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# EXTRACTS

FROM THE

## Report of the U. S. Pacific Railway Commission

### 1888



*By* ROBT. E. PATTISON.

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By ROBT. E. PATTISON.

Governor of Pennsylvania.

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The construction companies or inside combinations that built five of the six roads have destroyed or concealed their books; the exception being the Central Branch; and the Commission has been embarrassed in its work by the refusal or failure of the companies to produce the accounts relating to the actual cost of construction, or to exhibit any paper or documents that would enable the Commission to ascertain the truth as to this most important factor in the investigation. The books of the Credit Mobilier, which built the Union Pacific from Omaha to Ogden; the books of the Contract and Finance Company, which built the Western Pacific from San José to Sacramento, and the Central Pacific from Sacramento to Ogden; the books of Shoemaker & Co., who built the Kansas Pacific; and the accounts of John I. Blair, who built the Sioux City and Pacific Railroad—all these are missing. From the minutes and accounts of the railroad companies, and from fragmentary information gathered from various sources, it is disclosed that the officers of at least three of these companies made false statements under oath, in affidavits now on file in the Interior Department. From these affidavits the following has been compiled:

## STOCK TABLE.

Company.	Stock actually paid in.	Stock paid in as sworn to.	Names of deponents	Date of affidavit.
Union Pacific.....	\$400,650	\$36,762,300	Oliver Ames.....	Sept. 27, 1870.
Kansas Pacific.....	250,000	5,072,500	R. E. Carr.....	Sept. 28, 1872.
Central Pacific.....	760,000	54,283,190	Leland Stanford....	Sept. 13, 1871.
Central Branch....	386,700	£80,600	K. M. Fomeroy ....	Sept. 21, 1839.
Total....	\$1,797, 350	\$97,098,590		

It is no answer to the Government that the managers of these companies did only that which the managers of railroads in other sections did. These lines were built upon public credit. They were public highways in the broadest sense of that term. The managers were acting as trustees of a national highway, and they can not plead any lawful justification for making false affidavits, which state that \$97,098,590 of stock was actually paid for, when in fact less than two millions had been so paid for.

## THEIR RELATIONS TO THE PUBLIC.

The original purpose of Congress, as set forth in the act of July 1, 1862, in granting subsidies for the construction of the Pacific roads, was to promote the public interest, and the companies were made trustees for that purpose; but the public interest has been subordinated by these companies to the stockholding interest, upon the claim that the stockholders owned the railroads and could manage their own business in their own way. Nearly every obligation which these corporations assumed under the laws of the United States, or as common carriers, has been violated. Their management has been a national disgrace. Since the date of their inception they have been conducted upon a purely speculative basis. Their permanent prosperity has been lost sight of, while their managers greedily strove for temporary advantage. For fourteen years the Union Pacific and the Central Pacific were practically free from competition for a stretch of 1,800 miles across the

continent. They were independent of many of those disturbing elements which have been pleaded in extenuation of the vicious practices of railroads in other parts of the country, and yet they injected secrecy into their affairs, inaugurated favoritism and corruption in their management, and attempted to destroy competition. They organized pools for the professed purpose of securing certainty, uniformity and permanency in freight rates, but they did not respect the pools which they entered into when immediate advantages could be obtained by a breach of good faith.

Mr. Huntington testified before the Commission that "competition is killing," and that there ought to be only one railroad for the whole country. The aided companies combined with others to tax the communities which they served, and they forced the consuming classes in all sections of the country to contribute to the payment of interest and dividend upon the fictitious capital which they had created. They increased the cost of living. They laid proprietary claim to the traffic of large sections of the country. They squandered millions of their money to "protect" their territorial claims, while expending other millions in encroachments upon the territory claimed by other companies. They constituted themselves the arbiters of trade. They attempted to dictate the channels that trade should follow and fixed rates of transportation that were extortionate. They charged all that the traffic would bear, and appropriated a share of the profits of every industry by charging the greater part of the difference between the actual cost of production and the price of the article in the market. They discriminated between individuals, between localities, and between articles. They favored particular individuals and companies. They destroyed possible competitors, and they built up particular

localities to the injury of other localities, until matters had reached such a pass, that no man dared engage in any business in which transportation largely entered without first soliciting and obtaining the permission of a railroad manager. They departed from their legitimate sphere as common carriers and engaged in mining articles for transportation over their own lines. They exerted a terrorism over merchants and over communities, thus interfering with the lawful pursuits of the people. They participated in election contests. By secret cuts and violent and rapid fluctuations in rates they menaced business, paralyzed capital, and retarded investment and development.

#### THEIR RELATIONS TO THE GOVERNMENT.

During the five years from 1864 to 1869, upon the claim that their roads were fully completed, these companies obtained bonds from the Government; but when the Government called upon them to pay a percentage of their net earnings into the Treasury, as was stipulated in the original contract, they contended that their roads were not fully completed until 1874, and refused to make any payments to the Government, though one of them, the Central Pacific, had been declaring dividends in the mean time. They resisted the claims and demands of the Government at every point, and resorted to every device their ingenuity could invent in their efforts to evade the plain requirements of the law. In transporting troops and supplies for the Government, they violated the contract obligation to charge reasonable rates by charging more than they charged to private shippers for the same kind of service. The reports of the Union Pacific show that the average rates paid by the Government to that corporation were higher than those received by that company from other sources. The same is more or less true of the

other bond-aided companies. The overcharges upon the Government by the Central and Union Pacific Companies since 1880, are estimated to have been as follows:

Union Pacific.....	\$802,407.33
Central Pacific.....	167,558.63

PROFITS OF \$278,023,357.63 IN OPERATING THE ROADS.

The reports of these companies show the following figures relating to operation, disclosing a profit or net earnings of \$278,023,357.63, equaling fifteen million dollars a year.

EARNINGS TABLE.

Road.	Gross earnings.	Operating expenses.	Net earnings
Union and Kansas Pacific.....	\$315,303,504.66	\$169,916,078.90	\$145,387,425.76
Central Pacific Railroad, from 1863 to December 31, 1885.....	274,139,116.27	149,199,102.40	124,940,013.87
Sioux City and Pacific Railroad, from July 30, 1869, to June 30, 1887.....	9,187,359.50	6,423,596.82	2,763,762.68
Central Branch Union Pacific.....	12,849,463.47	7,917,508.15	4,932,155.32
Total.....	\$611,479,443.90	\$333,456,086.27	\$278,023,357.63

OVER \$25,000,000 FOR POOLS, REBATES, AND OVERCHARGES.

In addition to the gross earnings given as above, the bond-aided companies received the following sums, which they subsequently paid out on account of pools, subsidies, rebates, overcharges, etc.:

POOLS, REBATES AND OVERCHARGES.

Road.	Pools.	Rebates and overcharges.	Total.
Union Pacific.....	\$4,004,512.48	\$11,577,091.62	\$15,581,604.10
Kansas Pacific.....			
Sioux City and Pacific.....			
Central Pacific.....			
Total.....			\$25,866,235.72

LOSSES SUSTAINED BY THE GOVERNMENT.

The Central Pacific and Union Pacific, between them, have paid over \$4,000,000 to the Pacific Mail Steamship Company to maintain high rates. To branch lines the Union Pacific, since 1881, has

also given various amounts estimated at \$2,400,000, and the Central Pacific \$520,762.97, on account of constructive mileage. All of the sums paid out for pools, rebates, overcharges, etc., amounting to \$25,866,235.72, were deducted by the companies from the gross earnings actually received by them before stating the amount which was reported to the Government as their gross earnings. In other words, they refused to consider and designate this sum of \$25,866,235.72 as part of their gross earnings because they subsequently paid it out for pools and rebates. In this respect, as well as in respect to charges for general expenses that should have been charged against auxiliary companies, the reports, as made by the Union Pacific Company to the Government, were erroneous. For the same reasons and also because the Central Pacific Company was charged for and paid expenses incurred by and for the Southern Pacific Company (the case of Senator Norwood being a conspicuous illustration), the reports made by the Central Pacific Company to the Government were erroneous. The losses sustained by the United States on account of erroneous reports and overcharges amounts to over \$8,000,000.

#### PAYMENTS FOR IMPROPER PURPOSES.

Large sums were also applied to improper purposes. In the accounts of the Sioux City and Pacific Railroad Company this item amounted to \$263,812.08 for losses incurred in operating the Fremont, Elkhorn and Missouri Valley Railroad, in which the directors of the Sioux City and Pacific Railroad were interested.

In the accounts of the Central Pacific Railroad Company, this diversion of earnings amounted to many millions through contracts made by Messrs. Stanford, Huntington, Hopkins, and Crocker, with themselves, for construction, leases, repairs, etc. They constructed 1,171 miles of adjunct lines, at

a cost of \$27,216,931.01. On account of that construction in addition to a small cash payment they issued bonds to themselves to the amount of \$33,722,000, and stock to the amount of \$49,005,800, making a total issue of \$82,727,800, of which \$55,539,554 represented inflation.

Then, as directors of the Central Pacific, they took leases of their own lines for the Central Pacific for \$3,490,828.81 per annum; which was at the rate of nearly 13 per cent.

Fifteen months ago three of these directors contracted with themselves to build an extension of the California and Oregon division of the Central Pacific from Delta to the boundary line of Oregon, a distance of 103 miles. In payment they issued stock to the amount of \$8,000,000 and bonds to the amount of \$4,500,000, the market value of the stocks and bonds at that time being \$8,340,000. The actual cost of construction was \$3,505,609, so that they personally profited by their own votes by that single transaction to the extent of \$4,834-391. Mark Hopkins is dead, but his interest is still maintained for his estate and heirs.

In following up the dealings of these directors with the Central Pacific Railroad Company and its adjunct companies, it is found that Messrs. Stanford, Huntington, Hopkins, and Crocker received over \$142,000,000 in cash and securities through the Contract and Finance Company, the Western Development Company, the Pacific Improvement Company, and dividends of the Central Pacific Railroad Company. In addition to this sum of \$142,000,000, they also made large profits in the operations of fifteen or more other companies, which were directly or remotely sapping the revenues of the Central Pacific Company. The total payments by the Central Pacific on account of rentals amounted to \$29,912,373.49.

## ACCOUNTS AND VOUCHERS OF THE AIDED COMPANIES.

The same company also expended \$4,818,355.67, of which the managers decline to give any explanation or to permit others to explain. As the resources of the company have been diminished to the extent of these expenditures, and as the road itself will not yield sufficient to satisfy the Government claim, it is apparent that the United States are eventually the losers by those disbursements, most of which, as shown by the Huntington letters, were applied to corrupt public men and influence legislation.

In the accounts of the Union Pacific, it was found that \$38,000,000 of the funds of that company had been expended for the construction of branch lines, that many millions additional were squandered in purchases of bankrupt branch lines at excessive prices, and that the earnings of the express and telegraph service of that company, as well as of the other bond-aided companies, were, in violation of law, placed under the control of express and telegraph companies in which some of the managers of the Union and Central Pacific Companies were largely interested and of which they were the main beneficiaries.

The balance sheet of the Central Pacific for 1886 should have shown a deficit of over \$14,000,000 in the profit and loss account, but by omitting from the debit side the accumulated interest which the Government had advanced, amounting to \$31,869,475.20, and by marking up its lands in its asset column to \$23,500,000, when the actual value was \$12,500,000, as appears from the testimony of the company's land agent, the company made a showing of an apparent surplus of over \$28,000,000.

The early accounts of the Union Pacific disclose, among other interesting items, the following:

September 12, 1871.

First-mortgage bonds for \$247,000, which should be on hand, but which are not.....	\$247,000
United States 110 6 per cent. currency bonds, which should be on hand, but are not.....	110,000
	<hr/>
	\$347,000

The book accounts of the Union Pacific prior to 1880, are frequently unsupported by vouchers, and for some years there are practically no vouchers to establish the correctness of the books. Since 1880, there were expenditures, in connection with legislation in Western States, which were not properly vouched for.

The Central Pacific Company also loaned its funds to its officers to enable them to construct the Southern Pacific, a competing line, across the continent.

The accountants of the commission report that no vouchers exist to show disbursements by the Central Branch of the Union Pacific, and that all the vouchers of the Sioux City and Pacific, from 1864 to 1880, are missing, with the exception of a few cash vouchers.

#### LEGAL EXPENSES.

Large sums were also squandered by some of the bond-aided companies to pay for the services of lawyers to influence legislation, the total legal expenses of the companies being as follows:

Union Pacific and Kansas Pacific.....	\$2,349,554 00
Central Branch.....	333,661 65
Sioux City and Pacific.....	37,287 75
Central Pacific.....	2,361,154 88
	<hr/>
Total.....	\$5,081,659 08

A large sum which had been expended by the Central Pacific for legislation was posted under the head of "general expenses." The addition of that sum would materially increase the total payments on account of legal expenses.

## LAND PATENTS AND TAX PAYMENTS.

The refusals of the Central Pacific to pay its taxes to the State of California have been so persistent and so flagrant, and extended over so long a period of years, that the Governor of California, on March 24, 1884, issued a proclamation setting forth the fact that for four years the railroads of the State (the Central Pacific) had refused to obey the laws imposing taxes upon their property and calling a special session of the legislature to devise methods for enforcing a compliance with the laws of the State. The Central Pacific had resisted State taxation on the ground (see p. 102, Report of Railroad Commissioners of California for 1883), that it had been constructed under act of Congress of July 1, 1862. When the Commissioners examined Mr. Leland Stanford, in San Francisco, he insisted that the Central Pacific Company was a State, and not a Federal corporation.

The Central Pacific has selected only one-half of its land grant in California that has been surveyed, and it has failed to select 180,000 acres in that State that have been surveyed since the completion of the road.

Of the grant to the Central Pacific in Nevada, 700,000 acres were surveyed at the date of the completion of the road, and about 2,000,000 acres are now surveyed. The company has selected about one-fourth of its land grant in that State.

Of the grant to the Central Pacific in Utah, of which 250,000 acres were surveyed at the date of the completion of the road in 1869, no lands were selected until February, 1884, nearly fifteen years after the completion of the road.

Because of the vicious methods actually pursued by the bond-aided companies the Government has been defrauded of the bulk of its advances, shippers have been taxed to the extent of over \$248,000,000, and liabilities to the amount of \$389,517,-

265 have been heaped upon the properties; the total liabilities of these companies to the public and Government on Dec 31, 1886, being as follows:

Union Pacific, including St. Joseph and Grand Island guarantee.....	\$203,379,555 00
Central Pacific.....	171,908,784 00
Sioux City and Pacific.....	7,392,447 17
Central Branch.....	6,836,479 16
	<u>\$389,517,265 33</u>

These companies have paid out the following sums in interest and dividend:

#### INTEREST AND DIVIDENDS.

COMPANY.	INTEREST.	DIVIDEND.
Union Pacific } .....	\$82,742,856 28	\$28,650,770
Kansas Pacific } .....		
Central Branch.....	1,882,826 10	150,000
Sioux City and Pacific.....	1,700,618 67	189,280
Central Pacific.....	53,877,031 15	34,308,055
	<u>\$140,212,332 20</u>	<u>\$63,298,105</u>

It is not, therefore, a matter of surprise that they are unable to pay the Government debt and that their resources have been diminished to such an extent as to give the Government very little return for its loans.

The officials of the Central Pacific said that the aided portion of that line was not worth more than the first mortgage of \$27,855,680, which is prior to the Government lien, thus leaving the Government without any return for its advances. The majority of the Commission recommended an extension of the time for payment of the debts of all the companies for fifty years on certain terms. The testimony shows that, except the Union Pacific, none of these companies have agreed to or will or can accept the terms recommended by the majority. The traffic manager of the Central Pacific testified that his company could not pay the debt and that an extension for an indefinite time would not be sufficient to enable it to do so. The fact is that as to all the companies except the

Union Pacific their bankruptcy is so complete and irretrievable that no part of their indebtedness can ever be recovered by the Government except by immediate compulsory legal process. Extension of time for payment therefore means in reality but an increase of the amount of the debt and the making of its recovery the more hopeless. The bonds of the Union Pacific provided for in the majority report would sell for about 50 cents on the dollar, and the bonds of the other companies would not be negotiable. The actual effect, therefore, of the report of the majority of the Commission, is that its recommendation of extension of the time for payment is impractical and impotent as to all these companies except the Union Pacific, and, if adopted, could only result in the failure of the Government to realize any portion of the indebtedness and would be substantially a gift of that sum to those companies. For this reason, therefore, the recommendation of the majority will be considered only so far as it applies to the Union Pacific Railway Company.

The people of the West should be freed from the incubus of this enormous load. Eventually the consuming classes, and not the stockholders, must pay this bill if extension of time be granted, and it will be ruinous to the communities which are dependent on the Union Pacific if they are forced to bear their share of this great burden, while communities on other roads bear only the burdens of moderate capitalization. So long as the Union Pacific Railway Company is forced to carry this debt, enterprise and development along its line will be measurably repressed.

The extension being unwise and impracticable, there is only one course open to Congress, and that is an immediate winding up of the affairs of all the companies, enabling the Government to withdraw at once from all connection with the running

of railroads, or sharing in the profits of their management. There ought to be an end to the partnership between the Government and the Pacific railroads; a speedy and absolute divorce.

The only method by which this result can be reached is that which was suggested by Justice Hunt in the *Credit Mobilier* cases. It is the alternative pointed out by the Wilson committee of Congress in the event of the failure of the equity proceedings in the United States Courts. It is the course that Congress directed the Attorney-General, by resolution of April 10, 1869 (section 4), to take against the Union Pacific—that is, the forfeiture of the charter.

The beginning of proceedings at this time to cause the forfeiture of the charters of these companies because of their violations of law and failure to keep their contract with the Government is only to anticipate by a few years the result which will be inevitable when the bonds mature in 1895 and 1897. To wait until then before instituting legal proceedings would not avert the result, but would further jeopardize the interests of the Government and increase the amount of the indebtedness. It should be borne in mind that it is a fact admitted by every officer of these roads who testified before the Commission, and overwhelmingly proved by the evidence submitted, that the payment of the debts at maturity, in 1895 and 1897, can under no circumstance be expected. The railroad officials, the Commissioners and every intelligent citizen, concur in the correctness of this statement. Upon forfeiture, the appointment of a receiver should be applied for to provide for the immediate settlement of the Government's debt. This course involves no actuarial computations or involved legal problems. It is the direct path to the complete solution of a tangle into which the Government should never have been drawn. This

course is not recommended for the purpose of punishing this company, or its stockholders, for the willful and continuous violation of obligations imposed by law, but to withdraw the Government from further connection with private enterprises. The stockholders would have the same right to buy that others would have.

In this way the Government would cut loose from all participation in railroad management; it would recover its debt, and put its seal of condemnation upon the multiplied wrongs that have marked the administration of that trust.

The capital and indebtedness of the purchasing companies should be limited to the estimates of the cost of reproduction as made by the inspecting engineer of the Commission— $66\frac{2}{3}$  per cent. in bonds and  $33\frac{1}{3}$  per cent. in stocks. The purchasing company should be confined solely to the business of a common carrier, operating railroad and telegraph lines, and should be forbidden, directly or indirectly, to invest in the bonds or securities of companies other than railroads, or in railroads that are parallel or competing, or to acquire by purchase or otherwise, any interest or control in any competing or parallel line. The officers of the company should be prohibited from being interested in any competing or parallel lines, and such company should not be permitted to hold any real estate, except such as may be necessary for its legitimate business, and it should be allowed to issue stocks or bonds only for money, labor done, or money or property actually received. The sale should also be made upon the condition that the franchises should be exercised thereafter, subject to the regulation and control of the Government, in the public interest.

Such a course would force other transcontinental lines to a similar basis, and would benefit consumers in all parts of the country. Transportation

would be cheapened; the companies would be liberated from the crushing weight of their debts and made useful arteries of commerce, and a reasonable profit would be yielded to honest investments. In addition to the recommendation of the forfeiture of the charters, I would suggest that, through the receiver to be appointed for the Union Pacific, a suit be instituted with like purpose to that begun in 1873, against the Credit Mobilier, and that the Attorney General be instructed to institute proceedings, either civil or criminal, against all persons who have rendered themselves liable for their participation in the issue of stock or the making of mortgages or pledges upon the property or future earnings of the Union Pacific Company without leave of Congress; against those who violated their trusts in connection with the consolidation of the Kansas Pacific, Denver Pacific and Union Pacific in January, 1880; against all persons who have rendered themselves liable through the maladministration of the Central Pacific, Sioux City and Pacific, and Central Branch Union Pacific; against telegraph and express companies, to secure an accounting to the Government for earnings on business done on bond-aided lines, and to require an accounting for lands improperly acquired from the Government, and to force the patenting of lands already granted to the companies.

In applying the remedies necessary for securing the Government indebtedness, the Attorney General should proceed against all persons and corporations who in any way were parties to or participants in the results of any of the illegal and fraudulent acts which characterized the management of these corporations and resulted in the waste and misappropriation of the funds of the companies and consequent depreciation of the government security.

If this recommendation should be adopted, the population of the great West through which the

lines of road extend would have these public highways existing and managed as it was intended by law they should be, in the interest and for the benefit of the people, and not as subjects for stock gambling and speculative practices through which enormous fortunes are amassed by railroad officials and favorites, while communities are burdened and private industry repressed. In other words, these roads, as a result of legal purgation, would be free, clear, and clean public highways, honestly and lawfully managed.

The time of the Commission was so limited that it had no opportunity to visit the various localities that are served by the Central Pacific Railroad Company but from the reports of the railroad commission of California, it is apparent that the abuses of power which have characterized the management of the Union Pacific Company were also practiced by the Central Pacific Railroad Company in its relations with shippers and communities. Its conduct in this respect provoked serious political contests in California, and impelled the people of that State to adopt amendments to the State constitution regulating railroads and creating a State commission to protect shippers against the discriminations of the Central Pacific Company. In that State, as in the territory tributary to the Union Pacific, there was interference with the lawful pursuits of the people; and as appears in page 128 of the State railroad commission's report for 1883, there were fears entertained by merchants of retaliation by the railroad company if complaints should be made against it. With the Union Pacific Company, it devised the special-contract system and also attempted, by investing in other enterprises than those of transportation and by pools and combinations, to control trade.

ROBERT E. PATTISON, *Commissioner*.

WASHINGTON, December 1, 1887.