Commissioner LITTLER:

Q. Have the Union Pacific any control of the mine in any way whatever? Do they furnish special rates to the mine?—A. No, sir; I could not answer that question. I do not know whether the Utah Central furnishes special rates on that coal or not.

Q. Is there any agreement by which the traffic between Rock Springs and these mines shall be divided evenly or otherwise?—A. No, sir.

LITTLE ALMA COAL SHIPPED TO SALT LAKE.

By Commissioner ANDERSON:

Q. Does the Alma coal come here?—A. Yes, sir.

Q. In what quantities?—A. Not very much. They do not ship very much Alma coal to Salt Lake City.

Q. How is it brought here? By whom?—A. By the Union Pacific.

Q. Do you buy it from the Central Pacific?—A. We have a mine there at Alma, also.

Q. Does that coal enter into successful competition with the Rock Springs coal here at Salt Lake City?—A. We have to make a differen-

tial price here so as to sell it as against Rock Springs coal. The haul is not as far from Alma to here as it is from Rock Springs, and consequently they can afford to sell it cheaper on that account; but we must sell it cheaper, anyhow, on account of the difference of quality.

Q. How much does the difference in quality represent in value?—A. I should say \$1 a ton.

#### DIFFERENCE IN PRICE BETWEEN ROCK SPRINGS AND ALMA COAL.

Q. What is the difference in freight?—A. I could not give the exact figures without reference to the books.

Q. Then do you really charge the same for freight and only make the difference in price which covers the difference in quality?—A. No; the difference in favor of the Alma coal would be deducted from the freight earnings. The distance from Alma to Salt Lake City as against Rock Springs to Salt Lake City would be sufficient to justify a differential freight rate of about \$1 a ton.

Q. One distance is 75 miles. What is the other distance?—A. The other distance must be pretty nearly 200 miles from Ogden.

Q. Is it 75 miles from Alma and 200 from Rock Springs?—A. Yes, sir.

Q. Can you tell us about what it cost to mine this coal per ton? Is it not about \$1.25?—A. I have understood that it varies from \$1.25 to \$2 a ton.

Q. Do you say you are not sure about the officers of the Utah Central being interested in the Pleasant Valley coal?—A. I did not say so.

Q. You do not know whether they are interested or not?—A. That is what I said.

Q. Have you not understood that they were interested in it?—A. I have not.

Q. Can you refer us to some dealer in Pleasant Valley coal, or somebody connected with that business, who would know who controlled that mine?—A. Bishop Sharp can give you all the information that you require regarding that coal mine.

#### STOCK-YARD AT OGDEN.

By the CHAIRMAN:

Q. Have you a stock-yard here?—A. No, sir.

Q. Do you ship any stock from this point?—A. We ship very little stock from Salt Lake. We ship considerable from Ogden.

Q. Who has charge of the stock-yard there?—A. Our agent has control of it. There is very little feeding and raising done at Ogden, it being the terminal point for cattle.

Q. What is the name of the agent?—A. E. T. Hulaniski.

Q. Have you an agreement with him?—A. No; he is our local freight agent. Most of the cattle shipped from Ogden originates there, and consequently would not be fed. The yards are used entirely for loading and unloading.

Q. Do you feed cattle there at all?—A. Occasionally, I presume, there are some cattle fed there, and they get their hay from anybody they choose.

#### CHARGE FOR FEEDING CATTLE.

Q. What does the agent charge for feeding cattle?—A. The prevailing price for hay along the road is \$20 a ton, along at the different stock yards.

Q. Has the company any share in that business?—A. No, sir.

Q. Who receives the profits?

The WITNESS. The difference between the actual cost of the hay and what they get for it?

The CHAIRMAN. Yes.

A. The different men the stock shippers buy their hay from get the difference, I presume.

Q. What is the price of hay in Ogden?—A. I should say about \$10 or \$12 a ton. Our agent does not have anything to do with the feeding of cattle there.

Q. Who does?—A. I could not tell you. Anybody that the stockmen want to buy the hay from. There is no monopoly.

Q. Who has charge of the stock-yard?—A. Our agent has control of the stock-yard, and if a man unloads ten car-loads of cattle to rest and feed, he can go and buy his hay wherever he wishes. But, as I said before, Ogden being a terminal point there is but little feeding done there.

#### CONTROL OF STOCK-YARD.

Q. What control has your agent over the stock-yard?—A. He has the same control he has over all other buildings of the company at Ogden.

Q. Who buys the hay for the stock-yards?—A. The man that owns the cattle buys his own hay as far as I know. Our agent at Ogden has nothing whatever to do with the feeding of the cattle at that station.

Q. From whom does he buy the hay?—A. I do not know; our agent buys no hay there.

Q. From whom does the stockman buy the hay?—A. They buy it from any one they can get it from the cheapest, I presume.

Q. How does he get the hay into the stock-yard?—A. The man that he buys it from teams it in there for him, I think. I have paid but very little attention to that.

Q. Do you know anything about that?—A. I have told you all I know about it.

Q. Then if there is any one buying hay and feeding cattle there under an arrangement of the company, you do not know anything about it?—A. We have no such arrangement there that I know of.

#### OGDEN YARD DIFFERENT FROM OTHER YARDS.

Q. Does your stock-yard at Ogden differ from the other yards?—A. We have a different arrangement at most of the yards. The arrangements depend upon the immediate circumstances surrounding each place. At some places we do not have anybody in charge of the yard. The man unloads his cattle and gets his hay wherever he sees fit. We tried to make the maximum price for hay about \$20 a ton.

Q. Can you name any place along the line of the Union Pacific where the authorities of the Union Pacific, either by lease or indirectly, do not take charge of the stock-yard?—A. No; we have no such points.

Q. How many stock-yards have you at Ogden?—A. One stock yard.

Q. What is the capacity of it?—A. It will handle about twenty-five cars of cattle.

Q. What is the difference between the stock-yard at Ogden and the stock-yard at Cheyenne, as to feeding?—A. There is much more cattle feed at Cheyenne than at Ogden.

DIFFERENT ARRANGEMENTS AS TO FEEDING.

Q. What would be the difference between the arrangements at Cheyenne and the arrangements at Ogden?—A. The difference in amount of traffic would necessitate some difference in the arrangement for feeding cattle.

Q. Do you know anything about the arrangements at Cheyenne?—A. No, sir.

Q. Do you know whether Mr. Van Tassel is the agent there now?—A. I believe he is.

Q. Is that under your supervision?—A. No, sir.

Q. Have you not charge of Wyoming Territory?—A. No, sir.

By Commissioner ANDERSON:

Q. Are there any stock-yards in your department where this \$20 price for hay is charged?—A. I believe that is the prevailing price for hay.

WHAT THE PRICE OF HAY COVERS.

Q. What does that price cover? Anything besides the hay?—A. It covers the cost of the hay and the cost of delivering it to the yard, and the cost of distributing it in the yard, so that the cattle can eat it.

Q. How many men will it require to perform these duties?—A. It depends upon the amount of hay they have to deliver.

Q. Will any book show whether the company makes or does not make any profit on the \$20 price?—A. I do not know of any case where the Union Pacific Company has had any interest, in any way, shape, or manner, in any yard on the Union Pacific system. I do not believe they have; I never heard of it.

Q. Who gets this \$20 price?—A. We usually arrange with some responsible person to keep on hand a supply of hay for the accommodation of shippers of cattle that may live a thousand miles from the yards, and with the understanding that they will sell it at some reasonable price. We very often hear that they charge much more than \$20 a ton, and we tell them that they must not do it or we will deprive them of the privilege of selling hay in the yards.

Q. Will you name a point in your department so that I can identify this thing more accurately, where \$20 is charged?—A. I am not certain as to just the exact charge, but I think that is the prevailing charge. Is not that the price charged at Cheyenne?

POCATELLO STOCK-YARD.

Q. Will you name the point?—A. I presume at Pocatello it is \$20 a ton.

Q. What is the name of the agent in the cattle yard there?—A. I think his name is Keeney.

Q. Is Mr. Keeney an agent of the Union Pacific?—A. No, sir; our agents never pay any attention to the yards, so far as feeding cattle is concerned. They have charge of the yards, so far as the structure is concerned, to see that the fences are up and the gates in good condition, &c.

Q. Does Mr. Keeney receive a salary from the Union Pacific?—A. No, sir.

Q. Is Mr. Keeney the person who charges shippers of cattle \$ ton for feeding them?—A. Yes, sir.

Q. Does he account for any portion of that money to the Union Pacific?—A. No, sir.



Q. Does he buy the hay that is used in the yard at any price he can get it for?—A. Yes, sir.

Q. And does he charge \$20 for the hay and for the distribution and the expenses of attending to the cattle?—A. Attending to the cattle and seeing the cattle have water and are properly taken care of. Usually these men also assist in loading and unloading cattle.

Q. Have you any idea what figures that charge will amount to in the course of a year at some of the points?—A. I never heard of any of them making very much money out of it yet.

#### STOCK-YARD AGENT NOT A PAID AGENT OF UNION PACIFIC.

Q. Is it true, with reference to the stock-yards generally, that the agent in charge of the stock-yard is not a paid agent of the Union Pacific?—A. Yes, sir.

Q. Is it also true that at no stock-yard that you know of the Union Pacific receives any portion of the charge made for hay?—A. Not that I know of. It would be well to state that hay is more expensive in this western country than it is in Eastern Nebraska and Iowa and Illinois. The hay is of different quality and costs the men that supply it to the yard much more per ton than it does in the East.

#### MINERALS, WOOL, AND STOCK THE PRINCIPAL SHIPMENTS.

By the CHAIRMAN:

Q. What other principal shipments have you over the line from this point?—A. Mineral products constitute the principal shipments. The wool comes next; live stock next.

Q. Who are your principal shippers of mineral products?

The WITNESS. From here?

The CHAIRMAN. Yes.

The WITNESS. A. Hanauer, T. R. Jones, the Mingo Smelting Company. Do you want me to give you the names of all the shippers of ore and bullion?

The CHAIRMAN. Yes.

The WITNESS. J. Q. Packard—

By Commissioner ANDERSON:

Q. Are these all Salt Lake City people?—A. Yes, sir.

The CHAIRMAN. You can proceed.

The WITNESS. F. W. Billings, J. E. Dooley.

By the CHAIRMAN:

Q. To what point do you carry the ore?—A. We carry the ore from here to the Missouri River and to Denver.

#### RATES FOR CARRYING ORE.

Q. What rates do you charge?—A. The rate from here to the Missouri River is \$12.40 per ton, and to Denver \$10.60 per ton on ore. The charge is \$18 per ton from here to the Missouri River on bullion.

Q. Were the rates named by you the rates prior to April 1, 1887?—A. Yes, sir.

Q. Have you given any special rates to any of the shippers that you have named?—A. At different times we have given special rates—I was going to say to all of them, but I do not know that we have. At different times we have given special rates to a portion of them.

Q. Is it never more than \$3?—A. It was \$3.50 prior to the 1st of August, 1886. I do not think we ever paid, under contract, over \$3.50.

Q. Did you ever pay more than that by private arrangement?—A. Before we made this contract the salt used to represent as high as \$6.50 a ton on board the cars at Ogden.

Q. During all the period that this salt has been exported from here, is it not true that Mr. Sharp has been largely interested in the company?—A. He may have been interested in one of the companies. I do not know that he is interested.

Q. Did you never have any talk with him about it?—A. I do not think I ever did. I do not think I ever talked on the salt question with him at all. In the first place, there is another company in active competition with this Utah Salt Company.

Q. I dare say they can make their own arrangements. What I want to know is, did you personally ever talk with Mr. Sharp, or any person or agent representing Mr. Sharp, on the subject of rates to be fixed on salt?—A. I have had a great deal of talk with the manager of the Utah Salt Company.

#### ANY BODY CAN SHIP AT SAME RATES.

Q. What is his name?—A. C. W. Lyman, and I have talked also with Mr. George Y. Wallace. I think he is secretary and treasurer. It took considerable talk before we could get them to agree to put the price down from \$3.50 to \$3 a ton. Mr. Wallace is here in the room. I would like to state in connection with this salt business that at the present time salt can be shipped by anybody, to Butte, at the same freight rate that we derive from this plan of buying the salt and selling it ourselves.

Q. What does it amount to per annum—how many tons?—A. 13,000 tons to Butte. It cuts a very large figure in the traffic of the Utah and Northern road, and is a very important factor in the reductions of silver ore at Butte. In 1881 our freight rate was about \$35 a ton on salt, and it has been gradually decreased, until now it is \$12 a ton. As they go down in the mines the ore becomes of less value, and we have been meeting that fact, or trying to neutralize it to a certain extent, by the freight rate on the salt.

#### ORE, LIVE STOCK, AND WOOL PRINCIPAL ITEMS OF TRAFFIC.

By the CHAIRMAN:

Q. What other shipments have you? I refer to your principal shipments.—A. We have all kinds of freight to and from this country. As I said before, the ore and its products, live stock, and wool, constitute the three principal items of traffic from this country. Of course there are all kinds of traffic coming in here.

Q. Who are the principal wool dealers?—A. There are a number of them here—Pickert, Summerhays, and Cohen. Those are the three principal shippers.

Q. Have you allowed the shippers of wool, or any particular shipper, any special rates by way of rebate or preference?—A. I could not tell from memory, but I think we have done so at certain times, when competition made it necessary.

#### DIFFERENT RATE FOR WOOL FROM PUBLISHED TARIFF.

Q. Have you allowed rates to all alike?—A. Yes, sir.

Q. Will you please tell me why you fix a different rate for the wool shippers from your published rate, if all are getting the same rates?—

A. We may publish a rate of \$2 a hundred to Boston, and we may then find that our competitors quote a rate of \$1.75 privately. We might make a special rate of \$1.75 on some special lot, to meet the action of our competitors in that particular case.

Q. Have there been any complaints to you about the rate on wool from here to Boston?—A. There was an effort made by some of the lines to advance the rate on wool last March, and there was a good deal of complaint made in regard to that, but the rate was not advanced.

CHEAPER TO SHIP WOOL TO BOSTON VIA SAN FRANCISCO THAN BY DIRECT ROUTE.

Q. Is it true that a shipper from this point could ship wool over the Central Pacific to San Francisco, and reship it back from that point to Boston cheaper than he could ship it direct from this point to Boston?—A. That has been the case in some instances. I will explain the reason why. We may fix a rate of, say, \$1.35 on baled wool from here to the Missouri River. The Southern Pacific—that is, the Central Pacific—has the right under our rate agreement here to make their rates from Salt Lake to San Francisco 85½ per cent. of any rate we fix from here to the Missouri River. Then the rate from San Francisco to Boston, having been made by water competition, sometimes goes down as low as 75 cents or \$1 a hundred. This comparative rate, added to the rate from here to San Francisco, often makes a lower rate to New York or Boston than we could make direct. But when we find that to be the case, we generally get our connections, or prevail upon our connections to reduce their rate on wool coming from Utah, that is, the lines running between the Missouri River and Chicago, or the lines running between Chicago and Boston. This is done in order to duplicate the rate that is made by way of San Francisco. If the rates are equal both ways, the traffic will go direct. It never goes by the way of San Francisco and around by water, or by the sunset route, unless the rates are lower that way, because the time is so much longer.

WHEN THAT WOULD OCCUR.

Q. When was it that the wool shipper from Salt Lake City could ship over the Central Pacific to San Francisco, and from that point back to Boston, cheaper than he could direct from Salt Lake City?—A. I think that has occurred since the interstate commerce law went into effect, within the last sixty days.

Q. Had it ever occurred prior to April 1?—A. I believe it occurred prior to April 1.

Q. When?—A. I could not state the exact time, but it would occur at almost any time, or it might occur when there was a demoralization of the transcontinental rates. As I stated before, the rate from here to San Francisco is always 85½ per cent. of the rate from here to the Missouri River. So it does not make any difference what rate we make to the Missouri River, our company cannot meet that competition, because the Southern Pacific Company will make 85½ per cent. of the rate from here to San Francisco that we make to the Missouri River. It occurs sometimes that the lines running between the Missouri River and Chicago, or between Chicago and Boston, may decline to meet this competition, which, I may say, is the cut rate from San Francisco to Boston, but when they see the wool coming that way then they step in and offer us rates to take it over its natural and direct route.



## VERBAL UNDERSTANDING BETWEEN UNION PACIFIC AND CENTRAL PACIFIC.

By Commissioner ANDERSON:

Q. Is there a general contract between the Union Pacific and Central Pacific under which this right to fix the Pacific Coast tariff at 85½ per cent. of the Missouri tariff is exercised?—A. There is a verbal understanding; there is no contract. The understanding has been in existence since the completion of the Union and Central Pacific roads. It is based upon the fact that the distance from here to San Francisco is 85½ per cent. of the distance from here to Omaha. They claim the right of making the same rate per ton per mile on traffic to and from competitive Utah points that we make. There was a written contract covering this point prior to the passage of the interstate commerce law, but there is no contract now. We know they will make their rates 85½ per cent. of our rates, just the same as they did when the contract was in effect.

## CONCERNING POWER TO MAKE FREIGHT ARRANGEMENTS.

By the CHAIRMAN:

Q. Have you power to make a freight arrangement for the division under your control without consulting with the authorities at Omaha?—A. No; I might have power to make unimportant arrangements, but anything of any great importance I would submit to the authorities at Omaha.

Q. What do you call "unimportant"?—A. A free competition. Yes, sir; but I

Q. Did you mean whether certain legislation was hostile or not. day for board. used in nearly all the States traversed by

Q. Are the vouchers which has affected our rates more or less, but

Q. Do you say you never passed any law of legislation that is.—A. man.

## NO MONEY UNLAWFULLY EXPENDED.

Q. Do you know of any officer or agent of the Union Pacific who has paid out any money illegitimately or unlawfully for the purpose of influencing legislation?—A. No, sir; I do not.

Q. How much did your bills aggregate?—A. About \$100,000. At Lincoln it would be about \$3 a day. At Denver it would be about \$4 a day.

Q. Did you put in cigar bills and whisky bills?—A. No. I have never rendered any cigar bills or whisky bills in my life to the committee.

## A MEMBER OF THE LEGISLATURE.

By Commissioner ANDERSON:

Q. Have you been a member of the Nebraska legislature?—A. Yes, sir; I was a member ten years ago.

Q. Had you an intimate acquaintance with the members of the legislatures during the session you attended?—A. I had an intimate acquaintance with those that represented the same county that I represented.

Q. Had you a general acquaintance with all the members?—A. I had a general acquaintance with the entire body.

Q. How many members did it number?—A. One hundred and fourteen, I think, in the house, and about thirty, I think, in the senate.

## HOW TO ASCERTAIN WHO WERE FOR AND WHO AGAINST.

Q. How would you ascertain who was for you and who was against you?—A. Some one would come and tell me that such a man was against us and such a man was for us, and I would generally get it from their actions and what they had to say in committee rooms, and so on.

Q. How would you sort out the set of men you thought most likely to be accessible to your explanations and arguments?—A. I would have to resort to, or would have to adopt, different methods for different people. If I would find one man that was rather stubborn, and I could not do anything with him, I would go and find some one else that had some influence over him, and show him that he was wrong. During the time I was in the legislature, ten years ago, I do not know that there was any very important matter up that affected the road.

Commissioner ANDERSON. I am not speaking of that time. I only ask you that question to ascertain how much personal connection you had with these gentlemen, because I presume that a number of them served several terms. I am now speaking of the time when you actually used these arguments and explanations. You say that when you found persons who were stubborn, you would get some of their friends to endeavor to make explanations of the same character?

The WITNESS. Yes, sir; I would try and find some one they had more confidence in than they would have in me; some one with whom they had a better acquaintance.

## ASCERTAINING GRIEVANCE OF MEMBERS.

Q. Is it not true that when you found a member of the legislature hostile to the company you would ask him what his grievance was?—A. Yes, sir.

Q. Did that often happen?—A. Yes, sir.

Q. Is it not true that in many cases where members had a grievance which you thought could be removed you would do what you could to remove it?—A. If it was a just grievance I would certainly do so. I do not know that we ever found very many just grievances. They would have fancied grievances.

Q. Would the conversation between you and the members turn on the question of their fancied grievances to some extent?—A. Yes, sir.

Q. After you had either explained away such grievances, or said that you would see that they would be removed, would the persons with whom you had such conversation, in some cases, vote as you desired, or as you thought right, in regard to the company's interest?—A. I cannot remember of a case where a man swapped his vote or changed his vote on account of a grievance, fancied or real, that I removed. I could not say that there was such a case as that.

## 20 PER CENT. HORIZONTAL REDUCTION PROPOSED.

Q. When was this instance of a 20 per cent. horizontal reduction attempted? In what session was that?—A. That was in the session, I think, of 1882.

Q. When you reached the legislature was there an avowed majority in favor of the passage of that bill?—A. Yes, sir. It went through the senate of thirty-three members with only three dissenting votes, and it was defeated in the house.

Q. How many members were there in the house?—A. About one hundred, or something over one hundred, I think.



Q. What was the stage of that bill when you reached Lincoln?—A. It had just gone from the senate to the house when I reached there.

REFERRED TO APPROPRIATE COMMITTEE.

Q. Was it immediately referred to the appropriate committee?—A. Yes, sir; and I went before that committee and explained its effect.

Q. What committee was it?—A. The railroad committee, probably.

Q. Of how many members did the committee consist?—A. The usual number—probably seven to ten or twelve.

Q. Do you now recall the names of the gentlemen who formed that committee?—A. I cannot now.

Q. Did they report favorably or unfavorably?—A. I think there were two reports made in that case. There was a minority and a majority report.

MAJORITY REPORT AGAINST SWEEPING REDUCTION.

Q. Was the majority report in favor of the bill or against it?—A. I believe the majority report was against such a sweeping reduction. I think it was an arbitrary manner in which to establish rates.

Q. Do you remember who signed the majority report?—A. No.

Q. Do you remember none of their names?—A. No.

Q. In regard to this committee of 1882, do you remember any gentlemen connected with or interested in the Union Pacific, or any shippers over the Union Pacific, who were there to help you get that favorable report and to talk with the members of the committee?—A. No; I do not. I think I went down there alone at that time.

Q. Was Mr. Stout there?—A. He may have been there. I never had any political business with Mr. Stout.

Q. If he was there, did you see him and talk with him about it generally?—A. I do not remember.

Q. Did you talk with him about it as a matter of common interest, aside from its being a matter of personal business?—A. I never had any interest in common with Mr. Stout.

Q. He was opposed to this legislation, was he not?—A. I do not remember whether he was or not. I think he had enough of his own affairs to attend to about that time.

CONFERENCE COMMITTEE APPOINTED.

Q. Do you remember any specific interviews you had with that committee just before they made these two reports?—A. No; I do not remember, and I am not certain about these reports. I think that was the way the bill was disposed of—that there were two reports made, and that then there was a conference committee appointed from the house and one appointed from the senate, to agree on some percentage of discount, at something less than 20 per cent. discount. I believe the senate refused to recede from its position.

Q. Do you remember who drafted that report?—A. No.

Q. Do you remember who gave the suggestions on which it was drawn up?—A. No.

By Commissioner LITTLER :

Q. Were there any written reports of committees in the legislature on any subject?—A. I do not remember whether that was a written report or not.

Q. Did you ever hear of a written report, or did you ever see one, a committee?—A. Yes, sir; I have.

A. We may publish a rate of \$2 a hundred to Boston, and we may then find that our competitors quote a rate of \$1.75 privately. We might make a special rate of \$1.75 on some special lot, to meet the action of our competitors in that particular case.

Q. Have there been any complaints to you about the rate on wool from here to Boston?—A. There was an effort made by some of the lines to advance the rate on wool last March, and there was a good deal of complaint made in regard to that, but the rate was not advanced.

#### CHEAPER TO SHIP WOOL TO BOSTON VIA SAN FRANCISCO THAN BY DIRECT ROUTE.

Q. Is it true that a shipper from this point could ship wool over the Central Pacific to San Francisco, and reship it back from that point to Boston cheaper than he could ship it direct from this point to Boston?—A. That has been the case in some instances. I will explain the reason why. We may fix a rate of, say, \$1.35 on baled wool from here to the Missouri River. The Southern Pacific—that is, the Central Pacific—has the right under our rate agreement here to make their rates from Salt Lake to San Francisco 85½ per cent. of any rate we fix from here to the Missouri River. Then the rate from San Francisco to Boston, having been made by water competition, sometimes goes down as low as 75 cents or \$1 a hundred. This comparative rate, added to the rate from here to San Francisco, often makes a lower rate to New York or Boston than we could make direct. But when we find that to be the case, we generally get our connections, or prevail upon our connections to reduce their rate on wool coming from Utah, that is, the lines running between the Missouri River and Chicago, or the lines running between Chicago and Boston. This is done in order to duplicate the rate that is made by way of San Francisco. If the rates are equal both ways, the traffic will go direct. It never goes by the way of San Francisco and around by water, or by the sunset route, unless the rates are lower that way, because the time is so much longer.

#### WHEN THAT WOULD OCCUR.

Q. When was it that the wool shipper from Salt Lake City could ship over the Central Pacific to San Francisco, and from that point back to Boston, cheaper than he could direct from Salt Lake City?—A. I think that has occurred since the interstate commerce law went into effect within the last sixty days.

Q. Had it ever occurred prior to April 1?—A. I believe it occurred prior to April 1.

Q. When?—A. I could not state the exact time, but it would occur at almost any time, or it might occur when there was a demoralization of the transcontinental rates. As I stated before, the rate from here to San Francisco is always 85½ per cent. of the rate from here to the Missouri River. So it does not make any difference what rate we make to the Missouri River, our company cannot meet that competition, because the Southern Pacific Company will make 85½ per cent. of the rate from here to San Francisco that we make to the Missouri River. It comes sometimes that the lines running between the Missouri River and Chicago, or between Chicago and Boston, may decline to meet this competition, which, I may say, is the cut rate from San Francisco to Boston, but when they see the wool coming that way then they step in and offer us rates to take it over its natural and direct route.

Q. To what shippers did you issue passes?—A. I could not remember now. We issued them to thousands of different shippers.

Q. Do I understand you to mean that you issued passes to a thousand different shippers in Salt Lake City and around it?—A. No. I mean over the entire Union Pacific system. During certain periods, when we were having a war of rates with our competitors, we would give most any important shipper a pass, but when rates were firmly maintained we would not give any of them passes.

Q. Would you give passes to friends of shipper on his application?—A. It was all owing to what his traffic amounted to. If he was a very heavy shipper, he could get a pass for a friend or two.

Q. What other bonuses have you offered to people to induce them to ship over your road, prior to the interstate commerce law?—A. We would offer most anything we could think of to get their business that was reasonable and to the interest of the Union Pacific Company.

#### MONEY THE POTENT FACTOR TO SECURE BUSINESS.

Q. What would occur to you to think of other than passes and rebates?—A. We always found money the most potent factor in securing freight.

Q. Did you pay money to shippers?—A. Yes, sir.

Q. To what extent did you pay money?—A. I could not say. We would pay money in the shape of rebates.

Q. In what other shape would you pay money?—A. I never knew of money being paid in any other way, except in the shape of rebates.

Q. Have you named all the inducements you have heard of to secure shipments—the payment of bonuses, money, passes, or rebates?—A. That is all.

#### UTAH FORWARDING COMPANY.

Q. Who composed the Utah Forwarding Company?—A. I know of only two men in that company. That is, C. W. Lyman and George Y. Wallace. I think they compose the company entirely. I do not believe there is anybody else interested in it.

Q. Are the Utah Forwarding Company and the Northwestern Forwarding Company the same?—A. Yes, sir.

Q. What was the first title adopted by the company?—A. I think they carried on their business in Utah under the name of the Utah Forwarding Company and in Montana under the name of the Northwestern Forwarding Company.

Q. Do you know of any officer, employé, or agent of the Union Pacific Railway Company being directly or indirectly interested in either the Northwestern Forwarding Company or the Utah Forwarding Company?—A. No, sir.

Q. What do they do?—A. They handle salt, coal, coke, iron ore, &c. I think that the way they came to get the name "Forwarding Company" was this: They used to receive freight at railway stations and was destined to points beyond the railway and forwarded. This is generally the name adopted in this Western country, where who receive freight to be forwarded by team to destination.

#### DIVERSIONS OF TRAFFIC

Q. Have you any knowledge of the diversion of traffic from the Union Pacific from the Union Pacific?—A. I will say

Q. When did you take part in influencing legislation favorable to the Union Pacific, or in obstructing legislation that you believed to be directed against the Union Pacific?—A. I think that I aided in explaining to the members of the legislature in Nebraska, during the winter of 1884, the injurious effect of certain bills that they had before them.

Q. Were you an employé of the company at the time?—A. Yes, sir.

Q. Who asked you to go there?—A. I do not remember now.

Q. Who were you immediately under?—A. Probably Mr. Kimball might have been the man that directed me.

Q. Did you receive any instructions to that effect?—A. I do not remember what instructions were given, but probably the instructions were to call upon the members and explain to them the injurious effects of the legislation pending, and to explain it from a traffic standpoint. We have had bills before the legislature there at Lincoln, at different times, that probably would have bankrupted the Union Pacific road had they passed. It may be that I explained the effect such bills would have.

#### ATTENDANCE ON LEGISLATURE.

Q. How many sessions of the legislature at Lincoln, Nebr., or in any other State, did you attend, at any time?—A. I could not say. I have attended sessions at Lincoln probably two or three times.

Q. How many years?—A. I think it was 1878, 1880 and 1881.

Q. How many years?  
A. 1880.

Q. How many years?  
A. 1880.

Q. How many years?  
A. 1880.

Q. How many years?  
A. 1880.

#### WHEN THAT WOULD OCCUR.

Q. When was it that the wool shipper from Salt Lake City could ship over the Central Pacific to San Francisco, and from that point back to Boston, cheaper than he could direct from Salt Lake City?—A. I think that has occurred since the interstate commerce law went into effect within the last sixty days.

Q. Had it ever occurred prior to April 1?—A. I believe it occurred prior to April 1.

Q. When?—A. I could not state the exact time, but it would occur at almost any time, or it might occur when there was a demoralization of the transcontinental rates. As I stated before, the rate from here to San Francisco is always 85½ per cent. of the rate from here to the Missouri River. So it does not make any difference what rate we make the Missouri River, our company cannot meet that competition, because the Southern Pacific Company will make 85½ per cent. of the rate from here to San Francisco that we make to the Missouri River. It occurs sometimes that the lines running between the Missouri River and Chicago, or between Chicago and Boston, may decline to meet this competition, which, I may say, is the cut rate from San Francisco to Boston but when they see the wool coming that way then they step in and offer us rates to take it over its natural and direct route.



might have a resultant benefit in saving the cattle, and shipping them east when they matured. The legislature proposed to reduce that rate 20 per cent. Of course, that would make it below the cost of doing the work. I remember another bill, at another time, that would have reduced the most of our rates, had it passed, to about 50 per cent. It was a copy of the Potter law that passed the legislature of Wisconsin some ten or twelve years ago.

#### SENTIMENT AS TO RAILROAD LEGISLATION.

Q. Was there much of a sentiment in the State in favor of the proposed legislation?—A. The sentiment in favor of legislation generally fluctuates in accordance with the times. If they have poor crops, they are in favor of railway legislation, and if they have good crops and good times, they never say very much about reducing the rates.

Q. Was there a sentiment in the State for legislation of this character at the time you were there in 1885 or 1884?—A. There was a certain amount of sentiment, but I do not think the majority of the people of the State were in favor of hostile legislation.

#### HOSTILE LEGISLATION.

Q. Was there ever any legislation hostile to the Union Pacific Railroad interests enacted in Nebraska or in any other State?—A. I do not think there was in Nebraska, but we have had such legislation en-

Comp. at the legislature, were you not?—A. Yes, sir; but I

Q. Did you know whether certain legislation was hostile or not, day for board.

Q. Are the vouchers affected in nearly all the States traversed by

Q. Do you say you never passed any effect.

ever except for board bills?—A. Yes, sir. You have attended leg-

man. of legislation that is.—A.

#### NO MONEY UNLAWFULLY TAKEN.

Q. Do you know of any officer or agent of the Union Pacific Railroad taking out any money illegitimately or unlawfully for the purpose of legislation?—A. No, sir; I do not.

Q. How much did your bills aggregate?—A. About \$3 a day. At Lincoln it would be about \$3 a day. At Denver it would be \$4 a day.

Q. Did you put in cigar bills and whisky bills?—A. No, sir. I never rendered any cigar bills or whisky bills in my life to the committee.

#### A MEMBER OF THE LEGISLATURE.

By Commissioner ANDERSON:

Q. Have you been a member of the Nebraska legislature?—A. Yes, sir; I was a member ten years ago.

Q. Had you an intimate acquaintance with the members of the legislature during the session you attended?—A. I had an intimate acquaintance with those that represented the same county that I represented.

Q. Had you a general acquaintance with all the members?—A. I had a general acquaintance with the entire body.

Q. How many members did it number?—A. One hundred and fourteen, I think, in the house, and about thirty, I think, in the senate.



Q. Was the legislation talked about in those conversations as being friendly or hostile?—A. We would generally use the word "hostile." We never asked for any legislation. We were simply trying to prevent hostile legislation.

Q. With your knowledge of the term "hostile," have you any knowledge of any such legislation being enacted in any of the States?—A. We have had legislation enacted that reduced our rates. As I said before, this reduction might inure to the benefit of the company. In some cases it would increase our traffic. But I would not want to say that certain measures were gotten up from a hostile standpoint.

Q. Will you answer my question, yes or no, whether, with your knowledge of legislation, you know of the enactment of any hostile legislation in any of the States along the line of the Union Pacific Railway?—A. I do not know.

#### METHOD OF EXPLAINING TO MEMBERS.

Q. What methods did you adopt while in attendance upon the legislature in explaining to members?—A. Explaining the effect of the bills that they had before them, if possible, on our revenue and no other methods whatever.

Q. Did you use only argument?—A. Nothing but argument.

Q. Did you ever issue a pass to a member of the legislature?—A. No, sir.

Q. Did you ever grant a privilege to a friend of a member of the legislature by way of rebate?—A. No, sir.

#### NO INDUCEMENTS TO FRIENDS OF MEMBERS <sup>lines running</sup>

Q. Did you ever offer any inducement to friend <sup>to duplicate the</sup> legislature?—A. No, sir.

Q. Did you, during your attendance <sup>ever goes by the way of San Fran-</sup> the members of the legislature <sup>by the sunset route, unless the rates are</sup> the sunset route, unless the rates are

Q. Who assisted you <sup>time is so much longer.</sup> time is so much longer.

Q. Did you have a <sup>WHEN THAT WOULD OCCUR.</sup> WHEN THAT WOULD OCCUR.

but I generally talk <sup>that the wool shipper from Salt Lake City could ship</sup> that the wool shipper from Salt Lake City could ship

Q. Did you go <sup>Pacific to San Francisco, and from that point back to</sup> Pacific to San Francisco, and from that point back to  
to do with <sup>per than he could direct from Salt Lake City?—A. I think</sup> per than he could direct from Salt Lake City?—A. I think  
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Q. Did you hear the names of members of the company mentioned at Omaha when you were present who were being examined in reference to legislation favoring the railway company?—A. I was not present at that time.

Q. Did you read their names as published?—A. No; I do not think I did.

## EXPENSES CHARGED TO COMPANY.

Q. How were your expenses for attendance upon the legislature charged to the company?—A. They probably would be charged the same as any other expenses that I might incur in traveling on their account. While I was at Lincoln and Denver and Topeka, and at different places, I was certainly in the interest of the freight department, and I presume the expenses would be charged to freight earnings. I do not know anything about it. I never incurred any expenses in my visits to these places except my board.

Q. What position were you holding in the company at the time you were attending the legislature?—A. I was general freight agent, and assistant general freight agent, and assistant general traffic manager.

## VOUCHERS FOR HOTEL BOARD BILL.

By Commissioner LITTLE:

Q. How would you make out your vouchers for those expenses?—A. I would make them out at so much a day for hotel board bill. That is the only kind of expense bills that I ever rendered to the Union Pacific Company.

Q. Did you itemize it?—A. Yes, sir; I always itemized it, so much a day for board.

Q. Are the vouchers on file at Omaha?—A. Yes, sir.

Q. Do you say you never paid out any money on any account whatever except for board bills?—A. Yes, sir; I never paid a dime to any man.

## NO MONEY UNLAWFULLY PAID OUT.

Q. Do you know of any officer or agent of the company who did pay out any money illegitimately or unlawfully for the purpose of influencing legislation?—A. No, sir; I do not.

Q. How much did your bills aggregate?—A. About \$3 to \$4 a day. At Lincoln it would be about \$3 a day. At Denver it would be about \$4 a day.

Q. Did you put in cigar bills and whisky bills?—A. No; I never rendered any cigar bills or whisky bills in my life to the company.

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By Commissioner ANDERSON:

Q. Have you been a member of the Nebraska legislature?—A. Yes, sir; I was a member ten years ago.

Q. Had you an intimate acquaintance with the members of the legislatures during the session you attended?—A. I had an intimate acquaintance with those that represented the same county that I represented.

Q. Had you a general acquaintance with all the members?—A. I had a general acquaintance with the entire body.

Q. How many members did it number?—A. One hundred and fourteen, I think, in the house, and about thirty, I think, in the senate.

Q. What are the main features of the railroad business on the Oregon Short Line?—A. Ore.

Q. Do you mean ore going south and east?—A. Ore and bullion. And a portion of the Oregon Short Line forms a connection with the Utah Northern, and carries the entire Montana business that goes over the Union Pacific system between Pocatello and Granger.

Q. Do you carry much coal?—A. We carry a great deal of coal to Montana.

Q. From where?—A. From Rock Springs.

Q. Which side of Granger is Rock Springs?—A. East.

Q. How many miles?—A. About 40 or 50.

Q. What other traffic is there that is interchanged from the Union Pacific to the Oregon Short Line?—A. All the traffic carried by the Oregon Short Line.

#### CHARACTER OF TRAFFIC.

Q. No; I mean from the Union Pacific, and delivered to the Oregon Short Line. What is the character of the traffic?—A. There is wool, ore, and live stock.

Commissioner ANDERSON. Ore is not delivered from the Union Pacific to the Oregon Short line, is it?

The WITNESS. You refer to traffic west bound?

Commissioner ANDERSON. I refer to traffic west bound or north bound.

The WITNESS. There is merchandise and machinery.

Q. For the camps?—A. Yes, sir.

Q. What are the principal points?—A. Butte and Hailey. Butte is not on the Oregon Short Line, but is reached by the Oregon Short Line. Ketchum is another point.

#### DIRECTION OF PREPONDERANCE OF TRAFFIC.

Q. Do more loaded cars pass over the Union Pacific to the Oregon Short Line, or over the Oregon Short Line to the Union Pacific?—A. Sometimes the preponderance of the traffic is west bound and sometimes east bound. It fluctuates. Occasionally there is more east bound. I should say, however, that there is more freight coming east than goes west.

Q. Do the money values represented by the freight earned on these shipments vary much, or do the east bound and west bound money values about balance?—A. No; the west-bound freight would probably be the higher rate per ton per mile.

Q. You have enumerated general merchandise and coal as west-bound shipments; what else is there?—A. Machinery.

Q. What portion of this merchandise comes from points between Omaha and Granger?—A. Very little of it. It all originates at or east of the Missouri River.

Q. Does all the coal originate at Rock Springs?—A. Rock Springs.

Q. Does that form a very essential feature of the shipment west?—A. Yes, sir; it cuts quite a large figure in the tonnage.

Q. Then on that the Union Pacific does not have the advantage of a haul except between Rock Springs and Granger, does it?—A. That is all.

Q. In regard to the ores that come down the Oregon Short Line and eastward bound, where are they mostly delivered?—A. At Denver, Omaha, and Kansas City.



## DESTINATION OF ORE SHIPMENTS.

Q. What proportion of these ores go to Omaha?—A. I should say the greater proportion goes to Denver. I could not say what proportion goes to Kansas City and Omaha.

Q. How many tons per annum of ores pass down the Short Line?—A. I could not tell without reference to the books.

Q. Can you approximate?—A. I would not want to. I would not want to make a guess at an important matter of that kind.

Q. Do you know the money value?

The WITNESS. Of the ore?

Commissioner ANDERSON. The amount of the freight rates per annum.

The WITNESS. No, I could not say it from memory.

Q. Can you inform us what proportion of the freight rates on ores are earned between the point of shipment and Granger, and what proportion of these freight rates are earned by the main line between Granger and the points of delivery?—A. You would have to get that from the books in Omaha. I do not know but that the main line of the Union Pacific road gets about as much freight out of the traffic now as did when it was delivered to it at Ogden, on the east-bound traffic.

Q. Can you give us a statement showing the total amount of freight interchanged between the Union Pacific and the Oregon Short Line, and showing the amount which is earned by the main line and the amount which is earned by the Oregon Short Line?—A. You will have to ask the auditor for that.

Q. Will you have it prepared and sent to us at the Palace Hotel, San Francisco?—A. Yes, sir.

## CONTRACT WITH UTAH SALT COMPANY.

By the CHAIRMAN:

Q. Have you a written contract with the Utah Salt Company?—A. We have a contract with them that provides they will furnish salt at \$3 a ton.

By Commissioner ANDERSON:

Q. The chairman wants to know whether it is in writing?—A. I believe I wrote them a letter to the effect that we would take salt from them if they would furnish it at that figure.

By the CHAIRMAN:

Q. Have you any written contract with the Utah Salt Company?—A. No.

By Commissioner LITTLER:

Q. Did they reply to that letter in writing?—A. I do not remember. At any rate they complied with it.

By Commissioner ANDERSON:

Q. Will you let us have a copy of the letter that you wrote to them, and their answer, if there was any?—A. I can give it to you.

Q. Have you an agreement with the Utah Forwarding Company?—

A. No, sir; we have no agreement of any kind with the Utah Forwarding Company, or the Northwestern Forwarding Company.

Q. Have you any memorandum of agreement with any of these companies you have named—I mean the Salt Company, the Utah Forwarding Company, or the Northwestern Forwarding Company?—A. I do not remember any, now.

Commissioner ANDERSON. We call letters agreements.

The WITNESS. Yes, sir; we have.

Q. Will you produce any letters you have with reference to any arrangements of that kind, and give the Commission copies of them?—A. I will look them up and see if there are any, and if there are, I will do so.

Q. Have you anything else to say, or any suggestion to make?—A. I have nothing more to say.

Q. Have you any information to give to the Commission?—A. No, sir.

Q. Do you wish to make any further suggestion?—A. No, sir; I do not.

PETER P. SHELBY.

SALT LAKE CITY, UTAH, *Wednesday, July 20, 1887.*

JOHN SHARP, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. How long have you resided in Salt Lake City?—Answer. I landed here in 1850, and have been here ever since. I have resided in Salt Lake City ever since.

SUSCONTRACTOR UNDER BRIGHAM YOUNG.

Q. What has been your connection with the Union Pacific Railway?—A. When they were constructing the road I became a subcontractor, I believe, under Brigham Young, in building the road.

Q. For what section?—A. From Echo to the promontory.

Q. Will you state your various connections with the railway since that time?—A. I was made superintendent of the Utah Central, and that brought me in connection with the Union Pacific.

Q. In what year was that?—A. In 1871.

Q. Have you remained superintendent of the Utah Central ever since?—A. Yes, sir.

Q. Were you interested in the construction of the Utah Central?—A. No, sir; I was not.

UTAH CENTRAL AND UTAH NORTHERN RAILROADS.

Q. Who built it?—A. Brigham Young and his friends. I was a stockholder in it and I had nothing to do with the construction of the Utah Central; that is, the Utah Central, that portion of the road between Ogden and Salt Lake.

Q. Was the Utah Northern built at the same time?—A. No, sir; it was built after that.

Q. Were you interested in that construction?—A. I was not.

Q. Were you a stockholder in that road?—A. No, sir.

Q. Have you ever been a stockholder in the Utah Northern?—A. No, sir.

TRANSFER OF UTAH CENTRAL TO UNION PACIFIC.

Q. How was the Utah Central transferred to the Union Pacific?—A. The Utah Central was built, as I said, by Brigham Young and his friends, and Brigham Young kept, or took in his possession, the control of the



ck, and in 1872 he wanted to sell it, and I went east and saw the Union Pacific folks and tried to persuade them to buy. Horace F. Clark was then the president of the Union Pacific. I persuaded them to buy 5,000 shares. Brigham Young held seven thousand six hundred and something; a little over the control. There were 15,000 shares of stock together. And then the Union Pacific became connected with the Utah Central in the purchase of these 5,000 shares of stock.

Q. They did buy it, did they?—A. They did buy it.

Q. What was the price?—A. Fifty. They bid Brigham Young 250,000 for the 5,000 shares.

#### ITS EXTENSION BY UNION PACIFIC.

Q. Did they subsequently make further purchases?—A. They made further purchases only by the extension of the road. You see the road was only 37 miles long when they purchased this 5,000 shares of stock, and in proportion to the amount of stock of all the stockholders, as well as of the Union Pacific, we have extended the road until it is 280 miles long, and these former stockholders were the builders of the road until it has reached Frisco, a distance of 280 miles east of Ogden. Frisco is 240 miles from here, or from the end of the lake.

#### ITS BONDED DEBT.

Q. What bonds were on the road at the time it was sold to the Union Pacific?—A. One million dollars.

Q. How much was that per mile?—A. Thirty-seven miles, and there was \$1,000,000 bonds.

Q. Were those all outstanding at the time you sold to the Union Pacific?—A. Yes, sir.

Q. And are outstanding still?—A. Yes, sir.

Q. Tell us when the road was extended after these purchases?—A. I think we commenced going south in 1871.

Q. Shortly after the Union Pacific purchased the 5,000 shares?—A. Yes, sir.

Q. Have you been interested in that construction?—A. I had not any interest; but I was really the constructor. I let out all contracts. I superintended the construction as well as the running of the road.

#### ISSUE OF UTAH SOUTHERN BONDS.

Q. As what; as the agent of the company?—A. Yes, sir.

Q. Please tell us how the bonds and stocks were issued as the road progressed?—A. We issued on a bond called the Utah Southern bond, commencing at Salt Lake and running south as far as a point on the road called York, about 75 miles from this. It has no name now. It was a place where we stopped, and it is no place now. We issued then \$20,000 a mile on that 75 miles.

Q. And how much stock?—A. Fifteen thousand dollars a mile.

Q. These bonds and stocks were turned over by the Utah Southern to the Union Pacific in connection of the construction of the road?—

A. No.

Q. Is that correct?—A. It is not so.

#### FROM SALT LAKE TO ST.

Q. Will you tell us how the stock was held?—A. The stockholder stock held

in the Utah Central, took the bonds of the Utah Southern and furnished the money. The Union Pacific and myself, and all our friends that held stock in the Utah Central, took the bonds in proportion to the amount of stock held in the Central, and furnished the Utah Southern with the cash, and they took the cash and purchased iron and fastenings, and purchased the ties, constructed the road, and laid down the rails and bought the rolling stock.

Q. In exchange for the cash you so furnished you received the bonds and stocks?—A. We received the bonds and stocks; yes, sir.

Q. At what rate did you take the bonds?—A. We took the bonds at 80.

Q. So that for \$800 you received on \$1,000 in bonds, or one bond of \$1,000?—A. Yes, sir.

Q. And how much stock; \$750 was it?—A. Yes, sir; the stock was issued \$15,000 a mile and the bonds at 20. That was the proportion on that first 75 miles.

Q. Please continue and describe the completion of the Utah Southern?—A. Then, I think in 1876, we were persuaded to build more road. The point then, the initial point, was to go to Frisco, where were these big mines, the Horn Silver mines, they called them at San Francisco. From York it was about 160 miles to the mines, and we built the 160 miles on the same arrangement that we had built the 175 miles, with the exception that we issued fewer bonds and less stock.

#### COST PER MILE IN STOCK AND BONDS.

Q. How many bonds to the mile and how much stock?—A. I think it was fifteen bonds to the mile on the last 160 miles.

Q. And how much stock?—A. Twelve thousand dollars or \$14,000. I will help my memory if you have no objection.

Commissioner ANDERSON. Certainly; do so.

The WITNESS. I put down a few figures to bring here. On the Utah Central, as I said, there was \$1,000,000 bonds.

Commissioner ANDERSON. You need not repeat the figures already given correctly.

The WITNESS. There was \$4,900,000 in bonds from Ogden to Frisco. That is a little less than \$18,000. There was 42,225 shares of stock, or a little less than \$15,000 a mile of stock.

Q. When was the road completed to Frisco?—A. I could hardly say when. It must be six or seven years ago.

#### THE CONSOLIDATION OF UTAH ROADS.

Q. Is the Utah Southern also under your control?—A. Yes, sir. I want to let you understand that after the road was completed to Frisco the Utah Central, the Utah Southern, and the Utah Southern extension were then consolidated, and it is now called the Utah Central Railway.

Q. Are the figures you have just given of the total of bonds and stocks those of the Utah Central Railway as it now stands?—A. Yes, sir.

Q. And you are its superintendent?—A. Yes, sir.

Q. The only payments made by those stockholders who were holders of the original stock for the bonds was this 80 per cent. that you have mentioned?—A. We took the bonds at 80 per cent. and the stock was—

Q. Thrown in?—A. Not thrown in particularly. On the first 37 miles there was 16 per cent. paid on the stock, besides the 80 per cent. on the bonds.

## PAYMENT OF UTAH CENTRAL FLOATING DEBT.

Q. On the first 37 miles that was?—A. Yes, sir; on the first 37 miles we paid 16 per cent. on the stock. I remember, when I became superintendent of the road, there was a floating debt on the Utah Central Railway, and that I only agreed to go there and run the road if they would pay off this floating debt, and they levied an assessment of 6 per cent., and they had paid 10 per cent. to that, and they paid off the debt.

Q. That was on this first 37 miles?—A. Yes, sir.

Q. In regard to the stock that was issued for the construction of the Utah Southern from the 37-mile point to the end of the 75 miles, and from that point to Frisco, was any money whatever paid for that stock?—A. Very little, I think. I think there was 5 per cent. paid for the first 75 miles, but there was not any on the last 160 miles, I remember.

Q. Do you know whether the Union Pacific acquired any other interest in the bonds and stock of the Utah Central Railway than such as it acquired as being the holder of the 5,000 shares bought from Brigham Young?—A. I think they have changed a little stock. They may have sold some, and have got some back again. But I see the stock is now within 100 shares of the amount they first got. They may have sold some of the employes' or some of the officers' of the road or changed, but I do not know that. I see they have not got as much stock now as they had two years ago.

## CHARACTER OF TRAFFIC.

Q. What are the main features of the business of this road?—A. I could get that by having our freight agent come down here to show the whole business of the road. The motive inducing us to build this 160 miles was to reach the mine. The ore from the mine was the traffic over the road, 240 miles. That was the principal business. They take merchandise to the people living at the south end of the line.

Q. What other items of commerce do you carry on this road?—A. Ore, and bullion, and coal, and limestone, and iron ore.

Q. Wool?—A. Wool and grain.

Q. Salt?—A. And salt.

Q. Have you gone through them all?—A. I think not.

Q. What are the names?—A. I can give a statement from the freight office.

Q. I want to find out how much you know about it?—A. We carry pretty nearly all there is in the country here, of the products of this country.

## THE HORN SILVER MINE.

Q. Can you namesome of the main shippers of ore in Salt Lake City?—A. The Horn Silver Mining Company.

Q. Are they the largest?—A. Yes, sir. They were the largest; but I do not like to say a little bottom has dropped out of the mine, because that would not be correct. They say there is a great deal of ore there yet, but they have not been shipping much lately.

Q. Who are the principal persons interested in that mine?—A. The old man Cunard, I guess, that owns that steamship line, holds a good deal of the stock, and Mr. Francklyn, of New York. I do not know how much he holds now. He did hold a great deal. Mr. Brown held considerable. They held about 40,000 shares, I guess, or Francklyn had in the beginning. But I think they parted with a great deal of their interest in that mine.

Q. Are any of the persons residing in this vicinity interested in the mine?—A. Yes, sir.

Q. Who can you name?—A. Oliver Hale, who is the general manager, holds some of the stock. And your humble servant holds some of the stock; I purchased it in New York.

#### WITNESS'S HOLDINGS IN HORN SILVER MINE.

Q. How much of the stock do you own?—A. I own 8,000 shares.

Q. What is the total capital stock?—A. 400,000 shares, \$10,000,000.

By Commissioner LITTLE :

Q. What are these shares worth, what is the par value?—A. \$25.

By Commissioner ANDERSON :

Q. How long have you owned your stock?—A. I owned the first thousand shares I think from its organization.

Q. That was in what year?—A. That was before the Utah Southern was built; that was just before the Utah Southern was built, I believe. No, I think we bought the Utah Southern about the time I got this 1,000 shares, and I just held that and did not have any more. This last year, in consequence of their stopping their payment, the stock went down low, and I, like a great many others, bought some.

Q. You own the 8,000 shares now?—A. I own the 8,000 shares now, and wish I was rid of it, too. I wish I had my money out of it.

Q. You say the ore shipments from this mine have fallen off?—A. Yes.

Q. How much were they in good times?—A. They went from 100 to 150 tons a day.

#### THE HORN SILVER MINE'S SMELTER.

Q. Where was this ore shipped to?—A. To their own smelter down here—6 miles south, down.

Q. What was the name of the smelting company?—A. The name of the smelter was Francklyn, after the name of the president of the company.

Q. Was that a stock company also, the smelter?—A. No, sir; it belonged to the mine.

Q. After the ore was smelted here, where was the bullion carried?—A. It was generally carried to Chicago and there refined. Some of it went to New York, I believe, but they had refining works in Chicago belonging to some of the parties interested in the mine.

Q. In regard to ore transferred from the mine to the smelter here, what rates of freight were charged on these ores?—A. Of late it has been \$5 a ton.

Q. What was it when you were carrying large quantities?—A. Then it was \$5 a ton. It was because of the quantities that we were able to carry it at that for 240 miles.

#### REBATES.

Q. What rebates, if any, were allowed on the ores so shipped?—A. I do not remember allowing any rebate.

Q. Were any rebates allowed by some authority on your business?

The WITNESS. On that ore?

Commissioner ANDERSON. Yes.

The WITNESS. Major, did I ever give you a rebate on that ore? I do not remember that I did.



**Q.** Do you mean that no rebates appear on the books of the Union Pacific in favor of this company, to have been paid to this company at Omaha?—**A.** If there is I am not aware of it. I do not think you will find anything on the books of the Union Pacific, because our books are kept here, you know.

**Q.** The books containing the ore business would be kept here?—**A.** Yes, sir.

**Q.** Your statement is that no rebate was ever allowed to this company for ores transferred from the mine to Salt Lake City?—**A.** Not one dollar.

#### FREIGHT RATES FROM SALT LAKE CITY TO MISSOURI RIVER.

**Q.** In regard to the bullion transferred or carried from Salt Lake City, or wherever that would go, what was the rate to the Missouri River?—**A.** I have only a knowledge of it from the smelter here to Ogden. It is out of my jurisdiction beyond that. I have nothing to do with the rates on the Union Pacific.

**Q.** The smelter did not ship it to Ogden. They shipped it to Chicago?—**A.** The smelter shipped it—

**Q.** Shipped the bullion?—**A.** (Continuing.) Shipped the bullion to Ogden and then to Chicago. It is possible enough that we may have given them a through rate, and then the Union Pacific and the Utah Central would make that rate; the two together. But very often the bullion was shipped to Ogden and then from Ogden to Chicago, or wherever it went, some to New York.

**Q.** Who had charge of the shipping of this bullion?—**A.** Major Hill, the general manager.

**Q.** Is he present?—**A.** Yes, sir.

**Q.** You were a director in the Union Pacific for a number of years?—**A.** Yes, sir.

#### THE CARRIER'S PERCENTAGES OF THROUGH RATE.

**Q.** Whether you call it shipped to Ogden or shipped to Chicago, as a matter of fact the bullion did go one transit from Salt Lake City to Chicago, did it not?—**A.** I know that some of it was shipped on a through rate right from the smelters to Chicago, and the Utah Central would have their proportion of that rate, agreed to by the Union Pacific.

**Q.** Was it the through rate from Salt Lake to the Missouri River?—**A.** It appears to me it was for a long time about \$18.

**Q.** To the Missouri River?—**A.** No, to Chicago. As my memory serves me now, that was the rate.

#### CHANGES.

**Q.** Do you know, of that rate, how much belonged to the transit to the Missouri River?—**A.** I could not tell you. I could find it out, because all of us had our proportion of the through rate when it was the through rate, at \$18 a ton. The Utah Central had so much, the Union Pacific so much, and the road east of the river so much.

#### REBATES.

**Q.** As a matter of fact do you know whether the Union Pacific was in the habit of allowing a rebate on that business to the Horn Silver



Mining Company?—A. It is possible enough that they may have allowed a rebate. That is very possible. I know, since we have had competition, that all the roads have granted rebates.

Q. Under the arrangement that was made would the Utah Central contribute to that rebate?—A. They would have to give their proportion.

Q. Of the rebate?—A. Yes, sir.

Q. Is it not a fact that a large amount of money was so refunded to the smelting company by means of this rebate?—A. I do not think there was very much. I would like to ask the major.

Q. Would the major know all about it?—A. Oh, certainly. It was he who made the bargain.

Q. Did you ever have any talk with Major Hill about the amount of this rebate?—A. I may have, but I do not think that I could be very exact about the amount of rebate.

#### DIVIDENDS OF MINING AND SMELTING COMPANIES.

Q. Did your mining and smelting company pay any dividend?—A. Oh, yes, sir.

Q. During what years?—A. I think they paid dividends for about three years.

Q. Did they pay dividends until about three years ago?—A. No; for about three years—

Q. How long ago was it that they paid the last dividend?—A. I think it was two years ago last February since they quit shipping and paying dividends.

Q. Is there business left for this company?—A. Oh, yes.

Q. How much ore do they now transmit?—A. They are sending about 100 tons of ore a week now.

#### THE SALT BUSINESS.

Q. In regard to the salt business here, through what company is that done?—A. I believe they call me the president of that salt arrangement. Let me see if my partner is here. I do not see him.

Q. What is the name of the company?—A. The Utah Salt Company, I think. That is the name, I believe.

Q. Are you president of the company?—A. Yes, sir.

Q. How much salt do you forward each year?—A. I could not say without getting the books.

Q. Did you hear Mr. Shelby's testimony? My recollection is it was 13,000 tons.—A. I think that is divided. There are two companies now, or three or four of them, in fact. But these two companies are interested in this shipment of salt to Butte and Park City; and the Utah Salt Company have their proportion of this amount that is exported here to go to these mines.

Q. Is the Utah Salt Company the company that makes the salt?—A. Yes, sir; they are the company that makes the salt; and also Keisel & Co. make salt on the edge of the lake.

Q. Are you interested in Keisel & Co.'s salt?—A. No, sir.

Q. What companies transport the salt?—A. The Utah Central and the Denver and Rio Grande transport it to Ogden.

#### TRAFFIC ARRANGEMENTS.

Q. Are the traffic arrangements made by an officer of the Utah Salt Company, or do they first agree with the Utah Forwarding Company

or the Northwestern Forwarding Company, and do the latter-named companies make the arrangements?—A. It is the Utah Salt Company, through their superintendent, that makes all arrangements for freight—makes all contracts for freight; and they make them with the Utah Central and the Union Pacific and the Denver and Rio Grande; whatever road is going to take it.

Q. Who is the superintendent that makes these contracts?—A. Mr. Lyman. Mr. Wallace was here, but he has left.

Q. Where is Mr. Lyman?—A. I think he has gone East. Mr. Wallace is here, though.

#### UTAH FORWARDING COMPANY.

Q. What is the Utah Forwarding Company?—A. That is a company that is composed of Mr. Lyman and Mr. Wallace.

Q. Is any one else in it?—A. I think not.

Q. Have you no interest whatever in it?—A. No, sir.

Q. What do they do?—A. If you were living at Pioche (or we will take the people living at Pioche), and if you ordered a bill of goods from New York, or any point between New York and here, and it comes to the end of the railroad contract, for instance, this forwarding company will take that shipment of goods, and get the wagons and freight it and send it down to the people living at Pioche. That is the reason the name was put to it, "Forwarding Company."

Q. Is that all the forwarding company undertook to do with regard to them, or did they undertake to carry it all the way from the salt works to Butte?—A. No; it was the Union Pacific and the Utah Central that carried it.

#### WHO ARRANGED RATES.

Q. But I am talking about who made the arrangements fixing the terms on which it should be carried. Can you tell?—A. The superintendent of the salt works, I guess, would make the arrangements with the freight agents of either road that it went over.

Q. Do you state that the Utah Forwarding Company, or the Northwestern Forwarding Company, had nothing to do then with the freighting of your salt from the works here to Butte?—A. No, sir; they tried to make the rates. The present arrangement we have with the Union Pacific is that we deliver to them the salt at Ogden at \$3 a ton. We make the salt, and gather it, and freight it up to Ogden. The freight generally is allowed at \$1 a ton. One dollar is for the freight, and the \$2 for manufacturing and loading and handling it.

#### WHAT IS NETTED.

Q. So that what you were to get was \$3 net for your salt? Is that it?—A. Yes, sir.

Q. Has that always been the price?—A. I could not say.

Q. Do you not know that it was a few years ago \$3.50?—A. No; I do not know. It may have been so.

#### DISTRIBUTION OF INTERESTS IN SALT COMPANY.

Q. How much interest had you in this salt company?—A. Not much, and I wish it had been less.

Q. Never mind about that. How much was it?—A. I will try now to give it to you as it is. But if I do not give it to you as it is it is not my meaning. I mean to give it to you just as it is. I think that Wal-

lace and Lyman were the salt company themselves, and in organizing the company, the Utah Central Railway Company took one-third, Wallace & Lyman retained one-third, and Captain Hooper, who is dead, and Mr. Jennings, who is also dead, and Mr. Eldridge and myself and Mr. Little took one-third. There were five of us. The railroad company took one-third; Wallace & Lyman retained one-third, and we took one-third; and that was the organization of the salt company.

Q. How is that held now?—A. The same as I told you.

Q. Has that company paid dividends?—A. Very little. We had a small dividend, I think, twice; but it was a very small dividend, indeed.

Q. What is the total amount of the stock?—A. I think it is \$100,000.

Q. Is the company bonded at all?—A. No, sir.

Q. Is it \$100,000 stock and no bonds?—A. No bonds.

#### ESTABLISHMENT OF SALT INTEREST URGED BY PRESIDENT DILLON.

Q. Do you own one-fifteenth; one-fifth of one-third?—A. One-fifth of one-third. I will give you the reason why we went into the salt business, if it will be of any use to you. While Mr. Dillon was president of the Union Pacific Railroad Company he made visits here, and this salt question was quite a question. It was thought it was going to amount to a good deal, and they wanted to be perfectly certain that salt could be manufactured here. He pressed upon us the necessity of making ponds on the lake, or on the edge of the lake, and being sure to have salt enough manufactured. Through this pressure the Utah Central Railroad went in one-third, as I have stated, and Mr. Wallace and Mr. Lyman retained one-third, and we other five gentlemen took one-third. We spent about \$27,000 or \$28,000 in making these ponds and fixing up for the manufacture of salt. That is the reason why we went into the salt business. I am no salt man myself.

#### FORWARDING COMPANY—OFFICERS AND INTERESTS.

Q. I will ask as to the Northwestern Forwarding Company who were the chief officers?—A. Mr. Wallace and Mr. Lyman, I believe, composed the company.

Q. Had you any interest in that company?—A. None whatever.

Q. What did that company do with reference to the transportation of this salt?—A. They just act as to that as they do with the forwarding of the other goods south. As I told you, they forward that salt to the north.

Q. Was it they who took charge of doing the business?—A. Certainly. One of them is secretary and the other is superintendent.

#### WHO FIXED PRICE OF SALT?

Q. Who was it fixed the question whether you should have \$3 or \$3.50 for your salt, on behalf of the Union Pacific; was it Lyman and Wallace?—A. It was Lyman and Wallace, I think, with Mr. Callaway or Thomas L. Kimball, I could not say which, but it was with one of the officers of the Union Pacific Railroad Company.

Q. Was the arrangement in writing?—A. I could not say that.

Q. Did you never see any contract?—A. I have never seen any contract. Perhaps Mr. Wallace could give all the information you would require.

#### COMPETITION IN SALT.

Q. Does the amount of salt you now ship equal the amount of salt you shipped two or three years ago?—A. Not quite; because we do not



have it all now. We had it all a few years ago. Since Mr. Keisel and Mr. Adams came in they claim a share of it; not of the products, but of the demands.

Q. Do you know what rate they get for their salt?—A. They get the same rate we do.

Q. Are you sure they get the same rate you get?—A. Yes, sir; the same rate we get.

#### THE TINTIC IRON COMPANY.

Q. Are there any other enterprises in this neighborhood that you have any interest in that do any freight carrying on this road?—A. Yes, sir; I have an interest in three or four things of this country. I have been here long enough. I am interested in the iron deposit down here at Tintic.

Q. Is any of that iron carried over this road?—A. Yes, sir.

Q. Do you mean the Utah Central?—A. Yes, sir.

Q. At what rate, and to where is it carried?—A. It is carried from Tintic, the place of deposit.

Q. To where?—A. To these smelters all along the line of the road; to all the smelters.

Q. To smelters on the Utah Central, do you mean?—A. These smelters use it for flux.

#### LENGTH OF HAUL OVER UTAH CENTRAL.

Q. How much of a haul has the Utah Central of that ore?—A. The Utah Central has too short a haul of it. It is only about 31 miles, I think. It is from a point on the Utah Central Railroad, called the Lehigh Junction, to the smelters; and then the Union Pacific own a piece of road from Lehigh Junction over to Silverton, and they bring iron from the place of deposit to Lehigh Junction, and the Utah Central Railroad takes it from Lehigh Junction and delivers it to the smelters.

Q. Do you own the whole mine, or is it a company?—A. No; it is a company.

Q. What is the name of the company?—A. I forget it. Mr. Wallace will help me.

MR. WALLACE. The Tintic Iron Company.

Q. What is the capital stock?—A. We have \$200,000, I believe, but I could not say.

#### PERSONAL INTEREST.

Q. What is your interest?—A. I think it is divided up—not quite like the salt. But I think some of my partners blame me very materially for letting go of my interest and selling theirs. It took this shape. There was a little competition in this iron with some parties owning some of the iron over at the same place of deposit as ours is, and it was quite a difficulty, with this competition, to get rid of some of it.

Commissioner ANDERSON. I only want to know what your interest is, so that I can ask the usual questions.

The WITNESS. Very little. I think it is 10 shares I hold now.

Q. You have only a trifling interest?—A. Only a trifling interest. We sold it to the railroad.

Q. When did you sell out your large interest?—A. We sold, I think it must have been, four or five years ago.

#### AMOUNT OF IRON SHIPMENTS AND RATES.

Q. Before that time how many tons of ore would you handle in the way of freighting on the Utah Central per month or per annum?—A. Five or six car loads a day.

Q. What were the rates allowed you from the junction to the smelter?—A. I would have to refer to the books. I think Mr. Wallace could help me in that.

Commissioner ANDERSON. Let him help you if he remembers it.

The WITNESS. I would have to refer to the books if he does not remember.

Q. Were special rates allowed to the concern at that time?—A. No, sir; I think not.

Q. Were rebates allowed to them?

Commissioner LITTLE. Can you give the information, Mr. Wallace?

Mr. WALLACE. No, sir; they only have about 17 miles haul.

Commissioner LITTLE. The question Mr. Anderson asked was, what was the rate per ton.

Mr. WALLACE. \$1.85 is the through rate.

Commissioner ANDERSON. For the 31 miles?

Mr. WALLACE. No, sir; for the 80-odd miles.

Commissioner ANDERSON. You said there was a branch owned by the Union Pacific to Silverton?

The WITNESS. Yes, sir; called the Salt Lake and Western, running from the Lehigh Junction to Silverton.

Mr. WALLACE. Silver City. They have over 50 miles and we have 17 or 18 miles.

Q. Was the through rate \$1.80?—A. \$1.85, I think. But we can get that correctly from the books. I think that was the rate.

Q. Was that the open published rate?—A. Yes, sir.

Q. Was that the rate from the initial point to the smelters?—A. To the smelters; yes, sir.

#### NO PREFERENCE GIVEN.

Q. Was any advantage or preference given to that company during the time when you had an interest in it?—A. No; I sold my interest to the railroad.

Q. I ask you whether any advantage on the freight rates was given to your company during the time you had this interest?—A. I do not think there was; there was not.

Q. Was the rate always the same—\$1.85?—A. No; I think we did not haul the iron ore from the same point. We hauled it for several years from a point on the Utah Southern road called Tintic.

Mr. WALLACE. Santa Quin.

Q. Then what was the rate?—A. They wagoned this iron ore to this place called Santa Quin, on the line of the road, and that is 70 miles south, or over 60, anyway, to the smelters, and we then hauled it 60 miles on our road.

Q. Starting from the time when you had the 130 miles haul over the railway, and the price was \$1.85—A. (Interrupting.) No; the price was not \$1.85, then; it was some five or six dollars.

Mr. WALLACE. You misunderstand the question, Bishop. He says from the time you shipped from Tintic.

The WITNESS. Yes, sir; I think that was the price, from the time we commenced until now.

#### NO REBATE ALLOWED.

Q. On that price are you allowed any rebate?—A. No, sir.

Q. Is that always the rate, or are there periods when a lower rate is made?—A. I think so.

Q. Do you say there are periods when a lower rate is made?—A. I do not think we have been changed from that rate, that I remember of.



## PLEASANT VALLEY COAL MINE.

**Q.** What other interests have you here in enterprises that do any business on the line of the Utah Central, or of the Union Pacific, or any of the connections of the Union Pacific?—**A.** I thought I had an interest in this coal deposit up here, but I now find out that I had not.

**Q.** Which coal deposit—Rock Springs or Alma?—**A.** No, sir.

**Q.** Was it in the Pleasant Valley?—**A.** Pleasant Valley.

**Q.** When did you find out you had no interest?—**A.** At the time that we purchased; but it is all turned over to the Utah Central Railroad.

**Q.** What is the Pleasant Valley Coal Company? Is it a corporation?—**A.** Yes, sir; in connection with the Utah Central Railway Company.

## OWNED BY UTAH CENTRAL.

**Q.** What is the nature of the connection between this coal company and the Utah Central?—**A.** The Utah Central owns it now. It gets its coal for its own use, and some for the market.

**Q.** When did it become the owner of it?—**A.** From its infancy; just when we commenced. As soon as we purchased the land and coal field we turned it over to the Utah Central Railway Company.

**Q.** What did you mean by saying you supposed you had an interest in it?—**A.** Because I purchased the coal lands.

**Q.** Was it passed over to the Utah Central, or Utah Southern, without your knowledge?—**A.** No, indeed; not without my knowledge. It was I who passed it over.

**Q.** What did you mean by saying you supposed you had an interest and found you had not?—**A.** Because I had sold it all out. I thought we five who purchased the coal land had retained a little interest; but we did not retain any of that. We retained some of the iron interest, but none of the coal.

**Q.** Then is your interest in this coal company solely as a stockholder of the Utah Central Railroad?—**A.** Yes, sir; that is all, or as a stockholder in the Union Pacific, because the Union Pacific has this interest in the Utah Central.

**Q.** When was the coal property transferred to the Utah Central?—**A.** It must be four or five years ago.

## HOW PAID FOR.

**Q.** How long before that had you and your associates bought the lands?—**A.** Just a year before. We turned it over, and the company had to pay the money. I think it cost us some \$33,000.

**Q.** During the year you owned it did you do any work on it to develop it?—**A.** No; the man we bought it from had developed some.

**Q.** From whom did you buy it?—**A.** Mr. Pugsley, of this city.

**Q.** Does he live here?—**A.** He lives in this city.

**Q.** What did you and your associates give for it?—**A.** I think about \$33,000 we paid him for his claims.

## MORE COAL LANDS ACQUIRED.

**Q.** Did he sell you the entire ownership?—**A.** It represented not the entire ownership now. We have bought other claims since, but we have three quarter-sections besides what we bought.

**Q.** How did you buy them?—**A.** From Pugsley?—**A.** I thought we bought some from him with some desert land. We bought some from him with some desert land.

Q. When you sold to the Utah Central, did you sell just what you had bought from Pugsley, or something more besides?—A. We sold all our interest. Whatever interest we held we sold to the Utah Central.

Q. Did that also include some other things?—A. No; I think these other three quarter-sections that we got from men that had entered the coal lands, and which we bought out, we added to those.

Q. That would be six quarter-sections in all?—A. I think it is six quarter-sections.

Q. Who are those people from whom you bought the other three quarter-sections?—A. I think it was a young man in the bank hereby the name of Cumings. It appears to me that he owned a quarter. I would have to refer to the books for the names of the other parties that entered and sold their claims to us.

Q. What did you give for these other three quarter-sections?—A. We did not give much.

Q. So that the total cost to you would come under \$40,000?—A. I think it would, with the exception of the expenses we had in opening up the coal vein.

#### BOUGHT FOR RAILROAD.

Q. What were the terms of that sale to the Utah Central?—A. They just paid the debt that we contracted; that was all.

Q. Did you turn the property over at cost?—A. Certainly.

Q. When you bought it originally did you buy it for the railroad company, or was that an arrangement afterwards made?—A. No, indeed; we intended it for the railroad company at the time we bought it, because the railroad needed some coal and we did not have any. We intended to have coal of our own, if possible, and that was the reason we bought.

Q. Did you buy it with the knowledge and approval of the directors of the road?—A. Yes, sir.

Q. Who were the chief men besides yourself?—A. There were five of us always here, but two of them have died, as I have told you. They were Captain Hooper and Mr. Jennings and Mr. Eldridge, Mr. Little, and myself. We were the directors in the road.

Q. Why did not the Utah Central itself buy this property directly instead of buying it through you and these other gentlemen?—A. I do not know that the Utah Central really could buy except through us.

#### WHO WERE THE UTAH CENTRAL?

Q. Why could they buy through you any better than through anybody else?—A. Who were the Utah Central? The five men that I have mentioned, the five directors. Who was going to buy it?

Commissioner ANDERSON. The usual way is for the directors of a corporation to meet and pass a resolution approving or authorizing a purchase by an agent in its own name.

The WITNESS. I do not think that we ever took any liberty as directors of the Utah Central Railroad to make any purchase of any extent without first agreeing with the other directors belonging to the Union Pacific Railway Company. The Union Pacific had always furnished to the Utah Central its president, and the Utah Central generally furnished me as vice president.

Q. Do I understand you to say that under this purchase of the Pleasant Valley coal lands and the transfer to the Utah Central neither you nor any of your associates in that purchase obtained any advantage

whatever, directly or indirectly?—A. Not one dollar; we did not do that kind of work.

#### THE COAL BUSINESS.

Q. In regard to the business done with that coal afterwards, will you please describe how it was done?—A. We appointed a mining engineer as superintendent of the coal mine, and we put a drift into the coal vein. I think we went 400 feet before we struck the face of the coal, going through the dirt in the hill. It cost us considerable, and we made a very good entry; but that was burned up afterwards, and we made another entry. We take out of that all the coal being used by our own road, and we use it for the public here, as it is demanded. We form one of the coal-yards in the town. There are three or four. The Union Pacific has one, you know.

Q. What is the name of your local agent here?—A. We have no one now, only through the Union Pacific.

Q. What is his name?—A. Gunnell.

Q. Is that the same man that does the Union Pacific business?—A. Yes, sir.

#### QUALITY OF COAL AND COST OF MINING.

Q. At what price does he sell your coal here?—A. We have a contract between the Denver and Rio Grande in the market to sell our coal at \$5, and we do sell it to our agents at \$4.75, and they handle the coal and sell it at about the same rates. They have about 50 cents a ton for handling and selling.

Q. How does this coal compare in quality with the Rock Springs coal?—A. They always call the Rock Springs coal the best coal that comes in the market, but I know that it could not make any more steam in a locomotive than the Pleasant Valley coal. We have the best coal for making steam.

Q. What does it cost to mine your coal per ton at the mine?—A. It costs from \$1 to \$1.20.

#### TRANSPORTATION CHARGES.

Q. Then the difference between the price at which it is sold here and the cost of production represents what is charged for the carriage of the coal from the mine to this city?—A. No, sir; the first charge is, we charge \$2 a ton for the coal delivered on the car at the mine. Then we pay the Denver and Rio Grande \$1.25 a ton for hauling it to us at Provo. That is the point where it strikes our own line. We transfer the coal there on our own cars and haul it wherever it is wanted—to the places where we ourselves are the users of it, and where the public wants it.

Q. How far is the mine from the Utah Central?—A. It is very nearly 70 miles.

Q. Do you pay the Denver and Rio Grande \$1.25 for a 70-mile haul?—A. Yes, sir; it is in the mountains. It is a mountain haul. They have some 200 feet grades in it.

#### PRICE FREE ON BOARD.

Q. Do you say you sell the coal at \$2 a ton?—A. At the mines; yes, sir.

Q. Is that actually a figure at which you are making a statement of what you are willing to do?—A. Yes, sir, on the cars.

Q. Who buys coal from you at the mine?—A. No one but ourselves. It is the mine that

Q. Then is not that mere book-keeping?—A. Yes, sir; certainly.

Q. As a matter of fact, has not that coal for which you credit the mine \$2 cost only \$1 or \$1.20?—A. You asked me what it costs us to dig the coal, and I told you from \$1 to \$1.20; but there is a superintendent that is paid, as well as these other men around. But the expenses altogether at the mine, the real production, would cost \$1.25, say. Then the balance of that would be profit to the mine.

Q. Is it credited to your freight department, except what you pay to the Denver and Rio Grande? Is the difference between the cost of production and the price at which you sell the coal here credited to your freight department?—A. To our freight department; yes, sir.

#### PRICE CHARGED AT VARIOUS POINTS.

Q. So that it represents freight?—A. Yes, sir.

Q. Do you sell this coal at intermediate points between the mines and Salt Lake City?—A. Yes, sir.

Q. At what points do you sell it?—A. We sell at Provo.

Q. What price do you charge for the coal at Provo?—A. Five dollars.

Q. Do you not charge substantially the same price at Provo that you do at Salt Lake City?—A. The same; and the same as at Ogden; all points on the road. That is an understanding between the two companies that are supplying coal, the Denver and Rio Grande and the Utah Central.

Q. Do you not fix the price at which you can sell the coal at the highest price you can fairly get for it in view of the competition that is around you?—A. Yes, sir.

Q. You do not allow anything for being near the mine; you pursue the same rule at Provo that you do here, do you?—A. The same rule.

Q. So that the difference between the cost of production at the mine and the price at which you sell is simply fixed by the condition of the market; you get all you can, do you not?—A. Certainly.

Q. In determining the rate of freight that you shall charge on merchandise carried by your company, you only look to what you can get? You do not look to the actual cost of transportation?—A. No. Our coal costs us at this point called Provo \$3.35—\$2 on the cars, at the mines \$1.25, and 10 cents per ton for transferring it from the small cars to our own.

#### TINTIC IRON DEPOSIT ACQUIRED LIKE COAL LANDS.

Q. Do I understand that the Tintic iron deposit was acquired in the same way as were the Pleasant Valley coal lands?—A. Very nearly the same way.

Q. You bought it and sold it to the company, did you?—A. Yes, sir.

Q. Do you also say that as to that iron mine neither you nor any of the other parties interested in the original purchase made a dollar of profit out of the railroad company?—A. I did not say that. We kept, five of us, so many shares. I forget how many. We had to keep so many shares, two or three, a merely nominal amount, in order to keep up our organization. We kept sufficient shares to be directors there. That was the only thing that we ever had out of it. We turned the whole of it over to the railroad company because the railroad company had the work to do. They had this competition to contend with.

Q. Did you turn it over at cost price?—A. Decidedly.

Q. Was the only advantage you got the retaining of such a number shares as was necessary to qualify you to be directors—A. That was



all. Mr. Dillon was made very well acquainted with the transactions at the time, and so were the balance of the directors of the Union Pacific Railroad Company.

#### CASTLE VALLEY COAL LANDS.

Q. What other interests have you in this part of the world in property that is connected in any way with the railroads?—A. We have none that is connected with the railroads. We have other interests, though, besides. We have a lot of coal lands taken up in Castle Valley, but we have no railroads running to the mines in that valley. That is southeast of Pleasant Valley.

Q. Do you mine them?—A. No, sir; we will not mine them until the railroad gets there.

Q. What other interests have you?—A. I do not remember any others.

Q. I mean what interests have you in any business that is connected with the roads by furnishing freight to them, or having different products carried?—A. I do not remember anything else. And the reason why the railroad got the greatest portion of it is I did not want to have it mixed up. I wanted them to have it if they were going to do the work.

#### UTAH CENTRAL SHOULD ENTER NEVADA.

Q. Will you please tell us, from your point of view, what should be done to increase or stimulate the business now done by the Utah Central?—A. I, as a stockholder of the Utah Central, say that we ought to go on into Nevada with our road. We ought to extend the road into Nevada. The way that we have built the road from Salt Lake City south 240 miles, I have explained already. It was by the stockholders taking their proportion of the bonds, and furnishing the money and constructing the road. Now, it is possible enough that we might do so again; but I think that there are a great many of the smaller stockholders of the road that are poor and not able to take their proportion of bonds, although their proportion would be a small one.

#### WHY EXTENSION IS DESIRABLE.

Q. Pass over that. We do not care so much about how it is to be done. Will you explain for what reasons you think it would be desirable to have that extension constructed?—A. If we were to get to Pioche, for instance, 135 miles from where we are, we are assured we would get 100 tons of ore a day from that district.

Q. What is the direction?—A. In a southwesterly direction, clear through to Milford.

Q. What is the present end of the route?—A. Frisco. Milford would be the place where we are going southwest. Frisco is a little place, running up the hill to the mines, but *this* point, Milford, would be the point of starting, and we would have to go in this direction [indicating on the map].

Q. A southwesterly direction, do you mean?—A. A southwesterly direction. I have four men down there now, and I expect them home Saturday, and they will give me a report of the country. They have been investigating it, looking for the amount of traffic.



## COST AND LENGTH OF PROPOSED EXTENSION.

Q. What would it cost to build this branch?—A. I think it would cost, say, \$12,000 or \$14,000. The last 160 miles that we bought cost a little over \$11,000; but that was furnished with very little equipment. I only bought four locomotives and about two hundred cars.

Q. How many miles would have to be built to go through this valley?—A. Say 160. One hundred and sixty would give us traffic enough to maintain our road, with all its fixed charges, and a little dividend on its stock, besides being a feeder to the Union Pacific.

Q. At the rate you mention, it would cost more than \$2,000,000; is that not so?—A. Yes, sir; about.

## CONTRACT TO BUILD FROM ECHO TO OGDEN.

Q. I think you said you had been a party to the original contract for building from Echo to Ogden; is that so?—A. I was a subcontractor under Brigham Young.

Q. Did not Mr. Young have a contract with the Credit Mobilier?—A. No, sir.

Q. With whom?—A. He had a contract with the Union Pacific Railroad Company.

Q. Do you remember that contract?—A. Yes, sir.

Q. Did you ever see it?—A. Yes, sir.

## DETAILS OF CONTRACT.

Q. What were the terms per mile?—A. The classification was all mentioned, and the amount per yard for each classification. So much for dirt common, so much for cement, so much for loose rock, so much for solid rock, and the different kinds of rock, mentioning sandstone, limestone, and granite, and all the balance of it.

Q. Was it all payable in money or payable in bonds?—A. Payable in money.

Q. How many miles is it from Echo to Promontory?—A. It is 150 miles.

Q. Is that what his contract covered?—A. Yes, sir; that is what his contract covered.

Q. Did it include the iron?—A. No, sir.

Q. Or the ties?—A. No, sir.

Q. Only the grading?—A. Just the grading.

## GROSS COST.

Q. Do you remember what the gross sum came to?—A. I think it was \$2,000,000.

Q. Was it more or less than \$2,000,000?—A. I do not think it was much either way from \$2,000,000. I remember I went over to make the settlement, and the company then owed him \$1,250,000, and he had been getting some.

## WHAT THE CONTRACT COVERED.

Q. Did not that \$2,000,000 cover all the work required for that 150 miles of road, except the ties, rails, fish-plates, and the washers?—A. Yes, sir; all fastenings. His contract was just for the grading alone.

Q. Did it cover the bridges, iron or wooden?—A. No, sir; the company furnished them.

Q. Did it cover the masonry on which the bridges were to rest?—A. Yes, sir; it covered the masonry. I did the masonry myself.

Q. Did it cover the masonry for the culverts?—A. Yes, sir; and the abutments for the bridges on the Weber Cañon.

Q. Was the work all done to Promontory?—A. Yes, sir.

Q. How many miles west of Ogden is that?—A. I think it is a little over 50.

Q. Are you positive that the contract embraced 150 miles, or was it a little less?—A. His contract was a little less than 150 miles; but I made a contract for the Promontory work. It is a very heavy piece of work on the Promontory. There is a great deal of heavy rock cuts. I took the contract myself; not under Brigham Young, but from the company.

Q. Will the \$2,000,000 contract mentioned cover all the work done for the 150 miles, including the work done by you at Promontory?—A. It might be a little more. I could not really tell it to a dollar. I am only guessing at it, in round numbers.

Q. Would it be \$2,500,000?—A. No, sir; I am certain it was not.

#### CONTRACT BETWEEN BRIGHAM YOUNG AND UNION PACIFIC.

Q. Have you ever seen that contract between Brigham Young and the Union Pacific?—A. I believe so.

Q. Have you a copy of it?—A. No; I have not.

Q. Do you know where it could be seen?—A. I think, perhaps, you might get it in Boston.

Q. You do not know where we could find it?—A. I think you can get it right in Boston, because the contract was there. It was made right up here in the Continental Hotel with Mr. S. B. Reed, as the chief engineer of construction, and Mr. Blickensderfer.

Q. Is there no copy here among Brigham Young's papers, or with any one who has charge of them?—A. Possibly I might be able to find a copy in his papers.

#### UTAH NORTHERN.

Q. Do you know anything about the Utah Northern?—A. I know very little about it.

Q. Did you know Joe Richardson when he was here, personally?—A. I knew him very well.

Q. Do you know anything about the sale of the Utah Northern stock to Jay Gould?—A. That road was commenced by J. W. Young. It was built over into Cash Valley. Then Joseph Richardson went in with him and spent a good deal of money—some \$700,000, I think. He did not want to spend any more money, and Mr. Gould came in to his assistance and took the road as it was and issued new bonds; and I think that the bonds he issued were some \$400,000 to Mr. Joseph Richardson for his interest in the road; but I know that the old gentleman spent \$700,000 in cash. He purchased the iron and fastenings and everything and did the work. And Mr. Gould took it off his hands; and away up near to Butte, it ad.

Richardson?—A. I could and Mr. Dillon once.

SALT LAKE CITY, UTAH, *Wednesday, July 20, 1887.*

CHARLES POPPER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where do you live?—Answer. My residence at present is in New York city, although I have lived here for twenty-odd years. My business is mostly here in this country; all my business interests.

Q. What is your business?—A. My business at present is mining and stock-raising.

#### WOOD RIVER ORES.

Q. Have you had business relations with the Union Pacific Railroad or its branches?—A. Yes, sir. I have tried to have, at least.

Q. What business relations have you had with them?—A. In shipping our ores here, or trying to, this being the nearest market to where our ores are extracted—

Q. Will you name the place?—A. The place is on the Wood River, in Idaho. That is where we extract our ores and ship them. This is the nearest marketing point. In going to the purchasers of these ores, to the smelters, they have continually informed me from time to time, only as late as a few days ago, that it is not possible for them to buy any ores from that country, as they could not compete with the ore buyers or ore smelters in the east.

#### LONG AND SHORT HAUL DISCRIMINATIONS.

The prices are very near for hauling the ore to this market what they are 1,000 miles farther from here. We are left to the mercy of the ore buyers in the east, at just such prices as they have a mind to mention.

For instance, in smelting similar ores to the ores that I produce, the smelting charges are \$8. I have got to submit to being charged \$11 for smelting in Omaha. There is no way that we can arrange it here whereby we will get equal treatment with the outsiders.

For instance, there is the difference in the freight for ores. There are the Butte ores, which are 300 miles farther off than the Wood River country ores, which are brought into this market for \$7 a ton less than is charged for those ores, should we conclude to sell here to this market. By selling our ores to Omaha, the printed price of the rates of the Union Pacific are a great deal less, although the haul is over 300 miles farther than in our case. It actually, to a great extent, excludes our ores, or gives us hardly any chance to realize sufficient to work a great many of the mines that would be producing, and it is a great detriment to the ore producers.

#### ALMOST EXCLUDED FROM MARKET BY HIGH RATES.

I am very largely interested in one of the large producing mines of that country, the "Queen of the Hills" mine. Conkling is the manager of that. On account of the rates which have been established by the Union Pacific Railroad and the smelter—which we understand is controlled mostly by the Union Pacific, or some of the owners of the Union Pacific Railroad—we have been almost excluded from the market by some of their direction. I do not know what it is.

Q. What is the name of the smelter?—A. The Omaha and Grant Smelting Works. We sold our ores on condition that the charges would be so much per ton. In our charges we were charged up the full rate.

\$20 a ton, and here, not long ago, I believe before your Commission. Mr. Nash testified that he got a rebate of several hundred thousand dollars on ores shipped to that smelter.

## REBATE DISCRIMINATIONS.

The CHAIRMAN. Mr. Barton, that was.

The WITNESS. Barton & Nash are partners. We never got any of that benefit at all, and we never could get any rebate from the railroad company or any one else. We were forced into that company, and are forced now to sell what ores I can to that company by the rates that are established by the Union Pacific Company at printed prices. I got no rebates.

Q. Did you apply for a special rate?—A. I did.

Q. What was the answer?—A. I applied to Mr. Shelby here, and Mr. Shelby said he would try his level best to lay it before the company and do something; but his answer finally was that he could not do anything. They concluded they had done the best they could.

## QUANTITY OF ORE SHIPPED.

Q. What quantity of ore do you ship?—A. From the Queen of the Hills Company there are between 300 and 400 tons a month of ore shipped.

Q. What number of cars would that require?

Mr. SHELBY. About 20 tons to the car.

A. It is about 14 or 15 tons to the car. That is the amount that usually goes into a car.

Mr. SHELBY. It is about 20 tons now.

Q. That would be how many cars a month?—A. About 300 tons—about 10 tons a day.

Q. That would be about fifteen cars a month, would it not?—A. With very few exceptions, if I understand it right, there are about 14 to 15 tons, which has been the usual rate.

By Commissioner ANDERSON:

Q. It is about fifteen cars a month that you would use. Is that it?—A. Yes, sir.

## EQUAL TARIFF DENIED.

By the CHAIRMAN:

Q. What other information can you give the Commission concerning these rates?—A. There is a price list now. The rates between Butte, which is 300 miles farther than the Wood River country, but is also controlled by the Union Pacific Company, are almost one-half less than from Wood River, whether it is to here or to Omaha. For that reason we are excluded with our ores. Omaha or this country cannot be supplied with ores from that country. It shuts our ores out. We cannot realize the benefit that we ought to if the Union Pacific would make equal rates and give us the same advantage.

Q. Is the effect to put you entirely out of the market?—A. It does, from this market, entirely.

## FORCED TO GO TO OMAHA FOR A MARKET.

Q. What market do you get into?—A. We are forced into the Omaha market. It is the Omaha company that also runs the Denver Smelting Works.



Q. What do you lose by going into the Omaha market?—A. We lose the advantages that they gain from other places. For instance, from Butte, which is 300 miles farther, they charge \$7 a ton less than they do to us.

Q. To what extent does it affect your business?—A. It affects our business in this way, that we cannot realize enough for our ores to compete with this other company that produces it. For instance, it throws us on the mercy of these smelters in Omaha. As I have stated, with equal ores and equal quantity, the smelters in Salt Lake charge us \$8 for smelting, and I have got to pay \$11 in Omaha for smelting. The railroad company really excludes us from bringing it here. I am compelled to ship it to Omaha.

#### EXTRAVAGANT RATES ON BULLION.

By Commissioner ANDERSON :

Q. What is the rate to Salt Lake?—A. \$15.

Q. What is the rate to Omaha?—A. To Omaha it is \$20.

Q. What is the rate on bullion from Salt Lake to the Missouri River?—A. \$18.

Q. Is it \$18 to the Missouri River?—A. From here; yes, sir.

Q. How could it be an advantage to you to send it here to be smelted at \$8 and then have to pay \$18 to transport the bullion to the Missouri River? How could that be an advantage to you, instead of sending it direct to the Missouri River and paying \$3 more for smelting it there?—A. The freight charges are \$20. Besides, my whole interest lies in Salt Lake City. I claim that Salt Lake City is deprived of privileges on ore, because the Union Pacific discriminated against us here.

Q. I ask you why it is not better for you to send your ore from the Wood River to Omaha and pay \$11 for smelting there than it would be to send your ores here, even at the rate that you claim for transportation, and pay only \$8, thereby making \$3, when you would have to pay out the proportion of the charge on the bullion which is represented by the ton of ore, in order to carry the bullion from here to Omaha?—A. It acts in both ways. The charge on bullion is extravagant. They are extravagant charges all around. It prevents us from disposing of our ores right here where we live. For instance, the freight on the ores from Butte, Mont., or from Helena, from that country down to here, is only \$8 and something. Now, that would be, perhaps, 300 miles nearer. The smelting charges would be \$8. That would be \$16. Instead of that we have to pay \$34, \$20 for freight charges and \$14 for smelting the ores in Omaha. But that is only on certain qualities of ore, I may say. I am compelled to pay \$11 in Omaha for work I could get done here for \$8. It is the great difference of the discrimination against Salt Lake City that I complain of. It is not giving us a show here. There are other gentlemen here who have got facts and figures, and who can explain it better than I can. They are interested in the same industry as I am. Mr. Shelby will bear me out.

Mr. SHELBY. I would like to explain some of those points, if you care to hear them.

The CHAIRMAN. There are no objections to your asking him any questions.

Mr. SHELBY. I can explain them, in the first place.

By the CHAIRMAN :

Q. Have you any other information to give, Mr. Popper?—A. No, sir.



SALT LAKE CITY, UTAH, *Wednesday, July 20, 1887.*

PETER P. SHELBY, being further examined, testified as follows:

The CHAIRMAN. You may explain now.

EXPLANATION OF RATES ON WOOD RIVER ORES.

The WITNESS. The rate on ore from Wood River country, where Mr. Popper's mines are located, to Omaha is \$20 per ton; to Salt Lake City, \$15 per ton; to Denver, \$17 per ton. The Salt Lake City smelters pay about double as much for coke as the Denver smelters are compelled to pay, consequently, if we should haul the ore from the Wood River country to Salt Lake City for a less rate per ton per mile than we charge to Denver, the Salt Lake City smelters could not compete with the Denver smelters for these ores, because it requires about one ton of coke to make one ton of bullion.

The fact that we haul ore from Butte, Mont., to Omaha, Denver, and Salt Lake City for less than we charge from points on the Wood River branch of the Oregon Short Line is forced upon us by the competition of the Northern Pacific and the interstate commerce law. Before the completion of the Northern Pacific Road we charged as much more for hauling freight from Butte to Omaha than is charged from Ogden, as the difference in distance would justify. Upon the completion of the Northern Pacific to Butte the management of that company insisted upon making the same rates between Saint Paul and Butte and Chicago and Butte that we made between Omaha and Ogden or Chicago and Ogden, because Butte and Ogden are on the same meridian. Hence, it will be seen that circumstances have forced extremely low rates upon us for Montana, and it is not therefore fair to compare the rates from Montana with rates from other points where these circumstances do not exist.

Q. Have you anything else to add?—A. No, sir; simply wanted to explain those points.

PETER P. SHELBY.

SALT LAKE CITY, *Wednesday, July 20, 1887.*

GEORGE Y. WALLACE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where do you reside?—Answer. Salt Lake City.

Q. How long have you lived here?—A. A little more than fifteen years.

Q. What is your business?—A. That is a pretty hard question to answer. I am engaged in a good many enterprises.

MULTIFORM BUSINESS MAN.

Q. Are you engaged in?—A. I am connected with the [redacted] Mining Company; mining some, and making some, and am interested in some concerns and banks, and

Q. Are you a jack of all trades?

A. I am afraid master of none.

Q. Are you different enterprises; as an indi-

A. Yes, I—A. Most of them are com-

panies.

## NAMES OF COMPANIES.

Q. What companies are you interested in?—A. The oldest company is the Utah Forwarding Company. I am interested also in the Deseret Salt Company. I will say right here that in the evidence this morning that company was called the Utah Salt Company. That was a mistake; it should have been the Deseret.

Q. What other company?—A. The Clover Valley Stock Company, the Tintic Iron Company, and the Northwestern Forwarding Company. I guess that will answer your purposes.

Q. Have you given all the companies you are interested in?—A. No, sir; I think not all.

Q. What other companies? We want all.—A. I am interested in a telephone company. I am interested in a bridge company in Idaho and a water company in Idaho. I am interested in merchandise establishments at Blackfoot, and others at Eagle Rock. I guess that is all, all I can now recall anyway.

Q. What is the Utah Forwarding Company?—A. It is simply a name now. It is a name under which we do business.

## NATURE OF BUSINESS OF UTAH FORWARDING COMPANY.

Q. What kind of business do you do?—A. The Utah Forwarding Company was established twelve or fourteen years ago to forward goods from the termini of the several railroads to the mining camps beyond where the railroads end. From that business we grew into handling some ore and salt, iron ore and coke. Now we do not forward anywhere except from Blackfoot, Idaho, and that is done under the name of the Northwestern Forwarding Company.

Q. Has the Utah Forwarding Company been merged into the Northwestern Company?—A. The Northwestern Forwarding Company is a partnership of C. W. Lyman and George Y. Wallace, and does business under the name of the Northwestern Forwarding Company.

Q. Who compose the Utah Forwarding Company?—A. Mr. Lyman and myself control all but what is necessary to keep up the corporation.

## CONTROLLING INTERESTS.

Q. Who else has been interested in the Utah Forwarding Company at any time?—A. When it was incorporated, Mr. T. R. Jones, Mr. James T. Little, and Mr. John Sharp, jr., were stockholders in it; but they only held their stock about three months. That was, I think, fourteen years ago.

Q. Who got possession of it at the end of three months?—A. I did.

Q. Who was associated with you?—A. There was no person at that time, except three or four of my friends to keep up the organization.

Q. Who were your friends?—A. Mr. Voorhees, of Cheyenne; Mr. White, formerly a banker here; and my wife and her sister. They kept up the corporation.

Q. Was any officer, employé, or agent of the Union Pacific at any time interested in the Utah Forwarding Company or the Northwestern Company?—A. No, sir.

## ARRANGEMENTS AS TO RATES.

Q. What special privilege had you with the Union Pacific Railway Company?—A. None.

Q. Had you any special arrangement as to rates?—A. Yes, sir; we had this assurance from Mr. Vining, when he was the general freight

agent of the Union Pacific Railroad, that so long as we continued in the business we were in we should have as low rates of freight as were given to any person.

Q. Did you have a written agreement with Mr. Vining?—A. No, sir.

Q. Did you have a correspondence with him?—A. No, sir.

Q. Was the arrangement merely a verbal arrangement?—A. Entirely so.

Q. How long did it continue?—A. I hope it is in existence to-day. I know nothing to the contrary.

Q. When did it begin?—A. I should say 1878 or 1879.

Q. How were you to determine who got a better rate than you, so that you might measure your rate?—A. I was perfectly willing to take my chances. I did not ask any questions as to that.

Q. What chances did you take?—A. None whatever, I think.

Q. Were you familiar with the open tariff rates?—A. Entirely.

Q. Did you always pay the open tariff rates?—A. Always, except in cases of competition.

Q. What competition?—A. At one time, when the Denver and Rio Grande came in here, we did not pay the tariff rate. Another time, after the Northern Pacific got into Butte, there was a little while we did not pay the tariff rate there.

Q. After they got in did you pay a tariff rate?—A. After the rates were established and fixed; yes, sir.

Q. Has the Utah Forwarding Company always paid the open tariff rate?—A. So far as I know.

#### REBATES AND SPECIAL RATES.

Q. Did your company ever have any rebates?—A. For overcharges, yes, sir; if that may be termed a rebate.

Q. What do you mean by overcharges?—A. When the charge was more than it was agreed it should be.

Q. Did you have an agreement what should be charged?—A. A rate was in force, say, at \$1 a hundred pounds, and then there was a special rate made of 90 cents. That special rate was rebated to us. The difference of 10 cents would be rebated to us.

Q. Had you an agreement for the 90-cents rate?—A. No written agreement.

Q. Had you a verbal agreement?—A. Yes, sir; there was a time here when freights were only charged 25 cents from the Missouri River here, and we paid \$1, I think, and we were rebated 75 cents.

Q. You paid the full rate and the company refunded to you the amount agreed upon between you?—A. Yes, sir.

Q. What other shippers enjoyed any such rate as that?—A. So far as I know, any shipper that asked for it.

Q. What relations did you have with the Union Pacific Railway Company?—A. That of a good customer; I hope nothing else.

Q. Did you make application for a special rate?—A. Yes, sir; very often.

Q. To whom did you make application?—A. To the freight department.

#### BY FORWARDING COMPANY.

or with your Utah Forwarding and  
—A. Would business in Nevada,

Q. Anywhere else?—A. No, sir.

Q. Was the special agreed rate extended to all these sections you have named?—A. I do not know what special agreed rates you allude to.

The CHAIRMAN. I allude to the one you have named as an illustration, 90 cents.

The WITNESS. No; it was to some particular point for some particular time only.

Q. Were you to have at all times as low a rate as anybody else had?—A. Yes, sir; we had that assurance from the freight department a good many years ago, and upon that we have done our business.

Q. How did you manage to make such a verbal agreement with the Union Pacific Company?—A. I think we were probably as large shippers as the Union Pacific had.

Q. Were other shippers then compelled, if they secured the prices or conveniences you had, to ship through the Utah Forwarding Company?—A. No, sir.

#### IMPOSSIBILITY TO COMPETE WITHOUT EQUAL REBATES.

Q. How could they compete with your establishment?—A. They could very easily. I do not know why they should not.

Q. How would it be possible, with the difference of 10 cents?—A. There was no difference of 10 cents. You misinterpret my comparison of 10 cents.

The CHAIRMAN. It is a fact that your company appears, by the books of the Union Pacific Company, as having a rebate and no other company appears that way. We know all that.

The WITNESS. I am perfectly willing that you should.

Q. Do you say there are other shippers that had that rebate? That is what I am asking you about.—A. Yes, sir; I am perfectly willing.

Q. If the other shippers had not this rebate at any time, then it would have been impossible for them to compete with you, if you got 10 cents difference on the hundred, would it not?—A. To that extent, certainly. And I beg your pardon for saying that I think there were shippers who had just as good rates as we had. In fact, I know so.

Q. Is it not a fact that if there were any shippers that had to pay 10 cents more on the hundred than you paid, it would have been utterly impossible for them to compete with you in the same line of business, to that extent?—A. Yes, sir; I suppose so.

#### CHARACTER OF ARRANGEMENT AS TO RATES.

Q. Did you make application at the time for all the territory you have named, in 1878, when you made this verbal arrangement?—A. It was just simply a talk with Mr. Vining, wherein he said, "If you gentlemen are going to such and such a place to go into this business we will protect you, to see that no other person shall have a better rate than you shall." I do not know that it was for any particular ground, or any particular ground was covered by it.

Q. Did that extend to the Missouri River?

The WITNESS. From the Missouri River west?

The CHAIRMAN. Yes, or to the Missouri River?

The WITNESS. We never ship anything to the East.

Q. Or from it?—A. Yes, sir; I should say from it.

Q. Had you special rates and agreements, or did the agreement that you have mentioned cover all the companies you have named here other



than the Utah Forwarding Company and the Northwestern Forwarding Company?—A. No, sir; nothing but the two.

TRANSPORTATION OF COKE.

Q. Were you engaged in forwarding coke?—A. Yes, sir.

Q. To what point did you forward coke?—A. To all the smelting points in the West.

Q. What smelting points?—A. To Salt Lake, to Butte, to Ketchum, to Glendale, over to Bay Horse.

Q. To Leadville?—A. To Leadville; I beg pardon, and to Golden City.

Q. From what points?—A. The Leadville coke all came from Connellsville.

Q. From what other point to the points have you named?—A. Most all the coke has come from Connellsville except these two years past, and then it has come from Colorado, by way of the Denver and Rio Grande.

THE COMMISSION ALLOWED.

Q. Under what arrangements did you forward coke to Leadville?—A. I cannot tell you; I did not make the arrangement; Mr. Lyman did; I never knew the exact arrangement.

Q. Did you have any conversation about it?—A. Yes, more or less. We were to receive a commission of 25 cents a ton, if I remember correctly, for doing the business.

Q. From whom were you to receive the commission?—A. From the Union Pacific Railway Company.

Q. Was that in consideration of having the entire business to Leadville?—A. We never had the entire business to Leadville.

Q. Was that in consideration of having the business at Leadville?—A. It was in consideration of attending to the business at Leadville; yes, sir.

Q. How was that paid to you?—A. I suppose by rebate vouchers. I do not know how.

Q. Were you acquainted with Mr. J. H. Ferguson, of Leadville?—A. I know a Mr. Ferguson. Whether his initials are "J. H." or not, I do not know.

FERGUSON, TOWLE & CO.

Q. Were you acquainted with Ferguson, Towle & Co.?—A. I know who the firm is.

Q. Where did you know him?—A. Ferguson was here for awhile. I knew him here. The other men lived in Omaha.

Q. Did you know them as engaged in the business at Leadville?—A. No, sir; I never did.

Q. Were you acquainted with them as engaged in the business of supplying coke from Connellsville to Leadville?—A. They tried to sell us coke at one time, but we made more satisfactory arrangements elsewhere.

Q. What kind of arrangements did you make?—A. Bought coke cheaper.

Q. Was anything said at the time you made the agreement with the Union Pacific Company, that in addition to the 25 cents you were to get as commission you were to force Ferguson, Towle & Co. out of the market there?—A. No, sir; not that I recollect now. I never heard anything of that kind.



Q. Did you have any better rate than Ferguson, Towle & Co.?—A. I do not know what they had.

Q. What did you pay from the Missouri River to Leadville?—A. I could not recollect now. I have no idea what the rate was.

Q. Do you not recollect the fact that you only paid a dollar?—A. No, sir.

Q. Do you not remember the fact that Ferguson, Towle & Co. were compelled to pay \$6?—A. No, sir.

Q. Would you not recollect that difference if you had it in mind at any time?—A. I tried to explain to you that I knew very little about that Leadville business; Mr. Lyman attended to it entirely.

Q. Where is Mr. Lyman?—A. He is at Soda Springs.

Q. When did he go away?—A. Three weeks ago; three or four weeks ago.

Q. When do you expect him to return?—A. Not until the warm weather is over; not unless it is necessary.

Q. You can bring him down to-morrow if you want him, can you not?—A. He can come.

Q. How far is it?—A. 200 miles.

By Commissioner ANDERSON:

Q. How far would it be to Ogden?—A. 37 miles less.

#### BASIS OF ALLOWANCE OF COMMISSION.

By the CHAIRMAN:

Q. At what other points had you an arrangement with the Union Pacific Railway Company in the shipment of coke?—A. To every place where they had coke they have paid us a commission for doing the business.

Q. Of the same amount?—A. Yes, sir; it was more than that at one time, but it was some years ago.

Q. Why should you be paid a commission as against any other shipper?—A. I do not know that I can explain it. I think that the furnace men would be as willing to pay a commission as the railroad. We have to buy this coke, and we have succeeded in doing all the business in getting coke a little cheaper than any other one person could buy it, and we have been able to make pretty satisfactory rates east of Omaha. Then when the coke is shipped to one party, as it was here some years ago, and then distributed to the several furnaces, there is no accumulation at any one furnace. It was not an uncommon thing for us, four or five years ago, to get in forty cars together in one day. No one furnace could attend to forty cars of coke in one day. We distributed it around and saw that the cars were unloaded and released for the benefit of the company as soon as possible. We have given the railroad company every advantage we could obtain in the way of price for the coke and rates to the Missouri River, and in return for it they have given us this commission of 25 cents. I do not think we have had it all. I think parties who have shipped for themselves, have, as a rule, quit shipping and come and shipped through us, after they shipped a little themselves.

#### LITTLE COMPETITION.

Q. Have you ever had a competitor for any length of time in the coke business?—A. None: 25 cents a ton, you understand, would not make much competition in the coke trade.

Q. Would it not be sufficient to prevent any other man from engaging in the business?—A. No, sir. There is not a furnace in this valley that is not shipping coke itself under just as good rates.

Q. Have they had the same arrangements that you have had with the Union Pacific Railway Company as to coke?—A. Excepting the 25 cents a ton commission. I have known the time when I could buy coke and deliver it here \$3 a ton cheaper than any other furnace could do it. That accrued to the railroad company, of course.

Q. How would you do that?—A. By buying more coke and shipping more coke, and making better arrangements for our coke in Connellsville and from there to Chicago and from Chicago to the Missouri River. At times it would be advisable not to ship into Chicago, but to ship around Chicago. We have shipped to Saint Louis and then shipped up the Missouri River at one time.

Q. What other business have you been in that you have received a rebate on? You named the smelting business and the coke business.—A. No, sir; I did not mention the smelting business.

The CHAIRMAN. Well, the salt business.

The WITNESS. We have received no rebates for salt.

Q. Have you bought salt for the company?—A. We have made and bought.

Q. That is, for the Union Pacific?—A. Yes, sir.

#### COMMISSION ON SALT.

Q. Were you allowed anything by the Union Pacific Company for your purchases?—A. We were at one time, four or five years ago. We were allowed a commission of 50 cents a ton, if we were to buy the salt, take it to Butte, unload, and deliver it to the smelters there as they wanted it.

Q. What commission did you receive?—A. Fifty cents a ton. That was at the time when they cornered the salt here and put up the price.

Q. How were your commissions on salt paid, by way of rebate?—A. Yes, sir. We put in a bill for the salt and added 50 cents a ton for commission.

Q. Was that under a verbal agreement?—A. I think so; I am not sure.

Q. With whom did you make that agreement?—A. We made it with Mr. Vining, I think.

Q. When did you make it?—A. It must have been five or six years ago; I do not know how long it was.

Q. How long did that continue?—A. That ended within a short time. It was just when we had to buy five or six thousand tons of salt in the open market.

#### AMOUNT OF COMMISSIONS.

Q. What would your commission amount to on coke within a year?—A. It would amount to probably five or six hundred dollars now.

Q. I am not speaking of now, but of the year up to April 1, how much was it?—A. Our commissions on coke in 1885 and 1886 were comparatively nothing.

Q. What do you call nothing?—A. Two or three hundred dollars I imagine; not more than that.

Q. What were your commissions on salt?—A. Nothing, I think, in either of those years, 1885 and 1886.

Q. Will you state as to any other years?—A. I remember purchasing 6,000 tons at one time for the Union Pacific Railroad Company, upon

which we received a commission of 50 cents a ton. We saved either the railroad or the consumer, I do not know who it was, three or four dollars a ton.

Q. In what other business have you been allowed a rebate; the salt, coke, and forwarding business you have mentioned?—A. Nothing in the forwarding business whatever.

#### INTERESTED IN THE COAL BUSINESS.

Q. Are you engaged in the coal business?—A. We sell coal to the Union Pacific Railroad Company in Butte.

Q. What coal do you sell?—A. Rock Springs and Weber and Alma.

Q. Are you the agents of the Union Pacific Company?—A. Yes, sir.

Q. At Butte?—A. Yes, sir.

Q. What do they pay you there?—A. I think it is a dollar. I am not sure.

Q. A dollar a ton?—A. Yes, sir.

Q. Have you an agreement with them?—A. No; I think no written agreement. We had an agreement some years ago; but their agreement terminates the 31st of December.

Q. Have you a verbal agreement?—A. No verbal agreement now.

#### NO PROFIT ON COAL SALES.

Q. With whom did you talk about it when you made the arrangement?—A. I think the arrangement was made originally with Mr. S. H. H. Clark.

Q. What was the arrangement?—A. We were to have a dollar a ton for retailing coal up there and fifteen cents by the car load.

Q. Were you to be exclusive agents up there?—A. No.

Q. Are there any other agents there?—A. I do not know that there are any. The agents of the company sell coal.

Q. Would you not very soon discover if you had a competitor there?—A. I say there is no one except the company itself that sells coke.

Q. Who else is engaged in the sale of coal that you have named at Butte?—A. The railroad company's agent.

Q. The Union Pacific Railroad Company's agent?—A. Yes, sir.

Q. That is you?—A. No. That is every station agent or every local agent.

Q. Then, in addition to your agency there, the Union Pacific Railroad Company has an agency?—A. Yes, sir.

Q. Do you compete in prices?—A. No; the railroad company fixes the price. I do not know what the railroad company gets for its coal. It fixes the price that we shall sell at.

Q. What is your relation to the railroad company there?—A. That of any other agent, I imagine.

Q. Do you occupy the same position as the other Union Pacific agents?—A. No, sir; only in the matter of coal.

#### AMOUNT OF COAL SALES AND SELLING PRICE.

Q. How much coal is sold there in the year?—A. We have sold since the 1st of January 901 tons up the 31st of July. I happen to know that. What we sold last year, I do not know. I saw the statement since I left you this morning.

Q. About how much does the other agent sell?—A. They sell it by the thousand tons. Ours is simply a little retail coal business.

By Commissioner ANDERSON:

Q. At what price do you sell now?—A. \$9, I think, for Rock Springs; \$8 or \$9. I am not sure, gentlemen, what the price is.

By the CHAIRMAN:

Q. Could anybody else sell coal there besides you and your fellow agent, especially Rock Springs coal and the coal you have named?—A. I suppose if they would buy it from the railroad company; yes, sir.

Q. Could they get the same privilege that you have from the railroad company?—A. I do not know whether they could or not.

Q. Has any one done so?—A. Not that I am aware of.

Q. How long have you been there?—A. Seven years. We were in Butte before the railroad was.

Q. What other business do you receive a commission on from the railroad company?—A. We receive a commission from the railroad company for nothing but the coke; no business whatever.

NO REFUND, REBATE, NOR COMMISSIONS ON SALT OR COAL.

Q. What other business do you get a rebate on? You have named salt and coke and coal. Now, what else is there?—A. I do not know why we get a rebate on salt or on coal; we do not on either of them.

Q. Do you get a refund or commission on them?—A. Neither; not at all.

Q. What do you call it?—A. We buy the coal from the railroad company for \$8 a ton, and they say we may retail it for \$9 a ton.

Q. You get a dollar a ton?—A. We pay them \$8 a ton.

Q. Did you not say you got a dollar a ton off?—A. If I said that I said what I should not have said. We buy it and we sell it at a dollar a ton advance over what we buy it for.

Q. Do you get any allowance bill when you settle with the railroad company?—A. Never have. I wish we could for shortage.

Q. Have you ever had any refund from the company on coal?—A. We have put in some claims; whether they have ever been paid or not I cannot tell you—for bad coal, that was; several times. At one time we had quite a lot of coal, and the railroad company put the price of coal down at Butte and they reimbursed us for the difference between what we had paid and what we were to sell it for, allowing us our dollar's margin.

A DOLLAR MARGIN ON COAL.

Q. Allowing you a dollar's margin; that is what I want to understand. Was that on a ton?—A. Yes, sir.

Q. How is that dollar's margin allowed?—A. I do not know, unless I can give you an illustration of it.

The CHAIRMAN. I wish you would.

The WITNESS. We pay \$8 a ton to the railroad company for the coal. At one time we paid \$9 to them for the coal, and we had on hand, say, a thousand tons of coal. They put the price down to \$8 after we had paid them \$9. They allowed us that dollar.

By Commissioner LITTLER:

Q. On that which you had bought?—A. On that which we had bought.

By Commissioner ANDERSON:

Q. Paid you back a dollar a ton?—A. Paid us back a dollar a ton, because they reduced the price. We would have had all our expense for nothing.



By the CHAIRMAN:

Q. Suppose the reverse had happened and the company had advanced a dollar. Would your firm have paid the additional dollar?—A. I suppose we would, if the railroad company had demanded it of us.

Q. Would the company have demanded it?—A. It is not fair to say that.

#### THE SALT BUSINESS.

Q. I want to understand this salt business. I see a little more into the coal business. Do I understand you to say that you never received any refund on the salt business?—A. No, sir; I said we did some years ago; but we have not for several years. The railroad company has fixed a price that they would pay for salt on the cars at Ogden. We have delivered to them their salt.

Q. What was your refund on the salt when you were getting it?—A. 50 cents a ton.

Q. How long did you get it?—A. I think we handled about 6,000 tons on that; but I am not sure.

Q. What else is there that you received an advantage on in your dealings with the Union Pacific Company other than those articles of merchandise you have named—coal, coke, and salt?—A. I consider that you make an assertion that you ought not to when you ask the question. I do not think we received advantages.

Q. I repeat my question. What other advantages do you have in dealing with the Union Pacific Railway Company in other articles of merchandise than the coke, coal, and salt?—A. None in coke, salt, coal, or anything else.

#### GRAIN BUSINESS.

Q. Do you have any business transactions with the Union Pacific Company in grain?—A. Yes, sir.

Q. Are you a shipper of grain?—A. Yes, sir.

Q. In what direction do you ship the grain?—A. East and west and north.

Q. Have you charge or control of any elevators?—A. No, sir.

Q. Have you made any verbal arrangements with the Union Pacific Company concerning the shipment of grain?—A. We have had; yes, sir.

Q. What have been your arrangements?—A. We shipped in a lot of grain here once at 25 cents a hundred, under a verbal agreement.

Q. What advantage was that to you over other grain shippers?—A. None.

#### RATES ON GRAIN.

Q. What was the open, regular published rate at that time?—A. One dollar.

Q. How did you make the arrangements for 25 cents?—A. Everybody shipped at 25 cents.

Q. What was the use of the published rate, if everybody shipped at 25 cents?—A. I am not able to say.

Q. Did you make application for it?—A. I suppose so. Ordinarily, I make applications for rates. The railroad company does not go around and offer them.

Q. Who else shipped it at that rate? You say everybody else besides yourself.—A. I do not know.

Q. Can you name one?—A. Why, yes, if I could think of his name. Who filled Scott's warehouse?



Mr. SHELBY. Seers.

The WITNESS. I cannot remember their names. I think Mr. Seers and Armstrong, and I think a man named Rich. But I am not sure as to that.

Q. Does that include all the grain shippers?—A. The Zion Co-operative Mercantile Institution.

Q. Who else?—A. I think that is all the grain shippers that were shipping in the town.

Q. How long did that rate continue?—A. A few weeks.

Q. Between what points was it fixed?—A. There was no fixed rate.

Q. Between what points did you pay the 25 cents?—A. From Missouri River points to Salt Lake City.

Q. What was the rate when the change took place from 25 cents up? How did it go up?—A. They raised to 75 cents.

Q. Was that the published rate?—A. Yes, sir.

Q. What other business have you been engaged in in which you received a special rate or rebate from the Union Pacific Company?—A. None.

THE TINTIC IRON COMPANY.

Q. Have you been engaged in the iron business?

The WITNESS. Iron ore?

The CHAIRMAN. Yes.

The WITNESS. Yes, sir.

Q. Have you shipped any iron ore?—A. Yes, sir.

Q. In your individual name?—A. No, sir.

Q. In what name?—A. The Tintic Iron Company is the name of the corporation that does the business.

Q. How long have you shipped iron ore?—A. Ten to twelve years.

Q. Between what points?—A. Between points in the Tintic mining district and the furnaces in Utah and Idaho and Montana.

Q. Have you had any arrangement as to your rates in the shipment of iron ore?—A. Yes and no, both. Sometimes we would have, and sometimes we would not have.

Q. What rates did you have?—A. I cannot tell you. The present rates have been in force for four years.

Q. Did you pay, in the shipment of ore, the open, published tariff rate?—A. So far as I know we did.

RECEIVED A REFUND.

Q. Did you receive a refund from the company?—A. Yes, sir; we did.

Q. To what extent?—A. I do not remember that.

Q. What was the percentage refunded?—A. I cannot tell you that. It was some years ago.

Q. Had you talked with Mr. Vining about that?—A. It was not the Union Pacific Railroad. We never had any iron ore arrangements with the Union Pacific Railroad, in the world. It was the Utah Central. The Union Pacific had nothing to do with it whatever.

Q. Is not the Utah Central a branch line, controlled by the Union Pacific Company?—A. They run entirely independent, I think.

Q. Did you have a special arrangement with the Utah Central Company?—A. Not a special arrangement. We had an arrangement, but it was not a special arrangement.

Q. What businesses have you been in other than those you have named in which you had special rates or rebates over the Union Pacific or the Utah Central?—A. I have had none.

## THE LIMESTONE BUSINESS.

Q. Have you ever been engaged in the stone business?—A. No, sir.

Q. Have you ever shipped any stone as the Utah Forwarding Company?

The WITNESS. Limestone?

The CHAIRMAN. Limestone or any other stone.

The WITNESS. Yes, sir; I think we did, some years ago, ship some limestone.

Q. Where?—A. From here to the furnaces.

Q. What furnaces?—A. Down here in the valley; 10 or 12 miles down here.

Q. From whom did you make the shipment?—A. We bought the limestone and sold it to the furnaces.

Q. Did you have an arrangement with the railroad company—the Utah Central?—A. No, sir; none whatever.

Q. Was that the road that it was shipped over?—A. Yes, sir.

Q. Have you named all the articles of merchandise in which you have been engaged where, in the handling of freight, as the Utah Forwarding Company or the Northwestern Forwarding Company, or any other company, you had special rates or rebates or preferential rates or refunds from the Union Pacific or any road controlled by it?—A. I think so.

## REFUNDS OF OVERCHARGES.

By Commissioner LITTLER:

Q. I want to ask you one or two questions. I understand these commissions of which you have spoken were all refunded to you on rebate vouchers. Is that so?—A. All of the coke was—yes, sir; and that is the only commission we have ever received.

Q. That is the only money they have ever paid back to you, is it, on any account whatever?—A. Oh, no, sir; they have paid back to us thousands of dollars.

Q. On what accounts?—A. On account of overcharges, a great many of them.

Q. Have they paid them back always on vouchers which you yourself have signed?—A. Yes, sir, I think so; either myself or Mr. Lyman.

## NO ATTEMPT TO INFLUENCE ELECTIONS.

Q. I do not care to ask you anything more. We have these vouchers at Omaha. But I will ask you on another line. Have you or your firm at any time contributed money to influence elections in this region?—A. No, sir.

Q. Do you know of any officer of the Union Pacific road who has been engaged in influencing elections in this region?—A. No, sir; I do not.

Q. Have you anything to do with the Territorial legislature of Utah?—A. No, sir; nothing whatever.

Q. Has there been any hostile legislation against railroads in Utah Territory?—A. No, sir; not a bit.

Q. Not a bit?—A. Not a particle.

Q. You have not been around the legislature at any time trying to influence legislation?—A. No, sir; I keep just as far away from it as I can.

## RAILROAD OFFICERS PARTICIPATING IN PROFITS OF OTHER BUSINESSES.

By the CHAIRMAN:

Q. Has any officer, employé, or agent of the Union Pacific Railway Company, or of any branches controlled by it—I include the contractors also—participated in the profits or receipts of any of the enterprises in which you have been engaged?—A. Yes, sir; Bishop Sharp is an officer of the Union Pacific Railroad, and superintendent of the Utah Central. My impression is that I paid him, but I do not know the amount. He has a few shares of stock in this Tintic Iron Company, and he has participated to that extent. I think it is ten shares, although I am not sure. It does not amount to anything. It would not buy him a suit of clothes in the year.

Q. Is he the only man that you recollect?—A. The only man connected with railroads; yes, sir. He is also interested in the salt company.

By Commissioner ANDERSON:

Q. How long have you known Mr. Vining?—A. I have known him as long as I was connected with the road.

Q. Were your relations with him close?—A. No closer than I imagine any other business man's.

Q. Did you see him very frequently?—A. Not very often; so often as I might go to Omaha or he might come here.

Q. Did you have a social connection with him apart from your business connection with him?—A. Mr. Vining had very little social connection with any person.

Q. Had he any interest, direct or indirect, in this coke allowance?—A. No, sir; none whatever, or any other officer of the Union Pacific Railroad, in any way, shape, or manner.

SALT LAKE CITY, UTAH, *Wednesday, July 20, 1887.*

Mr. SHELBY. I would like to have you put me on the stand in relation to that Leadville coke matter.

PETER P. SHELBY, being further examined, testified as follows:

The CHAIRMAN. You may proceed.

The WITNESS. You spoke about a rate of a dollar a ton from Denver to Leadville on coke.

## COKE HAULED FOR NOTHING.

The CHAIRMAN. I stated that Mr. Ferguson stated under oath at Denver that he undertook to and had made contracts at Connellsville to forward coke to Leadville, and when he had completed his arrangements the Utah Forwarding Company came in and furnished coke much under him, that he was compelled to sell out. That was by Mr. Ferguson at Denver, and this was the company engaged in the coke business.

The WITNESS. We hauled coke for nothing for a

By Commissioner LITTLE:

Question. From where?—Answer. From Denver a dollar a ton from the Missouri River to Denver

## THE INDUCEMENT.

Q. What induced you to do that?—A. At the time our company obtained control of the Denver, South Park and Pacific road, we found that the bullion from Leadville was all going east over the Denver and Rio Grande, because they controlled the coke supply. In order to get bullion out we hauled coke there at rates that were about a dollar a ton from Missouri River to Leadville. That was about all there was to that coke transaction. I do not think we paid any commission on it. We obtained \$22 a ton for hauling bullion out, and we thought it better to haul coke for practically nothing than to lose the hauling of bullion out, which amounted to about ten or twelve car loads a day at that time. Those were the reasons we made the rates we did make on coke, and Lyman & Wallace did not derive any benefit from it.

Mr. WALLACE. I hope you will not be kept from sending for Mr. Lyman, if you want him.

PETER P. SHELBY.

SALT LAKE CITY, UTAH, *Wednesday, July 20, 1887.*

JOHN W. SNELL, being duly sworn and examined, testified as follows:

The WITNESS. If it would not be objectionable I would like to make a little statement in my own way, then you can catechise me afterwards.

By the CHAIRMAN:

Question. In a moment. Where do you reside?—Answer. Salt Lake City.

Q. What is your business?—A. I am over here at what is called the "Idaho store" now. I have been in several businesses. I owned an iron mine at Tintic, and own lime rocks near the city.

Q. How long have you been in business?—A. Since 1869; general speculating business.

Q. Please give to the Commission any information you have concerning any rates or any business relations you have had with the Union Pacific Company or any shipper.—A. I would like to make a little short statement. It may be a little irrelevant.

The CHAIRMAN. Go ahead.

"A LITTLE SHORT IRRELEVANT STATEMENT."

The WITNESS. I have been an agent with the coal company, and I have been quite a heavy salt operator, and I shipped the first cargo of iron up from Tintic over the railroad south. I have been a coal miner in the Rock Springs Company and Excelsior Coal Company, and in the salt-rock and lime-rock business. I am giving a part of this for general information. There are some Utah citizens who are living out here at Coal Valley, 40 miles from Salt Lake City, who have been shipping coal to this city. I was in business, and I endeavored very strongly to do business with them. I theorized that it was only 40 miles to Salt Lake City, and it had a legitimate right to the coal business of Salt Lake City. They and I had done what little we could to promote the interests of the Union Pacific Railroad, and the legislature and everybody else in this Territory, I believe, without exception, had done what they could to promote the interests of the Union Pacific Railroad to get them in this country. As to the coal-mine owners, when the coal had

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THE FIRST

I was agent for the Union Pacific  
 secured the contract for the coal  
 trade with the smelters. I was  
 gent I sold a large quantity of  
 out to the company. I was  
 "You can not leave the company  
 hem excited. They were  
 rumor of a change in the  
 railroad and asked me for  
 knowledge about it. I was  
 and I wrote to the  
 without direct orders from me  
 ame to me. He was  
 ine, or manager. I was  
 could like to get  
 mines." Said I, "The  
 Union Pacific Railroad  
 "All right: I will  
 is. He did not. He said  
 desulphurize the coal.  
 I thought I would like to  
 that it would come at a  
 new rate. This coal  
 I said, "John, on this coal there  
 outrage." Said I, "Major,  
 25 at the mine." He said,  
 or swearing a little, "I don't  
 rn to the company and curse them."  
 that cut me right off. I had  
 rgetically to secure a big trade, and  
 credit was injured to some extent. The  
 gas works continued  
 t coal. It cost them \$13 a ton. I  
 as selling it. They considered it  
 worth \$13 rather than the  
 company was furnishing. So that  
 the coal was worth comparatively  
 estimation of the gas works, \$13  
 to the Union Pacific coal  
 much for that point.

THE FIRST IRON ORE SHIPMENT FROM TINTIC

When I was cut off from the coal shipment business, altogether  
 t \$1,500 or \$2,000 by trusting coal owners out here, under my  
 t they were entitled to that consideration, I commenced to  
 n ore. I went down and shipped the first car of iron ore  
 pped to these smelters from Tintic. At first, I concluded I  
 et some buildings, going to some considerable expense, and  
 l fixing up on a larger scale for iron ore. Before doing so,  
 I talked with Mr. Hull, of the Horn Silver, and he said he  
 have some of his patterns if I did so. I also went to Mr. B



and secured a contract from him to give him iron ore. I was to deliver it at \$7 a ton, if I recollect rightly. This can be verified. I commenced to furnish iron ore. I hired a lot of teams, fifty or sixty of them, and jumped in energetically, and had my hands full of business. That increased the business rapidly. I went to see Mr. Billings before I finished the contract, and he said, "Snell, how would it be for you to come down and see Bishop Sharp and arrange definitely about this iron ore?" I said I would. I went down and talked to Bishop Sharp. Said I, "I propose to build ore houses down here and put up a store and buy some land and go to considerable expense, and I have come to see how far I will be protected in the iron ore." Said I, "I only ask equal terms with any other American citizen, and if I cannot get along that way I will quit and go at something else. I do not ask any particular favors." Said he, "That is fair and right and square and honest enough, and I promise that, so far as I am concerned, you shall have my support in that. But," said he, "James Sharp is the freight agent." I went and talked to James Sharp, and he coincided with Bishop Sharp's views, and said "That is fair and reasonable, and I promise you you shall be sustained. But," said he, "Mr. Cook is going to be general freight agent." I went and talked with him, and he indorsed it in the same way. I went down and built up this place and had a lot of teams running. I forget about what year it was, but about the 24th or 25th of November, I received a note from Mr. Cook, saying, "J. W. Snell: On and after November 25 the rate on iron ore will be changed from schedule A to tariff B." That was the amount of it. I telephoned down to him and asked him what that meant. "Instead of \$2.80, you are now having, the rate shall be \$6.40." I rushed right up to Mr. Billings.

#### THE UTAH FORWARDING COMPANY'S FINGER IN THE PIE.

Said I, "There is a contract that I have made with you, that I am unable to keep. I presume the Utah Forwarding Company have a finger in this pie. I guess if you will go right after them, they will protect you; but you see I am not able to keep up this contract on this basis, to sell you iron ore at \$7.50 and pay \$6.40." Said he, "We have a rate also from the Utah Forwarding Company, and I will show it to you. I will read from the letter to Mr. Billings." He presented the letter he received. "Germania Smelting and Refining Company: On and after November 25 we will furnish you iron ore at \$7.50 a ton, and we will take the Central Railroad shipping bills as a part payment of the \$7.50 a ton"—apparently selling for the difference between \$6.40 and \$7.50, an impossibility. That was the rate I was selling it for. I went down to Mr. Hanrean, and said, "I can not protect myself." Then I telephoned down to the railroad and asked if Bishop Sharp was there, and he said, "It was pretty dark, and he was going to leave in a few minutes. You hurry right down, and I will wait for you." I went down, and I was indignant enough to bite a nail in two and fight all three of them for two cents and a half, because I saw my credit ruined and my business demoralized. I was a poor man, and I went ahead and established a first-class industry and demonstrated it to be a success, and then to have a railroad company come in and take it away from me made me indignant. Said I, "Bishop Sharp, our brethren are encouraging the railroad company all they can." Said I, "That was liberal and fair, and they ought to be all liberal; but these people out here forty miles have a legitimate right to coal, and anything that prevents their getting it is highway robbery, especially under the

circumstances of the building of the Union Pacific," and so on. I will drop that subject.

I mentioned this rebate on the iron ore, from \$2.80 to \$6.40, which the Utah Forwarding Company evidently got. Mr. Billings is cognizant of this affair, no doubt.

#### NO BRASS MEDALS GIVEN.

I went and talked with the three officers of the Union Pacific and Utah Central Railroad and got through. I said, "I have got a lot of teams hauling iron, and we have a lot of iron on the dump." Bishop Sharp said, "We will give you a rebate." We anticipated that. That was fair. My building is standing down there idle to-day, and it has been ever since, for years. Instead of giving me a brass medal for opening up a big industry, that was the way I was treated. Although John Sharp may be a figure-head for holding stock of that company, I am satisfied, from their actions, that they have an interest in some direction.

Before that I had been in the grain business. T. J. Clark, at Council Bluffs, shipped grain to me. I talked with Mr. Nolan here, a grain operator. He told me an officer of the Union Pacific Railroad was heavily interested in the shipping of grain. At any rate, if I had had grain given to me, if I recollect rightly, from Council Bluffs to Omaha, I could not get any grain out here. Mr. Nolan understands that better than I do.

Q. Who was he?—A. He was a grain man at that time.

Q. Is he here?—A. Yes, sir; he is in town. I do not know whether this has any particular point to it.

#### SHIPPING VATS FROM SAN FRANCISCO TO MONTANA.

I will mention another point on grain. Some little time ago I was up at Ogden, and I read in the papers of prices offered for oats at San Francisco. I went to Sinclair, the agent of the Union Pacific Railroad, and said, "What will you charge me to ship oats up to Montana?" Said he, "Fifty cents a hundred. That is a special rate." Said I, "What is it from Omaha?" Said he, "Fifty cents a hundred."

Q. How long ago was that?—A. That was some time ago. There was quite cool feeling between the Union Pacific and—

Q. Was this prior to April 1?—A. Yes, sir. I was satisfied afterwards that he drew the deduction, although without authority, that those oats were Utah oats. I telegraphed right down, in connection with George H. Tuhe, a merchant there, and ordered eight car loads of about 250,000 pounds of oats from California. I saw, I thought, \$3,000 or \$4,000 of prospective profit along the Oregon line, when they were building it, on this basis of 50 cents for carrying the oats. They did not drop on the fact of the oats being from California. When they arrived, and the oats were all on the track there, they telegraphed down to Omaha and said there was a lot of oats coming over the Union Pacific Railroad, and asked, "What will we do about it?" They raised it from 50 cents to \$2 a hundred. I had, luckily, sold the oats on sample to one of the dealers there. The dealers had four or five articles in the papers for four or five days. They were quite excited. Although I did my business legitimately, and did not hide anything, I am satisfied, from the actions of the railroad people afterwards, that they supposed they were Utah oats.

## A BIG SALT DEALER A FEW YEARS AGO.

I was one of the biggest salt dealers a few years ago. I was the first person to cut off a spur of Salt Lake and let it evaporate and made thousands of tons of salt. Some time afterwards I went up here to Hookerville and made a contract to furnish a mine in Montana with salt. I furnished them for one year and tried to do it the next year. They told me the Northwestern Company was the only party that could introduce the salt in that country up there. The Northwestern Forwarding Company controlled it. I shipped some to another party up there, and he said he liked the salt; but I was informed that it was impossible for me to reach that point. The amount of it was I was informed that the Union Pacific, in some way, favored some other parties. How they did it consistently, I do not know. They, of course, did it to evade the interstate commerce law, and probably they succeeded. Mr. Rich over here, who has examined into the salt business pretty thoroughly, could, I have no doubt, give you some points on that. I have no doubt Mr. Billings could give you some points about special deals, and so could Mr. Nolan. I have also been in the lime-rock business, and own lime rock here in Idaho now. I was informed that nobody but the Utah Lime and Cement Company could ship lime here at all. They apparently have a rebate or something of that sort.

Q. Who controls that company?—A. I think they have some smelters in there now.

Q. Is Mr. Wallace in that company?—A. No, sir; I think not.

Q. Is his partner in that company?—A. I do not think he is. Hanrean is, I believe. They had made a monopoly of it, and I believe the Denver and Rio Grande and the Utah Central simply pooled on the business. I believe they have smelting men interested in the business.

## FIGURE-HEADS MAKE THE PROFITS.

Q. Is there anything else you desire to state?—A. Another word or two only. I will say that I am quite certain that as to any business at all along the line of the Utah Railroad that is demonstrated to be a good success, the Union Pacific apparently has figure-heads enough to control it, but the Union Pacific do not make all the profits. The figure-heads made the profit instead of the Union Pacific stockholders. That is my estimation of it.

Q. Have you anything else to add?—A. No, sir.

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SALT LAKE CITY, UTAH, *Wednesday, July 20, 1887.*

WILLIAM W. RITER, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I have charge of two short lines that are controlled by the Union Pacific Railway.

## UTAH AND NORTHERN AND SALT LAKE AND WESTERN ROADS.

Q. What are the names of the lines?—A. One is the Utah and Nevada, and the other is the Salt Lake and Western Railway.

Q. Did you build the Salt Lake and Western Railroad?—A. Yes, sir; I built it for the Union Pacific Railway.



Q. What organization did you have? Did you build it as an individual or as a company?—A. No, sir; it was a local organization under the laws of the Territory of Utah.

Q. What was the name of the organization?—A. Salt Lake and Western Railway Company.

Q. What interest had the Union Pacific Railway Company in it?—A. They practically owned it all; with the exception of enough stock to hold locally to comply with the law.

Q. What was the capital of the company?—A. I really cannot tell you. I think \$5,000,000.

Q. Who were the officers of the company?—A. I think Sidney Dillon was president, elected under the first organization, or Mr. S. H. H. Clark; I am not sure. I think some of the board of directors were residents and some not.

#### MEANS AND MATERIALS FURNISHED TO BUILD THE ROAD.

Q. Who built the road?—A. They furnished me with the means to build the road.

Q. How were the means furnished?—A. They furnished the iron, fish plates, spikes, bolts, and all material of that nature from the East and rendered me the bills, and then furnished me with the cash to pay for the grading and ties and building—the construction.

Q. What vouchers did you furnish the Union Pacific Railway Company?—A. I took vouchers in duplicate of all expenditures. We kept a set of construction books here and credited the Union Pacific Railway with all material and cash furnished and took vouchers in duplicate, and furnished one to the Omaha office and kept one voucher here for reference.

Q. Have you the vouchers here now?—A. I think I have. I think I have the duplicates or the originals. I do not remember which I furnished.

Q. Did you furnish copies to the Omaha office?—A. Yes, sir.

Q. Would they not be on file there now?—A. Yes, sir; I suppose they would.

#### VOUCHERS IN THE OMAHA OFFICE.

The CHAIRMAN. I want to inform you that there are vouchers on file now in the Omaha office for more than \$400,000.

The WITNESS. That possibly represents the amount of cash. I did not furnish vouchers for the material they furnished. They furnished vouchers to me, and I took them up on construction books, but did not furnish them back again. The vouchers that I furnished were to cover the cash that they had furnished me.

Q. I call your attention to the fact that the vouchers missing in the Omaha office are the vouchers for cash, and there are no vouchers on file in that office. Have you duplicates?—A. Yes, sir; I think so.

Q. Can you furnish the Commission with the duplicates?—A. I think so.

The CHAIRMAN. We will be glad to have you do so to-morrow morning at 9 o'clock.

#### BOOKS WILL SHOW THE VOUCHERS.

The WITNESS. I think I have them all, and the books. I think my assistant made vouchers for every dollar. When I received the money

I would sign a receipt to the auditor, Mr. Ginnette, for every dollar. I would use that to pay for construction purposes, and when used up, I would make a statement, rendered with the vouchers in duplicates, all approved and checked off, for the amount furnished, and then call for some more. My books show all those vouchers properly approved and checked.

Q. Where will it be most convenient to see those vouchers? A. I think right in my office.

Q. You have them all in detail?—A. They are all put up in packages and approved.

By Commissioner LITTLE :

Q. Could you bring them here without any trouble?—A. They are quite voluminous. I think so, by taking a bushel basket. I think if you could adjourn to my office it would be better. The books and everything are there, and they will show every transaction connected with the Salt Lake and Western, its organization, election of officers, expenditure of money and where expended.

Commissioner LITTLE. We will meet at your office to-morrow at 10 o'clock, if you will have those vouchers there.

The WITNESS. All right.

Q. You have the accounts?—A. Certainly.

SALT LAKE CITY, UTAH, *Wednesday, July 20, 1887.*

JEREMIAH O. CONKLIN, being duly sworn and examined, testified as follows :

By the CHAIRMAN :

Question. What is your business?—Answer. I am engaged in the mining business; in the Wood River country mostly, Idaho.

Q. Where do you reside?—A. Salt Lake City.

Q. How long have you been in the mining business?—A. I have been engaged in it about eight or ten years there.

Q. Have you had any business transactions by way of shipments with the Union Pacific Company or its branches?—A. I have; yes, sir.

#### ORE SHIPMENTS FROM WOOD RIVER COUNTRY.

Q. What has been the nature of your business relations?—A. Ore shipments from the Wood River country and to Missouri River and Denver, also to Salt Lake.

Q. What is the name of your company? Is it an individual company?—A. An incorporated company, under the name of the Bellevue and Idaho Mining Company.

Q. Between what points did you ship your ore?—A. From Bellevue, Idaho, and Hailey, to Denver, Omaha, Kansas City, and sometimes Salt Lake.

Q. How long have you been shipping between those points?—A. Since some time in 1884, or 1883, I think.

#### SPECIAL RATES AN EXCEPTION.

Q. Have you had any special rate?—A. No special rate; no, sir; excepting on a few shipments of ore from Wood River to Salt Lake City, in the fall of 1884. I think for two months we had a contract here with



one of the smelters, when the published rate, I believe, was \$18 a ton (if I recollect correctly); in order to enable the Salt Lake purchaser to get the ore here, the railroad company gave us a rate of \$14 a ton to Salt Lake. With that exception, I believe we have had no rebate. That was, I think, in November and December—for those two months.

Q. Did you make application for that rebate?—A. Yes, sir; it became necessary, in order to fill the contract. The parties made the offer. Of course, we laid the matter before the Union Pacific officials, and they finally gave us a rate at \$14, which enabled us to ship.

Q. Had other shippers the same rate?

The WITNESS. At that time?

The CHAIRMAN. Yes.

#### WOOD RIVER ORES EXCLUDED BY HIGH RATES.

The WITNESS. I think not. I think that was the only Wood River ore that came here at that time. The ores from that section of the country have been studiously kept out of this market for some time.

Q. In what way?—A. In the way of rates of freight. We had been unable to ship ore, with that exception since along early in 1884, or probably the latter part of 1883, when some was shipped here.

Q. What effect had it upon your business as an ore shipper?—A. Of course it has had quite a serious effect. We are compelled now to ship our ores to Denver and Omaha. At the present time we are shipping ore to California.

Q. Why do you ship it to California?—A. Simply because we have got a better price for ore.

#### THE RATES TO DIFFERENT POINTS.

Q. What is the difference in the rate between shipping to California and Omaha?—A. I will have to explain to you that the rate to Ogden is \$15 from Bellevue, Idaho. To Denver, it is \$17, a distance of over 800 miles. Whereas, to Salt Lake, coming around by the way of Granger, the way they usually ship, so as not to break the bulk, it is a broad-gauge road through our section of the country, the distance being about 450 miles to Ogden or something like that. By the Utah Northern it is considerably shorter; probably 350 miles. But that necessitates the transfer from narrow-gauge cars.

Q. What is the rate to California?—A. The rate is \$15 to Ogden. The rate to California we have nothing at all to do with. That is made by the man who made the contract. What the rate is I am unable to know.

Q. You do know that you can get to California at a better rate than you can possibly get to Omaha, do you not?—A. That is, the purchasers pay us a better price than we could get to Denver or Salt Lake.

#### COMPLAINT MADE AS TO RATES.

Q. Have you made complaint to the company?—A. Yes, sir; a number of times.

Q. What has been the answer?—A. The answer is they are giving as low a rate as they can. They are charging us \$17 to Denver, \$20 to Omaha, and \$21 to Kansas City from Butte. And from Helena, Mont., and common points between Garrison and Helena, Mont., the rates to Denver are \$10.60, to Omaha \$12, to Kansas City \$13. The

difference, I think, in the haul is probably 100 or 200 miles farther from those points than it is from our section of the country.

Q. Have you any other information to give the Commission?—A. Nothing at present.

Adjourned to Thursday, July 21, 1887, at 9 o'clock.

#### SALT LAKE CITY, UTAH, *Thursday, July 21, 1887.*

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

W. W. RITER, being duly sworn and examined, testified as follows:

By Commissioner ANDERSON:

Question. What is your occupation?—Answer. I have charge of the two proprietary roads of the Union Pacific—the Utah and Nevada and the Salt Lake and Western.

Q. You are superintendent, are you?—A. Yes, sir.

#### CONSTRUCTION OF THE SALT LAKE AND WESTERN ROAD.

Q. How long have you been superintendent of the Salt Lake and Western road?—A. Ever since its inception, May, 1881.

Q. When was it constructed?—A. In 1881 and 1882.

Q. Was it constructed under the construction department of the Union Pacific Railway Company?—A. No, sir.

Q. How was it constructed?—A. I constructed it.

Q. For whose account?—A. For the Union Pacific Railway Company.

Q. What was the course of business with regard to the construction of the road, and payment for it?—A. They furnished me the money and material; they sent me vouchers for material, and sent me money on my demand, which I paid out; I took these vouchers and rendered them a statement, of which I have a copy here, whenever the money was exhausted—a statement of vouchers paid.

Q. Was the money sent to you against vouchers, or on drafts for gross amounts estimated to come?—A. It was sent on my request previous to the vouchers.

By Commissioner LITTLE:

Q. Previous to disbursement?—A. Yes.

By Commissioner ANDERSON:

Q. Was it sent against drafts, then?—A. Yes.

#### FUNDS PLACED IN BANK.

Q. Have you a memorandum of all the drafts made by you?—A. Well, it was not on a draft exactly; I telegraphed for it, and it was placed in the bank to my credit, and I gave a receipt for it.

Q. Can you tell me what the total amount so sent to you foots up?—A. Yes, sir; I can; here is a total sum of \$819,534.32 of cash and material, and \$64,000 more.

Q. See if that total amount will agree with their books?—A. It will not agree, because there were a few bills for material that they did not get towards the last; I have them credited with \$347,923.79; but that

does not represent it all ; there was a branch afterwards built, the iron for which they paid for, and I never received the bill ; that made 4 miles of iron.

Q. You have no vouchers for that iron ?—A. No ; I think I have never received any on that Utah Central iron.

#### VOUCHERS FOR MONEY RECEIVED.

Q. Please tell the Commission what vouchers you have to show for that amount of money received.—A. We have them all here ; twelve hundred vouchers.

Q. What vouchers were sent to the Union Pacific Railway Company ?—A. My receipts for the money paid me.

Q. What vouchers were sent for the actual expenditure by you to the Union Pacific Railway Company ?—A. Duplicate originals of the vouchers which I had on hand here, and which originals I now produce.

#### VOUCHERS COVERING AMOUNT CREDITED TO UNION PACIFIC.

Q. What is the gross amount represented by the vouchers you now produce, do you know ?—A. I presume that this amount must be it. [After a pause.] I had better correct that, because there were some credits back. The net amount credited to the Union Pacific was \$939,052.21 ; and for that I have vouchers here that cover the amount.

Q. How many of those vouchers are there ?—A. Twelve hundred and ninety-nine.

Q. And these vouchers can be examined by an accountant here at any time ?—A. Yes.

Q. How many miles of construction do these represent ?—A. I cannot answer that without making a statement. This company was organized for the purpose of constructing a road to California—this and another company of the same name—under the laws of Nevada. I made surveys from here clear through to Mona Lake. All costs and expenses in connection with the two lines (which were identical in interest) are charged on these books, and, consequently, appear as the cost of the line already built. We have several miles of grading done beyond our present terminus.

By Commissioner LITTLE :

Q. What is your present terminus ?—A. A place called Tintic. Then there is a branch line of 4 miles, or nearly so, running up to Cedar City.

#### ACTUAL COMPLETED CONSTRUCTION AND EQUIPMENT.

Q. With this explanation please state how many miles of actual and completed construction there are.—A. A few feet short of 58 miles ; we call it 58 miles, but it is a few feet short.

Q. Do your vouchers also represent the equipment of the road ?—A. \$34,859.30 of the amount represents the equipment.

Q. The line is steel, is it ?—A. No ; it is part iron and part steel.

Q. What is the weight of the steel ?—A. The steel weighs 52 pounds.

Q. What is the weight of the iron ?—A. Some of it 58 pounds, and some of it 56 pounds.

Q. Is it the standard gauge ?—A. Yes.

## COST PER MILE OF CONSTRUCTION.

Q. What did the road cost, per mile, for construction?—A. I can only give it to you approximately, because there are 4 miles of second-hand iron that I did not get any vouchers for, and some mining and other material. Approximately, \$16,000.

Q. Including the charge for equipment?—A. No; I think not. This shows \$16,000, including the equipment, but there were some bills that were not rendered me; so that \$16,000 is about what the construction cost.

Q. When did the construction commence and when did it end?—A. It commenced immediately after the 30th of May, 1881; I think we commenced the next day.

Q. And it ended when?—A. The main line ended the 1st of July, but subsequently we built the 4-mile branch.

## CASH ITEMS DO NOT AGREE WITH BOOKS.

Q. Please look at the transcript furnished us from the accounts at Omaha, and state whether the items represent correctly the advances made to you for money and material.—A. This statement contains the remittances made to me from May, 1881, to November, 1882; but the subsequent cash items do not appear to agree with my books. The construction was completed in the summer of 1882, and remittances were afterward made to me on account of operating expenses; but it is impossible to ascertain whether the statement furnished to the Commission at Omaha agrees with the actual expenditures entered on my books without an examination in detail by an accountant.

Q. It seems singular that they should have you charged, on account of construction, with moneys paid for operating expenses, and yet that the total of their account should be pretty much like that of yours. Have you an account of the total amount of cash received, as distinguished from the total amount of materials?—A. In my cash book I credited them with cash received, and on two or three occasions, on running out of cash I furnished it myself, and when remittances came I was repaid.

## MIXED UP ON A MONEY ITEM.

Q. What is the meaning of this item, "Cash paid, probably to W. W. Riter, \$24,200"?—A. I do not know. I remember that there was a \$50,000 item that they got into a muddle about at Omaha. It occurred in this way: When I went to Carson City to organize the Salt Lake and Western road in Nevada, it required \$50,000 to pay the 10 per cent. that had to be paid on that organization in that State under the laws of that State. They sent me the money. I was made temporary treasurer; and, as the construction did not proceed, I returned it and got their receipt for it. But, in some way, in their accounting they got mixed up on that \$50,000; and only a few months ago they wrote me about it, and I produced the receipt for that money. Whether they have it adjusted now or not I do not know.

## J. W. GANNETT SIGNS RECEIPTS AS TREASURER.

(Witness produces receipts dated October 17, 1881, for the sum of \$50,000, being the money received by him from the subscribers to the capital stock of the Salt Lake and Western Railway Company in Nevada; being a payment of an installment of 10 per cent. thereon. Such



receipt is signed by J. W. Gannett, treasurer of the Salt Lake and Western Railway Company.)

Q. Why is this receipt signed by Mr. Gannett as treasurer of the Salt Lake and Western Railway Company, when you state you yourself were the treasurer?—A. I was made the temporary treasurer, under the preliminary organization. Mr. Gannett was afterward made the permanent treasurer, and I turned over the money I had received as temporary treasurer to him as permanent treasurer.

Q. Is he an officer of the Union Pacific Railway Company?—A. Not now.

Q. Where does he reside?—A. I do not know. He was in ill health and resigned.

Q. Do you know whether he accounted for this money to the Union Pacific Railway Company?—A. I know nothing about that, sir.

#### J. W. GANNETT ELECTED PERMANENT TREASURER.

Q. Does the record show that he was elected permanent treasurer?—A. Yes; October 5, 1881, the minutes show that he was elected treasurer, at a meeting held at Carson City, Nev.

Q. Where did he reside then?—A. At Omaha.

Q. And you have no knowledge of his present whereabouts?—A. No. I think, however, that his home is in Omaha.

Q. Do you know whether this money was actually accounted for to the persons to whom it belonged?—A. I do not know that. I presume it was. I do not think he was ever called in question; but as a matter of book-keeping they got mixed up on it in some shape.

By the CHAIRMAN:

Q. Could you communicate with the Omaha office and call attention to the fact that you have duplicates on file and that the originals must be on file in the Omaha office?—A. I have the originals.

Q. Then the duplicates are in Omaha?—A. Yes.

The CHAIRMAN. Then you will telegraph about that.

The WITNESS. Yes.

SALT LAKE CITY, UTAH, *Thursday, July 21, 1887.*

FRANCIS ARMSTRONG, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I do some farming and stock-raising, and am in a number of businesses.

Q. Where do you live?—A. In Salt Lake City.

Q. How long have you lived here?—A. Twenty-six years.

Q. You are the present mayor of Salt Lake City?—A. Yes, sir.

Q. How long have you been mayor?—A. About nineteen months.

#### FACILITIES, ACCOMMODATIONS, ETC.

Q. Do you know of any complaints as to the facilities and accommodations afforded to this community by the Union Pacific Railway Company?—A. No, sir; I do not know of any particularly.

Q. Do you know of any complaints that have existed with reference to the facilities, accommodations, or freight rates?—A. When the



freights were fluctuating, a year or two ago, it was very unpleasant for us here. We hardly knew what to base our business affairs on relation to freight. There seemed to be a good deal of snap-judgment. One merchant would go to work stocking up, and another would hold on, and there was considerable of a flurry among the merchants and business men generally.

#### FLUCTUATIONS IN TARIFF RATES INJURIOUS TO COMMUNITY.

Q. To what were the fluctuations due?—A. Due to the different tariffs that were placed on business in such a short space of time; sometimes low, sometimes high. In the low tariff I think there was a rate at one time of 25 cents per hundred pounds from here to the Missouri River.

Q. What year was that?—A. That was about the time the Denver and Rio Grande first came in here. That, I believe, was an injury to the community. It made a regular stagnation of business. Every man stocked up, and it made our money market here very tight.

Q. How long did the low rates continue, or the cut rates?—A. Somewhere in the neighborhood of five or six months, to the best of my recollection.

#### TARIFF RATES FINALLY ADJUSTED.

Q. Were they finally adjusted?—A. Yes, sir; they were finally adjusted in some way, between the two roads.

Q. After the adjustment were the rates higher or lower?—A. Higher.

Q. Have they changed any since that time?—A. Yes; I think they have, some. I have not kept very well posted, though, in regard to it, only when there was a very radical change made, or something of that kind.

Q. What effect had the fluctuations on the community?—A. They had this effect: when the low rates were here the country was drained of almost every dollar that could be got hold of. The merchants had been stocked up heavily, and had to draw heavily on the banks and pay heavy rates of interest. It was a great injury.

Q. Have you any other information that you can give the Commission?—A. No, sir; I have not.

Q. Have you any suggestions?—A. No, not particularly, that I know of; only that I should be glad to see a fair living rate for both the shippers and the railroads.

Q. Do you know of any complaints as to special rates being given to particular shippers?—A. No; there have been some men, I understood, though I cannot point them out, who had special rates, and some that had rebates and one thing or another that others did not have.

Q. Have you any other information?—A. No.

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SALT LAKE CITY, UTAH, *Thursday, July 21, 1887.*

C. C. GOODWIN, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am editor of the Salt Lake Tribune.

Q. How long have you been editor of it?—A. Seven years.

Q. Where do you reside?—A. In Salt Lake City.

Q. Have you any information to furnish to the Commission concerning the relations of the Union Pacific Railway Company, or its branches, to this community?—A. No; I could not tell you anything that was not hearsay.

#### PLAN OF SETTLEMENT.

Q. Have you considered the question of the adjustment of the debt between the railroads and the Government?—A. I have thought of it a great deal.

Q. Have you formed an opinion?—A. Yes, I think so.

Q. Will you please give the Commission the benefit of any opinion you have on the question?—A. I believe that if the Government expects to get its pay from the Union Pacific Railroad it will have to make an adjustment that will give the company a chance. I presume business men—men engaged in active business—could talk more intelligently than I could about this; but this is the way it strikes me. The Union Pacific Railroad begins at Omaha, where there is very sharp competition. It ends here, and in Oregon, where, if it goes on as it is going at present, it will have a tremendous competition all around, and the company will naturally die from asphyxia. If the indebtedness of the company were put on small bonds at long terms, at low rates of interest, and if it should get the proceeds of its road for five or six years to make extensions, and should have a fair show to fight the competition that is about it, it ought to pay its debt, and without any trouble; because the company is advancing very fast.

#### HOW THE COMPANY COULD BE BENEFITED.

There is one particular field open to the company that is not occupied yet, and it will be opened very soon, unless it is occupied by the Union Pacific. I refer to the field southwest of here, through the State of Nevada. Six hundred miles of road, from this city will tap about fifty mining districts. One-half of those are very splendid districts. They are worthless now, comparatively, because the ore is of low grade, and all profits that come from it are absorbed in freights.

By Commissioner LITTLER:

Q. Give the names of those mining districts.—A. I cannot now, without a little reference. I can bring you the names of them.

By Commissioner ANDERSON:

Q. South of Pioche, you mean?—A. No; I refer to the country southwest of here, and more north of Pioche than south of it. There is a range of country south of Pioche that my friends tell me has plenty of good mines; but I do not know about that. These other mines I have mentioned I staid with and slept with for twenty years, myself.

By Commissioner LITTLER:

Q. Where are these mines you staid with?—A. In the eastern and southeastern part of Nevada.

Q. What is the character of the deposits? Are they fissure veins or not?—A. They are either fissure or contact veins, as a rule.

Q. What other resources has the country through which these proposed lines should run to support a railway?—A. Nothing, except the pasturage of the country.

Q. You mean by that that it is adapted to grazing and stock raising?—A. Yes.

#### DESCRIPTION OF SURFACE OF COUNTRY.

Q. Give us a description of the surface of the country, as near as you can, and its grasses.—A. Nevada is cut north and south by parallel ranges of mountains which, as a rule, are good pasture clear to the top; and the Nevada valleys are just as susceptible of cultivation as this valley is.

Q. Are they wide or narrow?—A. Four or five of them are as wide as this valley; others are narrow.

Q. How wide is this valley?—A. It runs from 10 miles to 50.

Q. You mean the Salt Lake Valley?—A. Yes.

#### IRRIGATION NECESSARY TO RAISE CROPS.

Q. What are the facilities for growing crops? I suppose they will have to depend entirely on irrigation?—A. Yes, sir.

Q. What streams are there in these valleys?—A. There are no large streams.

Q. Are the streams sufficient to irrigate the entire land?—A. No.

Q. How do you expect to cultivate it, then?—A. I would expect to cultivate the lands near the streams and pasture the rest. As this valley is treated, exactly.

Q. If these valleys were under cultivation would they support a population sufficient, independently of the mining resources of the country, to support a railway?—A. No, sir; I do not think so.

#### THE ORE DEPOSITS.

Q. What evidence have you of large ore deposits in this region which you have mentioned?—A. I have seen them.

Q. What is the character of the ores generally, and are they refractory or are they easily reduced?—A. They are all kinds of ores. Some are entirely free-milling ores, some are roasting ores, and very many of them are smelting ores. They are just as varied as they are all over this place.

Q. The contact veins to which you refer, are they well defined in large deposits?—A. Yes; very many of them.

#### REASONS FOR EXTENSION OF UNION PACIFIC SYSTEM.

Q. What other reasons have you, in addition to the views you have expressed, for advocating an extension of the Union Pacific system?—A. Nothing, except this, that if that road is extended about 700 or 800 miles it would go to the sea shore on the Pacific coast.

Q. Where would it strike the Pacific coast?—A. In the neighborhood of Los Angeles.

Q. Would that line have any significance on account of forming a through line for the Union Pacific from the Missouri River to the Pacific coast?—A. Yes.

Q. What are the products and subjects of traffic from the Pacific coast which would naturally come over this projected line and over the main line of the Union Pacific to the Missouri River, and from there east?—A. I think the fruits of Southern California that go to the Northern States would naturally all go that way.

## A SHORTER THROUGH LINE ADVOCATED.

Q. Would it be a shorter or longer through line than any line now constructed?—A. It would be about 750 miles.

Q. Would it be shorter or longer than any line now in operation?—A. It would be shorter. The Central Pacific is 750 miles from San Francisco to Ogden. I do not think this road would be any longer from this city to Los Angeles.

Q. Would there be anything on the Pacific coast except fruit to transport?—A. Fruits and wines.

Q. Fruits and other products?—A. Yes.

Q. Would any of the grain of California go over that route?

The WITNESS. For the Eastern markets?

Commissioner LITTLE. Yes.

The WITNESS. I think not, except, perhaps, barley for lager beer. I believe California barley makes better lager beer than Eastern barley.

## EXTENSION NECESSARY TO MAKE PROPERTY VALUABLE.

Q. Do you consider it necessary that the company should construct this extension in order to make its property a valuable and paying property?—A. It seems to me they must do it or they will be choked to death.

Q. As I understand, the road running to 'Frisco or Silver City is not a paying road since the failure of the Horn Silver mine?—A. I do not see how it can be.

Q. It has no western terminus or southwestern terminus?—A. No.

Q. It stops in a barren country?—A. Yes.

Q. Does that furnish a reason, in your judgment, why it should be extended to the Pacific coast?—A. I would not extend that line to the Pacific. I think you would lose 200 miles by it.

Q. Does that furnish a reason why there should be a road to the Pacific coast?

The WITNESS. The fact that that has stopped?

Commissioner LITTLE. Yes.

The WITNESS. No; I do not think it does.

## WHAT LINE TO EXTEND TO PACIFIC COAST.

Q. What part of that line would you use to the Pacific coast, if any?—A. If I was a director in the Union Pacific I would simply extend that line to Pioche and then to the Atlantic and Pacific Railroad, and I would start from this city and go through Western Utah and Eastern and Southern Nevada in a general southwesterly direction.

Q. To the Pacific Ocean?—A. Yes, sir.

Q. How much of this line running to 'Frisco would be utilized as a part of the through line? Where would you branch off?—A. That would be for engineers to say. My judgment would be to go from here; but engineers have told me it would be better to go over the branch at Tintic.

Q. You would not abandon the line from here to Tintic, would you?—A. Oh, no; Tintic will take care of itself.

## EXTENSION OF TIME TO PAY INDEBTEDNESS.

Q. Referring to the extension of the indebtedness, I understand you to say that you would favor an extension. You have not intimated what sort of an extension nor the terms on which the extension should be



made.—A. Of course that is a matter of detail, and for financiers. My judgment is that the bonds ought to be very long bonds and small bonds. That is, they should be bonds of which the company could take up so much a year until they were all paid; say in one hundred years or sixty years, with a very low rate of interest—about 2½ per cent.

Q. You refer now to the Government lien. Would you fund that into a long and small bond at a low rate of interest?—A. Yes.

Q. You would have those bonds payable by installments annually, or how?—A. I would have them paid annually, and I would have them so long that the company could do it.

Q. Would you ascertain the total amount of the indebtedness due the United States, and would you divide that indebtedness into semi-annual payments, and would you evidence the payments by small bonds at low rates of interest?—A. Yes, sir.

#### EXTENSION OF LINE TO PUGET SOUND ADVOCATED.

Q. Have you anything else to offer?—A. No; except that, in building this road, there is another region left. Four hundred miles of the road would give them an outlet to Puget Sound, that would carry them through a State that would be equal to Illinois, in time.

Q. That is Oregon, is it?—A. No; Washington Territory. If they go from Huntington down the Snake River, and up the Columbia to the neighborhood of Spokane, and then west to Seattle, I do not think the distance is over 400 miles. That would not only give them a chance at that wheat State, but would place them in the direct neighborhood of a mining region which, I think, will, year after next, be the finest in the world. I refer to Cœur d'Alene.

Q. Would it be practicable to haul the products of Washington Territory to the Eastern markets?—A. I do not see how it could be. I do not see how you can haul wheat 3,000 miles. They would haul the wheat of Washington to the Cascades, where they would have a direct waterway to all the markets of the world.

#### RESOURCES OF WASHINGTON TERRITORY.

Q. What other resources has Washington Territory, to support a railroad, than the grains which are grown there?—A. The grains, and the mines north of Spokane.

Q. Are there any timber lands there which would furnish traffic to the railroad?—A. There is a great deal of timber in the Cascades. It is almost immeasurable. I do not think the timber on this side of the Cascade Mountains will do to transport.

Q. What is the character of the country?—A. It is composed of tablelands and rolling hills, except the Cascades.

Q. Are the lands productive?—A. Wonderfully. They raise more wheat to the acre than any place on earth.

Q. Are the lands adapted to any other kinds of grain?—A. All kinds; all that grow in the temperate zone.

Q. Does corn grow there?—A. Well, no; corn is an exception; the nights are too cold. Corn has got to have warm nights to make it grow.

Q. What kind of a fruit country is it?—A. Excellent.

Q. What kinds of fruits grow there?—A. Hardy fruits.

By Commissioner ANDERSON:

Q. What is the population of that country?—A. The population is increasing at the rate of about 3,000 a month, in Washington Territory, I am told. I do not know, however, whether that is true.



## RAILROAD SITUATION IN UTAH.

By Commissioner LITTLE:

Q. What other suggestions have you to give this Commission?—A. I do not think any.

Mr. ADAMS. This witness is singularly well informed as to the railroad situation here. I should like to bring out some facts if the Commission will permit me to ask him a question.

By Mr. ADAMS:

Q. You have, I believe, paid peculiar attention to the railroad situation in Utah?—A. Well, such as an editor would.

Q. Take the country east of here, and describe to the Commission what its present situation is and what its probable situation in the future will be, so far as railroad construction and competition are concerned. That is, what comes in competition with the Union Pacific system?—A. Well, the Denver and Rio Grande is a direct competitor here.

## DANGER TO UNION PACIFIC FROM ANTICIPATED COMPETITORS.

Q. What competitors are looming up in competition?—A. The Chicago and Northwestern is in Wyoming and is coming this way, and I believe the Burlington and Missouri is also coming. I hear that the Midland also is rushing with all its power to get here.

Q. You mean the Colorado Midland?—A. Yes.

Q. That makes three lines that are coming?—A. Yes.

Q. When these lines reach here what will be the position of the Union Pacific in regard to the territory west of here?—A. I think it will be out in the cold entirely.

Q. That is unless it bestirs itself?—A. Yes; and very quickly, too. I am trying to build a road, on paper, now, myself. I am trying to start the people here to build that road.

Q. This field west of here you regard as an unoccupied field of great value?—A. I do. When you get 150 miles away from the Central Pacific you are competing with no one.

## DEVELOPMENT OF UNION PACIFIC SYSTEM OF VITAL CONSEQUENCE.

Q. Then, from your point of view, as I understand it, and from a common point of view here, you regard the development of the Union Pacific system into this southwest region as a matter of vital consequence to the main line?—A. I think it will be choked to death unless it is done.

Q. That is, that we cannot stand still?—A. You cannot stand still. You are right in the middle of a very bad place.

Q. Is that opinion commonly entertained by the more <sup>servant,</sup> well advised, and well informed people of this region?—

Q. Your means of information on this subject are as good as any one in Utah?—A. I think so. Of course I do not know of other companies, or what combinations have been made. Railroads have not given me their confidence as much as have done.

The Commission then adjourned, to

OGDEN, UTAH, *Thursday, July 21, 1887.*

The Commission met upon the call of the chair, all the Commissioners being present.

DAVID H. PEERY, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where do you reside?—Answer. I live in Ogden City.

Q. How long have you lived here?—A. Since 1866.

Q. What business have you been engaged in?—A. Merchandising, milling, banking, and farming.

Q. When were you mayor of the city?—A. I was elected in 1883 and again in 1885—four years.

#### BUSINESS RELATIONS WITH UNION PACIFIC.

Q. Have you had any business relations with the Union Pacific Railway Company?—A. Yes, sir.

Q. What has been the character of your business dealings with them?—A. Shipping and receiving goods from the East.

Q. What character of goods?—A. General merchandise; and I have shipped a vast amount of flour, too. I have had a flour mill here for twelve or fourteen years.

Q. Are you president of the chamber of commerce?—A. Yes, sir.

Q. How long have you had an organization here?—A. Last spring, April 14.

#### FACILITIES AFFORDED BY UNION PACIFIC.

Q. What have been the facilities and accommodations afforded to the community here by the Union Pacific Railway Company?

The WITNESS. In what way do you mean?

The CHAIRMAN. Generally.

The WITNESS. Do you mean in shipping goods and doing business?

The CHAIRMAN. With reference to the shipment of goods or with reference to the passenger traffic.

The WITNESS. Do you mean the conveniences here?

The CHAIRMAN. Yes.

The WITNESS. They have been very bad, so far as our depot is concerned; very.

#### INDUCEMENTS MADE TO RAILROAD COMPANY.

Q. Will you state to the Commission your views on the subject?—A. I guess in the spring of 1869, in Brigham Young's day here, he thought it advisable, or that it would be to the interest of the people of Ogden, to give the railroad company a large tract of land here—about 130 acres. Some were opposed to it and some were in favor of it. But, anyhow, those who were opposed were bought out, and those 130 acres of land were turned over to them with the understanding that this should be the permanent depot, and with the understanding that we should have a depot house in keeping with the town and with the commerce that would grow from it. The people threw in a great deal of money for that day, at least, and were taxed voluntarily, I believe, expecting that the depot would be established here.

#### PROMISES NOT FULFILLED AS TO DEPOT BUILDING.

Not only that, we expected that we would have a suitable depot building; this being as it were the terminus. At that time there were three

By the CHAIRMAN:

Q. Between what points did you make your general shipments?—A. I used to ship to Denver, and then I used to ship to Idaho, and principally to Montana.

Q. Where did you purchase the salt?—A. It is made by solar evaporation on the shores of Salt Lake. It is made about 6, 8, or 10 miles from here. There are salt beds at Hooper and at Plane City. The principal ones are at Plane City now.

#### DIFFICULTIES IN SHIPPING SALT.

Q. What were your difficulties in the shipping of salt?—A. I may say I was the first shipper, in the northern part of the country, of salt to Denver. I was the first exporter, and naturally had the business facilities for gathering salt and making the business contracts here. I traveled the road a great deal, and got custom at the other end, so that I would supply direct to men who would use it, mills, &c. They could get it direct from the producers, the men that would make it. I found, after an investment of several thousand dollars, that in the mean time another party in Salt Lake had the "inside track." I do not mean to complain, but still it was a matter of business.

Q. What was the name of that firm?—A. Lyman & Wallace. They apparently had what we call the "inside track" on us. I held up as long as I could, and I found that the Union Pacific was backing them. I have no data or figures or anything authentic, only I know that I bought salt cheaper than they did, and they disposed of salt in Butte, Mont., at less figures than I could. I handled, I do not know how many thousand tons one year at absolutely cost, just to see if I could not hold my own, and I found it was impossible to do it. I concluded that, the Union Pacific being behind it, I had better drop it, and I sold out at a small loss.

#### LYMAN & WALLACE FAVORED BY UNION PACIFIC.

Q. What made you think that the Union Pacific was behind it?—A. The general reputation was that Lyman & Wallace were favored to some extent by the Union Pacific. I do not know why. But that was the general impression. When I know what salt cost me, and when I know what salt cost the other party, in that particular year, and they sold it for half a dollar a ton less than I could in Montana, that naturally assured me they were not doing the business for the fun of it.

Q. How did they secure the advantage over you?—A. I do not know that. I presume they either got a direct or indirect rebate, or it got back to them some way.

#### HAD TO SELL OUT TO LYMAN & WALLACE.

Q. What was the effect on your business?—A. It was such that I sold out at a loss, and concluded to quit the salt business and devote my attention to something else.

Q. What did you pay for the salt?—A. I have no data. I did not come here with the expectation of testifying. I have my books, and I presume I could get full particulars; but, if I remember right, I sold out in 1882 to Lyman & Wallace.

By Commissioner ANDERSON:

Q. We want to know what the goods cost you per ton. Can you tell that?—A. At that time it was a great deal higher than now. I think it cost us \$3 a ton, or possibly \$3.50.

By Commissioner LITTLE :

Q. Do you mean on the track ?—A. On the track.

By Commissioner ANDERSON :

Q. Do you not know whether it was \$3 or \$3.50 ?—A. I think it was \$3.50 at that time. I am talking now of 1881 and 1882.

By Commissioner LITTLE :

Q. Do you not remember the rate you paid ?—A. I really had nothing to do with the rate; I think at that time it was \$35 a ton.

Q. To what point ?—A. To Butte, Mont. The mill men paid their own freights.

Commissioner LITTLE. Mr. Wallace was examined before us yesterday and testified that he paid from \$3 to \$3 50 a ton for the salt delivered on the train here.

The WITNESS. That is correct, then. Possibly he refreshed his memory from his books. I did not.

#### COULD NOT COMPETE WITH LYMAN & WALLACE.

Q. Was the only reason you could not compete with Lyman & Wallace because of some favored rate which they must have received from the railroad ?—A. That is it exactly. In fact, I know I made a contract for a thousand tons at a half dollar less than he did, because I know what he paid for his salt that same year. So I know that as long as I was working for nothing, he was making a dollar a ton in the way he was selling.

By Commissioner ANDERSON :

Q. Did the rate remain at \$35 up to the time you went out of business ?—A. I think it did up to the time I went out of business.

Q. When was that ?—A. I went out of this particular business in 1882. It is down to \$12 now, I think, or \$12.50.

By Commissioner LITTLE :

Q. Since you have had competition here with the Rio Grande can you handle salt ?—A. Not northward, you know. We only have the Utah and Northern out here.

Q. Is the chief demand for the salt over the Utah and Northern ?—A. Yes, sir.

Q. Is it used for smelting purposes ?—A. Yes, sir.

#### INEFFECTUALLY FIGHTING LYMAN & WALLACE.

By Commissioner ANDERSON :

Q. If Lyman & Wallace were allowed a commission of 50 cents a ton on all the salt they transported, would that be sufficient to affect the trade so as to drive people out of business who were not allowed such a commission ?—A. It would, to a certain extent. That year I knew they were competitors of mine; and where we used to make a dollar and a dollar and a half a ton on salt, as I told you before, I handled it that year for nothing, absolutely at cost, in order to compete and hold my own. I had a custom and intended to keep that custom; but I found it was an outlay of considerable money and an outlay of considerable time. I knew that they were in business and had been in business at Salt Lake, and had flourished very well. The general feeling was that the Union Pacific was behind them. To my certain knowledge they must have got a rebate, or else they were handling the salt at a



loss the year I was handling it for nothing. I knew that, because I bought it at half a dollar less than they did, and they were selling at my price and half a dollar less than I was.

#### WOULD HANDLE SALT FOR NOTHING TO GET A SHOW.

Q. They swear that they were buying at \$3 a ton, and were allowed a commission of 50 cents for salt at this time, which commission they afterwards received. I want to know if the allowance of 50 cents commission on the ton would be sufficient, from your knowledge of the salt market, to drive you out if you were not allowed anything?—A. No, sir; it would not, from the fact that I had other business that I was attending to. In order to hold my own, I stated then that I would handle the salt for nothing for three years if I had a show with them. But I saw that they would make at least half a dollar where I would make nothing.

Q. Is it your judgment that they must have had some rebate in addition to this 50 cents commission which they admit they received?—A. I am not prepared to say positively that 50 cents a ton was sufficient for them. Possibly they may have handled it the same way I did, in order to drive me out of the market, for a year or two.

Q. If they were getting 50 cents a ton would that not oblige you to leave the market to them?—A. No, sir; not necessarily.

Q. Would you not have to sell at a loss?—A. I knew it would if I was to continue for years; but I would hold my own for a year or two. They would be making a half a dollar and I would be making nothing.

#### UNDERSOLD HALF A DOLLAR.

Q. How much did they undersell you?—A. I think only a half a dollar.

Q. What makes you think they bought the salt cheaper than you did?—A. Because I am personally acquainted with the men who were making salt at the time. There were only two companies. I had two friends with me that made a special partnership on this salt question; and one of them was a party who lived there and had control of these men to a certain extent, or had more influence over them than I could bring to bear.

Q. Do you know the company that was engaged in this business of making salt in which Bishop Sharp was interested?—A. That company was not in existence at the time.

Commissioner ANDERSON. I refer to the Deseret Salt Company.

The WITNESS. That was not in existence at that time. That really sprung from the other shippers, who really were obliged to cease shipping at the time.

Q. Is there any other dealer who has attempted to compete with this concern of Lyman & Wallace, subsequently to your time?—A. Yes, sir; Fred. J. Keisel & Co. have since started in, and successfully; so I infer from that that they either got the same rebate or that there were no rebates given. After I sold out the salt business I paid no attention to it.

Q. Are they here?—A. Yes, sir.

#### EXTENT OF THE SALT TRAFFIC.

By Commissioner LITTLER:

Q. What is the extent of the salt traffic here?—A. I presume the *Union Pacific* officials could tell you better than I can.



Q. What was the extent of your shipments; how many tons a year did you handle?—A. At that time I might say the salt shipments were in their infancy, but I think not less than 10,000 tons, including the Denver shipments.

Q. From your knowledge of the traffic, what would you say it amounts to now?—A. I think it ought to amount to nearly double that. This is merely guesswork on my part. Undoubtedly you could get the exact figures from the officers.

Q. Have you ever heard that any officers of the Union Pacific were interested with Lyman & Wallace?—A. No.

#### WHO SHARED IN THE PROFITS OF LYMAN & WALLACE?

By Commissioner ANDERSON:

Q. Have you heard that they shared in their profits in any way?—A. I have heard rumors; but then I do not know anything about it.

Q. From whom have you heard that? We will ask them.—A. I might say that I have not. It is merely hearsay. It is here and there, you know—"Well, some of these officers must be in with them," or something of that sort. But no names were mentioned, to my knowledge or in my hearing.

#### WAS THERE A REBATE ON SALT?

By the CHAIRMAN:

Q. Did you make application for a rebate on salt?—A. I wrote to the officers at Omaha, and I was assured by them that that there were no rebates. In fact, I was informed, I think, by Mr. Kimball (I do not know but it was Mr. Shelby—no it was another officer, but it was a high officer in the Union Pacific office in Omaha at the time), that the books were open to my inspection; that there was not any rebate being given. I felt confident, however, that there was, and I wrote to President Adams and made a complaint, and he referred it, I think, to Manager Kimball at the time, and Mr. Kimball wrote to me and stated that the books of the company were open to my inspection; that there were no such things as rebates.

Q. Have you a copy of that letter?—A. I think that letter was burned. I had a fire here about four years ago.

Q. At what date was that when you made the application for the rebate and received such an answer from Mr. Kimball?—A. I do not think I worded my letter in the shape of a rebate. I merely made a complaint, stating that I was confident, from the experience of the past year, that other parties, and I think possibly I named Lyman & Wallace, were having rebates, and that it had worked a great injustice to me; that I had invested considerable money, and that it was going to be almost a total loss to me, and I wished—possibly, I may have said that—that I could have the same rebate.

Q. In what year was that?—A. That was in 1881 or 1882.

#### NEGOTIATIONS WITH LYMAN & WALLACE.

Q. When you sold out to Lyman & Wallace, did you have a conversation with them about being compelled to go out of the salt business?—A. No, sir; I did not have a conversation with Lyman & Wallace myself. Mr. L. W. Shirliff, who was a partner of mine, conducted the negotiations with Lyman & Wallace.

Q. Did your firm go to Lyman & Wallace or did Lyman & Wallace come to you to make the negotiations?—A. We went to them.

**Q.** What induced you to go to Lyman & Wallace?—**A.** Because I knew that they would be able to do better. In fact, I think there were hints thrown out that it was merely a question of time before we had to give up, and possibly a short time, according to the length of our pocket-book. I did not have that direct from Lyman & Wallace, but still I feel that it came from one of the gentlemen.

**Q.** How many others were engaged in the salt business here?—**A.** Mr. William Vandyke, I think, was shipping some also at the time, but not as extensively.

**Q.** Has he discontinued the business?—**A.** He also discontinued the business. He was really connected with Lyman & Wallace at one time, however.

**Q.** Did he close his salt business by selling out to Lyman & Wallace?—**A.** That I could not say. The gentleman is in town, and I suppose he will be sent for.

#### DISCRIMINATION IN THE GRAIN BUSINESS.

By Commissioner LITTLER:

**Q.** What other discriminations do you know of here?—**A.** As to discriminations, I know of none, except from hearsay.

**Q.** What have you heard?—**A.** I have heard that there were discriminations in importing grain to here from the East; that some get small rebates. But I know nothing positive. I think it is whittled down now very small.

**Q.** Who are engaged in the grain business?—**A.** Mr. David Kay, Mr. Van Dyke, Mr. Stevens.

**Q.** Who else?—**A.** I think they are about the main ones. Mr. John Watson and the Zion Co-operative Mercantile Institution.

**Q.** What other discriminations in relation to merchandise or other business have you heard complained of?—**A.** I have heard that there have been some, but I do not know of my own knowledge.

**Q.** Do you think the general policy of the Union Pacific is to discriminate against the town generally?—**A.** I do not think so, although it is the impression.

**Q.** What motive could they have in discriminating?—**A.** That is why I think there is nothing in it. It is more the impression that seems to prevail, that they are doing it and have been doing it. I think, however, that they have been doing so in favor of other cities like Denver and Omaha, in shipments of ore from Idaho and Montana; but as to grain shipments or anything of that kind, I do not think there is anything in that.

**Q.** Are there any smelters here?—**A.** No, sir.

**Q.** Are there no ores handled here?—**A.** No, sir.

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OGDEN, UTAH, *Thursday, July 21, 1887.*

JOHN M. DEE, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

**Question.** What is your business?—**Answer.** Livery.

**Q.** Where is your place of business?—**A.** On Main street; also on Fifth street.

**Q.** Do you mean in Ogden?—**A.** Yes, sir.

**Q.** How long have you been in business here?—**A.** Fourteen years.

**Q.** Have you any business relations with the Union Pacific Company?—**A.** Yes, sir.

## IN CHARGE OF OGDEN STOCK-YARD.

Q. What kind of business do you transact with them?—A. I carry their mail and take care of their stock-yard. I have done so for some years.

Q. Are you employed by the company?—A. Yes, sir.

Q. Do they pay you a salary?—A. Yes, sir.

Q. What salary do they pay you for the care of the stock-yards?—A. They only give me the privilege. They do not give me any salary. I take that part back. I just merely handle the stock-yards for them, and make what I can out of them.

Q. What privilege have you as to the stock-yards?—A. The privilege or right of feeding all the stock traveling over the road.

Q. What benefit is that to you?—A. It gives me a profit on what I sell to it.

Q. What do you feed to the cattle?—A. Hay.

Q. What do they give for hay?—A. They pay various prices.

Q. What are the prices?—A. They vary from \$10 to \$15 a ton for hay.

Q. What do you pay for the hay?—A. On an average \$10 a ton.

Q. What do you charge to the feeder?—A. We attend to the stock and do everything, and we generally charge him \$1 a hundred.

Q. What would that be for hay per ton?—A. That would be \$20.

Q. Then your privilege consists in getting the difference between \$10 and \$20; is that it?—A. Yes, sir; on an average.

Q. How many stock-yards are there in Ogden?—A. Only one.

## AGREEMENT WITH CENTRAL PACIFIC AND UNION PACIFIC.

Q. Had you any written agreement with any of the officers of the company?—A. Yes, sir.

Q. With whom did you make the agreement?—A. With both companies, the Central Pacific and the Union Pacific.

Q. Who acted for the Union Pacific?—A. The agent of the company, Humaliski.

Q. What kind of an agreement did you have with him?—A. I had an agreement to take charge of the yards, and to attend to their business at all times of the day and night, whatever it was necessary to do, and also gave them a bond for \$10,000 for the return of and responsibility for all stock turned into the yards. I am responsible to the railroad company to the extent of \$10,000 for any stock missing.

Q. Have you a copy of the agreement?—A. I have not with me; no, sir. I have one in my safe.

Q. Will you produce the agreement to the Commission?—A. Yes, sir.

Q. How many stock do you feed during the week?—A. Some weeks we may feed a thousand head. It may be a month or six weeks we do not have any at all.

Q. How many tons of hay do you consume in a week?—A. It depends on the stock that travels.

Q. What do you average in the year?—A. Probably 40 tons.

## OFFICERS OF THE COMPANY NOT INTERESTED.

Q. Have any of the officers of the Union Pacific Railway Company an interest in your agreement with the company?—A. Not much. Not that I know of.

Q. Have you paid to any of the officers, employés, or agents any compensation or bonus?—A. Not a quarter of a dollar.

Q. Did you bid for this contract?—A. Yes, sir; I made an application for it.

Q. Were there any other applicants?—A. Not that I know of. There may have been for all I know.

#### NOW PAID FOR CARRYING THE MAIL.

Q. How are you paid for carrying the mail of the Union Pacific?—A. By the railroad company.

Q. What salary do they pay you?—A. Various ones pay a certain amount. The Union Pacific, and the Central Pacific, and the Denver and Rio Grande, and the Utah Central, all pay so much each.

Q. What mail do you carry?—A. I carry all the mails that arrive at Ogden from all parts.

Q. To what points?—A. From the depot to the post-office.

Q. What other business transaction have you with the Union Pacific Company?—A. None at all.

Q. Will you produce the agreement while we are here?—A. Yes, sir.

OGDEN, UTAH, *Thursday, July 21, 1887.*

SIDNEY STEVENS, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am in the machinery and buggy and wagon and carriage business.

Q. Where is your place of business?—A. On Fifth street, Ogden.

Q. How long have you been engaged in your present business?—A. About twenty years. Seventeen or eighteen years.

Q. Have you been engaged in any other business?—A. Yes, sir.

Q. What other business?—A. The grain business, and merchandise, general merchandise.

Q. Have you combined them all together?—A. No, sir; they are separate businesses. The merchandise business is at North Ogden. The grain and machinery business is here at Ogden City.

Q. And is the wagon business here also?—A. Yes, sir.

Q. Have you any other business?—A. No, sir.

Q. Are you engaged in the forwarding business?—A. No, sir.

Q. Have you had any business transactions with the Union Pacific Railway Company?—A. Yes, sir; a great deal.

#### CHARACTER OF SHIPMENTS.

Q. What has been the character of your business relations with them?—A. It has been in shipping grain and implements, wagons, buggies, and merchandise.

Q. Between what points?—A. From the Missouri River, on the Union Pacific, but the goods have come from Pittsburgh, Chicago, Saint Louis, and New York, and those manufacturing districts in the East.

Q. Have you shipped any over the Central Pacific?—A. Yes, sir.

Q. To what points?—A. San Francisco, Sacramento, San José, and different other points on the Pacific coast.



Q. What facilities and accommodations have been afforded to you by the Union Pacific and Central Pacific for shipments?—A. The accommodations are very limited. There is no place to unload and virtually there is no decent place to load the freight. It is very difficult to do business with the conveniences furnished here. It takes a good deal of extra labor and time, and furthermore I had a man nearly killed three years ago taking an engine off the cars. There was no place to unload it. It costs me a great deal of money.

#### COMPLAINTS AS TO FACILITIES.

Q. Have you made any complaint to the company?—A. Yes, sir; I made complaints at the time.

Q. What answer did you receive?—A. That after a short time there would be conveniences furnished. We have talked the matter over a good many times with the officers of the Union Pacific. We expected we would have some conveniences here for loading and unloading, such as freight houses and a passenger depot. Of course, with the understanding that they were going to be furnished, we have been very patient until the present time.

Q. Have you had any arrangement with the Union Pacific or the Central Pacific as to your freight rates?—A. Yes, sir.

Q. What arrangements have you made?—A. The arrangements have been the same as has been furnished to my competitors, I believe.

#### COMPETITORS IN BUSINESS.

Q. How many competitors have you?—A. I could not positively say how many. There is quite a number here.

Q. Will you name them?—A. There are in the grain business Mr. David Kay, Mr. L. B. Adams, Mr. William Van Dyke, and the "Z. C. M. I." I believe they do some shipping of grain. In the implement business there is George A. Lowe; formerly it was Howard Sebree, but he is out of town now. I do not recollect any others.

Q. Have you always paid the open public rates?—A. Yes, sir.

Q. Have you had any special rate?—A. No, sir.

Q. Have you ever had a rebate from either of the companies?—A. No, sir.

#### COMPLAINTS AS TO RATES.

Q. Have you ever made an application for a rebate?—A. I have complained about the rate, but I made no application for any rebate.

Q. Have you any knowledge, during the time of your shipments, that any of your competitors were receiving special rates?—A. Not positive knowledge.

Q. What other complaints, if any, have you to make as to rates?—A. I have complained in one matter—the shipping from here to San Pete County, south, or Milford, or any of those places south. It pays me best to ship it to Salt Lake and have it reshipped from there.

By Commissioner ANDERSON:

Q. Do you mean over the Utah Central?—A. Yes, sir; and in shipping north we get the same rate as Salt Lake gets, while Salt Lake is south of us about 37 miles.

By the CHAIRMAN:

Q. What is the reason for that discrimination?—A. I cannot tell.

Q. What explanation has been given?—A. There is none that is any-  
 ways satisfactory to me; only that it will be changed. I have never seen



any particular disposition on the part of the Union Pacific to injure me particularly or any of my competitors; but as to this method that is adopted they claim that it is not they that do it, and that the Utah Central is in fault, &c. But of course that does not amount to anything to me. I have my own ideas on the matter. I think that the Union Pacific has control of the Utah Central, and of course they want to get all the trade they can. They want to keep the Salt Lake business moving the best they can and therefore they have to keep in with the trade the best way they can manage to do so.

#### UNION PACIFIC PREFERENCE FOR SALT LAKE CITY.

Q. Why would they give a preference to Salt Lake City?—A. Seemingly they have some preference for Salt Lake City—I do not know what it is—or else they would not give Salt Lake the same rates to go north as Ogden has, to which place the trade usually and always had come.

Q. What has been the effect upon this community?—A. It has damaged our business at Ogden a great deal. A great deal of damage has been done to her business.

Q. Has it affected all classes of trade?—A. I think it has.

Q. How long has it continued?—A. About three years.

Q. What other knowledge have you as to any complaints existing in the community?—A. The community here is complaining very severely at the present time on account of having given the land here for a depot, and an excitement has been raised a number of times against the Union Pacific and Central Pacific for not doing as they agreed in relation to building depots, after the citizens gave the land.

Q. Have you any knowledge as to any other complaint?—A. I do not think of any at present.

Q. Have the Union Pacific employes, agents, or officers participated in any way in influencing the elections in this section?—A. I think not.

Q. Do you know whether at any time any of the agents, officers, or employes of the company in any way have interfered for the purpose of influencing legislation?—A. I think not.

#### FREIGHT RATES TO SALT LAKE CITY AND FARTHER POINTS.

By Commissioner ANDERSON:

Q. What is this particular point you referred to where you found it better to ship to Salt Lake City and thence to your further points? What are the rates?—A. The freight rate is less.

Q. Can you give us the figures?—A. I could not do it here. I would have to go to the office.

Q. What is the Southern point that you speak of beyond Salt Lake City?—A. The San Pete County.

Q. Do you say that the two local freights would be less than through freight?—A. Yes, sir.

Q. How much less, about?—A. That I could not say. I would have to look it up.

Q. What do they do at Salt Lake City with your merchandise?—Receive it and reship it.

Q. Who gets any benefit from that?—A. I do not get any benefit, only myself. That is, the freight shipping it to Salt Lake and reshipping it to San Pe

By Commissioner LITTLEB :

Q. Do you mean through freight from the Missouri River?—A. No, sir; that is the local freight from here.

By Commissioner ANDERSON :

Q. Does anybody make a charge for anything at Salt Lake City?—A. No, sir. My agent in Salt Lake City reships it.

Q. Do they have to break the bulk?—A. It is simply implements that are going south; implements or machines that are going south.

Q. Does it remain on the same car at Salt Lake City?—A. At Salt Lake the agent takes it and reships it.

Q. Does he take it off the car and put it on another car, or does he leave it on the car?—A. I think it is taken out on the platform; I am not positive as to that, whether he does take it out or not.

Q. Is there any charge for handling the goods?—A. He charges me nothing.

#### DISCRIMINATION AGAINST OGDEN IN FAVOR OF SALT LAKE CITY.

Q. Are you unable to give us any suggestion as to what advantage this is to anybody to induce them to do it that way, or to favor that way of doing it?—A. It is simply to take the freight so that the patrons south will come to Salt Lake and will bring their business to Salt Lake instead of to Ogden, as I take it.

Q. Why should that have that effect?—A. Because they can get goods from Salt Lake less than they can from Ogden.

Q. Then is it connected with the rates on other merchandise that goes from Salt Lake?—A. Yes, sir.

By the CHAIRMAN :

Q. Does the information you have given to the Commission with reference to rates and discriminations apply also to the Central Pacific, in a measure?—A. As to the Central Pacific I do not know of any discrimination particularly. They have a rate which is established that we go by. We can ship grain to California at about 32 cents, and we can ship it to any point this side of San Francisco at the same rate; but going east we cannot do so.

Q. Do you mean east of Ogden?—A. East of Ogden.

#### UTAH CENTRAL OFFICERS LARGELY INTERESTED IN SALT LAKE.

By Commissioner LITTLEB :

Q. Is it not true that the chief officers of the Utah Central road are largely interested in Salt Lake City, and are large owners of property there?—A. They are, I presume. They are residents, some of them. That is, several of them are residents of Salt Lake.

Q. To the extent they are interested in property there, they are also interested in building up Salt Lake City against Ogden, are they not?—A. Possibly so.

Q. May that not account for the peculiar arrangement which requires you to ship to Salt Lake City and then reship?—A. It may. But there is one thing that I cannot understand in that matter, and that is why they can carry the freight to Salt Lake and back again to Ogden, going north, for nothing—free. I consider that is a discrimination against Ogden.

Q. That is pretty hard to understand, is it not?—A. Yes, sir.

Q. You cannot explain the motive, either?—A. No, sir. That is one thing that I have never got a satisfactory explanation of yet.

The CHAIRMAN. Perhaps Mr. Shelby can give an explanation of that.

OGDEN, UTAH, *Thursday, July 21, 1887.*

PETER P. SHELBY, being further examined, testified as follows:

By the CHAIRMAN:

Question. Will you tell us about that?—Answer. Yes, sir. The rates from the Missouri River to Salt Lake City and Ogden are the same, and we endeavor to make the rates from Salt Lake City and Ogden the same out on our local lines. But the Utah Central declined to do this, so far as their road was concerned. We have been trying to get them to make the same rates from Ogden to points south of Salt Lake City that they make from Salt Lake City, and quite recently they promised to do it. I propose to notify these merchants within a day or two that they will do it, and that will remove all that trouble.

#### UTAH CENTRAL NOT APART OF THE UNION PACIFIC SYSTEM.

Q. Is it not under the same management?—A. No, sir.

Q. Does not the Union Pacific control the Utah Central?—A. No, sir.

Q. Have they not the controlling interest?—A. They may have control of the stock and the bonds, but they do not control the road.

Q. What greater control would you want than the control of the stocks and bonds in a railroad?—A. The Utah Central is not a part of the Union Pacific system. It is operated independently of the Union Pacific.

Commissioner ANDERSON. It is a part of the system, certainly.

The WITNESS. No, sir; it is not in the Union Pacific system. There are other parties in interest in the Union Pacific that have about 40 or 45 per cent. of the stock of the Utah Central, but they are not interested in Ogden so much as they are in Salt Lake City. They would prefer to have the goods come to Salt Lake City and pay them 10 per cent. of the through rate from the Missouri River rather than to have them stop at Ogden. We have been corresponding on this subject for nearly a year, until finally the Utah Central management said that they would be willing to make the rates from Ogden to points south of Salt Lake City the same as from Salt Lake City, so far as practicable. Of course, they could not make them the same to points immediately south of Salt Lake City a few miles. Neither do we make the same rates from Salt Lake City to points immediately north of Ogden the same as from Ogden. The two tariffs run together at Logan, about 60 miles from here. But from points south of Ogden, the points have the advantage over Salt Lake City. It is customary, however, where the rates are the same from the east to two points to make the same rates, so far as practicable. It is done in Colorado and all over the country.

#### UNION PACIFIC DOES NOT OWN CONTROLLING INTEREST.

By the CHAIRMAN:

Q. You have no doubt, have you, as to the question of ownership of the Utah Central being in the Union Pacific?—A. I have some doubt about the Union Pacific even owning half of the stock. I think the

Union Pacific Company and Frederick L. Ames together own the controlling interest in the Utah Central road. But the Union Pacific Company proper does not own the controlling interest.

By Commissioner ANDERSON :

Q. Who is the president ?—A. Mr. Adams is the president.

**MR. AMES HOLDS THE BALANCE OF POWER.**

By Commissioner LITTLE :

Q. How does Mr. Ames vote with his stock ? Does he vote with the 45 per cent. of stockholders or with the Union Pacific ?—A. He generally votes with the Union Pacific, I presume.

Q. Will the vote of his stock, added to the Union Pacific, control the organization ?—A. Mr. Ames, I guess, holds the balance of power in the control of the road. If he should vote his stock with the local people here—Sharp and Littell, and the Jennings estate, and Eldredge, and those men—I presume the Union Pacific could not control it. We have never dictated the management of the Utah Central beyond a certain limit. If the interest of the Utah Central and those of the Union Pacific clash we do not undertake to dictate.

By Commissioner ANDERSON :

Q. How much stock does Mr. Ames hold ?—A. I do not know. I would like to state that in no case have the rates ever been made lower from Salt Lake City to any point north than from Ogden. The complaint here is that we neutralize their geographical advantage, but the shippers that understand the situation do not complain that we discriminate in favor of Salt Lake City. The merchandise that is distributed here comes from the east, and pays the same rate from this point as Salt Lake City. What we are aiming to do is to put both places on the same equality. If we controlled the Utah Central road we would have put them on an equality long ago, and I think we can do it now within a few days, with the consent of the superintendent of that road.

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OGDEN, UTAH, *Thursday, July 21, 1887.*

THOMAS D. DEE, being duly sworn and examined, testified as follows :

Question. What is your business ?—Answer. I am justice of the peace and magistrate of this city.

Q. What business have you been engaged in ?—A. I know nothing in regard to freights. The object of the ex-mayor in putting me on was to say something in regard to the depot. I am not in active business of any kind.

Q. How long have you been justice of the peace ?—A. Five or six years.

Q. How long have you resided in Ogden ?—A. I have resided in Ogden twenty-seven years.

Q. Are you a brother of Mr. Dee who has control of the stock-yards ?—A. No, sir; he is a cousin.

**BONDSMEN OF JOHN M. DEE.**

Q. Are you his bondsman ?—A. I am one of his bondsmen; yes, sir.  
What amount of bonds did you give ?—A. Two thousand five hundred dollars, I believe.



Q. Was that a part of the bond?—A. No; that was the whole bond. If I remember right, there were four parties who justified equally for the full amount.

By Commissioner ANDERSON:

Q. He meant \$10,000 was the aggregate of all the bonds, did he not?—A. Yes, sir.

Q. What was the bond given for?—A. For the protection of the company in regard to any stock that may be turned over to Mr. Dee to be kept by him, and that he would indemnify the company for any loss or damage that they might be subjected to while the stock was in his possession.

Q. Was it given to the company?—A. Yes, sir. That is my recollection.

Q. Did you read the agreement that he made with the company?—A. Yes, sir. The agreement and the bond are one. They are the same thing, and all are combined in one instrument.

Q. Where is the agreement?—A. It was surrendered by Mr. Dee to the Union Pacific folks, and I think it is in Mr. Hulaniski's office, at the depot.

Commissioner ANDERSON. Mr. Bromley, can you give us one of the bonds?

Mr. BROMLEY. Perhaps Mr. Shelby can.

Commissioner ANDERSON. The bond probably recites the agreement, and is signed both by the principal and the sureties. Whatever papers the company is in the habit of having executed for the stock-yard business we would like to have.

Mr. SHELBY. I think I can get you a copy of the original contract.

Commissioner ANDERSON. Do you not know that they use the same form of paper all over the line?

Mr. SHELBY. In some cases we do not take any bond at all.

Commissioner ANDERSON. But when they do use a bond, is it not the same?

Mr. SHELBY. Then we use about the same form of bond.

The CHAIRMAN. You had better state right here that Mr. Dee cannot produce the bond because he has no copy.

The WITNESS. He stated a few minutes ago to me, and wished me to state to the Commission, that he had no copy of the bond.

Q. Have you had business relations with the Union Pacific or the Central Pacific?—A. No, sir; not of any consequence. The only thing I know of is something in regard to the depot question.

#### THE DEPOT QUESTION THE PRINCIPAL CAUSE OF COMPLAINT.

Q. What do you know about the depot question?—A. I know the principal complaint of the people in this part of the country is in regard to the tardiness of the railroad company in erecting suitable accommodations for the public to do business. They say that for the purpose of facilitating this matter many years ago the public here contributed quite a large tract of land. Some 130 acres were given to the two companies, the Union Pacific and the Central Pacific, for the purpose of making the junctions of their roads and erecting on them the necessary buildings for conducting their business in this part of the country. I may say also that temporary buildings were erected, and the passenger portion of them was destroyed by fire. A temporary building was again erected. And to-day, and for a great many years past, the accommodations are not at all in keeping with the amount of business.



that has been done at this station in regard to freight or passengers. I may say that gentlemen who are traveling quite extensively in the different States of the Union say that it is, for the size of the place and for the amount of business done, the worst depot they have ever seen. It has the least accommodations for persons to do business at, or for the persons or employes that are there. They also say that in the way it is constructed, so far as the passenger part is concerned, it is constructed, I should suppose, especially to discommode the people who are doing business. The railroad tracks, or quite a portion of them, lie between the station and the town; and persons going down to do business at the depot and to take the trains for different portions of the country where the railroads at this center take them, have got to cross a number of railroad tracks; and the trains that are passing backwards and forwards on some occasions have caused some serious accidents.

#### DANGER TO LIFE.

It is quite remarkable to parties who are acquainted with it that a great many more accidents do not take place. Several persons have been killed there. Besides, the Utah Northern is on this side, and their trains have to move backwards and forwards for the purpose of weighing them on the scales. They have an abundance of land, but still the accommodations are very poor indeed; not sufficient for the amount of business that is being done here. This matter has continued for a great many years, and the depot question has been agitated quite frequently by the citizens of this town. The railroad officials have repeatedly told them that they were coming to it in the near future, which we firmly believed to be true. Last October the matter took a definite and permanent shape. At that time the Union Pacific Railway Company commenced the erection of the union depot here, and presented to the city council, as I remember, the following document—

Commissioner ANDERSON. As it will stretch our printing out considerably, I think we had better not take it in.

The WITNESS. Last fall the company said, "We are going to erect a depot, and we propose to prosecute the work until it is completed, and we ask you to facilitate the work by closing one of the streets of your city, in consideration of the fact that we are going to build you a depot." The work has been stopped now for the last seven months. The principal cause of complaint against the Union Pacific Company in this section is that they do not proceed and do as they agreed to in that matter—prosecute the work continuously until they complete their depot.

By Commissioner LITTLER:

Q. Have you any other complaints to make?—A. No, sir; that completes the whole of them, excepting the shippers' complaints.

By Commissioner ANDERSON:

Q. Has the subject of the adjustment of the relations and the debt between the Union Pacific and Central Pacific and the Government been discussed in this town?—A. Very little. Since the Commission has been started up we have thought a little of it.

Q. Have you given the subject any consideration?—A. Not any.

Q. Have you no suggestions to make?—A. Not any.

OGDEN, UTAH, *Thursday, July 21, 1887.*

JOSEPH A. WEST, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Civil engineer. I have no business in a commercial way with either of the companies.

Q. How long have you resided in Ogden?—A. About 25 years.

#### THE SALT QUESTION.

Q. Have you had any business transactions with the Union Pacific or the Central Pacific?—A. No, sir. I endeavored to enter into a contract with them last fall in behalf of the Utah Salt Company to furnish salt to the Montana millmen, but failed for some reason or other.

Q. What salt company did you represent?—A. The Utah Salt Company.

Q. Where is it located?—A. Its place of business is here in Ogden. The works are situated about 15 miles north of here.

Q. What contract did you try to make?—A. I understood that they were receiving bids for salt to be supplied to their Montana mills and the Utah Salt Company filed a bid for the salt to be furnished to that section of the country and offered to supply them salt at \$1.75 a ton, to be delivered on the cars opposite our works situated 15 miles north of here.

By Commissioner LITTLE:

Q. Were you successful in getting the award?—A. No, sir; I understand it was awarded to other parties at a higher figure.

Q. What other parties?—A. Some Salt Lake firm, I believe. Lyman & Wallace, I think, is the name of the firm. I do not know to whom the contract went, but I know we did not get the contract.

#### LOWEST SALT BIDDER.

Q. Were you the lowest bidder?—A. I believe we were. I understand Mr. Shelby stated in Butte City some time ago that the Union Pacific paid \$3 a ton for the salt. I do not know how correct that may be, but it was reported in one of the Montana papers. We offered to supply the salt at \$1.75.

Q. Was it a public letting?—A. I understood so.

Q. Were you present when the bids were open?—A. No, sir; I was not present when the bids were open.

Q. How many bids were put in?—A. I do not know.

By the CHAIRMAN:

Q. How long have you been in the salt business?—A. Our company was organized last summer, along in September, I believe. We chased a tract of land up here, 15 miles north, on the Utah No. 1 and we thought, on account of its geographical position, we could compete with the other parties in the trade. We expended a great deal of money in the purchasing of land and buildings and dam. We offered the company a very good proposition, and offered to any reasonable amount that we would comply

By Commissioner ANDERSON:

Q. Where were these bids opened?—A. I don't know. Mr. Shelby in respect to the matter, and he

Mr. NELSON. Mr. Shelby told me that they would give us the same rate that Ogden had, \$12.

The CHAIRMAN. Was that the open public rate?

Mr. NELSON. Yes, sir; I believe so. I am not aware of that. At any rate, he told me that was the Ogden rate.

Mr. SHELBY. That is the only rate. Will you ask the witness if he had any salt at all to ship, until quite recently, of his own?

Q. What do you say?—A. No, sir; we had no salt to ship at the time we made the proposition, but we were prepared to furnish the salt and furnish a bond that we would supply the salt.

Q. Was any complaint made to you because you were not ready?—A. No, sir.

Q. Was any suggestion made to you at the time that you would not be able to supply the salt?—A. No, sir. Mr. Armstrong, one of our leading capitalists here, was prepared to sign the bond.

#### PREPARED TO FULFIL TERMS OF BID.

By Commissioner LITTLE:

Q. Were you in fact prepared to supply the salt?—A. We would have been prepared at the time.

Q. Would you have been prepared to supply the salt in pursuance of your bid?—A. Yes, sir.

Q. Have you any other information to give?—A. No, sir; none, except on the depot question. I suppose you have everything you want on that question.

Q. Are you of the same opinion as the other gentlemen who have gone before you?—A. Yes, sir. I am a member of the city council and of the committee that was appointed to confer with the Union Pacific Railway officers in respect to this matter.

#### THE COAL BUSINESS.

Q. Have you ever been in the coal business?—A. Yes, sir; I have handled the Pleasant Valley coal a couple of years ago in a limited way, but not extensively.

Q. Whom did you represent?—A. I represented the Denver and Rio Grande at that time.

Q. Did you handle the Rock Springs coal?—A. No, sir; that is handled at Ogden by a local agent for the company.

Q. How many local agents has the company here?—A. One, I believe.

Q. Did you furnish to your customers Rock Springs coal?—A. I did not handle Rock Springs coal; I only handled Pleasant Valley coal.

Q. What is the name of the agent of the Union Pacific?—A. Mr. Cahoon.

#### PRICE OF COAL.

Q. What is the price of Rock Springs coal here?—A. \$7.50, I believe.

Q. What is the price of Pleasant Valley coal?—A. \$5.25. No; I think the Rock Springs is \$6.50.

Q. What other coal did you get there?—A. We have the Red Cañon coal, as they call it.

Q. What is that worth a ton?—A. That is worth about \$5.25, I believe.

Q. Is there a grade in quality as to price?—A. Yes, sir.

Q. Is there a larger demand for Rock Springs coal than for the other ?  
—A. I believe so.

Q. Could the Rock Springs coal be obtained from any other agent ?—  
A. No, sir.

Q. Could dealers here, or shippers, secure contracts for the supply of coal from the mines except through the agent ?—A. I think not. I would not say positively as to that, but I do not think they can.

Q. Would they be compelled to pay the retail price in order to get it for customers if they demanded it ?—A. I think they get 25 cents a ton off when they get it by the car load.

Q. From whom do they buy it ?—A. From the local agents.

OGDEN, UTAH, *Thursday, July 21, 1887.*

PETER P. SHELBY, being further examined, testified as follows:

By Commissioner ANDERSON:

Question. Can you explain this rejection of this bid ?—Answer. I do not know that we ever had a bid from him.

The CHAIRMAN. Suppose you explain to the Commission what was the difficulty.

WHY CONTRACT WAS NOT AWARDED TO UTAH SALT COMPANY.

The WITNESS. I think we received a letter from him stating—

Q. You received a letter from whom ?—A. Mr. West, stating that he would be prepared to furnish salt at \$1.75 a ton on board of the cars at a point away from the track where we would be compelled to spend several thousand dollars in building a switch to it. We were already committed to build a switch at another point where we could get salt enough to supply the whole United States, and our company thought they would not care to put any more money into the salt switch up there. Besides, I believe we were getting the salt for less money than they offered it.

By the CHAIRMAN:

Q. Who had charge of that salt ?—A. ——— Adams and Keisel made this other bid.

Q. Was the contract awarded to them ?—A. A portion of it was.

Q. Who had the other portion ?—A. Lyman & Wallace. I guess they are all.

Q. Was there any assurance given to this gentleman ?—A. No, sir.

DENIAL OF ASSURANCE TO BUILD SWITCH.

By Commissioner ANDERSON:

Q. Was any assurance given about the switch ?—A. No, sir. The best evidence that no assurances were given by anybody that had a right to give such an assurance comes from the fact that they are talking about putting in a track themselves. People, when they get assurances from railroad companies that are given by the proper officers, generally have them carried out before they spend money and put the tracks in themselves.

OGDEN, UTAH, *Thursday, July 21, 1887.*

FREDERICK G. KEISEL, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am a merchant here in Ogden.

Q. What character of goods do you deal in?—A. We sell groceries, and are jobbers of groceries and liquors, tobacco, and cigars.

Q. Where is your place of business?—A. On Fourth street.

Q. Do you mean Ogden?—A. Ogden; yes, sir.

Q. How long have you been in business here?—A. When I last came from Ohio, it was about six years ago. But I have been in business here, off and on, for twenty years.

#### ADAMS AND KEISEL SALT COMPANY.

Q. Have you been in the salt business?—A. Yes, sir.

Q. Have you associated the salt business with your other business?—A. No, sir; it is a separate business.

Q. Have you had any business transaction with the Union Pacific Railway Company?—A. Yes, sir.

Q. What has been the character of your business dealings with them?—A. I have been in the Adams and Keisel Salt Company. I sold that salt at Syracuse.

Q. When did you first go into the salt business?—A. F. G. Keisel & Co. first bought salt and resold it to the customers in Montana, in Butte, and afterwards we formed the Adams and Keisel Salt Company and made a contract with the railroad company to furnish them 10,000 tons or more, if needed.

Q. With what railroad company?—A. With the Union Pacific.

Q. What was the date of that contract?—A. That I cannot say.

Q. In what year was it?—A. 1886; just about a year ago.

Q. What price were you to receive for your salt?—A. \$2 for the first 10,000 and \$1.50 for what was furnished after that.

#### CONDITIONS OF CONTRACT WITH THE UNION PACIFIC.

Q. Were there any conditions?—A. Yes, sir. There was another condition in connection with that; that we would build a lake resort or bathing resort for the benefit of the railroad company at Syracuse.

Q. What kind of a resort were you to build?—A. A bathing resort.

Q. What were you to put up?—A. It was to compare favorably with any other resort on the lake, as soon as practicable; to compare with other resorts on the lake.

Q. To compare favorably with Garfield, for instance?—A. Yes, sir; or with Lake Park.

Q. How much money did you estimate you would be compelled to expend to carry out that condition?—A. We figured it would cost \$100,000 to do that. We have so far expended, perhaps, \$20,000.

Q. Where have you expended it?—A. At Syracuse.

By Commissioner ANDERSON:

Q. Are you to have the money that comes from the bathing houses?—A. Yes, sir.

By the CHAIRMAN:

*What interest was the railroad company to have in the resort?—sir interest was in running passengers down there.*



Q. What other conditions were there?—A. I think that was the condition. Those that I have mentioned were all. I do not know of any others.

Q. Did you make an agreement in writing?—A. Yes, sir.

Q. Have you a copy of it?—A. I think the contract is in Salt Lake, with my partner, Mr. Adams.

Q. Has the firm of Lyman & Wallace any interest in your business?—A. No, sir; we are competitors for the same fields.

Q. How soon were you to expend that money? In what time were you to expend \$100,000 in fitting up that resort?—A. There was no time mentioned. The contract, my recollection is, was to be as soon as practicable; something like building the depot here—"as soon as practicable."

Q. Was there any conditions as to freight rates?—A. No, sir; we delivered them the salt on the cars at our works.

#### OTHER BIDDERS.

Q. Were there any other bidders?—A. I do not know of any bidding except our own bids.

Q. Did you get the whole contract?—A. I do not know of any other. We simply made that bid to them, that we would furnish them 10,000 tons or more; the first 10,000 tons at \$2, and after that at \$1.50. I do not think there were any bids invited. So far as I know I do not think there were.

Q. Who negotiated with you?—A. My partner, Mr. Adams, was the real negotiator in the business, and he negotiated with Mr. Callaway, I presume, in Omaha.

Q. How long were the negotiations going on?—A. I think it covered a period of about three months.

Q. What were the difficulties in the way of adjustment?—A. I do not know. It is like all such things; it takes time to do anything with railroad companies.

#### THE BATHING RESORT TO BE ESTABLISHED.

Q. Were you to provide in any way at the resort for the officers and employés or agents of the company?—A. No; they were to stand in with us in making the resort successful.

Q. How far were they to stand in?—A. Provide the trains and stand a part of the expense.

Q. What expenses were they to provide for?—A. Advertising and all the necessary expenses, whatever it may be. We have not been running the place long enough to tell just exactly what the expenses would be or where the expense would come in. It is all a new thing.

Q. Have they contributed with you?—A. They have not contributed a cent so far.

#### ADVANTAGE TO UNION PACIFIC.

Q. What share were they to have in the profits?—A. Their profits come in in hauling passengers, as I understand. They expect to make a good passenger traffic and accommodate their travel going west, I presume. They had to have it. Since the Denver and Rio Grande had a resort further down at Lake Park, it was necessary for them to have a resort from here, and they chose our place as the best place calculated for that business. It is the best beach on the east side of the lake. I would like to have you gentlemen go down there.

## PRICE PAID FOR SALT.

Q. What did the company actually pay you for your salt?—A. They pay us \$2 a ton right along.

Q. How do they pay you?—A. They pay very slowly sometimes.

By Commissioner ANDERSON:

Q. Do they pay "as soon as practicable"?—A. As soon as practicable. We get in our bills, and after two or three months, perhaps, we would get a little money from them; but they pay us at the rate of \$2 a ton.

By Commissioner LITTLE:

Q. When they do pay, they pay in cash, do they?—A. They give us a check; yes, sir.

## NO REBATES ALLOWED.

By the CHAIRMAN:

Q. What do you receive back from the company by way of rebate or overcharge?—A. There is no rebate at all.

Q. Do you receive an overcharge?—A. No, sir.

Q. Do you receive anything from the company?—A. No, sir; not a cent in connection with that. We sell it to them at \$2, and make out our bills just the same as we do to other customers, and expect to collect \$2; that is all there is to it. Two dollars a ton is a very low price I can assure you.

Q. Do your bills in any way represent the price of the sale to be \$3 instead of \$2?—A. No; the price is \$2, and they figure \$1 from Syracuse here to Ogden; that makes it \$3. The Syracuse railroad gets \$1 for hauling to Ogden from Syracuse.

Q. Who makes out that freight charge?—A. I do not know anything about that. I have nothing to do with that, only to sell them the salt at Syracuse.

## LENGTH OF HAUL.

By the CHAIRMAN:

Q. How long is that haul?—A. About 12 or 13 miles.

Q. Is one-third of the whole price paid to the company for freight?—A. No; we do not have anything to do with that. We get \$2 at Syracuse. That is all there is to it. We make the sale at Syracuse to the company, and they can charge all they want to from there on. I understand they let the Syracuse Railroad earn \$1 and it is \$12 from here on to Butte. I believe that is the arrangement; but still I could not swear as to that. I do not know anything about that, except from hearsay. It is \$2 to them at Syracuse.

Q. Did the company put in any sidings for you?—A. They built the Syracuse Railroad from Syracuse Junction down to Syracuse, about  $\frac{5}{8}$  miles, with all the necessary sidings, the "Y," and so on.

By Commissioner LITTLE:

Q. The salt has to be transferred here, does it not?—A. Yes, sir; it has to be transferred here at Ogden on the narrow-gauge cars.

## AMOUNT OF SALT DELIVERED UNDER CONTRACT.

By Commissioner ANDERSON:

How many tons have you delivered so far?

The WITNESS. Under that contract?

Commissioner ANDERSON. Yes.

The WITNESS. I should judge it would be 7,000 or 8,000 tons.

Q. Have you signed any paper at all referring to this \$1 charged on the branch?—A. No, sir; we have nothing to do with that at all.

Q. You have signed no paper at all, except bills for the \$2?—A. We make out a bill for \$2; yes, sir.

Q. That is all you have to do?—A. That is all there is to it. We have nothing to do with the traffic department at all.

Q. Against whom is your bill made out?—A. Against the company.

Q. Do you mean the Union Pacific Railway Company?—A. Yes, sir.

#### AMOUNT OF RECEIPTS OF BRANCH ROAD.

Q. Should this \$1 for transportation on the branch appear among the receipts of the branch?—A. I suppose so.

Q. Will it amount to \$7,000 or \$8,000 on the amount of salt sold or delivered?—A. By the way, excuse me, I will correct that a little. That railroad has not been in operation long enough for that purpose. Since we made the contract with them we have sold them about 7,000 or 8,000 tons of salt, and for what we had to haul in wagons to Syracuse Junction we got \$2.40. The Utah Central took 60 cents. That made \$3. But since this road has been in operation it has been \$2 at Syracuse.

Q. And \$1 for the Syracuse road?—A. For the Syracuse road; yes, sir. I presume there has been 3,000 tons shipped over the Syracuse road. Before that it was \$3 here.

Q. Of which you got \$2.40?—A. Of which we got \$2.40, delivered on the railroad by team. We had to haul it 5 or 6 miles.

#### NEGOTIATIONS WITH DENVER AND RIO GRANDE.

By the CHAIRMAN:

Q. Had you any assurance from the company before you went into business there that they would give you railroad facilities?—A. No, not with this company. We were negotiating with the Denver and Rio Grande.

Q. After your negotiations closed with the Denver and Rio Grande did you have negotiations with the Union Pacific?—A. Yes, sir; we commenced negotiations with the Union Pacific.

Q. What negotiations did you have?—A. I suppose Mr. Adams went down to Omaha and made it clear to them that they would make money by building down to the lake, and that by encouraging us in that way we would get out uniformly so much every year. They were bothered considerable. They had to pay as high as \$4, \$5, or \$6. They wanted to get this thing settled down to a fair basis, and make contracts, and I believe we just came in in time to meet their wishes.

Q. When he returned from Omaha, what did he say to your firm?—A. He telegraphed me from Omaha that he had made a contract with Mr. Callaway; that we would have a railroad down there.

#### COMPETITION WITH LYMAN & WALLACE.

Q. Have you any competition with the firm of Lyman & Wallace in the salt business?—A. They are competitors of ours. I do not know what they are getting. They have been in the salt business for some time. They were selling salt and we were selling salt. It was a very

hard thing to compete with them, I know that, until we got that railroad down to the lake.

Q. Were they enabled to undersell you?—A. I do not know how much they got. We always got very small prices; \$3.

Q. Were they underselling you in the market?—A. No; they sold about the same as we did.

By Commissioner ANDERSON:

Q. Do you sell to any one else than the company?—A. Oh, yes, sir, we are selling to everybody, and we are getting more from everybody else than from the company. We are selling coarse salt down at the lake for about \$3, where the company pays only \$2.

By the CHAIRMAN:

Q. Have you any knowledge of any other complaint?—A. I have not, except as to this depot. I would like to see a depot built here.

Commissioner ANDERSON. We think we know all about that question.

The WITNESS. Yes, sir; I suppose you do.

#### EFFECT ON OGDEN OF INTERSTATE COMMERCE BILL.

Q. Do you corroborate the testimony given by the other witnesses?—A. I have not been here; I just came in. I can say we need it very badly, and we have been promised that we shall have it. It keeps back our town. I think this: I believe that Mr. Adams, since his accession to the administration of this railroad, wishes to develop the country, and that he has done all he could. I think if the Government would let him alone he would come out all right with this road. I think it is much better than the Dillon management.

Q. What has the Government done to Mr. Adams?

The WITNESS. I mean to the road.

Q. Well, what has it done to the road?—A. It is interfering with him too much.

Q. How has the Government interfered?—A. The interstate commerce bill, in my opinion, is not needed. I think the question ought to be left to competition, just the same as anything else.

Q. How has the interstate commerce bill any more to do with the Union Pacific than with any other road?—A. It strikes us here, particularly. We only notice how far it injures us out here, being adjacent to the Union Pacific Railroad. I suppose it operates injuriously the same way all over the country, from all I can learn.

Q. Has it injured your business?—A. Yes, sir.

Q. To what extent?—A. To a very large extent.

#### PLAN OF SETTLEMENT.

By Commissioner LITTLER:

Q. Do you know the public sentiment in this vicinity in relation to the manner in which the debt between the Government and this road should be adjusted?—A. I have always thought they should be given the extension that is asked for, and a reasonable rate of interest.

Q. How far do you represent the general sentiment of Ogden in that expression?—A. We have never had any means of ascertaining that sentiment, but I believe that is the sentiment.

Q. Has there been any discussion of the subject?—A. Not in the number of commerce; but socially and around about the street they



all seem to fall in with the idea that it would be well to give the extension asked for. Speaking individually, now, I think Mr. Adams was sincere when he promised us that depot, and I believe he is simply prevented from carrying out his own wishes and giving us the depot, because that extension has not been granted yet. If it was granted I believe he would build it.

#### THE COMPANY SHOULD PAY IF ABLE.

Q. Suppose it should be ascertained by this Commission, or otherwise, that the company will be able to pay its indebtedness as it matures in 1896 or 1897, would it be your opinion then that the extension should be granted?—A. I think that if they can pay that they ought to be made to pay it.

By Commissioner ANDERSON:

Q. You mean unless it cripples them?—A. Yes, sir, without crippling the road.

#### AN EXTENSION OF TIME A BENEFIT TO COMMUNITY.

By the CHAIRMAN:

Q. What have you talked with others socially about the extension?—A. We have discussed it from what we have seen in the papers.

Q. How have you discussed it? What have you talked about?—A. We feel this way: that if the Union Pacific was given that extension it would enable the road to extend its system of feeders. For instance, right here, between here and Pocatello, the Utah Northern Railroad is narrow gauge. There is that transfer required which makes it very irksome and causes a great many goods to go over the Oregon Short Line from Granger which might go through here if this was a broad-gauge road. That road ought to be widened out. Other systems, other feeders, ought to be developed that would make this property valuable and help the Government.

Q. How would that benefit the community?—A. It would benefit us a great deal, and make this the point of distribution. We call this the great transcontinental "Y." You make a "Y," with Ogden in the crotch, the Utah Central continuing on to Los Angeles, and the Utah Northern, in connection with the Oregon Short Line, running clear over to the Pacific coast at Portland, and so on. That would make it a transcontinental "Y," with the stem from Omaha east.

Q. How would that confer any benefit upon the community?—A. It would make this a great distributing and manufacturing point.

#### EFFECT UPON RATES.

Q. Would it increase or decrease the rates for shipments and passenger traffic?—A. That would depend upon what the railroad would do.

Q. What have they done?—A. They would naturally concede to a point like this, being in that commanding position, facilities for traffic, so that we could reach these outlying points on the "Y."

Q. What advantage would it be to you for facilities if the rates remained the same or were increasing?—A. It would naturally extend our trade. With any railroad diverging from here it would extend our trade, and consequently it would increase our trade from here.

Q. Then if any other railroad should come into this center it would be just as advantageous to it as the Union Pacific Railroad?—A. That



would, of course, be just as advantageous; but still I think that the Union Pacific Railroad would be more advantageous to this town than any other railroad by reason of the facilities that already exist and the country that they already cover. They cover the best and most settled part of the country.

Q. What difference does it make to you or to the community so long as they reach the territory you have named, with equal facilities, whether it is done through the Union Pacific Railway Company or the Burlington and Missouri or any other company?—A. Well, it does not make any difference.

OGDEN, UTAH, *Thursday, July 21, 1887.*

EDMUND T. HULANISKI, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. Freight agent of the Union Pacific road.

Q. How long have you been freight agent?—A. At this point, Ogden, four years last April.

Q. How long have you been connected with the company?—A. Since 1873.

Q. What position have you held?—A. Clerk and agent.

#### FREIGHT DEPARTMENT.

Q. What are your duties as agent in Ogden?—A. I have entire charge of the freight department and of the handling of freight and loading it.

Q. What have you to do with the rates?

The WITNESS. With the making of them?

The CHAIRMAN. Yes.

The WITNESS. Nothing whatever. I merely apply them when they are made.

Q. What effort do you make to secure shipments?—A. We treat our customers with the best consideration we know how and solicit their trade.

#### SPECIAL RATES AND PASSES.

Q. What inducements do you make in order to secure shipments?—A. None other than I know of; none that are made by me.

Q. Do you offer a special rate at any time?—A. No.

Q. Do you issue passes?—A. No; I issue no passes. That is outside of my line of duty.

Q. Have you power to issue passes?—A. None whatever.

#### STOCK-YARDS.

Q. What control have you over the stock-yard?—A. I have charge of it, as far as the Union Pacific stock is concerned; that is, I have the control of it, or of the business of the stock-yard.

Do you manage it personally?—A. I do not.

How do you manage it?—A. Through J. M. Dee.

What arrangements have you with him?—A. He gives me a bond for proper care of the stock, and his compensation for taking care of the yard is the furnishing of the hay which is used.

- Q. Have you a written contract or bond?—A. I have a written bond.  
Q. Have you got it with you?—A. Yes, sir.

## BOND IN REFERENCE TO CARE OF CATTLE.

The witness then produced and read the following bond:

Know all men by these presents, that I, J. M. Dee, as principal, and R. A. Wells and J. W. McNutt and James Thomson, as sureties, all of the city of Ogden, county of Weber, and Territory of Utah, are held and firmly bound to the Union Pacific Railway Company, a corporation operating railroads in the said Utah Territory, in the sum of \$5,000, to be paid to the said Union Pacific Railway Company, its successors or assigns, for the payment of which, well and truly to be made, we bind ourselves, our and each of our heirs, assigns, and legal representatives, jointly and severally, firmly by this instrument, signed and sealed this 15th day of January, 1887, at Ogden, Utah.

Now the condition of the above bonds are that if said J. M. Dee shall return to the custody of the said Union Pacific Railway Company or its agent, in as good condition as when received by him, all horses, cattle, mules, or other live stock which he may take charge of for the purpose of feeding and sheltering the same while such stock is in transit over the lines of the said Union Pacific Railway Company, and shall have all such live stock which may come into his custody for feeding, shelter, or other treatment, which may be shipped over the Union Pacific Railway, until all freight charges due the Union Pacific Railway Company on such stock are paid and the receipt is given to said Union Pacific Railway Company, signed by the owner of such stock, then this condition to be void; otherwise to be in full force and effect.

J. M. DEE, *Principal*.  
R. A. WELLS.  
J. W. McNUTT.  
C. D. HAYES.

Witness:  
McGAW VAN DYKE.

Q. Before you made this bond had you any conversation with Mr. Dee?—A. No. His former bondsman was his former partner, Carroll, now dead. He took up the business just as his partner left it when he died.

Q. Were there any other papers setting out the conditions?—A. Nothing whatever.

Q. Was his consideration to be the difference in the price of hay?—A. That has been the custom ever since I have been here. He thoroughly understood it and so did I, and I do not think the matter was mentioned.

## PRICE OF HAY AT YARD.

Q. Who fixed the price of hay at the yard?—A. It was fixed when I came here. It has been the custom for a long time. I do not know who fixed it. The other roads are all parties to it. The Southern Pacific is a party. He holds their stock for them.

Q. What price was Mr. Dee to charge?—A. Twenty dollars a ton.

Q. How did he know he was to have that privilege?—A. Because it was an understood custom of the yards here.

Q. What did the custom come from?—A. I do not know. It was probably made by some former agent.

Q. Was it in your power to make it lower or higher?—A. I presume it was. I did this of my own motion. I never asked for any orders about it. I found it the custom when I came, and it seemed to be the correct thing to continue it, and I did so.

Q. Did you fix the price at \$20 because you found that the former agent had fixed the price at that rate?—A. Yes, sir. It may seem a high price at this time of the year, but in the winter the market price runs higher. He is to furnish the hay at \$20 no matter what the market price is in the winter.

Q. How did the company make out its bill?—A. For the full rate, for the tariff rate.

#### HOW RECEIVED

Q. How did you receive your rebates?—A. When we would receive our expense bills from our customers, we would send them in to the company and they would pay the rate agreed.

Q. How long did that arrangement continue?—A. I do not remember just now; but it was until such time as the companies pooled rates and agreed not to do that kind of thing. It was during the time while they were cutting rates more especially than any other time.

Q. After the pool was entered into were there any rebates allowed that you know of?—A. No, sir.

Q. Did you receive any?—A. I did not receive any. I have heard that there have been rebates given, but I never received any. I never was offered any.

#### COMPLAINTS OF SHIPPERS.

Q. Have you any suggestion to make or any information to give to the Commission?—A. No; I do not know that I have anything particularly, any more than this: We in our business here consider that we are overcharged, I might call it injured, by the action of the railroads in giving such low through rates. For instance, they can ship their grain and vegetables of all kinds from Los Angeles to points in Wyoming and Colorado and Montana and Idaho at very nearly the same rates that we ship from here, and in some cases I understand for less, so that it makes it very hard on our people here to dispose of their goods in those times. That is about the only thing that I know of that we would like to see arranged a little differently. Still I do not know that we could complain very much in that respect, because many times when we have a few hundred car-loads of goods they have made us a rate that was a very low one. If they had not made the rate somewhat lower than the tariff rate, we never could have moved our goods.

#### DIRECTION OF WHEAT SHIPMENTS.

By Commissioner LITTLE:

Q. Where do you ship your wheat to?—A. Our wheat goes mostly to Colorado.

Q. Do you raise more wheat than you consume?—A. Yes, sir; I do not know, but I think we have sent 2,000 car-loads to California and other points since last December.

Q. Did you send it mostly to California?—A. Yes, sir; I sent between 400 and 500 cars.

Q. Have you any other suggestion to make?—A. None that I know of at present.

#### RATES TO CALIFORNIA.

By Commissioner ANDERSON:

Q. Have there been complaints about rates over the Central Pacific, from here to California?

The WITNESS. Complaints that they are charging us too much?

Commissioner ANDERSON. Yes.

The WITNESS. No, sir; I think they have given us very favorable rates.

Q. How much a hundred does it cost to ship grain from here to California?—A. Thirty-two and a half cents a hundred to California. They have given it at 25. They have been buying lots there for speculation. They have millions of bushels stored there now.

OGDEN, UTAH, *Thursday, July 21, 1887.*

ALFRED H. NELSON, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What is your business?—Answer. I am a lawyer by profession; I am the secretary of the Utah Salt Company. That is one thing that I want to talk about.

Q. You reside here in Ogden?—A. Yes, sir.

UTAH SALT COMPANY.

Q. How long have you been connected with the salt company?—A. Since it was organized, last year.

Q. Has the company had any business dealings with the Union Pacific Company?—A. We have tried to have, but we have not had any yet; we wanted to have.

Q. What did you want to have?—A. We wanted to ship salt over the Utah Northern road. It is the same company that Mr. West testified in reference to.

FAILURE TO SECURE THE CONTRACT.

Q. What was the difficulty? State it to the Commission.—A. I do not know what the difficulty was. We have not as yet been able to get them to do anything. They gave the contract to somebody else at a higher figure than that for which we offered to do it. The situation is this: The Syracuse Salt Works are south of Ogden, 12 or 15 miles. The company pays \$1 a ton to haul salt to Ogden and transfer it to the Utah Northern. Our works are on the Utah Northern, 18 miles north, and we were that much nearer the destination. We offered to sell the salt for \$1.75 on the Utah Northern. We offered to place the salt on the track or on the cars at that price. Of course we asked them to build a switch 190 rods long. They built a switch for the Syracuse Company 5½ miles long. They pay them \$2 a ton; they pay them, as I say, in addition, \$1 to haul it out.

Q. What effect has the condition requiring them to expend \$100,000 in a summer resort upon the bid?—A. I do not know anything about that part of it.

PREPARED TO COMPLY WITH TERMS OF CONTRACT.

Mr. SHELBY. Will you ask the witness if he had any salt on hand when he offered to sell it at \$1.75 a ton?

The WITNESS. We had no salt of our own production, but we had the salt contracted for that we could deliver. We were prepared to deliver the salt; we are prepared now.

Q. Were you able at that time to comply with the conditions of the contract into which you were about to enter?—A. Yes, sir; we were ready to comply with it and to bind ourselves in any sum they required. They never said a word.

Q. Is not the bid, however, at \$2 on the part of the gentleman who holds the contract conditioned upon the expenditure of \$100,000 upon a summer resort, really a lower bid than your company bid?—A. I do not know anything about that.

By Commissioner ANDERSON:

Q. Have you any reason to believe that through this \$2 bid, in any way, the Utah Forwarding Company, or any other favored dealer with

the Utah Central, succeeds in getting \$1 a ton advantage out of this contract?—A. No, sir; I do not know anything about it. I cannot account for it. It is, of course, a mystery to me why the company would not take our salt at \$1.75 when they would pay \$3 for other salt.

Q. Why do you say \$3 instead of \$2?—A. Because they paid \$3 at Ogden. That is the testimony here. That is what Mr. Shelby stated to the gentleman at Butte, that the salt cost the company \$3 at Ogden.

Q. What would your salt cost the company at Ogden?—A. \$1.75; and it is nearer to Butte than Ogden, on the same road.

Q. Is that the route the salt would take coming from the salt works?—A. Yes, sir; it is the road on which all the salt does come.

Q. Over the narrow gauge?—A. Yes, sir.

By the CHAIRMAN:

Q. Have you any other suggestion to make?—A. No.

PUBLIC SENTIMENT FAVORS EXTENSION OF TIME TO PAY.

By Commissioner ANDERSON:

Q. Have you anything to say in reply to this general question as to the relations between the Government and the railroads? Give the sentiment of the community.—A. I cannot say what the sentiment of the community is generally, but the sentiment of some gentlemen with whom I have talked is in favor of the proposition that Mr. Adams made to the Government. We thought it was a fair proposition.

Q. How did you understand that proposition?—A. I could not explain it at this time. But at the time when the proposition was made we talked it over quite generally, and I know that every man with whom I talked at the time, and I presume I talked with a dozen, perhaps, were of the opinion that Mr. Adams's proposition was a fair proposition to the Government.

Q. Do you mean by "Mr. Adams's proposition," generally an adjustment on terms of an extension of the debt and a reasonable rate of interest?—A. Yes, sir. Of course, I could not tell about details.

By the CHAIRMAN:

Q. Did you talk to Mr. Adams about it?—A. I never did.

EXTENSION WOULD BE BENEFICIAL TO THE COMMUNITY.

By Commissioner ANDERSON:

Q. Is that opinion based upon the assumption that the company is not able to pay its debt when it matures?—A. Yes, sir; that was the assumption.

Q. In what respect would the acceptance of an arrangement of that kind be of value or benefit to this community, in your judgment?—A. The benefit it would be is this: It would give the company an opportunity to branch out and spend money and build our depots and broaden the narrow gauge and build other roads that they need, and so on. That would be the advantage.

The Commission then adjourned, to meet upon the call of the Chair.



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# TESTIMONY

CONCERNING

THE SIOUX CITY AND PACIFIC RAILWAY COMPANY.

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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.*

OFFICES OF THE CHICAGO AND NORTHWESTERN  
RAILWAY COMPANY, 22 FIFTH AVENUE,  
*Chicago, Ill., June 18, 1887.*

The Commission met upon the call of the chair.

Present, Commissioner Pattison (chairman) and Commissioner Littler.

MARVIN HUGHITT, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. What position do you hold in the Sioux City and Pacific Railway Company?—Answer. I am president of that company.

Q. How long have you been such?—A. Two years.

Q. Who are the directors?—A. I will give you the list [referring to the list]: Marvin Hughitt, Albert Keep, Marshall M. Kirkman, Joseph B. Redfield, William H. Stennett, Martin L. Sykes, David P. Kimball, Horace Williams, and Philo E. Hall.

### TERMINAL POINTS OF SIOUX CITY AND PACIFIC.

Q. Please tell us where the road begins and where it ends.—A. The Sioux City and Pacific terminal points are Fremont and Sioux City. That is, the Sioux City and Pacific proper. Then it owns a piece of road from Missouri Valley to California Junction. That piece is not a part of the line on which the Government made advances of money to aid construction.

Q. Please give to the Commission an outline of the Sioux City road aided by the Government.—A. It begins at Sioux City and extends down the east bank of the river.

The CHAIRMAN. Just follow it up.

The WITNESS. It begins at Sioux City, in the State of Iowa, and extends down the east bank of the Missouri River to a place called California Junction; thence to the Missouri River, and from the Missouri River to Fremont, the point of intersection of the Union Pacific Railway.

Q. How many miles?—A. One hundred and one miles and fifty-one hundredths.

By Commissioner LITTLER:

Q. Is that the aided portion of the road that you have described?—

A. Yes.

Q. One hundred and one and fifty-eight one-hundredths miles?—A. Yes.

By the CHAIRMAN:

Q. How was it built; I mean, was it built by the company or by a construction company?—A. I am not able to answer that question. I have never inquired into and don't understand how the road was built. I never looked into the origin of the company or its finances very far back.

#### ITS PURCHASE BY THE NORTHWESTERN COMPANY.

Q. When did the Northwestern Company acquire the stock?—A. In 1884.

By Commissioner LITTLER:

Q. Had this company any connection with the other prior to 1884?—

A. No interest previous to 1884.

By the CHAIRMAN:

Q. Who can give me the information concerning its history prior to 1884?—A. I cannot answer that question. Mr. J. M. S. Williams, of Massachusetts, was treasurer of the road in its inception, and was undoubtedly familiar with its affairs; but he is dead.

Q. How did the Northwestern come into possession of the Sioux City?—A. The Northwestern company owns the bulk of the common stock of the Sioux City road.

Q. How did they get possession of it?—A. They acquired it through the purchase of certain Iowa roads, the proprietors of which owned the Sioux City Railroad stock.

#### PRICE PAID.

Q. What did they pay for it?—A. I could not answer that question.

Q. Where can we get that information?—A. It cannot be determined; in fixing the price on the Iowa roads just referred to, the price covered the Sioux City stock.

The CHAIRMAN. Please furnish the price paid by the Northwestern for the Sioux City stock.

The WITNESS. It cannot be given, because no separate price was ever put upon it.

Commissioner LITTLER. And give the number of shares.

The WITNESS. The Northwestern owns 18,838 shares of the common stock of the Sioux City road.

Q. Who represented the Sioux City at the time of the sale to the Northwestern?—A. The owners of its common stock.

#### DETAILS OF PURCHASE.

By Commissioner LITTLER:

Q. Was this stock bought from divers persons or from only one?—

A. Bought from divers persons; *i. e.*, different interests had a share in its ownership.

Q. Was it picked up in the market or bought by private sale?—A. It came to us in connection with other transactions relating to the acquisition of leased lands in the State of Iowa, as already stated.

By the CHAIRMAN :

Q. What were the conditions—or were there any conditions—at the time of the sale or purchase by the Northwestern?—A. There were no special conditions.

Q. Was there any condition as to payment—as to time? Or was it a cash transaction?—A. A cash transaction, as I understand it, because the interests with which it was bulked were practically cash or the guarantee by the Northwestern of outstanding liabilities.

#### OFFICERS OF THE ROAD.

Q. Who was the general manager or freight manager of the road at that time and the passenger manager?

The WITNESS. Of the Sioux City and Pacific Railway?

The CHAIRMAN. Yes; in 1884, at the time of the purchase.—A. The general freight agent of the Sioux City and Pacific was K. C. Morehouse. The general passenger agent of the company was Mr. J. R. Buchanan, and the general manager was P. E. Hall.

Q. Are those gentlemen now connected with the road?—A. Mr. Morehouse and Mr. Buchanan are; Mr. Hall is not.

Q. Where do they reside?—A. At Missouri Valley, Iowa. Mr. Hall resides at Cedar Rapids.

Q. Are they employed in the same position?—A. Mr. Buchanan and Mr. Morehouse; yes, sir.

Q. How far back has the Northwestern company the books of the Sioux City?—A. The Sioux City has its general books from the opening of the road.

The CHAIRMAN. So that the accountant that we send to you here can have access to the books from the beginning of the road?

Mr. KIRKMAN. Yes; the accountant has made balance sheets from the commencement of the opening of the road, and has several years already completed.

#### FINANCIAL CONDITION.

Q. What is the ability of this road to pay or settle its debt due the Government?—A. That is a very difficult question to answer. It depends entirely upon competition, or quite largely so, and upon the ability of the road to hold the traffic that now passes over it. By examining this map, which you have before you, you will see that the Sioux City and Pacific road is very largely dependent upon the encouragement that it receives and the assistance that is given to it from the Chicago and Northwestern system of roads. These blue lines shown on this map represent the Chicago, Saint Paul, Minneapolis and Omaha road.

#### DEPENDENCE UPON ITS CONNECTIONS.

By Commissioner LITTLER :

Q. Is that part of your system?—A. It is treated as such, although this company does not own all its stock. The red line shown here indicates the Chicago and Northwestern system. The Sioux City road is now, and will probably continue to be, part of the through line. For instance, from Sioux City down to Missouri Valley, and thence on, down to Council Bluffs. The route of traffic over its line depends very largely upon the disposition of the roads that have the disposition of that traffic. If the Sioux City and Pacific road depended entirely on its local business and the business wholly within its control and was operated as a



## EFFECT UPON GROSS EARNINGS OF SIOUX CITY AND PACIFIC.

Q. What effect does this agreement have on the net or gross earnings of the Sioux City and Pacific?—A. It increases its net earnings in this wise: The Elkhorn Company pays a net rental, based on the valuation of the Sioux City property used by it. That percentage was determined by a board of engineers appointed for the purpose. In addition it pays for the repairs of the Sioux City property thus used in the proportion that the wheels run by the Fremont, Elkhorn and Missouri Valley Company bear to the total number of wheels moved by both companies. And, as the Elkhorn business is greater than the Sioux City, the larger amount falls on the Elkhorn Company, and in that way the Elkhorn Company bears the greater portion of the fixed expenditures, to the material benefit of the Sioux City and Pacific.

## BENEFIT DERIVED FROM CONSTRUCTIVE MILEAGE.

By the CHAIRMAN:

Q. What is the sum total of constructive mileage that you carry to the Sioux City? You say 10 per cent. under one and 15 per cent. under another. Does it make a certain sum annually?—A. No, sir; because the business changes month by month.

Q. Then you have never figured up how much the total constructive mileage would be carried over in one sum for a year or month?—A. No, sir; we have not kept that account separately. It would not be difficult, but simply tedious, and require time to keep it separate.

Q. How did you ascertain, then, the benefit in a sum of money that the Sioux City would derive from a constructive mileage of 15 or 10 per cent.?—A. They really get more than constructive mileage. They get, for instance, on certain business, 10 per cent. of the Chicago and Northwestern proportions, and on other business 15 per cent. of the Northwestern proportions. Formerly they received an amount not to exceed 10 per cent.; but, in order to help the Sioux City out of its troubles, the percentage was increased to 15 per cent.

## AGGREGATE AMOUNT.

Q. What did you ever estimate the constructive amount would be—the entire total sum for a year?—A. Well, where the words “constructive mileage” are used in my answers, it should be changed; because they have received more than the term “constructive mileage” usually implies. For instance, if there is a car of freight passing from Chicago to Sioux City at \$50 a car, and the proportion of the Sioux City were \$4, and the Northwestern’s \$46, the former would get 10 per cent. of \$46 of the Northwestern’s proportion in addition to the \$4 on a pro rata.

Q. What benefit has that, in any one year, been to the Sioux City’s treasury?—A. A large sum of money in the aggregate. I could not answer particularly, without going over and computing every freight transaction between the Sioux City and the Northwestern Company.

## FORMER RELATIONS OF SIOUX CITY AND NORTHWESTERN ROADS.

Q. Before the Northwestern assumed control of the Sioux City, by reason of its purchase, what relation did the Sioux City hold to the Northwestern?—A. That of perfect independence. But it enjoyed the same traffic relations then as now.

Q. How long had that relation existed?—A. I could not answer accurately without looking up the transfers of traffic between the two roads; but I think I can safely say that it existed from the beginning of the operation of the Sioux City road.

Q. Of the Northwestern?—A. Of the Sioux City and Pacific. From the time of its construction and connection with the Northwestern road it has enjoyed this (what I may call) "drawback."

Q. At what time did the Sioux City form the connection with the Northwestern?—A. In 1869 or 1870.

#### AMOUNT OF INDEBTEDNESS.

By Commissioner LITTLER:

Q. Will you state the total amount of indebtedness on this road, including the Government indebtedness?—A. The first-mortgage bonds, the Government lien, the deferred interest on the Government lien, and the deferred interest on the first-mortgage bonds up to the 1st day of May, 1887, amounted to \$5,225,881.09.

Q. That is, the mortgage indebtedness?—A. Yes, including the deferred interest.

Q. But now, in addition to that, is there not stock of \$16,000 a mile?—A. The common stock, \$1,899,400; preferred stock, interest-bearing, \$160,000.

#### DIVIDENDS.

Q. Has the Sioux City been paying any dividends on the stock?—A. It has never paid any dividends on the common stock. It has paid on the preferred interest-bearing stock issued for the purchase of the line of road from Missouri Valley over to California Junction, and on which the Government lien does not rest.

Q. What is the length of that line?—A. Five and nine-tenths miles.

By the CHAIRMAN:

Q. Has the Sioux City Company always made its interest on its bonds?

The WITNESS. From earnings?

The CHAIRMAN. Yes.

#### CONTRIBUTIONS FROM OTHER LINES.

A. No, sir; it has been assisted to meet its interest on the first-mortgage bonds from contributions by connecting lines of railway.

Q. How do you make up the contributions?—A. In some cases, by gift outright; in others, by connecting companies in the proportion in which they have received earnings from the business originating on or going to the Sioux City and Pacific road; the amount of contribution was determined by the amount of the deficiency. These contributions may be said to be in addition to the drawbacks that had been given to the Sioux City and Pacific Company in the course of the current interchange of freight traffic between the roads, as already described. I want to say, in that connection, that this drawback allowed the Sioux City is a system that does not prevail between the Chicago and Northwestern and any of the roads that it calls proprietary lines east of the Missouri.

#### INTEREST ON GOVERNMENT LIEN.

Q. What other interest charges are there? The preferred stock you have given me, and first-mortgage bonds; what other interest charge is there?—A. Interest on Government lien.

Q. Has the road ever made any payments to the Government?—A. Yes.

Q. Has the road ever paid to the Government the 5 per cent.?—A. The Government 5 per cent. has been paid in full up to within two years; and the reason it has not been paid latterly is because the Government owes it a sum of nearly the same amount, which it refuses or neglects to pay.

Q. How were the payments of 5 per cent. made?—A. In cash. The Government owed certain sums to the Sioux City, and in making payment it deducted the 5 per cent.

#### INDEBTEDNESS.

By Commissioner LITTLER :

Q. As I understand, this road, part of the time, has not been able to pay its fixed charges; and there are coupons due and unpaid on some of its bonds. I understand further, that the Northwestern pays these coupons in some way or other. Is that so?—A. Yes.

Q. What do you do with the coupons when you cut them off?—A. We hold them. They are an unsatisfied claim on the Sioux City road.

Q. How many of them have you?—A. \$98,100 unpaid. And there accrues on the 1st July \$48,840 more.

Q. So that this road is constantly becoming more and more indebted, is it?—A. Six months' coupons will be paid June 30 next by the Sioux City Company, lessening its debt that much.

#### HOW SECURED.

Q. And the form of indebtedness is secured by first mortgage?—A. Yes.

Q. And the lien of the Government is being more and more impaired year by year, as long as this state of things goes on, is it not?—A. I think it is.

Commissioner LITTLER. It is not a very flattering outlook.

The WITNESS. I want to say why I said "I think it is." I think it is because of the construction of rival railways to the Sioux City and Pacific by other companies. I will call the attention of the Commission to a line of railway that does not exist on the map already shown; it has recently been constructed by the Chicago, Milwaukee and Saint Paul Railway Company. If the Commission will get a copy of the map of that company they will find the road laid down more accurately than I see it on this map. But I can show how much it has become a competitor of this system. Going down through Yankton to Sioux City, then parallel with the Sioux City and Pacific road, following the bluffs, it comes down to a place called Defiance. They have a line of road right into Council Bluffs. That line has been recently built by the Chicago, Milwaukee and Saint Paul Railway Company, and the business that originated in Dakota on the system of roads controlled by that company, and which formerly passed over the Sioux City and Pacific, and then over the Northwestern to Council Bluffs, now passes over the Milwaukee and Saint Paul. In addition to that, it establishes competition out of Sioux City to Chicago and points eastward. That is one of the reasons why I have given the above answer.

#### NET EARNINGS.

Q. You have stated that the Sioux City pays its interest on its first-mortgage bonds and dividends on its preferred stock, and then has a



sufficient balance to leave net earnings, on which it has, from year to year, paid 5 per cent., under the act of 1862, as an amount due the Government. That is correct, is it?—A. That is partly correct. I ought to explain here, however, that the use of the word "dividend" in connection with the preferred stock issued to build the non-aided road from Missouri Valley to California Junction is a misnomer. The so-called dividend paid on this stock is exactly like the interest paid on the bonds issued to build other roads. A certain amount of stock was issued to build the road in lieu of bonds, and a certain amount of interest was guaranteed on it by the Sioux City Company. This charge should be called an interest charge rather than a dividend, as the use of the latter term is liable to mislead. In reference to the manner of ascertaining the 5 per cent. Government tax, I would say that neither the interest on the bonds or stock or Government lien is deducted. There would be no net earnings if such were the case. Moreover, there have been many years in which there were no net earnings. In computing the 5 per cent. we deduct the gross operating expenses and taxes, then expenditures for construction, *i. e.*, additional facilities. That is all that is deducted. There is no interest charged. In the event that the surplus is not equal to the interest on the first-mortgage bonds, in addition to the 5 per cent., then the Government construes (and has from the start) that neither the 5 per cent., nor any portion of the same, shall be paid. The Government has no lien on the net earnings of the non-aided portion of the Sioux City road.

#### MARKET VALUE OF STOCK.

Q. What is the value of the Sioux City stock, other than the preferred stock?—A. That is a pretty difficult question to answer, to state the value of stock in a railway that is constantly in default.

Q. Has it ever had any market value?—A. Only nominal.

Q. What was paid in on account of the stock at the time?—A. I am not able to answer that.

#### ADDITIONAL ISSUE OF STOCK.

Q. Has there been any additional issue of stock since the original issue?—A. There has been no enlargement of the share capital of the company, either in preferred or common stock, since the completion of the road.

Q. How much of the common stock does the Northwestern hold?—A. It is a small percentage.

Q. How did you estimate the value when you made the purchase, if it had any?—A. I do not remember how the value of the Sioux City stock was estimated at the time it was sold.

#### VALUE OF STOCK AT TIME OF PURCHASE.

Q. How did you estimate the value when you made the purchase?—A. The Sioux City stock was sold in relation to the system of roads in Iowa that were leased to the Northwestern Railway. Those leases were purchased by the Northwestern road purchased the lines. The lines were leased from Missouri Valley to the Sioux City and Pacific Railroad. The lines were leased from the Missouri Valley and it is through the lease that the Northwestern road purchased the lines of the Sioux City and Pacific Railroad. The lines were leased, and the Northwestern Company.

Q. Has the Sioux City any branch roads?—A. No, sir; unless this line from California Junction to Missouri Valley may be treated as a branch, it not being a part of the subsidized portion of the Sioux City and Pacific road.

#### FINANCIAL PROSPECTS.

Q. With the payments of interest on the first mortgage bonds and the payment of interest on the preferred stock, and the balance of net earnings due, and the fact that the Northwestern felt that there was sufficient value in the Sioux City common stock to make a purchase of it, what will be the ability of the Sioux City Railroad Company to meet its indebtedness to the Government, either in full, at the date of maturity of the bonds, or in annual payments of a fixed sum, and to what amount, if in annual payments?—A. It is my opinion that the Sioux City Company will not be able, at the maturity of the Government lien, to pay anything whatever towards discharging its obligations to the Government. If the future does not promise any larger return of net earnings to the Sioux City and Pacific Company than the past, it will constantly need succor to enable it to pay its taxes, interest on its first mortgage bonds, and its operating expenses.

Q. The value of the stock, then, would not be sufficient for the holders to preserve their interest in the road if the Government demanded the payment?—A. I think not. I do not think the holders of the common stock would hesitate a moment as to what course it would be proper for them to pursue in an emergency of that kind. They would undoubtedly abandon the property.

Q. Is it not the shortest line between Sioux City, with the connection of the Northwestern Railway system, and Council Bluffs?

The WITNESS. As a north and south line?

The CHAIRMAN. Yes, sir.

A. Yes, sir.

#### EFFECT OF COMPETING LINES.

Q. Has its value been depreciated by reason of the construction of competing lines between Council Bluffs and Sioux City?—A. Latterly; yes, sir. I think the construction of the Milwaukee and Saint Paul road from Sioux City southeasterly, so as to establish competition with the Sioux City and Pacific road for the north and south business, as well as for the business easterly from Sioux City, has materially impaired the earning power of the Sioux City and Pacific road; and to such an extent that it is not in the power of the Chicago and Northwestern Railway Company to prevent serious loss of income in consequence of that.

#### LOCAL AND THROUGH RATES.

Q. What is the difference between local rates and through rates on the Sioux City?—A. On passenger business it has a uniform rate of 3 cents per mile. The rate has been higher, but it has been reduced by legislative enactment of the State of Iowa. There is a uniform rate of 3 cents per mile on passenger business, except where the road competes with shorter or more direct lines, in which case it is necessary to shrink the rates; in such event the Sioux City shrinks its rates pro rata with the others; but the average is 3 cents a mile for passenger business. The same general answer will apply to freights. The local freight tariff differs only from the rates it receives on through business in cases where the through business is transacted at rates that necessitate reduction.



terial, I think it safe to say, were double what they are now. I am hardly able to answer what the road could be built for to-day. The Sioux City road was built during the period of high prices and at a point remote from markets for railway material.

Q. Could you get to Kansas without the Sioux City?—A. Yes; by simply turning traffic over the Omaha road, and sending it down on the west side of the Missouri, instead of on the east side.

Q. When was that branch built?—A. It was built four years ago, and consolidated with the Chicago, Saint Paul, Minneapolis and Omaha road.

Q. By whom was that done?—A. It was a local organization, originating at Omaha. No one connected with the Sioux City road or the Northwestern had anything to do with its construction.

MARVIN HUGHITT.

SIoux CITY, IOWA, *Wednesday, June 29, 1887.*

The Commission met pursuant to adjournment.

Present: Commissioner Pattison (chairman) and Commissioner Littler.

WILLIAM F. FITCH, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. Where do you reside?—Answer. In Omaha.

Q. What is your business?—A. I am general manager of the Sioux City and Pacific Railroad and the Fremont, Elkhorn and Missouri Valley road.

#### DUTIES OF GENERAL MANAGERS.

Q. How long have you been connected with the Sioux City and Pacific?—A. Seventeen months.

Q. Were you connected with the road in any other capacity prior to that time?—A. Not with the Sioux City road.

Q. What are your duties as general manager of the Sioux City and Pacific?—A. Operating it.

Q. What are included in those duties of operating the road as general manager?—A. The movement of trains, maintenance of track, and looking after the property generally.

Q. Have you control over the freight rates?—A. No, sir.

Q. Or of the passenger rates?—A. No, sir.

Q. How are they managed?—A. They are managed by the general freight agent and general passenger agent, under advice from the president.

#### REPORTS TO GENERAL MANAGEMENT AT CHICAGO.

Q. How often do you make returns or reports to the general management at Chicago—the Northwestern management?—A. I do not just understand what you mean.

Q. Do you make any report of your department to the general management of the Northwestern?—A. We keep them advised of the condition of affairs on the road.

Q. What condition of affairs?—A. The physical condition of the property.

Q. What advice as to the financial condition of the road here?—A. Hughitt, at Chicago, the president.

Q. And does he examine the returns?—A. The accounts are all kept at Chicago and the returns are all made direct to him by the comptroller in Chicago.

Q. Who makes the returns to the comptroller at Chicago?—A. The station agents, who make their returns daily.

#### SPECIAL RATES.

Q. Have you any knowledge of the rates?—A. Nothing further than those in the printed tariffs.

Q. Are there any other rates than those in the printed tariff?—A. No.

Q. Are there any special rates?—A. No.

Q. Were there any special rates prior to April 1?—A. Yes.

Q. What knowledge have you of the special rates?—A. I have no knowledge of them.

Q. Have there been rebates allowed along the line of the Sioux City road?—A. Yes.

#### POOLS.

Q. Has the Sioux City road been in any pool agreements with any other road?—A. Prior to the 1st of April, yes.

Q. What other road?—A. We had pools with all the other roads entering Sioux City from the east.

Q. How was the Sioux City benefited?—A. I was not conversant enough with the accounts to know. I cannot tell.

Q. Has the Sioux City participated in any constructive mileage allowance from other roads?—A. I cannot answer that. I do not know.

Q. Or the Northwestern?—A. I do not know.

Q. Has it engaged in the conduct of business in the shipment of freight or passengers under a constructive mileage arrangement?—A. I cannot say.

Q. Are you acquainted with the early organization of the Sioux City?—A. No.

Q. Do you know anything about it?—A. Nothing at all.

Q. How many trains are run per day over the Sioux City proper?—A. There are more run over the Sioux City road between Missouri Valley and Fremont than there are between Missouri Valley and Sioux City; but just how many I could not tell you without looking at the time table.

#### NUMBER OF PASSENGER AND FREIGHT TRAINS.

Q. How many passenger trains?—A. There are four passenger trains a day between Missouri Valley and Fremont; two each way.

Q. How many between Sioux City and Missouri Valley?—A. Between Missouri Valley and Sioux City there are four; the same number.

Q. How many freight trains go out of here a day?—A. One each way, a day, between here and Missouri Valley, and one a day each way between here and Onawa. Between Missouri Valley and Sioux City there are two passenger trains a day, each way, and one freight train a day, each way. There are four passenger trains a day, each way, between Onawa and Sioux City. That includes the two between Missouri Valley and the other two; and there are two a day, each way, between Onawa and Sioux City.

Q. Have you given all the freight and passenger traffic over the line?—A. Yes, sir; and between here and

I have not given you the freight trains that pass over the road between Missouri Valley and Fremont.

Q. Can you furnish a schedule containing the number of trains that pass over from Fremont to Missouri Valley?—A. Yes. There are five scheduled freight trains, each way, a day.

#### NO COMPLAINTS OF DISCRIMINATION.

Q. Have there been any complaints as to discrimination, on the part of the merchants of Sioux City or shippers along the line?—A. Not to my knowledge.

Q. Have you ever heard of any complaints?—A. No, sir.

Q. Have there been any complaints from the shippers of Sioux City or along the line of the Sioux City road as to an allowance of rebates—special rates or preferential rates?—A. Not to my knowledge.

Q. To whom would such complaints be directed?—A. Either to Mr. Morehouse, general freight agent, or myself.

Q. Where is Mr. Morehouse?—A. In Chicago to-day.

Q. Is he located there?—A. At Missouri Valley, Iowa. The general officers of the company are there.

Q. Is he under your control?—A. Yes.

#### LOCAL TRAFFIC.

Q. To what extent does the local traffic of the road support the Sioux City—passenger and freight?—A. I cannot answer that question. I do not know.

Q. How does the local traffic of freight and passengers compare with the through?—A. I cannot answer that question either. I have no means of knowing.

Q. Do you make a report to the general office of the local traffic—passenger and freight—to the general office at Chicago?—A. The reports are made direct by the station agents to the officer at Chicago.

Q. Do they pass through your hands?—A. No, sir.

#### FINANCIAL AFFAIRS OF ROAD.

Q. What were the profits of the road during the year 1886?—A. I cannot answer. I do not know.

Q. Your duties simply comprehend the physical management?—A. Yes, sir.

Q. Have you any knowledge at all of the detail of the financial arrangements?—A. None whatever.

Q. Have you any records or statements that would inform the Commission as to the condition of the road?—A. None at all.

Q. Are all your returns made to Chicago?—A. Yes.

Q. What returns do you make?

The WITNESS. Individually?

The CHAIRMAN. Yes.

A. None whatever, except my general letters to the president giving him the condition of affairs generally.

Q. How often do you write to him?—A. There is nothing regular about it; I write when something turns up. It is simply a letter telling him of the condition of the property.

By Commissioner LITTLE:

Q. You are not required to report at stated times?—A. No, sir.

## OFFICIAL INSPECTION.

By the CHAIRMAN:

Q. How often is the road inspected by the officers of the Northwestern?

The WITNESS. You mean the president of the Sioux City road?

The CHAIRMAN. The president, or directors, or any of the general officers.—A. The directors come out once a year; the president comes sometimes once a month or once in three months. He has been out here since I have been here, I should say, six or eight times.

## COMPETITORS OF THE SIOUX CITY.

Q. Has the Sioux City any competitors between the terminal points?—A. Yes, sir.

Q. What are they?—A. The Chicago, Saint Paul, Minneapolis and Omaha, and the Chicago, Milwaukee and Saint Paul.

Q. How does the passenger and freight traffic on the Sioux City compare with the traffic on the competing roads you have named?—A. I cannot tell; I have no idea what their passenger business amounts to.

By Commissioner LITTLER:

Q. How are the competing lines located with respect to the Sioux City and Pacific?—A. The Chicago, Saint Paul, Minneapolis and Omaha crosses the Sioux City road at Blair.

Q. Does it run to Sioux City?—A. Yes; but the chairman asked what competition we had except at terminal points. That road starts at Sioux City, runs to Omaha, and crosses the Sioux City road at Blair.

Q. Where does the other one start?—A. At Sioux City, and runs southeasterly through the State of Iowa, and competes with the Sioux City road for business at the first three stations south of Sioux City.

## PROPERTY OF SIOUX CITY AND PACIFIC ROAD.

Q. What is the physical condition of the property, the engines and cars, of the Sioux City?—A. Very good indeed.

Q. How many engines have you?—A. Twelve.

Q. How many passenger cars?—A. That I cannot tell you without looking at the record.

Q. How many freight?—A. I will have to look at the record to tell you.

Q. Are the records returned to the Chicago department—the general office?—A. They have a record of them there; yes, sir. We keep the movement of cars at Missouri Valley. The car-accounting office is at Missouri Valley.

Q. What property have you at Sioux City?—A. We have depot grounds on the river, that is all. The extent of them I could not tell you without looking at the record.

Q. Have you any buildings at all?—A. We have a freight house and a passenger house, a brick engine house and two coal sheds.

Q. Is the property of the Sioux City and Pacific Railway now in Sioux City a contribution by the citizens of Sioux City at the time the road was built?—A. That I could not say, sir.

Q. Who could give that information?—A. The comptroller in Chicago, I think, Mr. Kirkman.

Q. Do you know how much the citizens of Sioux City contributed at the time?—A. No, sir.

Q. In what county is Sioux City located?—A. Woodbury.

Q. Do you know of any contribution by the county of Woodbury in bonds or any subscription?—A. No, sir.

#### PROPERTY ALONG LINE OF ROAD.

Q. Have you any property along the line of the Sioux City road?—A. Nothing but the depot grounds, station houses, water tanks, and coal sheds.

Q. Have you any other properties along the road?—A. I think there are two or three flat warehouses that were built by the Sioux City road and are rented to parties who buy grain. They are just one floor; not an elevator. That is called a flat elevator. It was built at an early day by the company and leased to people to handle grain in. I do not think there are over two or three of them left. They have all rotted down.

Q. Have you any other information that you can give to the Commission?—A. Nothing that I know of that would be of any interest to them at all.

#### RENTALS.

Q. Have you any rentals along the line of the road?—A. We rent to parties for lumber yards, for elevators, and for coal sheds; parties who are buying grain and selling lumber.

Q. What have you in the way of payments going out, for rent?—A. Nothing at all.

Q. When were you first connected with the road?—A. January, 1886.

Q. Have you any knowledge of payments for rentals prior to January, 1886?—A. No, sir.

Q. The company paid \$2,100 a year for rentals in the year 1885. Would you have any information or knowledge of that?—A. No, sir.

Q. But you are sure there have been no payments in your time?—A. Not to my knowledge. There may have been some paid by the accounting department that I know nothing of.

Q. Have you any other information or suggestion that you can give the Commission?—A. No, sir; I think of none.

#### RELATIONS OF THE SIOUX CITY AND NORTHWESTERN.

By Commissioner LITTLE:

Q. Do you not regard this Sioux City as a very important branch of the Northwestern road?—A. Not particularly so; no, sir.

Q. How could the Northwestern make its connections and do its through business without the Sioux City?—A. By building a road from Onawa up here.

Q. It is so important, that they would have to build a new road if they did not control this road, is it not?—A. Yes, sir; I suppose that is true.

Q. Have you any knowledge as to the mileage earnings of this road per annum?—A. No, sir.

#### DIRECTION TAKEN BY THROUGH FREIGHT.

Q. Is it true that a large part of the through freight passes over this road going to and coming from Chicago?

The WITNESS. A large part of what?

Commissioner LITTLE. A very large part of the freight of the Northwestern system?



A. A very small part of it.

Q. Which way does the through freight reach Chicago over the Northwestern road?

The WITNESS. From here?

Commissioner LITTLER. Or from west of Fremont.

A. That all passes over the Sioux City road.

Q. They would have to make a new road or make running connections with some other road if they did not control that 37 miles?—A. Yes.

Q. That must be an important link in their system, then, is it not?—A. Just at the present time, it is.

Q. It must earn a good deal of money, does it not—that is, if it is treated fairly in the accounting department of the road?—A. I suppose so.

Q. Do you know of any reason why this road is not able to pay its fixed charges, including the Government debt?—A. I have no opinion at all on that subject.

Q. From your knowledge of the bulk of freight which passes over the road, is it or not your opinion that it is paying fixed charges on reasonable cost of construction?—A. I should think it ought to, on a reasonable cost of construction; yes, sir.

#### LAND OWNED BY THE COMPANY IN SIOUX CITY.

Q. Do you know how many acres of land the company owns in Sioux City?—A. No, sir; I do not.

Q. You own quite a large amount of land?—A. We own extensive depot grounds here.

Q. Are those grounds valuable?—A. Yes.

Q. Are they in demand as terminal points for other roads that are coming in, or threatening to come in?—A. Well, I cannot say as to that.

Q. Are there any grounds so well situated for railroad purposes anywhere in reach of the city as these very grounds?—A. I do not know of any.

Q. It is true that they are located on a level, in the bottom here, and are peculiarly favorable for the laying of side tracks without grading or fills?—A. Yes.

#### FUTURE PROSPECTS OF THE ROAD.

Q. What do you think of the future prospects of the Sioux City, taking into account the splendid agricultural country through which it runs, and taking into account the fact that that country is only partially developed?—A. I think the prospects are not very good for the future of the Sioux City road.

Q. Why?—A. Because there are other lines being built that will draw from it.

#### CHARACTER OF COUNTRY IN IOWA.

Q. Is it not true that that road, so far as it is located in Iowa, runs through an exceptionally rich agricultural country?—A. Yes, sir.

Q. Is it not true that that region is capable of producing a very large amount of cereals, and thereby increasing the traffic of the road as the years go on?—A. There is no doubt that the country is very rich and productive and will raise a great deal of grain to be shipped out, and stock.

Q. It is also well adapted to the raising of stock, is it not?—A. Yes.

Q. Do you not have a large traffic in cattle and hogs over the road?—A. Yes.

Q. And that will increase naturally, as the country is well settled and brought into cultivation?—A. Yes, sir.

#### AMOUNT OF LAND NEEDED BY RAILROAD FOR SUPPORT.

Q. From your knowledge as a railroad man, can you give this Commission an idea of how much land of the character through which this road runs, on either side, is required to support a railroad, from local traffic?—A. No, sir; I cannot.

Q. Give your opinion as to whether 10 miles on either side of the Sioux City road, taking into account the character of the land, is not sufficient to support it and pay all fixed charges and a fair interest on reasonable cost of construction and maintenance.—A. I cannot answer that question. I do not know.

Q. What would it cost the Northwestern to parallel this road, if it becomes necessary?—A. I cannot answer that.

Q. They would have to parallel it a part of the way or make other running arrangements, if they were to lose control of the road, would they not?—A. I understand that they have a line out here a short distance that is headed for Sioux City.

Q. Would not this road be a valuable road to other competing lines in case the Northwestern should lose control of it?—A. I do not know.

#### COST OF CONSTRUCTION.

By the CHAIRMAN:

Q. What could this property be replaced for to-day?—A. I cannot answer that.

Q. Have you any idea as to the cost of grading, of ties, and of iron, per mile, in the construction of a road?—A. Very slight.

Q. Have you any such knowledge as to give the Commission information on the cost of construction per mile?—A. No, sir.

Q. Would \$50,000 per mile be an excessive cost for the construction of this road?—A. I should think it would.

Q. Would one-half of it?—A. That I would not like to say.

Q. Would it cost \$30,000 per mile to replace it?—A. I should think not.

Commissioner LITTLE. You mean to include equipment, do you not?

The CHAIRMAN. Yes.

#### COMPETING LINE OF NORTHWESTERN RUNNING INTO ONAWA.

Q. Has the Northwestern any interest in the lines competing with the Sioux City?—A. They have a line that runs into Onawa that competes with it.

Q. They have diverted freight from the Sioux City over the other line?—A. They do their Chicago business over their line, by way of Onawa.

Q. What proportion of that traffic does the Sioux City receive?—A. I cannot answer that question.

Q. To your knowledge, there is a diversion of traffic from Sioux City over the other line?—A. Yes, sir. The distance is shorter that way.

Q. Has there been any traffic originating on the line of the Sioux City that has been sent to Chicago by way of Onawa?—A. Yes, sir.

Q. Could that traffic have been passed over the Sioux City?—A. It could have gone that way; yes, sir; but the mileage would be greater.

Q. So that traffic and freight originating on the Sioux City has been passed over the competing line?—A. It goes to Chicago by the Northwestern road. All the traffic originating south of Onawa goes by the Missouri Valley.

Q. What effect would that have on the Sioux City?—A. I cannot tell, because I do not know what the divisions are.

Q. How does the road-bed compare with its condition ten years ago?—A. I think it is better.

Q. Have you any knowledge of the road-bed prior to that time?—A. No, sir. I never was over the road but once before I came on to it, and that was ten years ago.

Q. What would be the effect on the competing lines if the Government should take possession of the Sioux City road and run it at its operating expenses?—A. I cannot answer that. I do not know.

Q. Have you any knowledge which would warrant you in giving us an opinion on that?—A. No.

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SIoux CITY, IOWA, *Wednesday, June 29, 1887.*

F. C. HILL, being duly sworn and examined, testified as follows:

By the CHAIRMAN.

Question. What is your business?—Answer. I am in the hardware business.

Q. Where do you reside?—A. At Sioux City.

Q. How long have you lived here?—A. I have been here most of the time since 1868.

Q. When were you connected with the Sioux City road?—A. From March, 1868, until 1881.

Q. Were you familiar with its early construction?—A. No, sir.

STATION AGENT AT SIOUX CITY.

Q. What position did you hold in the Sioux City?—A. I was station agent at Sioux City.

Q. What were your duties as station agent?—A. The ordinary agent's duties.

Q. What are they?—A. Keeping the records of the station, receiving freight for shipment, and collecting charges on freight received.

By Commissioner LITTLE:

Q. Selling tickets?—A. Yes, sir.

By the CHAIRMAN:

Q. Anything else?—A. Only the routine work; looking after the making up of the freights and getting them off on time.

Q. What other position did you hold in the company subsequently?—A. Subsequently I was general freight agent and general passenger agent.

Q. At what time were you general passenger agent?—A. I do not remember exactly as to dates, but I think it was in 1871 that I was appointed general ticket agent.

Q. When were you appointed general freight agent?—A. I think my appointment was dated from the fall of 1870.

Q. Then you were promoted from general freight agent to general passenger agent?—A. No, I held both offices.

Q. At the same time?—A. At the same time; yes, sir.

Q. How long did that continue?—A. I continued that way until I left the road,

Q. When did you leave the road?—A. I left the road in 1881—the 1st of September, 1881.

#### COST OF CONSTRUCTION OF SIOUX CITY AND PACIFIC.

Q. Have you any knowledge of the cost of construction of the road?—A. I have not.

Q. Have you any knowledge of the history of its construction?—A. No, sir.

Q. Was the road constructed and equipped before you reached here?—A. Yes.

Q. Was it in running order when you were appointed station agent?—A. Well, I had to wait about a week before they commenced running trains here after I came up.

Q. What were you waiting for?—A. Because the road was not completed to the city within about a week of as early as they expected.

#### REPORTED AID BY THE CITY.

Q. Was the road aided by the city?—A. I do not know. I have no knowledge about that. It was reported, but I never saw any account.

Q. What was reported?—A. In regard to depot grounds.

Q. What did you hear?—A. That the city donated some depot grounds for the road here.

Q. Do you recollect how many acres were reported to have been donated?—A. Not definitely. I think it was about 20 acres that were said to have been donated.

Q. What was the value of the property at the time?—A. I could not answer that question definitely.

Q. Was that reported?—A. No, sir; I never heard it mentioned. The property was of very little value at that time.

Q. What would that property be valued at to-day?—A. It is pretty hard for me to put an estimate on the value.

Q. Has there been any increase in the value?—A. Oh, yes.

Q. To what extent; 50 per cent.?—A. Well, I should think 100 per cent.

Q. Would it be 500 per cent.?—A. It might be. I never looked the matter up.

By Commissioner LITTLER:

Q. Were is the property located?—A. Right along the levee at the foot of these streets.

By the CHAIRMAN:

Q. Has it increased in value in proportion to other property in Sioux City?—A. Well, not with the highest. It has, relatively, compared with the whole, I think.

#### AND BY THE COUNTY.

Q. Was there any contribution to the road by the county?—A. That I do not know.



Q. Did you ever hear it reported?—A. I heard reported something about some swamp lands, but I have no means of knowing anything about it. I had no access to the general books recording the construction or aid. Those were all kept at Cedar Rapids.

Q. Where are the swamp lands?—A. In Woodbury County.

Q. Whereabouts in the county?—A. That I do not know.

Q. Was there any subscription in the nature of bonds to the Sioux City by the county?—A. I never heard of any.

#### FALLING OFF IN TRAFFIC.

Q. How does the volume of traffic in 1871, when you were general freight and passenger agent, compare with the volume of traffic to-day, or at the time when you retired from the office in 1881?—A. Well, it is pretty hard to answer that question.

Q. When the road was opened here and the Montana and Idaho freight passed this way by river?—A. Since then that freight has all fallen off.

#### UPON COMPLETION OF OTHER ROADS INTO THE TERRITORIES.

Q. When did that fall off?—A. It fell off with the completion of the railroads into those Territories.

Q. When were they completed?—A. I do not remember definitely.

Q. During your term?—A. Yes, sir.

Q. What time?—A. I cannot mention the dates; as, of course, the boating required the freight for the whole year's business to be shipped in the spring. In the spring of the year the river is navigable through to Benton only; and, as the Union Pacific extended their lines through so that the goods could be hauled by wagon, it gradually fell off. There is a connection of the Union Pacific up into that Territory.

By Commissioner LITTLE:

Q. How far is it from here to Benton?—A. About 2,000 miles by river; but I guess not over half that distance by direct line.

By the CHAIRMAN:

Q. Do I understand you that the extensions made by the Union Pacific so affected the traffic over the Sioux City as to decrease the volume of traffic over the Sioux City Railroad?—A. Do not understand me to say that it is the Union Pacific, but the connections that way. Whether the Union Pacific built them or not I have no knowledge.

Q. Then you do not know whether they are extensions of the Union Pacific or not? I ask the question because it is a very important one to us.—A. No, sir.

The CHAIRMAN. I do not want the Union Pacific mixed up just now with the other roads.

Q. So then you do not know whether they were the extensions of the Union Pacific that hurt the Sioux City or not? They are both roads aided by the Government.—A. What I wish to be understood as saying is as to the effect of rail extensions over that territory.

Q. Was there any difference, at any time during your administration as general passenger and general freight agent, in the volume of traffic? Did it increase or decrease at any time?—A. Well, there was a very material decrease during the grasshopper raids here. We had some very bad grasshopper raids, that ate up all the surplus produce of the country, and there was very little business done at that time.



## COMPETITORS COMING IN.

Q. With the incoming of population and capital to this section of the country was there a corresponding growth and development in the shipments and business of the Sioux City Railroad?—A. In answering that question I would have to state that the development of the country and the increase of productions were very material; but, as it increased, the Illinois Central and other lines built in here, and the business had to be divided, of course. The other roads took a percentage, or took a part of the business. If the Sioux City and Pacific could have done all the business that there was, there would have been a very material increase.

Q. When you left the Sioux City Railroad, in 1881, had the traffic increased or decreased, as compared with 1871?—A. I think it had increased.

Q. To what extent?—A. It would be impossible for me to state the percentage, but I think very materially.

## LOCAL AND FREIGHT TRAFFIC.

Q. To what extent did the local traffic support the Sioux City road during your administration?—A. That would be impossible for me to say; the general accounts were made up at Cedar Rapids.

Q. What proportion of the freight and passenger traffic originated on the line of the Sioux City, as compared with the through passenger and freight traffic, during your administration?—A. It would have to be only a guess for me, at this date, to get at anything of that kind; the statistics in the office would show.

Q. Well, what would be your guess?—A. I should guess probably one-third local and two-thirds through.

## INCREASE OF TRAFFIC NOTWITHSTANDING COMPETITION.

Q. What competition had the Sioux City from 1871 to 1881—what competing lines?—A. The Illinois Central in here, and the Saint Paul and Sioux City, the Union Pacific in Nebraska, and the Chicago, Saint Paul, Minneapolis and Omaha.

Q. All the roads you have named were built subsequently to the construction of the Sioux City?—A. Yes, sir.

Q. Then, notwithstanding the four competing lines that were constructed, the traffic over the Sioux City increased from 1871 to 1881?—A. That is my judgment and recollection; of course the statistics of the company would show that definitely.

Q. So that the competition of the four additional lines coming in had not the effect of decreasing the traffic over the Sioux City, if your conclusion be right?—A. The development of the country necessarily would increase the business, and the development may be sufficient to overcome what may be taken away by competing lines. I do not wish to be understood as saying that the construction of competing lines increases the business of any one local line. I would not want to go on record as making such an assertion, as I never saw it done yet.

Q. If the traffic increased from 1871 to 1881 the Sioux City participated in the growth and development of the population and capital that came in?—A. Yes.

## EFFECT OF RAILROAD COMPETITION.

Q. So that the number of railroads that were built to compete with had not any effect upon the ordinary increase by reason of the growth of capital and population?—A. I could not acquiesce in that.

Q. What is the difficulty?—A. The difficulty of it is that if the business of a country is divided between two roads, necessarily one of them can only do a portion of what it would do if it did all there was.

Q. Would the country have developed and grown as much with one road as with five roads?—A. No; I think not.

Q. Was not the effect of competition such as to help the community—to aid it?—A. Certainly.

#### COMPARISON OF INCOME FROM 1871 TO 1881.

Q. How did the income of the Sioux City from local and through traffic, in 1871, compare with the income of 1881, if you recall it? I am speaking now only of your general knowledge, and am asking for information.—A. It would be impossible for me to form any estimate.

Q. Have you any knowledge of any of the figures?—A. No, sir.

Q. Do you recollect anything as to the earnings during your administration?—A. No; I do not.

Q. Do you recall the fact that they doubled during your administration in any one year?—A. No, sir; I do not.

Q. Do you recall the fact that from 1871 to 1881 they increased to a double amount?—A. No, sir.

Q. What reports did you make during your administration?—A. I reported principally the commodities carried over the line, to and from each station, and the amount to be charged to each agent. The tickets that were taken up on the trains were returned to my office, and they were checked up and reported as against these agents, and the freight that was billed to a station was charged up to that agent. Those reports were sent to the auditor of the company at Cedar Rapids, and the balance sheets were all made up there.

Q. Have you any of the early reports of the Sioux City?—A. No.

Q. Were they all printed?—A. I never saw any, I believe.

Q. Did you ever see a printed report of the Sioux City road?—A. No, sir; I do not think I ever did. I have no recollection of ever seeing one.

Q. Have you any knowledge whatever of the early construction of the road?—A. No, sir; I have not.

#### COMPARISON OF PHYSICAL CONDITION DURING SAME PERIOD.

Q. What is the comparison of its physical condition to-day with what it was when you were the general passenger and freight agent in 1871?—A. Well, the road was new at that time, and the rails were new, of course. But, I think, generally speaking, the road is in much better shape than it was then.

Q. Than it was in 1871?—A. Yes, sir.

Q. It is in better shape now than in 1871?—A. Yes; I think so. That is, the Iowa Division. I have not been over the Nebraska line for some time.

Q. Is it in better shape now than it was in 1881?—A. I think so.

Q. Have you any knowledge of its condition in 1884?—A. No, sir.

Q. Have you any other information that you can give the Commission?—A. No; I have not.

#### NO COMPLAINTS OF SPECIAL RATES.

Q. During your administration were there any complaints as to rebates or special rates, or preferential rates, or discriminations in favor of one shipper as against another?—A. I never heard of any.

Q. Did you ever hear of them as in favor of one locality as against another?—A. No, sir.

Q. Did you never hear of such complaints?—A. No, sir.

#### HOW REBATES WERE GRANTED.

Q. During your administration as general passenger and freight agent were rebates granted?—A. There might have been a few cases, but very few.

Q. On what principle were they granted?—A. They were granted on the principle that the railroad was constructed to do the business, and it ought to be able to do it, as against hauling by teams, by wagons, by freight lines, or anything like that.

Q. On that principle, to whom did they grant a rebate?—A. I have no recollection of anything definite.

Q. Were there any large shippers at that time?—A. No, sir.

Q. At any period during your administration?—A. No, sir.

Q. Were there any large shipments of cattle?—A. No, sir.

Q. Who were the largest shippers over the Sioux City road during your administration?—A. I think Sanborn & Follett, lumber dealers here in Sioux City, were about as heavy shippers as we had.

Q. Was that firm allowed a rebate?—A. No, sir.

Q. What other firms were there?—A. I cannot designate any large shippers. There were a great many shippers that were small and ordinary shippers, shipping right along. But the country was new, and there was nothing that would warrant any great business.

Q. Was there any discrimination in favor of special localities as against others?—A. No, sir.

#### HAULING BY TEAMS.

Q. What do you mean by rebates or preferential rates as allowed against hauling by teams, as you undertook to illustrate a moment ago?—A. Well, in speaking of that, what I referred to was in regard to this milling, and to hauling flour one way and salt another, between stations.

Q. What connection had that with discriminations or rebates?—A. I did not wish to be understood as having made any discrimination or rebates between shippers. The arrangement was in making rates and settling any shipment that may have been made, one or two cars or so; not on a general large shipment.

Q. The rates were so made by the railroad company as to prevent competition by teams which were hauling the same character of freight, or competition by the river; that was it?—A. Yes, sir.

Q. So that the railroad arrangement in that way drove out the shipments by water and the shipments by teams?—A. Yes.

Q. Was there an open rate?—A. Yes.

#### SPECIAL RATES OPEN TO ALL.

Q. Was there then a private rate that was allowed, under such circumstances?—A. No.

Q. Was the special rate published as well as the open rate?—A. All the special rates that were made in that way were made open for every one.

Q. Were they published?—A. Not published; no, sir.

Q. Could every one participate in them?—A. Yes.

Q. But the man who had the team or the river boat had not any participation, however?—A. They did not want him to participate.

Q. You excluded him?—A. Yes.

## POOLS.

Q. Were there any pools to which the road was a party during your administration—pool agreements?—A. Yes.

Q. Do you recollect any of them?—A. There was a pool here at Sioux City.

Q. What was the nature of it?—A. I do not know. I could not state exactly. It was made with the view of maintaining the rates and getting the most out of the business for all the roads. It was made after a fight for a whole season here.

Q. What part had the Sioux City in the pool?

Commissioner LITTLER. What percentage?

A. I cannot say exactly now. It was based on more than would be their share on an equal division.

Q. In what year was the pool made?—A. That I cannot state.

Q. Was it prior to 1881?—A. Yes.

Q. Was it in 1875?—A. It would be impossible for me to state. My duties in connection with the road were such—I had charge of operating the greater part of it, and I cannot remember all the details of these matters. I had charge of the trains, and of the advertising, and of baggage.

Q. Where would the printed open rates, during your administration, be filed?—A. In the general freight office.

Q. Where was it located?—A. It was located at Missouri Valley.

Q. Are all the records of the Sioux City—the old records—there now?—A. That is more than I could say.

Q. Where were they when you left?—A. All the records pertaining to my department were left there.

Q. At Missouri Valley?—A. Yes.

## NO DIVERSION OF FREIGHT.

Q. Was there any diversion of the freight or passenger business from the Sioux City over any of the competing lines?

The WITNESS. Do you mean by consent of the Sioux City and Pacific?

The CHAIRMAN. Yes.

A. No, sir.

## FORMER RELATIONS OF SIOUX CITY AND NORTHWESTERN ROADS.

Q. Prior to 1884 (I think that was the date when the Northwestern acquired control of the Sioux City) what were the relations of the Sioux City to the Northwestern road; were the relations friendly?—A. Yes, sir.

Q. Were there leases and agreements as to traffic, freight, and passenger prior to 1884?—A. There was up to the time I left the road.

Q. Had that always continued?—A. Yes, sir.

Q. From what period—from the time you were first connected with it?—A. From the time I had any knowledge of it.

Q. The Sioux City then was working in co-operation with the Northwestern before the Northwestern acquired control?—A. Yes.

Q. Was that as against the other roads?

The WITNESS. Against other competing lines, do I understand?

The CHAIRMAN. Yes.

A. Well, partially so, and partially to give the Sioux City and Pacific an outlet for business.

A TRAFFIC AGREEMENT TO GET AN OUTLET.

Q. Under a traffic agreement or arrangement the Sioux City was working with the Northwestern, as against other roads, for the purpose, as you have stated, of giving the Sioux City an outlet, as I understand you?—A. Of course, Chicago is the heart of this country here, and in order to get produce where it will realize the price it has got to go there.

Q. I am not questioning that, but I am simply asking whether that was the fact.—A. It was not for the purpose of antagonizing any other road, but to give an outlet to do business.

Q. Did the Sioux City give a preference under such an arrangement to the Northwestern, as against any other roads?—A. Yes, sir.

Q. Have you any other information that you can give to the Commission?—A. No; I think not.

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SIoux CITY, *Wednesday, June 29, 1887.*

WILLIAM F. FITCH, being further examined, testified as follows:

By Commissioner LITTLER:

Question. I will get you to state how much of the track of the Sioux City and Pacific Railroad has been relaid with steel rails.

The WITNESS. Since when?

RELAYING TRACK OF SIOUX CITY WITH STEEL RAILS.

Commissioner LITTLER. At any time. How much of it is now steel rail and how much iron rail?

The WITNESS. Sixty-one miles of it is steel.

Q. Is the work of relaying the road still going on?—A. Yes.

Q. What is the policy of the company with reference to relaying the entire line, and within what time do they expect to complete it?—A. I do not know that there is any definite time set to complete it; the intention is to take the iron up and to put down steel as rapidly as possible.

Q. Are you now engaged in that business?—A. Yes, sir.

Q. At what rate are you progressing?—A. We have laid 5 miles this season, and expect to lay 10 more.

Q. And you expect to complete the whole road with steel within the next year or two?—A. Within the next two or three years.

By the CHAIRMAN:

Q. Are the rails new steel rails or old steel rails transferred from the Northwestern?—A. They are new 60-pound rails, transferred from the rolling-mill.

Q. Did you ever have any old rails transferred from the Northwestern road and put on the Sioux City?—A. No.

Q. Did you ever hear of it?—A. No, sir.



SIoux CITY, IOWA, Wednesday, June 29, 1887.

GEORGE D. PERKINS, being duly sworn and examined, testified as follows:

By the CHAIRMAN:

Question. You reside in Sioux City?—Answer. Yes, sir.

Q. How long have you resided here?—A. Eighteen years.

REPORTED DONATIONS—THE SIOUX CITY RAILWAY COMPANY.

Q. Have you ever been connected with the Sioux City Railway Company?—A. No.

Q. Have you any knowledge of its early construction?—A. None at all.

Q. Have you any knowledge of the fact that a contribution was made by the citizens of Sioux City to the Sioux City Railway Company?—A. Only from common report, after I came here.

Q. What was the report?—A. The report was that the citizens here had made a liberal donation of depot grounds at that time to the constructing company.

Q. What was the value of the contribution reported at that time?—A. I did not hear any value placed on it.

Q. What would that value be to-day on the basis of real estate in Sioux City?—A. Some one familiar with real estate value or that business could give you that; I do not know.

Q. What is your business?—A. I am the editor of the Journal.

Q. Your knowledge of real estate here would not warrant you in giving an opinion as to the value?—A. It is very imperfect.

THE SIOUX CITY AND PACIFIC AN ENTERPRISING ROAD.

Q. Was there any mention in the reports you have heard of aid by the citizens of the county to the Sioux City road at the time of its construction?—A. Well, sir, there was something in connection with the swamp lands, but the history of it I am not acquainted with.

Q. Can you give the Commission any information as to the facilities and accommodations afforded by the Sioux City road to the citizens of this community?

The WITNESS. In connection with other roads or as an eastern outlet?

The CHAIRMAN. As a railroad centering here generally; as to its freight and passengers.

The WITNESS. I think the Sioux City and Pacific has always been regarded as one of our most enterprising lines; kept its equipment as far in advance as any of the lines centering here, and has given very good service in all respects to our people; the best, perhaps, of any road coming in here.

Q. What have been the rates?—A. I am not at all familiar with the rates; I am not a shipper.

COMPLAINTS OF DISCRIMINATION.

Q. Has there been any complaint in the community as to the question of rates 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 effect would it have upon the Sioux City so far as this community is concerned?

The WITNESS. The effect of the Government taking possession of the road?

The CHAIRMAN. Yes.

The WITNESS. It seems to me it would depend a good deal upon what the Government did with it after it took possession. If the road was maintained and operated as now, and made the same connections, it would not make any difference with the community; it is a "north and south" road.

Q. Is it not equally accessible to the Illinois Central as to the Northwestern road?—A. No, sir; I think not.

Q. If it effected a connection with competing through lines, preserving its local traffic, freight and passenger, the possession of it by the Government would not interfere with its relations to this community or with its capacity to earn its support, would it?—A. No, sir; not if the Government maintained the same connections, I should not think, provided the road did the same business that the Northwestern people are able to get.

Q. Or if the Government operated the road so as to serve all connections other than the Northwestern, or in connection with the Northwestern, what would be the effect of that on the community?—A. That would be an advantage to the community.

#### THE SIOUX CITY AS A CONNECTING LINK.

Q. In what respect?—A. Because it would open the Sioux City and Pacific as a connecting link over which all competing roads centering here might have equal advantage.

Q. And what would be the result as to rates, in your opinion, and as affecting the citizens of this community and the shippers?—A. The effect would be favorable.

Q. What constitutes the bulk of the shipments that pass over the Sioux City—what is the character of them?—A. I am not prepared to say from any positive knowledge, but I should presume the products of the country—cattle, hogs, corn, and merchandise.

#### THE MANUFACTURES ALONG THE LINE.

Q. Have you many manufacturing establishments through this section?—A. Not very many.

Q. Are the citizens of the community looking to the erection of manufacturing establishments here?—A. They are making efforts in that direction.

Q. What is the character of the manufactures of this place?—A. We have now one linseed oil mill, a flouring mill, and our packing establishments. That is, perhaps, our leading manufacturing business now. We have also foundry and machine works.

Q. Are there many cattle coming in here for shipment?—A. I understand that the yards are developing here a good bit.

#### THE UNION STOCK YARD COMPANY.

Q. Who have started yards here?—A. The Union Stock Yard Company.

Q. Is the Union Pacific interested in that company?—A. Not that I know of.

Q. Who is interested in it?—A. Edward Hawkins, I believe, is interested in the company. He is the secretary, I think. He lives here.

Q. Are your railroad people interested in it?—A. Not that I am aware of.

Q. Do you know of any special or preferential rates that are allowed to that company?—A. No, sir.

#### POPULATION AND REAL ESTATE VALUES.

By Commissioner LITTLE :

Q. What is the population of Sioux City?—A. I should prefer that a real estate man should answer that question.

Q. Give us your guess?—A. They took a census here the first of the year and the result of that census was 27,000 as they said.

By the CHAIRMAN :

Q. How have real estate values increased here during the last eighteen years—in what proportion? I am asking you generally now, if you can recall.—A. I should say from 200 to 300 per cent.

Q. That would be the average increase, would it?—A. Yes, sir.

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SIoux CITY, IOWA, *Wednesday, June 29, 1887.*

JONAS M. CLELAND, mayor of Sioux City, appeared in response to an invitation from the Commission.

#### CONNECTION OF SIOUX CITY WITH UNION PACIFIC.

The CHAIRMAN. We would like to have your views as to the Sioux City and Pacific Railway, its freight and passenger traffic, its relations to this community, and its settlement with the Government.

The WITNESS. I do not know that I can say anything as to that. There is but one question that affects us here, and it is a material one. That is a question of rate and the connection with the Union Pacific Railway by the Sioux City and Pacific.

By the CHAIRMAN :

Question. What has been the complaint?—Answer. That we cannot get to the Union Pacific, or that we cannot get approximately the same rate for distance that they give from Omaha.

Q. What seems to be the objection or the trouble that is in the way?—A. As to that, I cannot give you any definite information. I only say that the complaint has been made, and it has been suggested that the matter should be presented at some time to the Commission as to what the relations were between the Union Pacific and the Sioux City and Pacific as to through rate from here by the Sioux City and Pacific over the Union Pacific to western points. I have not any data by which to give you any information specifically on the subject.

Q. How long have you been here in Sioux City?—A. Twelve or thirteen years.

Q. Have you any knowledge of the construction of the Sioux City and Pacific?—A. No.

#### CONTRIBUTION BY SIOUX CITY.

Q. Have you any knowledge of the value of the property that was contributed by the city to the road at the time of its building?—A. At



the time of the contribution I think it was estimated in value at either \$20,000 or \$30,000; that is, gift here for depot facilities.

Q. What would be its value to-day?—A. That is a very hard question to answer.

Q. Has it increased in the same proportion as the other real estate of the community?—A. Yes, sir; I think it has. That is, I think for railroad purposes that the demand for those grounds by other roads for terminal facilities would make the increase in value proportionate to the general increase in values throughout the city.

Q. Would 200 per cent. of increase be a large estimate?—A. No, sir; it would be a low estimate. I think the grounds then donated to the Sioux City and Pacific road are now worth five times what they were when they were donated; I do not know but more than that.

#### NO COMPLAINTS OF DISCRIMINATION.

Q. Have there been any complaints with reference to discriminations in favor of one community as against another?—A. No, sir. I think the Sioux City and Pacific Railway Company have treated our people, so far as rates are concerned, generally very favorably and well.

Q. Have there been any complaints as to preferential rates?—A. Not that I am aware of.

#### PLAN OF SETTLEMENT.

Q. Have you considered the question as to the different bills of settlement that have been before Congress?—A. No, sir; I have never given it any thought one way or the other.

Q. What would be the effect of the Government taking possession of this road—the road to be operated by the Government and having the same connections with other roads as now exist between the Northwestern and Sioux City and Pacific?—A. I do not think I could make any intelligent answer to that; I have not had sufficient knowledge of railroad matters.

Q. You have not given the subject any thought.—A. Not sufficient thought to determine that. As I understand it, the Sioux City and Pacific Railway runs from Sioux City to California Junction and from California Junction to Fremont.

The CHAIRMAN. Yes, that is the aided part of the road.

The WITNESS. I think it is. I think that the benefit that the community here would get from it would be principally a better rate over the Union Pacific road. That might be possible.

#### CHARACTER OF COUNTRY ALONG THE LINE.

Q. Are you familiar with the section of country through which the Sioux City road passes?—A. Yes, sir; I have been over it a great many times.

Q. What is its ability in respect to supporting a railway?—A. The country from Sioux City to California Junction is one of the richest agricultural sections that there is in the Northwest.

Q. How does the population compare relatively to other populations of the State—the population of the Missouri bottom, for instance?

The WITNESS. The population of the Missouri bottom—the north-western portion of the State?

The CHAIRMAN. Yes.



A. I should say it would be about an average. There are some large farms. There is some land held on speculation there, but I should think generally it would fairly average with the northwest.

#### IMPROVED FACILITIES.

Q. How would the facilities to the patrons of the road compare with the early facilities of the road given to patrons?—A. Generally speaking, I think they have improved by increase of trains, &c. The great cause of complaint with us is that neither the Sioux City and Pacific, nor any of the other roads except the Milwaukee, are giving us any passenger depot facilities. We have a passenger depot here for the night train, into which the Sioux City and Pacific train runs, in connection with the Saint Paul and Omaha, where there is not waiting room enough for one-half the passengers.

Q. Has the Sioux City road improved its accommodations for passengers during your knowledge of it?—A. Well, there has been an increased facility for travel. I think there has been an increase in proportion to the demands of the people in everything except passenger depot facilities, and they have been growing steadily worse, until they have become a disgrace and outrage not only to the company, but to our town.

Q. Has the Sioux City always had its relations under agreement with the Northwestern Company, such as now exist, by reason of the control of the Northwestern in the Sioux City and Pacific?—A. I do not know.

#### CHARACTER OF SHIPMENTS.

Q. What is the character of the shipments, as to variety of freight, that pass over the road?—A. Of course a large amount passes over the line of their road. It is a great corn belt and has a good deal of cattle. The shipments from here consist mostly of general merchandise. I think the Sioux City and Pacific road, from my knowledge of it, has done as well for the people of Sioux City, in so far as concerns affording them traffic facilities for freight, as any road has that comes into it, and, so far as rates generally go, over their line. The principal cause of complaint is in regard to a connection with the Union Pacific at Fremont on a better basis.

#### INCREASE OF TRAFFIC.

Q. How has the volume of passenger and freight traffic over the Sioux City road compared with that of ten years ago?—A. That would be more properly asked of the agent.

Q. What has been the decrease of traffic?—A. I should say that it very materially decreased.

Q. Increased with freight accommodations and facilities?—A. Yes. It is impossible to have a freight train without a passenger car, and a passenger car without a freight car, and a freight car without a passenger car.

#### DISCUSSION OF THE PROPOSITION FOR A CONNECTION WITH THE MILWAUKEE ROAD.

Q. How would the proposed connection with the Milwaukee road compare with the present connection with the Union Pacific?—A. I think it would be a great improvement. The Milwaukee road would enable us to get a better connection with the Union Pacific at Fremont, and a better connection with the Milwaukee road at Milwaukee.

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 a longer haul from Kansas City; and the goods are hauled at from \$20 to \$40 a car cheaper than we can send the same goods to Washington Territory.

Q. What line do they pass over?—A. I suppose the Kansas City, Council Bluffs and Saint Joseph. I do not know.

Q. By what line does the same character of freight pass 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 \$30 to \$40 a car more than it would from Omaha.

Q. What company controls the line between Fremont and Omaha, the terminus of the Union Pacific?—A. From Fremont to Omaha the Union Pacific Company controls.

Q. And from Fremont to Blair, what?—A. From Fremont to Blair, as I understand, the Sioux City and Pacific, or the Fremont, Elkhorn and Missouri Valley. I do not know what the division line is there.

The CHAIRMAN (to Mr. Fitch). How is that, Mr. Fitch?

Mr. FITCH. The Sioux City and Pacific.

The CHAIRMAN. Where does the Sioux City connect with the Union Pacific?

Mr. FITCH. At Fremont.

The CHAIRMAN. What branch of the road runs from Omaha to Fremont?

Mr. FITCH. The main line of the Union Pacific.

#### DIFFERENCE IN FREIGHTS FROM SIOUX CITY AND KANSAS CITY.

Q. So that the Sioux City and Union Pacific are not to-day affording to the citizens of this community the same rates of shipment as to the citizens of Kansas City for freights going into Washington Territory—to the same point of shipment?—A. No; I cannot say that, because it goes over different lines of road. But I can say that over the two aided lines, the Union Pacific road to Portland, Oreg., and from Sioux City to the same point of destination over the Sioux City and Pacific to a connection with Fremont, there is a difference reported to me by our shippers of from \$20 to \$40 a car. Of course the distance is greater from Sioux City than it is from Omaha.

Q. Have you a knowledge of the ordinary rate from Sioux City to Fremont?—A. No, sir.

Q. Have you any other information?—A. No; except that I would like you to go to the depot and look at it. The local management here understands our wants, but the power behind the throne does not seem to help us.

The Commission then adjourned, to meet at Omaha to-morrow (Thursday), June 30, 1887, at 10 a. m.

CHICAGO, ILL., *Tuesday, September 13, 1887.*

MARVIN HUGHITT, being further examined, testified as follows:

Commissioner LITTLE. When you were on the stand before we asked you to furnish certain information, to which I will now direct your attention. Can you give us any further information in relation to the purchase of the stock of the Sioux City and Pacific road, and what it cost the present holders?

ACQUISITION OF SIOUX CITY AND PACIFIC BY CHICAGO AND NORTHWESTERN.

The WITNESS. Is that an inquiry directed to the affairs of the Sioux City and Pacific Company, or does it relate to the Chicago and Northwestern Company?

Commissioner LITTLE. We think it is pertinent to the Sioux City Company. We do not want to make any inquiry into the affairs of the Chicago and Northwestern Railway Company further than those affairs are connected with the affairs of the Sioux City and Pacific Company.

The WITNESS. I ask you if that is a question properly relating to the Sioux City and Pacific Railroad?

Commissioner LITTLE. Well, you promised to furnish the information, and we think it is germane to the subjects of inquiry imposed upon us by this act of Congress.

The WITNESS. I cannot answer the question. The Sioux City and Pacific Railroad stock came to the Chicago and Northwestern Company through the purchase of certain roads in Iowa. I explained the matter to you when you were here before. There was no separate account taken of the Sioux City stock.

Commissioner LITTLE. We ask you to furnish all the information you can.

The WITNESS. I can furnish no more information on that point than I have given already.

Question. Do I understand that the Chicago and Northwestern Railway Company own all the stock of the Sioux City and Pacific Railroad?—Answer. No.

Q. What portion of that stock does it own?

The WITNESS. We have answered that question, I think, once, have we not?

STOCK HELD BY M. L. SYKES, AS TRUSTEE.

Commissioner LITTLE. You furnished a statement of the holdings of stock by M. L. Sykes, trustee.

The WITNESS. Yes.

Q. My question now is, who is the legal holder of that stock?—A. The Chicago and Northwestern Railway Company.

Q. Please state how many shares of that stock your company owns.

The WITNESS. We have already furnished that information.

Mr. NORRIS. 18,838 shares.

The WITNESS. Yes; you have that in reply to the interrogatories submitted in your circular.

Mr. NORRIS. But it did not appear in that reply that M. L. Sykes was trustee for the Chicago and Northwestern Railway Company.

The WITNESS. He represents the Chicago and Northwestern Railway Company.

Commissioner LITTLE. Then the Chicago and Northwestern Company is the owner of that stock, and it is held by Sykes in trust for the company—is that true?—A. It is,

Q. Can you tell from whom the company purchased that stock?—A. The stock came to the Chicago and Northwestern Company with other property through the acquisition of the Cedar Rapids and Missouri River road, and the Chicago, Iowa and Nebraska road in the State of Iowa. Those roads were formerly leased by the Chicago and Northwestern Company. The leases were abrogated and the roads merged with the Chicago and Northwestern Company.

#### THE CONSIDERATION PAID.

Q. Do you know what consideration was paid for that stock by the Chicago and Northwestern Company?—A. No.

Q. I suppose it formed a part of the valuable things which the company took by the purchase referred to?—A. It was part of the things they possessed.

Q. As I understand you this stock came to the Chicago and Northwestern Company by purchase through the Cedar Rapids and Missouri River and the Chicago, Iowa and Nebraska roads?—A. Yes.

Q. Do I restate the fact as you stated it?—A. It came to the Chicago and Northwestern Company as a thing belonging to corporations formerly leased to the company, which leases were abrogated; then the roads were sold to the Chicago and Northwestern Company. This stock was part of the general purchase.

#### FORMER OWNERS.

Q. Prior to this purchase by the Chicago and Northwestern Company the stock of the Sioux City and Pacific was held, as I understand you, by the Cedar Rapids and Missouri River Company and the Chicago, Iowa and Nebraska Company—in what portions?—A. I am unable to answer.

Q. Do you know in what capacity it was held; whether in trust by John I. Blair and others prior to the time you acquired it in the manner indicated?—A. My understanding was that the corporations owned the stock, and that Oliver Ames, Horace Williams, and John I. Blair held it in trust. I do not know anything about the personal holdings of those people.

#### NUMBER OF SHARES ACQUIRED BY CHICAGO AND NORTHWESTERN.

Q. If you have not already stated, will you please state the number of shares that the Chicago and Northwestern acquired by this purchase?—A. Eighteen thousand six hundred and forty-one shares.

Q. Will you be kind enough to state the total amount of shares outstanding at the time of this purchase?—A. Eighteen thousand nine hundred and ninety-four shares common stock, and 1,690 interest-bearing stock issued to build the non-aided road from Missouri Valley Junction to California Junction.

Q. Will you please state what additional shares, if any, the Chicago and Northwestern Railway Company has acquired by purchase or otherwise since the original purchase?—A. One hundred and ninety-seven shares common stock.

Q. Will you please state what number of shares, if any, are now outstanding in the hands of parties other than the Chicago and Northwestern Railway Company?—A. One hundred and fifty-six shares common stock.

Mr. NORRIS. The total number of shares recorded here, including both preferred and common, is 20,684.



The WITNESS. No; but if you will name some date, we will furnish the names.

Commissioner LITTLE. I will say for the year 1884.

The WITNESS. I will give you the names.

Commissioner LITTLE. We would like to have the names of the officers and directors, with their residences.

The WITNESS. We will give them.

Q. How many of the first-mortgage bond coupons of the Sioux City and Pacific Railroad remain now overdue and unpaid?—A. \$98,085 on July 1, 1887.

#### PRESENT FINANCIAL CONDITION.

Q. It would appear from that fact that this road is not earning its fixed charges, independent of the debt due the United States.—A. At this present time I think it is; but there have been periods when it did not.

Q. It appears from abstracts taken from the books of the Sioux City and Pacific company that there was due the United States on account of interest, not including compound interest, including the year 1886, \$1,757,395; and it appears from the same books, under the head of income account, that there is a deficit of about \$250,000, which amount should appear in the treasury of your company. Can you explain that?—A. The difference between the amount standing to income and the amount of deferred interest on the Government lien represents the improvements that have been made by the company since the acceptance of the road.

Commissioner LITTLE. Are there vouchers of the company in the company's office showing the expenditure of that money?

The WITNESS. Yes; and your experts have examined the accounts in detail.

#### THE SUPREME COURT DECISIONS.

Commissioner LITTLE. You have kept an account of those things, and it appears from your books that there is an excess of money which ought to be on hand. I wish you would look at this and see if you can explain it. You understand, Mr. Hughitt, that under the decisions of the Supreme Court of the United States, while no part of this Government debt is due, either principal or interest, until 1896-'97, the court has held that it is competent for Congress to change the terms, not only of the act of 1862, fixing the 5 per cent., but the act of 1878, commonly known as the Thurman act, by which some of the Pacific roads are required to pay 25 per cent. into the Treasury of the United States. In view of the holdings of the court, you will understand it is competent for Congress, on the report of this Commission, to fix such additional terms or such different terms as in its wisdom it may determine to do. In view of the powers of Congress thus admitted, I ask whether it is not for the interest of this company to make some effort to pay some portion of this debt before it is due? In other words, I ask you whether it is not for the interest of the Sioux City and Pacific Company to submit some plan of settlement which may look to the extension of the time for the payment of the debt, and perhaps to a lower rate of interest on the amount due? I ask you to state whether it is not for the interest of the company as well as of the Government that you should seriously consider that proposition and submit a plan for the ultimate extinction of this debt, or such portion of it as you may be able to pay?



## SUBJECTED TO SEVERE COMPETITION.

**THE WITNESS.** The investigation you are making of the resources of the Sioux City road is a clear, and, I think, a direct negation of its ability to pay its debts. It would be a very pleasant thing for the Sioux City and Pacific Railroad Company to be freed from its debts. Now, what is its ability to free itself from debt? Investigation shows conclusively that the road is now subjected to severe competition. On that point I would say that since you were here last a new line has been projected by the Illinois Central Railroad Company down the Cherokee River, crossing this road at Onawa, going thence into Nebraska. This is new competition which has arisen since your first visit. I only refer to it now as showing how little we are capable of judging of the future value of a railroad situated as the Sioux City and Pacific is. The Sioux City Company, as a corporation, has no resources not understood by the Commission, and you are competent to estimate these resources as evidencing capacity to pay debts.

**Commissioner LITTLER.** We have personally examined this property, and we have also had our attention directed to the fact that it is now and has been, and will be in the future, subject to the severest competition. We met Mr. Clark, with his surveying party, at Salt Lake City looking for additional routes in the northwestern region. We understand how severe your competition is, yet we do not understand that you wish us to report to Congress that this Government lien is not worth a dollar, nor do we understand that you are willing to have it go to the country that you are not willing or able to pay a dollar on this indebtedness, notwithstanding the situation of your property. None of the bond-aided roads—and some of them are in as bad a condition as this road—have indicated anything of the kind. On the contrary, those who are least able to pay have asked to submit the terms on which they may be able to pay at least a portion of the indebtedness. We want to treat your corporation fairly.

**THE WITNESS.** I do not doubt it.

**Commissioner LITTLER.** And we are here to ask how much you are able to pay. I am not willing to admit you are not able to pay anything. It is for that reason that I ask you to review any conclusion you may have reached to the effect that this debt is wholly lost to the Government, and I invite you to submit some proposition by which this debt may be liquidated.

## CONDITION OF THE COMPANY.

**THE WITNESS.** What the value of the property may be in 1896 nobody can predict. What the company may be able to do then no one can say. I can only judge from the situation as I find it to-day. To-day, if a demand were made on the company for any considerable sum of money, it would not be able to respond.

**Q.** Is it your opinion, as president of the company, that you will be able to liquidate the overdue coupons of the first-mortgage bonds and to keep the interest down until 1897?—**A.** Unless there are some very great changes the road will be able to pay the interest on its first-mortgage bonds as well as the interest on the debt created for the construction of the road from Missouri Valley to California Junction, the part not covered by the Government lien.

## CHARACTER OF COUNTRY ALONG THE LINE.

**Q.** This road runs through a very rich corn-growing region and necessarily has a great deal of local traffic, has it not?—**A.** It runs through

a good corn-growing region, but it meets with failure as often as any other agricultural district.

Q. You regard the road as an important link in the Chicago and Northwestern system, do you not?—A. It is a link, but not an important link.

#### INTEREST ON GOVERNMENT LIEN NOT DUE.

Q. It appears from the earnings of the road for 1886, that it earned \$97,680, the interest on its first-mortgage bonds, and that it earned \$97,609.20, the interest on the Government bonds (which it did not pay)—A. Wait a moment; you have touched upon the point "which it did not pay," before. I would not like to have that go into the record unchallenged. The interest on the Government lien was not due, is still not due.

Commissioner LITTLER. It further appears that it paid \$37,357.74 interest on floating debt, and that it paid \$11,830 dividends, I suppose, on stock.

The WITNESS. It is not, properly speaking, a dividend at all, but interest.

Commissioner LITTLER. It further appears that there was a profit, after paying those items, of \$90,956.85.

The WITNESS. In that particular year.

Q. Was that an exceptionally good year?—A. Yes.

Q. Why?—A. Because the road was operated free from the competition that now exists.

Q. That was in 1886?—A. Yes.

#### THE MILWAUKEE AND SAINT PAUL.

Q. What roads have been built since then?—A. The Milwaukee and Saint Paul Railroad.

Q. What other?—A. That is the only one.

Q. Where does the Milwaukee and Saint Paul road strike the Sioux City and Pacific?—A. It strikes it at Sioux City and parallels it.

Q. Are you able to state what proportion of the traffic which produced this income originated and was carried from Sioux City?—A. No.

Q. I will ask you to give your opinion as to how much of a reduction followed the completion of the Milwaukee and Saint Paul road to Sioux City?—A. The Milwaukee and Saint Paul was only opened this spring.

Q. Have you operated the Sioux City and Pacific road long enough since the opening of the Milwaukee and Saint Paul at that point to determine how disastrous may be the effect of the opening of the Milwaukee and Saint Paul road upon the Sioux City and Pacific?—A. No.

Q. Then it may be that the Sioux City and Pacific road this year will be equally profitable with 1886?—A. I doubt it.

#### ANNUAL REPORT FOR 1887.

Q. You have not received the annual report for the fiscal year ending 1887, have you?—A. We have.

Q. Will you be kind enough to produce it to us?—A. Yes.

Commissioner LITTLER. We would like to see it now, if you please. (The annual report for 1887 produced.)

Q. I call your attention to your current account for the fiscal year ending June 30, from which it appears that the operating expenses were 2,545.35, taxes \$18,541.09, interest on the first-mortgage bond 680, interest on the United States Government lien \$97,609.20, div-

debits on preferred stock \$11,830, and interest on the floating debt \$25,632.23. It also appears that the earnings of the road for that year covered the items above mentioned, and that there was left to the credit of the company the sum of \$49,608.46 as the result of the year's transactions. In view of that fact, will you explain why this road is not a good property, and why it is not able to pay the Government debt?—

#### SHOWS ONLY HALF AS MUCH SURPLUS AS IN 1886.

A. The report for the fiscal year 1887 shows only one-half as much surplus as in 1886. The report for 1887-'88 may show instead of \$49,608.46 profit, not net earnings enough to pay the interest on the first-mortgage bond and the Government lien.

Q. These figures, however, are the results of the operation of the road after the road had felt the deleterious effects of the Milwaukee and Saint Paul competition?—A. No; I wish to correct you on that point. The Milwaukee and Saint Paul competition against the Sioux City and Pacific Company has but just commenced and will not be felt until 1887-'88. Since the building of the Milwaukee and Saint Paul another railroad has invaded the territory of the Sioux City and Pacific, namely, the Illinois Central road, as already explained.

Q. You have not experienced the results of competition from the Illinois Central Railroad yet?—A. They are just building the road.

#### AMOUNT OF EARNINGS OF SIOUX CITY AND PACIFIC.

Q. The figures I have quoted show that the Sioux City and Pacific Company has earned enough money not only to pay all its fixed charges but also to include the interest on the Government debt. You so reported in this paper, did you not?—A. For some years, yes.

Commissioner LITTLE. Mr. Norris, the statistician of the Commission, calls my attention to the earnings of the Sioux City and Pacific road for the years 1884, 1885, 1886, 1887, excluding the interest on the Government debt. Those earnings appear to have been as follows:

|            |           |
|------------|-----------|
| 1884 ..... | \$125,000 |
| 1885 ..... | 100,000   |
| 1886 ..... | 187,000   |
| 1887 ..... | 146,000   |

The WITNESS. I do not understand Mr. Norris's figures, but whatever the accounts of the company show are correct. I do not understand what those figures refer to.

#### WHY IT IS NOT A GOOD PAYING PROPERTY.

Q. In view of those figures will you please explain your former statement to the effect that this property is not a good paying property?—A. I have fully covered that ground in answers heretofore made.

Q. If I understand your former answer, you covered the ground by stating in substance that the earning capacity of this road was increased by contributions from connecting lines?—A. I think I stated at the first interview that it had been necessary from year to year, running over a considerable period of time, for other railroads to make contributions; also, in the division of joint earnings, or interchange of traffic, to allow it more than its pro rata proportion, in order to make up the deficiency in the Sioux City and Pacific income.

## DIVISION OF FREIGHT EARNINGS.

Q. Can you furnish to this Commission a statement of the contributions made by the connecting lines to the Sioux City and Pacific Company in order to enable it to meet its fixed charges?—A. We can furnish you a statement of the basis of division of freight earnings between the roads that existed from year to year.

Q. Do I understand that that division was an arbitrary one and it resulted in favor of this company?—A. Yes.

Q. Did it represent excesses over a fair pro rata?—A. Yes. All of it was in excess of a pro rata.

## USE MADE OF SURPLUS EARNINGS.

Q. In view of the fact that you are keeping your accounts so as to provide for the Government interest as it accrues, and in view of the fact that the earnings of this road cover the interest for the last few years, particularly for the years 1886 and 1887, I ask you to state what distribution you are making of this \$97,699.20—whether you are placing it in a sinking fund for the purpose of ultimately applying it, or whether you are carrying it into the general account of the company?—A. As I understand, the surplus income, during the years that the road has had any surplus, has been applied to the payment of deficiencies in former years and for necessary improvements.

Q. Deficiencies to the Government of the United States?—A. No.

Q. Other deficiencies?—A. Yes.

## NO PLAN PROVIDED FOR PAYMENT OF GOVERNMENT LIEN.

Q. My attention is called to the fact that during the entire history of this Sioux City and Pacific Railroad there has been but one or two years in which there has not been a profit arising from the operation of the road, excluding Government interest. I therefore ask you again to state whether you have created any fund for the purpose of liquidating the principal or interest which will be due the United States in 1896-97.—A. There has been no fund created or plan provided by the stockholders for the payment of the Government lien at maturity.

## TOTAL AMOUNT OF NET EARNINGS.

Q. State, if you can, the total amount of net earnings arising from the operation of this road from the time it was opened to the close of the last fiscal year.—A. Excluding interest on the Government lien, it was \$410,003.57, including proceeds of lands sold, donations, accretions, &c.

Q. Do I understand that the road has only earned that amount of money, not taking into account the payment of any portion of the Government interest?—A. Yes. The amount of accrued interest on the Government lien on the 30th of June, 1887, was \$1,855,094.29, but the total amount to the debit of income account to that period was \$1,445,090.72. The difference between those two sums represents the income of the company over and above the interest on its first-mortgage bonds and other charges against income.

## EARNINGS EXCEED INTEREST ON FIRST MORTGAGE BONDS.

Q. It then appears very clearly that, notwithstanding the misfortunes of this road, it has at all times been able to earn more than interest on its



first-mortgage bonds, and, according to the last statement, it has earned for the whole period of its operation a net sum of \$410,003.57?—A. As you put the question it would convey an erroneous impression.

Commissioner LITTLER. You may answer it as you please.

The WITNESS. There were years when the income would not have paid interest on the first-mortgage bonds and interest on the preferred shares without the aid extended to it by connecting lines of road; but, covering the whole period, from the time the road was opened until the close of the fiscal year 1887, the figures just given are correct.

Commissioner LITTLER. But my assumption is also true, is it not?

The WITNESS. Yes; but if you have a note maturing at a bank you must have the money to pay it. It would make no particular difference about your expecting to have the money two years hence. If you have not the money to-day you are lost. If the road had been operated on its merits, as other roads are, there would have been no profit at all.

Commissioner LITTLER. That may be, but operated as it was and is, under the fostering care of the Chicago and Northwestern Railway Company, it has earned more than \$410,000 beyond its fixed charges, excluding the Government debt.

The WITNESS. Not earned, but has received that sum.

#### OVERDUE AND UNPAID COUPONS.

Q. Now, I ask why there should be any overdue and unpaid coupons on the first-mortgage bonds? Why has not this surplus been applied to the liquidation of those unpaid coupons?—A. Because that surplus has been used in building the improvements necessary in the operations of the road, and as a working fund. Station agents and conductors owe the Sioux City and Pacific road, June 30, \$133,714.64. The stock of material and fuel on hand amounts to \$89,119.36. It had a cash balance of \$31,014.76. The Chicago and Northwestern Company requires a working fund of about \$7,000,000. The Sioux City and Pacific road requires a working fund of about \$400,000. Such a fund is as necessary to a railroad as its track.

#### A WORKING FUND PROVIDED.

Q. Do you think it good management to set apart such a working fund, in view of the fact that you are allowing your first-mortgage coupons to mature and remain unpaid, and thereby putting it in the power of the bondholders to foreclose the road?—A. It is not set apart. Every dollar is collected as fast as it can be and applied.

Commissioner LITTLER. Do I understand you to say that there is \$410,000 outstanding and uncollected of the funds of this company?

The WITNESS. No. \$218,025.52 has been expended in new construction for sidings, additional platforms, buildings, and such things as were needed. The company has not had enough money, up to June 30, by over \$100,000, to meet its just wants. There are \$98,085 past due coupons unpaid. If the company had money enough those would have been paid and retired. As fast as the company gets the money the coupons are taken up and canceled. Ever cent that can be has been used to pay debts.

#### INTEREST ON COUPONS.

Commissioner LITTLER. Will you please tell us when you last paid any money on those coupons?



The WITNESS. On the 30th of June last six months' interest was paid, or \$48,945; all that we had money to pay.

Commissioner LITTLE. It is not, I suppose, part of the policy of the company to allow the coupons of the first-mortgage bonds to accumulate and remain unpaid with the view of increasing the amount of the indebtedness due on the first-mortgage, looking to an ultimate foreclosure and the wiping out of the Government lien?

The WITNESS. On the contrary, it is the policy of the company to redeem every coupon as fast as it can. You will find, if you go back to June 30, 1884, that the amount of first-mortgage coupons unpaid at that time was \$136,440. The amount has been reduced to \$98,085.

#### FUTURE PROSPECTS OF REDEEMING COUPONS.

Q. Is it your opinion that in the future you will be able to redeem these coupons and from thenceforward pay all the interest accruing on the first-mortgage bonds?—A. That depends altogether on the earning capacity of the road.

Commissioner LITTLE. Of course. I expect you to take that into account in answering that question. You are thoroughly familiar with it.

A. I am not able to foretell the future earning capacity of the road. He is a wise man that can tell what a railroad will earn in the future, considering the number of roads constantly being built paralleling other roads, and considering the reductions in charge that are being constantly made. The whole tendency is towards lower rates, and consequently diminished income.

Q. Do you expect any further competition by the construction of new lines crossing the Sioux City and Pacific road?—A. During the last two weeks I have not heard of any new corporations being formed for the construction of additional railroads in that district. What the next two weeks may bring forth I cannot tell. I understand that there is a road being projected from Saint Paul down to that district.

#### REFUSAL OF UNION PACIFIC TO EXCHANGE TRAFFIC AT FREMONT.

Q. I understand you to attribute the failure of this property to earn money largely to the great competition to which it is being subjected and not to the fact that it has not a good local traffic, or that it does not run through a splendid country. How is that?—A. You should not overlook the fact that when the road was first built it ran through a country in which the population was very sparse. It had little or no business; and you understand, I suppose, that while it is a branch of the Union Pacific Railroad, the latter, from the date of its opening until to-day, refuses and persists in refusing to exchange traffic with it at Fremont.

#### ASSUMPTION OF OBLIGATIONS BY CHICAGO AND NORTHWESTERN.

Q. I wish to call your attention to a resolution that appears upon the minutes of the Sioux City Company, at page 567, under date May 21, 1884. In order that the resolution may properly appear upon our record I will read it:

On motion of Mr. John I. Blair, the following resolution was unanimously adopted:

Whereas negotiations are now pending for the sale by this company to the Chicago and Northwestern Railway Company of this company's interest in the rolling-stock and equipment furnished to this company by Oliver Ames and David P. Kimball, under the equipment lease, and also for the rolling-stock and equipment for which this company now has equipment notes outstanding, for which rolling-stock and equip-

ment, and for other good and valuable considerations, the said Chicago and Northwestern Railway Company is to assume and pay the indebtedness of this company under the said equipment lease; and also this company's equipment notes now outstanding, together with the interest on its preferred stock as it shall mature, and all other just debts and liabilities of this company other than its indebtedness to the United States: Now, therefore,

*Resolved*, That the proper officers of this company be, and they are hereby, authorized and empowered to make and execute whatever contracts and agreements shall be requisite and necessary to carry such arrangements into effect in the event that said negotiations shall be favorably concluded.

I will get you, if you please, to state whether you were present at the time that resolution was adopted.—A. I was not; it was before my connection with the Sioux City and Pacific Railroad Company.

#### EXCLUDING THE GOVERNMENT DEBT.

Q. Is it a fact that in pursuance of that resolution obligations were executed on the part of the Chicago and Northwestern Railway Company to assume all the obligations mentioned in the resolution except the debt to the United States Government?—A. Yes.

Q. Can you explain the partiality that was exhibited in this resolution in providing for all the debts except the debt to the Government?—A. I was not an officer of the Sioux City Company at the time, and am not in possession of the information that prompted that paper.

#### POOLS.

Commissioner LITTLER. My recollection is that we requested you to furnish us information in regard to pooling contracts.

The WITNESS. Yes.

Commissioner LITTLER. Have you that information at hand?

The WITNESS. In what form do you want it.

Commissioner LITTLER. We would like to see, in the first place, all the pooling contracts in which the Sioux City Company is interested.

The WITNESS. I do not think you asked for those, but we will furnish them. I do not know that the Sioux City and Pacific Company was a party, direct, to any pooling contract that we have record of here. There was only one pool, I understand, that the Sioux City and Pacific Company was directly concerned in; that was a pool on Sioux City business in which the Sioux City road, the Illinois Central road, and the Milwaukee and Saint Paul road were interested. The Chicago and Northwestern Company, as a connection of the Sioux City and Pacific, was a party to the pool.

#### THE DAKOTA SOUTHERN.

Q. Was the Dakota Southern Railroad embraced in that pool or in some other pool in connection with the Sioux City and Pacific?—A. There was such a road, I think, some time in the seventies. I think it was a road built from Sioux City up to Yankton, and was afterwards acquired by the Milwaukee and Saint Paul Railway Company. I have no knowledge, however, of any pool in which the Dakota Southern was interested with the Sioux City and Pacific. There may have been some pooling arrangement antedating my connection with the Sioux City and Pacific road with which I am not familiar.

#### REQUEST OF COMMISSION FOR COPIES OF POOLING CONTRACT.

Commissioner LITTLER. I will ask you at your leisure to furnish us copies of any pooling contract in which the Sioux City and Pacific Railroad Company is interested.

**The WITNESS.** Yes.

**Commissioner LITTLER.** I will also ask you to furnish us in that connection a statement of the amount received from those pools and the amount paid out on account of them by the Sioux City and Pacific road.

**The WITNESS.** Yes; if there was anything coming to the Sioux City and Pacific from any pool it got it.

**Q.** How long have you been connected with the railroad business?—  
**A.** Since 1857

#### POOLS ADVANTAGEOUS TO RAILWAYS AND SHIPPERS ALIKE.

**Q.** During that time have you had occasion to look into the advantages and disadvantages to railway companies arising from the making of pool contracts?—**A.** Somewhat.

**Q.** As an expert railway man I ask your judgment as to whether, prior to the adoption of the interstate commerce law, or even since, the pool contracts resulted favorably or unfavorably to railway companies?—  
**A.** I think they favored the railway companies and the shippers alike.

**Commissioner LITTLER.** I will ask you to elaborate a little on that subject.

**The WITNESS.** They favored the railway companies in the maintenance of uniform rates; the public were benefited by that uniformity in this respect, among others, that it was able to forecast the future.

#### EFFECT ON NET AND GROSS EARNINGS.

**Q.** What has been the effect, as a rule, on the net and gross earnings of railway companies who have engaged in pooling contracts?—**A.** That is so general a question that I could not answer it specifically.

**Commissioner LITTLER.** You may make your answer as broad as you please.

**The WITNESS.** Pooling prevented reckless competition, and that of course favored the income of railroads.

**Q.** Is it a fact that as a rule the pool contracts inure to the benefit of the parties to them?—**A.** Yes, but to shippers also.

#### POOLS HAVE NOT INCREASED RATES.

**Q.** I would like you to explain how the patrons of the railroads would be beneficially affected by a pool which increased rates?—**A.** The pools have not increased rates; they have preserved them, that is all.

**Commissioner LITTLER.** But in the hypothetical case which I put the pool's do increase the rates?

**The WITNESS.** I hold that pools have not increased rates. That is proven by the decline in the rate per ton per mile that all companies have suffered. When I entered the service of the Chicago and Northwestern Railway Company in 1872 we had a pool between Chicago and Council Bluffs, which covered a large volume of business. That pool existed between thirteen and fourteen years, but there was not a month in all that period when the rate per ton per mile on the traffic it covered did not decline. As an evidence of the decline in rates on railways I would say that the rate per ton per mile on the Chicago and Northwestern road during the last thirteen years has declined 50 per cent. Pooling agreements have not had a tendency to increase rates.

#### POOLS PRESERVE STEADINESS OF RATES.

**Commissioner LITTLER.** I wish you would explain how a pooling contract fixing arbitrary rates per ton per mile could result (pro-

viding the agreement was kept in good faith) in the reduction of rates steadily year by year as you have described.

The WITNESS. I think you overlooked—and I think it is customary with most people who consider railway matters to overlook—the fact that a pool is not intended to keep rates at an excessive figure.

Q. They mention arbitrary figures, do they not, as a rule?—A. As a rule, but the pool simply preserves steadiness of rates. It does not follow that because there is a pool the rates under that pool are extortionate or unreasonable. The reverse is the case. A pool is a provision for tonnage to be moved at prices prompted by the necessity of the shipper and the carrier alike.

Q. But it depends entirely on the provision of the pool contract whether there is a sliding rate, does it not?—A. Not at all. The Chicago and Northwestern Company has never been a party to a pool the terms of which prescribed rates. Rates have been left to be decided according to the necessities of shippers.

#### HOW POOLS ARE MANAGED.

Q. Who decides that, the pool commissioner?—A. No; the board of managers having charge of the pool.

Q. Your pool contracts then differ greatly from a number of pool contracts that have been submitted to this Commission from time to time. The majority of those provide in arbitrary terms for rates which are specified, and provide that they are to be kept and maintained. If such a contract as that was made, I ask you how it would be possible for a change to be made in the rate, provided the contract were maintained?—A. I do not know of any pools in which the commissioner has the power to fix rates and maintain them arbitrarily. Pools simply cover an arrangement for the division of tonnage. That I believe is the principle underlying all pools. Where commissioners have any authority at all it is an authority to inquire into the manner in which the rates were kept by the roads having an interest in the pool.

#### TENDENCY OF COMPETITION TO FORCE DOWN RATES.

Q. Is it not true that the tendency of the times under the law of competition necessarily year by year forces down the rate charged by railways, independent of all pool contracts?—A. Yes; that is why the rate per ton per mile on the Chicago and Northwestern road has declined 50 per cent. in thirteen years.

Q. Is it not true that to counteract that natural law these pool contracts have been entered into by which it has been sought to maintain the rates?—A. Not at all; the pooling contracts are a necessity because of the great number of railroads that have been constructed.

#### A POOLING CONTRACT DOES NOT DESTROY COMPETITION.

Q. Is it not true that the pooling contract operates to destroy the law of competition to a certain extent?—A. No.

Q. Why not?—A. It operates only to maintain reasonable compensation for service rendered.

Q. Why does it not tend to destroy the law of competition? For instance, there are four or five great trunk lines running to Omaha; before the passage of the interstate commerce law, if there had been no pool, would there not have been such a scramble for the traffic as, under the law of competition, to force the rates down materially below



the rates fixed by the pool?—A. No; before the interstate commerce law we had pools, and there was competition within the pools.

Q. I understand that, but is it not true that you have now substituted for the pool contract an agreement to maintain rates?—A. We have substituted for the pool contract an understanding that rates shall not be changed without notice and agreement.

Q. That, in effect, amounts to a contract to maintain rates?—A. No, sir; it amounts to a contract not to change rates without notice.

Commissioner LITTLER. Well, I do not care to pursue that inquiry any further.

#### NOR INCREASE RATES.

The WITNESS. I would like you to pursue it, because I believe advantages accrue to the public from pools. They tend to maintain reasonable and uniform rates for service rendered, which is an advantage to the public as well as to the railway. I know that it cannot be shown that any pool in which the Chicago and Northwestern Company has been interested increased the rates. The first pool was between Chicago and the Missouri River. In that pool there were three railroad companies, the Burlington, the Rock Island, and the Chicago and Northwestern. They had what people called a monopoly—a term without significance when applied to American railways; but one much used and abused. The man that drove my cab home last night had a monopoly. There was only one cab on the stand and I had to take it or walk. The rate per ton per mile declined month by month during the operation of the Council Bluffs pool, and yet there was no quarreling, no disagreement; it was as firm a pool as could be made, yet the rates went down and down. Why? Because the necessities of commerce required it.

#### EFFECT OF COMPULSORY UNREMUNERATIVE TARIFFS.

Q. Where do you think those rates would have gone if there had not been a pool?—A. They would have gone down to a figure that would have bankrupted the railroads. I assume that you must have revenue for a railroad; you cannot maintain them without. You have an instance of this in Illinois where there are more bankrupted railroads than in any other State in the Union, because of the tendency to make railroads adopt tariffs that are not remunerative. Under such a state of affairs there is always a disposition to run rates up excessively one month and then in the next month to put the tariff below a living figure.

#### RELATION OF POOL CONTRACTS TO GROSS EARNINGS.

Q. Is it not true that under the pool contracts the gross earnings of railroads have been increased over and above what they would have been without them?—A. I am not so clear about that. In the absence of pools the law of necessity would govern the railroads; they would run perhaps six months at a loss; they would then become alarmed at the result and in the next six months would endeavor to make up the loss by charging excessive rates.

Q. As the head of this great corporation you are entirely too smart, I take it, to make an agreement that would not be profitable for your company?—A. I hope so.

Q. And you enter into those agreements in the interest of your corporation?—A. Yes; but also in the interest of our patrons to a much greater extent than the public is willing to give us credit for.



Q. The patrons only pay into the treasury as they are compelled to do?—A. Some of our patrons are our stockholders.

Q. But I presume that only a small portion of your patrons have any interest in the corporation as stockholders?—A. I am not prepared to answer as to that.

Q. Not many of the people living along the 5,000 miles of this road are stockholders?—A. I could not say.

#### DIAGNOSIS OF A GOOD RAILROAD MANAGER.

Q. Is it not true that every good railroad man looks first to the interests of his corporation without regard to the public, and that in the operation of the road he is in antagonism, in one sense, to the traveling public and to the shipping public?—A. My diagnosis of a good railroad manager is one that looks quite as much to the interests of the public as of the shareholder, because that is the most direct and sensible way of keeping up the business of a company. Show me a railroad that is not at peace with the people along its lines, that does not try to deal fairly by them and I will show you a property, the securities of which are not held in good estimation. Therefore I say that the railroad man who looks after the interests of the shareholder must also look sharply after the interests of the public.

Commissioner LITTLE. Like Desdemona in the presence of her father and her husband you "perceive here a divided duty."

The WITNESS. I will say this, I spend my whole time in the interests of the public and this company; we try to serve the public faithfully.

Q. You will give us a copy of this pool agreement, I understand?—A. Yes.

#### OFFICERS OF THE CEDAR RAPIDS AND MISSOURI RIVER RAILROAD.

Q. And with it a statement of the amount paid and the amount received under the pool agreement?—A. Yes. The following are the officers of the Cedar Rapids and Missouri River Railroad, elected July 26, 1883: Horace Williams, president, Clinton, Iowa; Wm. T. Glidden, vice-president, Boston, Mass.; P. E. Hall, secretary, Cedar Rapids, Iowa; D. P. Kimball, treasurer, Boston, Mass.; J. Van Deventer, assistant treasurer, Clinton, Iowa; Henry V. Ferguson, auditor, Cedar Rapids, Iowa. There has been no change apparently in the officers of that road since the election of July 26, 1883.

Q. Have you such a book in your office as a rebate book, pertaining to the Sioux City and Pacific Railroad Company?—A. No.

#### RECORD OF REBATES.

Q. Where do you keep your rebate accounts?—A. We have a record of what you call rebates since 1884.

Q. What became of the rebate record of the Sioux City and Pacific Company prior to that time?—A. It is more or less incomplete before that time.

Q. They are in the custody of this company?—A. Yes.

Q. If you can make a statement with the rebate vouchers we should be glad to have you do so.—A. There is no such a thing as a distinct rebate book of the Sioux City Company, but a list of the rebate vouchers can be made up.

Commissioner LITTLE. I supposed they had been made up as the business was transacted.

**The WITNESS.** Precisely what information do you want?

**Commissioner LITTLE.** I will read from the act of Congress creating this Commission the provision that bears upon this point. The act requires us to ascertain "what amounts have been deducted from the gross earnings of any of the said aided railway companies by their general freight and passenger agents or auditors by way of rebate, percentage of business done, constructive mileage, monthly or other payments, or any pooling or rate arrangements, contract or agreement."

#### REBATE VOUCHERS AND WHAT THEY SHOW.

**The WITNESS.** It would be a full and complete compliance with that requirement if we were to furnish you with a list of all the rebate vouchers and of any moneys that the Sioux City and Pacific Company may have paid under any pooling agreement, where the balance for a stated period in the agreement would be against that company. But you should, I think, and I presume you intend to, inquire whether anything has been received from that source.

**Commissioner LITTLE.** Certainly. I do make that inquiry. The very object of this whole inquiry is to see what effect the pooling arrangement has on the operation of the road.

**The WITNESS.** These vouchers, except those relating to pools, simply represent overcharges that have been made.

#### PUBLISHED TARIFF RATES.

**Commissioner LITTLE.** Please furnish us with a copy of all your published tariff rates, embracing freights and passengers; and in addition to that, a statement of all special rates which you may have prescribed at any time, and a statement of net rates under which you have operated the road.

**The WITNESS.** All that information is on file with the Railroad Commissioner at Washington since July 1, 1884.

**Commissioner LITTLE.** I only call for such information as is prior to the time that you have furnished such information to the Railroad Commissioner. I also ask for a statement of gross receipts as distinguished from gross earnings.

#### STATEMENT OF GROSS EARNINGS, &C.

**The WITNESS.** I understand you want a statement of gross earnings without deduction of overcharges and so-called rebates?

**Commissioner LITTLE.** And without including the settlement of pool balances. I would like you also to furnish, if you can, a list of the officers and directors of the following companies: The Iowa Falls Contracting Company, the Missouri Valley Land Company, the Sioux City and Pacific Town Lot Company, the River Sioux Town Lot Company, the Missouri Valley and Blair Railway and Bridge Company, the Fremont, Elkhorn and Missouri Valley Railroad Company, and the Chicago and Northwestern Railroad Company, from 1869 down to date.

**The WITNESS.** We can only furnish you a list of officers of the Fremont, Elkhorn and Missouri Valley Company, the Missouri Valley and Blair Railway and Bridge Company, and the Chicago and Northwestern Railway Company.

**Q.** Can you direct our attention to any source from which we can get a list of the officers of the other companies?—**A.** Not unless you can get them from the old officers of the Sioux City and Pacific Company.

**Q.** What officer would be likely to know?—**A.** No one here that I know of. Nobody here has ever had anything to do with those companies.

**Commissioner LITTLER.** The reason why we ask for that information is, that the act of Congress under which we are proceeding calls for information as to whether the officers of any of those corporations are interested in other railway corporations, &c., and to what extent.

#### RELATIONS WITH CHICAGO AND NORTHWESTERN.

**Q.** From the time of the completion of the Sioux City and Pacific Railroad, state whether or not there were traffic or running arrangements between the Chicago and Northwestern Railway Company and the Sioux City and Pacific Railroad Company, and whether they were not operated in the interest of each other.—**A.** The Sioux City and Pacific Railroad was the connecting line of railway with the Chicago and Northwestern road at Missouri Valley to Sioux City and to Fremont, west of the Missouri River into Nebraska, and in competitive traffic they affiliated, as all railroads do, where two are necessary to form a through line of road.

#### GOVERNED ONLY BY MUTUAL INTEREST.

**Q.** They were operated as in mutual interest rather than in competition?—**A.** No; I cannot say that they were operated in mutual interest or that it would be proper to use the term "affiliate." They were affiliated to the extent that it was necessary to conserve their mutual interests in the transaction of through business.

**Q.** There was no antagonism?—**A.** There was no antagonism; neither was there any merging or anything of that sort.

**Q.** I suppose it is true that there was more harmony between the director of those two roads than there was between either of the roads and any other road, for the reasons you have already given?—**A.** I cannot speak as to that.

**Commissioner LITTLER.** When I use that term, I mean the managers of the roads.

**The WITNESS.** The managers were on good terms and worked the roads in harmony wherever there was competitive traffic which they could get when acting together, and which they could not get when acting separately.

#### OTHER INTERESTS OF SIOUX CITY AND PACIFIC PEOPLE.

**Commissioner LITTLER.** I will direct your attention to this inquiry in the act: "Whether any of the directors, officers, or employes of the Sioux City and Pacific Railway Company have been, or are now, directly or indirectly interested, and to what amount or extent, in any other railroad, steamship, telegraph, express, mining, construction, or other business company or corporation, and with which any agreements, undertakings, or leases have been made and entered into."

**The WITNESS.** I am unable to answer that question in the form in which it is intended. I do not know to what extent people who are shareholders or directors in railroads other than the Sioux City and Pacific were shareholders in that company. I think that is as full and conclusive an answer as I can give.

**Q.** Do you know whether they were owners to any extent?—**A.** No.

**Q.** Do you know whether they had any agreements or leases with this company?—**A.** No.

Q. You know that John I. Blair is or was interested in the Sioux City and Pacific Company, and that he had large interests in other railroads, such as the Cedar Rapids and Missouri River Railroad?—A. There are persons who were interested more or less in all those companies, I presume.

Q. But you do not know the extent of their interests?—A. No.

#### BLAIR, WILLIAMS, AMES, AND KIMBALL.

Q. What persons do you refer to as having been interested in all those companies?—A. I presume that if you were to take a list of the shareholders of those roads at the time the books were closed at some annual meeting (and it is only when the books are closed and the shares are transferred that you are able to tell who owns the railway, and that only applies to periods of annual meetings), you would find on the list of the shareholders of those various companies parties who owned stock in the other companies. I am not able to say who they were nor to what extent they held stock.

Q. I suppose you are sufficiently familiar with the holdings of Blair and Williams and Kimball to know that they were interested in a number of these corporations, and continued from year to year to be interested?—A. I do not know to what extent the persons named were interested as shareholders in the Sioux City and Pacific Company.

Q. Is it not true that the Fremont, Elkhorn and Missouri Valley Railroad was owned and controlled by the same persons who owned and controlled the stock of the Sioux City and Pacific Railroad?—A. I do not know.

Q. Is it not true that Blair and his associates (Williams, Kimball, Oliver Ames, and other Boston parties) owned a majority of the stock of both these companies at the time they were leasing one to the other?—A. I do not know to what extent they were interested in the several companies.

#### LEASES WITH VARIOUS COMPANIES.

Q. There was a lease between the Sioux City and Pacific Company and the Fremont, Elkhorn and Missouri Valley Railroad?—A. Yes.

Q. Was there not also an agreement between the Missouri Valley and Blair Railway and Bridge Company and the Sioux City and Pacific Company?—A. Yes.

Q. Was there not also a contract or agreement of some kind between the Sioux City and Pacific Company and the Cedar Rapids and Missouri River Company?—A. I do not know.

Q. Was there not such an agreement with reference to the operation of those roads and the rates?—A. There was no agreement direct between the Cedar Rapids and Missouri River Railroad Company and the Chicago, Iowa and Nebraska Railway Company in relation to interchange of traffic with the Sioux City and Pacific Railway Company that I am advised of. You must bear in mind that the two former companies were leased, and the lessor had nothing whatever to do with the operations of the property. So far as there was any traffic arrangement, it was through the medium of the lessee, the Chicago and Northwestern Company.

#### THE CHICAGO AND NORTHWESTERN AGREEMENT.

Q. It was with the Chicago and Northwestern Company and not the other road that the agreement was?—A. If by "agreement" you mean

current daily transactions or understandings covering the interchange of traffic, the Chicago and Northwestern Railway Company was the party.

Q. Is it not true that at the time the agreement was made between the Sioux City and Pacific Company and the Chicago and Northwestern Company and the other roads you have mentioned, John I. Blair was a large stockholder in all those companies, or at least in more than one of them?—A. You persist in referring to an agreement between the Chicago and Northwestern Company and the Sioux City Company when I repeatedly say there was none. The two corporations chartered by the State of Iowa and operated in obedience to its laws must interchange traffic; if this requirement constitutes an agreement then you are right in referring to it as such. The two corporations had no agreement. I do not know anything of the holdings of John I. Blair.

JOHN I. BLAIR.

Q. Is he not a director in the Chicago and Northwestern Railway Company to-day?—A. Yes.

Q. Is he not a large stockholder in the company and has he not been such for years?—A. I do not know to what extent he is a stockholder to-day, nor for how many years he has been such, nor to what extent.

Q. But he is a stockholder to-day?—A. Yes.

Q. And has been such for how many years to your certain knowledge?—A. To my certain knowledge no longer than he has been a director.

Q. How long has he been a director?—A. Since June 4, 1885.

Q. Is it not true that his holdings with the Chicago and Northwestern Company were very large on the stock books prior to the last annual election?—A. I do not know.

Q. In view of the fact that we take hearsay evidence I will ask you in this connection what you understand to be the fact as to Mr. Blair's holdings in the Chicago and Northwestern Company?—A. I have no understanding as to the fact.

Q. What is he reputed to be the holder of?—A. I do not know. I have never heard it stated how many shares he had and I have never inquired.

#### SIoux CITY AND PACIFIC STOCK HELD BY IOWA LEASED ROADS.

Q. Do you not understand that at the time these negotiations and contracts were made between the Sioux City and Pacific road and these other roads, John I. Blair was not only a large stockholder in the Sioux City and Pacific Company, but was also a large stockholder in the other roads with which these negotiations were carried on and finally completed, or whether he was not a large stockholder in those roads at any other time?—A. My belief is that John I. Blair was not a stockholder in the Chicago and Northwestern Company up to the time of the abrogation of the Iowa leases and the sale of those properties to the Chicago and Northwestern Railway Company. It is also my opinion that Mr. Blair was not a stockholder in the Sioux City and Pacific Railroad. You will remember that I have stated all along, in this inquiry, both when you were here before and now, that the Sioux City and Pacific Company's stock was held largely by the leased Iowa roads, but just in what proportions I do not know.

Q. John I. Blair was a trustee, was he not, with Oliver Ames and Horace Williams?—A. I do not know.

Q. The books will show?—A. I suppose so.



## BLAIR'S INTERESTS IN OTHER ROADS.

Q. What have you to say concerning his interests in the other roads that we have been talking about?

The WITNESS. You mean the Chicago, Iowa and Nebraska and the Cedar Rapids and Missouri River?

Commissioner LITTLER. Yes.

The WITNESS. Do you want hearsay testimony on that subject?

Commissioner LITTLER. Yes.

The WITNESS. I understand Mr. Blair was a large holder in those roads, but whether stock or bonds, I do not know.

Q. Did that holding extend to a controlling interest?—A. I think not.

Q. What is your understanding as to the holdings of Horace Williams or of Oliver Ames?—A. I know nothing of the holdings of the various persons in those companies. I think it would be a fair statement to make, that the ownership of those railways—the Cedar Rapids and Missouri River road and the Chicago, Iowa and Nebraska road—was very largely represented in their respective boards of directors.

## SIOUX CITY AND PACIFIC NOT INTERESTED IN OUTSIDE ENTERPRISES

Q. Please state whether the Sioux City and Pacific Company has at any time invested any of its moneys or other assets in the stock or bonds of any manufacturing, mining, or commercial company or companies, or of other railroad corporations.—A. I do not understand that it has.

Q. The books of the company fail to show anything on that subject; is not that so?—A. They would show it, I think, if anything of the kind had occurred.

Commissioner LITTLER. According to the balance sheet before me, under the head of "Due from other companies," there appears to be a number of large sums outstanding amounting to several hundred thousand dollars.

The WITNESS. The balances referred to are not cumulative. They represent traffic balances.

Commissioner LITTLER. From year to year?

The WITNESS. From month to month.

Commissioner LITTLER. Then they do not represent investments referred to in interrogatory No. 3 of the Commission's circular?

The WITNESS. No.

## WHAT THE BOOKS SHOW.

Q. So far as you know, has the Sioux City and Pacific Company observed all the obligations imposed upon it by the laws of the United States, in reference particularly to the subsidy granted?—A. So far as I know.

Q. Have the books of the company been so kept as to show the net earnings of this road? In fact, what do the books show in regard thereto, and what have been in fact the net earnings?—A. My understanding is that the books and accounts of the company show the net earnings.

Q. Is it not true as to the Missouri Valley branch, six or seven miles long, that its earnings have been mixed up with the earnings of the Sioux City and Pacific proper, and that the earnings have not been kept separate so far as that little branch is concerned?—A. The books show

the separate earnings of that section, over which all traffic interchanged with the Northwestern Company must pass.

Commissioner LITTLER. They must be kept separate in order to arrive at the Government's 5 per cent.

The WITNESS. But the gross earnings of that section are shown in the gross earnings of the main line.

#### METHOD OF COMPUTING NET EARNINGS.

Q. In order to arrive at the net earnings you deducted from the gross earnings in Iowa seven and twenty-nine hundredths per cent. as the proportion of the road from Missouri Valley to California Junction, unsubsidized. Is that the way you arrived at the net earnings of the aided road?—A. Yes.

Q. On what basis did you reach the conclusion that seven and twenty-nine hundredths per cent. was a fair pro rata in this division?—A. That division was agreed upon years ago between the Sioux City Company and the United States, and all settlements have been made on that basis.

Q. But it still remains true that the books of the company show that the earnings of these six or seven miles run into the aided portion of the road and that you have not kept any separate books as between that little 7-mile branch and the Sioux City and Pacific Company proper?—A. No; the earnings are combined and divided on the basis stated, which I may say is an unfair basis for the non-aided portion, because the unsubsidized section earns more per mile than the subsidized section.

#### SAME FACILITIES FURNISHED THE GOVERNMENT AS OTHER PARTIES.

Q. The Sioux City and Pacific Railway Company, by proper instrument, has accepted the terms of the act of July, 1862, and the amendatory acts following, and has thereby made itself liable to the conditions imposed by the sixth section of the act of July, 1862. I will call your attention to that section, and ask you whether this company has complied with its terms [having read the section]. Has this company afforded the Government of the United States the same facilities that it has furnished other and private parties for like service?—A. Yes.

Q. And at like rates?—A. Yes; you understand that the Government does not pay as other people.

#### RATES CHARGED TO THE GOVERNMENT.

Q. The question is whether you have charged the Government the rates that you have charged to other individuals?—A. We have charged the rates agreed upon with the Government, which have never in any instance, to my knowledge, been more than the rate charged others.

Q. Have you at any time attempted to charge and collect from the Government the same rate that you have charged and collected from other persons?—A. The rate charged the Government in the absence of special understanding or lower rates, as I understand it, has been the tariff that other people would pay; but the Government has withheld part of this compensation.

Q. The Government has withheld it under the terms of the act and appropriated the money to your credit?—A. We claim it has wrongfully withheld a portion, according to the decision of the Supreme Court and the rulings of the Attorney-General.

Q. But the question is, have you charged the Government for its transportation more than you have charged individuals for like transportation, or have you charged the Government less?—A. My understanding is that we have not discriminated for or against the Government.

Q. Your reports to the Government will show what you have charged and what you have been allowed?—A. Yes. We have for the last two years, by the requirement of the United States Railroad Commissioner, sent to his office a copy of every tariff and rate. My understanding is that the Government has passed specifically upon every charge that has been made against it for services from the opening of the road till now.

Q. You have charged the Government the open tariff rate, have you not?—A. Yes.

Q. Have you not carried for other persons the same sort of freight on a rebate?—A. I think not, under the same circumstances. I understand that a very large proportion of the Government freight has been in connection with the Indian Department, and has been transported under advertised bids at much less than public rates.

#### NET EARNINGS.

Q. Can you state when this company began to report net earnings over operating expenses and fixed rates—how long after the road began?—A. The accounts furnished to you show that.

Q. As I understand, that \$410,000 represents the entire net earnings of the road during its entire existence.—A. This amount is not net earnings in the sense that the Government applies the term; it is arrived at differently, as you will see by referring to the income account.

#### NO DIVERSIONS OF EARNINGS OR TRAFFIC.

Q. Do you know whether there has been any diversion of the earnings of this road by way of constructive mileage allowance or average mileage allowance between this road and any other road with which it has been connected?—A. No; certainly not since my connection with the company.

Q. Do you know of any diversion of the traffic of the road by any means whatever, either through pooling arrangements or otherwise?—A. No; the pools it has been interested in have been made to enable it to retain business.

#### CONSTRUCTIVE MILEAGE.

Q. Is there any constructive mileage allowed this road under your present arrangements?—A. Yes.

Q. I will ask you to state what constructive mileage is allowed?—A. That ground has been traversed before and specific answers made.

Q. If that subject has been gone into, is it not true that instead of constructive mileage you have allowed a certain percentage?—A. I will answer your question literally. There has been no constructive mileage in the division between the Sioux City road and the Chicago and Northwestern and other roads, but it is true that the Sioux City has been allowed a division in excess of its mileage proportion.

#### PRO RATA DIVISION.

Q. Recurring to this percentage of 7.29, is it not true that it is not based on mileage at all, but that it is based on the total earnings of the

properties?—A. It is a pro rata division. The earnings of both the subsidized and unsubsidized portions of the Sioux City and Pacific Railroad are divided first as between the State of Iowa and the State of Nebraska. The earnings in Iowa are then divided as between the subsidized and unsubsidized portions of the road, the latter being allowed a pro rata proportion, 7.29 per cent.

#### BETWEEN SUBSIDIZED AND UNSUBSIDIZED PORTIONS.

Q. I will ask you whether the rate of division is under all the circumstances fair and reasonable?

The WITNESS. You mean the division between the subsidized and unsubsidized portions?

Commissioner LITTLER. Yes.

The WITNESS. I do; or if unfair in any respect, unfair to the unsubsidized portion, because the earnings per mile of the unsubsidized portion, in view of its location, must necessarily be more than the average of the subsidized portion.

Q. Is it your opinion, then, that in its practical operation it results favorably rather than adversely to the subsidized portion of the road?—

A. Favorably to the subsidized portion.

#### NO IMPROPER DIVERSION OF EARNINGS OR TRAFFIC.

Q. State whether there has been any diversion of the earnings of the Sioux City and Pacific Railroads to wrongful or improper purposes, and if so, to what extent?—A. There has been none to my knowledge.

Q. Has there been any discrimination of rates in favor of unaided roads connected with the Sioux City and Pacific?—A. No.

Q. State whether there is any money due and owing to the United States on account of mistaken or erroneous accounts, reports, or settlements made.—A. Not to my knowledge.

\*Q. Has there been any traffic or business which could or should have been done on the aided line that has been diverted to the lines of any other companies or to non-aided lines?—A. No.

Commissioner LITTLER. I believe that interrogatory No. 10 of our printed circular has already been the subject of answer by your company.

The WITNESS. Yes.

#### ASSETS OF THE SIOUX CITY AND PACIFIC.

Q. You may state, if you please, the kind, character, and amount of the assets of the Sioux City and Pacific Company.—A. The assets on the 30th of June, 1887, were as follows, viz:

|  |              |
|--|--------------|
| Amount due from station agents and conductors..... | \$139,058.40 |
| Amount of material and fuel on hand.....           | 87,100.79    |
| Cash.....  | 41,629.44    |
| Total.....   | 267,788.63   |

There is also quite an amount due from the Government, but this is offset by the 5 per cent. on net earnings due to the Government.

#### WHAT THE GOVERNMENT LIEN COVERS.

Q. State what assets of the company are now subject to the lien of the Government, and the value thereof.—A. The only assets I under-



stand that the Government lien rests upon are what is comprised in the aided section of the road and its accretions; the value of that is questionable.

Q. Does the Sioux City and Pacific corporation own no other property or assets except its road with its turn-tables, side-tracks, water-tanks, stations, depots, &c.?—A. Nothing but the visible property of the railroad and its rolling stock, machinery, and tools, except as stated above.

#### NO DIVIDENDS DECLARED.

Q. What dividends, if any, have been declared on the stock of the Sioux City and Pacific Railroad?—A. No dividend has ever been declared or paid on its stock.

Q. What dividends have been declared or paid on this little road for which preferred stock was issued?—A. Stock was issued to pay for the construction of the unaided portion, and was interest-bearing. That interest payment is not a dividend, although so called. The interest thus paid annually is not dependent at all upon the earnings of the road. A fixed sum must be paid the same as if bonds instead of stock had been issued.

Q. Is it made a lien on the road?—A. Yes.

Q. How was that lien created—by an act of the legislature or by an instrument?—A. By a mortgage dated July 31, 1871.

Q. How much interest or dividend, or whatever you please to call it, is paid annually?—A. Seven per cent.

Q. That amounts, on the cost of the road, to about \$11,830?—A. Exactly.

Q. I understood you to say that this little branch was a very profitable branch?—A. No; I never used such language, that I know. I said it earned more per mile than other portions of the road, and that a division on a pro rata basis was unfair to the branch in question.

#### STATEMENT OF NET EARNINGS FROM 1871 TO 1887.

Commissioner LITTLER. I have a statement here of net earnings of this piece of road, furnished by your people, running from 1871 to 1887, which shows the net earnings for the several years included in that period to be as follows:

|                                    |            |
|------------------------------------|------------|
| For the year ending December 31—   |            |
| 1871 .....                         | \$3,249.48 |
| 1872 .....                         | 3,282.37   |
| For the six months ending June 30— |            |
| 1873 .....                         | 1,437.36   |
| For the year ending June 30—       |            |
| 1874 .....                         | 5,044.04   |
| 1875 .....                         | 4,608.77   |
| 1876 .....                         | 4,754.49   |
| 1877 .....                         | 4,609.83   |
| 1878 .....                         | 4,506.88   |
| 1879 .....                         | 5,498.10   |
| 1880 .....                         | 7,973.28   |
| 1881 .....                         |            |
| 1882 .....                         |            |
| 1883 .....                         | 10,122.27  |
| 1884 .....                         | 12,561.60  |
| 1885 .....                         | 11,022.86  |
| 1886 .....                         | 16,046.16  |
| 1887 .....                         | 14,660.55  |

(The net earnings for 1881 and 1882 are not given.)



So far as that road has gone, if it has not been a paying investment, it is increasing its earnings I observe.

The WITNESS. Yes.

Commissioner LITTLE. I will ask you to state where you obtained those figures?

The WITNESS. From the accounts. It was necessary that the Sioux City and Pacific road should have a connection with some other road, hence the building of the unsubsidized branch.

Commissioner LITTLE. I understand that; I am simply submitting these figures to you and asking you for an explanation. You say that the pro rata division between the subsidized line and this little line was more than fair to the Government?

The WITNESS. Yes.

Q. These figures show that the earnings of this little line have been very light indeed—not equivalent to the interest on the cost of construction. Where do you get these figures from?—A. From the books of the Sioux City and Pacific Company, and they agree exactly with the figures of the United States Government. The books of the company and the books of the Government, I may say here, harmonize to a cent throughout.

#### BASIS OF ACCOUNTS.

Q. I will get you to state whether these figures are made up from the actual earnings of this little branch or whether they are made up from the arbitrary basis?—A. From an arbitrary basis. I wish to state here, however, that the arbitrary division of 7.29 per cent. applied only up to July 1, 1886; since that time the earnings have been prorated on a mileage basis, in accordance with the decision of the United States Commissioner of Railroads, General J. E. Johnston. He required us to make up the earnings of the unsubsidized portion separately from the other, and in order to do so we found it necessary to divide on a mileage basis.

#### GOVERNMENT DUES.

Commissioner LITTLE. Can you state whether there is any money due and owing to the United States Government on account of mistaken or erroneous accounts, reports, or settlements made?—A. There is not to my knowledge.

Commissioner LITTLE. Is there nothing due under the Thurman act?—A. The act does not apply to the Sioux City and Pacific Company.

Commissioner LITTLE. Are you paying only 5 per cent.?—A. We have paid the Government a tax of \$21,255.99, and stand ready to-day to pay the balance, provided the Government will settle the amount it owes us, which is nearly an offset.

#### LAND GRANTS.

Q. State whether the proceeds of any trust funds or lands have been diverted from their lawful use (interrogatory No. 15).—A. Not to my knowledge.

Q. I find that the Sioux City and Pacific Company received from the Government of the United States and other sources lands as follows:

|  | Acres.    |
|--|-----------|
| From the United States .....   | 32,443.64 |
| Add amount recovered from the Union Pacific Company account of joint patents ..... | 8,634.59  |
| Making a total from the United States of .....                                     | 41,078.23 |

|  | Acres.    |
|--|-----------|
| From the State of Iowa:                |           |
| Woodbury County swamp lands.....       | 11,046.09 |
| From State of Nebraska:                |           |
| Northern Nebraska Air-Line lands ..... | 47,487.00 |
| Making a grand total of.....           | 99,611.32 |

Q. Do you understand that to embrace the entire land grant that

#### RECEIPTS FROM SALES OF LANDS.

this Sioux City and Pacific Company availed itself of?—A. I do.

Q. I find that the Sioux City and Pacific Company received from sales of its lands the following sums:

|   |             |
|---|-------------|
| September 30, 1871, cash received from W. W. Walker .....       | \$20,000.00 |
| October 4, 1872, cash received .....                            | 7,558.82    |
| April 26, 1875, cash received from D. P. Kimball, trustee ..... | 9,962.96    |
| May 3, 1875, cash received from D. P. Kimball, trustee.....     | 1,762.44    |
| May 7, 1875, cash received from D. P. Kimball, trustee.....     | 16,000.00   |
| May 11, 1875, cash received from D. P. Kimball, trustee.....    | 1,292.60    |
| May, cash received.....   | 2,500.00    |
| June 9, cash received.....                                      | 62.42       |
| June 11, cash received.....                                     | 77.80       |
| June 14, cash received.....                                     | 1,501.73    |
| June 18, cash received.....                                     | 9,227.98    |
| July 31, cash received from Missouri Valley Land Company .....  | 169,417.85  |
| Making a total of .....   | 239,364.60  |

#### VALUE AND LOCATION OF LANDS.

Q. Do you know anything about the value of those lands at the several times when they were disposed of?—A. Nothing whatever, nor of any of the transactions referred to in the list, because they occurred some fourteen years prior to my having any relation whatever with the Sioux City and Pacific corporation.

Q. Do you know where any of those lands were located?—A. I do not.

Commissioner LITTLE. Where can we ascertain those facts?

The WITNESS. I do not know, unless you inquire of the former officers of the corporation.

Commissioner LITTLE. My idea would be that those figures are very low for those lands.

The WITNESS. Are those figures correct?

Commissioner LITTLE. They are taken from your books.

The WITNESS. My impression is that you have deducted from the amounts received the expenses connected with the sales of the lands.

Commissioner LITTLE. No; the expenses are indicated upon another sheet.

The WITNESS. Then you have only given a portion of the receipts from lands. To express an intelligent opinion about the value of the lands one would have to know their location. Some of them might be remote from the railway. You spoke of the Iowa lands as being swamp lands.

#### RECEIPTS FROM IOWA LAND GRANTS.

Commissioner LITTLE. Those were not granted by the Government, but by Woodbury County, Iowa.

The WITNESS. But they were swamp lands. I express the opinion without hesitation that at the time those lands were sold the prices

ized for them were fair prices. You could buy good lands in Western Iowa within the last ten years at as low figures as those given.

Commissioner LITTLE. They did not net the company that sum. It appears that there was only transferred to the income account of this company the net sum of \$225,112.63, after paying the expenses of the transactions. That sum was realized from the lands donated to the Sioux City and Pacific Company in Iowa.

The WITNESS. There are in the aggregate \$225,112.63 from Iowa.

Commissioner LITTLE. Two hundred and twenty-five thousand dollars from Iowa.

#### RECEIPTS FROM NEBRASKA LAND GRANTS.

I will now state the receipts from the Nebraska lands.

|                        |   |            |
|------------------------|---|------------|
| 1873.                  |   |            |
| Feb. 10.               | Cash received from D. C. Blair.....                               | \$2,465.52 |
| Feb. 20.               | Cash received from Sam'l Sloan.....                               | 800.00     |
| Feb. 25.               | Cash received from C. E. Vail, jr., J. I. Blair.....              | 7,611.36   |
| Feb. 27.               | Cash received from C. H. McCormick.....                           | 720.00     |
| Feb. 28.               | Cash received from sundry parties, collected by J. M. S. Williams | 51,567.00  |
| Mar. 1.                | .....   | 2,538.80   |
| Mar. 1.                | Cash received from J. Van Deventer.....                           | 1,280.00   |
| Mar. 21.               | Cash received from E. S. Bailey.....                              | 630.00     |
| Mar. 31.               | Cash received from sundry parties.....                            | 14,464.66  |
| Mar. 31.               | Cash received from J. I. Blair.....                               | 7,820.08   |
| Apr. 9.                | Cash received from E. S. Bailey.....                              | 628.96     |
| 1874.                  |   |            |
| Feb. 21.               | Cash.....   | 160.00     |
| Making a total of..... |   | 90,686.38  |

The expense of this trust was \$3,202.35, leaving to be transferred to the income account March 31, 1879, \$87,484.03. Can you explain the long delay between the sale of the last tract of land and the final closing of this trust?

The WITNESS. No; it occurred ten years before I had anything to do with the company.

#### GROSS RECEIPTS.

Commissioner LITTLE. According to our figures the gross proceeds were \$239,364.60 added to \$90,686.38, making altogether \$330,050.98.

The WITNESS. That is about \$3.30 an acre.

Commissioner LITTLE. There was covered into the Treasury at one time \$225,112.63, and at another time (March 31, 1879) \$87,484.03, making \$312,596.66.

The WITNESS. The more I reflect upon the question as to the amount realized for the lands the more I am impressed with the belief that at the time the lands were sold those were good prices for them.

Q. Is it not true that most of those lands were purchased by stockholders of the company?—A. I do not know who purchased them nor anything about the transaction.

#### MISSOURI LAND COMPANY.

Q. Do you say that you know nothing of this Missouri Land Company?—A. Not a thing; no one here knows anything about it. Better lands than those sold have been bought 150 miles this side of the Missouri River in 1880 for \$4 an acre. I think they got a good price for those lands.

Q. What new stock or bonds have been issued, or guarantees or pledges made contrary to or without authority of law by this company?—A. None that I know of.

#### GUARANTEES FOR LIABILITIES OF OTHER ROADS.

Q. Are there any outstanding pledges or contracts by which this company has assumed liabilities of any kind to other corporations or individuals?—A. None that I know of that do not appear on the records.

Commissioner LITTLEB. I will ask you, if you please, to furnish us a copy of any guarantees or pledges you have made to any other railroad company or for the securities of any other railroad company at any time.

The WITNESS. There are none; or if made, have since been assumed wholly by other companies.

Q. Is it not true that the Sioux City and Pacific Company guaranteed the bonds of some of those roads with which it was connected?—A. It guaranteed the bonds of the Missouri Valley and Blair Railway and Bridge Company jointly in connection with the Chicago and Northwestern Railway Company, Chicago, Iowa and Nebraska Railroad, and Cedar Rapids and Missouri River Railroad. These roads also guaranteed jointly the interest on the bonds of the Fremont, Elkhorn and Missouri Valley Railroad Company. In 1884, when the Chicago and Northwestern Railway Company purchased the Iowa leased lines, it assumed the whole responsibility (through guarantees duly made and recorded) for the payment of both principal and interest of the bonds of the Missouri Valley and Blair Railway and Bridge Company, and Fremont, Elkhorn and Missouri Valley Railroad Company, thus releasing the Sioux City and Pacific Railroad Company, or making the guarantee of the latter applicable only in the event of the inability of the Chicago and Northwestern Railway Company to fulfill its agreement, a contingency in no wise likely to occur. So that, as a matter of fact, the Sioux City and Pacific Railroad Company may be said to be free of any guarantee. Its guarantee, in any event with the contingent liabilities it has, is valueless.

Commissioner LITTLEB. Please furnish us a copy of the guarantees.

The WITNESS. We will do so.

#### MISSOURI VALLEY AND BLAIR RAILWAY AND BRIDGE COMPANY.

Commissioner LITTLEB. On the minutes of the Sioux City and Pacific Company, at page 609, under date December 30, 1885, there appears the text of an agreement between the Sioux City and Pacific Railroad Company of the first part, and the Chicago and Northwestern Railway Company of the second part, and the Missouri Valley and Blair Railway and Bridge Company of the third part. We understand that that agreement is an agreement on the part of the Sioux City and Pacific Company to guarantee the securities of those corporations.

The WITNESS. On the contrary, it is an agreement releasing the Sioux City and Pacific Company.

Q. Will you furnish a copy of that agreement?—A. Yes.

Mr. NORRIS. If you will please refer to page 515 of the minutes of the Sioux City and Pacific Company, of date September 13, 1882, you will find a memorandum of guarantee of the bonds of the Blair Railway and Bridge Company, and at page 538 is the text of that agreement attached to the mortgage of the Missouri Valley and Blair Railway and Bridge Company.

## DAKOTA SOUTHERN AND SIOUX CITY AND PEMBINA.

Commissioner LITTLE. It appears that in 1879 you made a pledge or agreement to pay certain drawbacks to the Dakota Southern and Sioux City and Pembina. Please report what was done about that.

The WITNESS. I cannot speak definitely: a road was built from Sioux City to Yankton, along the valley of the Sioux River towards Sioux Falls, Dak. It was intended to be an independent line. I am speaking now what I know in a general way. The various railways connected with it from Sioux City to Chicago agreed to give it a certain percentage over pro rata on traffic interchanged; but my impression is that that agreement never amounted to anything—that before it went into practice the line passed into the possession of the Milwaukee and Saint Paul Railway Company, and it is now a part of the Dakota system of that road.

## FREMONT, ELKHORN AND MISSOURI VALLEY.

Commissioner LITTLE. I call your attention also to page 412 of the minutes of the Sioux City and Pacific Company, where you will find the text of an agreement guaranteeing interest on bonds to be issued on an extension of the Fremont, Elkhorn and Missouri Valley Railroad, from Battle Creek to O'Neal City and Niobrara. Please furnish the Commission with a copy of that agreement.

The WITNESS. Yes.

Commissioner LITTLE. We would like you also to furnish us a copy of all the leases in which the Sioux City is interested.

The WITNESS. Yes.

Commissioner LITTLE. We would like to have copies of all the leases; some no doubt have been canceled.

## STATEMENT SHOWING RESULT OF ELKHORN LEASE.

I now call your attention to a statement showing gross earnings, operating expenses, taxes, rentals, and construction expenditures of the Fremont, Elkhorn and Missouri Valley Railroad from October, 1872, to June, 1884, inclusive, furnished to us by your company, from which it appears that the operating expenses were greatly in excess of the amount received by the company.

The WITNESS. This is the operation, as I understand you, of the Elkhorn lease?

Commissioner LITTLE. Yes; that paper shows the result of the operation of the property under that lease and it shows that it was a very bad bargain for the Sioux City and Pacific Company.

The WITNESS. I do not know anything about it.

Q. Who made that lease?—A. I do not know; I suppose the officers of the company.

Commissioner LITTLE. You do not know?

The WITNESS. Your statement does not show the exact facts. The two Iowa leased roads gave the Sioux City and Pacific road, in the way of aid in connection with the lease you refer to, about \$160,000. That was one of the donations already referred to.

Commissioner LITTLE. Where does that donation appear?

The WITNESS. In the accounts.

Q. Has that lease been canceled?

The WITNESS. Do you mean the lease between the Elkhorn Company and the Sioux City and Pacific Company?

Commissioner LITTLE. Yes.



The WITNESS. Yes.

Commissioner LITTLER. We have already called for copies of all leases, whether canceled or not. Of course a copy of this will be among them.

The WITNESS. Yes.

#### EXPIRATION OF LEASE.

Q. Can you state the effect of the operation of this road under the present lease?—A. There is no lease now.

Q. Do I understand that all the leases of this property have been canceled?—A. There are no outstanding leases of the Sioux City and Pacific Railroad.

Q. How is the property being operated now?—A. As an independent railway. There is a trackage arrangement between the Elkhorn Railway and the Sioux City and Pacific Railway.

Q. Will you be kind enough to furnish us a copy of that?—A. You have that already.

Commissioner LITTLER. There is a lease on page 113 of the report of the Commissioner of Railroads for 1884 between the Fremont, Elkhorn and Missouri Valley Company and the Sioux City and Pacific Company, dated December 2, 1872. That agreement seems to have been abrogated on the 1st day of July, 1884. Where is the trackage agreement which you refer to?

The WITNESS. There is a copy of that in the Railway Commissioner's office in Washington, but we will furnish you a copy.

Q. Under that agreement there was an appraisalment of this property, was there not?—A. Yes.

#### BENEFITS ACCRUING FROM THE LEASE.

Q. What was that appraisalment?—A. \$414,000.

Commissioner LITTLER. I would like you to explain how the Sioux City and Pacific Railway Company ever consented to this lease. It appears that you have leased to the Fremont, Elkhorn and Missouri Valley Railway Company for the term of fifteen years 37 miles of road for a sum equivalent to one-half of 6 per cent. upon the value of the property, as agreed in the lease. The lease states "The present value of said leased property is hereby agreed to be \$414,000." The practical operation of the lease is to produce to the company \$362.50 per annum per mile. I wish you would explain how such a lease could have been made in the interest of the Sioux City and Pacific road.

The WITNESS. It was simply a question whether the Sioux City and Pacific road would make an arrangement with the Elkhorn and Missouri Valley road whereby the trains of the latter road could run over the Sioux City and Pacific road by paying a fair rate of interest on a just valuation of the property, or whether the Elkhorn and Missouri Valley Company would construct an independent line. The Sioux City and Pacific Company is the gainer by the amount it receives under this agreement; also by the assistance it receives in the maintenance of its property used in common with the Elkhorn Company, the latter paying its proportion of all such expenses.

#### VALUATION OF THE ROAD.

Q. How does the value of this 37 miles, as fixed by this agreement, compare with the original cost of that portion of the road?—A. I do not know what the original cost of that line was. The valuation of the

road under the lease we are speaking about was determined by L. H. Clark, chief engineer of the Lake Shore and Michigan Southern Railway, and George O. Smith, chief engineer of the Chicago, Burlington and Quincy road. They inspected the property and made the valuation of it, and it was upon the valuation as returned by them that this lease was made. You understand that the Elkhorn Company does not do any local business on the leased portion of Sioux City and Pacific. It has nothing whatever to do with the business of the Sioux City and Pacific Railway Company proper.

#### RIGHTS CONFERRED BY ELKHORN LEASE.

Q. Do I understand that the Elkhorn Company pay the amount fixed in this agreement for the through traffic which runs over this part of the road, and that the Sioux City and Pacific gets the benefit of the local traffic in addition?—A. Yes. I want to be very precise about this and have you get the exact situation. This lease gives to the Elkhorn Company the right simply to run its trains over the track of the Sioux City and Pacific Railway Company for the accommodation of the business of the Elkhorn Valley Company.

Q. And not for the business of the Sioux City and Pacific?—A. No; nor for any business connected with the Sioux City and Pacific Company.

Q. In other words, the Sioux City and Pacific Company uses this same track for all the local business which arises along the line?—A. Yes; and should an Elkhorn train carry a local passenger of the Sioux City road, the gross revenue derived therefrom is turned over to the Sioux City Company.

#### OBLIGATIONS ASSUMED BY ELKHORN COMPANY.

Q. Your theory is that this lease is favorable to the company, because it avoids the construction of a competing line, and you get \$362.50 per mile per annum for the privilege of running trains over it?—A. Yes.

Q. Your idea is that if they get anything out of this lease, they get that much clear gain?—A. Yes; plus whatever advantage it is (and it is an advantage) to have the Elkhorn Company bear a share of the fixed expenses of the property of the Sioux City and Pacific Company used in common; this expense is divided on the basis of the number of wheels of the respective companies run over the road.

Q. What other obligations does the Elkhorn Company assume in relation to the property, in the way of keeping up repairs, &c.?—A. It pays a proportionate rate of interest, also its proportion of all new construction on the leased section.

Q. If this arrangement had not been made the Elkhorn and Missouri Valley Company, you say, would have constructed its own independent parallel line through this region?—A. Yes.

Commissioner LITTLER. When you furnish a copy of this agreement I will ask you to furnish in the same connection a statement showing the amount which the Elkhorn and Missouri Valley Railway has actually paid to keep up repairs, &c., under this lease.

The WITNESS. Yes.

Q. What are the residences, if you know, of those two engineers who appraised this property?—A. Mr. L. H. Clark lives at Cleveland, Ohio; he is now consulting engineer of the Lake Shore road. Mr. George O. Smith lives at Creston, Iowa.

## LOANS AND CREDITS.

**Q.** Please state what amount of money or credit has been or is now loaned by the Sioux City and Pacific Railway Company to any person or corporation.—**A.** We will do so in the papers you have asked for.

**Commissioner LITTLE.** I would ask you to furnish an itemized statement of all moneys loaned at any time during the history of the Sioux City and Pacific Company to any person or corporation. The credit part of the inquiry will be answered by your furnishing a copy of the guarantees and pledges which you have agreed to furnish.

**Q.** In connection with last interrogatory I call your attention to page 267 of the minutes of the Sioux City and Pacific Company, dated May 1, 1873, from which I read as follows:

The treasurer is authorized to loan any funds of the company in his hands on call upon the following-named securities as collateral, namely: The mortgage bonds of this company at 55 cents on the dollar, also the common stock of the Cedar Rapids and Missouri River Railroad at \$35 per share, the preferred stock of the Cedar Rapids and Missouri River Railroad at \$75 per share, the mortgage bonds of the Cedar Rapids and Missouri River Railroad at 75 cents on the dollar, the stock of the Iowa Falls and Sioux City Railroad Company at \$50 per share, the mortgage bonds of the Iowa Falls and Sioux City Railroad Company at 70 cents on the dollar, the stocks of the Chicago, Iowa and Nebraska Railroad at \$85 per share, and the bonds of the same road at 85 cents on the dollar. All certificates of stock taken as collateral to loan are to be transferred on the books of the company.

I will ask you to please furnish the Commission with a statement of all transactions that were made under that resolution.

**The WITNESS.** It is impossible to do so unless they appear of record on the general books of the company.

**Q.** What amount of money or credit has been or is now loaned by the Sioux City and Pacific Railroad Company to any person or corporation?—**A.** None at this time. What may have been done prior to my connection with the company I do not know.

**Commissioner LITTLE.** You can furnish a list of the transactions if they appear on your books—the transactions that took place under this resolution that I have read to you.

**The WITNESS.** Yes.

**Q.** What amounts of money or credits have been or are now borrowed by the Sioux City and Pacific Railroad Company? Give names of lenders and the purpose for which said sums have been or are now required.

**The WITNESS.** Does that refer to the Sioux City and Pacific Railroad since its organization down to the present date?

**Commissioner LITTLE.** Yes.

**The WITNESS.** That would require an examination of every financial transaction of the company, and will take a long time to prepare.

**Commissioner LITTLE.** I have in my hand a statement prepared by our accountant, which covers the period comprised in your books from December 31, 1872, down to November 30, 1884. That statement shows a total sum of \$1,618,210.80 loaned to the Sioux City by different parties at different time. According to the same statement there was due on June 30, 1886, on bills payable, \$78,783.93; on accounts payable, \$25,828.56; due to other companies, \$20,391.79. Are these several amounts still due and unpaid?

**The WITNESS.** No; the bills payable have been paid; the other sums represent current sums due for material and labor or on account of traffic, and have been paid.

## INDEBTEDNESS OF THE COMPANY.

**Q.** What do their balances show in relation to the amount you owe?—**The Sioux City and Pacific Company** does not owe anything in re-



lation to bills payable. All it owes is in relation to current working indebtedness.

Q. How much is that?—A. Two hundred and twelve thousand dollars.

Q. Is that what you owe now?—A. That is what it owed on the 30th of June, 1887. If you want the particulars I will give them to you.

Q. Do you know on what account those loans were made?—A. No; if you refer to the old loans of the company, my impression is that there were periods or years when this road ran behind and had to have help. I suppose the aggregate of these loans represented money borrowed from time to time to float over the periods of insolvency.

Commissioner LITTLER. I call your attention to the prosperous periods of the road, when it was making money. Now, when it borrowed \$30,000 at a time from the Chicago and Northwestern Railway—

The WITNESS [interposing]. That was borrowed temporarily like the rest, and was repaid afterwards. It owed at one time (including deferred interest) to the Chicago and Northwestern road \$358,689, but has been paying it up as it was able.

Q. State what amount of money or other valuable considerations, such as stocks, bonds, passes, &c., have been expended or paid out by the Sioux City and Pacific Railroad Company, whether for lawful or unlawful purposes, but for which sufficient and detailed vouchers have not been given or filed with the records of the company?—A. I cannot speak of any transaction connected with the operation of the Sioux City and Pacific Railroad back of the time that I was elected president, about three years ago.

#### PASSES.

Q. Since 1884 what have you done in the direction indicated?—A. Since 1884 the Sioux City and Pacific Railroad has had no transactions that do not appear of record in the accounts. There have been some passes issued, but that represents an unknown quantity (if an entity at all), of which no record was kept.

Q. Can you furnish us with a list of the passes?—A. I regret that I cannot.

Q. Or the consideration for which they were issued?—A. They were issued for the consideration of good neighborhood. I have heard it said with regard to other roads that passes were issued when they were asked for, and that the only persons who did not get them were those who were too timid to ask. That system did not prevail, however, on the Sioux City and Pacific road.

Commissioner LITTLER. We have been requiring other companies, and I trust it will not be regarded as an unreasonable burden to you, to furnish us a list of the passes granted and an estimate of the cost of those favors to the company. The Union Pacific Company estimates that passes cost them \$631,000.

#### NO RECORD KEPT OF FREE TRANSPORTATION.

The WITNESS. Oh, yes; I think I have heard something like that before. There is no record kept of free transportation on the Sioux City and Pacific road. We could give you a list of the annual passes as far as recorded.

Q. Have you no memorandum book by which you tell why you issued those passes?—A. No.

Q. I suppose a number of passes are issued in exchange to employes of other roads?—A. The majority of passes are so granted; that list

could be given, but the extent to which the passes were used could not, as no account has been kept of the number of miles traveled on passes.

Q. Has this company at any time paid out any money, whether for a lawful or unlawful purpose, for which it has not taken detailed or sufficient vouchers?—A. It has taken vouchers for all its expenditures; I do not know of any unlawful expenditures having been made.

#### NO MONEY EXPENDED FOR INFLUENCING LEGISLATION.

Commissioner LITTLE. In that connection I will call your attention to interrogatory No. 21, contained in the printed circular issued by the Commission: "Further, to inquire and report whether said company or its officers or agents have paid any money or other valuable consideration or done any other act or thing for the purpose of influencing legislation."

The WITNESS. The Sioux City and Pacific Company, while I have had any knowledge of it, has never done anything for the purpose of influencing legislation.

Q. What have the officers of the company ever done in that direction?—A. Nothing.

Q. Have the officers of the company ever paid out any money to prevent legislation?—A. No.

Q. Has this company kept any officer or agent at any of the State legislatures, as, for example, at Iowa, for the purpose of looking after their interests during the sessions of the legislature?—A. No.

Q. Then, as a matter of fact, they have not paid out money in any way to influence legislation?—A. Not to my knowledge.

#### PASSES TO LEGISLATORS.

Q. Have they issued passes for the purpose of influencing legislation?—A. We have been in the habit of issuing passes to members of the legislature.

Commissioner LITTLE. That is a well-established custom, do you understand?

The WITNESS. Yes; all over the country.

Q. Do you think that influences legislation?—A. I do not.

Q. Have you done any other matter or thing to influence legislation?—A. No.

Q. What consideration, if any, was paid by each stockholder of your company for his stock, and when and in what property was such payment made?—A. I do not know.

Commissioner LITTLE. I call your attention to entries on the minute book of the Sioux City and Pacific Company, as follows:

#### RESOLUTION TO DISTRIBUTE ASSETS AND SETTLE WITH CONTRACTORS.

At page 174, under date November 18, 1870:

The president was requested to make distribution, on or before the 1st of January, 1871, to the stockholders of his company, of all bonds, stocks, and cash assets which have accrued to such stockholders in the construction of the Sioux City and Pacific Railroad, and close any and all outstanding contracts for constructing, and to make final settlement with the contractors on or before said date.

At the same time, a committee, consisting of Messrs. J. B. Alley, J. W. S. Williams, and Charles E. Vail, was appointed to examine and audit all accounts for building and equipping the company's road, and all expenses connected therewith.



## REPORT OF COMMITTEE ON CONSTRUCTION ACCOUNTS.

On page 178 of the minute book, under date November 29, 1870 :

The committee appointed to examine accounts for the construction of the road made a partial report, which was considered and referred to the same committee for further report.

## SETTLEMENT WITH CONTRACTORS.

At page 184 of the minute book, under date January 20, 1871 :

The president presented and read a statement of the settlement with D. C. Blair and Oakes Ames, contractors for building the road, and a form of release from any further liabilities on the part of said contractors, which the president was directed to execute.

## MORTGAGE TO IOWA RAILWAY CONSTRUCTION COMPANY.

At page 200 of the minute book :

The president is authorized to execute a mortgage on the 6½ miles of road between Missouri Valley and California Junction, to secure the 7 per cent. preferred stock proposed to be issued in payment to the Iowa Railway Construction Company for the building of said piece of road.

I now ask you to furnish the Commission with a copy of the several documents referred to in the extracts which I have read to you from the minutes.

The WITNESS. I will do so, if the documents are on the records of the company.

Commissioner LITTLE. I also request you to furnish a copy of the settlement of John I. Blair, made by the company and referred to on page 265 of the minutes of the company, where it is said that such settlement was approved and placed on file.

The WITNESS. I will do so if it is on the records of the company.

## FAILURE TO PRODUCE BOOKS.

Commissioner LITTLE. I ask you also to please produce your stock ledger and your certificate book or treasurer's book of the earlier years of the company. I make this request because our accountant failed to get possession of those books.

The WITNESS. He had access to all the books we have.

Commissioner LITTLE. If you cannot produce the books you can so state in your answer.

The WITNESS. I may say now definitely that these books, if any such ever existed, have been lost, mislaid, or sold for old paper; they were never esteemed of any value.

Commissioner LITTLE. I understand that no book was presented to our accountant which contains transactions prior to July, 1869. It is for that reason that I request you to produce the books I have mentioned. I should like you also to produce the books containing the entries that show the issues of capital stock, the issues of preferred stock and first-mortgage bonds, and the issues of United States Government bonds prior to 1871, and all books prior to 1869.

The WITNESS. I understand that all the books in the control of the company here were opened to your accountants without hesitation.

Commissioner LITTLE. I understand that.

The WITNESS. There are no others.

Commissioner LITTLE. That call is made for the purpose of making formal demand for information which we are required to get and which

must be in those books. When you make search you can answer whether you have the books or not. On page 355 of the minute book is this entry:

The report of the accountant relative to receipts and disbursements of the company was received and placed on file.

We request a copy of that report.

The WITNESS. We will furnish it if we have it.

#### CONCERNING STOCK HELD IN TRUST.

Q. Interrogatory No. 28 having been answered by our accountant, I will ask if any of the stock of this company is now, or has been heretofore, held in trust for the benefit of any other person than the name of the person appearing on the books of the company.—A. Stock has been held in trust in the name of M. L. Sykes. That has been already answered.

Q. You also know that John I. Blair held in trust a large block of that stock?—A. I do not know for whom.

Q. But he held it for somebody?—A. Even that I do not know personally.

#### COMPENSATION OF OFFICERS.

Q. State the amount of the annual salaries or compensation that are now, or at any time prior, have been paid to any officer or employé of the Sioux City and Pacific Company, when such salary or compensation amounts to \$5,000 or more per annum.—A. No officer received from the Sioux City and Pacific Railroad Company \$5,000 per annum.

Q. Did any officer ever receive that amount?—A. I should have to look into the records of the company to ascertain. The present president of the company receives no salary.

Q. Explain how the president can afford to work without salary.—A. It is a matter of gratuity.

Q. Is it not true that a number of officers of the Sioux City and Pacific Company were also officers in one or more other corporations, and that the said officers received compensation to the amount of \$5,000 or more, and that the Sioux City and Pacific Company paid its pro rata share of those salaries?—A. The Sioux City and Pacific Railroad Company pays its proportion of certain officers' salaries, of the general passenger and freight agents, the chief engineer, and the general manager of the company—the operating officers of the roads. In that way it has salaried officers. These salaries are divided between the Sioux City road and the Elkhorn road in proportion to the earnings of the two roads.

Commissioner LITTLER. With the view of ascertaining whether the Sioux City and Pacific Railroad is being managed economically, I will ask you to furnish a statement of the total amount paid to officers.

The WITNESS. At the present time?

Commissioner LITTLER. You may run it back to 1869 or 1870.

The WITNESS. We will furnish all the information attainable on that subject.

#### NO BONUSES.

Q. Please state whether any bonuses or donations have at any time been paid or given to any person or persons, corporation or corporations, by the Sioux City and Pacific Railroad Company.—A. Not since my connection with it.

Q. And from your best knowledge, information, or belief there was none prior to your connection with it?—A. That would be covering a very long period of time as to a corporation that I know very little about prior to my connection with it.

#### LEGAL EXPENSE VOUCHERS.

Q. What payments, if any, have at any time been made by the Sioux City and Pacific Company on account of legal expenses for which specific vouchers have not been given?—A. I would answer that since my connection with the company no expenditures have been tolerated for which vouchers have not been produced. We have already furnished, as I understand, a list of expenses of that kind.

Commissioner LITTLER. I will ask you to produce a voucher dated May 28, 1883, for a payment to P. E. Hall for legal expenses in Nebraska for three years, "as per receipts on file," \$3,103.75.

The WITNESS. This voucher represents payments covering a considerable period of time, and reads as follows, viz:

Legal expenses in Nebraska, past three years, as per receipts on file.

I have already made diligent search for the receipts referred to as being on file, but have been unable to find them. I presume that they were attached to the correspondence that occurred in connection with the statements of the claims made from time to time, as they accrued, and were paid.

#### THE ROAD FULLY ACCOMMODATES THE COMMUNITY.

Q. It is the duty of the Commission to inquire into and report upon the relations of the bond-aided railroads to the interests of the communities through which they pass. What have you to say on that subject?—A. That is a question that admits of a very wide range of answer. I suppose it is intended to inquire whether or not these railways have accommodated the people and given them satisfactory service, and whether the relations between the various railways and the people are satisfactory. My understanding is that this railway has fully accommodated the people. Its relation with the people has been harmonious and satisfactory.

#### TERMINAL FACILITIES.

Q. Are your terminal facilities at Sioux City and at the other end of the line sufficient?—A. Those at Sioux City are not sufficient. Proper passenger depot accommodations are lacking at that point. It has been in contemplation during the last two years to build a union station in that city in conjunction with the Chicago, Saint Paul, Minneapolis and Omaha, and the Illinois Central companies. A plan is now being considered under which these companies may build a union station there.

Q. Have not a good many complaints come to you from Sioux City as to the accommodations?—A. I would not say that they have been in the nature of complaints. The people have wanted better accommodations, but they did not want the Sioux City and Pacific Company to build a station for its own accommodation simply. They want all the companies to join in building a union depot.

Q. Is it the intention of this company to join in such an arrangement?—A. Yes, if we can secure the co-operation of the other companies, and provide the means necessary.

## DISADVANTAGES AS A BRANCH ROAD.

Q. What other complaints have you had?—A. I do not know of any other. The people of Sioux City have complained, though not latterly, that this road, being a branch of the Union Pacific, did not enjoy the advantages that it should by reason of being a branch; did not enjoy the interchange of traffic with the Union Pacific at Fremont that it should, the Union Pacific having practically declared non-intercourse between itself and the Sioux City Company.

Q. Why is that?—A. It arises out of a disposition to force all traffic over its own line and across the bridge at Omaha.

Q. Do you regard that as good management on the part of the Union Pacific people?—A. I should not like to answer for them.

Q. I will ask you to state whether there have not been complaints as to the want of a sufficient number of daily trains over the Sioux City road, and whether there have not been complaints of discriminations in the case of different parties?—A. None have ever reached me.

Commissioner LITTLER. We took some testimony at Sioux City, and there were several complaints made to the Commission.

The WITNESS. I would like to have copies of them furnished to me. We are always ready to listen to and consider complaints.

Q. You say none have been made to you?—A. None.

## TAXES.

Q. The next inquiry I have to make is with regard to the payment of taxes, especially upon lands granted by Congress. In this statement of the sale of the lands of this company we find an item which is mixed with other matters, otherwise we would not call for further information. The item furnished is, "To sundry expenses and taxes, \$5,837.17." Will you be kind enough to furnish a statement of the amount of taxes paid on this Government grant from the time you took possession until the time it was sold?—A. We have not the details making up the item you refer to. We will, however, cause further search to be made. You will understand, in this connection, that there are many details connected with the expenditures of railroads (and with the receipts as well) that, while they are of the utmost importance at the time, cease to be so esteemed when the accounts have been examined, audited, and settled. Up to that time they are scrupulously preserved, but afterwards the same care is not always exercised, especially in the case of such roads as the Sioux City, remote from operating centers, poor in purse, and lacking in adequate and secure storage facilities. This explains why we are not able to furnish many details relating to the early history of the company, that, having been settled, were no longer considered important.

## TARIFFS AND POOLS.

Commissioner LITTLER. We are also required to ask an explanation of any delay of which this company may have been guilty in taking out patents for its lands. I will also ask you to furnish copies of your tariffs, including freight and passenger rates, from the time of the opening of the road.

The WITNESS. We will do so as far as possible. You will find at Washington, on the files of the Railroad Commissioner, copies of all tariffs since the date that we were required by regulation of that office to furnish them, some three years ago.



Q. What discrimination and what differentials or pools or other devices have you resorted to in the operation of this road?—A. None whatever. All its transactions have been open and above board, and subject to every reasonable explanation.

#### FACILITIES AND ACCOMMODATIONS FURNISHED.

Q. What facilities and accommodations have you furnished to patrons of your road? That is one of the matters as to which we are obliged to inquire. We are also required to ascertain the interests and rights of the communities through which the road passes for the transaction of their business for the company.—A. The accommodations furnished for the transportation of freights and passengers have been adequate, and, so far as I am advised, the service has been prompt and satisfactory.

Q. Except, as before stated, in relation to the depot at Sioux City?—A. Yes; except as qualified with reference to the passenger depot at Sioux City. Somebody may have complained that there were not passenger trains enough provided, but the receipts are evidence that the passenger train service has been ample to accommodate the volume of business. The freight service has been prompt.

#### PLAN OF SETTLEMENT.

Q. The act of Congress requires that—

Said Commissioners [ourselves] shall also consider and report whether the interests of the United States require any extension of the time for the performance of the obligations to the United States of said companies, or any of them, and the facts and circumstances upon which said opinion is based.

What have you to say in respect to that inquiry?—A. That would be an obligation resting solely upon the Commissioners.

Commissioner LITTLER. In order that they may discharge the duty, they are taking the opinions of wise men. Do you desire to say anything on that subject?

The WITNESS. I do not think I have anything to add to what I have already said.

Q. Will you please inform the Commission what discount, if any, the Sioux City and Pacific Railroad sustained on its Government bonds furnished in aid of the road, in order to obtain gold coin?—A. I am unable to answer that question.

Commissioner LITTLER. If you find that you can answer it later on, will you do so?

The WITNESS. Yes.

Commissioner LITTLER. We are required to ascertain the comparative cost of construction of the Sioux City and Pacific Railroad as compared with what it would have cost with the prices of labor and commodities prevailing five years preceding and five years subsequent to the completion of the road.

The WITNESS. It is impossible to furnish that information; the facts are not ascertainable.

#### GOVERNMENT BENEFITED BY COMPLETION OF ROAD.

Commissioner LITTLER. We are also required to ascertain whether the Sioux City and Pacific road was completed in less time than was allowed by law; and, if so, in how much less time, and whether the United States was benefited thereby.



total amount of tonnage moved over this road per year from the commencement of operations to the present time ; also the aggregate amount of passenger traffic and the amount per year, and the average cost per mile of passenger travel over your road.

The WITNESS. We can furnish an account of the traffic, but it is impossible for us to furnish the average cost of passenger and freight separately. There is no possible form under which that can be determined, or ever has been determined, because the expense of a railroad cannot be accurately apportioned as between passengers and freight. It would be only approximate ; a guess in the dark.

Commissioner LITTLER. An approximate estimate will serve our purpose.

The WITNESS. Yes.

#### ADJUSTMENT OF GOVERNMENT'S FIVE PER CENT.

Commissioner LITTLER. It appears from the books of your company that for the year 1870 the net earnings in excess of fixed charges of the Sioux City and Pacific Company were \$157,000, and that for the year 1872 they were \$47,000, and that for the year 1878 they were \$19,000. In view of these figures I will ask you (after verifying the figures) for any explanation you may have to make why the company did not pay to the Government 5 per cent. on these several sums representing the net earnings.

The WITNESS. The Government and the railroad company are perfectly in accord in regard to the amount of the 5 per cent. tax ; everything that the Government claims up to 1884 has been adjudicated and paid. I do not know of any delinquency.

Commissioner LITTLER. The Government may not have discovered the facts to which I have called your attention. I do not think the Government would be in accord with you if those facts were undisputed. There may be some explanation, and we would like to know what it is.

The WITNESS. It will take some time to compile the information for the years specified. I have, however, the figures for 1878 at hand and find that the earnings over and above operating expenses, taxes, and construction expenditures were not enough to pay the interest on the first-mortgage bonds by \$20,478.11, hence there were no net earnings. I will furnish you the details of these figures, as well as those for 1870 and 1872 hereafter. I presume that in compiling the figures, for the years you refer to, your auditor has omitted to accurately apportion the expenses, taxes, construction, and interest to the particular years in which they belong. I feel confident that the accounts as agreed upon between the company and the United States Government are absolutely accurate and full.

Commissioner LITTLER. Will you be good enough to furnish a statement showing the growth of population in the territory tributary to the Sioux City and Pacific Railroad ?

The WITNESS. I have not the data, I am sorry to say.

#### AID FROM PRIVATE SOURCES.

Commissioner LITTLER. Also a statement showing all aid received from municipal corporations or from private corporations or individuals in bonds, money, or lands given or granted in aid of the construction of the Sioux City and Pacific road.

The WITNESS. Do you want it to include the land grants ?

|  |           |
|--|-----------|
| Transportation of freight over non-aided portion of road.....  | 144.70    |
| Transportation of freight over aided portion of road, \$1,106.42, less 50 per cent. retained by the Government.....    | 553.21    |
| Transportation of passengers over non-aided portion of road.....   | 132.01    |
| Transportation of passengers over aided portion of road, \$2,531.23, less 50 per cent. retained by the Government..... | 1,265.61  |
| Total.....   | 23,105.79 |

There may be a slight difference between the books of the company and those of the Government in connection with these amounts, caused by accounts in course of settlement. The amount, as between the company and the Government for services rendered, that has been adjusted and applied on Government lien is \$86,231.03. It is impossible to furnish you with a statement of the aggregate amount paid by the Government for services rendered. No particular importance was attached to these details after the settlement of the accounts with the Government. All accounts as between the company and the Government have been examined by the latter and accepted by it. I may say generally, however, that the total amount charged the Government for service from the opening of the road is about twice the amount that has been applied on the Government lien as stated above, or say \$175,000.

#### ABILITY OF THE ROAD TO MEET ITS INDEBTEDNESS.

Commissioner LITTLER. We are required also to ascertain or inquire what sum of money the Sioux City and Pacific Railroad Company can pay annually on account of its indebtedness to the United States, without imposing such burdens upon the people, and particularly upon the localities through which the road passes, as to retard the development of the country. You can take time to answer that question if you wish.

The WITNESS. I can answer it now. The amount it can pay depends entirely on the operations of the road, the amount of local business of which this company has full control without competition, and on the amount of competitive business it can do and the prices it will receive therefor.

Commissioner LITTLER. I will ask you to furnish the commission a small map showing the Sioux City and Pacific Railroad, with its connection.

The WITNESS. Yes.

#### CONTRIBUTIONS FROM OTHER ROADS.

Commissioner LITTLER. I call your attention to the contribution of \$160,000, which you promised to explain.

The WITNESS. I find that the amount was \$180,000.

Commissioner LITTLER. Can you give us an explanation of that now?

The WITNESS. The explanation is the Iowa roads donated that amount of money to aid the Sioux City and Pacific Road in its distress.

Commissioner LITTLER. What roads did that?

The WITNESS. The Chicago, Iowa and Nebraska and the Cedar Rapids and Missouri River Road. The stockholders of these roads gave that amount, \$180,875.50.

Commissioner LITTLER. In what form did they give it?

The WITNESS. In cash.

Commissioner LITTLER. At what time?

The WITNESS. About 1880.

Commissioner LITTLER. I should like to have a categorical answer to that question.

(Question repeated.)

The WITNESS. I do not know that in all cases they turned over coupons as security.

Q. Did they do so in any case?—A. I do not know that they did so in any case.

#### MONEY LOANED BY INDIVIDUALS.

Q. On what security or pledges was this company able to borrow money for this purpose?—A. In many cases it borrowed on its note of hand.

Q. Secured by individuals or otherwise?—A. Whether these notes were secured or not I am unable to say now.

Q. Has the credit of this company been such that it could borrow money at the banks on its note?—A. No; not that I know of.

Q. Do you know what individuals or corporations loaned the company money for this purpose?—A. I understand that the Chicago, Iowa and Nebraska Company, the Cedar Rapids and Missouri River Road, and the Iowa Falls Company loaned money to it.

Q. On its note?—A. Yes.

Q. Have all those notes been canceled since?—A. They have all been paid and canceled, but only within the last two or three years.

#### FLOATING DEBT.

Commissioner LITTLER. The Commission would like to have a statement of the floating debt of this company, as it appears for the month ending August 31 last.

The WITNESS. The floating debt of the company on August 31, 1887, was as follows:

|   |             |
|---|-------------|
| Current balances due railroad companies and various persons ..... | \$60,252.20 |
| Due on pay-rolls .....  | 32,231.92   |
| Sundry current bills .....  | 14,347.07   |
| Accruing interest on preferred stock .....                        | 4,929.17    |
| Accruing interest on first-mortgage bonds .....                   | 16,280.00   |
| Past due coupons on first-mortgage bonds .....                    | 98,085.00   |
|   | <hr/>       |
|   | 226 125.36  |

#### OVERDUE COUPONS PAID WITH BORROWED MONEY.

Commissioner LITTLER. I will get you to state how long these coupons had been overdue at the time you secured the payments of them by loans to the company.

The WITNESS. My impression is that the money was borrowed to pay them as they fell due.

Q. Then, as a matter of fact, there was no default as between the company and the holders of the coupons?—A. No; because the parties referred to loaned the company the money with which to pay the coupons; but for the last two years there has been a steady default, and there is a default to-day of a year's interest on the first-mortgage bonds.

Q. Do these coupons remain unpaid and in the hands of the owners?—A. Yes.

Q. Are they in the hands of the owners or in the hands of some friendly individual or corporation?—A. Both.

Q. Do you mean to say that when the coupons matured they were not taken up?—A. For the last two years they have been taken up and canceled only as the cash resources of the company permitted.

**Q.** In the mean time did this company secure loans for the purpose of paying the coupons to the original holders, and are those coupons now in the hands of the Chicago and Northwestern Company or some other institution friendly to the Sioux City and Pacific Company?—**A.** The money for many years was borrowed with which to pay the interest on the first-mortgage bonds. As fast as these coupons were paid with the money thus secured they were canceled, and in their place appeared on the books of the company the sums borrowed, under the head of bills payable.

**Q.** As a matter of fact, then, and as a matter of law, there has been no default as between the company and the original holders of the coupons. You have provided for the payment of them as they matured, notwithstanding that the earnings of the company were not sufficient to provide for their payment?—**A.** Yes; during the last three years, however, the coupons have only been paid as the actual cash resources of the Sioux City and Pacific Company permitted, without borrowing; the result is that to-day there are \$98,000 of coupons outstanding.

#### BOUGHT UP BY CHICAGO AND NORTHWESTERN.

**Q.** Are these coupons outstanding in the hands of the owners of the bonds to your knowledge?—**A.** In order to save the credit of the Sioux City and Pacific road the Chicago and Northwestern Railway Company, entirely apart from the Sioux City and Pacific Company, has bought up these coupons as they fell due and were presented, and to-day holds them uncanceled.

**Commissioner LITTLER.** That is what I supposed to be the fact. Then, as between the Sioux City and the Chicago and Northwestern Company, there is a default to-day, for the reason that the Chicago and Northwestern Company went into the market, if you please, and bought those overdue coupons and now holds them, and they are unpaid.

**The WITNESS.** You say they "went into the market." They bought such as were presented by holders.

**Q.** And they hold them to-day?—**A.** Yes.

**Q.** And they are unpaid?—**A.** Yes.

**Q.** And they are overdue?—**A.** Yes.

#### THE DE SOTO BRANCH.

**Commissioner LITTLER.** Then there is a default as between this company and the Chicago and Northwestern Company. In Poor's Manual we find a reference to the construction of a branch road from Blair to De Soto. Was there ever such a road built?—**A.** I do not know.

**Q.** You would know if such a road was built, particularly if it formed a part of this system?—**A.** I never heard of such road and know nothing about it.

#### INDEBTEDNESS OF LAND DEPARTMENT.

**Commissioner LITTLER.** It does not appear in the records of your company, and it is for that reason that we ask some information about it. It appears from the balance sheets of your company that for the year ending June 30, 1875, the land department of your company was indebted \$55,694.78. I wish you would explain how the land department could have incurred such an indebtedness.

**The WITNESS.** The amount in question is a credit. All receipts from United States Government lands appear to have been credited to "Land

department" and afterwards transferred to income account. On June 30, 1875, there was a credit balance to "Land department" of \$55,694.78.

RESOLUTION TO SELL NEBRASKA LANDS.

Commissioner LITTLE. On page 86 of the minutes of your company of date of March 9, 1871, the following resolution appears :

Resolved, That this company sell all their lands in Nebraska except those deeded needed for station purposes to the Sioux City and Pacific Land and Town Lot Company, which has been organized under the laws of Nebraska, on such terms as the executive committee shall deem just and equitable, and receive the stock of said Land Company in payment thereof.

I should like you to furnish a detailed statement of sales made in pursuance of that resolution, and all memoranda and papers in possession of the company bearing upon the transaction.

The WITNESS. This resolution was never consummated as intended. Afterwards the necessities of the company compelled it to sell its lands and town lots for cash. In 1875 it was compelled to sell its remaining holdings for a lump sum. By this sale the company received \$200,000 in cash and was thus enabled temporarily to tide over its difficulties.

M. M. KIRKMAN.

The Commission then adjourned.

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